

EDUCATION COMMITTEE

Wednesday 29 March 2006

Session 2

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EDUCATION COMMITTEE

8th Meeting 2006, Session 2

CONVENER

*Iain Smith (North East Fife) (LD)

DEPUTY CONVENER

*Lord James Douglas-Hamilton (Lothians) (Con)

COMMITTEE MEMBERS

Ms Wendy Alexander (Paisley North) (Lab)

*Ms Rosemary Byrne (South of Scotland) (SSP)

*Fiona Hyslop (Lothians) (SNP)

*Mr Adam Ingram (South of Scotland) (SNP)

Mr Kenneth Macintosh (Eastwood) (Lab)

*Mr Frank McAveety (Glasgow Shettleston) (Lab)

*Dr Elaine Murray (Dumfries) (Lab)

COMMITTEE SUBSTITUTES

*Richard Baker (North East Scotland) (Lab)

Rosie Kane (Glasgow) (SSP)

Mr Jamie McGrigor (Highlands and Islands) (Con)

Mr Jamie Stone (Caithness, Sutherland and Easter Ross) (LD)

Mr Andrew Welsh (Angus) (SNP)

*attended

THE FOLLOWING ALSO ATTENDED:

Robert Brown (Deputy Minister for Education and Young People)

Dr Jean Turner (Strathkelvin and Bearsden) (Ind)

THE FOLLOWING GAVE EVIDENCE:

Robin McKendrick (Scottish Executive Education Department)

CLERK TO THE COMMITTEE

Eugene Windsor

SENIOR ASSISTANT CLERK

Mark Roberts

ASSISTANT CLERK

Ian Cowan

LOCATION

Committee Room 3

Scottish Parliament Education Committee

Wednesday 29 March 2006

[THE CONVENER *opened the meeting at 10:34*]

Item in Private

The Convener (Iain Smith): Good morning, colleagues. I welcome you to the eighth meeting of the Education Committee in 2006. Richard Baker is here in his capacity as a Labour substitute member for Wendy Alexander. I think that he has been to an Education Committee meeting before, so I will not ask him to declare any interests.

Item 1 is to consider whether to take item 4 in private. Item 4 is a paper on our approach to the Adoption and Children (Scotland) Bill. I move that the item be taken in private. Do members agree?

Members *indicated agreement.*

Scottish Schools (Parental Involvement) Bill: Stage 2

10:35

The Convener: Item 2—the main item for this morning—is stage 2 of the Scottish Schools (Parental Involvement) Bill. I welcome Robert Brown, the Deputy Minister for Education and Young People. He is supported by Deirdre Watt, the bill team leader; Neil Ross, from the office of the solicitor to the Scottish Executive; and Stuart Foubister, from the office of the Scottish parliamentary counsel. I remind members that officials cannot speak during stage 2, although they can advise the minister, as appropriate, in the course of our deliberations.

Members should have before them copies of the bill, the marshalled list of amendments and the groupings of amendments. We will not deal with all the amendments today. Discussion of amendments to section 14, on the appointment of head teachers and deputy head teachers, will be held over until the committee's next meeting, on 19 April. I also proposed to hold over discussion of amendments to the schedule, which are in the penultimate grouping, as they also relate to appointments. I remind members that if they want to lodge amendments to section 14 or any other sections that we do not agree today, their amendments should be lodged with the clerks by 12 noon tomorrow. I intend today's consideration of amendments to be concluded at around 12.15, unless by then we are very close to completing the whole lot, as we have other business to deal with this morning. Discussion of any amendments that have not been disposed of by then will be carried over to our next meeting.

Section 1—Duty of Scottish Ministers and of education authorities to promote involvement of parents in school education etc

The Convener: Amendment 47, in the name of Fiona Hyslop, is grouped with amendments 16 and 48. If amendment 47 is agreed to, amendment 16 will be pre-empted.

Fiona Hyslop (Lothians) (SNP): The committee and the minister will be aware that one of the key aims of the bill is to encourage parental involvement. However, we want to ensure that we take a child-centred approach to legislation and to education. Interestingly, section 20, "Interpretation", means that the bill would cover a child who was

"in attendance at a primary school"

if they were a pupil in a nursery class. Already, the bill recognises that parents of children in the nursery class of a primary school would have a

locus within the bill. Logically, we should extend the duty and responsibility of ministers to promote parental involvement in education to include the parents of children who are in publicly funded nurseries. Amendment 16, in the name of Frank McAveety, also picks up on that idea.

We recognise that it is important to have parental involvement—and a duty on ministers to encourage that—in public nurseries and stand-alone local authority nurseries. In the region that I represent, however, the City of Edinburgh Council has a partnership agreement with nurseries in the area whereby the two hours of publicly funded education are delivered for the council through private nurseries. In the spirit of recognising a child-centred approach, it is important to extend the bill's provisions to encourage parental involvement in nursery education.

The rationale behind amendment 47 is also that it is important to recognise nursery education in itself. The minister will be aware that the committee has embarked on an early-intervention inquiry. One of the key things that we have identified is the importance of parents' involvement in education from the earliest stages. We are also about to finish a pupil motivation inquiry that recognises the importance of early intervention. It is in that spirit that I have lodged amendment 47.

I support amendment 16, in the name of Frank McAveety, but I want to extend the provision so that the locus and duty of ministers in encouraging parental involvement covers all children who are in receipt of publicly funded nursery education, whatever the format and delivery mechanism.

I move amendment 47.

Mr Frank McAveety (Glasgow Shettleston) (Lab): Fiona Hyslop has covered most of the key issues. We have to ask how we can ensure a wider representation of people who are involved in nursery provision. I would like the minister to elaborate on how we can do that, and to say whether the amendments in this group can help, or what the alternative is.

The Deputy Minister for Education and Young People (Robert Brown): I feel a little as if I am at the end of Mussolini's table—I am a long way away from the members of the committee—but I thank the members for the important points raised in their amendments.

Parents should be involved in their children's education and learning from as early a stage as possible. I entirely accept Fiona Hyslop's point that our approach should be child-centred. It is one of the features of pre-school education that parents have a strong and, in most cases, a daily contact with staff working with their children. Therefore, the opportunity for parents to engage in their children's learning and to keep in touch with their

children's development is much greater at this stage of education than in primary and later on in secondary school.

However, because of the close relationship that already exists between pre-school centres and parents, we do not think it necessary to extend the bill's provisions for parent forums and parent councils to all nursery schools and other facilities of that sort. Indeed, we would be concerned that, if we did so, we would add unnecessarily to the burdens on small, free-standing publicly funded nurseries, which generally have very limited administrative capacity.

It will be helpful to the committee if I point out that there are already national care standards for early education and child care which contain a number of standards relating to working closely with parents. They include provision for parents and carers to be encouraged to take part in the service and to establish an effective partnership with staff. Early education and child care settings are inspected every year by the Scottish Commission for the Regulation of Care, using the standards as an assessment framework.

Extending the bill's provisions for parent councils would add another layer on top of the existing requirements and would impose a system—designed primarily with schools in mind—on centres that are often very different in nature. There are nearly 500 pre-school education providers in the voluntary sector and a typical example of a voluntary sector provider would be a local playgroup run by parents. It would not make sense to extend the provisions of this bill to organisations that are already managed by parents.

The pre-school sector is not ignored by the bill. The interpretation provision in section 20—which I think Fiona Hyslop mentioned—specifically refers to “pupils” and includes pupils in nursery classes at a school. That means that, when a nursery forms part of a primary school, parents can be involved in the parent forum and parent council arrangements agreed for that primary school.

Other pre-school pupils are covered by section 8, which provides that one of the parent council's functions is to promote contact with parents of prospective pupils at the school. That could cover parents whose children are coming up from nursery to primary school. Children often go from nursery or pre-school provision to a number of different schools. It can be complicated to get things right.

In addition, we will make it clear in guidance that education authorities and parent councils should have regard to how they can ensure that parents receive support from as early a stage as possible, either through the strategy for parental

involvement or through the parent council's contact with local nursery and pre-school groups in its area.

Against all that background, we believe that the amendments that Fiona Hyslop and Frank McAveety have lodged would unnecessarily extend the bill's provisions. I ask the committee to resist amendments 47, 16 and 48.

Fiona Hyslop: I appreciate the minister's comments but I still do not think that the bill is taking a child-centred approach. The bill discriminates in favour of parents whose children happen to be at a nursery class within a primary school. It takes a governance approach, but we were led to believe that the bill would be driven by educational values.

Amendment 48 is about who can be a member of a parent forum or a parent council. The minister says that section 8 should cover contact with prospective parents but such contact is more likely to take place at primary 1.

There are issues to do with school capacity and the creation of composite classes—which is a live issue in Edinburgh.

If parent forums and parent councils embraced the wider community of the associated public nurseries, they could play a key role in providing parental support and education for the difficult transition stage between nursery and primary school. There is a strong case for that proposal. If the duty that section 1 imposes on ministers to encourage parental involvement incorporated my suggested change, they would be able to exercise a more strategic role. Amendment 47 might be easier to accept than amendment 48, which deals with a bureaucratic membership issue and which I recognise may give rise to some problems. It is not unreasonable to impose on ministers a duty to encourage parental involvement in whatever kind of state-funded education is delivered, so I intend to press amendment 47.

Amendment 47 agreed to.

10:45

The Convener: That means that amendment 16 is pre-empted.

Amendment 30, in the name of Fiona Hyslop, is grouped with amendment 13.

Fiona Hyslop: As members and the minister will be aware, the committee was greatly exercised at stage 1 by the issue of a national body. We recognise that the Scottish School Board Association and the Scottish Parent Teacher Council play an important role in representing parents' views nationally, which must not be lost as a result of the bill.

The contentious issue is whether the national body that we all agree should be set up should be

a statutory body that is established under the direction of the minister, or should be created by the network of parent councils for which the bill provides. Some people were worried that when the bill was passed, there might be a temporary vacuum or a situation in which national leadership could not be provided. From communication that we have had with the SPTA and the SSBA, my understanding is that progress has been made on the development of an interim proposal. Although that is helpful, the issue is whether provision for the setting up of such a body should be included in the bill. It is reasonable to make that case and I am sure that Lord James Douglas-Hamilton will do so when he addresses amendment 13.

The argument behind amendment 30 is that we should just say that there will be a national body. In that sense, my proposal is a bit like saying,

"There shall be a Scottish Parliament",

and then allowing that body to establish its own standing orders and its own form of elections. I would expect the national parents organisation that evolves to be democratically elected and to have a strong constitution. The issue is whether the Parliament should dictate that in law or whether the body should be left to develop as it sees fit.

The crucial issue, which we thought long and hard about at stage 1, is to do with charity law. At last week's meeting of the Enterprise and Culture Committee, Richard Baker and I debated colleges' charitable status. It should be acknowledged that if the minister were to establish the national body in statute, as amendment 13 seeks to do, that would put at risk the body's obtaining charitable status, which would affect, in particular, its ability to carry out fundraising on behalf of parent councils.

Another issue is whether the Government knows better than parents how such a body should be established. That is certainly open to question in an era in which we think that there is far too much Government intervention. The problem is what status the national body would have. It is essential that the Government of the day would consult it on all matters to do with education. I do not doubt that that would happen, but if we are serious about having such a body, we should include in the bill a requirement that it be consulted. I will be interested to hear the arguments about specifying the nature of that organisation in statute, but there is a strong argument that the bill should state that it should exist. I would expect it to be representative of parents and to evolve in such a way as to have a structure that incorporated strong democratic roots and accountability.

I move amendment 30.

Lord James Douglas-Hamilton (Lothians) (Con): Amendment 13 seeks to include in the bill provision for the introduction of a national parents

organisation. The Scottish School Board Association supports parental involvement in this way and I submit that the most democratic means of achieving that is through elections. That is why amendment 13 makes allowance for the necessary consultations, appropriate procedures and elections.

I support amendment 30, which would place a duty on Scottish ministers to create any national parents body that is proposed. It is vital that the views of parents are taken properly into consideration when ministers develop strategies. Amendment 30 would enable ministers to fulfil their promise and duty to promote parental involvement in schools.

Dr Elaine Murray (Dumfries) (Lab): I am concerned about amendment 13 because it could compromise the charitable status of the proposed national parents organisation. I ask the minister, in relation to amendment 30, whether ministers have a legislative duty to consult other bodies on education matters.

Robert Brown: Amendments 30 and 13 are important and interesting amendments about the significant matter of the parent forums, but I ask the committee to resist both of them. The Scottish Executive fully supports the principle of establishing a strong national body to represent parents' interests and we would help to get such an organisation off the ground.

In relation to amendment 13, it is entirely wrong that a national parents organisation should be organised from the top down—it must be established from the bottom up and by the parent bodies. Decisions on such matters belong to parents—that is the whole ethos of the bill. It is not up to us to anticipate what parents want, either in the way that the national body is set up or what its interests will be. We anticipate that there will be a national body and that it will be powerful and representative, but it is for the parent bodies to bring about their national organisation and decide on its form, content and functions.

Officials have written to the key players on the back of the recent Scottish Consumer Council report. We know about some of the initial reactions from the joint press releases made by the SSBA and the SPTC at the time of publication. It was relatively unusual for those two organisations to join together on the matter. The committee will have received a copy of the SPTC's prompt response to our letter. We can all see something of their views on the matter.

Contributions to national policy making are a different matter, as illustrated in amendment 30. It is the intention of the Scottish ministers to consult appropriate bodies, as we do in any area of significance. I cannot imagine that a national

parents body would not be consulted on significant education matters.

However, I am not sure that including the provision in the bill would add much, or indeed whether we should single out the proposed national body; other bodies could also be named, such as, for the sake of argument, bodies involved with the representation of pupils, those with other education interests, trade unions that represent those in education and so on. All those organisations have appropriate and relevant interests in the matter. There are other ways of providing for consultation and what amendment 30 proposes would not assist in that regard.

Once the national parents body is up and running, we want to work effectively with that body and consider its views on the most appropriate way for it and the Scottish ministers to do that. It is not helpful to lay that down in statute before the body is in existence.

As was touched on in the discussion, to establish a national parents body in statute could raise questions about independence, accountability and ownership as well as charitable status or the lack thereof.

Lord James anticipates in subsection (2) of amendment 13 procedures and consultation that parents might want to establish for themselves. The issue is important; however, the point is that parents must feel that the national body belongs to them.

As Peter Peacock made clear to the committee, the Scottish Executive is willing to play its part in taking this matter forward. Indeed, under section 1(1), ministers are under a general duty to promote parental involvement. When we receive all the formal responses to our letter to stakeholders, we will be able to give more careful consideration to the way forward.

Given that, I do not think that amendments 13 and 30 are appropriate and I ask the committee to resist them.

Fiona Hyslop: Before I wind up, I wonder whether the minister could address Elaine Murray's comments.

Robert Brown: I should have dealt with those points. The Executive, and indeed the Parliament, operates on the basis of consultation on bills and more administrative elements; indeed, the Scottish Executive site is stuffed with consultations on all sorts of issues. However, the advice that I have received is that we are not aware of any general statutory duty to consult particular bodies on education matters.

Fiona Hyslop: I am glad that you took the opportunity to comment, minister.

As far as Elaine Murray's comments are concerned, I should point out that other legislation contains a duty to consult. For example, Jim Wallace gave an explicit commitment in the Further and Higher Education (Scotland) Act 2005 to consult the National Union of Students Scotland on funding arrangements and student fees. I believe that Richard Baker strongly supported that measure.

I am pleased that the minister has said on record that he will fund and support a national body for parents, because he will be held to account for that in future. I agree that we should not be prescriptive about it, although I cannot imagine that it will not, as amendment 13 seeks to stipulate, represent "parents' interests" and promote and co-ordinate

"the work of Parent Councils".

However, the question is whether the provision should be included in the bill. We feel that, because it is so important, it should be. Amendment 30 simply establishes in law that there will be consultation with any body that might exist.

The minister wondered why the bill should single out the proposed national body for the ministerial duty to consult and not include pupils organisations or trade unions. The bill is called the Scottish Schools (Parental Involvement) Bill, which means that we are dealing specifically with parents. I suspect that the most appropriate place for stipulating a duty to consult on general education issues with other bodies, including parents organisations, pupils organisations and trade unions, would be the Standards in Scotland's Schools etc Act 2000, which is the governing legislation.

Because we want to give due recognition to the need for a national parents body, I will press amendment 30.

The Convener: The question is, that amendment 30 be agreed to. Are members agreed?

Members: No.

The Convener: There will be a division.

FOR

Byrne, Ms Rosemary (South of Scotland) (SSP)
Douglas-Hamilton, Lord James (Lothians) (Con)
Hyslop, Fiona (Lothians) (SNP)
Ingram, Mr Adam (South of Scotland) (SNP)

AGAINST

Baker, Mr Richard (North East Scotland) (Lab)
McAveety, Mr Frank (Glasgow Shettleston) (Lab)
Murray, Dr Elaine (Dumfries) (Lab)
Smith, Iain (North East Fife) (LD)

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

As the vote is tied, I will use my casting vote, which is for the status quo.

Amendment 30 disagreed to.

Section 1, as amended, agreed to.

Section 2—Strategies for parental involvement

The Convener: The next group of amendments concerns the involvement of parents who do not reside with the child. Amendment 31, in the name of Fiona Hyslop, is the only amendment in the group.

Fiona Hyslop: I should say that other committee members have lodged amendments to the later sections of the bill.

Amendment 31, which is perhaps more contentious, focuses on local authority strategies for parental involvement. Given that in certain cases the local authority will act as the parent in place, it will have to develop strategies for, for example, looked-after children.

A children's charity has highlighted the fact that a small but significant number of parents—generally but not exclusively fathers—who have been given parental responsibility by the courts do not actually live with the child. Nowadays separations and divorces occur more frequently than we might like, and it is important that a parent—generally a father—who does not reside with the child should be involved in their child's education. It is difficult for non-resident parents, especially fathers, to support their child's education when they have no knowledge or understanding of how the education system operates in relation to their child.

11:00

Amendment 31 would deal with the issue at a strategic level by leaving it to the local authority to find ways and means to help to educate the non-resident parent about the education of their child. I believe that it would be inappropriate to leave the matter at the school or parent council level as that might cause difficulties within the family if there are continuing difficulties in the relationship. We need to recognise that men have an important role to play in their children's education. In particular, non-resident fathers need to understand how the education system works so that, in the conversations and support that they give their children in an on-going relationship, they can be involved in encouraging education. The amendment would deal with that at a strategic level in a way that I hope the minister and the committee will find acceptable.

I move amendment 31.

Ms Rosemary Byrne (South of Scotland) (SSP): I support amendment 31, because it would signal that we take seriously the issue of children

who are looked after away from home and that we recognise the role of fathers. Following the changes under the Family Law (Scotland) Act 2006, amendment 31 would be a move in the right direction as it would underline the importance of education and give effect to our desire to encourage parents with parental rights and responsibilities to get involved in their children's education. I hope that the committee will support this important amendment.

Dr Murray: I, too, was contacted by the children's charity about the issue. Although I am sympathetic to the spirit of amendment 31, I do not believe that it is necessary because the definition of parent in the Education (Scotland) Act 1980 already includes parents with parental rights who do not reside with the child.

My other slight concern, which I mentioned to the charity, is about the placing of the proposed wording within a parenthesis that specifically refers to children who are looked after by a local authority. For looked-after children, there is an obvious issue about who has parental authority and who should be consulted to represent the child's interest in the context of the school. Adding other situations into that parenthesis would diminish the stress that the bill currently places on the rights of looked-after children.

Robert Brown: Amendment 31 deals with a tricky and generally thorny issue that, as previous speakers have mentioned, was touched on in the Family Law (Scotland) Act 2006. However, as Elaine Murray rightly pointed out, the amendment would not add anything to the existing definition. The bill uses the definition of parent that is contained in the Education (Scotland) Act 1980. I will read out that definition, as it is reasonably clear. The 1980 act states:

"parent" includes guardian and any person who is liable to maintain or has parental responsibilities (within the meaning of section 1(3) of the Children (Scotland) Act 1995) in relation to, or has care of a child or young person".

As far as I can see, the phraseology is only slightly different, in that instead of "parental rights and responsibilities", the current definition of parent refers to a person who has parental responsibilities, who is liable to maintain the child or has care of the child. The advice that I have received is that amendment 31 would add nothing to the current definition of parent.

It might be helpful to clarify that the Executive intends to provide guidance to authorities on the various functions that they will acquire under the bill. We will certainly ensure that the guidance reflects the broad definition of "parent" and gives careful consideration to the difficult issue of the involvement of estranged and non-resident parents. That issue is, I think, even broader than Fiona Hyslop suggested.

I hope that the committee is satisfied that amendment 31 is unnecessary and that Fiona Hyslop will withdraw the amendment.

Fiona Hyslop: From what has been said, I take it that members agree that local authorities need to encourage the involvement in education of non-resident parents who have parental rights and responsibilities. The issue, therefore, is not one of policy but of the technical application of the law. However, I think that the definition of parent under the 1980 act is interpreted in different ways and we may need to return to that.

I appreciate the points that Elaine Murray made about looked-after children. It is absolutely essential that, as the most vulnerable of the vulnerable, their needs are given primacy. The question is whether the existing legislation is sufficient. From what the minister said, I assume that the answer is yes. The issue is therefore whether additional provision should be made in the bill. I am not completely convinced that the minister's interpretation of the definition entirely reflects the intention behind amendment 31.

I will reflect further on what the minister said. I hope to discuss with him whether it would be appropriate for a similar amendment to be lodged at stage 3. If the minister's interpretation of the definition stands, it is all encompassing. If it does not, we may need to move to provide one in law. I seek leave to withdraw amendment 31.

Amendment 31, by agreement, withdrawn.

The Convener: I welcome Dr Jean Turner MSP to the meeting.

Group 4 is on the specific nature of parental involvement. Amendment 17, in the name of Fiona Hyslop, is grouped with amendments 20 and 24.

Fiona Hyslop: When the bill was introduced, the question was asked whether it was simply about governance and representative arrangements or whether it was about pursuing the education issues that are so important to the children of Scotland. Section 1 makes explicit the duty of Scottish ministers and the education authority to promote parental involvement in the education that a school provides to the individual pupil and to pupils in general. If we think that that duty is sufficiently important to be stated in section 1 and if we are serious about saying that the bill has to be concerned not only with issues of governance but with the serious point that the supportive involvement and active encouragement of parents is a key motivator for and means of improving children's education, we must also say that elsewhere in the bill, particularly in the section on the strategies that authorities are to prepare.

The amendments in my name are straightforward and simple. They seek to express

in the bill the argument that organisations put strong and hard to the committee that the key to success is the policy and not necessarily the law on parental involvement. The policy intention behind the legislation should be reflected throughout the bill. That would make it clear that, when we talk about parental involvement, we mean a parent's involvement not only in the education of pupils generally in the school but in the education of their individual child. If that is repeated in different parts of the bill, we will make explicit the intention of the Parliament in that regard.

I move amendment 17.

Lord James Douglas-Hamilton: I support the amendments in the group. We have consistently argued that it is important to support parents in getting involved in their children's education by helping with homework, providing encouragement and so on. That is just as important as, if not more important than, encouraging parents to get involved in the community life and governance of the school.

Robert Brown: I support entirely what Fiona Hyslop and Lord James Douglas-Hamilton said about the intention of the amendments, but the conclusions they draw do not match the provisions of the bill.

The bottom line is that section 1 states clearly that it is the duty of Scottish ministers and, separately, of the education authority to promote parental involvement in the school generally and, specifically, in the education of the individual pupil. Section 1 is the guiding section of the bill.

Fiona Hyslop spoke about the strategies for parental involvement under section 2. However, section 2 refers to the need for the authority's strategy to contain

"general policies for implementing their duties under sections 1, 5, 11 and 12".

It is unnecessary to restate something that is already set out in section 1—the ruling section of the bill. The same applies, albeit in a slightly different way, to the other suggestions that Fiona Hyslop and Lord James Douglas-Hamilton have made. I agree entirely that what motivates parents is the desire to see their child receive a quality education in an ambitious school that wants to do the best for its children. However, the amendments in the group add nothing to the guiding principle that is set out in section 1.

I expect schools to follow through on their strategies and general duties under the bill. Authorities should reflect parental involvement, in the widest sense of the term, in all aspects of their work—for example, in their school development plan and in the advice and information that head

teachers and other school staff give to parent councils.

I do not disagree with the policy intention of the amendments, but all they do is complicate the wording of the bill, without adding anything. As is the case in many bills, section 1 sets out the ruling theme of the bill. It places a duty on Scottish ministers and education authorities to promote parental involvement. The amendments in Fiona Hyslop's name are therefore not necessary.

Fiona Hyslop: I thank the minister for what were kind and thoughtful comments, until he got to the end. If the policy intention is so important, should it not be stated explicitly elsewhere in the bill? It is a technical, presentation issue.

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

Members: No.

The Convener: There will be a division.

FOR

Byrne, Ms Rosemary (South of Scotland) (SSP)
Douglas-Hamilton, Lord James (Lothians) (Con)
Hyslop, Fiona (Lothians) (SNP)
Ingram, Mr Adam (South of Scotland) (SNP)

AGAINST

Baker, Mr Richard (North East Scotland) (Lab)
McAveety, Mr Frank (Glasgow Shettleston) (Lab)
Murray, Dr Elaine (Dumfries) (Lab)
Smith, Iain (North East Fife) (LD)

The Convener: The result of the division is: For 4, Against 4, Abstentions 0. I use my casting vote to vote against the amendment.

Amendment 17 disagreed to.

The Convener: The next group is on the promotion of equal opportunities in relation to parental involvement. Amendment 18, in the name of Frank McAveety, is grouped with amendments 26 to 28.

Mr McAveety: I will try to be brief. I want the bill to reflect our commitment to equal opportunities. I understand that a letter from the Commission for Racial Equality, which was sent originally to Lord James Douglas-Hamilton, has been circulated to all members of the committee. There is a concern to ensure that parent councils reflect the cultural diversity of the communities that they represent.

There have been fairly radical shifts in school populations. In the past two months there have been substantial changes in my constituency, with the arrival of almost 1,000 newcomers from the Slovakian community, of whom 300 or 400 are now attending three local primaries. That has changed the dynamic in the existing parent body, which has to reflect the newcomers to the city.

Amendment 18 and consequential amendments 26 to 28 would ensure that the bill reflects more

cogently and coherently our commitment to equal opportunities. The CRE's letter raises broader issues about how we actively encourage parents from other ethnic communities to be involved more purposefully in their children's education and the work of the school in general. I would welcome an indication of how the minister views the amendments.

I move amendment 18.

Dr Murray: I am sympathetic to what Frank McAveety is trying to achieve. I am not familiar with equal opportunities legislation, but I would have thought that there was an existing obligation on local authorities to have regard to equal opportunities. I take Frank McAveety's point that cultural diversity is not necessarily being reflected to the extent that we would like, but I would have thought that other legislation covered that matter.

Lord James Douglas-Hamilton: I will be brief. I sympathise and agree entirely with the spirit of amendment 18. It is hardly fair to ask the minister to comment on the letter from the Commission for Racial Equality, because it arrived only this morning and I received a copy only minutes before the meeting started.

Ken Macintosh, who lodged amendments 26 to 28, cannot be present because of unavoidable commitments. I ask that the minister study those amendments between now and the final stage of the bill with a view to lodging later any necessary amendments to address the points that they raise. The letter from the Commission for Racial Equality states:

"CRE Scotland would prefer to see clear and explicit obligations placed on all education authorities in relation to parent councils. ... While there is a requirement on education authorities to include equalities in their annual statements of improvements, this does not appear to be being addressed."

Finally, it says:

"it is likely that by the end of this year there will also be similar statutory duties in relation to gender and disability."

All of us would accept the case for racial equality in that connection. I would be most grateful if the minister would consider that matter in case any tidying up needs to be done at stage 3.

11:15

Robert Brown: I am grateful for members' contributions. As the discussion implies, there appears to be no great disagreement on the principle and direction of the matter. I would be surprised if there were not unanimous commitment around the table to the furthering of equal opportunities but, as Elaine Murray points out, much of the issue is addressed in more general legislation that applies across the board. It is that aspect that we have to take into account.

We must also consider the extent to which amendment 18 adds bureaucratic burdens that are perhaps less than proportionate to the burdens that will be placed on parent councils. It is important that strategies for parental involvement take into account the different circumstances and needs of all parents in the community. The proposals in the bill have been developed to encourage greater equality of opportunity in the system. The bill offers parents in each school the flexibility to establish a parent council that meets the needs of that particular group of parents. It is the hope and intention, which again will be helped by guidance, that the arrangements in schools of ethnic diversity will reflect that diversity.

The Standards in Scotland's Schools etc Act 2000 requires education authorities to include in their

"annual statement of education improvement objectives' ... an account ... of the ways in which they will, in providing school education, encourage equal opportunities and ... the observance of the equal opportunity requirements".

If that requirement is not being met in individual cases, it is a matter for Her Majesty's Inspectorate of Education to take forward to ensure that it happens on the ground. Those statements of improvement objectives feed into schools' development plans. It is therefore not considered necessary to make provision on the matter in the bill. Alongside the education legislation, legislation such as the Race Relations Act 1976 and the Disability Discrimination Act 1995 places duties on public authorities. As far as I am aware, that may be extended by the Equality Act 2006, which will set up an equalities body at the Great Britain level.

On amendment 26, on the business of monitoring, there has been—anecdotally at least—concern that parents from minority ethnic backgrounds have not had the representation on school boards that would have been expected. The issue is whether it is helpful to impose a duty on authorities to go through what will be a relatively bureaucratic exercise every year in order to confirm whether parent councils address that issue. It has quite commonly been the case that merely requiring people to report on things does not act as a terribly effective driver for change, which is what I think we would all wish for in that regard. It is an important matter, but it is best addressed by the parental involvement strategy, which will be the driver for improvement.

If the committee is minded to say that we need something in the bill to take this issue forward, amendment 27 might be a better way of doing that and of signalling that the promotion of equal opportunities in the parental involvement strategy is the way forward. The bill already requires the head teacher to have regard in his or her report to the school development plan, which in turn derives

from the annual statement of education improvement objectives, which in turn has equal opportunities at its heart. I can readily understand that members may want to have something more up front than that. If that is the committee's view, I would ask that we be given the opportunity to consider the wording of amendments 27 and 28 to ensure that they achieve what we want them to achieve.

The bill does not stand in splendid isolation but is part of a broader framework of education, disability and equal opportunities legislation, which imposes duties more generally. That is all I would want to say on that matter. I am reluctant to have these duties in the bill. I ask members to consider amendments similar to amendments 27 and 28 as being the way in which to deal with the matter, if they are minded to have a signal in the bill of the direction of travel.

Mr McAveety: From the gist of what the minister said about the direction of travel, we might arrive at the same destination, to use a tortuous metaphor.

The minister says that amendments 27 and 28 would be a more appropriate way of tackling the issue. The concerns that members have raised are essentially about the difference between the existing legislation—I take on board what my colleague Elaine Murray said about that—and its implementation. The issue is about having appropriate tools to address any concerns at the local level, whether they are anecdotal or can be backed up more substantially. I am happy to withdraw amendment 18. However, in Ken Macintosh's absence, but with his explicit permission, I want to move amendment 27, as I hope that that will address the concerns that members have raised.

The Convener: We will come to amendment 27 in due course.

Amendment 18, by agreement, withdrawn.

The Convener: The next group is on the involvement of pupils. Amendment 19, in the name of Ken Macintosh, is grouped with amendments 21, 33 and 23. Frank McAveety will move amendment 19 and speak to amendment 21 and the other amendments.

Mr McAveety: I will be even briefer on amendment 19 than I was on amendment 18. The thrust behind the amendment is about recognition that pupils are critical elements in developing schools. The amendment would ensure that the bill contains recognition of the role that pupils can play.

I move amendment 19.

Dr Murray: I am certainly not unsympathetic to the view that pupils should be consulted, but there

is no equivalent legislation that places an obligation on head teachers and authorities to consult pupils. Amendment 19 is a bit peculiar, because it would mean that education authorities would have to consult pupils about how their parents should be involved, which is perhaps not quite what Ken Macintosh intended.

Fiona Hyslop: Elaine Murray raises an important point. If we are to take a child-centred view, we must acknowledge that pupils will have distinct concerns about how parents are involved, which might not be the same concerns that parents have. It is not unreasonable to recognise that, particularly if the whole thrust of education policy is to become more pupil centred. A pupil-centred approach to parental support should be considered. It is not unreasonable to suggest that or to support amendment 19.

Robert Brown: With amendment 33, we are trying to take on board some of the concerns that members have expressed. Amendment 33 is the right way in which to do that; I am less convinced about amendments 19, 21 and 23, which have some oddities.

With amendment 19, Ken Macintosh seeks to place a duty on education authorities to consult pupils when they develop their strategies for parental involvement. I take on board what members have said, but the measure is not necessary. The main focus of the bill is on developing, improving, enabling and supporting parents' involvement with their child and their school. The aim of the education authority strategies is to support that process.

We support the principle that pupils should become engaged in a range of ways in their school and education, but amendment 19 is not at the top of the hierarchy in that connection. Parent councils will be free to co-opt pupil representatives and, in schools that have a pupil council, pupils might wish to co-opt a parent representative. Whatever the rights and wrongs of such matters, they are best left to be decided locally to reflect local circumstances, rather than having the choices imposed in a particular pattern from the centre. Partnership working is most effective when everybody concerned chooses to work together.

The right of children to express views on their education is already covered in legislation, so there is no need to repeat that in the bill. Under the 2000 act, an education authority must have regard to the views of children and young people when making decisions that significantly affect their education, and the Education (Additional Support for Learning) (Scotland) Act 2004, with which we are all familiar, builds on that by requiring an education authority to take account of the views of children who may have additional support needs. Those are general and overriding

duties that apply from those general and overriding education statutes.

On education in general, the bill will amend part of the 2000 act so that the school development plan takes account of an authority's strategy for parental involvement. Improvement objectives for the school will also include objectives relating to the involvement of parents in the education that is provided to their own children and to pupils in general. The school development plan—this deals, to some extent, with Fiona Hyslop's comments—is drawn up after pupils in attendance at the school have been given an opportunity to make their views known, so pupils are involved at that level and will have the opportunity, via the school development plan, to have their views heard on how parents can get involved in their education and learning. That is a more straightforward and head-on way of doing it than the slightly convoluted way that is proposed by amendment 19. More important, it also involves children in the general policy of the school, which is significant. Existing legislation, together with the guidance that will be issued, will meet the intention behind amendment 19.

Amendment 21, in the name of Frank McAveety, seems reasonable and acceptable at first glance, but the cumulative effect of amendments of that sort could be to place unreasonable burdens on the parent council, particularly when it is getting off the ground. Asking the parent council to notify all the pupils in the school, telling them that it exists and how to communicate with it, could be a large task, and I am not sure that it adds much to what takes place there. When I view that procedure against the administrative position of the parent council, I cannot see any substantial advantage in it. In the light of the broader concerns and of the change that amendment 33 will make, I hope that Frank McAveety will accept that and be prepared not to move amendment 21.

Amendment 23 is important, but Executive amendment 33 frames the same point in a slightly different way, referring to

"pupils in attendance at the school",

rather than to "pupils at the school". I readily accept that that is not a major difference, but it sets it out slightly more clearly and I am advised that it is a slightly better legalistic way of doing it, as it uses the same language that is used elsewhere in the bill, where we also refer to

"pupils in attendance at the school".

That is the only distinction of any significance.

I hope that, against that background, the committee will support amendment 33 and that members will be prepared not to press other amendments, accepting the general framework of

the legislation, which I have tried to explain. I readily accept that the involvement of pupils is important. The Executive is entirely committed to taking forward the objective of pupil involvement in the educational arrangements and structures of schools in various appropriate ways.

The Convener: I ask Frank McAveety to wind up and to indicate whether he wishes to press or withdraw amendment 19.

Mr McAveety: I thought that the minister was doing swimmingly well until the point where he mentioned the avalanche of the burden that is involved in communicating with school pupils. To put it bluntly, if we are reaching the point where every child in Scotland will have an e-mail account at school, I would have thought that it would not be a great burden to use that as a simple tool. I am generally a technophobe and would have understood an objection on the ground of that being technically difficult, but even I can navigate e-mail and I am sure that six and seven-year-olds are probably much better at it than I am, so I am a wee bit worried by his response. I understand that there would be a burden, but it is one that could be resolved quite simply by the use of information technology, so I wish to press amendment 19.

The Convener: The question is, that amendment 19 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Byrne, Ms Rosemary (South of Scotland) (SSP)
Douglas-Hamilton, Lord James (Lothians) (Con)
Hyslop, Fiona (Lothians) (SNP)
Ingram, Mr Adam (South of Scotland) (SNP)
McAveety, Mr Frank (Glasgow Shettleston) (Lab)

AGAINST

Baker, Richard (North East Scotland) (Lab)
Murray, Dr Elaine (Dumfries) (Lab)

ABSTENTIONS

Smith, Iain (North East Fife) (LD)

The Convener: The result of the division is: For 5, Against 2, Abstentions 1.

Amendment 19 agreed to.

Section 2, as amended, agreed to.

Section 3—Ambitions and objectives for a school

Amendment 20 not moved.

Sections 3 and 4 agreed to.

Section 5—Parent Forum and Parent Council

Amendment 48 moved—[Fiona Hyslop].

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

Members: No.

The Convener: There will be a division.

For

Byrne, Ms Rosemary (South of Scotland) (SSP)
Douglas-Hamilton, Lord James (Lothians) (Con)
Hyslop, Fiona (Lothians) (SNP)
Ingram, Mr Adam (South of Scotland) (SNP)

AGAINST

Baker, Mr Richard (North East Scotland) (Lab)
McAveety, Mr Frank (Glasgow Shettleston) (Lab)
Murray, Dr Elaine (Dumfries) (Lab)
Smith, Iain (North East Fife) (LD)

The Convener: The result of the division is: For 4, Against 4, Abstentions 0. The casting vote rule applies again.

Amendment 48 disagreed to.

11:30

The Convener: The next group is on the name of the parent council. Amendment 11 is the only amendment in the group.

Fiona Hyslop: Amendment 11 is a simple amendment, but it has serious political implications. It seeks to change the name of the representative body from “parent council” to “school council”. If the amendment is agreed to, technical amendments will be lodged at stage 3 to make the change throughout the bill.

There are several serious reasons for changing the name. When the bill was introduced, it was argued that it would abolish school boards. Our experience of considering the bill has led many of us to acknowledge that we disagree with the rationale for establishing school boards in the first place, but the evolution and development of school boards has been a great credit to the education system and to those involved. Changing the system and renaming school boards rather than allowing them to evolve has some political overtones that are perhaps unnecessary.

We recognise that the bill is primarily about parental involvement, but that involvement is for the purpose of supporting the children and the school. Later, we will debate whether we should be prescriptive about who the members of the parent council should be. We all agree that we expect the parent council—or the school council, as I propose it should be called—to include the wider community, the local authority and, where appropriate, pupils. We should recognise that that already happens successfully in many local authorities.

Changing the name to “school council” would recognise that parental involvement is for a purpose. It is not for the purpose of the parents themselves. It is for the purpose of the school and the wider school community. That would be a

significant statement and it would pre-empt the debate about how much we should put in the bill about membership of the representative body. We would be saying implicitly that the governing body is the school council, which is therefore wider than just parents themselves. It is in that spirit that I lodged my amendment. It is a serious amendment that addresses the concerns that have been raised at all levels by many school boards. I note that, latterly, they have been actively involved in the head teacher appointment process.

The amendment recognises the importance of the wider school and the wider community. It sends an important signal. We recognise the roles that school boards have played until now, but we should look forward and say, “Perhaps that is in the past. Let’s look to the future. Let’s look forward to parental involvement for a purpose—for the wider school and the wider school community.”

In that spirit, I move amendment 11.

Dr Murray: I oppose the amendment for two reasons. First, in some local authority areas the pupils’ representative body is called the school council. I think that head teachers and education authorities ought to be obliged to consult pupils’ representative bodies, but I think that the proposed change of name would cause confusion in some areas because the name is already used and it refers to a forum for pupils rather than a forum for parents.

Secondly, under the bill, the parents are the most important people. There is a good case for other people being involved, but the parents are the most important people, so I think that the word “parent” should be in the title of the representative body.

Robert Brown: I ask the committee to reject amendment 11, for the reasons that Elaine Murray eloquently put forward. The intention in the bill has always been to emphasise the importance of the role of parents in their children’s education. Parents should make decisions locally about how they should be represented and they should take the lead role in setting up and developing representative bodies. The bill provides for parent forums, which may be represented by parent councils—the terminology links the two bodies. The Scottish ministers and education authorities will have new duties to support parental involvement. The change of name that Fiona Hyslop proposes does not sit well with the thrust of the bill.

I accept a good bit of what Fiona Hyslop said about the good work that school boards have done. The legislation on school boards was designed for a different purpose and a different era, but the situation has moved on and many lessons can be learned in that regard. There is a

strong feeling that we want to build on what was achieved as we move towards the new scenario that we seek to create through parental involvement strategies and other measures.

The bill makes provision for parent councils to decide what name they want to use and we should not impose names from the centre. The default position will be “parent council”, but it will be up to people to decide locally whether they want to change the name. That is an entirely appropriate way forward. Amendment 11 would work against the general thrust and ethos of what we are trying to do in the bill.

Fiona Hyslop: The default name should be “school council”, for the reasons that I set out.

I understand where Elaine Murray is coming from, which is why I did not propose that the name “parent forum” be changed to “school forum”. The wider parent forum will have the prime responsibility for representing the views and interests of parents. We should remember how the bill evolved; originally there was to be no second tier of parental representation in the form of an elected council, so the bill reflects a major change in Executive policy, which I welcome.

We must remember whom the bill is about. I am worried when people talk about the promotion of parental involvement for the sake of parents themselves; the bill promotes parental involvement for the betterment of the education of individual children—as I said in relation to amendment 48—and for schools. The term “school council” would acknowledge that and send a strong signal to the wider community that such councils will not be exclusive clubs in which parents pursue their interests but will be an arrangement that is inclusive of the wider community, in the best interests of the school. I press amendment 11.

The Convener: The question is, that amendment 11 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Byrne, Ms Rosemary (South of Scotland) (SSP)
Douglas-Hamilton, Lord James (Lothians) (Con)
Hyslop, Fiona (Lothians) (SNP)
Ingram, Mr Adam (South of Scotland) (SNP)

AGAINST

Baker, Mr Richard (North East Scotland) (Lab)
McAveety, Mr Frank (Glasgow Shettleston) (Lab)
Murray, Dr Elaine (Dumfries) (Lab)
Smith, Iain (North East Fife) (LD)

The Convener: The result of the division is: For 4, Against 4, Abstentions 0. Again, I use my casting vote to vote against the amendment.

Amendment 11 disagreed to.

Section 5 agreed to.

Section 6—Scheme for establishment of a Parent Council

The Convener: Amendment 32, in the name of the minister, is grouped with amendments 49 to 52.

Robert Brown: Amendment 32 tidies up the bill, in that it provides for the form in which education authorities must give notice of the intention to prepare a scheme for the establishment of a parent council. The requirement that notice be given in writing is consistent with provisions in sections 16 and 17. The approach underlines an important principle. We want to ensure that all members of a school’s parent forum—the wider body—have an opportunity to consider and contribute to discussions about the establishment of a parent council, which is very much intended to be led by parents, as I have said. A key feature of the bill is that parents will be in the driving seat in relation to the establishment and constitution of the parent council that will represent them. When a scheme to set up a parent council is to be prepared, the education authority will want to give every parent the chance to have a say about the kind of council that they want for their children’s school. The easiest way to ensure that every parent hears about the scheme is probably for the authority to write to parents. Such a requirement will not prevent the education authority from making use of modern means of communication or, indeed, old-fashioned means, such as notices in the local paper or library.

I ask the committee to resist amendments 49 to 52, which Rosemary Byrne lodged. One intention behind the bill is to provide parents with more choice and the opportunity to develop arrangements for parental involvement that are right for their school. As I said, parents must be in the driving seat.

It is for the education authority in the first instance to notify the parent forum of its intention to prepare a scheme for the establishment of a parent council for the school. The authority will be expected to offer alternatives, which will be based on guidance that the Executive issues. In many instances—perhaps most—that will provide the basis for parents to reach an outcome that is suitable for their school. However, it would be wrong not to allow parents to develop their own scheme if they so wish. They might have innovative and imaginative views on how to approach the matter, and we should encourage that. Their schemes might be more successful at engaging the interest of more parents than the standard schemes, so we must allow for them. Subject to Rosemary Byrne’s comments, I think that her amendments run contrary to the spirit of the bill, so I ask the committee to resist them.

I move amendment 32.

Ms Byrne: I disagree with the minister. The bill is inconsistent and my amendments would put that right. They would not curtail parents' ability to develop their parents council in the way that they wished.

Under section 1(2),

"It is the duty of an education authority to promote the involvement of the parents",

and under section 2(1), each authority must develop a strategy for parental involvement. An authority is to provide

"advice and information to a Parent Council"

under section 11(1) and an allocation of money to a parent council under section 11(3). Section 11(5) says that an authority is

"to inform a Parent Council ... about the school's arrangements for consultation between parents and teachers".

Under section 15(1), an authority is to establish a complaints procedure, and under section 16(1), it is to establish a combined parent council, with requisite consent.

It is therefore a bit incongruous that a person other than the education authority should be charged with preparing a scheme for the establishment of a parent council and its constitution. That is where my amendments come from. Given the range of duties that the bill places on an education authority, the authority should consult parents in the first instance and prepare a scheme for approval.

Robert Brown: I hear what Rosemary Byrne says, but the result is still that parents' right to proceed in their own way, if they wish to, would be withdrawn from them. We do not want to move in a more centralist direction away from the parent-led approach that is in the bill. The various powers of and duties on the local authority that Rosemary Byrne talked about will support whatever form of parent council and whatever constitution are chosen. They do not affect the potential for parental involvement—for parent-led bodies—to have a more imaginative and innovative approach in suitable instances than would otherwise be the case. We should encourage that, so I hope that the committee will reject the amendments in the name of Rosemary Byrne.

Amendment 32 agreed to.

The Convener: Does Rosemary Byrne wish to move amendment 49?

Ms Byrne: I will delay moving the amendment. Perhaps I can have more clarification on where I am coming from before stage 3.

Robert Brown: I am happy to chat with Rosemary Byrne or any other member about aspects of the bill.

The Convener: I thank the minister for that offer.

Amendments 49 to 52 not moved.

Amendment 21 moved—[Mr Frank McAveety].

The Convener: The question is, that amendment 21 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Byrne, Ms Rosemary (South of Scotland) (SSP)
Douglas-Hamilton, Lord James (Lothians) (Con)
Hyslop, Fiona (Lothians) (SNP)
Ingram, Mr Adam (South of Scotland) (SNP)
McAveety, Mr Frank (Glasgow Shettleston) (Lab)

AGAINST

Baker, Mr Richard (North East Scotland) (Lab)
Murray, Dr Elaine (Dumfries) (Lab)

ABSTENTIONS

Smith, Iain (North East Fife) (LD)

The Convener: The result of the division is: For 5, Against 2, Abstentions 1.

Amendment 21 agreed to.

Section 6, as amended, agreed to.

Section 7—Restrictions as to composition of a Parent Council

11:45

The Convener: Amendment 4, in the name of Lord James Douglas-Hamilton, is grouped with amendments 5, 22, 6, 10, 39 and 40.

Lord James Douglas-Hamilton: Amendment 4 is merely a drafting amendment, so I will say no more about it. Amendment 5 relates to the composition of parent councils. We would like parent councils to be under a duty to co-opt a certain proportion of their members from the local community, including teachers, although we believe that parents should be in the majority. Our proposal is designed to ensure that schools will remain at the heart of their communities and that parent councils will be representative of those communities. The Scottish School Board Association has said that councillors will be entitled to attend and speak at meetings but not to vote, as at present.

Amendment 6 is a drafting amendment. We think that denominational schools should be able to co-opt members of their parent council from a church or other denominational body.

Amendment 10 seeks to retain the status quo, in that members of the education authority will have the right to attend meetings of the parent council, regardless of whether they are members of that parent council.

I move amendment 4.

Fiona Hyslop: Amendment 22 is very simple. There are general issues relating to how prescriptive we should be about the membership of the parent council. A point that has been raised with me in that regard is that it is important that the parent council has as its chair someone who is a current parent. That is particularly important if we accept the importance of co-option—we all know that, often, people who are co-opted are immediate past chairs of boards or people who have been members of the community for some time. Such people have a valuable role and can be included in the organisation if the parent council so wishes, but it is right and proper to make explicit in the bill the fact that the chair should be someone who is a member of the parent forum and is actively involved with a child who is at the school. It might be argued that we should not prescribe anything. However, if we are going to prescribe something, this is fairly straightforward and simple to understand.

Robert Brown: There is always an element of conflict between what is included in a bill and what is included in guidance. Today, we have another example of that.

The Executive is clear that the education of our children is a partnership and that schools, parents and communities do not work in a vacuum and all influence our children's lives. However the main driver of this bill is flexibility, in contrast to the inflexibility of the past. It is about allowing parents to decide how they want to be involved and represented—a MORI poll of parents showed that parents support that approach.

Amendments 4 to 6 and 10, in the name of Lord James Douglas-Hamilton, reduce that flexibility. As witnesses who gave evidence to the committee have pointed out, the flexibility of the bill means that the constitutions of parent councils can be varied over time as local circumstances change. The amendments would result in that flexibility being lost.

I agree that there should be guidance on this issue, to ensure that when making their decisions, parents give due consideration to the importance of partnership. I am happy to give the committee an assurance that there will be such guidance.

We are also working on a toolkit that will lead parents to ask whether the constitution should provide for other school and community interests to be represented on the parent council. I think we should trust parents to make the right decisions about such questions, particularly in connection with who should be on the parent council, rather than hand down inflexible arrangements from on high.

Amendment 22 is quite important. I ask Fiona Hyslop not to move it on the basis that we will

consider the precise wording of an amendment for stage 3. It is important that the lead officers of the parent council have an active and close relationship with members of the school forum and that they are not, for example, people whose children left school 25 years ago. A good way of ensuring that is to draw the chair from the parent forum's membership. There are some marginal issues to consider. For example, if the child of the chairperson leaves the school suddenly at Christmas, in the middle of the school year, the work of the parent council might be disrupted if the chair had to demit office immediately.

There is also the question whether the vice-chair of the parent council should be a member of the parent forum too, since the vice-chair could be called on to substitute for the chair from time to time. We might not want to go as far as that, but we would like to look more closely at the issue. I am attracted by the principle of amendment 22 and if Fiona Hyslop is happy with my assurances on the matter, we will lodge a redrafted amendment that will both meet the intention behind what she is trying to achieve and address some of the marginal issues that I have talked about.

Amendments 39 and 40 are essentially tidying-up amendments to ensure consistency of provision between combined parent councils and individual parent councils. I dare say that there will not be a lot of combined parent councils, but the bill provides for them and they have to be consistent in the way in which they operate.

Amendment 39 will allow a combined parent council to co-opt on to the council people who are not members of the relevant parent forums in so far as parents have agreed to do so in the parent council constitution. The amendment takes the same approach as is taken in the provisions on individual parent councils.

Amendment 40 deals with the issue of denominational representation in a similar fashion. In the bill as drafted, the arrangements for a combined parent council do not provide for denominational interests to be represented.

The Convener: I have a quick comment to make about amendment 10. I understand that the wording of amendment 10 reflects the wording of the existing school boards legislation, which, I have always felt, makes no sense at all, because a school's location does not necessarily determine its catchment area. Quite often, a councillor whose children attend a school is, technically, not entitled to attend school board meetings if the school is located in a ward that is different from the one that the councillor represents. That does not make much sense, particularly in relation to secondary education, as one councillor might be entitled to attend school board meetings but another three,

four, five or six councillors who have children at the school would not be allowed to attend those meetings. Personally, I will resist amendment 10 on those grounds, although the bill proposes that parent councils should meet in public and that any member of the public, including councillors, will be entitled to attend parent council meetings.

As no other member has indicated that they wish to speak, I invite Lord James to wind up and indicate whether he wishes to press amendment 4.

Lord James Douglas-Hamilton: I wish to press amendment 5 but not amendment 10. Perhaps the minister can make it clear that he is giving an assurance that the spirit of amendment 6 is being met in other ways in the bill.

Robert Brown: I did not fully understand what Lord James was getting at in amendment 6, as he did not explain that when he was speaking to his amendments.

In the Executive amendments that deal with combined parent councils, we are seeking to ensure that, like an individual parent council, a combined parent council has a representative from any church or denominational body that has rights, if you like—I am thinking of Catholic schools or Episcopal or Jewish schools, of which there are a few. I did not follow what Lord James was trying to do with amendment 6.

Lord James Douglas-Hamilton: In view of that assurance, I will not press amendment 6. However, I will press amendment 5, and I think I will have to press amendment 4 as well because it is an enabling provision.

The Convener: The question is, that amendment 4 be agreed to. Are we all agreed?

Members: No.

The Convener: There will be a division.

FOR

Douglas-Hamilton, Lord James (Lothians) (Con)

AGAINST

Baker, Mr Richard (North East Scotland) (Lab)
Byrne, Ms Rosemary (South of Scotland) (SSP)
Hyslop, Fiona (Lothians) (SNP)
Ingram, Mr Adam (South of Scotland) (SNP)
McAveety, Mr Frank (Glasgow Shettleston) (Lab)
Murray, Dr Elaine (Dumfries) (Lab)
Smith, Iain (North East Fife) (LD)

The Convener: The result of the division is: For 1, Against 7, Abstentions 0.

I say to Lord James that I announced the result not to rub salt into the wound, but because my clerks tell me that I should always announce the results of divisions.

Amendment 4 disagreed to.

Amendment 5 moved—[Lord James Douglas-Hamilton].

The Convener: The question is, that amendment 5 be agreed to.

Members: No.

The Convener: There will be a division.

FOR

Douglas-Hamilton, Lord James (Lothians) (Con)

AGAINST

Baker, Mr Richard (North East Scotland) (Lab)
Byrne, Ms Rosemary (South of Scotland) (SSP)
Hyslop, Fiona (Lothians) (SNP)
Ingram, Mr Adam (South of Scotland) (SNP)
McAveety, Mr Frank (Glasgow Shettleston) (Lab)
Murray, Dr Elaine (Dumfries) (Lab)
Smith, Iain (North East Fife) (LD)

The Convener: The result of the division is: For 1, Against 7, Abstentions 0.

Amendment 5 disagreed to.

The Convener: Amendment 1, in the name of Lord James Douglas-Hamilton, is in a group on its own.

Lord James Douglas-Hamilton: Amendment 1 aims to ensure that no person who is on the disqualified from working with children list can be a member of a parent council. It seeks to ensure that the safety and protection of children are safeguarded by precluding from membership of parent councils those who may not necessarily have the children's best interests at heart. It is essentially an amendment to protect children.

I move amendment 1.

Robert Brown: I appreciate the intention behind amendment 1. Everyone around the table is in favour of child protection, but that is not the issue. The Executive is fully committed to ensuring that children are protected from those who seek to harm them. The current consultation on the Scottish vetting and barring scheme—the Bichard bill, if you like—makes that commitment clear.

However, given the Protection of Children (Scotland) Act 2003 and the fact that we are developing further measures to ensure that children are protected, I ask the committee to resist amendment 1. Child protection issues are already covered in legislation that is specifically designed for that purpose. That legislation is complex, as we know from recent controversies. The Scottish Schools (Parental Involvement) Bill is not designed specifically to deal with the issue.

Only some parents who want to get involved in a school and support their child's education will be in a "child care position" for the purposes of the 2003 act. The situation is clarified in the document "Guidance to the Voluntary Sector on Who Needs

to be Checked Against the Disqualified from Working with Children Lists”.

Organisations—including parent councils—need to consider the specific role being undertaken by an individual and the particular circumstances that apply. Disclosure checking is only one part of good practice in recruitment and child protection. The onus is on organisations to ensure that, in general, they have in place robust recruitment practices and sound child protection procedures.

Amendment 1 may also be seen as going against the approach adopted in schedule 2 to the Protection of Children (Scotland) Act 2003, as it effectively seeks to extend the definition of child care positions to cover specific appointments. That issue was debated long and hard during the passage of the 2003 act.

The definition in the 2003 act is extensive—some people have argued that it is too extensive—and it will capture the posts that should properly be covered by that act. The addition of specific committees or any other specific posts is not necessary if Parliament is confident that the approach that it took in the 2003 act was the right one. At the time, the Parliament gave detailed consideration to the background and the matters that had to be taken forward.

It is important to be proportionate and to consider the risks to children. The main duties of a parent council will not involve direct access to children. More important, I have concerns that an unintended effect of amendment 1 might be that some parents might be discouraged from becoming involved in a parent council if they had to undergo a disclosure check—not because they have anything to hide, but because they do not want to go through the procedure. The issue has been raised by the voluntary sector more generally across the board. Although it is obviously necessary to take a prescriptive route for some child care positions, there is a real risk that if the amendment is agreed to, the provision could act as a barrier to recruitment to parent councils. The creation of such barriers is exactly what we are trying to avoid.

Although I accept entirely the motivation behind amendment 1, I hope that Lord James Douglas-Hamilton will accept some of the arguments that I have put forward in response. I ask him to consider withdrawing the amendment; if it goes to a vote, I ask the committee to reject it.

12:00

Fiona Hyslop: I wish to discuss some issues of logic and practicality. I am concerned about the minister's remarks on voluntary sector representatives saying that the disclosure process has discouraged people from taking part in

activities. That runs completely contrary to the evidence from Executive research with which we have been presented. The minister might wish to reflect on that.

We should remind ourselves that there will be individuals on the list under the Protection of Children (Scotland) Act 2003 who are members of the wider parent forum because such forums will include all parents, and it is important to reflect that. If someone who has committed an offence is on the parent forum simply because they are a parent, why should we treat their membership of a parent council differently? The issue is that parent councils will develop policy. I can understand the child protection arguments, and we have a duty and a responsibility to the wider community to say that, if someone is on the list, that is a ground for debarring them from involvement in developing any policy on schools. However, my issue with Lord James's proposal is how it would be enforced practically, as it would be difficult for parent councils to police. The wording of amendment 1 is general. It simply says that people on the 2003 act list would not be eligible to be on a parent council. If it were found later on that a person was on the list, they would be disbarred immediately—I think that the wording of the amendment is general enough to cover that. I will be interested to hear Lord James's response to those points.

The Convener: Before calling Lord James to wind up on his amendment, I invite the minister to make any further points that he wishes.

Robert Brown: Fiona Hyslop raises a number of valid points. This is a difficult area—let us make no bones about it—and there are no easy solutions. I take the point about research with respect to the voluntary sector. Nevertheless, both individually and collectively, we continue to receive suggestions from the sector that there is an issue with debarring. We will have to monitor the situation. I do not wish to overstate the matter, but we must give way to child protection issues if they exist.

The particular provisions in the 2003 act are in place to deal with such issues. I am more than happy to talk further with individuals such as Lord James about their concerns if they feel that there might be ways to tackle them more effectively. There is a route forward through recruitment to the parent councils, and we will explore whether it is necessary to do anything with respect to the process by which people come forward.

Fiona Hyslop makes the valid point that a parent council is not an employing body in the usual sense—at least, not in the context that we are discussing—and there might be issues around how the council works in that respect. As I have said, I am more than happy to hold further discussions with members on this matter.

To proceed with amendment 1 as drafted would be premature. Lord James has raised an important issue, which, as Fiona Hyslop suggests, we will want to ponder further. I do not recommend that the committee agrees to the amendment.

Lord James Douglas-Hamilton: To answer Fiona Hyslop's point, I support an accelerated procedure. However, having listened to the minister, my worry is that certain individuals who are inappropriate and who should not be on a parent council might fall through the net. The principle of the protection of children is very important. I wish to press the amendment in order to test the thinking of the committee.

The Convener: The question is, that amendment 1 be agreed to. Are we all agreed?

Members: No.

The Convener: There will be a division.

FOR

Byrne, Ms Rosemary (South of Scotland) (SSP)
Douglas-Hamilton, Lord James (Lothians) (Con)
Hyslop, Fiona (Lothians) (SNP)
Ingram, Mr Adam (South of Scotland) (SNP)

AGAINST

Baker, Mr Richard (North East Scotland) (Lab)
McAveety, Mr Frank (Glasgow Shettleston) (Lab)
Murray, Dr Elaine (Dumfries) (Lab)
Smith, Iain (North East Fife) (LD)

The Convener: The result of the division is: For 4, Against 4, Abstentions 0. My casting vote is for the status quo.

Amendment 1 disagreed to.

The Convener: We come now to amendment 22.

Robert Brown: Before that, I would like to stress that I am happy to discuss the matters relating to amendment 1 further with members. The issue deserves to be developed with respect to the procedures that are to be followed.

The Convener: I thank the minister for that.

Amendment 22, in the name of Fiona Hyslop, was debated with amendment 4.

Fiona Hyslop: In the light of the minister's comments, I will not move amendment 22, but I hope that we can revisit the subject at stage 3.

Amendments 22 and 6 not moved.

Section 7 agreed to.

Section 8—Functions of a Parent Council

Amendment 33 moved—[Robert Brown]—and agreed to.

The Convener: Amendment 23, in the name of Ken Macintosh, was debated with amendment 19.

I ask Frank McAveety whether he wishes to move amendment 23.

Mr McAveety: So we have not voted on amendment 23. We voted on amendment 21.

The Convener: Amendment 23 has different wording from amendment 33, which we have just agreed to, and is not technically pre-empted by it.

Mr McAveety: Obviously, my concern was to ensure that amendment 21 was agreed to. I think that the minister suggested that amendment 33 addressed what was in amendment 23. That is my understanding, so I am happy not to move amendment 23.

The Convener: My understanding is that amendments 23 and 33 provide, in effect, alternative wording for the same thing.

Amendment 23 not moved.

The Convener: The next group is on the functions, operation and administration of a parent council. Amendment 53, in the name of Rosemary Byrne, is grouped with amendments 2 and 8.

Ms Byrne: Amendment 53 is intended to reinforce the close relationship that must exist between the parent forum and the parent council. The amendment would also ensure that the parent council reflects the views of the parent forum and does not act in an executive or arm's-length capacity. The amendment seeks to ensure that the council and the forum are not at odds with each other.

I move amendment 53.

Lord James Douglas-Hamilton: The purpose of amendment 2 is to create an obligation for parent councils to draft agendas and keep minutes. School boards are currently subject to freedom of information requests and parent councils, too, will be subject to the Freedom of Information (Scotland) Act 2002. Therefore, it is important that they are accountable.

On amendment 8, to facilitate efficient and cost-effective communication between parent councils, they must have access to e-mail, with dedicated e-mail addresses for each parent council.

Dr Murray: On amendment 53, the parent council will be elected by the parent forum. The parent council will know whether it is discussing matters that are of interest to the forum only if they appear to be of such interest. I am not sure how we can ensure that matters are of interest to the forum, other than by the council understanding that they are of such interest.

On amendment 2, having an agenda and all the rest of it is good practice, but I do not know whether that needs to be set out in legislation. I know that similar provisions were set out for

school boards in the Standards in Scotland's Schools etc Act 2000, but I am not sure that it is necessary to include in the bill that councils must have an agenda and take minutes. It will be normal good practice to do so and I am sure that guidance will indicate that to people.

On amendment 8, communication by electronic mail is a good idea. However, not every parent will use e-mail. I know that an awful lot of people use e-mail nowadays, but not every member of a parent forum may have e-mail or particularly wish to use it, so to legislate to say that we must enable people to communicate by e-mail rather than by other means, such as by letter, is probably unnecessary.

Fiona Hyslop: I think that amendment 8 was lodged because, for some bizarre reason that I cannot understand, it has not been the practice to give school boards access to e-mail accounts for communication. I understand why amendment 8 has been lodged and I believe that Lord James is correct to promote it.

On amendment 53, I agree with Rosemary Byrne's arguments and sentiment, but I believe that what she proposes could be prescriptive. We will expect the parent council to act as a leader and to deal rapidly with particular areas of concern—for example school closures, which this committee has addressed. I would be concerned if the only way in which a parent council could take up a concern was to go back to every member of the parent forum before proceeding or making representations. I understand where Rosemary Byrne is coming from, but the amendment could have unintended consequences that could act as a drag on the parent council's activity and make it slow and cumbersome in an area in which the wider parent forum would perhaps want it to press ahead. It is an argument for constant referenda, and I am not necessarily a great supporter of that, or only in a few cases.

Robert Brown: As a lawyer, I was fascinated by amendment 53. We had quite a long debate with officials about what it meant and what the difference would be. We came to the view that, as Fiona Hyslop says, the amendment would narrow the scope of what could be done. I accept entirely what Rosemary Byrne is trying to do. We, too, want it to be clear that a parent council should not act without due regard to the parent forum. However, we have to make the thing workable in practice, and the parent council is often going to be the initiating body for many of these sorts of issues. Taking away the reference to "as appear ... to be" narrows down the potential under section 8. After a fascinating debate on the matter, for which I thank Rosemary Byrne, I think that we should reject the amendment.

Amendments 2 and 8, in the name of Lord James Douglas-Hamilton, raise entirely valid

matters. We want to ensure that the parent council operates in an open and accountable way, which is what minutes are all about. However, amendment 2 does not say anything about communicating the agenda and minutes to members of the parent forum. Rather than just having agendas and minutes, there must be a culture of communication, and other amendments go some distance in that regard. As one or two members have said, these are matters for guidance and they will be covered in the practical resources that will be in the toolkit that is being prepared to assist parent councils. Therefore, there is no need for them to be dealt with in the bill.

Amendment 8, on e-mail facilities, does not say whom the parent council is to communicate with—its members or the wider parent body. With the wider body, e-mail has its troubles—Elaine Murray touched on that—as not every parent has e-mail facilities. It is important that parents have such facilities, but that is not the sort of detail that would usually be put in a bill. There is already a more general provision in section 11(4) that allows education authorities to provide parent councils with services or accommodation. It is also worth saying, as Frank McAveety touched on—I say this as a technophobe, as he claims to be—that the Scottish schools digital network will become fully operational in 2007. That may be the platform on which to take forward the availability of e-mail addresses and other facilities to parent councils. That is being considered as the network is developed, and officials will keep in touch with existing parent organisations that have shown an interest in the matter.

Against that background, it would not be sensible to agree to the amendments in the name of Lord James Douglas-Hamilton. I hope that, following that explanation, he will be prepared not to move amendments 2 and 8.

Ms Byrne: I will reflect on what the minister has said and may return to the matter at stage 3.

Amendment 53, by agreement, withdrawn.

Lord James Douglas-Hamilton: In view of the fact that the minister has said that these matters will be covered in guidance, I will not move amendments 2 and 8.

Amendment 2 not moved.

The Convener: Amendment 54, in the name of Rosemary Byrne, is grouped with amendments 34, 35, 7, 55 and 38.

Ms Byrne: It will be no surprise that I have lodged amendment 54. The matter was touched on in evidence taking. As the bill stands, the parent council would need to make representations to the head teacher and the

education authority only before making representations to HMIE, not before making representations to any other such person as the council considers appropriate. To foster good relationships among the council, the head teacher and the education authority, and to maintain good faith, the parent council should be required to make formal representations to the head teacher and the education authority before making representations to anyone else. Amendment 54 is a just and fair amendment that would save a lot of problems and divisions in the future.

I move amendment 54.

12:15

Robert Brown: As Rosemary Byrne has rightly pointed out, this emerged as a bit of an issue at stage 1. Nevertheless, I ask the committee to resist amendment 54, as we must have the linkage to HMIE where that is appropriate. I recognise that there are a number of concerns about the way in which sections 8(2) and 8(3) have been drafted, and we have lodged amendments 34 and 35 to address those concerns. I hope that the committee will recognise that, taken together, they satisfy the wish that was expressed in the stage 1 report that referrals to HMIE should occur only when all other options to address concerns have been exhausted.

We considered the issue in the School Education (Ministerial Powers and Independent Schools) (Scotland) Bill when I was a member of the committee. We talked about having a procedure and a structure, which is what we are trying to establish. Generally speaking, parent councils will have to have made representations to both the head teacher of the school and the education authority and to have received a reply from both before they make representations to HMIE.

Amendments 34 and 35 will help all parties to address concerns as locally as possible. In most instances, it should be possible for the parent council to resolve issues with the school without recourse to the education authority. Obviously, that is highly desirable. The Education (Additional Support for Learning) (Scotland) Act 2004 addressed similar considerations. The amendments should also ensure, as Peter Peacock made clear when giving evidence to the committee, that HMIE is drawn into issues only as a last resort.

Against that background, I hope that Lord James Douglas-Hamilton will not move amendment 7. I believe that the Executive amendments cover the main intent of what he is trying to do without being quite as prescriptive. In any event, the second part of amendment 7 gives me some concern because

an education authority could conceivably refuse to agree that there is no prospect of a matter being resolved and thereby block the parent council's way to HMIE. I do not think that that is what Lord James Douglas-Hamilton is trying to do.

Similarly, I ask members of the committee to resist amendment 55. Parent councils can seek independent advice from whomever they choose; it is not necessary to specify that in the bill.

Amendment 38 is necessary to address the grammatical structure of that subsection, which, in its present form, is not technically correct. It is all to do with plurals and singulars. It is a technical, grammatical amendment the overall effect of which will be to make the section clearer and grammatically correct.

Lord James Douglas-Hamilton: I thank the minister for what he has said. He has addressed the essence of amendment 7, which is to protect HMIE against frivolous and vexatious representations or complaints. I am content with the assurances that the minister has given and with the amendments that he has lodged.

Ms Byrne: I will not press amendment 54.

Amendment 54, by agreement, withdrawn.

Amendments 34 and 35 moved—[Robert Brown]—and agreed to.

Amendments 7 and 55 not moved.

The Convener: Amendment 12, in the name of Lord James Douglas-Hamilton, is grouped with amendments 37, 42, 42A and 43.

Lord James Douglas-Hamilton: Amendment 12 would safeguard against parent councils discussing confidential information regarding, for example, the additional support needs of individual pupils. That would have been particularly important if amendment 2, which sought to impose a duty on parent councils to keep minutes, had been passed; however, I did not move that amendment, as the matter will be covered in guidance.

There are certain confidential matters relating to an individual that, if raised in public, could lead to slander or libel actions. Therefore, it is not appropriate for certain confidential material relating to certain individuals to be discussed freely. The principle, the generality and matters of concern should be discussed, but confidential information about individuals should not be discussed.

I move amendment 12.

Robert Brown: In response to Lord James Douglas-Hamilton's reference to slander and libel, I cannot resist pointing out that in Scotland the term is defamation.

I accept entirely the intention behind amendment 12, but I do not think that he has got it quite right. I am concerned that its effect would be to hinder the effective operation of the parent council by restricting its ability to discuss confidential matters, which it will need to do from time to time. Our amendment 37 is more apt to deal with the matter that Lord James quite rightly raises.

Some issues fall outwith a parent council's remit. For example, it would be inappropriate for the council to discuss matters of employment rights relating to individual staff members or personal matters relating to individual pupils. At the same time, in order to carry out its functions effectively, the parent council must be able to discuss some confidential matters. It might be involved in the appointments process for senior staff and might have received confidential information from the education authority about the candidates who are applying to be the head teacher. In such circumstances, the council—or the council members involved—must be able to discuss the information received. The council will have to ensure that it adheres to the same terms of confidentiality that apply to the education authority itself. The council might wish to employ a clerk, which might involve its considering confidential information relating to individual applicants.

We will state in guidance the nature of issues in which it would not be appropriate for a parent council to get involved, which is an important element, and the need to respect the confidentiality of sensitive information to which a parent council might have to have regard in exercising its functions.

The commitment to produce guidance on confidential issues is a matter of record as it was given when the minister appeared before the committee on 11 January and was repeated in his letter to the committee of 17 March. Against that background, I do not think that we need amendment 42A, in the name of Rosemary Byrne, which would provide for the specific topics to be covered in guidance to be listed in the bill. That approach is too inflexible.

Amendments 42 and 43 deal with the more general issue of guidance. The committee welcomed the flexible approach that the bill takes to the establishment and operation of parent councils. However, we note its view that guidance will be crucial in informing the work that authorities will need to undertake to develop the new parent bodies.

Amendment 42 signals our commitment to provide clear guidance. It will require ministers to provide guidance to education authorities in respect of their duties to prepare a strategy for parental involvement and to promote a scheme for establishing parent councils. It will also require

ministers to provide guidance to parent councils on how they may carry out their functions.

Amendment 43 will retain the power in the bill for ministers to provide guidance on any other section in the bill.

It is important that parent councils conduct their meetings in an open and transparent manner. That is what underlies amendment 37, which also allows parent councils to determine when the matters on their agenda should be discussed behind closed doors. I hope that that will address some of members' concerns. There is nothing terribly different about that, because many committees operate in that way, but the amendments make rather clearer what we have in mind.

Amendments 37, 42 and 43 provide the proper way forward.

Ms Byrne: I welcome the minister's comments about guidance. There are sensitive and confidential matters that arise in schools that should not be the subject of discussion with the parent council. Such matters include information regarding individual pupils and members of staff and relationships between staff and pupils or between staff members. It would be inappropriate for such information to be the subject of discussion with the parent council. It could be the subject of litigation—I hope that I am using the right word—if a parent council were to consider the position of named pupils. For instance, a pupil who is causing disruption in the school might become part of a discussion at the parent council. If I can be given assurances that such situations will be covered in the guidance, I will not press amendment 42A.

The Convener: Minister, do you wish to respond to that?

Robert Brown: I have already given that assurance, but I am happy to repeat it.

Lord James Douglas-Hamilton: I thank the minister for his assurances and for correcting my wrong terminology. It might be of interest to him that actions of defamation in Scotland are rare whereas actions for slander and libel south of the border are much more frequent. I accept that the matter will be covered in guidance so I will not press amendment 12.

Amendment 12, by agreement, withdrawn.

The Convener: Amendment 36, in the name of the minister, is grouped with amendment 41.

Robert Brown: I do not want to dwell on amendments 36 and 41, which are both tidying-up amendments for clarification. The bill provides for cessation of a parent council when a school no longer exists. Amendment 36 makes it clear that the parent council will not continue to exist when a

school amalgamates with another school. That situation will be dealt with in the same way as it would when a school is discontinued.

Where two schools amalgamate, there should be a new parent council and the new parent forum should have the chance to agree the nature of the parent council for the new school set-up. We will make it clear in guidance that an education authority must have a defined way of ensuring that parents' interests from both or all schools are fairly represented during any transitional period.

Amendment 41 is similar and will ensure that a combined parent council does not continue to exist once the number of schools is reduced to one for whatever reason. In that circumstance, members of the parent forum might want to consider what changes they need or want to make so that the new parent council reflects the change in circumstances.

I move amendment 36.

Amendment 36 agreed to.

Section 8, as amended, agreed to.

Section 9—Attendance of headteacher at meeting of Parent Council

The Convener: I indicated earlier that we would stop proceedings around 12.15 once we reached the end of a section. However, I propose that we deal with the next group of amendments because Jean Turner has been sitting here for the past hour and a half and it would be a shame not to deal with the group of amendments in which her amendment features. I propose to consider the next group of amendments and then dispose of the amendments already debated. That will take us up to the end of section 11. At the next meeting, we will start with section 12. Is that agreed?

Members *indicated agreement.*

The Convener: Amendment 56, in the name of Rosemary Byrne, is grouped with amendment 46.

Ms Byrne: Amendment 56 mirrors more accurately the current role of the head teacher in existing school boards and would make it a professional obligation rather than a statutory duty to attend parent council meetings and give advice.

The amendment is more in line with the contractual provisions that relate to the post of head teacher as outlined in the national Scottish Negotiating Committee for Teachers agreement that followed the 2001 McCrone agreement. I know that the matter was raised in evidence and has already been discussed during consideration of the bill.

I move amendment 56.

Dr Jean Turner (Strathkelvin and Bearsden) (Ind): I have found proceedings interesting. This is an important subject.

Amendment 46 to section 9 seeks to insert at the end of line 12, on page 7:

“The headteacher—

(a) must where requested by the council, and

(b) may, in any other case,

provide advice to the council on education matters.”

When I first met parents in my constituency, they were cautious about the bill because they were happy with the parent boards that they knew; they were apprehensive. East Dunbartonshire Council's school board forum and the educational and cultural services committee have been following the bill closely and every member now approves of its intention to involve parents more easily in education. However, they have concerns about the potential effectiveness of the proposed school councils compared with school boards if the head teacher is not assigned in legislation the role of adviser. The School Boards (Scotland) Act 1988 appointed the head teacher as the adviser to the school board. That allowed head teachers to fulfil the useful function of advising parents on educational matters.

Parents feel that the solution to the problem is to appoint the head teacher as adviser to the parent council and the parent forum. That would mean that parents could seek guidance where appropriate. It would not stop them advancing their views or seeking information; it would enhance the council's work and provide a check and balance on what it is appropriate to discuss at meetings, as we have heard. For example, it has been suggested that matters may arise in relation to which confidential information on attainment, medical conditions or bullying incidents may be requested or that parents might put to the council gender-specific matters that involve staff members. In such cases, it would be appropriate for the head teacher to be able to state with legislative authority that the information was not for the council, but was a matter for the education authority, probably in a complaint.

Parents are anxious that, if that is not in the bill, head teachers and unions might no longer think that they have to undertake that work without being job sized—if that is the term—to do so and local authorities might state that they do not have the resources to allow head teachers to act as advisers to parent councils. I urge the minister, the Scottish Executive and the Education Committee to accept amendment 46, because the bill will be richer for its inclusion.

12:30

Fiona Hyslop: I will comment briefly on amendment 56. It concerns a legitimate point of argument and debate but, at stage 1, the committee went into the question of whether head teachers should have the right and the duty to attend meetings of the parent council and concluded that they should have both.

The point of section 9 is to respect the professionalism of head teachers and the vital educational role that they should play in the parent council. Amendment 46, in the name of Jean Turner, addresses that. I am concerned that the only part of the bill that mentions advice and information is section 11(2). Section 11(2)(a) says that an education authority must take steps to ensure that the head teacher and staff provide advice to the parent council on parental involvement, which is quite narrow, and section 11(2)(b) says that the advice and information should be consistent with the bill, which, of course, is about parental involvement only.

Amendment 46 respects the importance of the head teacher's role as an adviser on broader educational issues. That would be of benefit to not only the parent council but the education authority, because there could be issues in particular areas. The amendment is worth serious consideration and support.

Dr Murray: It is appropriate that the head teacher or his or her representative should have a duty to attend parent council meetings. They should not only have the right to attend, but an obligation to attend should be placed on them. I do not agree with Rosemary Byrne on that.

I am slightly puzzled by amendment 46 because I cannot foresee an instance in which a head teacher would attend a parent council in any role other than to advise it. I cannot imagine that the head teacher would just go along and keep schtum; that would be a curious thing to do. The way that amendment 46 is worded means that, if the parent council or somebody on it felt that the head teacher had not advised them, or if the head teacher was found to have neglected to advise the council on a certain issue, they would have broken the law. That is too onerous a burden to place on head teachers. Although I agree that they should have a duty to attend parent council meetings, amendment 46 goes too far.

Robert Brown: Amendments 56 and 46 both relate to the role of the head teacher in attending the parent council.

A number of members have commented on amendment 56. I agree that the right and duty to attend are both important. The committee did not support the stance that the Educational Institute of Scotland, which raised the issue originally, took on

the matter. Amendment 56 would undoubtedly weaken the head teacher's link with the parent council, which is not desirable. The relationship must be close, and Rosemary Byrne is, in effect, saying that it is optional for the head teacher to attend and take part in the parent council's meetings, which is not an acceptable position to take. The duty and right to attend are linked and will give the parent council confidence that the head teacher has the duty to attend the meeting and the head teacher confidence that the parent council cannot throw him or her out of its discussions. Interestingly, Rosemary Byrne made a link between the two, in that she made an observation about the head teacher's professional duty to attend and give advice.

An issue arises from amendment 46 that Fiona Hyslop drew out. Indeed, I had a discussion on the matter before today's meeting as I tried to work through the effects of the amendments. My understanding is that head teachers' professional duties include the giving of advice on such matters to school councils or parent councils. If that is the case, the amendment is not necessary. However, I agree with Fiona Hyslop that the parental involvement provisions in section 11(2) do not go quite that far. I will explore the matter a little further and find out whether I can get a definitive view from officials. I ask Dr Turner to withdraw her amendment on the basis that we will advise on our position on the matter before stage 3.

There may be a point in what Elaine Murray said about going too far in the opposite direction. Again, it is a question of getting the right balance. There is no question but that our policy intent is that head teachers will normally attend parent council meetings to give general advice on matters—large and small—that fall within their role as head teacher. They will play their part in the deliberations of the parent council as full, professionally knowledgeable members. I do not think that there is any disagreement about that. They might not need to give technical advice on many occasions, but issues about standard grades or things like that will arise from time to time and the head teacher's advice and contribution will be valuable.

We want to ensure that we proceed in the most appropriate and sensible way. I have received correspondence on the matter from Councillor Eric Gotts of East Dunbartonshire Council, and Jean Turner has also represented the views of the council. However, I ask Rosemary Byrne to withdraw amendment 56, and I ask Jean Turner not to move amendment 46, on the basis that I mentioned.

Amendment 56, by agreement, withdrawn.

Amendment 37 moved—[Robert Brown]—and agreed to.

Amendment 46 not moved.

Section 9, as amended, agreed to.

After section 9

The Convener: Does Lord James wish to move amendment 10?

Lord James Douglas-Hamilton: I think that the minister said that the matter is covered in another way, so I will not move the amendment.

Amendment 10 not moved.

Section 10 agreed to.

After section 10

The Convener: Does Lord James wish to move amendment 13?

Lord James Douglas-Hamilton: I will not move the amendment. Apart from anything else, it could lead to trouble with charitable status.

Amendment 13 not moved.

Section 11—Duties of education authority to a Parent Council etc

The Convener: Does Fiona Hyslop wish to move amendment 24?

Fiona Hyslop: On the basis that amendment 17 was disagreed to, I will not move amendment 24.

Amendments 24 and 8 not moved.

Amendment 38 moved—[Robert Brown]—and agreed to.

Section 11, as amended, agreed to.

The Convener: That concludes consideration of amendments for today. At our next meeting, we will start with section 12. I remind members that amendments to the remaining sections must be submitted by 12 noon tomorrow.

I thank the minister and his team, and Dr Turner, for their attendance. I suspend the meeting for a few moments to allow a change of personnel at the table.

12:40

Meeting suspended.

12:42

On resuming—

Subordinate Legislation

Additional Support Needs Tribunals for Scotland (Practice and Procedure) Rules 2006 (SSI 2006/88)

The Convener: Some members have not returned but we are still quorate, so we will proceed with item 3. At last week's meeting, concerns were raised about the Subordinate Legislation Committee's report on the rules. We are joined by Robin McKendrick, the branch head of the support for learning division in the Scottish Executive's Education Department, and Douglas Tullis. I invite Robin McKendrick to explain the issue to which the Subordinate Legislation Committee drew our attention and to give the Executive's reasons for its response to that committee.

Robin McKendrick (Scottish Executive Education Department): The Subordinate Legislation Committee sought an explanation of the relationship between rule 7 and rule 15. We responded by saying that we would consider the issue and would amend rule 7's reference to rule 15 in due course.

We have reflected further on our position and are now of the view that rule 7(2) should not refer to rule 15. The direction powers in rule 7(1) and rule 15 have distinct purposes. Although the Subordinate Legislation Committee did not seem to question the application of rule 17 to rule 7, we are now of the view that it is logical that rule 7(2) should refer only to the provisions of rule 17 as they apply to the appellant. In other words, the secretary to the Additional Support Needs Tribunals for Scotland should have a duty to spell out to the appellant the consequences of failing to reply.

I turn to the timescale for amending the rules. As we said to the Subordinate Legislation Committee, we consider that rule 7(2) will not cause an immediate difficulty with the application of the rules. Moreover, I have now had the opportunity to speak to the president of the Additional Support Needs Tribunals for Scotland, Ms Jessica Burns, who agreed with the Executive's view that the wording of rule 7(2) does not cause an immediate problem. She stated:

"even as Rule 7 (2) stands, it does not bring any prejudice to a parent making a reference".

Therefore, our intention is to produce an amendment towards the end of 2007 or the beginning of 2008.

The committee will be aware that we are reviewing the implementation of the Education (Additional Support for Learning) (Scotland) Act 2004 and that, as part of that process, Her Majesty's Inspectorate of Education will report in September 2007. Although the Additional Support Needs Tribunals for Scotland will not be considered specifically at that stage, all the instruments will be examined and we will produce any suitable amendments, probably in 2008. The amendment that I have mentioned could be made at that time. I hope that that clears up the matter for the committee.

The Convener: Do members have any questions?

Fiona Hyslop: I am sorry for missing that explanation, but the meeting has been going on since half past 9 and I thought that we might have suspended long enough to have a little break.

12:45

Lord James Douglas-Hamilton: I have a brief question. Is it your conviction that the rules will not prejudice parents of children with additional support needs, although the SSI will be amended in due course?

Robin McKendrick: Absolutely.

The Convener: Do members have any other points that they wish to raise?

Fiona Hyslop: I think that Adam Ingram had one, but we have had a long meeting and he has not yet returned to the room. I must apologise to the witnesses for having to wait so long. As the lead committee on SSI 2006/88, we took seriously the issue that was raised, which is why we wanted the officials to give us an explanation. I am sorry that I missed their presentation.

The Convener: I thank members for their comments. Are we agreed that we have nothing to report on SSI 2006/88?

Members *indicated agreement.*

The Convener: I thank Robin McKendrick and Douglas Tullis for their attendance.

12:46

Meeting continued in private until 13:06.

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