



OFFICIAL REPORT
AITHISG OIFIGEIL

Education, Children and Young People Committee

Wednesday 26 November 2025

Session 6



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EDUCATION, CHILDREN AND YOUNG PEOPLE COMMITTEE
34th Meeting 2025, Session 6

CONVENER

*Douglas Ross (Highlands and Islands) (Con)

DEPUTY CONVENER

*Jackie Dunbar (Aberdeen Donside) (SNP)

COMMITTEE MEMBERS

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

*attended

THE FOLLOWING ALSO PARTICIPATED:

Maggie Chapman (North East Scotland) (Green)
Pam Gosal (West Scotland) (Con)
Monica Lennon (Central Scotland) (Lab)
Ben Macpherson (Minister for Higher and Further Education)

CLERK TO THE COMMITTEE

Pauline McIntyre

LOCATION

The Robert Burns Room (CR1)

Scottish Parliament

Education, Children and Young People Committee

Wednesday 26 November 2025

[The Convener opened the meeting at 09:00]

Tertiary Education and Training (Funding and Governance) (Scotland) Bill: Stage 2

The Convener (Douglas Ross): Good morning, and welcome to the 34th meeting in 2025 of the Education, Children and Young People Committee. I welcome to the meeting Ben Macpherson, the Minister for Higher and Further Education, and his supporting officials. The officials who are seated at the table are here to support the minister but are not able to speak in debates on amendments, so members should direct their comments or questions to the minister. During the meeting, we will also be welcoming a number of MSPs who are not members of the committee but who will attend part or all of the meeting to speak to their amendments and participate in the debates.

Willie Rennie (North East Fife) (LD): Convener, before we proceed, I am sure that other members of the committee would like to join me in congratulating you on your award last week. Personally, I think that it was the nominations from George Adam and me that got you over the line, but whatever—we sincerely congratulate you on your award.

The Convener: That is very kind of you, Mr Rennie. It is unexpected but very welcome praise from you and other members. I hope that that means that our stage 2 deliberations on the Tertiary Education and Training (Funding and Governance) (Scotland) Bill will be very collegiate and good mannered.

Given that this is the first day of stage 2, I have been asked to, once again, go through the process that we will be following for anyone who is watching online. The amendments that have been lodged to the bill have been grouped together. There will be one debate on each group of amendments. I will call the member who lodged the first amendment in the group to speak to and move that amendment and to speak to all other amendments in the group.

I will then call other members who have lodged amendments in the group. Members who have not lodged amendments in the group but who wish to

speak should catch my attention. If the minister has not already spoken in the debate on the group, I will then invite him to contribute. The debate on the group will be concluded by my inviting the member who moved the first amendment in the group to wind up.

Following the debate on each group, I will check whether the member who moved the first amendment in the group wishes to press that amendment to a vote or to withdraw it. If they wish to press it, I will put the question on that amendment. If a member wishes to withdraw their amendment after it has been moved, they must seek the agreement of other members to do so. If any member who is present objects, the committee will immediately move to a vote on that amendment. If any member does not want to move their amendment when it is called, they should say, “Not moved,” although please note that any other member who is present may move it. If no one moves the amendment, I will immediately call the next amendment in the marshalled list.

Only committee members are allowed to vote. Voting in any division will be by a show of hands, so it is important that members keep their hands clearly raised until the clerks have recorded the vote.

The committee is required to indicate formally that it has considered and agreed to each section of the bill, so I will put the question on each section at the appropriate point.

Now that we have covered the procedure, we will start the substantive business.

Before section 1

The Convener: Amendment 38 is grouped with amendments 39 and 207.

Pam Duncan-Glancy (Glasgow) (Lab): Good morning. I associate myself with Willie Rennie’s comments and congratulate the convener on his award last week.

Amendment 38, in my name, would require the preparation of a national skills and apprenticeship funding strategy that set out

“the Scottish Ministers’ priorities for funding national training and apprenticeship programmes with a view to meeting medium and long-term skills needs ... how school-phase pathways, including foundation apprenticeships and senior phase technical routes, are reflected in the priorities ... the intended roles of the bodies to be involved in delivering the priorities”

and

“how the Scottish Ministers intend to measure success in delivering the priorities.”

The amendment sets out that the Scottish ministers must consult employers, trade unions,

employers who are subject to the apprenticeship levy, schools, colleges and universities.

Amendment 38 is intended to bring much-needed coherence to the landscape. As we heard from many stakeholders who gave evidence on the bill, there must be a far more strategic focus on skills in Scotland, with connections between industry, school and the education system all the way through someone's development, from cradle to career.

Amendment 39 would require ministers to publish a report that set out how the strategy was meeting the skills needs in industry and in the public sector, so that we can be confident that we will not have more years with skills gaps in key industries. Recently, we have heard that, as a result of skills gaps, we have had to import skills from other countries. That is regrettable, so we should ensure that we have proper plans not just for construction, plumbing and welding, for example, but for the public sector, where we have significant skills gaps, including in the teaching and health workforces.

Taken together, those two amendments would provide much-needed coherence to the skills and education landscape. I commend them to the committee and hope that they can meet with support from members.

Amendment 207 is a consequential amendment that commences amendments 38 and 39.

I move amendment 38.

The Minister for Higher and Further Education (Ben Macpherson): Convener, I, too, want to congratulate you, and the committee more widely, on your award.

I also want to thank all the members and stakeholders who engaged with me on the bill between stages 1 and 2. The substantial and constructive engagement that we have had has been, I think, to the benefit of all.

I will speak to all the amendments in this group together, noting that amendment 207, as Pam Duncan-Glancy has mentioned, is consequential. I appreciate why the member has lodged them. It is desirable to have a clear picture that all can understand and which allows everyone to see their roles and responsibilities and where the opportunities might sit with regard to having national direction of skills planning. That is what the bill and the wider reforms of the skills landscape that we are introducing seek to do.

The Scottish Government is committed to leading skills planning nationally while strengthening regional approaches. We have agreed a high-level model for planning that sets out intended roles for the Scottish Government, the Scottish Funding Council and Skills

Development Scotland, consistent with the objectives of the proposed amendment.

I am happy to consider what we might be able to publish ahead of stage 3, but I also want to put on the record the Government's commitment to transparency, collaboration and delivering a system that meets Scotland's strategic skills needs. I am also happy to take on board many of the aims that are set out in Pam Duncan-Glancy's amendments in our approach, not least on consultation. It is, of course, the norm for the Scottish Government to consult and engage with key stakeholders in the development of policy, and I do not intend to deviate from that in our approach.

However, it would be inappropriate to tie future Governments to a policy approach by making it statutory. There are also some issues with the drafting of the amendments. For example, elsewhere in the bill, provision is made for "work-based learning", which includes but is not confined to foundation apprenticeships.

For all those reasons, I cannot support amendments 38, 39 or 207, and I ask Pam Duncan-Glancy not to press amendment 38 or move the others in the group and allow me, my officials and the Government more widely to consider what more information on our national skills planning approach I can provide to Parliament ahead of stage 3.

Pam Duncan-Glancy: Will the minister give way?

Ben Macpherson: Yes.

Pam Duncan-Glancy: I appreciate that, minister, and I am sorry to cut you off in your flow. I was just slightly concerned that you were getting to the end of your comments, so I would not be able to intervene. Forgive me if my intervention means that things do not flow quite so nicely.

In the letter that you sent the committee overnight, you say:

"strategic skills priorities will be published by the Scottish Government in December 2025."

Could that document include some of the mechanisms that I have set out in my amendment?

Ben Macpherson: I am not able to give that firm commitment at this juncture. It will be important to put before Parliament the proposals that were set out in the letter sent on Monday, but, as always, I will be happy to engage with Pam Duncan-Glancy on these matters ahead of stage 3. When it comes to wider considerations of skills planning and with particular reference to these amendments, I think that there is strong alignment across the Parliament on what we want and need

to do. I suggest that we engage on that ahead of stage 3.

However, I urge Pam Duncan-Glancy not to press or move these amendments, and if she does, I encourage members to vote against them.

The Convener: I call Pam Duncan-Glancy to wind up and press or withdraw amendment 38.

Pam Duncan-Glancy: I am prepared to give the minister the benefit of the doubt and to work with him on this between now and stage 3. It is important that such a bill sets out clearly the link between education and skills; I think that that is lacking in the bill as drafted, and my amendments could have brought coherence and direction that are not there.

However, I am prepared to discuss the issue with the minister between now and stage 3, and to look at what the minister might publish ahead of stage 3, as was outlined in the letter that came on Monday. Forgive me for saying that it came overnight—today is Wednesday.

I will not press amendment 38.

Amendment 38, by agreement, withdrawn.

Amendment 39 not moved.

Section 1—General duty of the Council to secure high-quality learning

The Convener: Amendment 1, in the name of the minister, is grouped with amendments 40, 41, 2, 42, 24, 25 and 43 to 46.

Ben Macpherson: My amendments 1 and 2 insert references to post-16 education bodies into sections 3 and 4 of the Further and Higher Education (Scotland) Act 2005, as amended by the bill. Those are the general duties on the Scottish ministers and the Scottish Funding Council, and the amendments align with the language previously used in the provisions and throughout the 2005 act. The amendments respond to concerns raised by the Educational Institute of Scotland about creeping privatisation of tertiary education, which is absolutely not the policy intention nor the effect of the drafting of the bill. I have listened to the EIS's concerns, and I am happy to provide the amendments by way of reassurance that there is no shift in that direction. I hope that members can support the amendments.

I am pleased to support amendment 25, in the name of Willie Rennie. The requirement for provision to address current and future economic need is fundamental to the planning and provision of tertiary education and funding, and I expect that that would be true of all Scottish Government Administrations.

With regard to the other amendments in the group, I will wait to hear the debate and members' comments, and provide my views in my closing remarks.

I move amendment 1.

The Convener: I call Miles Briggs to speak to amendment 40 and other amendments in the group.

Miles Briggs (Lothian) (Con): To complete the love-in, I, too, congratulate you on your award, convener.

I will also be speaking to Stephen Kerr's amendments in this group, because he cannot join us today. My amendment 40 goes to the heart of the proposal to remove the duty to secure the provision of Scottish apprenticeships and work-based learning from Skills Development Scotland and place it with the Scottish Funding Council. Organisations such as the EIS do not believe that the SFC should have the duty to secure the provision of Scottish apprenticeships and work-based learning, on the basis that it might dilute the administrative and oversight functions, with one organisation being stretched too thin. My amendment would therefore provide for the status quo to be retained, and my solution, which I have discussed with the minister, would be for the next Parliament to look towards having a skills, training and colleges bill to tidy up some of the concerns that the committee highlighted in our report earlier in the session.

Amendments 41, 42, 44 and 45 relate to the alignment of the bill with national priorities and career pathways, as well as regional skills shortages, as Pam Duncan-Glancy mentioned.

I welcome amendment 1 from the minister, which is an amendment that I, too, was considering lodging.

Amendments 43 and 46 are in the name of my colleague Stephen Kerr. The general duties placed on ministers in section 2 set the tone for the entire bill. If those duties lack clarity or force, everything that follows in the legislation rests on an uncertain foundation. The amendments in Stephen Kerr's name are designed to correct that weakness and ensure that the duties of ministers are aligned with the practical realities of Scotland's economic and skills challenges.

Pam Duncan-Glancy: I am conscious that the member is moving amendments on behalf of his colleague Stephen Kerr. We have had correspondence from Universities Scotland, which has concerns about the difficulty associated with assessing productivity, which is shaped by multiple factors beyond university and other education institutions. Has Stephen Kerr considered that?

Miles Briggs: I know from conversations that the member is open to the drafting of amendments. It is more about ensuring that the foundations of the bill look across sectors. The member has given me flexibility to move or not move the amendments so that we get this right as we go forward.

Turning to amendment 43, I note that the argument is simple but crucial. Scotland invests millions of pounds every year in tertiary education and our skills system, yet the bill contains no explicit requirement for ministers to demonstrate that that expenditure leads to improved outcomes. It does not require ministers to demonstrate improvements in the skills of the workforce, productivity or the achievements of learning. Without that requirement, there is a risk that we create a structure in which money continues to be spent without any meaningful connection to the economic needs of our country.

Scotland faces a number of serious and well-documented productivity challenges. Employers repeatedly identify skills shortages with every committee member as one of the principal barriers to growth in our economy. If the bill does not oblige ministers to consider whether their decisions are improving the situation, we risk entrenching an accountability gap at the very heart of the system.

09:15

Amendment 43 would ensure that the public investment must be tied to measurable improvements. It would require ministers to reflect on outcomes, not simply intentions, and to consider the impact of their decisions on productivity and the skills that Scotland needs for the future. The amendment introduces the discipline and transparency that should be expected in any modern skills system, which the bill currently lacks.

Amendment 46 naturally follows from that logic. If we are to transfer significant responsibilities to the Funding Council, including responsibilities for apprenticeships, national training programmes, work-based learning, and the wider landscape of post-school provision, the Parliament must be able to assess at regular intervals whether those responsibilities are being carried out effectively. The bill currently provides no structured mechanism for independent evaluation of the council's performance. That omission leaves the Parliament dependent on ministerial assurances, rather than objective evidence. Amendment 46 seeks to address the gap by requiring an independent evaluation of the council every three years, with a report laid before the Parliament. That is not an undue burden, but it is a reasonable expectation when the council is being asked to

steward such a large portion of Scotland's skills system. Independent evaluation would prevent complacency, protect learners and employers, and ensure that the system adapts to Scotland's economic needs as they change. It would also provide the Parliament with a reliable basis on which to judge the success of the reforms over a period of time. If the Government believes that the bill will improve Scotland's skills landscape, it should have no hesitation in welcoming the scrutiny that the amendment would provide for.

The amendments reflect Stephen Kerr's consistent argument that Scotland needs a tertiary system that is grounded in evidence, focused on outcomes, and transparent in its operation. Amendment 43 would ensure that ministerial decisions must contribute meaningfully to the skills and productivity that Scotland's economy requires. Amendment 46 would ensure that the council's performance will be judged independently and openly, rather than being left to assumptions. Together, I believe that they strengthen the bill, strengthen accountability and strengthen the prospects of delivering a skills system that is worthy of Scotland's workforce. Therefore, I invite colleagues to support amendments 43 and 46, as well as amendments 40 to 42, 44 and 45, in my name.

Willie Rennie: I have a couple of amendments in the group, amendments 24 and 25. I am pleased that the minister is supporting amendment 25 to try to achieve a whole-system approach and ensure that the system is connected to the wider economy. We know that there is a gap between the demand and the supply. We should be trying to close the gap and ensure that the shape of the offer meets industry and employers' needs. It is great that the minister is supporting amendment 25.

However, amendment 24 is the crunchy one. It seeks to reintroduce an industry-led body that is equivalent to what we have now, the Scottish Apprenticeship Advisory Board. The amendment seeks to address some of the anxieties that exist among not all, but quite a lot, of employers, who feel that the bill is unnecessary, that it is a distraction and, more importantly, that it will lead to a dilution of the voice of employers. I appreciate that a committee will be set up as part of the Funding Council, but I think that having an industry-led body with an independent status that has an oversight role for the decisions that would be made by the Funding Council and the rest of the system would address some of the concerns. I urge the minister to support amendment 24. It is part of the Organisation for Economic Co-operation and Development's recommendations that there should be a statutory framework that enables employer-led oversight.

Ross Greer (West Scotland) (Green): I am sympathetic to the argument that Willie Rennie is making on having an independent body. Does he think that it would be necessary to have that body as well as the apprenticeship committee that the bill would set up? I am worried about having both those bodies in existence at the same time. I wonder whether there is another way to do it that would make the committee that the bill would establish more independent from the SFC and the Government, rather than setting up a body that, in many ways, would potentially duplicate the work of the body that is already set out in the bill.

Willie Rennie: I am not in favour of duplication. If the committee could have a more independent status, so that employers felt that they owned it, rather than being chosen to come on to it, that would address some of the concerns. If we can get to a stage at which we can have a discussion about improving that independent status and the ownership of the employers and industry, we might be able to address those concerns. However, I am not in favour of having two structures. That would be pointless and competitive.

The model is adopted in many other countries, such as Germany, Switzerland, Denmark, Canada, Korea and the United States, although I am not sure whether that is a recommendation. It is the accepted standard, partly because it reflects what is in amendment 25 about having a general duty to make sure that the system is tied in with economic need. If we have that in tandem with a body that employers see as their body and which has an oversight role, we can make sure that the reforms work together as a package.

Pam Duncan-Glancy: I am supportive of amendment 25 and amendment 24 would support the creation of an industry body. Would the member consider amendment 181 in Daniel Johnson's name? It is in a much later group, but it stipulates what the role of that body could be, which could address some of the duplication that Ross Greer mentioned. It also sets out that the role would be very specific. That would be our preferred approach. Would Willie Rennie consider that?

Willie Rennie: As always, I am reasonable. I am prepared to discuss all that, and I think that Daniel Johnson's amendments are worthy of consideration.

That is my main argument, and I hope to receive the minister's response in his summing up.

Ben Macpherson: I appreciated listening to fellow MSPs' feedback on their amendments and proposals. Amendments 40 and 42, in the name of Miles Briggs, would seek to remove apprenticeships and work-based learning from the

SFC's duty to secure coherent provision and the minister's duty to provide appropriate support for them. Amendment 40 would not stop the SFC from getting the new functions in the bill, but it would remove obligations to do so coherently. Amendments 40 and 42 would also fundamentally undermine our policy ambition for parity of esteem and cohesion across the tertiary education and training sector. Therefore, I cannot support amendments 40 and 42.

Amendment 24, in the name of Willie Rennie, would in effect reinstate SAAB. I have appreciated my engagement with SAAB in my role so far. We had a very helpful meeting between stages 1 and 2. I value the expertise of SAAB, and the board of the council will continue to play an important role in preparing for the transition of the responsibilities to the SFC along with the board of SAAB. That collaboration and engagement is appreciated. However, the provisions in amendment 24 duplicate the intended functions of the apprenticeship committee that the bill would establish, as Ross Greer said.

The proposals in amendment 24 would add clutter to the landscape and incur additional costs at a time when we are trying to achieve the opposite. In the Government's view, the apprenticeship committee is the successor to SAAB and it can have such sub-committees as the SFC considers appropriate. There could be additional sub-committees for further input.

I therefore hope that Willie Rennie will not press amendment 24.

Willie Rennie: The key element that Ross Greer, Pam Duncan-Glancy and I debated was the independent status of the body. Having a sub-committee does not sound as substantial as having a fully flourishing board with a degree of independence. Will the minister look at how the appointments process works, as that applies to all committees or arrangements, to ensure that industry and employers feel that they are not just the chosen few but are representative of the wider sector and that they have a degree of independence so as to provide the necessary challenge in the system? Can we look at that before stage 3 and strengthen that independent status? Is that something that you would consider doing?

Ben Macpherson: I would be happy to give an undertaking to consider that ahead of stage 3. I heard clearly the views of Willie Rennie and of others in the stage 1 debate and thereafter about the need for us in the Government to underline and emphasise to business and industry that their input through the apprenticeship committee and in other ways is vital. I was clear that I wanted to emphasise to business through some of our amendments and through the process of the bill

that we want their input to be significant and appropriate. I am happy to consider Willie Rennie's suggestions.

On Stephen Kerr's amendment 43, I am concerned that it is ambiguous as to what constitutes

"measurable improvements in skills, productivity and learner achievement."

Obviously, it would be the intention of this or any other Scottish Government to provide funding that supported improvements in skills, productivity and learner achievement. The terms and conditions of funding that ministers can impose on the SFC under existing powers in the 2005 act and the bill would, in my view, be the appropriate vehicle to seek to achieve those outcomes.

I have no objection to the rationale behind amendments 44 and 45, in the name of Miles Briggs. However, they name specific strategies in primary legislation that, inevitably, will evolve, even if only by name. I appreciate what the member is trying to achieve and, if he agrees not to move the amendments, I would be willing to consider something similar framed in more general terms at stage 3.

Again, I can understand the motivation behind amendment 46, in the name of Stephen Kerr. The performance of the SFC is important now and will be even more so when the additional functions that are set out in the bill are conferred on it. We will monitor the SFC's performance during the transition to the new arrangements and thereafter. However, I am concerned that a statutory requirement for an independent evaluation of the performance of the SFC every three years could be expensive and would not necessarily achieve the desired outcome.

The Convener: Will the minister outline how he currently monitors the performance of the Scottish Funding Council?

Ben Macpherson: Performance is measured through the 2005 act and the stipulations that are set out in it.

Moving forward, there is merit in taking such an approach to the evaluation, but we would wish to consider the timescales that are involved. Therefore, I hope that, on behalf of Stephen Kerr, Miles Briggs will not move amendment 46, to allow me to consider more appropriate timescales for stage 3.

The Convener: Will the minister give way again?

Ben Macpherson: I will just sum up, convener, if that is okay.

I encourage members to support my amendments 1 and 2. I support Willie Rennie's

amendment 25 and encourage members to vote for it. I encourage members to vote against Miles Briggs's amendments 40 and 42, should he move them—I have set out what engagement would be helpful to have on that ahead of stage 3.

Given our discussion and the undertaking that I gave, I hope that Willie Rennie will not move amendment 24. If he does, I encourage members to vote against it. The same applies to Stephen Kerr's amendment 43. I also invite Miles Briggs not to move amendments 44 and 45, but should he do so, I encourage members to vote against them. Finally, I hope that Stephen Kerr's amendment 46 is not moved, but, if it is, I encourage members to vote against it.

I am sorry—I should have said that we will engage with Miles Briggs on amendments 44 and 45, but I have made it very clear that we do not think that amendments 40 and 42 are of merit in any way.

09:30

Amendment 1 agreed to.

Amendment 40 moved—[Miles Briggs].

The Convener: The question is, that amendment 40 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

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

Against

Adam, George (Paisley) (SNP)
Dunbar, Jackie (Aberdeen Donside) (SNP)
Greer, Ross (West Scotland) (Green)
Kidd, Bill (Glasgow Anniesland) (SNP)
Mason, John (Glasgow Shettleston) (Ind)
McLennan, Paul (East Lothian) (SNP)
Rennie, Willie (North East Fife) (LD)

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

Amendment 40 disagreed to.

Amendment 41 not moved.

Section 1, as amended, agreed to.

Section 2—General duty of the Scottish Ministers to support delivery

Amendment 2 moved—[Ben Macpherson]—and agreed to.

Amendments 42 and 24 not moved.

Amendment 25 moved—[Willie Rennie]—and agreed to.

Amendment 43 not moved.

Section 2, as amended, agreed to.

After section 2

The Convener: Amendment 44, in the name of Miles Briggs, has already been debated with amendment 1. Mr Briggs, do you wish to move or not move?

Miles Briggs: In light of what the minister has said, I will not move amendment 44.

Amendments 44 and 45 not moved.

The Convener: Amendment 48, in the name of Pam Duncan-Glancy, is grouped with amendment 49.

Pam Duncan-Glancy: Amendment 48 requires a new funding model for colleges to be set out within one year of the act being given royal assent. That is absolutely fundamental, and it is one of the reasons why we could not support the bill at stage 1. We felt that the movement and the disruption—

The Convener: Ms Duncan-Glancy, I must interject, because, in my haste to get through the amendments, I did not call amendment 46 in the name of Stephen Kerr, which has already been debated with amendment 1. I ask Miles Briggs whether he wishes to move or not move amendment 46.

Amendment 46 not moved.

The Convener: We can continue. I apologise for interrupting you, Ms Duncan-Glancy.

Pam Duncan-Glancy: No problem at all, convener.

Amendment 48 requires the Government to set out a new funding model for colleges. The proposal has been discussed for a number of years now, with colleges crying out for clear direction and for flexibilities in the funding model—indeed, for a new funding model altogether.

We have heard about the tripartite group that has been set up, and some systems and flexibilities have been offered to colleges, but, in the evidence that the committee has heard, that Audit Scotland has collected and that the Scottish Funding Council report has highlighted, those flexibilities have not put colleges on the stable footing necessary for them to continue as the skills engines of our regions and, indeed, the opportunity centres for young people and career switchers.

For any system to work in the way that the Government has envisaged, we absolutely have to sort out the crisis facing Scotland's colleges before we can expect them to deliver any structural change—that is, change of the sort that the bill

sets out. There has been concern about diversion from the front line, diversion from purpose and principle, and diversion from addressing the real skills needs across the country.

Amendment 48 seeks to make it clear that such diversion cannot continue beyond a year following royal assent, should the bill pass at stage 3. It would be perfectly reasonable to expect the Government to deliver the promised funding model within 12 months of the bill's royal assent, if it were to pass.

John Mason (Glasgow Shettleston) (Ind): Does the member not think that that question would be better asked as part of the debate on the budget rather than in a debate on the bill?

Pam Duncan-Glancy: I thank the member for that intervention, but, to be quite honest, it appears that there is never a good time for the Government to look at the funding model for colleges. Every time that that is suggested, it is kicked further and further away down the road. We hear, "Not this time—let's wait until the next opportunity." The member suggests that the next opportunity is the budget debate.

A new funding strategy would clearly have budgetary implications, but colleges are nonetheless left in complete limbo. They are now delivering learning to 30,000 fewer students. The cut to staff numbers in colleges is the biggest cut to staff numbers in the public sector in Scotland. Colleges are now in a precarious situation. They are trying their very best, they are delivering incredible education to young people and career switchers across the country, and they have really high satisfaction rates. However, they are doing that without the support of their Government, because their Government is making the situation almost impossible. Audit Scotland and the Scottish Funding Council have both said that, and people across Scotland can see it.

I lodged amendment 48 in an attempt to hold the Government's feet to the fire and say, "Stop promising that these things will change. Stop promising a different model for funding colleges without delivering it." I do not think that any of the changes in the bill, such as structural changes and the rejigging of quangos, can address the fundamental concerns about skills gaps across the economy, and across the public sector if the Government does not get to grips with the reality that colleges are facing.

I move amendment 48.

Miles Briggs: I welcome Pam Duncan-Glancy's amendment 48 and very much endorse what she has just said. Many of us hoped that the bill would set out a real vision for the college sector and would be an opportunity to realise colleges' potential. On Monday, I visited Dundee and Angus

College. I believe that Willie Rennie was there the week before; it turns out that he makes a better sparky than I do, from what I was told.

It is important that we consider how to realise the potential of our college sector, especially with regard to the resources that they can potentially access. That is why I welcome Pam Duncan-Glancy's amendment.

John Mason: I fear that we are getting into a budget debate, but if more money is to go to the colleges, would the member like to suggest where that money should come from? I would suggest higher taxes. Would he agree with that?

Miles Briggs: As the member will know, my amendment calls for a review of the credit-based funding that is available. The member will also know, because I have mentioned it on a number of occasions in committee, that I am passionate about other funding opportunities that we can consider for our college sector.

Ayrshire College is one of the most successful colleges when it comes to tapping into local business opportunities, with exciting developments around Prestwick airport. Each local college should be looking to their local economy and accessing additional opportunities. Edinburgh has the fastest-growing economy of any part of Scotland, yet Edinburgh College is not able to move forward and access different potential funding streams in the area.

The bill could, and should, provide an opportunity to review funding and look at different funding models. My amendment 49, which complements Pam Duncan-Glancy's amendment 48, would require ministers to carry out

"a review of the credit-based funding model used by the"

Scottish Funding Council in funding colleges and

"other providers of fundable further education."

That review must examine how fundable further education provision is delivered across Scotland, including by looking at the availability of courses and the capacity of providers to deliver them. We hear from many colleges that if they had additional resource they would do more to deliver in many of our key sector skills shortage areas, especially around construction.

Ministers would then need to

"publish and lay a report ... before ... Parliament"

setting out the results of the review and any actions that they intended to take in response to it.

The Convener: I call the minister.

Ben Macpherson: Before I turn to the specific amendments in the group, I thought that, to give members the full context, it would be helpful if I set

out what the Government is currently doing in this area.

Through the colleges tripartite alignment group, the Scottish Government, the Scottish Funding Council and Colleges Scotland regularly discuss issues in the sector, such as challenges that arise from the college funding model. The changes to the funding model that were implemented by the SFC in academic year 2025-26 were in response to requests from the sector to address issues regarding transparency and funding comparability between learners on similar courses and colleges.

Each year, ministers issue letters of guidance to the SFC, setting out strategic priorities. Last year, that letter included specific issues for the SFC to consider when reviewing or updating its funding allocation model. As the SFC advised the Education, Children and Young People Committee on 1 October, it is engaging with Colleges Scotland and the wider college sector on fundamentally reviewing the funding allocation model.

Pam Duncan-Glancy: I recognise the work that the minister describes. Nonetheless, the principal of North East Scotland College told us that the direction from Government was not there, and that, with regard to strategic approach and priorities, colleges therefore "cracked on" and did it themselves. The college sector expressed concerns in evidence to the committee during our pre-budget scrutiny that the existing model, even with flexibilities, was not meeting what it considered to be demand, in relation to not only the scale of that demand but the needs of young people with additional support needs in colleges, and that it was not providing support for English for speakers of other languages. None of those things has been addressed. Would the minister accept that?

Ben Macpherson: Since my appointment, I have sought proactively to listen to the concerns and proposals in the college sector, whether that is through the sector body, Colleges Scotland, or the relevant unions, including the EIS, which I met with again yesterday, or through engagement with specific colleges, with which I have endeavoured to engage directly as much as possible within my capacity. I am very open to listening to and considering both concerns and ideas and proposals from the sector.

Pam Duncan-Glancy: Will the minister give way?

Ben Macpherson: I am just about to pivot to the positives of why I think that there is quite a lot of alignment across the Parliament on the need to move forward, so I will continue speaking to the amendments, which may help to answer the member's intervention.

Although it is important that Scottish ministers are engaged in changes to funding allocation models, it is my view that the changes must be shaped by the sector itself.

Pam Duncan-Glancy's amendment 48 is broadly similar to amendment 49 from Miles Briggs. Both are largely consistent with the work that the Government has been, and will continue, undertaking—as I have just described—which makes it clear that reviewing funding models does not require statutory underpinning. I thank both members for lodging their amendments but, in the Government's view, to support both amendments would result in duplication.

I am therefore content to support Miles Briggs's amendment 49. I appreciate all that he has brought forward on the credit system so far during my current tenure in my role; it has been very helpful for me to listen to his points and concerns in that regard. I believe—with respect to Pam Duncan-Glancy—that his amendment presents a more cogent proposal for a review. I therefore hope that Pam Duncan-Glancy might not press her amendment 48 and the committee can vote unanimously for amendment 49.

The Convener: I call Pam Duncan-Glancy to wind up and say whether she wishes to press or withdraw amendment 48.

Pam Duncan-Glancy: I thank the minister for setting out his thoughts and concerns. I agree that the funding model must be led by the sector—indeed, the sector is doing everything that it can to lead the way and it has been looking to the Government to pick up the mantle on that, which I do not think has happened yet.

I understand the minister's support for Miles Briggs's amendment 49; Labour members will support that amendment, too, as it is important. However, amendment 48 gives a slightly broader view of the model that could be considered, and I think that both amendments are worthy of support from the committee. My amendment 48 sets out the need for a review of funding models in the round—that could include the credit-based system, but there are other ways of funding. We have heard about colleges looking for funding—or, more accurately, having to chase funding—from different sources. The Government decides to create new strategies, plans or ideas that have skills attached to them, and colleges then have to try to chase funding to deliver some of the skills. That delivers neither the longevity nor the sense of purpose or direction that colleges need; instead, it leaves them chasing smaller pots of funding.

09:45

Therefore, there is an argument to be made for supporting both amendments, as, together, they

look at both the credit-based funding model and the wider funding models that colleges sit within, and cover the question of how colleges can deliver the skills to meet all the Government's economic strategies, public sector priorities and so on.

I think that both amendments should get the committee's support, and I will press amendment 48.

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

Members: No.

The Convener: There will be a division.

For

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

Against

Adam, George (Paisley) (SNP)
Dunbar, Jackie (Aberdeen Donside) (SNP)
Greer, Ross (West Scotland) (Green)
Kidd, Bill (Glasgow Anniesland) (SNP)
Mason, John (Glasgow Shettleston) (Ind)
McLennan, Paul (East Lothian) (SNP)
Rennie, Willie (North East Fife) (LD)

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

Amendment 48 disagreed to.

Amendment 49 moved—[Miles Briggs]—and agreed to.

The Convener: Amendment 50, in the name of Miles Briggs, is grouped with amendments 3, 51 to 61, 61A to 61E and 62 to 68.

Miles Briggs: Amendment 50, which relates to fair work first principles, is one of a set of amendments on terms and conditions for apprenticeships and apprentices, and it seeks to ensure parity between the conditions that will apply to those receiving grants for the purpose of the delivery of programmes of training for employment and those imposed on fundable bodies and regional strategic bodies in terms of repayment under sections 12A and 12B of the 2005 act. It is vital that, in the outlay of public money, there is clarity on the actions that will be taken if the provider fails to comply with the terms and conditions imposed, and on the requirement for the provider to be compliant with fair work first criteria, given the links to the Scottish Government policy in that regard.

Amendment 63 is a probing amendment that relates to the provision of student mental health and wellbeing support services for our young people. On my visit to Dundee and Angus College on Monday, I met representatives from the student association and heard about the support services that they are working to provide to students.

Funding provided by Scottish ministers in support of mental health and wellbeing services has come to an end in recent years, and in many cases, colleges and other training providers have had to find the resources to keep such services going. I believe that the bill presents an opportunity for us to correct that situation and for ministers to create a common national framework that will put mental health and wellbeing support services in place at the heart of our institutions in order to support students.

I am also very supportive of a number of amendments in the name of Ross Greer that, in general, seek to support the student body in delivering those kinds of support services. I look forward to hearing more about them.

For now, I move amendment 50.

The Convener: I call Pam Gosal to speak to amendment 3 and other amendments in the group.

Pam Gosal (West Scotland) (Con): Thank you, convener, and good morning to the committee, minister and officials.

I thank the committee for considering amendment 3, which is particularly important as we mark the 16 days of activism against gender-based violence. My amendment would give ministers the power to require the Scottish Funding Council to place conditions on anybody receiving funding for post-school education and skills training to ensure that they take meaningful steps towards addressing gender-based violence against staff and students.

In turn, the body in question must report on an annual basis to the Funding Council on the actions that it has taken to prevent and intervene in gender-based violence, and to provide support to individuals who are experiencing or have experienced it, as well as the outcomes of those actions.

John Mason: Can the member be more specific about where she thinks the problem is at the moment? Glasgow Kelvin College in my area has really taken a lead on this matter. That is one college that I have seen doing that kind of work. Does she think that some colleges and universities are not being so active?

Pam Gosal: Right now, there is no uniformity across colleges. I will speak further about why I lodged amendment 3. A tragedy happened, and many tragedies are continuing to happen. It is important for the committee to hear that the situation is not uniform. I know that personally, because I have been working on this stuff outside the Parliament by speaking to colleges and universities about that sort of training and awareness.

While drafting the amendment, I engaged with Fiona Drouet from EmilyTest. Almost 10 years ago, Fiona's daughter Emily took her own life after suffering abuse from a partner who lived in the same halls as her at the University of Aberdeen. Had the university staff received adequate training in identifying such abusive behaviour, Emily might still be with us today.

We know that one in four female students report unwanted sexual behaviour during their studies, with one in five experiencing sexual harassment during their first week of term. Those are shocking figures. That is why it is so important that anybody who receives funding not only delivers education and training but ensures the safety and wellbeing of those who rely on their services.

The Convener: I call Ross Greer to speak to amendment 51 and other amendments in the group.

Ross Greer: I think that my amendments in this group are my largest set of amendments to the bill. I will try to be as brief as possible, but it will probably take a couple of minutes to speak to them. I promised the convener that I will make that time up in later groups.

Amendment 51 sets out the condition of a cap—which I propose that we initially set at 10 per cent—on the share of funding that should be paid to managing agents in relation to apprenticeships. We heard from a trade body during the stage 1 evidence that, when it acts as an agent, it takes a 40 per cent cut—I think that “cut” was the phrase that was used—of the funding per apprenticeship. That is 40p in every pound that is not going to the apprentice or the college. I have heard elsewhere that, in some cases, the figure is more than half the funding, and it is potentially as high as 60 per cent.

In England, the percentage of funding that managing agents get is capped at 15 per cent. Amendment 51 would replicate the English cap in Scottish legislation. I propose that we start the cap at 10 per cent, but I am not wedded to that specific figure—it is more important to set the principle of having a cap.

I note that the minister's amendment 12, which comes in a later group, covers similar ground. I do not have any amendments in that group, so I will touch on it briefly now, because it is essentially a direct alternative to my amendment 51. The minister's amendment 12 will give the SFC responsibility to limit the managing agent's share of the funding. However, there is no definition in that amendment of what a “reasonable” fee may be. The amendment will provide that the SFC must limit the fee to something that is “reasonable”, but it does not require the SFC or

ministers to set out what they believe to be reasonable.

The Parliament has received some clear and, frankly, outrageous evidence on this issue, and there was a strong consensus on the need for action. Amendment 51 would achieve such action by setting an initial cap of 10 per cent and allowing ministers to adjust that cap in the future as they deem necessary. Critically, the amendment would shift the responsibility for establishing a cap on to ministers, with an appropriate role for the Parliament via the approval of regulations.

As I said, I am not wedded to the figure of 10 per cent. There is an argument about whether it should be 10 per cent or whether we should start at 15 per cent, as is currently the case in England. What is important is that the responsibility for setting the cap should sit with ministers and the Parliament.

Pam Duncan-Glancy: You have set out a compelling case. Are you suggesting that you would consider waiting for stage 3 to choose the percentage and therefore not move the amendment at this stage, or will you move the amendment on a 10 per cent cap?

Ross Greer: That will depend in part on the minister's response. If I were to move amendment 51 and it were to be agreed to, I would be open to changing the percentage at stage 3. Equally, if the minister is agreeable to the principle of what I am getting at with the amendment, which is that the responsibility for setting the cap should sit with ministers and that there should be a role for Parliament—because the cap would be set via regulations—I would be happy not to move the amendment and to come back and hopefully achieve something by consensus at stage 3. I am looking for agreement from the Government on the core principle of the amendment.

I turn to higher education. Amendment 54 would set, as a condition of funding, a requirement that the governing body of a higher education institution consists of a majority of members who are elected or chosen by the staff and students. On the reasons for this proposal, it is easiest to quote the University and College Union Scotland, which worked with me to bring it forward. It said:

"In our view, the requirement for a lay majority leads to an over-representation of business or retired business voices on courts, which hasn't been to the benefit of universities. Failings in Dundee are down in large part to senior management not being sufficiently challenged by court. In our view, notwithstanding the individuals, the best people to offer robust challenge when it is needed are those most invested in the success of the university, which is primarily its staff and students."

The amendment covers similar ground in principle to the debate that we had recently in relation to the boards of the Scottish Qualifications

Authority and Qualifications Scotland, for which amendments in this space were agreed to. University courts often do not have the right balance of expertise and institutional knowledge that is required to provide robust governance. External expertise is useful, but having those who are most intimately familiar with the institution and most able to offer detailed and robust scrutiny is important. Therefore, I propose that we ensure that a majority of court members are chosen by the staff and students of the institution.

Amendment 55 would set as a condition of funding that further and higher education institutions

"operate in a way which is transparent and accountable."

It would put that general requirement on universities and colleges to encourage them to be more open, in particular about decisions that are taken at a senior management level. Amendment 55 is very similar to amendments to the Education (Scotland) Bill that we agreed to, so I hope that it will also be agreeable to members.

Amendment 61 is a base amendment on which amendments 61A to 61E all rely. It would provide for a new section to be added to the 2005 act that would require ministers to

"impose terms and conditions for the purposes of encouraging fair work practices by those who are in receipt of funding from"

the SFC.

John Mason: An argument has been put forward by some of the universities—I am not saying that I agree with it, because I am sympathetic to what the member is trying to do—that this proposal strays into employment law. How would the member respond to that?

Ross Greer: There is certainly a careful balance to be struck. Employment law is reserved—I will come to that issue specifically later on—but this is a question of how public money is to be spent and the conditions that we attach to it.

The Scottish Government does not have the power to set the real living wage in Scotland, but it has very successfully set a condition that any business in receipt of a Government grant or contract must pay at least the real living wage. That is an example of how, although we are not able to set wage levels across the board, we are able to attach conditions that fall within the scope of devolved powers when it comes to how public money that is provided by the Scottish Government—in this case, through the SFC—is spent. That example is a case study from the past four years of what we have done in relation to the real living wage.

Through some of my amendments in this group, I am specifically trying to improve industrial relations. I think that we would all agree that colleges' ability to play the critical role that they could play in our economy is being held back by a decade of industrial action and the chronic problem of poor industrial relations. In a lot of cases, the working conditions in universities are even worse. For example, graduate teaching assistants often tell us about the struggle of being on zero-hours contracts, or of having huge workload pressures that require so much unpaid overtime that, in some institutions, they are in effect working for less than the hourly minimum wage.

Colleges and universities receive billions of pounds of public money, and that gives us a responsibility to act. We can use the funding that we provide to drive up conditions in both those sectors.

I will go on to the specifics of the rest of my amendments. Amendment 61A would introduce a 10:1 pay ratio as a condition of funding, so that anyone who is employed by a fundable body must be paid at a rate that is no less than one tenth of the salary of the highest-paid employee, on a full-time-equivalent basis.

John Mason: I thank the member for giving way a second time. Again, I am sympathetic to him. That kind of thing has been tried—I think that Ben & Jerry's tried it, if I remember correctly—and failed. The counter-argument would be that if our universities cannot attract the best people at the top, because they all go to England, America or wherever, our universities will suffer. How would you respond to that?

Ross Greer: That argument always interests me. In ballpark terms, if we think about the salary of the lowest-paid employees and multiply that by 10, I find it hard to envisage that we would be unable to attract people of a sufficient calibre if we offered them salaries in the region of a quarter of a million pounds—somewhere between £200,000 and £250,000—which is roughly 10 times the salary of the lowest-paid employees, on an FTE basis.

What I am getting at is shown in the example of one principal who was before the committee recently and whose salary is in excess of £420,000. Indeed, his remuneration package is so big that he could not tell the committee accurately how much he is paid. I do not accept that we would not be able to attract people of sufficient quality if the institutions offered salaries in the region of £250,000.

Linking principals' salaries to those of paid employees does not make it impossible to increase a principal's salary further, but it means

that those who are at the very bottom would also need to see their salaries increase. Amendment 61A does not therefore seek to cap salaries as an absolute; it would cap them relative to the salaries of the lowest-paid staff and provide an incentive to push their wages up.

10:00

Willie Rennie: There is obviously nervousness about Office for National Statistics classification for the universities, and I notice that the member has not drawn any distinction between the rules that he would like to apply to colleges and universities. Has he sought advice about the consequences of the proposals in his amendments for the university sector with regard to ONS classification?

Ross Greer: I will come on to the specific detail of that in a moment, but I have drawn that distinction in respect of my proposal about senior management pay in colleges being folded into the public sector chief executive pay framework. I am not proposing that for universities for precisely the reason that Mr Rennie has outlined. We already set conditions on the funding that we provide to those institutions, so it is a question of how far we can go before compromising ONS classification.

I have drawn the line at the 10:1 pay ratio, which I think is appropriate in the case of universities. It would not be appropriate to draw them into the chief executive pay framework because that is for public sector chief executives. Universities are largely publicly funded, but they are not public bodies in the same way that colleges are, which is why I proposed that college principals should be brought into the chief executive pay framework. That is where I draw that particular line, although I recognise that it is up for debate.

I recognise the time that I am taking, convener. I will try to rattle through the rest of the amendments.

Amendment 61B would set a condition of eliminating the use of zero-hours contracts. The Government's fair work criteria refers to ending the inappropriate use of zero-hours contracts, but I cannot see any evidence of action being taken to achieve that, despite it being a Government policy objective. I am also not sure what appropriate zero-hours contracts would look like, as opposed to inappropriate zero-hours contracts, and I have not heard the Government elaborate on that. Again, if the minister can articulate what the Government is doing to reduce the use of inappropriate zero-hours contracts, I would be open to hearing that. However, I have pressed the Government and the SFC on that in the past and no one has ever provided me with any evidence of action having been taken.

Amendment 61C would provide for the payment of at least the real living wage for all employees of funded institutions. There is a pretty simple argument behind that: everybody deserves a wage that they can live off and one that is enough to pay their bills. Public bodies such as colleges and institutions that are in receipt of a huge amount of public funding, such as universities, should lead by example when it comes to a liveable wage for their staff.

Pam Duncan-Glancy: I agree whole-heartedly with the points that Ross Greer has just made, but why has the term “sufficient” been used in the amendment, as opposed to linking the provision directly with the minimum or living wage?

Ross Greer: The national minimum wage is not a liveable wage. As it stands, the real living wage is a little bit higher than the national minimum wage, but it is not defined in law. It is a concept that we are all familiar with, but it is not fully defined in law. I am therefore trying to come up with some legal language that gets to the point of saying that it should be sufficient for people to live above the poverty line. That is the real living wage, but if I was to put “real living wage” into the amendment, it would not mean anything. We are familiar with the concept, but it has no statutory underpinning.

Pam Duncan-Glancy: I agree, and I think that the member is trying to do the right thing, in principle. However, I worry that “sufficient” and “adequate” are subjective terms, so I wonder whether something could be done ahead of stage 3 to make the proposal a bit clearer so that we can achieve the aim without the subjectivity that is indicated in amendment 61C.

Ross Greer: Absolutely. I would be happy to take that on board. I would never claim that my drafting is perfect, so if there is a way that we can agree on different language to strengthen the amendment and make the point ahead of stage 3 that we are talking about a wage that allows people to live above the poverty line, on which there is broad consensus, I would be open to that.

I have already covered amendment 61D in response to Willie Rennie’s intervention. It is about college principals being folded into the public sector chief executive pay framework. The college sector is an outlier because colleges are the only public bodies in Scotland to which the framework does not currently apply. The only other example is Scottish Water, but that is not a public body; it is a Government-owned company. College principals are the only leaders of public sector organisations who are not currently covered by the chief executive pay framework, but I have never heard a convincing case as to why that is. The amendment would rectify that and bring college principals in

line with the rest of the public sector on the issue of pay restraint.

Amendment 61E would give ministers the power to modify that whole section of conditions by adding, varying or removing conditions by regulation subject to the affirmative procedure.

Finally, amendment 62 would put in place a further funding condition to require fundable bodies to ensure that adequate funding is provided for student associations and unions. That is largely self-explanatory, but, just as we said earlier in relation to apprenticeships that it is important for industry to have an independent voice, it is important for students of those institutions to be able to have their own independent voice. That is the critical role that is played by student associations and student unions, but it is often the case in colleges that student associations can struggle to sustain themselves in a particular year and, if they fold, it is entirely down to the college management to decide whether to put in the effort to restart them. That places all the power in the hands of management and leaves not nearly enough in the hands of the students, so placing a requirement on management to ensure that they make every appropriate endeavour to maintain and sustain student associations and unions, in whatever form they take, is useful.

I will round off there.

The Convener: Maggie Chapman is joining us remotely. I call her to speak to amendment 52 and other amendments in the group.

Maggie Chapman (North East Scotland) (Green): I apologise for not being with you in person today. I remind colleagues of my entry in the register of members’ interests: I am rector of the University of Dundee.

The bill presents an opportunity to reset the governance and accountability framework for Scotland’s universities, colleges and training providers. It is clear that we need firm statutory protections against the kind of governance failures that we have recently seen at the University of Dundee.

We know that Dundee’s crisis was not inevitable: the Gillies report clearly said that it was caused by a failure of financial oversight, poor internal controls, lack of transparency, weak governance and a culture that discouraged dissent or scrutiny. The report found that the university court had repeatedly been presented with rosy narratives rather than with accurate and timely data about income decline, cash flow, banking covenant breaches and the like, which meant that the court was effectively blind to the risk until it was too late. That is not just one failure: it is a warning to the entire Scottish higher education sector.

The von Prondzynski review of higher education governance in Scotland laid out many of those risks back in 2012. It argued that stronger, legally enforceable transparency, accountability, and stakeholder-inclusion measures were needed and went beyond what a non-statutory code could guarantee. We can clearly see the consequences of ignoring that call. We cannot rely on good will, reputational pressure or voluntary codes alone.

My amendments in this group speak to six pillars of good governance and together would create a statutory bulwark against secrecy, irresponsible decision making and unchecked executive power.

Amendment 52 would make mandatory the publication of governing body agendas, minutes and papers dealing with major decisions. It would ensure transparency so that staff, students and the public could see what the court or board was deciding, and on what basis. It would remove the ability to hide critical decisions behind closed doors until after the fact.

Amendment 57 would introduce a governance publication scheme for every institution, creating a proactive freedom of information-plus regime in which institutions would publish governance structures, risk registers, internal audit summaries, financial sustainability statements, conflict-of-interest registers and more, doing so regularly and publicly. Early warning signs, such as deteriorating cash flow or growing risks, would become visible long before they reached crisis point.

Amendment 58 speaks to transparency and accountability for remuneration, establishing a statutory framework for remuneration committees. Too often, senior pay is decided behind closed doors by a small group of insiders. The amendment would require remuneration committees to have independent external members and would ensure staff and student representation. It would also require publication of a full annual remuneration report, including performance criteria and external appointments, which is essential for accountability.

Amendment 59 would enable statutory escalation and whistleblowing to the SFC. When internal governance fails, there must be a legally protected external route for concerns from staff, students, governors or auditors to go directly to the regulator. The amendment would give that route: protected disclosure directly to the SFC, with a duty on the institution to notify the Funding Council of a "material governance failure."

Amendment 60 seeks to create a strict conflict-of-interest and disclosure regime. It would require all governing body members and senior officers to declare registrable interests, update them promptly and recuse themselves when conflicted.

The register would have to be public and updated within 28 days, and non-declaration or participation while conflicted would be an offence.

Amendment 53 seeks to put the Scottish code of good higher education governance on a statutory footing. Rather than leaving the code as a soft, voluntary instrument, the amendment would put it on a statutory footing, which is so important. That would ensure that all institutions were legally bound to follow the baseline standards of good governance. The SFC can monitor and issue directions if necessary.

Statutory powers are essential; guidance is not enough. The code alone clearly was not enough in the case of Dundee. According to the Gillies report, decisions were repeatedly taken without appropriate paperwork, proper scrutiny or dissenting voices being recorded. Reliance on institutional good will simply failed: a top-down culture of "positive narrative" and suppression of challenge prevailed.

A regulatory regime that is based on statutory duties, not suggestions, provides real deterrence. That creates legal consequences for non-compliance, or at least the possibility of regulatory intervention. It also gives staff, students and stakeholders real rights to information, to challenge and to have voices heard through transparent governance structures.

The amendments take the next steps to fully implement the von Prondzynski review from 2012, and they are core to the future stability, integrity and public purpose of Scotland's universities. I urge colleagues to support them.

The Convener: There were some small, slight difficulties in hearing you throughout, Ms Chapman, so I am just checking with the minister and other members that they heard enough. I think that it was okay, but it was not ideal. I am getting nods to show that people are content.

I call Pam Duncan-Glancy to speak to amendment 56 and other amendments in the group.

Pam Duncan-Glancy: Amendment 56 is supported by UCU. It states that the training for governing boards must include

"financial oversight ... financial risk ... their legal responsibilities as members of the governing body ... their responsibilities in relation to the constructive challenge and scrutiny of senior leadership of the higher education institution"

and

"whistleblowing procedures."

It also says that the Scottish Funding Council must provide guidance on the training and the body must confirm that that has happened.

Amendment 64 provides that a fundable body must have in place a whistleblowing procedure that is clearly communicated to all staff, students and members of the governing body of the fundable body; provides for the confidential reporting of concerns relating to issues, including but not limited to financial mismanagement, failure of governance, bullying or retaliation, and risks to learner provision; and provides protection against detriment to individuals who raise concerns in good faith. It states that a fundable body must notify the council when it receives information through the whistleblowing procedure and, on receipt of it, the council must consider whether any action or support is required as a result of the notification.

Amendment 65 seeks to put the known principles of public life on the face of the bill and would require boards to act accordingly to secure funding.

Amendment 66 seeks to impose a condition that, before implementing any decision that could significantly impact provision for learners, levels of staffing or financial sustainability, the council

“must, when making a payment to a fundable body”

require that it takes

“reasonable steps to inform and consult ... recognised trade unions ... organisations representing students of the body”

and

“any external partners.”

It also requires the board to report the engagement to the SFC.

Ross Greer: I very much agree with amendment 66 in principle. It is very similar to amendments that Pam Duncan-Glancy and I have lodged to previous bills. However, I wonder about its operability and whether it is flexible enough.

I am thinking of a scenario that a number of institutions have faced recently, when they had to close entire buildings on a moment's notice due to the presence of reinforced autoclaved aerated concrete. Obviously, that had a significant impact on the ability to provide for learners, but it would not have been appropriate to require them to inform trade unions, student bodies and so on beforehand, because they had to act the moment that they became aware of the issue. Does the member think that her amendment is flexible enough to take into account such situations?

10:15

Pam Duncan-Glancy: I am looking at the wording of amendment 66. It says, specifically, that a fundable body should

“take reasonable steps to inform and consult the persons mentioned in subsection (2) before implementing any decision that could significantly impact”

provision for learners, levels of staffing or financial sustainability.

If the situation were time limited in the way that the member has described—if it were an emergency, for example, where the fundable body had to close a building in order to look to the safety of both learners and staff—the amendment would provide for that flexibility and reasonableness. It is certainly not my intention that any fundable body be prevented from taking decisions such as those that will be time limited rather than those that could have a longer-term impact on funders and learners. I hope that the words “reasonable” and “significantly” give flexibility to the amendment.

Amendment 67 is about appointing chairs and would require that they have certain skills. The skills that are highlighted are covered in the Gillies report, although I recognise that other skills are needed and that it is crucial to take account of communities, class background and so on. The amendment specifically highlights some of the skills that I think could have been beneficial in certain situations that have come to light in recent months and years—including in Dundee—and might have helped to avoid some of the situations that we have seen. That is why I have specifically drawn them out.

Amendment 68 would require that

“the governing body of the fundable body must have due regard to the views of any members representing students and staff”,

that those members receive

“the same documentation as other members of the governing body”

and that they are

“protected from detriment or exclusion for raising concerns in good faith.”

That would include

“giving members representing students and staff a reasonable opportunity to present their views ... documenting the views of such members”

and

“documenting how the governing body responded to any such views presented, and where relevant, the reasons for not aligning with the views of members representing students and staff.”

Trade unions have told us that their members and students associations do not always feel that they have parity with other members on governing bodies. Given the value that trade unions and organisations that represent students can bring to decisions that will fundamentally affect learning in

any fundable body, it is incredibly important that such parity exists. Not to have that parity or give due regard to the views of students and staff in such forums brings up the question of whether their representation on those boards is tokenistic. It is important that they be there and that due regard be given to what they say at the time.

My amendments in this group all seek to strengthen governance, decision making and the input that staff and students of institutions have—not to create overburdensome responsibilities on institutions but, rather, to ensure that decisions benefit from the value and expertise that everyone who is affected by them on the governing body will have.

We know, for example, from decisions that have been made without proper engagement with trade unions that even some small concerns could have been resolved if trade unions had been properly engaged and given time to negotiate or to understand what was being put in front of them. Trade unions sometimes attend meetings almost in the dark, without access to the papers that would give them the information to provide an input.

To properly engage with trade unions is not only a matter of good governance—although that is important, too—but about valuing the expertise of everyone around the table, not only that of the chairs and members who represent other interests. Although the latter are crucial, it is important to ensure that any ideas and experience can be drawn on to benefit the institutions.

I will mention other members' amendments in this group. I have already spoken to Ross Greer's amendment 51 on the management agents. I genuinely understand why Ross Greer has lodged amendment 54, on the election to the bodies, but I worry slightly about the capacity of institutions to bring forward elections. I also worry about getting people to stand for election. We all understand the great responsibility and privilege that comes with that, and it can be difficult. I would not want institutions to be in a situation in which they could not appoint members to positions because of a lack of interest. Those are my slight concerns about amendment 54.

I support amendment 62, although it is important to consider what it means for the funding of student associations to be "adequate". I got into politics through student associations, so I understand their value. We have to do everything we can to support them in providing the incredible experience and opportunity for students to supplement the formal learning in an institution with the learning that we all gain from representing others and being at decision-making tables, as is often the case for people who represent students in associations.

I understand why Maggie Chapman lodged amendments 58 and 60. I worry slightly about the detail concerning ONS and the classification of universities. If the amendments put the ONS classification of universities at risk, I cannot support them. Those are my concerns.

Ben Macpherson: Like colleagues, I have quite a large contribution to make, so please bear with me. I am grateful to all members who have lodged amendments in this group and I understand and appreciate the rationale behind them all. Colleagues will appreciate that we have to be cognisant and considerate in order to ensure that we make good law, avoid unintended consequences—particularly with regard to ONS classification—and legislate within the competence of the Scotland Act 1998. Many of my remarks will be focused around those areas.

Pam Gosal's amendment 3 would place a condition on the SFC to require the bodies that it funds to take action to address gender-based violence against staff and students. As I understand it, the amendment aligns with EmilyTest's goal of ensuring a minimum standard of operation in higher and further education with regard to gender-based violence. The Scottish Government shares that goal, and I pay tribute to the campaign work of Fiona Drouet and EmilyTest, along with other groups that engage with higher and further education campuses, for what they have done on this issue. Pam Gosal will know that, before I rejoined the Government, I had quite significant engagement with them, including in my constituency capacity.

We want to continue to work collaboratively with stakeholders such as EmilyTest, Rape Crisis Scotland, Police Scotland, Universities Scotland and Colleges Scotland to develop an approach that supports colleges and universities to protect and support students. Good work is on-going across higher and further education to address gender-based violence issues on campuses, which the Government absolutely intends to build on. We understand that, collectively, there is more work to do.

However, I have technical concerns about the amendment as it is currently drafted. It requires funded bodies to engage with an evaluated framework, but there is currently only one such framework in place—EmilyTest—and engagement comes with financial and resource implications for institutions. The risk is that the amendment as currently drafted would not be effective if EmilyTest, for whatever reason, were to cease to exist, because there is no alternative framework and one would need to be identified and developed.

It is clear and right that all parties should work together towards the same goal on the issue. I

want to give effect to the aspiration of Pam Gosal's amendment in a way that is practical and deliverable, so that it becomes law and practice that institutions take on responsibility for addressing gender-based violence. I hope that Pam Gosal agrees not to move amendment 3, so that I might further consider how to introduce a reframed version of the amendment at stage 3.

Convener, I propose to speak to all the other amendments by grouping them by member and working through them methodically.

First, I turn to Miles Briggs's amendments 50 and 63. As the architect of fair work first, the Government has clear expectations about its application in grant making, wherever and whenever it happens in government. However, I am not certain that we can prescribe its application in law to the SFC and the grants that it awards. I am, however, happy to look again at the issue to see whether we can come back with something workable at stage 3. I commit to doing so and I ask Miles Briggs not to press amendment 50.

Although I have great sympathy with the intent behind amendment 63 and hope that institutions are supporting students' mental health and wellbeing in practice without being prescribed to do so, I cannot support the amendment. We need to respect the autonomy of higher education institutions and avoid attaching so many statutory conditions to their operation through funding that we risk them being reclassified as public bodies by the ONS. That would create huge issues for the Government and for our institutions, not least by compromising their independence, their ability to raise funds from other sources and their ability to act commercially when it is appropriate to do so.

John Mason: Could the minister go into a bit more depth about where the line is on that? We all agree that we do not want universities to lose their separate status, but part of me thinks that it is a good excuse not to do anything with universities because we might be accused of interfering with them. Has the minister discussed that with the ONS or had advice? Is the minister clear about where the line is?

Ben Macpherson: That is a fair challenge from Mr Mason. In the past months, I have engaged with Universities Scotland on the question of ONS classification and the careful balancing of the sensitivities around that. In preparation for discussing amendments and going through the legislative process, my Government advisers and I have collectively thought carefully about that balance. We just need to be careful about the cumulative effect that I have described.

The Convener: I have also discussed that with Universities Scotland and there seems to be a lack of understanding or knowledge about how

reclassification would be triggered. What will happen? Do 10 amendments have to be passed and the tenth one triggers the ONS to say that a university has lost its classification? I am unsure.

We are at stage 2 and the minister is potentially agreeing to look at more amendments at stage 3. At what point will that trigger be triggered and how will we know about it?

Ben Macpherson: My understanding is that it is about the cumulative effect and the risk of it creating difficulty for the Government and the independence of the institutions. I am clear that there would be a risk of reclassification if amendment 63 was passed but I take members' points. I want to make some progress, but I am happy to have further engagement with the committee on the points that members have raised, because they relate to the amendments that I am still to speak to.

I turn to Ross Greer's amendments 51, 54, 55 and 62. As he said, I prefer amendment 12 in group 8 to amendment 51. It addresses the same issues while leaving discretionary power to determine appropriate levels of payment to the SFC. For context, in England, the cap is in conditions of funding, not legislation, and it is flexible. I hope that is helpful context.

10:30

George Adam (Paisley) (SNP): When we took evidence from the Scottish and Northern Ireland Plumbing Employers Federation, I thought that I might have to pry to get the figure, so I was shocked when the representative openly said that 40 per cent of the money from Skills Development Scotland goes to back-of-house stuff and 60 per cent goes to training. As you know, for colleges, it is 90:10—10 per cent goes to the back-of-house work. My concern, which I think is a concern of the committee, is that, although that figure of 10 per cent is arbitrary—I have concerns about that, too—there is an argument here. I know that you have an amendment on the issue in a later group, but could we look at it more, because there was a lot of concern with regard to the issue?

Ben Macpherson: I emphasise that our training providers and managing agents do important work in supporting the economy and apprentices. However, I absolutely appreciate the committee's concerns, and I think that it is legitimate to probe the percentage of fees and those considerations. Of course, we can talk about that more when we come to group 8. To answer George Adam's point, I think that we, and the SFC, should continue to consider and probe the issue. However, it is important to leave to the SFC the discretionary power to determine the appropriate levels of payment.

Ross Greer: That is the point that I struggle with. I hope that the minister can correct me, but I do not see any difference between what is in his amendment 12 and the power that SDS already has and simply has not been using. It is within SDS's powers now to effectively cap the amount that managing agents take, and it has just not done that. We are moving responsibility from one body to another, but I am not clear how Parliament can have confidence that that will result in effective caps being set and good use of public money.

If the minister is amenable to working with me further on the issue, I will not move amendment 51, but I have not yet heard a case for why Parliament should be confident that his amendment 12 will result in a change of practice. We are shifting the power from one organisation to another, but there is no substantive change in what is expected of the body. Amendment 12 is very vague, as it talks about what would be a "reasonable" charge and so on.

As I said, I am happy not to move amendment 51, if the minister is happy to work with me ahead of stage 3 to consider whether ultimate responsibility for setting a cap could sit with ministers.

Ben Macpherson: I am certainly happy, as always, to have more engagement with Ross Greer. On the points that have been made about SDS, it is not bound by law, but the SFC will be and will be answerable—that is the difference. As with several amendments in the group, we need to be cognisant of the employment law reservation. However, I am happy to have further engagement.

Ross Greer: Would the minister take one brief further intervention?

Ben Macpherson: Briefly, yes.

Ross Greer: I take his point that, if his amendment 12 is agreed to, the SFC would be bound by law to do something that SDS is not currently bound by law to do. However, my question is about what it will be bound by law to do. The wording of the minister's amendment is vague, and I am not convinced that it would result in substantive change in practice.

Ben Macpherson: As I said, I would be more than happy to have further engagement on that with Mr Greer and the committee. I again emphasise the employment law reservation, which we have to consider in thinking about contracting.

Willie Rennie: My anxiety in the area is about defining in a bill something that I am not sure can be absolutely defined. Also, from further evidence that I have heard, I think that the situation is not as clear as was sometimes presented to the committee. I would rather that the power lay with

the Scottish Funding Council, with a clear message from the committee and the Government that we need to get on top of the issue to fully understand it and to ensure that we have policy that complies with that.

I think that the minister's proposal is different enough from what we have now, which is why I will support the minister's amendment rather than Mr Greer's.

Ben Macpherson: I thank Willie Rennie for making those points, and I agree with what he has stated.

If members are content, I will move on to amendment 54. I see the point that Ross Greer is trying to address with it, but I cannot support it as currently worded. I ask him not to move it so that I can consider it further ahead of stage 3.

I am happy to accept Ross Greer's amendment 55, as the provision adds further weight to the imperative of good governance without crossing into determining operational matters. However, I cannot accept amendment 62, which risks overstepping into operations and funding decisions of universities. We must also consider what "adequate funding" means in the context of a diverse range of associations and unions, some of which are aligned with the National Union of Students Scotland while others are not.

I make it clear that I support the principle of Ross Greer's amendments 61 and 61A to 61E. However, as he will be aware, and as I have stated, unfortunately, employment law is reserved to the United Kingdom Parliament, which severely limits what this Parliament can do in the areas that are covered by the amendments. Obviously, I wish that the Parliament had full legislative power in those and other areas. However, we might look to explore whether there is a less direct way of challenging excess pay. I ask Ross Greer not to move those amendments today to allow me to consider the matter further.

John Mason: That is exactly the point that I raised with Ross Greer earlier. His answer was that, in other areas through bodies such as Scottish Enterprise, we can insist on fair work, fair wages, the living wage and so on. Why is there a difference here, when we seem to be able to do it in other areas?

Ben Macpherson: It is important to emphasise the differentiation, in that grant conditions are not limited in the same way as legislation or the competence of the Parliament. That is the key difference with grant conditions, which Ross Greer raised earlier. There is obviously a difference between that and primary legislation.

Ross Greer: I appreciate that point. I am not entirely convinced by the answer, but I accept that

that is the Government's position. I acknowledge it in so far as universities or private training providers are concerned. However, will the minister clarify the Government's position in relation to the policy objectives for colleges? Colleges are public bodies. The Government is entirely within its rights to set conditions in relation to how public bodies, which are ultimately accountable to it and funded by it, operate. That is quite separate to matters of employment law. It is essentially about the internal organisational policy of the Scottish public sector.

Can the minister tease out that distinction? I understand his point on universities and where that would stray into matters of employment law, but I do not understand how that could apply to colleges, which are public bodies. That is essentially about setting internal pay policy.

Ben Macpherson: I thank Ross Greer for emphasising that point. Regarding college principal pay, there are concerns about imposing pay policy via funding conditions, as that might not be appropriate in terms of union engagement and so on. I can take that away and give it further consideration, but we have to think carefully about the whole circumstances.

Ross Greer: Will the minister take another intervention?

Ben Macpherson: Okay, but I would like to make progress, if possible.

Ross Greer: I appreciate that, and I appreciate how long we are taking on the issue. With respect, I do not understand that answer. As I understand it, college principals in Scotland are not unionised, so it is not a matter of union engagement being required. In relation to matters such as payment of the real living wage, as John Mason pointed out and as I said earlier, we have conditioned those elsewhere.

The minister's argument seems to be that he still needs time to consider the issue. I mean no offence by this, but has the Government come to committee today without having considered it? I appreciate that the time between the deadline for lodging amendments and the first day of stage 2 is quite narrow, but I have been raising the matter of applying the chief executive pay framework to college principals with the Scottish Government for a number of years now, so I am a bit surprised that the Government does not have a clear answer as to what its position is on the issue and the legality of it.

Ben Macpherson: We have considered the issue and I had to think very carefully, particularly with regard to the reservation of employment law. I have also listened carefully to the arguments that Mr Greer has made at committee today. Points around pay differentials and income inequality are

of significant interest to me and are pertinent to all our society and to the matters that we consider collectively as parliamentarians.

I stand by the arguments that I have made so far but would like to give the matter further consideration ahead of stage 3, given the keen interest that Mr Greer has expressed in the arguments that have been related at committee today. I would be happy to undertake further consideration of those issues ahead of stage 3, and that is all that I will undertake to do today.

Pam Duncan-Glancy: Will the minister take a further intervention?

Ben Macpherson: Yes.

Pam Duncan-Glancy: I thank the minister for his patience. If the bill is going to go to stage 3, I want to be absolutely clear on the point around what is outwith legislative competence and the difference between that and a grant offer, so that we all know where we stand. The drafting of Ross Greer's amendments makes it quite clear that the issue is about the grant offer. For example, amendment 61D mentions the council's "making a payment" under various sections, and the

"body receiving such a payment".

So, the issue is about grant funding; it does not appear to be about employment law.

Ben Macpherson: There is a difference between the two things. We consider the grant offering of awards of public resource more widely in relation to budget and other circumstances, but we must be very careful about people's conditions and pay with regard to legislative competence. That is where the employment law reservation is absolutely pertinent. Of course, it would be better if the UK Government devolved employment law to this Parliament, because we could then consider those matters more widely without being restricted.

I move to Maggie Chapman's amendments 52, 53 and 57 to 60. I appreciate the points that have been raised, including by the convener, and I am happy to consider what more can be provided with regard to the balance after this meeting. However, I have already mentioned the risk of individual amendments in this group potentially having an inadvertent and undesirable consequence in relation to ONS reclassification. I also must give consideration to the cumulative weight of most of the other amendments in this group and to what their passing would mean for the classification of our institutions. I fear that that would be the impact of nearly all of Maggie Chapman's amendments in this group.

I appreciate why Maggie Chapman is seeking to introduce those sorts of conditions. However, I am conscious that we should respond to the

circumstances at the University of Dundee by addressing those specifically rather than legislating for all circumstances, as that would have serious potential consequences in the long term for all our institutions.

I also contend that some of Maggie Chapman's proposed statutory conditions are unnecessary, as they already exist in practice. The SFC's terms and conditions of grant include provision to ensure appropriate governance, including compliance with the principles of good governance set out in the sector code. For those reasons, I cannot support amendments 52, 53, 57, 58 or 59 in the name of Maggie Chapman.

I am, however, happy to support amendment 60, which would require the SFC to require any fundable body to which it is making payment to put in place a conflict of interest policy. It would mean that each member of a fundable body's governing body and each senior officer would have to declare any registrable interest and withdraw from any meeting or decision-making process when there might be a conflict with that interest. It would require fundable bodies to publish, update and review a register of interests. It seems that that will give further transparency and will simply give statutory effect to what is already being done in practice, and it will be useful to make what is expected clear in law.

10:45

The ONS risk also applies largely to Pam Duncan-Glancy's amendments 56, 65, 67 and 68, so I am not able to support them.

I am, however, happy to support amendment 64, which would give Scottish ministers the power to require the SFC to require a fundable body to have a whistleblowing procedure in place. Amendment 64 requires that the whistleblowing procedure is communicated clearly to all staff, students and members of the governing body; that the fundable body sets out an elicited list of the type of matter that must be capable of being reported in confidence; and that it provides protection against detriment arising from raising any such concern. That is all highly desirable, and I thank Pam Duncan-Glancy for introducing such an important matter into the bill process and debate.

I am also happy to support amendment 66, which requires fundable bodies to inform and consult unions, students and external partners before making decisions on provision for learners, staffing levels and sustainability. Although the relevant sector codes already set out a number of principles for staff and student consultation, it is desirable to make clear the expectations for

consultation and meaningful engagement by underpinning it in statute.

In light of the recent travails in the sector, I and the Government more widely have given careful consideration to the amendments in this group and I appreciate the reasons why members have lodged them. We need institutions to be accountable for their use of public money, but we also need to ensure that Government intervention does not interfere with their autonomy. Universities are private sector bodies and I hope that everyone in the Parliament would wish them to remain so. As I have said, too much Government control raises the risk that the ONS would reclassify them as public sector bodies.

We should also be cautious about putting in place onerous and punitive measures for every university and college in Scotland because of the poor governance and financial management at one outlying institution. I do, however, agree with members that we need to make sure that people have the full confidence that public funding is being used efficiently, effectively and wisely, which is why I welcomed the responses of the SFC and Universities Scotland to the Gillies report. It is important that the college and university sectors consider carefully the lessons that are to be learned from the report's findings. The SFC has committed to enhancing the ways in which it monitors institutional governance, and I expect it to engage closely with the sectors on that work. The Government is adding powers at stage 2 that will help the SFC to do that.

Although the Gillies report found that the SFC's financial memorandum and sector-owned "Scottish Code of Good Higher Education Governance" remain fit for purpose, we will look to make any appropriate enhancements to prevent a repeat of the situation at the University of Dundee.

I reiterate that I cannot support amendments 52, 53, 56 to 59, 62, 63, 65, 67 or 68, and I encourage members to vote against them for the reasons that I have set out.

I prefer amendment 12 to Ross Greer's amendment 51, and I encourage members to vote against amendment 51.

I support amendments 50, 60, 64 and 66 and encourage members to vote for them. I support amendment 3 in principle, but I ask Pam Gosal not to move it to allow me to consider reframing the issue ahead of stage 3. If she does move it, I encourage members to vote against it.

I ask Miles Briggs not to press amendment 50, but if he does, I encourage members to vote against it.

I also ask Ross Greer not to move amendments 61 and 61A to 61E. If he does, I encourage members to vote against them.

The Convener: I call Miles Briggs to wind up and to press or withdraw amendment 50.

Miles Briggs: Further to the minister's commitment to consider the issue further, I seek to withdraw amendment 50.

The Convener: Do you want to comment further on the debate itself?

Miles Briggs: I hear what the minister has had to say this morning. Given the situation at Dundee that is running parallel to the bill's progression through Parliament, the issue of transparency has been very much on all of our minds. Maggie Chapman's amendments touch on that issue, too. Further to the minister's comments on ONS classification, I hope that he will reflect on where the Government has scope to introduce additional transparency measures at stage 3. I think that all of the committee members have been reaching towards that objective.

On my amendment 63, which is about the provision of student mental health and wellbeing support services, the bill might not be the right vehicle to take that forward but, nonetheless, I think that ministers and the committee want progress to be made on the issue. There is significant variation in that provision across the country, which is sometimes down to differences in organisational capacity and size. Some of Ross Greer's amendments are about the support that could be given to the student body to provide those services.

I hope that the minister will consider those issues, as well as the issue in my colleague Pam Gosal's amendment 3. If they are not dealt with in the bill, I want to know what commitment the Government will make to ensuring progress on those important issues.

Amendment 50, by agreement, withdrawn.

The Convener: Amendment 3, in the name of Pam Gosal, was already debated with amendment 50. I call Pam Gosal to move or not move her amendment.

Pam Gosal: I am happy not to move my amendment, and I will take up the offer to work with the minister ahead of stage 3. I also thank the minister for recognising all the great work that EmilyTest has done.

Amendment 3 not moved.

Amendment 51 not moved.

Amendment 52 moved—[Maggie Chapman].

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

Members: No.

The Convener: There will be a division.

For

Greer, Ross (West Scotland) (Green)

Against

Adam, George (Paisley) (SNP)
Briggs, Miles (Lothian) (Con)
Dunbar, Jackie (Aberdeen Donside) (SNP)
Duncan-Glancy, Pam (Glasgow) (Lab)
Kidd, Bill (Glasgow Anniesland) (SNP)
Mason, John (Glasgow Shettleston) (Ind)
McLennan, Paul (East Lothian) (SNP)
Rennie, Willie (North East Fife) (LD)
Ross, Douglas (Highlands and Islands) (Con)

The Convener: The result of the division on amendment 52 is: For 1, Against 9, Abstentions 0.

Amendment 52 disagreed to.

Amendment 53 moved—[Maggie Chapman].

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

Members: No.

The Convener: There will be a division.

For

Greer, Ross (West Scotland) (Green)

Against

Adam, George (Paisley) (SNP)
Briggs, Miles (Lothian) (Con)
Dunbar, Jackie (Aberdeen Donside) (SNP)
Duncan-Glancy, Pam (Glasgow) (Lab)
Kidd, Bill (Glasgow Anniesland) (SNP)
Mason, John (Glasgow Shettleston) (Ind)
McLennan, Paul (East Lothian) (SNP)
Rennie, Willie (North East Fife) (LD)
Ross, Douglas (Highlands and Islands) (Con)

The Convener: The result of the division on amendment 53 is: For 1, Against 9, Abstentions 0.

Amendment 53 disagreed to.

Amendment 54 not moved.

Amendment 55 moved—[Ross Greer]—and agreed to.

Amendment 56 moved—[Pam Duncan-Glancy].

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

Members: No.

The Convener: There will be a division.

For

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

Against

Adam, George (Paisley) (SNP)
 Dunbar, Jackie (Aberdeen Donside) (SNP)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Mason, John (Glasgow Shettleston) (Ind)
 McLennan, Paul (East Lothian) (SNP)
 Rennie, Willie (North East Fife) (LD)

The Convener: The result of the division on amendment 56 is: For 4, Against 6, Abstentions 0.

Amendment 56 disagreed to.

Amendments 57 to 59 not moved.

Amendment 60 moved—[Maggie Chapman]—and agreed to.

Amendment 61 not moved.

The Convener: Amendments 61A to 61E fall.

Amendments 62 and 63 not moved.

Amendment 64 moved—[Pam Duncan-Glancy]—and agreed to.

Amendment 65 moved—[Pam Duncan-Glancy].

The Convener: The question is, that amendment 65 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

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

Against

Adam, George (Paisley) (SNP)
 Dunbar, Jackie (Aberdeen Donside) (SNP)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Mason, John (Glasgow Shettleston) (Ind)
 McLennan, Paul (East Lothian) (SNP)
 Rennie, Willie (North East Fife) (LD)

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

Amendment 65 disagreed to.

Amendment 66 moved—[Pam Duncan-Glancy]—and agreed to.

Amendment 67 moved—[Pam Duncan-Glancy].

The Convener: The question is, that amendment 67 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

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

Against

Adam, George (Paisley) (SNP)
 Dunbar, Jackie (Aberdeen Donside) (SNP)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Mason, John (Glasgow Shettleston) (Ind)
 McLennan, Paul (East Lothian) (SNP)
 Rennie, Willie (North East Fife) (LD)

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

Amendment 67 disagreed to.

Amendment 68 moved—[Pam Duncan-Glancy].

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

Members: No.

The Convener: There will be a division.

For

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

Against

Adam, George (Paisley) (SNP)
 Dunbar, Jackie (Aberdeen Donside) (SNP)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Mason, John (Glasgow Shettleston) (Ind)
 McLennan, Paul (East Lothian) (SNP)
 Rennie, Willie (North East Fife) (LD)

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

Amendment 68 disagreed to.

The Convener: We are more or less bang on time, so we will suspend for 15 minutes before we move to section 3.

10:57

Meeting suspended.

11:12

On resuming—

Section 3—Funding for national training programmes

The Convener: Welcome back. Amendment 69, in the name of Ross Greer, is grouped with amendments 70, 71, 4 and 72 to 75.

Ross Greer: You will be glad to know that my speaking notes for this group are far shorter than they were for the last one.

Amendment 69 specifies that the terms and conditions that are applied to national training programmes may require—I emphasise the word “may”—that a programme is to be delivered by an institution that has

“recognised one or more trade unions”.

The amendment ensures that trade union recognition is incorporated into the terms and conditions for national training programmes.

The amendment provides some flexibility for NTP providers—thus, Scottish ministers “may specify”—so that organisations that deliver training programmes but are not technically institutions are not excluded. Additionally, I use the word “may” rather than “must” because providers might not have an active staff union and should not lose out because of that. The issue that I am getting at is that the amendment is intended to address situations in which staff are attempting to unionise but are not being recognised by their employer, rather than cases in which there is simply an absence of a union, in which case the organisation should not be precluded from providing training.

Similar to amendments in group 4, the Government’s own fair work guidance includes a section on effective worker voice and conditionality in relation to the granting of public funds. It states that

“All organisations with a workforce must be able to demonstrate ... that all workers employed within that organisation have access to effective voice channel(s) ... at both collective and individual levels”

before the organisation itself is able to access grants.

Unions are clearly the most effective manner through which workers can have their voice heard, so requiring union recognition wherever a union exists would deliver on the Government’s own stated objectives. To be clear, I am trying to prevent public money from being given to an organisation to provide training while it withholds recognition of existing union branches.

Amendment 71 specifies that ministers must publish terms and conditions that they impose on NTPs, along with any reasons for considering them appropriate to impose. If it is not appropriate to publish terms and conditions, ministers should issue a statement of their reasons why—for example, doing so might get into areas of commercial sensitivity.

Amendment 75 adds a power of clawback for the SFC in relation to national training programmes if there are violations of “agreed fair work principles”. Via regulation, ministers would then have to

“set out further details in relation to the repayment of funds”,

which would include notification requirements and a process for appeal.

11:15

As I said a couple of times during the stage 1 proceedings, I do not think that a financial clawback is the most effective form of sanction, but it is a tool that should be available to the SFC in all relevant circumstances, including in connection with private providers, and the existence of the power and a clear willingness to use it should act as a powerful deterrent. At the moment, it appears to be somewhat lopsided for the SFC to have a power of clawback in relation to colleges and universities but not in relation to private training providers.

As with my previous amendment, this one builds on the Government’s fair work first guidance and would ensure that anyone in receipt of public funding for the purposes of delivering national training programmes adheres to existing Government policy on fair work by creating that power of sanction. The fact that that power exists should, in and of itself, be a strong incentive to ensure that it is not actually used.

I note that Miles Briggs’s amendment 72 is in a similar space. I am obviously keen to see my amendment 75 pass, given the detail that it would require ministers to set out, but I am happy to see where the debate goes in respect of those amendments and I hope that there will be a broad consensus, regardless of which amendment we choose to proceed with.

I move amendment 69.

Miles Briggs: As Ross Greer has outlined, there is a bit of an overlap between many of the amendments in the group. My amendment 70 seeks to ensure parity between the conditions that will apply to those receiving grants for the purpose of the delivery of programmes of training for employment and those conditions regarding repayment that are imposed on fundable bodies and regional strategic bodies by sections 12A and 12B of the 2005 act.

As I said earlier, it is vital to ensure that public money is not given without the ability to seek repayment and, where appropriate, interest. As has been touched on, the Government already has a number of policies in place relating to the fair work first criteria but, under my amendment 74, the requirement to comply with those criteria would be included in the terms and conditions that are imposed, given the links to Government policy in this regard.

I will be moving amendment 70.

Ben Macpherson: My amendment 4 concerns the funding of training providers, putting beyond doubt that they are not restricted from operating in a commercially profitable way and that the SFC’s

payments need not be only for the direct reimbursement of expenses.

As I emphasised earlier, private sector training providers do an important job in our system and our economy, where they are used to bring capacity and capability that are not available from colleges and universities. I am keen that the key role that they now play in our skills landscape should continue in future. It is appropriate for commercial organisations to operate a business model that generates legitimate and proportionate profit and I hope that members will support amendment 4.

Pam Duncan-Glancy: I hope that the minister will forgive me if I have misunderstood the wording of his amendment 4. Can you explain why the wording

“in respect of expenditure incurred or to be incurred by the person”

would be removed from the bill? Would that have implications for people who are relocating as a result of a skills gap? How would that affect what we are doing to encourage people, such as teachers, to move to rural areas? Have I completely misunderstood the Government's intention with that amendment?

Ben Macpherson: I would be grateful if Pam Duncan-Glancy could provide a bit more context for that question.

Pam Duncan-Glancy: Amendment 4 appears to remove the ability to pay a person for accessing particular skills, education or learning. I wonder whether that might lead to concerns about schemes giving people—for example, teachers—incentives to move to particular areas where there are skills shortages. I am looking for clarity about whether amendment 4 would affect that.

Ben Macpherson: I thank Pam Duncan-Glancy for providing that additional context. There is perhaps a bit of a misunderstanding. To be clear, amendment 4 intends to make the power to pay more flexible. It is not about people; it is about companies and their situation. I thank the member for seeking that clarity.

I will move on to the other amendments in group 5. Ross Greer's amendment 69 refers to “an institution”. Unfortunately, it is not clear what that term means. The persons delivering national training programmes might not be institutions but could be any type of person. Therefore, attaching such a grant condition would be unhelpful in limiting who can provide training programmes solely to institutions.

I thank Miles Briggs for setting out the rationale behind his amendments. However, I think that—

Ross Greer: Will the minister take an intervention?

Ben Macpherson: Okay. I will start again on that shortly, and take an intervention from Ross Greer on amendment 69.

Ross Greer: I appreciate that, minister.

To clarify, is the Government's objection to amendment 69 a matter of drafting, or does the Government object to the policy objective in relation to recognition of unions?

Ben Macpherson: We have paid careful attention to trade unions throughout the process. As I said, amendment 69 is not competently drafted. We could consider the matters that it raises in relation to trade unions further ahead of stage 3 but, at the moment, I urge the committee not to back amendment 69—indeed, I urge Ross Greer not to move it.

I thank Miles Briggs for setting out the rationale behind his amendments. However, the intention and wording of amendment 70 are unclear. If he is suggesting that we should have a provision that effectively allows grant funding to be passed directly to employers rather than staying within the SFC's direct oversight, I am sure that he can see how that might prove challenging if universally applied. That sort of national training programme might be a good idea in some circumstances, but I am unsure whether such a provision is necessary, and I do not consider the wording to give the intended effect. However, I am happy to consider the matter further ahead of stage 3, if the member is minded to do that.

I am pleased to support amendment 71, in the name of Ross Greer, and amendment 72, in the name of Miles Briggs. Amendment 71 will bring transparency to the terms and conditions that are set by the Scottish ministers when providing grant funding to the SFC. Amendment 72 implicitly emphasises the importance of compliance and results in return for public money by setting out how the SFC could impose repayment conditions.

Although I have no issue with the spirit of Daniel Johnson's amendment 73, it is problematic on several fronts. The term “transparent on spend” is not defined, and we would not want a grant recipient to need to publish details of all their expenditure. That could be unnecessarily bureaucratic and sensitive in respect of certain matters such as staff salaries and subcontracting.

More importantly, by requiring the SFC to impose a condition that the person “adopts fair work practices” in all circumstances, regardless of the nature of the business, amendment 73 would have the effect of mandating employment terms and conditions. Unfortunately, that is strictly outwith the competence of the Parliament. As

there is an employment law reservation, the amendment should not be supported.

Miles Briggs's amendment 74 is in similar terms. Although the provision is not framed as an essential grant condition, the amendment is unnecessary, as the bill already gives the SFC a broad power to make grants subject to such terms and conditions as it considers appropriate to impose. It is for the SFC to decide what grant condition may or may not be appropriate, depending on the nature of the training programme and the grant recipient. I appreciate the desire for legislation to expressly allow for the SFC to impose a condition in this space, and I am happy to look at that further to ensure that we have a provision that is workable and within legislative competence. I commit to doing so at stage 3 and therefore ask Miles Briggs not to move amendment 74.

Likewise, Ross Greer's amendment 75 would make a provision that would be more appropriately placed in the contract or offer of grant that is made to the person providing the national training programme. In addition, the purpose of the provision appears to be to penalise financially employers who do not adhere to fair work principles. That therefore relates to the reserved matter of employment rights and is outside the legislative competence of the Parliament. I therefore ask Mr Greer not to move amendment 75 and, if he does, I urge members to vote against it.

I will be moving amendment 4 and will ask members to support it. I hope that members will also support amendments 71 and 72. As stated, I cannot support amendment 70 as it is currently drafted and I ask Miles Briggs not to move it, as that will allow me to consider the matter further ahead of stage 3. If he does move it, I encourage members to vote against it.

Ross Greer: If amendment 72, in the name of Miles Briggs, passes, I will not move amendment 75.

On the minister's point that the specific conditions around clawback should be set out in the contracts between the SFC and the provider, I would like to ask the Government why that has not been happening. My understanding is that the SFC has never clawed money back and there probably have been occasions when there have been breaches of fair work practices. I am not aware of the SFC using the powers that it already has.

Ben Macpherson: That relates to the point that the convener raised at the beginning of the meeting, and I am happy to undertake to write to the committee in the weeks ahead on the SFC's accountability to ministers and the accountability

that it applies to others under the 2005 act, which also relates to the points that we are considering today. There is certainly an emphasis that has been applied throughout the bill process and the stage 2 process, as well as through the engagement that ministers and others have had with the SFC about the SFC playing a proactive role in fair work. I am sure that the SFC has heard that throughout today's process and will take the points on board in good faith.

I will sum up, convener. I cannot support Daniel Johnson's amendment 73 and I encourage members to vote against it on the basis that the provision is outwith the legislative competence of the Parliament. The same applies to Ross Greer's amendment 75, although I note that he has said that he will not move it. I ask Miles Briggs not to move amendment 74 but, again, I offer to consider it ahead of stage 3. Should he decide to press amendment 74, I encourage members to vote against it.

The Convener: I call Pam Duncan-Glancy to speak to amendment 73, in the name of Daniel Johnson, and other amendments in the group.

Pam Duncan-Glancy: Amendment 73 simply asserts that, if public money goes to a private or independent provider, we will require value for money, fair work standards and transparency on spend. Given that there are examples of the Government applying conditions on grant funding that include fair work, I am not sure that the amendment would lie outwith legislative competence, because it is about when the grant is given to the fundable body.

Ben Macpherson: Pam Duncan-Glancy raises an important point that relates to some discussions that we have had this morning. There is a difference between a body applying grant funding conditions and setting conditions in law, which is employment law and firmly reserved to the UK Parliament. That is the difference.

Pam Duncan-Glancy: I appreciate that, and I heard that justification earlier, but the amendment specifically says:

"When making a grant ... to a person who is not a Scottish public authority, the Council must impose conditions".

11:30

Ben Macpherson: I appreciate the drafting of the amendment, but I must emphasise that it would be going into primary legislation, which is why it is outwith the competence of the Scottish Parliament.

Pam Duncan-Glancy: If I am honest, I remain sceptical about whether that is the case. I have seen ministers talk about the Government's fair

work principles in other areas and assert that they can guarantee those principles in certain sectors. What the minister says appears to contradict that, which causes me some concern.

Fundamentally, amendment 73 is trying to ensure that we have value for money, that the fair work standards are met when we give any public funding to fundable bodies and that those bodies are transparent on spending. If the minister were to intervene in response, I would be interested to know whether he agrees that value for money, the fair work standard and transparency on spending must all be guarded and whether he would be willing to work ahead of stage 3 to come up with an amendment that he considers to be within legislative competence.

Ben Macpherson: I am, as always, happy to have further engagement with Pam Duncan-Glancy. In this instance, as in many others, she has lodged amendments in areas where we want to make a difference to social justice and to delivery. As I have emphasised, we must carefully consider the employment law reservation. This is a primary legislation process, which is why I am being so strong on that. We cannot move beyond the legislative competence of this Parliament. That is an absolute necessity for us all, so, without being party political, I am just stating as a matter of fact that the complication comes from the fact that employment law is not within the competence of this Parliament.

I will not necessarily give an undertaking to lodge a similar amendment on those matters, but I am happy to give an undertaking that I will be open minded and to have further engagement with the member on the wider issues in amendment 73.

Pam Duncan-Glancy: I appreciate the minister's clarification, but I am left feeling unclear about the Government's position on whether it would be important to require those things as a matter of law. The Government is proposing the movement of public funds to organisations that we all, I think, hope and believe will provide value for money, support fair work principles and be transparent about how they use their funding. We have heard that public sector institutions, such as colleges, are keen that any requirements that are applied to them are also applied elsewhere.

I am a bit concerned that the Government will not be prepared to work on a stage 3 amendment that would be within legislative competence if it considers that amendment 73 is not within competence. That would leave us in a position where protections for that money are not in the legislation and I do not think that that is an acceptable circumstance for us to be left in.

Ben Macpherson: I emphasise that I am happy to have further engagement, because the general

principles of value for money, fair work practices and transparency are as important to the Government as they are to the member. I am just being cautious about committing to a similar amendment because of the employment law reservation. I must be very strong on that, because we cannot stray outwith the competence of this Parliament. I am happy to have further constructive dialogue, because I think that the member and I are in alignment on the importance of the general principles of value for money, fair work practices and transparency about the spending of public money, but we must be careful about the drafting of primary legislation.

Pam Duncan-Glancy: I appreciate that and also appreciate the convener's patience as I press this issue ever so slightly further. Having a Government support principles is not the same thing as having it codify them in legislation and require them. I am prepared to take the minister at his word that he might look at other mechanisms by which he could try to encourage, enforce or require those principles. However, what is the minister's view on the value for money aspect of the amendment and on transparency on spend? Does he think that those things are outwith the competence of the Parliament, or is he prepared in principle to consider an amendment that at least does those things?

Ben Macpherson: I am happy to have further engagement, but we need to be careful in that consideration, as I have emphasised. We have covered the amendment significantly, so I have no more to say.

Pam Duncan-Glancy: We have probably covered it significantly, so, with that, I will close.

The Convener: I call Ross Greer to wind up and press or withdraw amendment 69.

Ross Greer: I will not press amendment 69, on the basis of what the minister has said. I am happy to try to work with him ahead of stage 3. However, with respect, I suggest that it would be helpful for the Government to come to such proceedings and be absolutely clear on where it agrees or disagrees with the policy objective of amendments. I accept that members lodge amendments with deficient drafting, given the limited resources that are available. The legislation team do fantastic work, but they are doing a monumental amount of work on our behalf.

It often feels as if the Government uses issues of drafting as an excuse to obscure the fact that it disagrees with the policy objective of particular amendments and simply does not want to put that on the record. It would be much more helpful for proceedings if the Government was totally straightforward and said whether it agrees with the objective of an amendment. If it agrees with the

objective but the wording is deficient, it is clear that we can decide to not move it at stage 2 and work to produce something for stage 3.

I will move amendment 71. I am grateful for the minister's support for it, and I hope that the committee agrees to it. I expect that Miles Briggs's amendment 72 will be agreed to, which will make my amendment 75 unnecessary.

I will finish on this group by picking up on the debate between the minister and Pam Duncan-Glancy on the point that putting particular conditions into legislation, in the Government's view, takes us beyond the Government's competence. It sounds as though the Government's position is that it is possible to achieve many of the objectives through policy decisions that are outwith legislation, by simply setting conditions of grants rather than putting those into legislation. The issues of competence would come to the fore if those objectives were put into primary legislation.

That would be a perfectly respectable position if the Government was putting those conditions in grant funding using its policy discretion. My frustration is that almost all, if not all, of the issues that we have been discussing today are not new. For example, before 2021, we had been told for around a decade that it was not possible for the Scottish Government to set conditions around procurement and grants in relation to the real living wage. In September and October of 2021, the minister's party, together with mine, simply delivered that, and it turned out that it was possible.

I respect the Government's position that it does not want to put those provisions into primary legislation because of the issues of competence and the risks that that might pose to the bill as a whole. However, the Government should make maximum use of its existing powers to set the conditions directly as a matter of Government policy rather than putting them into legislation. That would be a much more defensible position with which to push back against amendments, because amending bills is the only way in which other members of the Parliament have an opportunity to influence policy decisions. If the Government were simply following through on the agenda that it allegedly believes in in relation to fair work, we would not need to lodge amendments and test the legislative competence of the Parliament, because the Government would simply be getting on with setting those conditions in the first place.

Pam Duncan-Glancy: I agree whole-heartedly with what the member says. Does he agree that it is important for the Government to take the first opportunity that it can to set out its policy intention

on fair work in this space ahead of, or at least around, the stage 3 proceedings for the bill?

Ross Greer: I absolutely agree with that. It is essential, particularly if the Government does not want to be placed in the position of voting against policy objectives that it allegedly supports at stage 3. I am sure that Opposition members would be amenable and understanding and would simply not lodge such amendments if the Government had made a clear statement of its intent to deliver on the objectives through other means. We absolutely require a clear statement from the Government ahead of stage 3 proceedings covering many of the issues that have been raised today and that were raised during the stage 1 debate.

Amendment 69, by agreement, withdrawn.

Amendment 70 not moved.

Amendment 71 moved—[Ross Greer]—and agreed to.

Amendment 4 moved—[Ben Macpherson]—and agreed to.

Amendment 72 moved—[Miles Briggs]—and agreed to.

Amendments 73 to 75 not moved.

Section 3, as amended, agreed to.

Section 4—Scottish apprenticeships

The Convener: Amendment 26, in the name of Willie Rennie, is grouped with amendments 76 to 78, 27, 28, 80, 79, 5, 81 to 83, 91, 91A, 92 and 93. I point out that if amendment 26 is agreed to, I cannot call amendments 76 to 78, due to a pre-emption. I call Willie Rennie to move amendment 26 and speak to all amendments in the group.

Willie Rennie: My three amendments in the group—amendments 26 to 28—revolve around two central points. The first is that an apprentice should be employed—an apprenticeship should be an occupation. The second, as amendment 27 refers to, is about apprentices achieving “the competence required” rather than receiving training. Those are important and significant differences.

The concern of the amendments is the desire to protect the credibility of apprenticeships by ensuring that they do not stray into the space of being simply about training but are actually apprenticeships, with the important relationship between employer and employee built into them. Being part of a team, following the discipline of the workplace and being important to the integrity of the organisation, the company and its success are all part of that experience.

Block training or programme-led models not only involve significant periods outside the workplace and disrupt learning and the opportunity to understand a business or working environment; they also have an impact on the logistics of the organisation and the employer, which involves pulling in other members of staff to fill the gaps.

Pam Duncan-Glancy: The member will know that his amendment 26 pre-empts one of mine, which will affect voting. How would amendment 26 impact on whether young people who undertake foundation apprenticeships should be considered to be employed?

Willie Rennie: Foundation apprenticeships are catered for separately in the group of amendments on work-based learning rather than the group on apprenticeships, so amendment 26 would not affect them. However, it is important for the other apprenticeships to have that employment status embedded in them.

Moreover, rather than just receiving training or completing the course, apprentices would have to achieve competence, which would reinforce the integrity of the apprenticeship model and ensure that the perceived standard of the apprenticeship was maintained.

There is a reference in amendment 28 to the Employment Rights Act 1996 and the Scottish Government's fair work first policy, which is an integral part of the employment status that is proposed in the amendments.

Ross Greer: I have some sympathy with what the member is trying to achieve, but I have a slight issue with the wording in amendment 27, so I wonder whether he could explain it. Believe it or not, buried deep down within me is a bit of a liberal, and that liberal is a bit uncomfortable at the mention of "behaviours in the workplace". Although we indeed expect all staff in a workplace to behave to a certain standard, I am a bit uncomfortable putting it into legislation that that is part of what we require of apprentices. It just feels a bit too specific to me, and I wonder whether Willie Rennie could elaborate a little more on what is meant by that, because I feel that we are getting into very intrusive territory when we specify the behaviours of individuals.

11:45

Willie Rennie: I interpret section 4 to be about apprentices' ability to turn up, take orders and follow the conduct of the organisation in addition to the skills that are achieved. You could argue that those are part of the skill set, but it is worth drawing it out to make sure, because the relationship that an apprentice has with their supervisor, manager and employer is a particular benefit of an apprenticeship and a really important

part of understanding what the future workplace is like, which is what differentiates apprenticeships from other forms of learning. Perhaps this is the disciplinarian in me coming out, but that is why behaviour is an important part of the experience and why it should be specifically referenced.

I move amendment 26.

Pam Duncan-Glancy: I will start with amendment 82, if that is all right. It would define foundation apprenticeships as a

"Scottish apprenticeship delivered as part of the senior-phase education pathway, delivered in partnership with local authorities, schools, colleges of further education, and employers."

Members will be aware of the evidence that we took and the concerns, including from the Association of Directors of Education in Scotland, local authorities and others, that foundation apprenticeships were not significantly addressed in the bill, which they considered a bit of an omission. I seek to address that by defining foundation apprenticeships in the bill.

Amendment 81 is the paving amendment for the definition of foundation apprenticeships.

Amendment 76 would make it clear that apprentices doing foundation apprenticeships are not employed, which goes back to the point that I made to Willie Rennie.

Amendment 92 would provide that the Scottish Funding Council

"must ensure that foundation apprenticeships ... are delivered through ... partnership ... with local authorities"

and that there must be a report on uptake with details of who accesses foundation apprenticeships, their region, whether they have any disability and information relating to the index of multiple deprivation. Such details would help us clearly understand the demographics and the way that people access foundation apprenticeships, in order that we can ensure that all young people access the opportunities that are available through them.

On a couple of other amendments in the group—

Ross Greer: Will the member take an intervention?

Pam Duncan-Glancy: I am happy to.

Ross Greer: I sympathise with why you are keen to see a clearer definition of foundation apprenticeships. I take on board that foundation apprenticeships are almost not apprenticeships, as we have just discussed in relation to Willie Rennie's amendments, but I wonder whether you share my concern that defining one particular apprenticeship would make it challenging in future

if we were to undertake any reforms of the system. If we decide in a couple of years' time, once the bill is enacted, that we want to make substantial changes, even if it were to do something like renaming foundation apprenticeships—I do not think that they should be called that because the term “foundation” is unhelpful and harks back to the era of standard grades—we would need to introduce more primary legislation to do so.

Do you recognise that concern? Could we perhaps include a ministerial regulation-making power that would ensure that we do not need to go through the primary legislative process again if we need to make even minor adaptations to the system at some point in the future?

Pam Duncan-Glancy: You have made good points, particularly about the name of foundation apprenticeships, which is important.

Not having a definition in the bill is an omission because we could end up in a bad situation. Foundation apprenticeships and courses have been identified by experts—the OECD and others—as a really key part of our apprenticeship offer. I would be nervous if they were not mentioned at all in the bill, but we could at stage 3 add a regulation-making power to rename any apprenticeships in the way that you suggest.

Supporting my amendments at this stage would not prevent us from easily renaming apprenticeships that are set out in primary legislation, as we could still include a regulation-making power at stage 3. I hope that members will be able to support my amendments in the group.

Amendment 80, in the name of Stephen Kerr, seeks to address issues that were highlighted in evidence whereby witnesses stressed the need to protect the relationship with the training provider or college. That is incredibly important. I appreciate that the amendment has not yet been spoken to, but I am concerned about the creation of a contractual relationship between the apprentice and the college, and I wonder whether the amendment could create issues through various liabilities. However, I look forward to hearing the member's rationale for it.

Amendment 6, which is in the minister's name, specifies who ministers must consult, but that does not include apprentices or trade unions. I wonder whether the minister would be willing to tidy that up and bring it back at stage 3, or whether he could put it on the record that he is clear that apprentices and trade unions should be consulted in that respect.

Miles Briggs: Ross Greer outlined the limited time that we have had in the gap before lodging amendments to be able to work with the Government to get the detail right. That is why I have lodged what is very much a set of probing

amendments—amendments 77, 78 and 73. I will also speak to Stephen Kerr's amendments.

Amendment 77 would broaden the definition so that an apprentice does not need to be receiving wages or other reward.

Amendment 78 would update proposed new section 12E of the 2005 act so that a Scottish apprenticeship must involve an apprentice working for a reward under a contract of employment. That would tighten the definition by making it clear that, in addition to being paid, the apprentice must be formally employed under an employment contract with an employer. I have lodged the amendments because I feel that the bill should be an opportunity to update the standing of apprenticeships, but I am open to working with ministers to strengthen the amendments.

Amendment 83 would add a new subsection that would make it clear that

“a Scottish apprenticeship may include apprenticeships delivered as part of school education and delivering industry standard Scottish Vocational Qualifications and placements.”

It is important to seek clarity in the bill on what foundation apprenticeships look like. I am attempting to address the issue of delivering those in a school setting. There have been many conversations on school-college partnerships, which are really positive and developing, but that is not necessarily captured in the bill. I hope that this is an opportunity to work with the Government to take forward work in the area to recognise how apprenticeships are changing and how and where they can be delivered.

I will move on to speak to amendments 80 and 79, which were lodged by my colleague Stephen Kerr. The amendments concern the very heart of the apprenticeship system—the definition of what a Scottish apprenticeship is. If that definition is vague or incomplete, everything that follows, from funding and quality assurance to the integrity of the apprenticeship brand in Scotland, stands on uncertain ground. The amendments are designed to put that right.

The first point to be made is that the bill as introduced offers only the barest sketch of what constitutes an apprenticeship. It notes that an apprenticeship involves learning and work-based experience, but it does not give Parliament, providers or employers any meaningful assurance about the structure, purpose or integrity of that experience. In a country where apprenticeships have become a vital route to skilled employment and an essential pillar of the productivity agenda, such a loosely drawn definition is inadequate.

I hope that what follows answers Pam Duncan-Glancy's request for clarification. Amendment 80 would strengthen the definition by making it clear

that a Scottish apprenticeship is a structured programme consisting of a coherent framework of learning and work-based experiences that leads to a recognised qualification.

That is not merely a tidying-up exercise; it addresses a real and long-standing concern among employers that the term “apprenticeship” risks being diluted unless it is tied explicitly to recognised quality-assured outcomes. As members will know, Stephen Kerr has consistently argued for a system that enhances rather than erodes the reputation of apprenticeships in Scotland and amendment 80 would give legislative expression to that argument.

It also reflects the experience of employers, which we need to recognise, and that of training providers, who have said repeatedly that clarity is critical. When businesses take on apprentices, they need to know that the programme has rigour, that it leads to a qualification that has value and that the term “apprenticeship” is not being applied inconsistently across different sectors and providers. Amendment 80 would bring that clarification and it articulates the essential elements that give apprenticeships their standing: structured and recognised learning, work-based competence and a qualification that is meaningful in our labour market.

Amendment 79 complements that by addressing the purpose of apprenticeship systems. It would require that the definition of the Scottish apprenticeship must reflect the needs of the Scottish economy and the opportunities that are available to our workforce. That is the core point in all the Scottish Conservatives’ contributions on reform of the tertiary system. Apprenticeships are not an abstract educational exercise; they exist to prepare people for the jobs of tomorrow and for productive and skilled employment that contributes to our national prosperity. If the definition is stretched from that purpose, it risks creating a system that is technically correct but strategically aimless.

By linking the definition to Scotland’s economic need, amendment 79 would ensure that apprenticeships remain a living and responsive part of the labour market that recognises economic changes as well as technological advances as industries evolve and new sectors emerge, and that the apprenticeship system must be capable of adapting to new opportunities. Without amendment 79, the definition will be strategic at the very moment at which Scotland’s skills system needs to be dynamic.

Taken together, amendments 80 and 79 offer coherent improvement to the bill. They would ensure that, when we speak of a Scottish apprenticeship, we will be speaking of something that has definition, credibility, purpose and

economic relevance. The amendments align with the principle that Scottish Conservatives have repeatedly articulated throughout the process that apprenticeships must command the confidence not only of learners but of employers, and they must be designed to serve Scotland’s long-term productivity and prosperity.

The bill seeks to act as a safeguard and strengthen the apprenticeship brand, and amendments 80 and 79 are helpful to that. They would provide clarity and strengthen the bill. I invite members to support amendments 80 and 79 in the name of my colleague Stephen Kerr.

Ben Macpherson: As has been discussed, the amendments in this group all relate to the definition of Scottish apprenticeships. Before I get to the detail of the amendments, I would like to make a couple of general points for wider context, which I think will be helpful.

In developing the bill, the Government engaged in detailed discussions on the definition of apprenticeships with the SFC, SDS and the SAAB short-life working group. At this point, I record my thanks to SAAB for its detailed, constructive and helpful engagement.

To allow for the future evolution of Scottish apprenticeships, the discussions cautioned against using particular terms in the bill, such as “modern”, “foundation” and “graduate” apprenticeships.

The bill will give ministers the power to amend the definition of Scottish apprenticeships by affirmative regulation. That means, of course, that any change will be subject to extensive consultation and that the Parliament will scrutinise any proposed changes. We need to monitor the effect of the definition following implementation to ensure that it works for everyone.

There are a few amendments in the group and I will address them thematically. My amendment 5 introduces a requirement for Scottish ministers to consult various stakeholders and groups before making regulations that amend the definition of Scottish apprenticeships. From my engagement with employers and business groups, I know that they are keen to be closely involved in any developments in that area, and rightly so. Amendment 5 makes provision for a statutory duty to consult those who play a key role in delivering apprenticeships, such as employers and training providers.

I note Pam Duncan-Glancy’s points about amendment 5—it is amendment 5, not amendment 6—

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

Ben Macpherson: The amendment, which inserts new subsection 12E(2A)(e) into the 2005 act, talks about

“such other persons as the Scottish Ministers consider appropriate”,

which covers the groups that Pam Duncan-Glancy mentioned.

12:00

Pam Duncan-Glancy: I wanted to intervene to apologise for getting the amendment number wrong. The minister is of course correct—it is amendment 5, and not amendment 6, which is in the next group. I think that I have a similar concern with amendment 6, but we can come to that.

I take the point about proposed new paragraph (e) and the wording

“such other persons as the Scottish Ministers consider appropriate”,

but what would happen in a situation in which the minister did not consider that it was appropriate to consult apprentices or trade unions? Will the minister set out why he considers it appropriate to name the SFC, employers, education bodies and training providers in legislation, but not apprentices or trade unions?

Ben Macpherson: I take the points that Pam Duncan-Glancy has made in her deliberations on the amendments, and we will continue to consider them. Our main aspiration is to ensure that we do not have a long list of all the different engagement that might or might not need to take place. New paragraph (e) allows other appropriate stakeholders to be involved in such considerations.

Pam Duncan-Glancy: I thank the minister for his patience and for taking another intervention. I take the point that we are looking at only two additions to the list, but can he set out why apprentices and trade unions did not make it on to the list but the other four did?

Ben Macpherson: It was not a specific or deliberate exclusion. The purpose of including in amendment 5 those who are listed in new paragraphs (a) to (d) is to emphasise the importance of what they would bring to the considerations. However, there was no intentional exclusion of the groups that Pam Duncan-Glancy has highlighted, or any others.

I take the points that have been made on the record and will consider them further, and I thank Pam Duncan-Glancy for raising them. As I have emphasised throughout the consideration of the bill, the views of trade unions, apprentices and those who are being educated in our wider higher

and further education programmes and courses are vital and significant.

I turn to Stephen Kerr's amendments 79 and 80, which seek to add other parties, such as colleges and training providers, to the apprenticeship agreement. The provisions in the bill do not require a tripartite agreement, but they do not preclude one. I hope that that reassurance is helpful for members, including Miles Briggs, who spoke on behalf of Stephen Kerr. I ask him not to move amendment 80.

I am happy to support amendment 79. It is worth remembering that colleges can be training providers, so amendment 79 is sufficient. The amendment allows flexibility for future innovation where several training providers could be involved. I am grateful to Stephen Kerr for introducing that aspect to the bill and to Miles Briggs for speaking to it today on his behalf.

Amendment 26, in the name of Willie Rennie, and amendment 78, in the name of Miles Briggs, seek to require apprentices to be under a contract of employment. Although we expect that the vast majority of apprentices will be under a contract of employment, the bill, as introduced, includes a carefully framed definition that does not exclude any arrangements that would otherwise come with an apprenticeship. We want to allow for apprenticeships for office-holders and other persons who are appointed or sponsored rather than formally employed, such as clergypersons, as happens in England. There is a wealth of possible scenarios for which we do not want to limit future innovation. I emphasise that apprentices are given the full protections of an employee as set out in the Employment Rights Act 1996, so, with respect to colleagues, amendments 26 and 78 are unnecessary and could potentially be limiting. On that basis, the Government does not support those two amendments, and I would be grateful if amendment 26 was not pressed and amendment 78 was not moved. If they are pressed and moved, I would respectfully urge the committee to reject them.

Amendment 76, in the name of Pam Duncan-Glancy, seeks to add foundation apprenticeships to the definition of Scottish apprenticeships. As I said earlier in relation to our engagement with SAAB, while we seek, in the bill, to create a definition of Scottish apprenticeships, there was a determination, noting what the SFC, SDS and the SAAB short-life working group fed back to us, not to specifically define “foundation”, “graduate” and “modern” apprenticeships.

Miles Briggs: I hear what the minister says, but a lot of employers have become very much used to those terms. They understand what an apprentice is. In fact, some of the asks that have been made involve the potential to develop a

degree apprenticeship, rather than removing the existing terminology. Has the Government reflected on that? I am worried that the terms might get lost in translation if the Government does not look towards what is now a set of defined apprenticeship terms—"foundation", "modern" and "graduate"—along with an aspiration for a degree apprenticeship to be developed in the future.

Ben Macpherson: I will reflect on some of that shortly—and I thank Miles Briggs for raising that point.

As I said, amendment 76, in the name of Pam Duncan-Glancy, seeks to add foundation apprenticeships to the definition of Scottish apprenticeships. The bill has separate provisions for work-based learning, which will allow the current arrangements for foundation apprenticeships to continue—and the Government wants them to continue—when taken with Jackie Dunbar's amendment 10, which we are to consider later. That is an important point in our considerations.

It is important to note that several employers and others—I can think of some headteachers in my constituency, for example—do not like the term "foundation apprenticeship", even though they are very supportive of those apprenticeships and of what they deliver. It is the term that many people do not like, whether because school pupils are not in a contract of employment or for other reasons. It can be perceived as devaluing apprenticeships, notwithstanding the value of foundation apprenticeships for what they achieve. There is some contention and deliberation regarding the term, and that is one reason why we were careful not to use it in the bill. I can assure Pam Duncan-Glancy, however, that foundation apprenticeships are provided for by our new definition of "work-based learning", and I hope that that is sufficient for her not to move her amendment 76. Should she do so, I would encourage members to vote against it.

Miles Briggs's amendment 77 appears to seek to remove the requirement that an apprentice works for reward, which is not consistent with how the provisions in the bill define apprenticeships. The definition of apprenticeships in the bill requires that the apprentice works for reward, so that voluntary work is excluded and to seek to protect apprentices.

The bill requires that

"an apprentice works for a person ... for reward",

which excludes self-employed people. In the case of self-employed individuals, there is no obvious way to overcome the fact that the employer is also the employee and apprentice, which creates a barrier to ensuring adherence to the standards and quality requirements. The employee,

employer and learning provider relationship is central to ensuring that quality and standards are maintained. For those reasons, I do not support amendment 77 and would ask the committee to vote against it if it is moved.

Amendment 27, from Willie Rennie, seeks to require the apprentice to achieve the competence required by employers. As has been highlighted by other members, that is potentially problematic. Whether the apprentice is successful in achieving the competence required is most likely not knowable until near or at the end of the apprenticeship. Further, an apprenticeship is still an apprenticeship, even if, ultimately, the individual fails to gain that competence. Therefore, with respect, we do not support amendment 27 and ask the committee to vote against it, should it be moved by Willie Rennie.

Amendments 28, 91 and 91A cannot be taken forward due to the reservation of employment law. In any event, the apprenticeship agreement addresses how training requirements are to be met and is a separate matter from the particulars of employment that are protected under the Employment Rights Act 1996 and national minimum wage legislation.

I have already explained that foundation apprenticeships are caught by the definition of "work-based learning" in the bill, so I cannot support Miles Briggs's amendment 83. I hope that he accepts the explanation given earlier and will not move the amendment.

With regard to Pam Duncan-Glancy's amendment 92, section 22 of the 2005 act, as amended by the bill, already requires the SFC to collaborate with local authorities on the exercise of their functions.

Amendment 92 would also make provision for annual reporting to the Scottish Parliament. Although Pam Duncan-Glancy makes a good point about the importance of clear and transparent reporting on apprenticeship delivery, I suggest that that approach should be taken holistically across Scottish apprenticeships and work-based learning. I would like to consider that further and, at stage 3, bring back a coherent and cohesive approach to reporting on key measures in the bill, including this one. I therefore ask Pam Duncan-Glancy not to move amendment 92. Should she do so, I encourage members to vote against it.

I ask members to vote for my amendment 5 and Stephen Kerr's amendment 79, but, to summarise, I cannot support any of the other amendments in the group. I hope that I have explained why I have asked members not to move them. Should any do so, I encourage the committee to vote against them.

Ross Greer: Although amendment 91 sits in this group, it is very much connected to the debates that we have now quite thoroughly rehearsed in relation to reserved areas versus areas where we can stretch devolution, conditionality and so on. I will briefly summarise amendment 91, but, unlike previously, I will not go into it in depth, because we have rehearsed a lot of the underlying arguments.

Amendment 91 provides that

“Ministers must by regulations specify the minimum rate of pay”

for a Scottish apprentice. Such regulations would be subject to the negative procedure. Amendment 91A builds on that by specifying that the rate of pay must not be less than the national minimum wage.

I lodged the amendments because although I think that we all recognise the value of apprenticeships as a fantastic way to kick-start careers, apprentices are vastly underpaid a lot of the time, meaning that many people cannot afford to go down the apprenticeship path, even if they want to. The purpose of amendment 91A is to align the minimum wage payable to apprentices through the funding provided by the Scottish Government and the SFC with the wider national minimum wage.

At the end of June, there were just under 12,000 modern apprentices in Scotland in their first year of training, and about 6,000 of them were 19 or over. If amendments 91, 91A and 93 were to be agreed to, those apprentices, and every subsequent first-year apprentice, would be entitled to receive the minimum wage for their relevant age groups. For the 6,000 first-year apprentices this year, that would be a pay uplift of just under 50 per cent. Bringing apprenticeship wages in line with the existing national minimum wage would end what I think many of us see as the injustice that means that apprentices are paid less than the minimum wage of other workers of the same age, despite the fact that apprentices’ bills and other expenses are not less than anyone else’s.

Amendment 93 is consequential. It would remove Scottish apprentices from the National Minimum Wage Regulations 2015. Even under devolution, we are able to make variances, as is evident in the fact that Scottish apprentices are currently included in the 2015 regulations. Amendment 93 would specify that the relevant regulation

“does not apply to Scottish apprenticeships as defined by section 12E of the Further and Higher Education (Scotland) Act 2005”,

which section 4 of the bill inserts.

12:15

I have already rehearsed why I think that it is possible to get into the area of conditionality in relation to wages. We have already had that argument with the Government. I understand the Government’s position, but I am disappointed by its lack of willingness to test the limits of legislative competence or to use non-legislative policy-setting powers in order to raise standards in the sector.

At this stage, I will not move my amendments, but I am keen to engage with the minister ahead of stage 3, especially on the issues that we have discussed with Pam Duncan-Glancy and the need for the Government to provide a clear statement before stage 3 on its wider approach to fair work in the sector and what other levers it intends to use to turn its policy aspirations into reality. The lack of action on the part of the Government in relation to the use of non-legislative mechanisms is why so many of the amendments in this group have been lodged.

Miles Briggs: I respect the principles that lie behind Mr Greer’s amendments. An issue that has been consistently raised is that of transport costs for students. I am sure that Mr Greer will mention the free bus pass when he responds to me, but that is not an option for many students in rural Scotland. On Monday, I met a student who spends £120 a week travelling from rural Perthshire to do her course in Dundee.

I take on board what Mr Greer is trying to do, but there seems to be a wider issue to do with the package of support that is available for students—especially students from rural communities—to access training.

Ross Greer: I absolutely agree. The member was right to predict that I would talk up the advantages of free bus travel for people under the age of 22. We should look at expanding that further, and not necessarily on the basis of age. For example, there is a compelling case for expanding concessionary travel to those who are undertaking an apprenticeship, in recognition of the fact that, if—this is the Government’s position—we are not able to boost apprentices’ wages, there might be other targeted measures that we can take that are clearly within the competence of the Scottish Parliament and the Scottish Government that would reduce some of the cost barriers that they face. Given how low the apprentice wage is, an apprenticeship can be a non-viable option for a number of people, especially those in rural areas, where transport costs, for example, are so much higher.

I and, I expect, other members would be keen to discuss such matters with the minister ahead of stage 3, which will be necessary if the Government is keen to avoid many of the

amendments before us being brought back and discussed in the chamber at stage 3.

The Convener: I point out that, if amendment 26 is agreed to, I will not be able call amendments 76 to 78 due to pre-emption.

I invite Willie Rennie to wind up and to press or withdraw amendment 26.

Willie Rennie: I understand the minister's explanation, and I am grateful to him for providing such a detailed explanation.

I understand the desire to have flexibility in the definitions, but the bill gives us a rare opportunity to influence the shape of apprenticeships as a whole. There is concern among some that the exemptions that that flexibility permits would dilute the value and credibility of apprenticeships. I fully accept the rather strange situation that applies in relation to, for example, the clergy, and I understand the wider principle of being able to have such flexibility, but I hope that the minister will express a desire—perhaps in an intervention—for there to be only a very small group of exceptions and for the bulk of apprentices to be directly employed in the traditional way.

The minister made no reference to the concern about block release and programme-led learning. There is a concern among some employers that large block-release apprenticeship models remove individuals from the workplace for long periods of time. That disrupts their interaction with other employees and it disrupts the system, which means that they lose the value of such engagement. In addition, employers have difficulty in filling those spaces for such protracted periods.

I wonder whether the minister would like to intervene on that point.

Ben Macpherson: I thank Willie Rennie for the opportunity to intervene. The key points of avoiding unsatisfactory training arrangements and the concerns that he and SAAB have raised about block release are for the frameworks as well as for consideration here. I appreciate his point that we need to keep openness and flexibility for certain circumstances. The example that I gave was niche—I was going to say “unusual”. However, we want to keep that flexibility, openness and transparency, and that is considered in our frameworks.

I give an undertaking to have further dialogue with Mr Rennie on those points. Although I stand by the need for flexibility and allowing room for innovation, he and I align on the need for high standards and good delivery. I would be grateful for further dialogue with Mr Rennie ahead of stage 3.

Willie Rennie: What has been said probably emphasises the value of my amendment 24, which

I did not move, about having an industry-led body to make sure that the views of industry are fully and properly reflected in discussions—I accept that that is probably the more appropriate place for them. Having a critical central role for employers would help to address those points.

I am slightly concerned about the issue of competence versus received training. Even if an individual—the apprentice—does not actually achieve competence, they are still classed as having gone through an apprenticeship. That devalues the role of an apprenticeship. I am sure that this is the long-standing practice, but it is important that every employer who sees that somebody has gone through an apprenticeship fully understands that they have achieved competence, not just turned up. I hope that that important point is reflected in the frameworks as we progress.

On Pam Duncan-Glancy's desire for a definition of “foundation apprenticeship”, I think that the minister's arguments are the right ones. I am desperate to improve parity of esteem between vocational and academic routes. Foundation apprenticeships play an important role in introducing young people to that credible world of apprenticeships; a foundation apprenticeship is almost a gateway to modern apprenticeships and other types of apprenticeship. However, at the same time, there is a concern, as the minister outlined, that calling them “apprenticeships” perhaps devalues the credibility of apprenticeships in the wider family. Allowing them to be defined in the work-based approach is the right way to progress, I think. For instance, in recent years I have noticed an increase in placements of young people with employers, which is a good opportunity for them to experience the wider world of work. I encourage more of that, but “work-based learning” is perhaps the right umbrella term for that definition.

Pam Duncan-Glancy: On defining “foundation apprenticeships” in the bill, I understand concerns about the name. The minister has set out that there are regulation-making powers to change what they are called. However, my concern is that, if foundation apprenticeships are not mentioned in the bill, there may not be a mechanism for the SFC to provide funding to local authorities or schools to continue to offer such apprenticeships. Does the member share that concern?

Willie Rennie: The minister has made it pretty clear that he is a strong supporter of foundation apprenticeships, and I am sure that everybody who provides them in the educational world will have heard that commitment. Given the active debate around work-based learning in schools, including foundation apprenticeships, it would probably not be right to put a definition in the bill.

That would not prevent us from perhaps revisiting the issue in the future, once that debate is settled. It is important that we value work-based learning and allow a degree of flexibility for that debate to continue.

With that, unless anybody else wishes to intervene, I will conclude. I will not press amendment 26.

Amendment 26, by agreement, withdrawn.

Amendment 76 moved—[Pam Duncan-Glancy].

The Convener: The question is, that amendment 76 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Duncan-Glancy, Pam (Glasgow) (Lab)

Against

Adam, George (Paisley) (SNP)
Briggs, Miles (Lothian) (Con)
Dunbar, Jackie (Aberdeen Donside) (SNP)
Greer, Ross (West Scotland) (Green)
Kidd, Bill (Glasgow Anniesland) (SNP)
Mason, John (Glasgow Shettleston) (Ind)
McLennan, Paul (East Lothian) (SNP)
Rennie, Willie (North East Fife) (LD)
Ross, Douglas (Highlands and Islands) (Con)

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

Amendment 76 disagreed to.

Amendments 77, 78, 27 and 28 not moved.

Amendment 80 moved—[Miles Briggs].

The Convener: The question is, that amendment 80 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

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

Against

Adam, George (Paisley) (SNP)
Dunbar, Jackie (Aberdeen Donside) (SNP)
Greer, Ross (West Scotland) (Green)
Kidd, Bill (Glasgow Anniesland) (SNP)
Mason, John (Glasgow Shettleston) (Ind)
McLennan, Paul (East Lothian) (SNP)
Rennie, Willie (North East Fife) (LD)

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

Amendment 80 disagreed to.

Amendment 79 moved—[Miles Briggs]—and agreed to.

Amendment 5 moved—[Ben Macpherson]—and agreed to.

Amendment 81 moved—[Pam Duncan-Glancy].

The Convener: The question is, that amendment 81 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

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

Against

Adam, George (Paisley) (SNP)
Dunbar, Jackie (Aberdeen Donside) (SNP)
Greer, Ross (West Scotland) (Green)
Kidd, Bill (Glasgow Anniesland) (SNP)
Mason, John (Glasgow Shettleston) (Ind)
McLennan, Paul (East Lothian) (SNP)
Rennie, Willie (North East Fife) (LD)

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

Amendment 81 disagreed to.

Amendments 82 and 83 not moved.

The Convener: Amendment 6, in the name of the minister, is grouped with amendments 84, 85, 7, 29, 86 to 90 and 8.

Ben Macpherson: As I have emphasised already, employers play a critical role in the development of apprenticeship frameworks; we want them to play that role, and I want to make that clear in the legislation. Amendments 6 and 7 seek to achieve that and, I hope, demonstrate that, since becoming minister, I have spent time listening carefully to the views of business and employers in relation to this bill and seeking to act upon them.

Amendments 6 and 7 require the SFC to

“have regard to the views”

of employers when preparing apprenticeship frameworks and before amending or revoking such a framework. The SFC is required to have regard to, rather than to consult, employers because it is expected that, in many cases, the SFC will already be very familiar with the views of employers from the apprenticeship committee and from regular and extensive engagement. Where it does not already have that information, the SFC will need to seek out the views of employers in whatever way is appropriate. Consultation will, of course, continue to be one such way.

Amendment 8 is a technical consequential amendment.

I welcome that Willie Rennie, too, wants employers to have a formal role in this process. I

will listen to his arguments on his amendment 29, but I hope that he might consider that my amendments 6 and 7 have largely the same effect. The same—

Pam Duncan-Glancy: Will the minister give way?

Ben Macpherson: —applies to Ross Greer's amendment 86, and I will now take Pam Duncan-Glancy's intervention.

Pam Duncan-Glancy: Minister, I did not mean to cut you off mid-flow. I just thought that you were moving on to another amendment.

I have the same concerns about amendments 6 and 7 as I do about amendment 5 in the previous group, which relate to the wording:

"such other persons as the Council considers likely to be affected."

It is hard to imagine that apprentices or staff would not be affected by changes to the frameworks or that framework changes would not benefit from the input of apprentices or trade unions and staff. On that basis, can the minister explain why they were not included in amendments 6 and 7?

12:30

Ben Macpherson: I thank Pam Duncan-Glancy for raising those points again and reiterate for clarity and completeness that there was no intention on my part or the Government's to deliberately exclude anyone. We wanted to create amendments that were tight and well drafted and which created the possibility for a wide range of stakeholders to be included.

As with the debate on the previous group of amendments, I note and appreciate the points that have been raised by Pam Duncan-Glancy and can consider them with her further. I think that the member will also share my concern that we do not want to have a very long list and that we must consider what drafting is appropriate. We will consider that issue further, including in relation to amendment 87.

Having dealt with that intervention, I will conclude my remarks by saying that I will listen carefully to the debate on all the other amendments in the group, and I will set out more of my views in my closing remarks.

I move amendment 6.

Pam Duncan-Glancy: Amendment 84 says that "Where the framework relates to a foundation apprenticeship"

it must

"deliver industry-recognised qualifications",

including

"structured, externally supervised work-based learning"

and must

"be co-designed with employers".

In a similar vein to the amendments from my colleague Willie Rennie in the previous group, the intention is to ensure that industry and employers can recognise the skills that have been learned during and through foundation apprenticeships. That is why I have lodged amendment 84.

I understand the concerns about definition and about specifying foundation apprenticeships in the bill—I do not share them, but I understand them. I hope, though, that members will at least consider that foundation apprenticeships should be delivered with industry-recognised qualifications as part of the process, include

"structured, externally supervised work-based learning"

and

"be co-designed with employers".

If those principles are agreeable to members, I hope that they will support amendment 84.

The Convener: I call Stephen Kerr—I am sorry; I mean Miles Briggs. I call Miles Briggs to speak to amendment 85 in the name of Stephen Kerr and other amendments in the group.

Miles Briggs: Thank you, convener. I feel that I have now morphed completely into being Stephen Kerr's apprentice at this committee meeting.

I will speak to amendments 85, 89 and 90 in my colleague Stephen Kerr's name, which deal with the frameworks that underpin Scottish apprenticeships. The amendments in this group might appear to be technical, but they go to the heart of the credibility, quality and responsiveness of the apprenticeship system, and my colleague has lodged them because the bill as drafted does not provide enough assurance that the apprenticeship framework will be governed in a way that reflects the needs of employers, the expectations of learners and the long-term economic interests of Scotland.

Amendment 85 seeks to ensure that apprenticeship frameworks are not treated merely as administrative instruments but as structured and carefully designed programmes that must meet clear standards of relevance and quality. It makes explicit that frameworks must be delivered by whichever body is most suitable, whether it be a college or a local authority. That is crucial because, if the framework does not reflect the realities of the sector or its local environment, it will quickly become obsolete and, when that happens, it will be the apprentice who will pay the price in diminished opportunities and reduced employability.

Amendment 89 adds a further essential element by requiring regular reviews of apprenticeship frameworks. Scotland's economy is evolving rapidly; technology is changing workplace practices at speed; industries are rising and declining; and skills that were considered sufficient five or 10 years ago are no longer adequate. However, the bill provides no guarantee that frameworks will periodically be reviewed to ensure that they remain current. This amendment in my party colleague's name seeks to introduce such a guarantee and would ensure that frameworks are not left to stagnate but can be updated in line with technological processes, shifts in employer demand and emerging opportunities for the Scottish workforce. It provides the system with the dynamism that is needed in modern skills economies.

Amendment 90 strengthens the accountability around the creation of those frameworks by requiring that their development be undertaken in consultation with those who rely on them—employers, industries, learners and training providers. Stephen Kerr has argued consistently that one of the weaknesses in the system is the distance between policy makers and practitioners. Decisions are too often made centrally, without sufficient engagement with key stakeholders, who understand what a competent worker in their field needs to know and be able to do.

Amendment 90 corrects that by embedding consultation as a statutory requirement rather than a discretionary courtesy, thereby preventing frameworks from being created or amended in isolation and ensuring that they are grounded in real labour market intelligence. Like me, the minister will be aware of the work that Edinburgh College has undertaken with its net zero courses—for example, linking with employers on the provision of heat source pumps, which trainees will be working on, in order to have skilled workforce-ready employees. That is a live example of what is being achieved.

Taken together, amendments 85, 89 and 90 put in place a coherent structure for the development, consultation and review of apprenticeship frameworks. They ensure that the apprenticeship system does not become detached from the world of work; they support a model of rigorous, industry-informed and adaptable frameworks; and they serve the wider principle that my colleague Stephen Kerr championed in his stage 1 speech—namely, that Scotland's apprenticeship system must be an engine of productivity, not merely an administrative category in tertiary education.

If Scotland wants an apprenticeship system that commands the respect of employers, inspires confidence in learners and drives economic opportunity, the frameworks must, at their core, be

robust, relevant and regularly renewed. The amendments help to achieve that and strengthen the bill in a practical and necessary way.

I invite colleagues to support amendments 85, 89 and 90 in the name of my colleague Stephen Kerr.

Willie Rennie: I will support the minister's amendments on this area, as they assist the partnership approach with employers, business, industry and others.

I am, though, proposing that we go further. The consultation that I am proposing seeks to address the concern of many employers that transferring responsibility from SDS, which has a close relationship with many employers, to the SFC, whose arrangements have traditionally been with universities and colleges, requires a more robust consultation element. It might be a bit more of a cumbersome and challenging process, but it is necessary to ensure that we have a partnership approach, and that employers understand that it is a partnership; that we have a degree of co-design; and that we are intent on strengthening the relationship for the longer term, not just the period following this discussion and debate.

That is why I propose that we go a bit further—not an awful lot further, because the minister's approach includes aspects of consultation, too. However, we should embed that consultation as an important part of rebuilding the relationship with employers.

The Convener: I call Ross Greer to speak to amendment 86 and the other amendments in the group.

Ross Greer: Amendment 86 is straightforward. It specifies that, before amending or revoking an apprenticeship framework, the council may consult with such persons as it considers appropriate and that it must publish the reasons for the amendment or revocation of a framework as soon as is reasonably practicable afterwards. As has been mentioned, it is similar to the minister's amendments 6 and 7 and Willie Rennie's amendment 29.

I would be happy not to move amendment 86 and to support the other amendments if the minister were amenable to revisiting the issue at stage 3. What is specifically missing from his proposal—and which is included in mine, and which I would welcome as an amendment at stage 3—is the requirement for the council to publish its reasons for changes or revocations. I do not think that that is a cumbersome requirement to put on the council; I think that, particularly when a framework is fully revoked, it is reasonable to expect the council simply to lay out its reasons for doing so. If the minister is amenable to working on

that ahead of stage 3, I am happy not to press amendment 86.

Amendment 87 seeks to add in that, when ministers make further provisions in relation to the process that the council should follow when it is preparing, publishing, amending or revoking the frameworks and so on, they ensure that details on consultation carried out with apprentices and those who represent them are included. The amendment is somewhat similar to Willie Rennie's amendment 29, which is about consultation with employers, in seeking to specify how that process should be carried out.

I was not clear from the minister's opening remarks what the Government's position is in relation to amendment 87, and I wonder whether he will clarify it, as well as the Government's position on amendment 86 and potentially working up a stage 3 amendment on compelling the council to publish its reasons for any changes that it makes. I would be happy not to press amendment 87 if, as with amendment 86, we could work together towards stage 3 amendments, but I am not sure whether the minister was indicating that in relation to amendment 87.

Monica Lennon (Central Scotland) (Lab): I am grateful to the committee for all its diligent work on the bill.

I will restrict my remarks to amendment 88. It has only seven words, so I will try to keep things short and sweet, as it has been a long session for everyone.

What the amendment proposes is quite simple; it seeks to strengthen the Scottish apprenticeship framework by giving ministers the option, through regulation, to make further provisions on

"consultation with trade and industry representatives."

Through work that we have done together in the past on construction, the minister knows that I take a keen interest in apprenticeships, and the amendment arises from discussion with industry bodies, including representatives from the Scottish Joint Industry Board for the electrical industry—or SJIB; I thought that I would read it all out just to get it on the record—because that includes representation of employers through SELECT and union representatives through Unite the Union. The SJIB would be the ideal body to represent those undertaking electrical installation apprenticeships to ensure that they and their interests are protected.

I know that the Government does not want a long list of bodies and stakeholders in the bill but, given the unique contribution that industry and trade bodies make in representing the professional interests and working closely with trade unions and apprentices, this amendment would certainly

strengthen the bill and, I hope, not create too much of a headache.

I am keen to hear from the minister, but he knows that I am happy to have a meeting with him and officials if he cannot support the amendment today. As I have said, it has seven words. It seeks to strengthen the bill in a really simple way, and I hope that the minister can see the merits of that.

Ben Macpherson: I thank members for the debate on the amendments in the group. It is important that we do all that we can together to ensure that appropriate and relevant stakeholders and delivery partners are involved in apprenticeships and engaged in the development and amendment of the frameworks. The amendments that have been proposed are important in that regard.

Therefore, I am very sympathetic to the spirit of Ross Greer's amendment 87, which seeks to engage representatives of apprentices and prospective apprentices in the process, an issue Pam Duncan-Glancy raised with me in her intervention during my opening remarks. I ask Ross Greer not to move the amendment today, which he has kindly suggested as an option, and to let us consider together how we can improve the bill at stage 3 in that vein.

Although I understand the rationale behind Pam Duncan-Glancy's amendment 84, I cannot support it, because what we are now calling foundation apprenticeships are provided for through the work-based learning section in the bill as drafted. I am not proposing that that be subject to the framework requirements that apply to Scottish apprenticeships. The approach was arrived at in developing the bill's provisions on Scottish apprenticeship and work-based learning and in the extensive engagement that was carried out prior to introduction with the SFC, SDS and the SAAB short-life working group on the definition of apprenticeship. Indeed, I referred to that context and engagement prior to introduction in our debate on the last group.

12:45

Stephen Kerr's amendment 85 seeks to put colleges and local authorities ahead of private training providers when it comes to training apprentices to meet the requirements set out in the apprenticeship frameworks. I do not believe that that is necessarily appropriate, because I am keen to see the mixed economy of public and private provision continue. Furthermore, the relevant requirements of an apprenticeship are expected to be prepared not with a view to who would provide the training but with the required standards or qualifications to be achieved in mind.

The remaining amendments in the group set out other stakeholders that the SFC should consult or involve when preparing, publishing, amending and revoking frameworks. Amendment 88, in the name of Monica Lennon, covers trade and industry representatives; amendment 89, in the name of Stephen Kerr, covers employers and representatives of industry in the relevant occupational activity; and amendment 90, also in the name of Stephen Kerr, covers representatives of managing agents and training providers.

I can see and understand why members have lodged those amendments. Clearly, a wide range of people could be involved in the process. However, there is also a case to be made for avoiding long lists of potential consultees in the bill, not least because of the risk of someone important being overlooked. That was the thinking behind the drafting and the openness of the Government's amendment.

Therefore, it would, in my view, be preferable to leave the matter to regulations, but I appreciate that there is an appetite to include more detail in the bill. I have heard that clearly from members around the table today, so I undertake to give the matter more thought ahead of stage 3. I am happy to engage with colleagues on those points.

Monica Lennon: What you have said is fair, minister. Putting too much into the bill—that is, a shopping list of stakeholders—is a risk, but not referencing key groups is a risk, too, which is the point that you have perhaps accepted today.

I welcome the opportunity to meet you and other colleagues. I hope that the minister understands why some of the bodies that I have mentioned today are nervous; they feel that, although the bill gives control to the Government, it does not offer the opportunity to regulate, and that could be detrimental in the future. Getting the wording right is important, but if I am not to move amendment 88 today, I need a commitment that there will be time for dialogue on that.

Ben Macpherson: If colleagues agree, I suggest that amendments 6 and 7, in my name, which refer to

“such other persons as the Council considers likely to be affected”

be agreed to, as that is an inclusive approach. Then, because I have undertaken to consider Ross Greer's amendment 87, I will also consider amendments 88 to 90, and we can think collectively about how we get the balance right at stage 3.

Pam Duncan-Glancy: I appreciate the minister's point. I do intend to support amendments 6 and 7, but does the minister recognise that our saying that we accept them at

this point, in the absence of any other option, is not a reason for him not to engage and not lodge an amendment to the bill at stage 3 that adds in those who represent trade unions and learners?

Ben Macpherson: I give an undertaking in good faith that I am pleased to engage on those points, on the amendments and on their themes ahead of stage 3, and I therefore ask members to vote for amendments 6 to 8, in my name.

Moving on to Willie Rennie's amendment 29, I listened carefully to the points that he made in response to my opening remarks, and I want to engage further with him on those matters ahead of stage 3. I must emphasise the comments that were made during the debate on an earlier group: we must ensure that we have the necessary input and expertise from the business community and industry, and consider together whether there is a need for further independence. I am happy to engage further with Willie Rennie on the points raised in amendment 29, if he does not move it today. If he does, I encourage members to vote against it at this juncture.

I ask the same with regard to Ross Greer's amendment 86. As I have stated, I would be grateful if Ross Greer did not move amendment 87, so that we can consider the issue together further, but if he does move it, I encourage members to vote against it. The same applies to Monica Lennon's amendment 88 and Stephen Kerr's amendments 89 and 90.

As I have said, I cannot support Pam Duncan-Glancy's amendment 84, nor Stephen Kerr's amendment 85, and I encourage members to vote against both.

Amendment 6 agreed to.

Amendment 84 moved—[Pam Duncan-Glancy].

The Convener: The question is, that amendment 84 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

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

Against

Adam, George (Paisley) (SNP)
Dunbar, Jackie (Aberdeen Donside) (SNP)
Greer, Ross (West Scotland) (Green)
Kidd, Bill (Glasgow Anniesland) (SNP)
Mason, John (Glasgow Shettleston) (Ind)
McLennan, Paul (East Lothian) (SNP)
Rennie, Willie (North East Fife) (LD)

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

Amendment 84 disagreed to.

Amendment 85 not moved.

Amendment 7 moved—[Ben Macpherson]—and agreed to.

Amendments 29 and 86 to 90 not moved.

Amendment 8 moved—[Ben Macpherson]—and agreed to.

Amendment 91 not moved.

The Convener: Amendment 91A falls.

Amendments 92 and 93 not moved.

Section 4, as amended, agreed to.

The Convener: That is a suitable point at which to stop our proceedings.

That concludes our stage 2 consideration of the bill today, and I thank the minister and his supporting officials for their attendance. The committee will continue its consideration at its meeting on 3 December.

Meeting closed at 12:53.

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