



OFFICIAL REPORT
AITHISG OIFIGEIL

Equalities, Human Rights and Civil Justice Committee

Tuesday 7 October 2025

Session 6



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**EQUALITIES, HUMAN RIGHTS AND CIVIL JUSTICE COMMITTEE
22nd Meeting 2025, Session 6**

CONVENER

*Karen Adam (Banffshire and Buchan Coast) (SNP)

DEPUTY CONVENER

*Maggie Chapman (North East Scotland) (Green)

COMMITTEE MEMBERS

Pam Gosal (West Scotland) (Con)

*Rhoda Grant (Highlands and Islands) (Lab)

*Paul McLennan (East Lothian) (SNP)

*Marie McNair (Clydebank and Milngavie) (SNP)

*Tess White (North East Scotland) (Con)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Louise Church (Scottish Youth Parliament)

Juliet Harris (Together (Scottish Alliance for Children's Rights))

Dr Douglas Hutchison (Association of Directors of Education in Scotland)

Susan Quinn (Educational Institute of Scotland)

Gina Wilson (Children and Young People's Commissioner Scotland)

Gavin Yates (Connect)

CLERK TO THE COMMITTEE

Euan Donald

LOCATION

The James Clerk Maxwell Room (CR4)

Scottish Parliament
Equalities, Human Rights and
Civil Justice Committee

Tuesday 7 October 2025

[The Convener opened the meeting at 09:30]

Decision on Taking Business in
Private

The Convener (Karen Adam): Good morning, and welcome to the 22nd meeting in 2025 of the Equalities, Human Rights and Civil Justice Committee. We have received apologies from Pam Gosal, and Marie McNair will join us online. Our first agenda item is a decision on whether to take item 4 in private. Do we agree to do so?

Members indicated agreement.

Children (Withdrawal from
Religious Education and
Amendment of UNCRC
Compatibility Duty) (Scotland)
Bill: Stage 1

09:30

The Convener: Our next agenda item is taking evidence on the Children (Withdrawal from Religious Education and Amendment of UNCRC Compatibility Duty) (Scotland) Bill. This is our second evidence session on the bill, and this morning we will hear from two panels of witnesses.

I welcome our first panel. We are joined in the room by: Juliet Harris, director, Together (Scottish Alliance for Children's Rights); Gina Wilson, head of strategy, Children and Young People's Commissioner Scotland; and Gavin Yates, executive director, Connect. We are joined remotely by Louise Church, who is the Scottish Youth Parliament's member for Galloway and West Dumfries and also a member of its education and lifelong learning committee.

We turn to questions from members. I ask our witnesses to indicate to me when they would like to come in to respond to a member's question or to any of the points that are raised. Louise Church, if you wish to come in, please type R in the chat function and the clerks will bring that to my attention.

I will kick us off. Last week, the committee heard from three panels of witnesses. They were all quite critical of the bill in various ways, and they were not supportive of it. What are your thoughts on the general principles of the bill?

Juliet Harris (Together (Scottish Alliance for Children's Rights)): We have been campaigning for a very long time, particularly with Humanist Society Scotland, for there to be an independent right for children and young people to opt out of religious observance as well as having the right to opt in. We definitely welcome the fact that the Scottish Government has introduced a bill on religious observance, but we do not believe that it addresses the key point that we have been campaigning for.

As you will have heard from evidence given last week, the bill only allows for children's views to be taken into account when parents decide to opt their child out. It does not provide for children's views to be taken into account as to whether they are included, and it does not allow them to opt in if they want to. We broadly welcome the fact that the Scottish Government is looking at this issue, but

we do not believe that the bill in its current form addresses it.

There are two parts to the bill, and it is important that the second of those, which is on amending the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024, gets sufficient scrutiny across the committee and parliamentary process. We broadly support the amendment that is being made through part 2 of the 2024 act. We see it as a way of addressing systemic children's rights issues at a primary legislation level, but we believe that there need to be improved safeguards to ensure that children and young people still get child-friendly access to justice in relation to the changes that have been made.

Gina Wilson (Children and Young People's Commissioner Scotland): Our views are broadly similar to those. We see the purpose of part 1 of the bill but, as it is currently drafted, we cannot support it, because it solely amends a United Kingdom act rather than being a stand-alone bill, which would allow it to be in scope for the 2024 act. As Juliet Harris has described, it does not include the opt-out, which was our concluding observation and recommendation for children and young people.

Although we support the intent to introduce legislation in this area, because of how part 1 is currently drafted, we cannot support the bill in its current form. It is important to point out that religious education and religious observance have been conflated in the bill. I know that the committee heard a lot of evidence on that last week. We believe that a clear distinction should be made between the two areas, and we would prefer to be discussing only religious observance.

On part 2, we are not opposed to the amendments that have been proposed. However, we also have suggestions about further amendments that we think should be lodged to ensure that any potential negative consequences of the proposed amendments are minimised for children and young people. I would be happy to go into more detail on that later.

Gavin Yates (Connect): I wish that I could offer more solace to the Scottish Government, but my organisation has deep concerns about the bill.

We are not a legal organisation. I always say to my team, "We're not lawyers—we don't offer legal advice." I will therefore be rather more circumspect about what I say about part 2. However, on part 1 we have the same concerns as our colleagues on the panel. We do not think that the conflation of religious observance and religious and moral education—or RO and RME—is particularly helpful.

I remind the committee that parents are not homogeneous—we all have different views on these matters. I listened to last week's evidence session. One of the lines of questioning seemed to suggest that such issues do not affect many people and so their effect is somehow lessened. However, the point is that, for the people whom they do affect, they do so very deeply. I remember Peter Peacock, a former member of this Parliament, saying a few years ago that Gaelic did not affect that many people, in the context of the population of Scotland, but that, for those for whom it was important, it was the most important thing. I think that we have the same circumstances here.

Parents of faith—and perhaps those of no faith—will see in the bill as it is currently drafted a potential conflict, whereby schools will end up having to be the arbiter of who has the capacity to make, in relation to a young person, a decision for which teachers and schools are not really trained.

Unfortunately, there are a lot of weeds and granular detail in this that have not been addressed so far. Therefore, I do not find that part 1 of the bill is supportable at the moment.

I am a great believer in the Hippocratic view of things and the principle of "First, do no harm". My fear with this bill is about the situation in which we could end up in relation to parents. I ask the committee to remember that parents are not optional participants. Articles 5 and 14 of the UNCRC say that we have an obligation to be involved. Therefore, as I said, we have deep concerns.

Louise Church (Scottish Youth Parliament): We do not either support or not support the bill. However, it is important that young people are involved in the discussion the whole way through the bill process and that it should give them an independent right. I will focus on part 1. We think that it is really important that young people are welcomed to this opportunity and that it is made clear that they have it.

The Convener: We will move to questions from Maggie Chapman.

Maggie Chapman (North East Scotland) (Green): Good morning, and thank you for joining us.

I am interested in exploring a little more about how things work now, and what the bill could do. What do the young people you work with tell you about the right to withdraw from RO and RME—I take the point about their conflation in this bill—and how it currently works? What is your view on that?

Juliet, I will start with you.

Juliet Harris: A good point of reference is the Humanist Society Scotland's recent report, "Preaching is not Teaching", which collates the experiences of children and their parents about how the right to withdraw works in practice.

It is important to start with the point that religious observance and RME are repeatedly conflated. Even the Scottish Government's own child rights and wellbeing impact assessment states that it will talk about them under the same heading of "RO/RME" in order to

"make reading this document easier."

However, they are really different. Religious observance is about acts of worship. I know that the guidance says that it should be about time for reflection, but we know from the Humanist Society Scotland's report and from our conversations with children and young people that religious observance is, in fact, often delivered in mainly a Christian way across schools. Religious observance is therefore actually making children practise religious worship, sometimes against their will.

The provision of religious and moral education is a fundamental part of article 29 of the UNCRC, which deals with the aims of education. It is about ensuring that children and young people learn about tolerance, peace and different cultures and religions. Religious and moral education should be a core part of the curriculum and of children's right to education.

Conflation of the two is a real issue for us. We say that children should have the right to opt out of—or into—religious observance, in line with their capacity under article 5 of the UNCRC, but we say that RME should be a core subject for all children and young people as part of their right to education.

We also know that parents, children and young people are often unaware of the right to withdraw. The Scottish Government's own child rights and wellbeing impact assessment included research showing that only about 30 per cent of school handbooks—that is a rough figure; I would need to check the assessment document—mention the right to withdraw. As a result, the actual withdrawal numbers are really low. The Scottish Government anticipates that only about 4,000 children would be affected. I wonder whether better awareness of the right to withdraw might lead to the numbers being higher.

In summary, there is currently a complete conflation of religious observance with religious and moral education. Children and young people tell us that, and the report from the Humanist Society Scotland is clear that that is what happens. Parents do not know about the right to withdraw, which must mean that children do not

know about their right to withdraw. Everything that children and young people tell us shows that they want to be active agents in their own education, which helps them to feel empowered and is a core part of article 29. They should be involved in all decisions relating to their education, but, at the moment, they are not.

Gina Wilson: I entirely agree with Juliet Harris. No clear national overview of children's experiences of religious withdrawal exists, so we cannot tell you what that looks like for all children across Scotland because the information is just not there.

What we can tell you from our work on education reform, and that of others, is that children have lots of constructive ideas about how to improve their experience of school. They want a varied curriculum that gives them skills and knowledge that are relevant to the world they live in, and they want to have choices about what they can study and how they can follow their own interests and pathways.

You asked what children are telling us about their experiences. Last year, we recognised that there was a real gap in the evidence about children's experiences of, and views on, discrimination based on religion and belief in Scotland, so we commissioned some research to look at what those experiences were. We carried out that research with 11 to 25-year-olds, and more than 2,500 young people responded.

We found that 17 per cent of respondents had experienced discrimination or negative comments based on their religion or belief. When that figure was broken down according to the religion of the respondents, it emerged that 53 per cent of Muslim respondents had experienced discrimination due to their beliefs. More than half of those who reported experiencing such discrimination had experienced it at school, college or university. We also learned that more than half of all the 2,500 respondents had witnessed other people experiencing discrimination or negative comments due to their religion or belief and, once again, the most common location was at school, college or university.

Therefore, it is important for us to bear in mind that context of children's current experiences as part of our broader discussion.

Maggie Chapman: I will come to Gavin Yates and Louise Church soon. Gina, you talked about the evidence that we have had from children about their experience, and their families' experiences, of discrimination. Are you aware of any evidence of parents or children worrying about being othered or further stigmatised if they take a position on the issue of withdrawal from RO?

Gina Wilson: I am not aware of that specifically. We certainly hear a lot from children and young people about their experience of feeling othered in school, but I cannot talk specifically about their experience of withdrawing from religious observance or religious education.

It ties in with Juliet Harris's broader point about the importance of having an inclusive, pluralistic and broad religious education for children to ensure that we are exposing them to ideas and giving them an understanding of the people around them.

Maggie Chapman: What do you think, Gavin?

09:45

Gavin Yates: I can only agree with my colleagues on that. Parents are not aware. The interesting thing about school handbooks is that a lot of parents will be unaware that they exist. They are no longer issued; they might or might not be on a website. That issue comes up from time to time and needs to be addressed.

My colleagues' concerns about the conflation of RO and RME are important. As an organisation, Connect strongly supports RME, with its philosophical, sociological and historical perspective, as an important part of a young person's education. We are absolutely in lockstep on that.

You talked about othering, which is important. When it comes to the practicalities, the path of least resistance is sometimes the one that is taken. A young person might say to their parent, "I'm not very comfortable about religious observance," but nothing will happen because it is too difficult and will be stressful. What will happen in the school? How will this be managed? Can you imagine what would happen if 40 per cent of the year group decided that it was not for them? Where would they go?

Although we like to talk about the wider issues, such granular detail will decide whether this can work.

Maggie Chapman: That is exactly one of the things that we heard from our witnesses last week—that schools are not necessarily equipped to deal with this. That might be one reason why they do not make too much of an issue of it.

Gavin Yates: There is also a child welfare point if teachers are not prepared or trained to deal with the fallout. If there is a conflict, if you like, between parent and child, and the teachers in the middle have to pick up the pieces, do they have the training and expertise?

I talk all the time about the lack of counselling in our schools for young people with mental health

issues. I do not think that this particular course of action is without consequences.

Notwithstanding that, RME is an important part of the curriculum, and we are certainly keen that it stay in place.

Maggie Chapman: Louise Church, I have the same kind of question for you. In your experience and that of your MSYP colleagues, and from your general discussions, how are arrangements working in schools at the moment? You are closer to having been through school than any of us in the room, so I am keen to get your thoughts and views.

Louise Church: At the moment, there is nothing to show that withdrawal happens often or is known about by many people. It is not often discussed and it depends on what kind of school you go to—whether non-denominational or religious. You do not tend to hear or talk about it at school, with your peers or with any adult who has children in school.

On withdrawal, RO and RE being together could cause a difficulty, because RO is not a subject but something that happens in the school, and RE is a school subject. That could cause a little conflict. When it comes to RE, as I have said, we believe that it is vital for every young person to have a basic understanding of religion and everything that comes with that. RO is different. People come in and talk about different religions. What they say could be against your religion, which means that withdrawal would be good in that you would not need to listen to someone talking about a religion that you do not have or practise a religion that you do not believe in.

That is where the conflict comes in with the withdrawal process. It can be daunting to have to go up to a member of staff and say, "I am not comfortable with this. I do not want to do it or be a part of it." It is therefore about making sure that the process is not intimidating or scary for a young person, because for a young person to speak up is big in itself. It is about making sure that all the processes and policies are in place to help that person.

Maggie Chapman: On the last point that you made, what would a good process that is not intimidating look like? What would that feel like for young people?

Louise Church: From talking with the other MSYPs, I know that one approach could be for the young person to pick a trusted adult in the school facility who they think would help them through the process. That would not always be the pupil support teacher or the counsellor; it might be a teacher who has taught the young person for a couple of years and with whom they have created a bond. That is the type of person that they would

want to be with them throughout the process. For young people, little things such as being listened to before anyone answers will make them feel a bit better. It is about hearing the young person out throughout the process, because such tiny details make all the difference.

Maggie Chapman: Thanks, Louise. That is really helpful. My final question is to any panel member. You have all said in different ways that we do not have evidence of high numbers of withdrawals in the process as it currently works. That could be because of a lack of awareness, stigmatisation or because not withdrawing is the path of least resistance, to use Gavin Yates's phrase. Should we be gathering and monitoring data on withdrawals? The approach feels quite piecemeal; there is no requirement to record the number of withdrawals and there is no formal data gathering by local authorities. What are your views on whether we should have a clearer data-driven understanding of this? Alternatively, does data not have a role in something like this?

Juliet Harris: It is striking how little data there is, considering that the bill is before the Parliament at the moment. Data would be helpful, but it is essential that we do not miss the nuances that Louise Church has eloquently put across. Data does not in itself get across the views of children and young people. We need to know how children are experiencing this issue, how often they are experiencing it and whether there are children and young people who want to opt out.

Despite the work that the Humanist Society Scotland has done to try to bring in children and young people and the brilliant work of the Scottish Youth Parliament, I still feel that what young people think and experience is the area of information that we know the least about. It is about that, rather than a spot check of data.

Gina Wilson: There is a legitimate case to be made for more data and information. We have never had a thematic inspection or review of religious observance, which would probably be valuable for us in understanding how it is being delivered in Scotland. There is non-statutory guidance that sets out how religious observance should be delivered, but we know from the examples that the Humanist Society and other panel members spoke about in the previous meeting that it is often not being delivered in that way and that it is being delivered quite differently. Therefore, it is difficult to get a picture of what is actually happening.

As Juliet Harris said, there are fundamental rights issues regarding children being able to choose whether they are involved in religious observance, which probably could progress without the need for such information. However, there is a case that we need more data.

Gavin Yates: I come from the position that knowledge is power. I would obviously like to see more data, but somebody will have to record that. I am sure that teaching unions will say that teachers have enough on their plate already. There is not even accurate additional support for learning data on SEEMiS at the moment. The other thing is that, if we were going to record that data, we would have to run it for a year to get anything sensible out of it. That is not where we want to be, but it is where we are.

Maggie Chapman: Louise Church, is there anything else that you want to add about how things are working at the moment or how we record information?

Louise Church: I cannot say much because we do not know how it works at the moment. It would be good to monitor withdrawals and see how many people are removing themselves, but it is not something that needs to be a top priority throughout this process.

Maggie Chapman: Okay. Thanks, folks—I will leave my questions there.

Paul McLennan (East Lothian) (SNP): I want to ask a bit more about specific proposals in the bill. We have talked about withdrawal from RO and RME. I have three questions about the process. The first is about the requirement for schools to inform a child if a parent asks for them to be withdrawn from either or both RO and RME. Under the proposals, when such a request is made, the child will be given an opportunity to express their views, the school must have a discussion about that and it must respect the child's views if they differ from those of their parents. We have touched on issues around that, but I am asking more about the specific proposals in the bill. Juliet Harris, I will come to you first for your thoughts on that.

Juliet Harris: It is important to start the thought process by basing the discussion on the UN Convention on the Rights of the Child. We have talked about article 5 of the UNCRC, which is about the evolving capacities of the child. That means that, as a child grows up and becomes a young person, they are able to make more decisions about things that impact on their lives. When they are very young, parents and their carers are obviously the ones who make the most fundamental decisions about their lives.

We talked earlier about the low level of parents' awareness of the right to withdraw a child. If there was better awareness of the right to withdraw from religious observance, that would mean that the conversation would start earlier in the process. It would begin when a child first goes to school, when parents and carers might talk about whether they want their child to take part in religious

observance. Having that awareness from an early stage supports article 5, which means that the parents can support the rights of the child, and it all becomes centred around the child. That conversation can then continue into secondary school.

Parents have conversations about the capacity of their child all the time. They choose whether their child should be able to walk to school or choose what skirt to wear to school, for example. They are always assessing the capacity of their child.

Teachers do the same thing all the time. They consider whether the child is old enough to read a particular book, to lead a small piece of group work or to decide whether to put their jacket on when they go outside.

It is not that complex to get our heads around evolving capacities. Teachers and parents are constantly assessing the evolving capacities of the child. If, therefore, there is an awareness of the right to withdraw from or opt into religious observance from an early age, such a conversation will not be as complex or as difficult as people have anticipated. It will become a natural part of the child realising the aims of education.

Basing the approach on the evolving capacity of the child will mean that conflict between parents and children and between schools and parents is less likely.

My final point is that it is important to remember that religious observance is a very small part of a school year; it is not hours and hours or days and days of a child's class time. A child withdrawing themselves from religious observance does not infringe on the right of that family to practise their own religion or to take the child to religious worship, whether at a mosque, a church or a synagogue, in their own time, or to celebrate religious festivals. All that can happen within the family space. This is just a really small decision and a small element of what happens within school life. If it is done well, I do not anticipate that there will be as much conflict or as many issues as some people who have given evidence have anticipated.

Gina Wilson: I agree with all those comments. You asked about the proposals in the bill, which are muddled and inconsistent. Why should a child be able to choose to continue to attend religious observance over their parents' objections but not be able to opt out if their parents insist that they have to go? Is it because, in practical terms, it is easier for schools to manage opting in? If that is the case, that does not sound like a rights-based decision.

Our position is that, where a parental right to opt out of religious observance exists, the equivalent right must be extended to children in line with their evolving capacities. We do not consider that a bright line age limit is needed in the bill—I know that the committee has discussed that. Our expectation is that the extension of the rights includes children of secondary-school age, and that it might include younger children, depending on their capacity. Having such an age limit in the bill would therefore not be helpful.

Age limits tend to be more useful when they are related to child-protection measures, such as the age of criminal responsibility or the age at which you can purchase alcohol. We do not agree that the current proposals meaningfully align with the concept of evolving capacities, because they do not allow children to acquire an increasingly active role in exercising choice through adolescence. As you have heard a lot, children's role in the proposals, as they are drafted, is passive and asymmetric.

10:00

General comment 12 on the rights of the child to participate in decision making is also relevant here. It makes clear that, as a child ages, and in line with a child's evolving capacities, the role of parents transforms from direction and guidance into reminders and advice and, later on, an exchange on an equal footing. However, the current proposals do not put older children on an equal footing with parents, even at ages where, in existing Scots law—for example the Age of Legal Capacity (Scotland) Act 1991—children have capacity to make decisions. Under the proposals, children have no additional decision-making powers. Even 16 and 17-year-olds would be unable to opt out of religious observance without parental permission, even though they could decide to leave school.

Paul McLennan: Last week, we talked about when a child is capable of forming a view. There were mixed views. Some witnesses said that it should be when they reach secondary school age, but you have answered that question. When we talked last week, there was a view about when a child is capable of making decisions. You could have a mature eight-year-old as against a mature 12-year-old.

Gavin Yates: Exactly. There is no golden rule on the age at which someone has the capacity to make decisions. It is not 14. At the moment, I am dealing with the issue of safe routes to school in one local authority. The local authority says, "Of course our routes to school are safe," but that is as long as a child, even at the age of 17, is walked to school by their parent.

There are some ridiculous aspects to this. As I stated earlier, under the law, parents are not an optional participant. The Children (Scotland) Act 1995 lays out a number of responsibilities for parents. Articles 5 and 14 of the UNCRC talk about parents' right to be involved in their children's upbringing. I agree with my colleagues about that.

Connect is a children's rights organisation as well as a parental rights organisation, and we believe that young people who have the necessary capacity should be making these decisions. The problem is when you end up with a hierarchy of rights. You have parental rights under the law and under the UNCRC, which are apparent and in statute, and then you have rights for children, too. How do you balance those effectively? I am not saying that it is beyond the wit of man to do that, but it puts an awful lot of pressure on schools, which end up holding the coats, and I do not think that it is a position that schools particularly wish to be in.

Paul McLennan: Louise Church, do you have anything to add?

Louise Church: Young people should be involved from the word go, so that they feel they have a right to be involved in the conversation, and also to stop conflict. The quicker that young people can be involved and get their views across, the easier it will be to resolve any issues that arise. Young people should not be forced to opt in or out; it should be their choice, especially if they want to opt in. Education is key. If they want to opt in, that is great—they want to learn. That is not a problem. The same goes for opting out. If they do not want to learn about a subject and feel that it goes against what they believe, that is totally fine, too. It should be made clear that opting in and out are both totally okay.

Also, there should not be an age limit. Everyone matures differently and thinks differently, so putting an age on it does not help much, especially when it comes to our role.

We should make sure that young people are involved throughout the process, just to make it run a bit smoother.

Paul McLennan: We have kind of touched on this, but the Scottish Government's assertion is that the new process will support articles 12 and 14 of the UNCRC. You have all mentioned those articles. I am pretty clear about the views that are coming through on that, but does anybody want to add anything, particularly about the Government's assertion about articles 12 and 14?

Juliet Harris: I think that this will have come across clearly, but we do not believe that the bill as drafted complies with the UNCRC. As well as article 12 and, in particular, article 14, we need to

think about article 29 and the aims of education. To further the UNCRC, it is absolutely essential that children have the independent right to opt out of religious observance as well as the right to opt in to it. It is also absolutely essential that the conflation of religious observance and religious education is removed from the bill and that the opt-out applies only to religious observance and not to RME.

Paul McLennan: Gina and Gavin, you are nodding. Does anyone else have anything to add? You all seem to be in agreement on that. Thank you.

Rhoda Grant (Highlands and Islands) (Lab): Do you all agree that RME should be removed from the bill? Are you saying that, as it is part of the curriculum, there should be no opt-out in relation to it?

Gina Wilson: Yes.

Gavin Yates: Yes, and for a very good reason. If it is kept in, the bill will allow part of the curriculum to be removed. In that case, what will be next? Physical education? There really needs to be a separation here between what is part of the curriculum—which is a historical, philosophical and sociological look at the world's religions—and religious observance, or worship, which is a separate entity altogether.

Rhoda Grant: Louise Church, do you agree?

Louise Church: Yes. RE is education, and it is really important. Everyone talks about going into the workplace and working with people with different religions, and having that basic understanding really helps people. Having RO and RE in the same bill would create a bit of conflict and a situation whereby people might say, "What does this apply to?"

Rhoda Grant: Thanks. To turn the argument on its head slightly, should RO be a legal requirement in the first place? I know that that is a controversial question, and I do not want to put anyone on the spot, but I ask it because the bill would allow an opt-out.

Juliet Harris: We are a membership organisation, so I consult our membership on anything that I put to the committee. That is not something that I have spoken to the membership about, so I cannot comment on it.

Gina Wilson: I cannot offer an office view on that, either. However, it is notable that RE and RO are the only parts of our curriculum that have this statutory basis, and I suppose that we need to ask why. Is that still appropriate and needed? However, I cannot offer a position beyond that.

Gavin Yates: Parents are not homogeneous; they have very differing views.

Rhoda Grant: Okay. Louise, are you going to avoid answering my question like the other three witnesses have? *[Laughter.]*

Louise Church: Unfortunately, I am not able to comment or add anything to that.

Rhoda Grant: That is perfectly okay. I did not get any answers, but I absolutely get that people do not want to come down on one side or the other, especially when they are here representing others.

Let us move on a wee bit to the conflict that the proposals could cause, which has been touched on. We have heard that it is strange that it is the parents who would have the opt-out right rather than the children. The children would not have an opt-out right under the bill, but they would have an opt-in right if their parent opted to take them out, which seems a bit back to front. Would that cause conflict, or is there likely to be less conflict because it is the parent who will exercise the right and the child is likely to go along with that?

Louise Church, do you want to comment on that? I am picking on you first because you probably understand better what could cause conflict between parents and children.

Louise Church: If a young person wants to opt in and their parents want them to opt out, it could create conflict. Although they could have sit-down conversations in the school and discuss it, it could create conflict behind the scenes.

Young people understand how important education is and want to learn about different things, but some parents like to stick to their religion and to what they know. There can be conflict if a child wants to learn about a religion but the parent cannot see what is going on inside the classroom and might think that the child is being taught something that is totally wrong or is being given information that the parent does not believe in. That can create conflict within the family.

Rhoda Grant: That is really useful. Thank you. Does anyone else want to come in?

Gavin Yates: There is the potential to create conflict. As my colleagues said earlier, the ideal would be for parents to start talking about those matters when children are quite young, because they are important and shape our lives. Great parenting is all about having honest conversations with young people and getting them to reflect on their wishes, hopes, dreams and aspirations. The law is fairly clear that parents have not only an opportunity to get involved but a responsibility to do so under the law and under the UNCRC. They are responsible for the child's upbringing, which includes religious matters.

My worry is that we will end up with a potential conflict, which might be expensive. Others will look

at the financial memorandum for the bill, but it would take only one or two legal challenges for us to end up in the courts for an awful long time. That concerns me, because it is not good for young people.

Rhoda Grant: Are you saying that the decision should be for the parents alone and that the child should not be able to overrule a parental decision?

Gavin Yates: The legislation as drafted says that the rights of the young person would trump those of parents, but I do not think that is right either. If you are going to do this, there should be co-production. That takes me back to my Hippocratic argument and the idea of, "First, do no harm," because I can see the potential for the bill to create conflict where we do not particularly need that. The bill needs a fundamental rethink about how we balance the rights of young people and of parents, to ensure that they are in harmony, not conflict.

Rhoda Grant: Juliet Harris, do you want to come in?

Juliet Harris: The bill has the potential to create conflict, but so does the status quo, which is also open to legal challenge. That means that doing nothing is not an option and the subject must be looked at.

We must look more broadly and holistically. This discussion focuses narrowly on religious observance and on religious and moral education in the bill as it is currently drafted, but teachers handle sensitive topics with parents and students all the time and are always balancing diverse needs and moral questions. That is a fundamental part of teaching. Now that we have the 2024 act, schools have to further the UNCRC. We have more rights-respecting schools and it is important to use culture, rather than law, to address potential conflicts. It is important that the law is compatible with the UNCRC and that schools, and Scotland, have a culture in which we can tackle and discuss difficult questions, avoiding conflict as far as possible.

Gina Wilson: There is an opportunity here to educate all of us about how to manage and balance everyone's rights, which is why the concept of evolving capacities is key. The UNCRC is clear about the responsibilities, rights and duties of parents and carers in raising their children and fulfilling those children's rights, but it recognises that children will, increasingly, and with the support of parents, be able to make decisions for themselves as they grow older. There is a lot in the UNCRC, including in the general comments, about what that looks like in adolescence as the balance in decision making shifts from parents to children and young people. There is probably a wider point about public awareness of what it

means to balance everyone's competing rights and about how we manage that well.

The Convener: We are going to move on to discuss part 2 of the bill. However, before we do that, what is your opinion on the fact that part of the bill amends the Education Act 1980, which is a UK act, and it will not be possible to challenge a breach of the amendments under the 2024 act, as the bill only covers acts of the Scottish Parliament? What is your view on whether part 1 of the bill achieves its objective of complying with the UNCRC, as well as providing coherence and clarity of the process for withdrawal from religious observance and religious and moral education? Do you have any further thoughts on that approach?

10:15

Juliet Harris: I do, and I am happy to come in on that. First, on the compatibility of part 1 of the bill, as it stands, we do not believe that part 1 is compatible with the UNCRC for the many reasons that we have set out. We do not believe that the bill has been drafted in the way that the Scottish Government committed to when the 2024 act was passed.

Maggie Chapman might remember my evidence from children and young people to the Equalities, Human Rights and Civil Justice Committee during the reconsideration stage of the 2024 act. At that time, I said that children and young people had described the 2024 act as a spider's web with holes in it and that the holes represented areas where acts of law could not be covered by the 2024 act because of the Supreme Court's judgment. They said that it is the role of MSPs to be the spiders who mend the holes in the web. The bill leaves one of those holes wide open, but the Scottish Government has the chance to draft it in a way that does not refer back to the 1980 act but that instead has that part of the bill as a stand-alone provision. If it did that, it would bring it into the scope of the UNCRC act—it would be mending one of the holes in the web.

I remember the debate when the 2024 act was passed. At that time, MSPs said that they would mend the holes and be spiders, but, nearly two years on, it feels like that has been forgotten about. I urge committee members—in your role as human rights guarantors—to push on that, because we cannot keep having legislation that is being drafted in a way that makes the spider's web a bit more holey rather than bringing it all back together.

It matters for the religious observance bill. It also matters for the Children (Care, Care Experience and Services Planning) (Scotland) Bill, which is being examined at the moment, and it mattered for

the Housing (Scotland) Bill, which went through Parliament the other day. The Scottish Government is continuously drafting bills that are leading it out of the 2024 act, and it goes against the promises that we made for children and young people. This bill is a chance to do something about that.

Gina Wilson: I whole-heartedly agree with that.

Gavin Yates: I am going to agree and also speak from a parental point of view. Parents are the champions of our children and, most of the time, we try to ensure that our children's rights are respected. That cannot happen if we do not have full access to justice. The problem with section 2 is that lots of parents, as well as young people, would be disappointed that they could not challenge it in the courts if they thought that their human rights were not being upheld.

Tess White (North East Scotland) (Con): My question is on part 2 of the bill, but I will come back to Juliet Harris before I ask that. I do not know whether our role is to mend holes in webs, and the hodgepodge of law making is a huge problem. This is one of the questions that we explored last week. Why should we not recognise that this is a hodgepodge? We should not start off here; we should wait for the human rights bill and incorporate it all in that. You are nodding. Will you address that point before I ask for your views on part 2 of the bill?

Juliet Harris: The issues with the Supreme Court judgments cannot be addressed through the human rights bill alone. The issue that we are encountering with part 1 of the Children (Withdrawal from Religious Education and Amendment of UNCRC Compatibility Duty) (Scotland) Bill is the fact that it amends an act of the UK Parliament. Although it is completely within the scope of the Scottish Parliament, we are not allowed to apply human rights to that. It is about the drafting style: rather than being drafted in a way that amends a pre-1999 act, the bill should be drafted in a way that brings a stand-alone provision in an act of the Scottish Parliament.

It is the Scottish Government's job to draft bills in a way that brings things into scope. When it has not done so, we call on MSPs to hold the Government to account through the parliamentary process and to tell it that it needs to go back and look at the drafting style. It is unacceptable to have a bill that falls out of scope of the 2024 act, which was voted in with cross-party support. That is what I meant by what I said. The human rights bill for Scotland will encounter the same issues if we do not change the way in which bills are drafted in the Scottish Parliament. We must address that issue at the source rather than through the human rights bill itself.

Tess White: I go back to something that Gavin Yates said about access to justice and the bill creating more harm. One area that the committee is exploring is the huge issues with legal aid, mainly for women who are suffering from domestic abuse. What will happen if we enter this realm as well and implement the bill, with its issues of the balance of rights between the parent and the child, and the child having to be a certain age and have the capacity to access legal aid? There is no access to legal aid for those children. Gavin, I go back to your point about the bill causing more harm than good if there is no access to justice.

Gavin Yates: Access to legal aid is part of the issue. Families are struggling to get legal aid to get better additional support for learning for their kids as well, so it is a very difficult situation.

As I said at the start, I am not a lawyer, so I do not want to get into the weeds of part 2, but it needs to be fair and to be sorted out. Otherwise, it will end up in the courts. We do not want to make laws in this place that will require judges to decide how they will work on the ground. Parliamentarians should decide that.

Tess White: As a committee, we will go through stage 1 of the bill and produce a report, so we will have to make decisions. To date—last week and today—we have not heard anybody say that they are in favour of the bill. We are hearing words such as “weeds” and “holes”, which is alarming.

I will ask my question on part 2 of the bill. What are your views on the Scottish Government’s reasoning for the further exemption to the compatibility duty? I ask Gina Wilson to respond first, then Juliet Harris and Gavin Yates, and I will bring in Louise Church last.

Gina Wilson: I apologise in advance, because explaining part 2 and what we think about it will probably be very technical. In principle, we do not strongly object to the amendments that the Scottish Government is proposing. However, we have already indicated to the Government that, to enable our office to support the change, we believe that there must be a duty on public bodies to report to the Scottish Government and to our office any occasion when they become aware of a requirement in law that is compelling them to act in a way that is not compliant with the UNCRC requirements.

I will go back a step to why the Scottish Government says that the amendments are needed. It has identified an issue and it thinks that the compatibility exemption duty is needed if legal proceedings have identified an incompatibility but, for the support and protection of children, a service needs to continue to be delivered with the incompatibility in legislation until it can be remedied, or if a public body has received advice

outwith legal proceedings that it cannot comply with a duty or deliver a function in a way that is compliant with the UNCRC requirements but, again, it needs to continue to deliver a service because a separate legal obligation for it to do so exists. We can see a rationale for that description.

Although we welcome the fact that the proposed amendments would apply only where a public authority is required to act incompatibly, it must be recognised that they could have the unintended effect of undermining some of the aims of the 2024 act. The amendments might not only have the effect of protecting public authorities when they are delivering services that are incompatible with the UNCRC, but also relieve some of the pressure on the Scottish Government to amend incompatible legislation due to a lack of litigation urgency driving decisions, and make access to remedies for individual children more challenging through their being unable to directly challenge incompatible acts of the public authority in court.

As a result, we believe that additional amendments should be considered to ensure that UNCRC incorporation is underpinned by strong systems of monitoring and accountability and that, where incompatibilities are identified, they can be addressed swiftly so that children experience remedy and redress in practice. We believe that three additional amendments are needed. The first is to the 2024 act. We believe that the incompatibility declarators in that act could be broadened. At the moment, incompatibility declarators under the 2024 act can be issued only by higher courts. The incompatibility declarators can also be made only in relation to post-commencement of the 2024 act provisions. We do not see any reason why incompatibility declarators could not be issued by a wider range of courts and tribunals in relation to relevant acts of the Scottish Parliament and subordinate legislation made at any time.

That would enable people who work directly with children to better address issues that are before them. Courts and tribunals—for instance, the additional support needs tribunal, sheriff courts dealing with family law proceedings, and sheriff appeal courts—have an important role in identifying and addressing children’s rights issues. The Scottish Government has already said that one of its preferred methods to ensure that the existing statute book is compatible with the UNCRC is to respond to decisions of the courts. Our suggested amendment on incompatibility declarators would support the Scottish Government’s policy goal by providing more courts and tribunals with the power to identify incompatible legislation both pre and post-commencement.

The second area where we believe that amendments are needed is around the ministerial action that is required following an incompatibility declarator. The duties on ministers when legislation has been found to be incompatible with the UNCRC could be strengthened. That would help to address some of the gap in access to justice that will be created for children who can no longer challenge incompatible acts of the public authority in court. Currently, the act requires ministers to report to Parliament within six months on what steps, if any, they intend to take in response to the declarator. We would like the timescale to be reduced to three months and the reporting duty to go further, requiring ministers to assess the impact of the breach on children and to provide that assessment to the court or tribunal that issued the declarator; to the child affected, if relevant; and to our office.

We are happy to share with the committee the potential amendments that we have drafted. The third and final one is on a statutory reporting duty. There is a risk that incompatibilities will remain hidden and not be dealt with at a systemic level if public authorities do not have to notify the Scottish Government when they become aware that legislation is obliging them to act in a way that is not compatible with the UNCRC requirements. We urge the Government to revisit that point to ensure that an enforceable and timely mechanism for reporting and addressing incompatibilities is put in place.

We feel that those things could address some of the gaps that the amendments to the 2024 act might open up. I apologise that that answer was very technical.

Tess White: I have absolutely no idea what any of that means. I suppose that that is part of the issue—

Gina Wilson: It is part of the problem.

Tess White: It is part of the issue when you want more reporting. It would take a lawyer to unravel what you have just said. However, when there is a conflict between a parent and a child, they will have to go through the legal system and find a legal aid solicitor, which is almost impossible. You have confirmed my concerns, because you want more reporting, but the Convention of Scottish Local Authorities says that no inventory of what exists is in place. The bill would be bad lawmaking. I think that I have reached capacity on that one.

Juliet, would you like to answer the question about stage 2 in a very simple way that we can understand?

Juliet Harris: We consulted our legal members on the matter about 12 months ago because we knew that the amendment might be coming. They

broadly supported it, but with the caveat that they did not want it to impact adversely on children's access to justice. We also consulted children and young people about it, because we believe that it is important that we hear their views on it. The way that we explained it when we worked with the children and young people, which is not completely legally correct, was by imagining that the bill on religious observance was within scope of the 2024 act.

10:30

Let us imagine that, without the bill, a child is receiving religious observance at school and they want to opt out of it, but their views are not taken into account. As things stand, they can challenge the school and say, "I don't believe this is compatible with the UNCRC". If the child wins, the school will have to remove the child from religious observance, but the law will stay as it is—it will still compel schools to deliver religious observance in a way that a court has already said has breached children's rights.

Under part 2 of the bill, the child would not be able to challenge the school, which would, in a way, reduce the child's access to justice. Instead, the child, the parents, their legal representative, the office of the Children and Young People's Commissioner Scotland and the Scottish Human Rights Commission would be able to challenge the Government by saying that a law that is in effect is incompatible with the UNCRC. However, that would still mean that an individual child's access to justice had been reduced.

I will need to go back to my membership and consult them about their views on the bits that Gina Wilson talked about, but her approach could be a way of addressing some of the concerns that our members have about reduced access to justice for an individual child. Overall, however, the bill would ensure realisation of the UNCRC. It would ensure a clear legal environment, in that public authorities would know that they needed to follow the primary legislation but that, if that primary legislation was deemed incompatible by the courts, they would need to stop following it.

Our members broadly support the provisions, but they feel that the bill needs safeguards. The children and young people that we spoke to were involved in the reconsideration process for the 2024 act, so they understand that act and how what is in the bill might work. They are also broadly supportive of it, but they said that clear instructions and guidance are needed for children and young people about what it means. There need to be clear explainers. We know that adults always read the children's explainers as well. They help me to get my head around what proposals actually mean. The children and young people

said that, although the provisions need to be put in place, they would rather see the root cause of the rights violations being addressed by the Scottish Government than see them being addressed on a patchwork basis, which is the situation that we are in as things stand.

Tess White: I hear you, but we heard the point earlier that the schools are the ones who hold the coats. After listening to Gina Wilson and Juliet Harris, I have to say that, if I was a teacher or a headteacher, I would go to the council's legal department and say, "We've got a situation where the parent and the child can't agree and we don't know what to do. Can we have legal advice?" It is no wonder that COSLA is concerned about all of this. If I was a headteacher, I would be massively concerned about it.

Gavin, what is your take on it, from the parent, teacher and child point of view?

Gavin Yates: That is our concern. However, I think what Gina Wilson brilliantly set out might be a way in which we can fix the 2024 act in the mix.

I do not think that the bill is the place to fix a substantial, huge piece of legislation. Doing that would worry me, and I say that not from a legal perspective, but as somebody who has worked around politics for 30 years. One of the issues with a portmanteau bill such as this one is that we say, "It's not working in the way we want it to, so let's amend it a little bit, and maybe we can make something work". There is a lot of digging around in those weeds. The bill might be a bit of genius—I certainly hope that it is—but, from my perspective, even with all the evidence that I have heard, I have not heard that we actually have a full grip on the issue. I do not want to cause any harm; I would rather make things better.

Tess White: Thank you. What has just happened here, with the three witnesses working together from different angles, is a beautiful cameo. Now I go to the student on the panel. Louise, what is your view on the subject and on what you have just heard? How do you see us unpicking the issue? Do you have any additional thoughts?

Louise Church: I am not going to go into as much technical detail as everyone else has, but the Scottish Youth Parliament has been a long-standing campaigner for the UNCRC, especially for its incorporation into Scots law, and for children's rights. Every young person wants to have their rights protected as far as possible, so any opportunity to ensure that that happens is really important and should be taken.

I know that that is not as much detail as others have given, but it is about as much detail as I can go into.

Tess White: Louise, that was a brilliant summary. Thank you for that.

The Convener: I appreciate the dry and technical nature of the points that the witnesses have made today, but it is important that we get them on the record. I say to Gina Wilson that, if she wants to send us the amendments that she referred to, we would appreciate it, as it would allow us to understand where those views are coming from. We have a fantastic team at the Scottish Parliament that supports MSPs in understanding any legalese and helping us to make headway on these things.

We now have questions from Marie McNair, who joins us remotely.

Marie McNair (Clydebank and Milngavie) (SNP): Good morning, panel, and thanks for your time this morning. I am interested in hearing your thoughts on the potential impact of part 2 of the bill on children, public authorities and, indeed, any future legislation such as the Scottish human rights bill. You might have touched on that already, but I wonder whether you want to expand on your comments.

I will bring in Juliet Harris first, if that is okay.

Juliet Harris: I am not sure that I have much more to add to what I have already said, which is that our membership is broadly in support of part 2. We believe that it will provide clarity for public bodies on whether they should be following primary legislation or court rulings against specific cases.

We agree with some of the evidence that you heard last week on the impact that the bill might have on children's access to justice. If the committee can do any work on the suggestions from the Children and Young People's Commissioner's office about ensuring that it does not negatively impact on such access, I am sure that we will be keen to explore that. The potential amendments that the commissioner's office has recommended sound interesting, and I am really keen to engage with our Together membership and come back to the committee with our view once we have had a chance to digest them. If they could address some of the concerns that have been raised, that would definitely be a good thing.

Marie McNair: Thank you, Juliet. Gavin or Gina, do you want to respond?

Gina Wilson: On the broader question of the impact of any of this on the future human rights bill, it is important to recognise that the 2024 act and incorporation of the UNCRC are still relatively new and still bedding in. We are working out all the kinks in what it actually takes to implement incorporation across Scotland, and all the learning that we are gaining from the implementation of

that legislation will be extremely relevant for the human rights bill. The potential amendments to part 2 that we are looking at are also valuable for any future work on the human rights bill, because we need to learn from the incorporation model that we currently have and any potential weaknesses in it so that we can strengthen it in future.

I know that we have touched on this several times, but I want to raise again the way in which the bill has been drafted. To our office, the drafting of part 1 indicates a slightly concerning trend from the Scottish Government whereby it is not prioritising legislation that is drafted being in scope for UNCRC incorporation. That potentially signals a worrying lack of commitment, and it might be relevant with regard to the human rights bill, too.

Marie McNair: Those comments will be helpful when we come to compile our report. Gavin, do you want to say anything, or have your points been covered?

Gavin Yates: I will be really brief, because I agree with much of what my colleagues have said. I just note that, as has been said, it is still early days. I work with teachers, parents and local authorities, and they are telling me that they have not even got their heads around child-centred complaints yet. That is still a guddle—I think that that is the technical legal term, isn't it, Gina? My concern is that we are biting off some large chunks here and we cannot afford to get it wrong.

Marie McNair: Thank you—that is really helpful.

Louise, I do not want to put you on the spot, but do you have anything to add? It is okay if you do not.

Louise Church: I do not have anything to add.

Marie McNair: That is not a problem.

Last week, it was argued that part 2 should not be in the bill, given that it is so distinct and different from part 1. I know that you covered that issue earlier, too, but is there anything else that you want to say to the committee on that?

I pop that question out to Gavin Yates, but if you have nothing to say, Gavin, that is okay.

Gavin Yates: I am always wary of portmanteau bills and ending up with conflation. That is my concern.

Marie McNair: Thank you. Does anyone else want to comment?

Juliet Harris: I can understand why the two things have been brought into the same bill. Although we do not believe that it does this, the intent of the bill is to address an incompatibility with the UNCRC, and part 2 is about what you do when primary legislation is incompatible with the

UNCRC. There is definitely a logic to the two things being put together in the same bill.

Marie McNair: Thank you. Gina, do you have anything to add?

Gina Wilson: I have nothing to add.

Marie McNair: Last but not least, do you have any last-minute thoughts, Louise?

Louise Church: No.

The Convener: That brings our first session to a close. I thank all our witnesses for attending.

I will suspend the meeting briefly to allow a changeover of witnesses.

10:41

Meeting suspended.

10:45

On resuming—

The Convener: I welcome our second panel of witnesses. Dr Douglas Hutchison is executive director of education at Glasgow City Council and is representing the Association of Directors of Education in Scotland, and Susan Quinn is the convener of the education committee at the Educational Institute of Scotland. Good morning and welcome to you. We will move straight to questions, and I will kick off.

We heard critical feedback from the three panels of witnesses last week, and we heard various critical views about the bill from this morning's first panel. What are your views on the general principles of the bill?

Susan Quinn (Educational Institute of Scotland): Overall, the EIS supports the intent that is behind the bill and particularly the aim of giving children a greater voice, which we firmly believe needs to be considered. However, we have significant concerns about the apparent underestimation of the resources that will be required for implementation and about the potential impact on workload and relationships. We do not feel that the bill fully realises our policy intentions for pupils' rights, and there is a lack of clarity about practical implementation issues. The idea is all right, but what is actually in the bill and the potential issues with it are problematic for our members.

Dr Douglas Hutchison (Association of Directors of Education in Scotland): ADES's views are similar, in some ways, to those of the EIS. The policy intention to improve the position on children's rights is right, but I am not clear that the bill will achieve the policy intention of progressing children's rights. I am concerned that

religious and moral education is being seen in the same light as religious observance, whereas the two are very distinct.

I am concerned about the practical implications of the requirement to ensure that parents have taken account of children's rights. How do you evidence that parents have taken account of those rights when they exercise their right to withdraw?

To go back to the point about religious and moral education versus religious observance, religious and moral education should be seen as a curricular subject in the same way as any other subject. I do not understand the idea that there should be a conscience clause. That made sense in 1872, when religious education was religious instruction, because the schools had largely transferred from the Church of Scotland into the state system. The 1980 act replicates what was set out in the 1872 legislation, but the world has changed since 1872 and religious and moral education has changed since 1872. The idea that, in a liberal democracy, there is no place in the curriculum for religious education and there should be a right to withdraw from it does not make sense in 2025. It should just be considered in the same way as any other subject. Children do not have the right to withdraw from physics if they think that the world is flat, so why would they have a right to withdraw from religious education?

Religious observance is different. I would remove the legal requirement to have religious observance at all. Religious observance is a free response in faith, and I see no place for it in non-denominational schools. I do not see why there should be any legal requirement to have religious observance.

Curriculum for excellence sets out four key areas where the curriculum is delivered: curricular areas and subjects, interdisciplinary learning, personal achievement and the ethos and life of the school. If a school has an assembly that celebrates the ethos and life of the school, that is curricular, so why would you have a right to withdraw from it? It is part of the life of the school. It is not religious observance; it is celebrating the ethos and life of the school. That is in non-denominational schools; it is different in denominational schools. I understand why there would be a right to withdraw in non-denominational schools, but there should not be a legal requirement, in local authority non-denominational schools, to have religious observance.

Maggie Chapman: Good morning and thank you for joining us. I thank Douglas Hutchison for clearly articulating what I think we have heard from every panel, and probably every individual witness, since we started our scrutiny of the bill, on the distinction between religious observance

and religious and moral education. That has come through loud and clear. We have to deal with the bill that is in front of us, so we are talking about both aspects, but we all get the need to separate them, so I will take that as understood.

I am interested in hearing views from both of you on how things are currently working, on levels of awareness of the right to withdraw and on how schools and teachers deal with potentially awkward conversations. I come to Susan Quinn first.

Susan Quinn: As well as being education convener for the EIS, I am a primary headteacher. In schools, we deal with things on a day-to-day basis, and we look to do so as practically as we possibly can. Across the country, the numbers of people who are seeking to withdraw are small. Who knows why that is? We do not know whether there is awareness of the right or whether people accept what is there and understand that the things that happen in their schools are balanced and considered—and that it is a good thing for the young people to have broad experiences.

I cannot speak about the issue of parental choice—or otherwise—but we find that, when larger numbers of young people and families are looking to withdraw from religious observance and RE, that becomes problematic, because of the limited resource that is available. A parent would be perfectly entitled to expect that, if their young person was not attending mass at a Roman Catholic school, for instance, they would be taught for that period by a teacher who is registered with the General Teaching Council for Scotland. That cannot happen, in genuine practical terms.

In lots of areas, there are schools where a large number of young people may potentially seek to withdraw—or rather, it is young people's families who want that; it is not the young people who are seeking to withdraw, and that is part of the issue. If large numbers want to withdraw, there can be a real difficulty with capacity. The buildings will not be big enough and will not have an extra room to allow for that, or we will not have enough staff, or staff will be taken away from something else, which means that the young people are losing out.

On the practicalities, schools will seek to have conversations with parents about what legitimately might happen if they exercise their right to withdraw, and schools will be honest about the challenges that they will face in providing quality education during that time. The schools will then have a conversation with their local authority about how it can best provide support if that has to be done. It is problematic.

Maggie Chapman: Picking up on what you said, I have two connected follow-up questions. You have framed the issue in terms of resourcing,

and there is genuine concern about what the proposal means for how schools deal with such things. Would it be helpful if we quantified things, if we had better data and if we had a better understanding of how many parents, young people and families could be affected, so that that could be used as evidence to request further resources?

I ask because, at the moment, we do not collect such data. There is no regularised or standardised mechanism—even in schools, as we understand it, never mind across local authorities or across the country. Is there a role for better data collection?

Susan Quinn: I think that you will get the data only on what is happening at this point in time. The right to withdraw is not hugely publicised, but the need for us to put changes in a handbook and to publicise that might change how many people look to withdraw, and that cannot be anticipated from the data on only what is currently happening.

We can see changes in the demographics of schools and how that might look. Data is obviously helpful, but I do not know whether you would get much out of knowing how many withdrawals there are now, because this is about projecting a change that could significantly increase that number, and we cannot jump forward to anticipate that.

Maggie Chapman: That is helpful. From the point of view of young people and their families, in your experience and from speaking to other teachers, have young people been reluctant to approach a member of staff, because they do not want to be stigmatised, othered or marked out as different? Do you see othering and stigmatisation as a potential issue in how the system currently works?

Susan Quinn: No, I do not think so at the moment—we are not hearing a lot of that. Our schools are always cognisant of individuals in such situations, which schools will always do their best to accommodate anyway. However, if the number of withdrawals increases as a result of changes to legislation or otherwise, accommodating that could become more problematic for schools.

I do not think that there is any particular evidence of that under the current system—certainly EIS has not seen that. It is the parent who makes the request for withdrawal, and that will not change under the proposed system. The child must be considered more clearly in the proposed process, but it is not the young person who comes forward to say that they want to exercise their right to withdraw, because they do not have that right in the current situation or under the proposed new system.

The challenge, as you and others have said, is about what we put in place if, potentially, there is an increase in young people being withdrawn from religious observance. Let us accept that we will deal with the RME part of it. EIS agrees with Douglas Hutchison and others that that is a curricular area, and it is a slippery slope if we look to give parents the right to withdraw from curricular areas, because we know some of the challenges that are involved in that.

I can see that, at least at the very beginning, there might be a bit of impetus in the sense of young people saying, “Ma pal’s not havin to do that, so I’m gonnae ask ma mammy to withdraw me,” so there could be a tipping point. I am not suggesting that they should be doing a whole lot of lines while others are at religious observance—I do not think that those things are compatible—but they are young. If you can get time away from doing something in school, that is what you will choose to do. There is a challenge for us around some of that.

11:00

Maggie Chapman: I put the same question to Douglas Hutchison. From your point of view, how is the current system working? What are some of the challenges or pitfalls?

Dr Hutchison: I might be wrong, but I am not aware of the right to withdraw from religious and moral education being a major issue. Although the right to withdraw from religious observance is not a major issue with an impact across the system, it is becoming more of an issue, particularly in denominational schools in which the majority of students are not, for example, Catholic by association or commitment. For example, if primary school students were going to first Friday mass and 70 out of 200 students did not want to go to the service, that would be a logistical problem for the school. I suspect that it is more of an issue in denominational schools than in non-denominational schools, because the latter schools have moved broadly in the direction of an assembly being a celebration of the ethos and life of the school, which is entirely consistent with the curriculum for excellence.

As Susan Quinn indicated, the right to withdraw has the potential to become more of a practical issue, which ADES has highlighted. Strictly speaking, you would expect a child to have the right to say, “No, I don’t want any part of this,” rather than the fudge that is in the bill, which indicates that parents have the right to withdraw their child but should ask them, or whatever it says. As Susan Quinn said, in an assembly at a school of 150 children, if half of them said, “No, I am exercising my right to withdraw,” what would the headteacher do with them? The practicalities

of that situation could be hugely problematic, if momentum built around it.

For me, the solution would be to remove the requirement to have any kind of religious observance in a non-denominational context. It is different for a Catholic school or for Calderwood Lodge primary school, which is a Jewish school. It is reasonable for parents to expect some kind of faith element if they choose to send their children to a denominational school. In that context, there are likely to be some people who would say that, although their child is there, they do not want them to participate in that aspect of the school, which is reasonable. In a non-denominational context, I do not see why we would expect there to be any kind of expression of faith.

Maggie Chapman: On the first panel, it was suggested that there has never been a thematic review of religious observance in schools, and certainly not recently, although it may well have been done prior to the 1980 act. Would ADES support or consider a review, given what you have said about the removal of the requirement for RO in non-denominational schools?

Dr Hutchison: A thematic review would not be my top priority. I think that we have more pressing issues than the quality of religious observance across the country. When I was at Her Majesty's Inspectorate of Education, we did a thematic review of religious and moral education. There was probably discussion at that time about having a look at religious observance, but we stepped back and focused only on religious and moral education. It could be done, but I am not sure that it is the top priority.

Maggie Chapman: From your experience, is there a systematic way of recording withdrawals from RO or RME? Are you aware of schools collating data on that in a standardised way?

Dr Hutchison: No, and that is probably because it is not a major issue. I am aware of one or two schools where an increasing number of people are exercising their right in denominational schools. However, that is the case in a very small number of schools, and the data is not collected systematically.

The current position is that there is a clear expectation that the statement of a parent's right to withdraw their child from religious education and religious observance should be in the school handbook. That should, therefore, be in every school handbook. Beyond that, we do not collect any data. However, I am not aware of it being a particular problem, other than in a very small number of schools.

Maggie Chapman: In that small number of schools, or elsewhere, are you aware of any questions or concerns that parents, young people

or teachers have observed around the stigmatising or othering of young people if their parents withdraw them?

Dr Hutchison: No, not at all. My experience is that, for example, there will be a denominational primary school—a Catholic primary school—that has a significant Muslim population, who would choose not to go to the church that is situated nearby, which is perfectly reasonable. They have a strong identity as a Muslim community and they are happy to be part of a denominational school, but they do not take part in that bit of it. There is no sense of them being othered or stigmatised or anything like that.

Maggie Chapman: It might, however, be an issue if there were one individual, rather than that clear community with a strong identity. From what we heard last week, people are perhaps unwilling even to raise the issue for fear of stigmatisation or othering. However, that is not your experience.

Dr Hutchison: No, it is not my experience. I am not aware of that.

Maggie Chapman: Okay.

Dr Hutchison: I have to say that I have also not had complaints on the issue. I have been director or head of education for 12 years now, both in Glasgow and in South Ayrshire, and it has never crossed my desk as a complaint.

Maggie Chapman: Thanks. That is helpful. I will leave it there.

Paul McLennan: This question is more about the processes that are proposed in the bill. It is the same question that I put to the previous panel, and it is about the requirement for schools to inform a child if their parent asks for them to be withdrawn from RO and RME. When such a request has been made, the child is given an opportunity to express their views, the school must seek to have a discussion with the child, and a school must respect the child's wishes if their views differ from those of the parent.

Susan, I will come to you first, given your experience as a teacher. What are your thoughts on that, and on the process that has been outlined?

Susan Quinn: There are potentially challenges around it in terms of workload, resource and the ability to do it, as well as the potential for a breakdown in the relationship between a school and a parent. Somebody on the previous panel referred to child-friendly complaints. We are looking at those just now and it makes me go, "Oh my goodness, I can see a fallout happening here". That is the challenge of it. It is about what that looks like.

Some of the questions and conversations among our members are also about the age at which a young person can properly consent.

Paul McLennan: That was going to be the follow-up question, as you probably heard from previous evidence sessions. The point has been made that you could have a mature eight-year-old, or an immature 12-year-old. It is therefore about where the line is.

Susan Quinn: Yes. It is about where that line is.

When you know your families and know what is happening, it is also about the impact and challenges that there might be for a young person who has said no to their parents, when they have to go up the road. We have a whole lot of concerns around how that might play out for our teachers and staff, who will have to relay the message to a parent that their wish has not been taken forward, because their child has said that they want to continue with it. That is a potential difficulty.

It is also genuinely about the issue of time. As a primary headteacher of a good number of years' experience, I am not aware of any headteacher who is sitting twiddling their thumbs and needing something extra to do, when it comes to conversations with young people around that. We are already speaking to them all the time. If you are putting something like that in place, which has the potential to result in a conversation with a parent, you have to make sure that you are doing it properly. I could see that bringing challenges for us.

We would also have concerns about a young person saying no to their parent. I know what my mum would have said to me if I had said no to what she had to say—that is a long time ago, but we would still have concerns.

Paul McLennan: There are different family dynamics.

Susan Quinn: There are different family dynamics and challenges, and our members would have concerns about that.

It is not clear what age we are talking about. Are we saying that a four-year-old has the right to express their views? Even for an eight-year-old, I can see that, if it is their teacher or headteacher asking them, they might think that they have got to please that person. They might see that the teacher wants them to keep doing it, so they will agree with the teacher. That will give them some challenges.

Paul McLennan: Douglas, do you have anything else to add?

Dr Hutchison: I absolutely agree with Susan Quinn. As I said in response to the consultation, it

is difficult to imagine any straightforward or consistent mechanism to make it work that would not be burdensome for the school and onerous for the child and parent.

One issue that regularly comes up in schools is when two parents are separated, both have parental rights and they have entirely different world views. In those circumstances, it becomes even more complex. It is difficult to imagine any way in which it could be operated straightforwardly or simply that is not burdensome for the school and challenging for the parents.

Paul McLennan: As an extension of that, at the previous meeting of the committee we asked about the UNCRC. We specifically mentioned article 12 on the right to be heard and article 14 on freedom of thought. We have heard from various witnesses that there are issues to do with compatibility with the UNCRC. What are your thoughts on that?

Susan Quinn: For us, the challenges are not about the compatibility with the UNCRC; they are about the practicalities. Some of those can become quite legalistic, which makes it difficult for schools to implement and to consider. Douglas Hutchison is right that we already have situations where two parents cannot agree on a course of action, and there is potential for this to be more problematic.

The fact is that, in order for a young person to be heard, the system under the bill hears them only if their parent makes a request on their behalf in the first instance. A young person who has developed conscience themselves and wants to withdraw is not heard—the bill does not do that part. I am not sure what more it does than what we currently have.

Dr Hutchison: When I was preparing a response to the consultation on behalf of Glasgow City Council, rather than ADES, I asked some of the RME faculty heads in the city. They specifically referenced article 14 on freedom of thought, belief and religion. It was their view that withdrawing from or devaluing religious and moral education by continuing to allow the right to withdraw diminished the rights under article 14—because how can children and young people understand belief and religion if they are not exposed to it as part of their curriculum experience? They saw it as a potential threat to children's article 14 rights. I thought that that was a reasonable point to make.

Rhoda Grant: We have heard that there is a distinct difference between RO and RME, and that RME should not really be in the bill. Douglas Hutchison also said that he did not think that RO should be a legal requirement for non-denominational schools, and I wonder whether Susan Quinn agrees with that.

I also want to push you a wee bit further on what you mean by that. We have had evidence that, say, nativity plays and the kinds of things that go on in schools around Christmas time can be viewed by people not of the Christian faith or who do not have a Christian background as being very much like RO, with their children being asked to observe Christian traditions that are not part of their own beliefs.

11:15

Susan Quinn: On your initial question, the EIS does not have a position on whether RO should be present in schools. We do not have a particular policy in that area; our policy relates to the child's right to withdraw, and that is where we would welcome children having the right to do so. However, the legislation does not give the child that right.

With regard to non-denominational schools, I go back to Douglas Hutchison's point about activities that celebrate the life and ethos of the school. I think that nativity plays and so on would be covered by that, because they would come under RME. After all, part of the RME curriculum is about an understanding of Christianity and the particular celebrations associated with it, alongside other aspects of religious life. Therefore, I do not see that as a problematic area.

There might still be people who wish to withdraw, but the whole point of the bill is whether they should have the right to do so. However, that is not the EIS's position. I think that you can legitimately argue for having assemblies and celebrations that focus on different aspects of religious and moral education and that side of curricular development as part of the life of the school.

Dr Hutchison: I am not 100 per cent clear what your question is. I would probably agree with those who question having a nativity play in a non-denominational school—I think that it is a reasonable question to ask. If you have been to schools in Glasgow, you will know that they are very diverse; indeed, 26 per cent of our children and young people have English as an additional language, and they come from a huge variety of cultures and religious and non-religious backgrounds. The idea that we would have something very Christian-centric in a school where a predominant group was Muslim would be questionable in a non-denominational context.

Last Christmas, I went to a genuinely multicultural event in a non-denominational primary school. Aspects of multiple faiths had been incorporated into the event—it was not a nativity—and it featured expressions of a broad range of faiths. I thought that it was very inclusive,

and it showed that there are ways of doing that sort of thing.

Again, I go back to what I said: a school's ethos and life form one of the contexts in which curriculum for excellence is expected to be delivered, and it would be for that school to determine how it expresses its vision, values and purpose, and how it expresses its ethos and life as a community that reflects its community. Any event that reflects one part of the community and excludes others is problematic for me, and that is why I would question the legal requirement to have religious observance in a non-denominational context.

By definition, religious observance should be a free response in faith. If there is no faith community in the school, why are we requiring those young people to take part in that activity? Why, in 2025, are we as a country requiring any form of religious expression or faith in a non-denominational context?

Anyway, that is my view.

Rhoda Grant: That was useful.

My other question has pretty much been answered, but I will ask it, just for clarification. It is about the possibility of, or potential for conflict between parents and children. We all understand that the preference is for the bill to allow the child to make this particular decision, but the fact is that they will be able to do so only if their parent opts them out. That is the only time that they can take a decision that might be contrary to their parent's belief. Will that create conflict, or would there be more conflict if the child were able to instigate the process and make that decision themselves?

Susan Quinn: I am not sure whether there would be more or less potential for conflict if the child had the right to put their position forward first. The challenge for us is that the bill does not limit the number of times that a parent can make the request. You could see extreme circumstances in which a parent might make a request, conversations would take place with the young person, who might not want to opt out and would continue, then the parent would come back in a few months' time—

Rhoda Grant: —or even a few days' time.

Susan Quinn: Adults, like young people, can be broken records, too. The bill does not pre-empt your wanting to have your own way and doing that sort of thing.

There is another challenge. What if a young person changes their mind? They might say, in the first instance, "Yes, I'll go along with my parent" and then, a year in, they might feel that they were missing out or would be interested in seeing what they were missing out on. However, they would

not be able to change their mind on their decision. I am not sure whether there would be more or less challenge if the young person had the right to put forward their position in the first instance, but I think that what is in the bill has the potential to cause more problems.

Dr Hutchison: I am not clear how a parent would evidence that they had taken account of their child's views, or how a school would assure itself that the child's views had been taken account of before the parent made the request. I am just not clear how that would work in practice in the real world. What if Susan, as headteacher, were faced with such a situation? I am just not clear how she would convince herself that the child's views had been taken into account, and what would happen if there were any conflict. I am just not clear how it would actually work in practice.

Rhoda Grant: Okay. Thank you.

Tess White: Do you have any views on the approach being taken in part 2 of the bill? We heard some really strong views on that last week and we have heard some strong views this morning, too. Do you have any additional thoughts on that? Susan, I am looking at you.

Susan Quinn: I have nothing particular to say in addition to what I have already said. The concerns that the EIS has about the implementation of the bill relate to resource, the ability to maintain relationships and the ability to support our young people effectively within the context. That is where our challenges sit—on the practical side of things. We do not believe that the bill goes far enough when it comes to children's rights, but beyond that, we think that there are real challenges with regard to the practicalities.

Tess White: You said earlier that you already have enough on your plate and that this will be just one extra burden.

Susan Quinn: Yes, it has the potential to be an extra burden, given that we already have a lot of things that need to be addressed. Going back to what Douglas Hutchison said with regard to the need for a thematic review, I think that, for us, a whole lot of other things in the system are potentially more important.

We have a process in place just now, but this sort of thing does not happen in many places or in significant numbers, and I am not sure that the evidence suggests that people are crying out for this approach. It is about the practicalities of how to do those things in a way that does not add significant workload and stressors to relationships in school communities.

Tess White: COSLA has said that there has been no mapping, gap analysis or data collection,

so the question is, how can you legislate if you have not done the prep work?

Susan Quinn: Yes.

Tess White: Thank you. Douglas?

Dr Hutchison: Similarly, I am not in about the detail—some of the previous contributors knew the detail incredibly well. Like Susan, my concern is the practical application of what is proposed. Ms Chapman referenced othering children and young people; I see this approach of having a right to withdraw as othering religious and moral education and diminishing its place. It is somehow treated as if it were still religious instruction from 1872, but it is not. I am a former RE teacher—that was when I earned an honest living—and the bill seems to me to devalue RE.

The practical application of what is proposed concerns me. The potential for large groups of young people to exercise the right to withdraw from religious education or any form of celebration of the ethos and life of the school gives rise to huge issues. The practical application for schools and local authorities in relation to the potential to get involved in further litigation, with possible conflicts between a parent and child or two parents and a child, is problematic. We are already up to our ears in ASN tribunals and other issues; the bill opens up a whole other seam of issues for us. Those practical realities concern me.

Tess White: That is really powerful feedback to the committee, particularly bearing in mind that Gavin Yates from Connect said previously that the bill could cause harm if it goes through. You have said that it could cause conflict but Gavin Yates went further. What is your view of that?

Dr Hutchison: I am less clear about the notion of "harm"; I am more concerned about practical reality. A headteacher of a primary school with 160 children struggles to manage their reduced class contact time. They generally do so in part by having an assembly on a Friday morning, where they will give out awards and all the rest of it. If the rest of the teachers are away getting some of the reduced class contact time, the headteacher and the deputy will take the assembly. What if, suddenly, 65 children say, "Sorry, no, I'm not going to that, that's religious observance"? The practical implications of what might happen cause me concern, and the idea that we could potentially be involved in further litigation makes my heart sink.

Tess White: Thank you. Susan, I see that you want to come in.

Susan Quinn: I agree with Douglas. It is not about overstressing the RME part of the bill—well, it potentially is. You have heard a lot about there being a real danger in looking at a right to

withdraw from RME. Why would a parent or a child not then come forward and say, "We want to withdraw from personal and social education because we don't agree with what's being taught"? Although I am not sure about the flat earth comment, what if they say, "This isn't our priority for a young person. Why do they have to learn two extra languages when they are struggling with their literacy in English? They should not have to do those languages." There is a real danger that things start to escalate and pose those kinds of challenges. RME is part of the curriculum. It provides our children with an opportunity to look at the wider world and with a learning experience that can help them to become more tolerant and understanding. If we are needing anything across the world just now, it is an understanding of each other.

So, there are challenges. I will not speak to the word "harm" because it advances things much further, but there is potential for conflict because that is the nature of human beings.

11:30

Tess White: Susan used the word "danger", Douglas mentioned the word "conflict" and we have previously heard the words "harm" and "weeds" as well as the phrase "holes in the web". Thank you for that.

I pass back to our convener.

The Convener: We have questions from Marie McNair, who is joining us remotely.

Marie McNair: Thank you, convener, and good morning to the witnesses. My question has kind of been covered, but I will ask it in case you want to add a wee bit or say anything else. What are your thoughts on the potential impact of part 2 on, for example, children, public bodies and future legislation, such as the human rights bill? I think that you have covered quite a bit of the matter, but do you want to add anything else?

Susan Quinn: I have nothing else to add to the discussion of part 2.

Marie McNair: Douglas, do you want to add anything? Feel free to do so—I am not putting you on the spot. Otherwise, I will hand back to the convener.

Dr Hutchison: As I said, I will not get into the detail of the legislation. I have nothing specific to add in relation to part 2, apart from what is in my submission on behalf of Glasgow City Council, which is that we are trying to solve an 1872 issue in a 2025 context and I am not sure that that is the answer. Complex issues need to be resolved, but I am not convinced that the bill takes us forward in addressing them, as it simply complicates and slightly fudges them.

Marie McNair: Thank you, Douglas. I have no further questions, convener.

The Convener: That concludes our questions. Thank you once again for joining us. We will discuss the remaining items on our agenda in private.

11:32

Meeting continued in private until 12:23.

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