

EDUCATION, CULTURE AND SPORT COMMITTEE

Wednesday 9 February 2000
(*Morning*)

© Parliamentary copyright. Scottish Parliamentary Corporate Body 2000.

Applications for reproduction should be made in writing to the Copyright Unit,
Her Majesty's Stationery Office, St Clements House, 2-16 Colegate, Norwich NR3 1BQ
Fax 01603 723000, which is administering the copyright on behalf of the Scottish Parliamentary Corporate
Body.

Produced and published in Scotland on behalf of the Scottish Parliamentary Corporate Body by The
Stationery Office Ltd.

Her Majesty's Stationery Office is independent of and separate from the company now
trading as The Stationery Office Ltd, which is responsible for printing and publishing
Scottish Parliamentary Corporate Body publications.

CONTENTS

Wednesday 9 February 2000

	Col.
STANDARDS IN SCOTLAND'S SCHOOLS ETC BILL: STAGE 1	539

EDUCATION, CULTURE AND SPORT COMMITTEE

5th Meeting 2000, Session 1

CONVENER

*Mrs Mary Mulligan (Linlithgow) (Lab)

DEPUTY CONVENER

Karen Gillon (Clydesdale) (Lab)

COMMITTEE MEMBERS

*Ian Jenkins (Tweeddale, Ettrick and Lauderdale) (LD)

*Mr Kenneth Macintosh (Eastwood) (Lab)

Fiona McLeod (West of Scotland) (SNP)

Mr Brian Monteith (Mid Scotland and Fife) (Con)

*Cathy Peattie (Falkirk East) (Lab)

Michael Russell (South of Scotland) (SNP)

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

*Nicola Sturgeon (Glasgow) (SNP)

*attended

THE FOLLOWING MEMBER ALSO ATTENDED:

Lewis Macdonald (Aberdeen Central) (Lab)

WITNESSES

Keir Bloomer (Convention of Scottish Local Authorities)

Mr Robert Christie (Professional Association of Teachers)

Mr David Eaglesham (Scottish Secondary Teachers Association)

Gordon Jeyes (Convention of Scottish Local Authorities)

Mr John Kelly (National Association of Schoolmasters/Union of Women Teachers Scotland)

Councillor Helen Law (Convention of Scottish Local Authorities)

Mr Gordon Mackenzie (Headteachers Association of Scotland)

Mr Bill Milligan (Association of Headteachers in Scotland)

Mr John Patton (Educational Institute of Scotland)

Mr Ronnie Smith (Educational Institute of Scotland)

CLERK TEAM LEADER

Gillian Baxendine

SENIOR ASSISTANT CLERK

David McLaren

ASSISTANT CLERK

Alistair Fleming

LOCATION

Committee Room 2

Scottish Parliament

Education, Culture and Sport Committee

Wednesday 9 February 2000

(Morning)

[THE CONVENER *opened the meeting at 09:34*]

Standards in Scotland's Schools etc Bill: Stage 1

The Convener (Mrs Mary Mulligan): Good morning.

I am sure that the committee will want to send its best wishes to Rhona Brankin and express our hope that she makes a speedy return.

Members will be aware that two sets of evidence will be given this morning. The first is from the teaching trade unions and the second is from the Convention of Scottish Local Authorities. I do not have any prepared questions; I am sure that members have their own questions, but I will suggest several subjects that the committee may want to cover during the discussions.

First, in relation to the unions, I have listed four subjects: the improvement framework and national priorities; the role of Her Majesty's inspectors of schools; the Scottish Joint Negotiating Committee; and the General Teaching Council for Scotland proposals. Those are matters that members will all want the discussion to cover.

There are also several subjects that the committee will want to discuss with COSLA: the improvement framework; inspection of education authorities, on which we have already taken some evidence; school boards, particularly in relation to COSLA's submission; placing requests, which is included in COSLA's submission; the SJNC; and the GTC proposals.

Because of the large number of trade union representatives this morning, with the committee's agreement, I will not ask each of them to make a statement. We will go straight to questions.

The witnesses from the trade unions may come in now. We will try to have a break at 11.00 am, while the witnesses change over.

I welcome the witnesses to the Education, Culture and Sport Committee. The purpose of your attendance is to answer our questions on the Standards in Scotland's Schools etc Bill. I will ask members to indicate whether they want to direct

their questions to a particular witness. Witnesses should indicate if they wish to add any comments to any of the questions. Will you all identify yourselves and your organisations?

Mr David Eaglesham (Scottish Secondary Teachers Association): I am the general secretary of the Scottish Secondary Teachers Association.

Mr John Kelly (National Association of Schoolmasters/Union of Women Teachers Scotland): I am on the education committee of the NASUWT Scotland.

Mr Ronnie Smith (Educational Institute of Scotland): I am the general secretary of the EIS.

Mr John Patton (Educational Institute of Scotland): I am president of the EIS.

Mr Robert Christie (Professional Association of Teachers): I am Scottish secretary of the Professional Association of Teachers.

Mr Gordon Mackenzie (Headteachers Association of Scotland): I am vice-president of the Headteachers Association of Scotland.

Mr Bill Milligan (Association of Headteachers in Scotland): I am from the Association of Headteachers in Scotland—and I apologise for my voice, I have got the cold this morning.

The Convener: We sympathise. I open up the meeting for questions.

Cathy Peattie (Falkirk East) (Lab): The committee has had a fair amount of discussion on the role of HMI. Some members have been visiting schools, speaking to teachers and head teachers, and have become aware of the concern about the performance indicators and the way in which schools are inspected. What do you feel about the role of HMI, its recent report and the changes that are taking place?

Mr Smith: It is no secret that the EIS has publicly expressed a number of concerns about aspects of the work of HMI and its responsibilities. In general terms, we are concerned that its role is becoming all-embracing: the inspectorate inspects teachers, it inspects schools, it is to inspect the education functions of local authorities, it inspects teacher education institutions, it has its hands on the levers of the curriculum and of assessment, and it is even advising the McCrone committee on teachers' pay and conditions. There seems to be no no-go area for the inspectorate.

Without making any judgment on the merits or demerits of the individuals in that organisation, we suggest that it is unhealthy for there to be such a concentration of power and responsibility in one unit. There needs to be greater diversification. We must not assume that the inspectorate is the fount of all wisdom on what should be taught and how.

There have been several instances of the inspectorate giving strong advice that is contradicted a few years later. There is a distinct lack of humility on its part and there is no recognition that some of what it criticises derives from the fact that teachers have been following the practice that the inspectorate itself had been recommending only a short time before. A different attitude on the part of the inspectorate would be helpful, but we should also consider the structure of the work that it is doing.

Cathy Peattie: How would you change it, if you had the opportunity?

Mr Smith: I would like the inspectorate to go back to being a genuinely independent professional voice and to go back to having a much more supportive role than is currently the case. At the moment, public judgments are made on everything. There was a time when inspectors acted as advisers and supporters, assisting teachers in their work. Very few teachers would have that perception of inspectors today.

Cathy Peattie: Do teachers see HMI as having a policing role, rather than a supporting role?

Mr Smith: Its role is very much a policing one. If you study its reports, you will see confirmation of that. Many of the judgments that it passes are based on the extent to which—if at all—schools have complied with the orthodoxy that the inspectorate has laid down. It criticises schools for not having implemented five to 14 sufficiently, or for not having introduced national testing sufficiently. Testing does not raise standards; it tells you what the standards are, but it does not change anything.

Nicola Sturgeon (Glasgow) (SNP): Ronnie, you listed the functions that HMI carries out. I assume that you are not suggesting that any of those functions do not require to be carried out by somebody. Is there any other body or organisation that could play a more influential role in some of the functions that, at the moment, HMI is heavily involved in?

Mr Smith: At one time, education authorities had significant and quasi-inspectoral roles. They had quality assurance mechanisms. The Scottish Consultative Council on the Curriculum, which is soon to merge with the Scottish Council for Educational Technology, is supposed to act as adviser. There are other bodies around, but the impression that we get is that there is one particular body that seems to be on the inside track.

Nicola Sturgeon: Could one of you comment on a statement made by Douglas Osler at our meeting last week? He said that HMI would not insist that local authorities implemented five to 14, as long as the standards of education in schools

were sufficiently high. Is that statement—that five to 14 is not compulsory—matched by experience on the ground?

09:45

Mr Kelly: Certainly not. As one of the three practising teachers sitting here—and one who had an inspection recently, in which the school came off very well—I would have to echo Ronnie Smith: HMI is there to establish whether a school is matching up to its 33 performance indicators. While the performance indicators in “How good is our school?” are professionally acceptable, it is difficult to accept that HMI will make a school work hard to discover why it did not achieve a certain standard. Rather than saying, “We acknowledge that you have not done five to 14 national testing for the following reasons,” it insists on saying, “We are taking a snapshot of what we see.”

To echo another of Ronnie’s points, little research seems to have been carried out on the levels of five to 14 attainment. It was stated—the figure was “plucked from the air”, to use Pamela Munn’s phrase—that 70 per cent of youngsters should attain level E by the end of S2. Recent figures show that that percentage is decreasing to the mid-50s. It will soon be down where it should realistically be, in the mid-40s.

There is no empirical research behind many of the assumptions that HMI bring to an inspection. However, I do not think that we can criticise the inspection process itself, which is fair enough: people know what is happening, HMI gives them the questions and, to a fair degree, it gives them answers before it comes. It looks for evidence that the school has reached the stated points.

When members of my association saw Mr Osler’s comments in the paper last week, it came as something of a pleasant surprise to us to note that we did not need to do five to 14. However, I do not think that anyone has told the schools that yet.

Nicola Sturgeon: To pick up on something that you said, do you think that it is wrong for HMI or the Executive to strive to raise standards? Would you accept that your statement that attainment of level E by the end of S2 should be down to about 40 per cent could be interpreted as teachers going soft on standards and not pushing pupils to achieve?

Mr Kelly: No, not at all. The 70 per cent was a national figure that was to be applied to all schools in all circumstances without any regard to prior attainment. Nobody would be better pleased than me if 90 per cent of the kids were achieving level E by the end of S2. What I took exception to was the fact that the 70 per cent figure had no empirical basis. Nowhere in Scottish education will

you find a teacher who does not want the best and the highest standards for all children.

The Convener: Mr Christie, did you want to come in on that?

Mr Christie: Yes, I wanted to reiterate the points that were made earlier by colleagues. We have no difficulty with the inspection methods, or indeed with the drive to raise standards. However, I have difficulty with the fact that teachers have recently been publicly pilloried by politicians and others for their apparent failures, when the problem is that the inspectorate has encouraged—that is possibly too weak a word, but coerce would be too strong—teachers to jump on every passing bandwagon in the 1970s and 1980s. When an approach has been unsuccessful, teachers have been blamed.

The Convener: Would anyone else like to comment on the questions that have been asked? Are there any other questions from the committee, particularly on HMI?

Nicola Sturgeon: We have heard from teachers from the Educational Institute of Scotland that—in Ronnie Smith's words, I think—there is a crisis in the relationship between the teaching profession and HMI. Douglas Osler said last week that there was not a scrap of evidence to support that. What is your evidence that there is a crisis in that relationship?

Mr Smith: I am sure that the committee goes out and about, so I hope that members will take the opportunity to chat to staff at Musselburgh Grammar School to ask them how supported or uplifted they felt by the inspectorate's attentions.

We pick up the casualties of HMI inspections in our daily work, in representations that we get before inspections and in dealing with the consequences of inspections. I can assure you that I do not make statements for effect. Throughout the country, from the northern isles to the south, we have officers and staff who assist and advise members daily as a consequence of the inspectorate's visits.

Mr Patton: When I was a probationary teacher in 1964, the inspectors in Northern Ireland were directly responsible for the probation period and were seen as friendly faces. Last year, I was inspected at school. I had no difficulty with the inspection and the inspector's report of the school was very positive. That said, when I travel round Scotland, I meet many people who see the inspectors as a threatening force—they see them as thought police and as people who are there to find fault, rather than to be positive. That may not be how the inspectors see themselves, but it is how our members view them.

I am sure that the committee is anxious to move

on from HMI, but I have one last point. The greatest difficulty with HMI nowadays is, as Bob Christie mentioned, the fact that there seems to be some difficulty with communication between the people at the top of the inspectorate and the people who are out in the field, doing the inspections.

There is also confusion between the role of the policy maker and the role of the policy assurer, of which the teaching of modern languages in primary schools is a clear manifestation. That policy was devised very much by the inspectorate. When it was piloted, many professionals expressed clear reservations about the outcome.

As with all these things, when the pilot was mainstreamed, the resourcing was reduced. Primary teachers—willing volunteers—were expected to become teachers of modern languages after 26 days of training. The profession expressed caution about the feasibility of such a move. The support of secondary modern language teachers, which had been present during the pilot, was withdrawn.

Two years down the line, when the quality and standards report on modern languages was published, the people who suffered most were those who were practising the policy that the inspectorate had devised. The inspectors stood back and said that quality and standards in modern languages in primary schools and, indeed, in S1 and S2, were falling. They said that the problem was one of teaching, but somehow no problem was found with the policy.

Mr Kelly: I do not want to dwell too much on this point but, in the early 1980s, it was certainly the teaching force's perception that the inspectorate's role was becoming more politicised and less to do with professional support. We have not noticed any lessening of the political aspect of HMI's attention to schools.

Lewis Macdonald (Aberdeen Central) (Lab): When Nicola Sturgeon asked for your thoughts on alternative ways in which to carry out the inspection functions, you pointed out that education authorities had formerly had that role. What is the profession's view of the principle of extending inspection to education authorities?

Mr Patton: Given current reservations about the inspectorate in general, we feel that greater consideration should be given to that suggestion. We have no difficulty—and most local authorities seem to have no difficulty—with being inspected. However, we question whether the skills currently exist within the inspectorate to carry out that role.

Ian Jenkins (Tweeddale, Ettrick and Lauderdale) (LD): The idea of measuring improvement, which is central to the bill, depends on the reliability and proper formation of testing

procedures and examinations. Teachers have raised questions about measuring the ethos of a school rather than just measuring statistics, which is relatively easy. Would you comment on where the base lines are and whether "How good is our school?" is the right basis for starting to measure such things? In other words, is the whole idea behind the bill is on the right track?

Mr Patton: "How good is our school?" contains a set of competences and criteria that would be broadly acceptable to most of the teaching profession. Our concern is that a centralised structure will be imposed on all schools. Especially since local government reorganisation, we have seen that there is room for diversity in education, for local initiatives and for freedom of expression in implementing the curriculum. I am delighted to hear what you have reported Mr Osler as saying. There is room for local thought and for the input of practitioners in schools—those who are daily responsible for the delivery of the curriculum must have some input into the ethos and into the planning process.

In my area, Clackmannanshire, we have seen through early intervention, for example, that there is room for local diversity. One of the most successful initiatives was not a centrally imposed matrix, but something that was devised locally; the difficulties were recognised, the resources planned and the training provided locally. That is the kind of development that I would like in raising standards in schools. There should be room at local level for improvement, albeit that most schools find "How good is our school?" acceptable as a guiding formula.

Mr Christie: There is little mention in the bill, if any, of teachers' professional judgment or of the rights that teachers need in order to deliver effective education in the classroom.

Ian Jenkins: On the testing regime, I agree with Mr Kelly that the 70 per cent figure for five-to-14 attainment was plucked out of the air. I, too, am worried about the relationship between testing and the curriculum. There is no match between the writing and reading tests in S1 and S2 and between the intention and substance of the five-to-14 courses. At the moment, testing is inadequate, which is especially worrying if the results are going to be used as measures of improvement or for target setting.

The Convener: Was that a question, Ian?

Ian Jenkins: Well, I am asking people about this, yes.

Mr Kelly: If I can pick up on that observation—rather than question—there are certainly major concerns about the validity of the tests. The five-to-14 programme was not meant to be tested in the way that national testing has evolved. There

may be a case for saying that, if we want a national test, there should be a big-bang test day for all eight-year-olds, just as there is for people sitting higher French.

I thoroughly endorse what Mr Patton said about room for local initiative, but I have a wee concern that when local authorities take a strategic local initiative—for example, one local authority has suggested moving to five to 13—that will not give the consistency of approach across 32 local authorities that will permit an assessment of national standards. Also of concern is the fact that education resources vary across local authorities by dint of their size. Local authorities that have seven or nine secondary schools cannot deliver the same professional support services—such as adviser groups—as those that have 35 secondary schools can. Although we are happy that there should be local possibilities, if there are to be national standards, there must be a level playing field.

10:00

Nicola Sturgeon: I have a couple of questions about general aspects of the bill.

A concern that is sometimes expressed about the current direction of Scottish education is that, increasingly, we value only that which is easily measured. I think that the bill attempts to allay those concerns, but I want to ask about section 2, which says that education should be

"directed to the development of the personality, talents and mental and physical abilities of the child . . . to their fullest potential."

Do you think that formulation of the objectives of education is sufficiently detailed to allow us to have improvement objectives that are qualitative as well as quantitative?

Mr Eaglesham: That is a significant question, which touches on what has been said recently. People have to be considered as individuals—no two people are alike or have the same needs from the system. Anything that runs counter to that is inimical to the best process of education that we can offer young people. My concern is that the more we put down strictures and lines in the sand, the more we will force people to conform to certain standards rather than to express themselves as individuals. It is important that the beginning of the bill refers to

"development of the personality, talents and mental and physical abilities of the child or young person to their fullest potential."

That can be achieved only if there is flexibility. Any imposition on flexibility will restrict the scope for achieving that aim.

It is sad to hear some of the discussion about

what has happened. Our purpose is to bring the best out in every young person, regardless of where they start or whether they reach a particular point on any scale. Whether the young person attains the highest possible level in a limited number of areas or in a huge number—they might outdo the Einsteins of the world—is not important. What is important is that the young person achieves their full potential. We see much that cuts across that objective—the role of HM inspectors is significant.

Mr Kelly: I do not want to depart a sentence from what David Eaglesham has said, but I will develop the point that he has made. We must guard against the centralist thought police who believe that having an education plan on an A4 sheet of paper for every child will ensure that the aims of the bill will be met. I contend that requiring an individual education plan for every child will mean that teachers will be writing plans when they should be developing children according to the estimable aims in section 2.

Mr Smith: It would be difficult to criticise the sentiment of section 2, which will be universally welcomed, but I suggest that it poses certain questions in relation to the target-setting regime that currently operates in schools, which is a very crude mechanism. Members will know of the research that we commissioned from the University of Edinburgh that was heavily critical of much of the methodology that underpins that target-setting regime. It is a simplistic aggregation of targets that is the antithesis of recognising the individual child's talents and abilities and does not sit comfortably with section 2.

Nicola Sturgeon: Do you think that the proposals in the bill on school development planning and devolved school management will effect any practical change in the way things are currently done or do they simply legislate for things that already happen?

Mr Christie: It is the view of my association that the inclusion of the section on school development planning is insulting to teachers because that is already being done satisfactorily.

Mr Patton: We must be seen to be united on this side of the table and I agree with Bob Christie. I assume that the bill is trying to change *de facto* into *de jure*. Concerns have been expressed in the consultation exercise about the matching of the national development plan to the local development plan and to the school development plan. The Executive's response to that was fairly dismissive—it did not see the difficulties. However, those difficulties are real.

As the head teacher of a school, I know that the construction of the development plan occupies the school for a considerable time. It would be

abysmal to have finally completed it and then to be told, "Here is another initiative and you must amend the plan to fit with the development plan of the local authority." It would be logistically impossible to meet that request.

Mr Mackenzie: We do not think that there is any need for a statutory duty of development planning. Such planning is well established in schools and authorities. Producing an annual development plan is a huge task, but it is valuable. We welcome the tying up of the school development plan and the local authority plan.

Consulting young people about the plan is also important and we welcome that. However, we must be careful and recognise that young people have their studies and are not perhaps fully au fait with the intricacies of planning. Although we welcome their involvement, we do so with some caution.

Mr Eaglesham: The section relating to development plans blots out the remaining ray of sunlight that shines on the system. It is an almost pointless exercise, making—as John Patton said—*de jure* that which is *de facto*. Development plans already exist and are a useful tool. However, when they become an object in themselves—as they would under the bill—they become significantly less productive and occupy time that could be used to better purpose.

I would like to comment on the delegation of school management that Nicola Sturgeon mentioned. Such delegation is pointless if we remain in the current situation. One local authority has just told its head teachers that they have to cut next year's budget—we have not even reached next year's budget. The budgeting position is so dire that head teachers have been told that they can no longer spend money. The teachers have phoned us and asked what they should do, but we do not have an answer because there is no more money. The delegation scheme becomes a farce if there is nothing left to delegate.

We must sort out how the education system is financed. That is something the Parliament must tackle. If it does not, we will simply lurch from crisis to crisis, no matter how good the offices of the committee, the Parliament and the Executive are. The delegation scheme will mean nothing if the money is not there to be properly managed.

Mr Kelly: As one who comes from that authority, I will say nothing.

Development planning is a process in a school. It is at its best when it involves a large number of staff and young people. I see a danger here: we may end up concentrating on the product, and the school plan will have to get nine out of 10, and will have to accord with the local authority plan, which gets nine out of 10, which will have to accord with

the national plan. I worry about how we can dovetail all those plans—do we use financial year cycles, school year cycles, Scottish Parliament cycles, or what? Will senior managers in schools be sitting and wasting an awful lot of time tidying up this plan and that plan? We have to keep to the idea of development planning as a process.

In my school, 36 of the 52 members of staff are involved in the formulation of the development plan. The chairman of the school board is involved in the formulation of the development plan, as is the representative of the parent-teacher association. That means that, in our school, we feel that we own what we are doing. But if we have to shovel out a product that has to be produced on 9 April or 12 December, it will not be as valuable or as valid, because it will not be ours.

Nicola Sturgeon: There is another area that I would like to ask about, but I will come back to it.

Mr Kenneth Macintosh (Eastwood) (Lab): I am sorry to chop and change, but I would like to go back to the point that Nicola asked about—the national priorities. I do not want to oversimplify what you said, but you broadly welcomed the statement in section 2, which was pretty well taken from the United Nations Convention on the Rights of the Child, but you have your doubts about target setting. Are you concerned about the national priorities, or do you welcome them? I would like to hear your views on the national priorities, which are crucial to the bill.

Mr Patton: To reiterate, our concern about target setting is that, in many schools, it is seen as little more than a number crunching exercise. It has become an arid statistical exercise. As Bob said, it does not recognise the individual needs of children, which are often ignored in the drive to meet targets and to publish standards that are in keeping with the published target for that school. Ronnie has indicated that our research has shown that there are grave concerns about it.

Target setting does happen in schools, but in a much less formal way. Teachers have always set targets. As a teacher, I have always had some idea of where I wanted a class to go and what I wanted a child to achieve by the end of the year, but rigidly formalising that to satisfy a mathematical exercise worries me. It worries me that, for example, in the section in the consultation document in which the Executive responds, it gives high priority to the view of the Audit Commission. Let us face it—the Audit Commission is the number cruncher. I would cast some doubt on the validity of its role in determining educational standards for the good of all children.

Mr Macintosh: Are you saying that there is little role for national priorities at all? This bill is all about addressing areas in which Scottish schools

are doing well or not so well.

Mr Patton: We believe that there should be a national framework laying out how standards can best be achieved; but there has to be flexibility in that framework. A handed down system of target setting may well not meet the needs of children.

Mr Macintosh: Do you feel involved in the process of target setting and setting the priorities?

Mr Patton: As a head teacher, I have to be involved.

Mr Macintosh: If you think that priorities are important, should teachers have a greater role in setting them?

Mr Patton: There has to be flexibility to allow teachers to determine standards and set targets.

10:15

Mr Macintosh: Does the problem lie with the perception that setting targets is completely wrong, or with the way targets are set and measured?

Mr Patton: We feel that the exercise has been allowed to develop a momentum that excludes the individuality of the teacher's professionalism.

Mr Smith: We certainly do not oppose the concept of setting targets or priorities, but the particular regime to which schools are currently subject is unsatisfactory. Although the target-setting document uses friendly phrases such as "schools will set their targets", the reality is rather different. Schools are given a formula, although there is no central diktat, that says that a school must follow the formula to the letter. Those that had the temerity to depart from it were interrogated about why they did so.

Furthermore, the target-setting regime is very narrow. It focuses on very limited areas of the curriculum and leads to distortions, because attention will be focused on areas on which people will be judged, with the risk that other parts of the curriculum will be neglected. There must be very strong pressures on teachers and head teachers—happily, I am not one—to adopt strategies that will increase the number of pupils passing at such and such a level. In other words, teachers will focus on pupils who are on or near the threshold, which is tough luck for pupils who are well off the mark, because they will not be brought to the point where they will make a difference to a target. That means that the most disadvantaged pupils might suffer further exclusion.

Mr Kelly: I want to develop Mr Smith's point a wee bit. Our school works particularly hard on raising attainment, and we have found that the target-setting exercise is valid in fourth and fifth

year, when the information on which we base targets is valid. However, the national testing apparatus has not provided such information lower down the school.

As Ronnie Smith said, we concentrate on pushing youngsters from standard grade 3 to standard grade 2, or from standard grade 5 to standard grade 4—and the system works. However, by that time, we know what pupils are capable of, and any pressure that might be put on a child is based on statistically valid information that comes from the number crunchers of the audit unit. The audit unit is very valuable because it does not base its information on projections, but on actual performance of actual kids in the previous years' exams. For example, the number crunchers might say that 98 per cent of the pupils who got a band 1 in standard grade French should pass their higher French. That is a valid measure that we can work with.

After we receive that information, we meet all our principal teachers and ask whether they are above the national comparison factor, and if not, whether there is a reason for that. We also examine relative ratings within the school. Not every department in the school can be top of its relative rating, and we have to find out why. That is where people can feel that they own some of the target-setting exercise. However, in primary schools and at the lower end of secondary schools, teachers are not comfortable with the target-setting exercise because they are not involved in it.

Mr Mackenzie: What is critical about target setting is ownership. The senior school is an excellent example of target setting. There, teachers sit down with youngsters and discuss, set, agree and review targets. The trouble with trying to set targets across the school is that targets are often imposed from outside. There is no negotiation and, as a result, no ownership. If there is no ownership, targets do not work.

Mr Eaglesham: I want to reinforce what Gordon said with a particular example. A new head teacher came to a school and noticed that the number of no awards at standard grade was unacceptable. In the first two or three years of his headship, he spent a lot of time dealing with that problem, literally knocking on doors and bringing kids who were not attending back into school. As a result, the number of no awards dropped dramatically.

Then, target setting was introduced and an arbitrary target figure was bundled on top of the head's own targets. Other schools might not have done what he did in the first place, yet the school was penalised despite the huge effort—personal and collective—of the staff and the young people.

The arbitrary nature of targets pulls the carpet from under people's feet. The figures lack credibility. No one recognised the achievement that had been made in that school, which was just told to add 10 per cent to the figure that it had set itself. There was no sense of ownership of the targets.

The same thing happens in schools all the time. Teachers are constantly setting targets, but there is a danger that people work to the norm and say that they have done enough to meet the targets in an area and, therefore, do not take young people any further. If targets are reached, they are left at that level. People think that that is all they need to do, never mind the enrichment that could be given to pupils who could go well beyond the targets. We should set another target and try to get another spinning plate up to the same pace as the first plate.

It is a crime against young people if we do not push every individual, as it says in section 2, to achieve the ultimate that they can. In some cases, target setting could destroy that.

The Convener: I am anxious to move the discussion on, but I will let Cathy Peattie in.

Cathy Peattie: I want to change the subject.

The Convener: In that case, I will let Jamie Stone in, as I think he has a question on this subject.

Mr Jamie Stone (Caithness, Sutherland and Easter Ross) (LD): I have a quick question for everyone. We have heard the sentiments. The Parliament will have to frame legislation. Can we get down to the nitty-gritty? Given what Kenny said, how would you like the bill to be amended? I think that that is a fair question.

The Convener: I think it is a very relevant question, but I am not sure how long it will take for the people here to respond to it.

Mr Stone: Perhaps there is a collective view that John Patton or Ronnie Smith could tell us about.

Mr Patton: I do not know about discrete amendments to the bill, but the issue of resourcing, which David Eaglesham raised, defines the context in which the committee and the Scottish Parliament must consider the bill. Members will think that a trade union would say that, but whether that is the case or not, we believe that resourcing is fundamental to sustaining quality in schools and raising standards.

There is a lot of catching up to be done in resources for education in Scotland. The restraints on pay and resources introduced by Westminster as far back as 1979, which continue, have had a

dire effect on the ability of schools to sustain quality and raise standards. We have heard that said about some authorities this year.

The committee and MSPs must recognise that the quality of the education service is quite clearly linked to the amount of money the Executive is prepared to spend. We recognise that the Executive, through the excellence fund and the comprehensive spending review, has tried to address the issue, but there is a long way to go before investment catches up with that of our European partners, not to mention of our global competitors. The cash starvation of the past 20 years has had and continues to have a serious effect on schools.

I hope that that begins to address Jamie Stone's question. When the committee processes the bill, that is the context in which decisions must be made. Members must decide whether they are prepared to sustain a piecemeal education system in Scotland, which is starved of resources, or whether they are prepared to face the real costs of developing and sustaining education.

Immediate issues must be addressed, such as the modernisation of resources, particularly in relation to microtechnology resources, which change month by month in industry and which schools have to maintain over a period of 10 or 20 years. There are also basic questions on the fabric of buildings, on professional and curriculum development—which are essential in raising and maintaining standards—and on the provision of specialist staff.

Members will be aware that several councils have indicated already in this budget round that they are facing severe difficulties and that there will possibly—probably—be cuts in education. Should those cuts threaten jobs, we could be faced with industrial action by teachers before this bill has gone through Parliament and, indeed, before the McCrone committee of inquiry has reported.

That is not to say that industrial action will be about pay or conditions of service—it will be about sustaining the quality of the education service, which this bill is designed to enhance. That is the context, Jamie, in which this bill must be processed through the Scottish Parliament.

Mr Stone: I thank you for that answer, but I did not ask about the context of the bill. I am giving you an opportunity to propose detailed amendments to the bill. If you have not got time for that today, I recommend that you put your views in writing to the committee.

The Convener: We are trying to discuss the principles of the bill. Jamie is right—when it comes down to it, we will consider detailed amendments to the bill, but this is probably not the best time to

have that discussion. I wish to move on to a discussion on the SJNC.

Mr Stone: I appreciate that, convener, but this is to do with the principles of the bill.

Cathy Peattie: I have a couple of questions about the GTC—we spoke to witnesses from the GTC last week—although initially I would like to hear views about the changing role of the GTC, as proposed by the bill.

The Convener: Cathy, you say that you have a couple of questions. Please ask them now so that we can keep the discussion snappy.

Cathy Peattie: Okay.

Last week, the witnesses from the GTC expressed the view that it should be allowed to come in earlier to deal with problems in schools—although that issue is not necessarily addressed in the bill. As I still see myself as a trade unionist, that suggestion hit panic buttons for me, given that the role of the GTC, trade unions and, indeed, local authorities is to ensure that quality assurance is in place. What is the witnesses' view of that?

Mr Smith: While our clear view is that teachers who are not fit to practise should be removed, there remains a question about the means by which that should be done. It is our view that the GTC has the responsibility at the outset of a teacher's career to attest that that teacher is fit to practise. The GTC signs them off at the point of entry into the profession and again after two years' probation.

Questions about the continuing fitness of a teacher to practise should properly be directed at the GTC as the professional regulatory body. We hope that the GTC, in reaching a determination on such questions, will consider carefully the various measures and steps that have been taken before a situation gets to that point. It should not be possible for someone who thinks a teacher is not up to it just to blow the whistle and say, "Off you go to the GTC." That would be quite wrong.

The GTC needs to be satisfied that genuine and substantial efforts have been made to put right any perceived deficiency before a referral is made. However, we believe that the GTC should have the primary responsibility for determining a teacher's fitness to teach.

Cathy Peattie: I would be interested to hear other views on that subject.

Nicola Sturgeon: I am anxious to be absolutely clear about what is being said. Last week, the GTC welcomed the fact that the bill would extend its remit into professional competence, but expressed concern that its role would still be dependent on local authorities first taking action against teachers who were not considered to be

professionally competent. The GTC seemed to put forward the view that it would welcome a more proactive role, so that it could become involved earlier in the process and could act independently of local authorities. If, for example, a local authority decided not to take action against a teacher following a complaint by a member of the public, the GTC could investigate the circumstances. Obviously, there would be built-in safeguards against vexatious or frivolous complaints. Would witnesses welcome such a role for the GTC?

10:30

Mr Eaglesham: The Scottish Secondary Teachers Association said in response to the consultation that it would welcome such a role for the GTC. In effect, we are dealing with national standards here. What is an unacceptable level of professional competence in Fife should be an unacceptable level in the Highlands or anywhere else. We should ensure that those who exercise judgment do so nationally. The GTC is best positioned to do that because, as Ronnie Smith says, it exercises power nationally in relation to entry to the profession, registration and conduct. There is no reason to suspect that competence would be treated differently. If matters were dealt with by a body that had an independent reputation, the intrusion of personality into disputes between teachers and schools or local authorities would be avoided.

Nicola Sturgeon talked about the detail of how referrals would be made. We could not reach the stage where people nipped into the GTC to denounce someone. There would have to be a proper formula. None the less, we think that the GTC should have an investigatory role because it is a respected body.

Mr Christie: We agree entirely with David Eaglesham. There is not a huge problem here.

Mr Kelly: I wish to add a final wee caveat. We should acknowledge the fact that the GTC is not the employer of any teacher. I think that your question, Ms Sturgeon, was whether the GTC could become involved in cases in which the local authority had not first been involved. That way madness lies.

Nicola Sturgeon: I will clarify my question. For example, there might be a situation where a local authority takes no action against a teacher in response to a complaint from a group of parents because the authority believes that the teacher is doing a good job. Should those parents be able to take their complaint to the GTC so that it can—without the knowledge of, but certainly independently of, the local authority—investigate the matter? Last week, the GTC witnesses

expressed the concern that, under the provisions of the bill, the GTC could only act if the local authority had acted first. There was some concern that local authorities have not always dealt with these problems effectively.

Mr Kelly: In answer to your direct question, I do not think that the GTC should have that locus.

Mr Patton: Such a facility for the investigation of complaints exists, although it is rarely used. The procedure is filtered by the GTC to ensure that the reports that reach it are not frivolous or vexatious.

Mr Smith: Part of the problem is that, under the current proposals, the GTC can only become involved in cases in which the authority has taken the decision to dismiss. The authority must not just act first, but act in a particular way. Only then can the matter be reported to the GTC. I suggest that it should be possible to refer the matter to the GTC before we reach the point of dismissal.

Nicola Sturgeon asked whether anybody should be able to say that someone is an incompetent teacher and report them directly to the GTC. I think that that would have to be approached with great care, as it is hard to legislate against frivolous and vexatious complaints. A mechanism already exists with respect to professional misconduct. There is a facility—not widely known about and not widely used—for individuals to report a teacher to the GTC, but there is also a filter mechanism. The complaint has to be vetted by justices of the peace or other people of public standing before it can be submitted to the GTC.

Nicola Sturgeon: I do not want to labour this point, as there are other matters that we want to move on to, but it strikes me that the tenor of the bill is to move the GTC towards having the status of other professional organisations such as the Law Society and the General Medical Council. In the case of those organisations, individuals are able to make complaints against members of the profession, which are dealt with. The Law Society and the GMC seem to have mechanisms for filtering out vexatious complaints that work quite well. I am trying to establish whether there is a contradiction between, on the one hand, trying to turn the GTC into a professional body, and on the other hand, saying that we must ensure that teachers are protected against that body.

Mr Kelly: A fine distinction must be drawn between the GTC and the bodies that Nicola Sturgeon mentioned. Lawyers who subscribe to the Law Society and general practitioners who subscribe to the GMC are, to all intents and purposes, self-employed persons. We are talking about teachers who are the employees of local authorities. That distinction must be borne in mind.

Nicola Sturgeon: Some lawyers are employees of local authorities, but they are still subject to the

Law Society. I am not sure that the distinction is as clear as you suggest.

The Convener: If there are no further questions, we will move on to discuss the SJNC.

Mr Patton: I would like to make a further point about the GTC. We are concerned about the new structure that is proposed and see little point in the allocation of constituencies. People are registered with the GTC by teaching qualification. They are registered as primary teachers, secondary teachers or teachers working in further education. Those are the constituencies that they are on the council to represent.

I served on the General Teaching Council from 1991 to 1995, when the electorate decided that I should not return. During that time, there was a balance of representation. I have in front of me the council statistics from 1983 to the present. On the fifth council, for example, there were eight head teachers; on the sixth council there were five head teachers; on the seventh council there were eight head teachers; on the eighth council there were eight head teachers; and on the ninth council there are five head teachers. The current electoral process allows for head teachers to be elected. We see no reason for the creation of special constituencies. The system becomes more cumbersome as one moves down into the nursery sector and pre-school education, because teaching qualifications in those sectors are not recognised by the GTC. As I said earlier, only three types of qualification are recognised.

We believe that the General Teaching Council will find it extremely difficult to operate this system. In the case of schools that are both secondary and primary, will the head teacher stand as a primary head teacher or will he stand as a secondary head teacher? There must be scope for amendment, to ensure that the General Teaching Council is practical to operate. We should not place additional burdens on its electoral system. We also see little point in terminating the current council, which has just been elected. That would place an additional and unnecessary expense on the education system and the GTC.

The Convener: Would any of the other witnesses like to comment?

Mr Eaglesham: I support strongly what John Patton said. The proposed structure is unnecessarily divisive to a system that is working well. I say that conscious of the fact that we are not the largest teachers union, and therefore are not likely to have a huge proportion of the representation. Some of our successful candidates have been head teachers. That is in the nature of the process, but there is a danger of creating a divide that does not currently exist.

John's contribution was helpful in pointing out

that there is no anti-head teacher bias in the GTC. The GTC is held in respect, and as a result of that, those who become candidates for it are, of necessity, people who command respect in the profession, and many of them are head teachers. To introduce an unnecessary division in primary and secondary schools is pointless, and we want to see that proposal amended.

Mr Christie: You will not be surprised to learn that we strongly support what has just been said. Teachers are teachers. The General Teaching Council exists to control the profession. It should not matter where you are in the system; the GTC should be a body for you.

Mr Kelly: I endorse those comments. If I have a quibble with representation on the GTC, it is that the number of the Secretary of State's appointees has increased. We have been talking about ownership. If the GTC is to be seen to be owned by teachers, it should not be stratified and subdivided into the head teachers bit and the classroom teachers bit, because that will not help us.

The Convener: Does anyone wish to add anything? Mr Milligan?

Mr Milligan: No.

The Convener: There is a proposal to abolish the SJNC, on which many comments have been made. I am interested in comments that support the retention of the SJNC, but also in those that address alternatives that can offer teachers the representation that they are seeking. We will begin with Mr Patton, and I will bring in anyone else who wishes to comment.

Mr Patton: I had hoped that you would start with the general secretary, because the SJNC is his speciality.

The Convener: I am happy to do that.

Mr Patton: I will defer to Ronnie.

Mr Smith: I would like that to be placed on the record, because it is the first time that the president of the EIS has deferred to the general secretary.

I presume that diverse views will be held on this matter by the people around this table. It is no secret that the EIS strongly supports the retention of the SJNC. We do not accept that it has performed anything like as badly as some commentators seek to portray. We regret very much that the McCrone committee of inquiry was set up with, in a sense, its hands tied. As far as we can see, it is not allowed to consider the merits or demerits of the SJNC; it is only allowed to address alternatives to it.

It is open to the Parliament when it processes this bill to decide whether it wishes to support the

clause. However, we believe that the SJNC should be retained, principally because it guarantees a consistency of standard across the country and provides a tripartite forum in which the main players can participate: the organisations representing the employees, local authority employers—although we all know that, to a large extent, what local authorities are able to do in respect of teachers' pay and conditions is heavily influenced by the funding that is available from central Government—and the Executive.

The SJNC has been criticised in the past few months because of the failure to reach an agreement during extended negotiations. I would have thought that a failure to agree was an honourable outcome to a negotiation. It is not unique to the SJNC that there is a failure to agree. It is necessary to get behind the situation, to determine why there was a failure to agree: it is not a fault in the structure. Nor is the fact that teachers' pay and conditions are as unsatisfactory as they are down to the structure.

10:45

Our evidence to the McCrone committee includes a table in which we compare the levels of pay settlement that have been secured by teachers in England and Wales, through a pay review body mechanism, and those secured by other local authority workers in Scotland, through voluntary national collective bargaining. Give or take a shilling or two, there is not much difference between the levels of settlement in those three groups, which have three different sets of machinery. It is false to lay at the door of the machinery the responsibility for the kind of difficulties that we have experienced recently.

We support the SJNC and the principle of national collective bargaining. We do not want individual authorities to peel off and do their own thing, with those that have the resources offering better deals than those that are more strapped for cash. Scotland is far too small a country to contemplate that possibility. We certainly do not want local bargaining taking the place of the SJNC. Please learn the lessons of history, by considering what happened to further education colleges when they came out of an SJNC for further education. They had a brief period of national voluntary bargaining, then reverted to institution-by-institution bargaining. That sector is now one of the most troubled in the country.

Mr Milligan: At this point I am forced to introduce a virus into what has been singular unanimity at this end of the room. We find ourselves at one with the Scottish Executive's view that the SJNC has failed to deliver for teachers, schools and the system as a whole. Our view is that the quicker its statutory basis is

removed, the better. We are critically interested in what will fill its place, and, in our submission to the McCrone inquiry, we have made it known that we would not find an independent pay review body unhelpful.

The Convener: So you would find an independent pay review body helpful?

Mr Milligan: That is another way of putting it, convener.

Mr Eaglesham: We support entirely what Ronnie Smith has said about the SJNC. The fact that the SJNC has not been able to achieve more is not attributable to the body itself, but to the circumstances in which that body has operated. Ronnie's comparison is therefore valid. From the figures, nothing else could have been expected to result from that situation.

In our evidence to the McCrone committee, we have said that we support the retention of the SJNC or a similar body that would have the same function. However, we do not rule out changes in the operation of that body, as the body is probably not as effective and efficient in delivering things as it could be. Given the overall parameters that I set a moment ago, and the general governmental framework in which it operates, there are limitations to what the SJNC can deliver, but we do not want a move toward a pay review body.

We do not want a move towards decentralised pay and conditions bargaining, as there is a danger that such benefits as exist in the education system could be lost if we end up in a free-for-all, competing for teachers. Those authorities that have greater resources because their tax base rises will suddenly be able to pay better wages and attract teachers in what is potentially a significant shortage situation. Other authorities will be denuded of their teaching resources.

In some areas of Scotland, authorities are already struggling to find teachers to undertake their statutory functions. That situation would be exacerbated if we moved towards a local bargaining procedure in which bounties can be offered to teach in particular areas. That would be unacceptable to us, and the demise of the SJNC would potentially hasten that. We therefore support the SJNC. In answer to Jamie Stone's earlier question, if an amendment must be made to the bill, it should be to remove section 51.

Mr Christie: I share the views that have been expressed about what happened last year within the SJNC. I say to Jamie Stone that the deadline for submissions to the McCrone committee is this coming Friday. If he is looking for ideas for amendments, I am sure that all the organisations here will provide them in their submissions.

Our view, which we have held for some time, is

what is known nowadays as the third way. We favour an independent pay review body, not just any old pay review body and certainly nothing like the school teachers review body south of the border.

In our submission to McCrone we will call not necessarily for the retention of the SJNC, but for the establishment of a similar national forum for the determination of conditions of service. We have no difficulty with teachers' conditions of service being handled in that way. Speaking as a representative of an organisation that does not involve its members in strike action, I should point out that it is the view of my organisation that the existence of the SJNC has averted strike action in recent years. We are fearful of going down a route that would result in an imposed settlement by the Government and might precipitate strike action.

Mr Mackenzie: The Headteachers Association of Scotland supports the Executive in the removal of the SJNC. We do not believe that the SJNC has been effective. I share the view of my colleagues that decentralisation of pay bargaining is unacceptable and that there should be a national independent pay review body.

Mr Patton: The response to the consultation document is redolent with the theme of partnership. We see the SJNC as a precursor of partnership—it was ahead of its time. There was a genuine partnership between the teachers, the local authorities and the third party, the Government, in the form of the Scottish Office or the Scottish Executive.

My colleagues have taken pains to express support for a pay review body. Robert Christie has said, slightly disingenuously, that he does not want the body to be like the one that operates south of the border. We must all consider what happens in a pay review situation. Submissions are made by local authorities and teachers organisations. No weighting is given to the submissions made by teachers organisations. The EIS represents more than 80 per cent of teachers, from nursery staff through to university lecturers. Mr Mackenzie represents around 200 people. I am surprised that he is opposed to the SJNC and in support of the Executive's desire to remove it, since his organisation has been anxious to join the SJNC for many years. However, a change of mind is always welcome.

The pay review body gives awesome power to a secretary of state. It receives submissions and makes a recommendation to the secretary of state. Kenneth Baker said that the power that he had was awesome as it allowed him to tear up the report of the independent review body and, by statute, impose rulings on pay and conditions on teachers and local authorities. We have seen pay review bodies in operation for nurses and we have

seen the disharmony in the national health service that has arisen through the staging introduced by the secretary of state, against the wishes of the independent pay review body. We want to make it clear that we would be opposed to the introduction of a pay review body in Scotland.

Nicola Sturgeon: It has been interesting to hear the range of views on the SJNC. Clearly, it is for the McCrone committee to determine what will replace the SJNC. Part of the function of the Education, Culture and Sport Committee at this stage of the bill is to comment on the consultation process that preceded its publication and to find out whether it was sufficient and adequate. The proposal to abolish the statutory basis of the SJNC was not included in the original consultation document. Regardless of your views on the SJNC, do you think that the consultation was sufficient?

The Convener: Mr Kelly, I apologise for missing you out earlier. Perhaps you could answer Nicola Sturgeon's question.

Mr Kelly: People were well aware that the Government was considering abolishing the SJNC, although it had not been proposed formally.

As an association that has advocated an independent review body for a long time, we are not sad to see the demise of the SJNC machinery. There has been long-standing opposition to the SJNC, which had nothing to do with the failure of the negotiations over the millennium review. As an association that has taken part in the STRB south of the border, we are well aware of many of its shortcomings. We would like to think that we could help a successor Scottish framework to avoid those errors. However, I must echo comments made by colleagues who are in favour of the retention of the SJNC. Whatever body replaces the SJNC, it must have a statutory footing. Education authorities have a statutory duty to deliver. Therefore there must be statutory mechanisms to reflect that, in terms of both national pay negotiation and national conditions of service.

We do not need to go into too much history, but our main concern about the SJNC was the role of what has been called the third partner in those negotiations. Central Government was the *eminence grise*, which sat at the back, determining the rate support grant, the support settlement and all the financial parameters within which the SJNC discussions were hamstrung. Many of the associations have their own views on the efficacy of the SJNC, but we think that the teachers have only ever had a satisfactory pay rise when the SJNC has run into the sand and other mechanisms come into play, such as the Houghton committee, the Clegg inquiry, and even the Main inquiry, which certainly did not do us much good.

The financial restrictions within which education operates have been mentioned several times today. At the time of the Howie committee, we heard a great deal about how good the Danish education service was. At that time, Denmark spent 6.9 per cent of its gross domestic product on education, while the UK was spending 4.7 per cent. We have been told about the additional resources, which are very welcome, for education funding for the coming year. However, it is indicative of the unease with which the Executive views the failure of many local authorities to disburse their grant-aided expenditure levels properly that that money has been ring-fenced to ensure that it is spent on education.

I would like to draw the committee's attention to my favourite book, the 1986 report, "Education 10-14 in Scotland". The 10 to 14 initiative is the only initiative in the history of Scottish education that was costed before its implementation. It was going to cost £186 million over 11 years, according to 1986 prices. It is the only education initiative that was never implemented.

11:00

Mr Smith: I would like to pick up on Nicola Sturgeon's point about the consultation, which we think has been defective and inadequate. It came out separately from and later than the main part of the bill. Teachers organisations were consulted, but it was a limited circle of consultation. We were advised that the point of the consultation was not to determine whether the principle was good or bad, but merely whether the technical detail of the proposed section was correct. There has been no opportunity to debate the merits or demerits of the SJNC in principle. That is a major omission.

The policy memorandum that is attached to the bill is thin and weak on the matter. It is made clear that there was a ministerial decision, which we learned about on television 30 minutes after EIS announced its ballot result, that the SJNC was to go. That has been a presumption throughout. I referred earlier to its being a presumption that constrains the activities of the McCrone committee. There has not been a proper and full debate on it.

That presumption is based on a misapprehension. I see from the policy statement that the SJNC is criticised for failing to address adequately present management structures, which do not fall within the remit of the SJNC, nor have they ever done. There is a failure to distinguish between the SJNC and its statutory basis.

When this matter was discussed in Parliament, the minister seemed to take great pains to stress that what he was removing was the statutory basis—as if that were something different from

removing the SJNC itself. We all know that taking away the statutory basis would remove the SJNC, but it is not clear, even in the memorandum, whether the Executive's concern is with the SJNC per se or whether it results from the SJNC's being a creature of statute. That is an important point that needs more careful investigation.

Mr Eaglesham: We had an initial statement from the minister, which appeared to say that the problem was with the statutory function of the SJNC and that that function properly belonged with the Parliament. One can understand that. The McCrone committee was then set up to examine teachers' pay and conditions, including negotiating machinery, and there was then an amendment to the bill that would abolish the SJNC.

Those three events do not fit into a logical sequential pattern; there is a randomness about it that is very strange. Ronnie Smith is right to say that there is a fundamental lack of philosophy underpinning what is happening. To cut across the work of the McCrone committee in that way is singularly unhelpful. I understand the time scale of the bill and I know that this may be the only convenient vehicle for doing it. However, for McCrone and his colleagues to work away hard on things only to be told that any decisions are to be predicated on an assumption that was not there—or was not stated—when they started their work is fundamentally wrong. The withdrawal of that section from the bill would be helpful and would allow McCrone to report before such action as may be appropriate is taken.

The Convener: I am conscious of the time. Are there any other quick questions from members of the committee?

Ian Jenkins: You are frowning at me, convener.

I would like to ask a final question about the powers of the Minister for Children and Education. Section 4, on the establishment of national priorities, states:

"From time to time the Scottish Ministers, after consulting the education authorities and giving such persons as appear to the Scottish Ministers to have an interest in the matter an opportunity to make their views known . . . shall define and publish priorities in educational objectives for school education."

What sort of things, apart from literacy and numeracy, do you think should be in such packages, and who should be consulted?

The Convener: I ask you to make your replies brief—if there are any replies.

Mr Smith: There are a number of passages in the bill in which we would like some strengthening of the locus of teachers in defining those priorities. There are copious references to certain other, perfectly valid, interest groups having a say, but

quite frequently references to teachers are omitted. We strongly believe that whatever ambition, target, vision or objective is established as a priority, the delivery happens in the classroom, where there is vital interaction between teachers and pupils. I view those two groups as the most important, being at the apex, and the rest as a support act. I would like to think that teachers would be central to any consultation on national priorities.

The danger is in a top-down, cascading structure in which things are fixed over there and up there and percolate down. At the level of the school development plan, that means that there is a whole lot of baggage already hanging around one's neck, as it were.

Ian Jenkins: That brings us back to what we were saying earlier about the role of the inspectorate and the balance of consultation and ownership.

Mr Smith: Yes.

The Convener: I thank members for those questions and I thank the witnesses for their answers.

11:05

Meeting adjourned.

11:12

On resuming—

The Convener: I welcome the representatives of the Convention of Scottish Local Authorities to this morning's meeting. We will let you make a brief statement, then there will be the opportunity for questions.

I ask Councillor Law to introduce the rest of her team and then to make her statement.

Councillor Helen Law (Convention of Scottish Local Authorities): I am delighted to be here this morning and to have this opportunity to help the committee in its consideration of the Standards in Scotland's Schools etc Bill. I would like to introduce Gordon Jeyes, director of children's services in Stirling, and Keir Bloomer, who is executive director of education and community services in Clackmannanshire. They are office bearers with the Association of Directors of Education in Scotland—general secretary and president respectively.

Generally, COSLA welcomes the proposed bill. I know that I and the other education chairs have been particularly pleased with the process that led up to the bill's publication, and we look forward to our participation and to achieving a positive outcome. There is still much work to be done on

the bill, and I hope that there will be a number of amendments, and participation from those with an interest in the subject.

COSLA looks forward to the open debate, which will, I hope, lead to constructive amendments. I also hope that, following the bill and the outcome of the McCrone committee's deliberations, there will be a period of stability for teachers and genuine improvements in education in Scotland. I hope that the outcome is a positive future.

The Convener: Thank you. Members will now have the opportunity to ask questions.

Mr Macintosh: The bill gives the context of education in Scottish schools. COSLA welcomed section 2, part of which states:

"to secure that the education is directed to the development of the personality, talents and mental and physical abilities of the child."

COSLA's submission goes on to say that it also liked what was in the consultation document, especially elements such as ensuring that children

"fully understand and are able to play their parts as citizens of a modern democratic society."

Is COSLA suggesting that we should have both what was in the consultation and what is in the bill?

Gordon Jeyes (Convention of Scottish Local Authorities): No. We believe that the spirit of what section 2 is trying to achieve is correct, but its wording could lead to difficulties.

This relates to the earlier discussion about ensuring that we focus on the achievement of the whole child—not just the core skills, important as those are. A difficulty with the phrasing in the bill is how that would relate to national priorities. I struggle to think what the national priorities might be on the development of personality; perhaps Fred MacAulay could be a special adviser. We think that the wording used by the Executive in the consultation document was more helpful. If we set targets for pupil involvement and parental involvement, which lead to the skills for citizenship, that will provide a better framework. The bill has been welcomed because it is about clarity of expectation. We believe that the wording in the consultation document was clearer than that in the bill.

Keir Bloomer (Convention of Scottish Local Authorities): COSLA would like those objectives of education to apply to children however they are educated, but the present section relates only to those who are educated by local authorities. The providers of independent education and those who educate their children at home can disregard those objectives.

COSLA also wanted the rights of ministers to set

national priorities to be embedded within the statement of educational objectives contained in the earlier section, so that ministers were not free to set any objectives that might occur to them but were required to set objectives in line with the purpose of education as stated in the legislation.

Mr Macintosh: Do you want the bill to be more prescriptive on the national priorities? Do you want the national priorities to be included in the legislation?

Keir Bloomer: No—I am sorry if what I said was not clear. I wanted to convey the idea that ministers could only establish priorities that were consistent with the general objectives of the education service, so they would have to refer back to section 2. I am not saying that the objectives themselves should be legislated for separately.

Mr Macintosh: Do you think that section 2 is too general?

Keir Bloomer: I agree with the comments made by Gordon Jeyes.

Cathy Peattie: I will ask about the HMI inspection of education authorities, which has received a mixed response. Representatives from some education authorities, who attended the committee a few weeks ago, were positive about the approach. I am interested in COSLA's view. I would also be interested in Helen Law's view, as she is convener of a local authority education department.

Councillor Law: Schools often feel apprehensive when an inspection is pending. However, once the inspection is done and dusted, schools feel a sense of pride because their accomplishments have been highlighted. There are positive and negative aspects in all inspection reports. People find that it is a worthwhile experience and they celebrate their successes. A school in my area was delighted to let parents know that it had received a letter of commendation.

It is true that the inspectorate needs to broaden its base and its expertise. It must look further than the narrow education issues that it often addresses. "How good is our school?" is a good starting point for self-evaluation.

COSLA does not support a centralised structure. We appreciated the suggestion of policy changes that would allow for flexibility in schools—flexibility that takes account of the local area, local circumstances and children's needs. The needs of children and the provision of a high-quality education service for them must be at the heart of everything that we do. We must be careful, however. It will be a wee while before we see many of the benefits of many of the new initiatives.

Gordon Jeyes: COSLA would welcome the inspection of local authorities, within the envisaged framework. I have already said that first, there must be clarity of expectation and secondly, there must be scope for flexibility of response. If authorities are looking for flexibility, there is clearly a role for external accountability—authorities must be measured by their success. That harks back to national priorities and the need to ensure that they are neither too vaguely nor too precisely defined. The agenda must not be too narrow.

It is necessary to tease out and make clear exactly what is being inspected. Local authorities have a range of duties and education should be in the control of local authorities because of the way in which social inclusion can be promoted and the way in which education sits in community planning. Education can make a contribution to local democracy. Pupils are taught about citizenship and their rights and responsibilities and are given a chance to participate.

There is, increasingly, good co-ordination of education with services such as social work, health and housing, but it seems that what will be inspected is solely an authority's contribution to schools' improvement or attainment. Even that would be satisfactory, provided that the focus was on outcomes and not merely on establishing whether the latest fashionable advice was being complied with.

Cathy Peattie: You have, in a sense, answered my second question. Do you think that HMI has either the capacity or the resources to examine the wider agendas of social inclusion, active citizenship and the other areas in which the education service has been involved since the development of community schools and so on? There is a fear that fairly rigid performance indicators will be used for inspections. What is COSLA's view?

Gordon Jeyes: If the Government wants successful new community schools from whose diversity it can learn, and where the emphasis is on working with all those who have children's interests at heart, judgment of the schools must involve health professionals, social workers, community services and so on. We must ensure that new community schools concentrate on core skills and that they reflect community values. We must improve on and broaden local accountability. There is more and more good practice, and it is exciting that we can learn from the ways in which such models are being developed throughout Scotland to meet local needs.

Nicola Sturgeon: I would like to develop a point about HMI. If I remember correctly, COSLA's submission during the consultation process expressed some of the concerns that we heard from the teaching unions about the overarching

role of HMI. Would you expand on that and comment on whether you feel that there is any scope in the bill for addressing that problem, if you see it as such?

Councillor Law: Gordon Jeyes has already indicated that we would be looking for HMI not simply to have a compliance role, but to measure genuine success in what schools are doing and to look at the overall work of the school and at the whole child. That is how we must move forward.

Keir Bloomer: COSLA certainly shares one of the main concerns that the teachers' trade unions expressed, that the inspectorate's current mode of operation confuses quality assurance with policy formulation. That confusion has the potential to compromise seriously the inspectorate's objectivity.

I know that both Douglas Osler and, on occasion, the minister have attempted to deny that that is the case, but they have done so by putting forward a rather disingenuous definition of policy formulation. They referred only to matters at the level of statute or circular from the Scottish Executive education department, while the reality is that HMI issues a great many documents that are interpreted by schools and throughout the service as policy.

In the past couple of weeks, HMI has issued three such documents that deal with science, writing and mathematics. The guidance in those documents will be used as the basis for a kind of compliance monitoring when inspectors go into schools. If that is not policy making, I am not sure what is and, if we accept policy making in that sense, it is perfectly clear that the inspectorate operates as both a policy maker and a quality assurer. Not only does that compromise the inspectorate's objectivity, but it means that the whole service loses the opportunity for objective comment on the effectiveness or otherwise of the policies that are being put into practice. We will never get objectivity so long as the authors of policy are then the commentators on it.

Gordon Jeyes: The example of modern languages has already been given. We could also observe that the leadership of higher still, from day one, has been with one of HMI's senior chief inspectors. We welcome Mr Osler's pronouncements that concentration is now on measures of effectiveness, but we share the unions' concerns that such pronouncements do not always percolate down.

We welcome some of the changes in inspection. There is a need for harder evidence, and we must support and develop our teachers so that the purpose of some aspects of teaching and learning is clearer. Society is looking for greater rigour, and that is to be welcomed. We need to put our own

house in order, but we also need sufficient clarity and consistency from the inspectorate.

We welcome the fact there will be a code of practice for local authorities, but we note that the excellent consultation document rejects the notion of a code of practice for school inspections. HMI is open in many aspects, but one example on which it is not transparent is that schools are invited to comment on the strains and pressures of the inspection, but that feedback is never made public.

Mr Stone: When HMI representatives came to speak to us, they hinted that they had almost a message-bearing function—from the minister, or the Parliament, to authorities. Would not that undermine COSLA's role in some way?

Keir Bloomer: I noticed in the *Official Report* of that meeting that Mr Osler denied that it was his function to be a bearer of messages in that sense. He was right to do so.

As Mr Osler made clear, the inspectorate's primary function is to make judgments on the quality of provision that is offered to children in schools. It is not, or should not be, to advance a particular policy line, whether it comes from the inspectorate or from the minister. It is our contention that the inspectorate has in some respects overstepped or been invited to overstep that line over the past decade or so. We would not want to see its role extended to that of official policy bearer from ministers to individual schools.

11:30

Mr Stone: When pushed, Mr Osler admitted that, if necessary, he would take back a message from an authority on, for example, rurality. Are you satisfied that that does not compromise COSLA's role in any way?

Gordon Jeyes: COSLA's view is quite clear. We would prefer there to be an independent inspectorate and there were other sources of policy at the level that Keir Bloomer described, which would provide schools with detailed educational advice. When we have policy failures of the sort that there have been in modern languages in Scotland in the past 10 years, the report should not just tell teachers that they did a number of things wrongly, but point out that they were badly advised. Why did the report not say that? It did not say that because it was written by the people who had advised teachers badly.

Nicola Sturgeon: I want to talk about the GTC; I think that you were all present during the previous discussion. The bill seeks to extend the remit of the GTC into the area of teacher professional competence. Last week we heard from the GTC that it welcomed that but did not think that it went far enough. This morning the teaching unions

expressed some sympathy for that view. I would like to hear COSLA's view on the GTC in general, and two matters in particular. First, do you agree that the GTC should have a role in disputes over professional competence much earlier in the process—certainly before local authorities reach the point of dismissing a teacher? Secondly, how would you view the GTC's having a role independent of local authorities, so that if local authorities did not take action against a teacher, the GTC could, if it thought that there was cause for it, investigate whether that teacher was professionally competent?

Councillor Law: I should declare an interest, as I am a member of the GTC. I will let Gordon Jeyes answer the question.

Gordon Jeyes: One of the points that COSLA made was that we should look first to the management of probation—a procedure in which we have all failed in recent years. COSLA hopes that McCrone will pick that up. I start with that because we will find that most teachers about whom there are reservations when they are fully registered had a difficult probation period. Perhaps more rigour applied at that stage would be a good start. When it comes to probation, head teachers are the direct agents of the GTC, so the GTC bears as much responsibility as the trade unions and the employers for the fact that the system is not functioning.

We do not think that the GTC should be involved further at this stage. Now that the legislation has been clarified and been the subject of industrial tribunals, employers should be allowed to get on with the business of dealing with those matters. The notion that an external body should be the first port of call in cases of incompetence seems to me ridiculous. This is a matter for employers, for which they should be accountable to the public and to the Executive.

Nicola Sturgeon: I would like to develop that point. As you have heard me say already, other professionals would express surprise at the view that the GTC should be regarded as an external body rather than the professional organisation for teachers. I am genuinely interested in your views on this point. Is there a reason for the GTC's having the role that I have described in dealing with cases of misconduct by teachers, but not in dealing with cases of incompetence?

Gordon Jeyes: As I stated earlier, I believe that incompetence is primarily an issue for the employer, whose responsibility it is to set standards and be accountable for that. The difficulty that the expansion of the role of the GTC causes is role confusion. The GTC exists to serve either a public or a professional interest. Although those roles sometimes conflict, the GTC is now being asked to carry out both.

Nicola Sturgeon: Professional bodies such as the Law Society perform both those roles—again, I am repeating the points that I put to the teaching unions. You are involved in education in local authorities, but some of your colleagues will be employers of solicitors and will have the usual responsibilities of employers to those employees. The solicitor who is an employee is still subject to the professional body. I am not clear why there is a distinction between the situation of teachers and that of other professionals.

Gordon Jeyes: The answer relates to definition—the point about self-employment was well made. I note your point, but I suggest that, if there were a major concern about a lawyer in local government, the first port of call for a complaint would be the lawyer's employer, or in a more serious case the ombudsman. The Law Society and the British Medical Association deal with complaints from the public that are, by and large, about those of their members who are self-employed.

Nicola Sturgeon: The local authority employer might be the first port of call, but the point is that it would not be the only point of call. If the local authority did not take action, it would still be open to the member of the public to pursue the matter with the Law Society. Again, I am not clear about the distinction that you draw between solicitors in that position and teachers.

Gordon Jeyes: There is an issue about clarity and the layers of accountability for the local authority. Clearly, within the new framework, and as part of the constitutional settlement, local authorities must address issues such as the small minority of teachers about whom there are serious reservations. If they do not address those issues, they will be accountable to the minister and, as a consequence of the bill, to Parliament, and to our citizens in the local democratic framework—there might be scope for improvement. In COSLA's view, it is not necessary to add another layer of accountability.

Mr Stone: I am clear in my own mind that the nature of the teaching profession is somewhat different from the nature of the legal profession—the structure is different as lawyers tend to practise in comparative isolation. Could increasing the power of the GTC so that it became a sort of roving, investigative body strike at the independence and authority of local councils? Could local authorities interpret such a change as undermining their powers?

Gordon Jeyes: Local authorities should be given every opportunity to perform their duties as employers. If the GTC had that investigative role, the situation would be confused, and local authorities might well be inhibited from performing those duties.

The Convener: As there are no further questions on the GTC, we will move to other topics.

Cathy Peattie: Why does COSLA ask for an overhaul of school boards?

Councillor Law: School boards perform a valid function, but they need to change and be more flexible. There must be models that allow different kinds of participation in different areas. Like community councils, school boards do not always represent the school community. Therefore, we should allow different models and forms of participation to evolve.

Cathy Peattie: Could you expand on those different forms of participation? If a school board works properly, there is participation because the representatives are elected by the parents. What are the alternatives?

Gordon Jeyes: There are alternative models. Since local government reorganisation, the new, smaller-scale councils have worked hard to encourage the involvement of parents. However, the starting point must be the parent's commitment to their child's learning and the way in which the system supports that—the introduction by the Government of pilot personal learning plans is part of that.

We should build on the dynamic of that to encourage everyone's participation and ensure that participation with the parent body, with the community and with the pupils and students is effective.

There are a number of new community schools that are held to account to community forums or community liaison groups. That provides a wider expression of public interest through which there can be local expression of community values and through which we can ensure that the community's expectations are made clear. The professionals are allowed to get on with their job, but the community group can request reports on what is being achieved.

School boards are to a great extent victims of the circumstance that existed in 1988. They were designed for a particular time and were not looked on particularly welcomingly by local authorities. It is to be hoped that that has been left behind. School boards should be encouraged. However, they are a splendid example of what happens when legislation is far too detailed. That was one of the main points that COSLA made. Visiting school boards around the country, I have yet to find one that disagrees with me on that.

The minor changes are to be welcomed, but COSLA believes that the bill could go much further and that there would be far greater progress if there was a general duty on schools and

education authorities to ensure effective parental participation and to ensure that the school board, which has been developed in a rather arid and bureaucratic way, was the default position.

Keir Bloomer: It is interesting that the bill lays down a requirement that parents be consulted on working out the school development plan, for example, but it does not say that that should be done using the mechanism of the school board. That is a reflection of the fact that time has moved on and experience has demonstrated that, if anything, parents are deterred from participation by the excessive legalism of the School Boards (Scotland) Act 1988.

It is ironic—Gordon Jeyes touched on this—that the law has nothing to say about what education is for, but will certainly say who should be on the appointments board for an assistant head teacher. That seems a disproportionate level of detail to have in legislation, and, as I have said, it has had a significant deterrent effect.

A general power of inviting local authorities to involve parents, capitalising on their quite considerable experience, and involving young people has been built up over the past three or four years. If we build on that, we can achieve much better participation mechanisms than are laid down in the 1988 act, although those provisions could be retained, as Gordon says, as a fallback position.

Councillor Law: In some of the bigger schools, there are a number of organisations: the school board, a parent-teacher association and other kinds of parent participation. There seems to be no way for them to come together. In smaller schools, there might only be a PTA or school board, or there may be nothing at all because neither model appeals. We need to look for something that appeals to a set of parents in every school and try to get as much participation as possible. The school board itself is too straitjacketed to achieve that.

Nicola Sturgeon: Moving on from school boards, I would like to develop the theme of over-prescription in legislation. This is the same question that I put to the teaching unions: in your view, do the sections that deal with school development planning and devolved school management add anything to what already happens in practice, or do they simply legislate for things that are commonplace?

Councillor Law: There is a fair bit of working together between the school, the local authority, the national plan and so on, and that will continue. It would be helpful, however, to say in the bill how that should be co-ordinated. Gordon Jeyes may wish to speak more about the detail.

Gordon Jeyes: I think that this has happened

the right way round: practice has been allowed to develop and people have learned from that. It has then been put in legislation only as a general duty.

COSLA will welcome that if it raises the benchmark while still enabling creative authorities and schools to take things further without getting too bogged down about the level of resources that are devolved to schools. The freedom accorded to head teachers, in consultation with staff and parents, to use the devolved resources is a measure of how real that devolution is. It is not just a matter of describing things in percentage terms.

There is scope for learning even more from good practice and for schools to have an even greater sense of involvement and ownership. On behalf of the Association of Directors of Education in Scotland, I welcome the fact that the Executive is to ask us to examine practice in devolved school management, on which we are to report back.

Nicola Sturgeon: I have a specific question about section 12, which covers guidance. It says:

"The Scottish Ministers may issue guidance to education authorities in relation to the functions of those authorities under sections 3 to 8 of this Act and education authorities shall, in discharging those functions, have regard to any such guidance."

Do you think that that is a departure from usual practice when guidance is issued? If so, is it a welcome departure, given that local authorities usually have discretion in implementing such guidelines?

Councillor Law: We object to that provision. Keir Bloomer will expand on our position.

11:45

Keir Bloomer: During the consultation process on the original document, COSLA opposed that section and a similar one later in the bill that deals with pre-school education. We were concerned about the very point that Nicola Sturgeon made. Not only is that section unnecessary—there is nothing to stop ministers issuing guidance if they wish to—it is potentially quite dangerous, because of the phrase:

"have regard to any such guidance".

That phrase suggests that any guidance will assume a kind of semi-statutory standing, which would restrict local authorities and could take us further down the road of excessive central prescription, along which we have already advanced some distance.

Gordon Jeyes: When legislating, Parliaments or Governments tend to suppose that every Government and Parliament will be as benign as they are. Section 12 could enable the introduction of pretty prescriptive guidance, with which the original legislators might not agree.

The Convener: We all have views on that statement.

Nicola Sturgeon: I have one more question for Gordon Jeyes.

The section on the repeal of opt-out legislation will, in practice, affect only your local authority. Witnesses from St Mary's Episcopal Primary School appeared before the committee and expressed their views on that section and their concerns about the school reverting to local authority control. Doubtless you read their evidence. Do you want to take an opportunity to reassure both St Mary's and the committee on the points that they raised?

The Convener: I am not sure that Gordon Jeyes was warned that that question might come up, but I hope that he will not mind responding to it.

Gordon Jeyes: I do not accept that section 12 will affect only Stirling Council—the people of Scotland have given their clear view that they do not want schools to opt out of local authority control.

As requested, I took the opportunity to respond fully, in writing, to the points raised at the committee by the witnesses. My main point in that response, which I hope was circulated to committee members, is that time has moved on. St Mary's had no experience of working for Stirling Council—our policies and arrangements are different from those of the predecessor authority.

As a consequence of opting out, irrespective of how that came about, St Mary's has had a significant refurbishment, added a nursery and gone from a declining roll to a 50 per cent increase in the roll. In other words, the school was ill when it opted out, but an extremely healthy school is coming back into local authority control. We will build on St Mary's strengths, in terms of its devolved arrangements and the significant parental commitment to the school.

However, we believe that the school could benefit from more challenge and support—a view reinforced by some of the school's evidence. So far, any statement about the school has come from the school alone, yet there are inconsistencies in its own analysis of the percentage of children reaching level E, given the claim that somehow one in three pupils has special educational needs. That supportive challenge is missing. We will be happy to work with the school in a devolved framework, based on parent partnership, and to welcome the school back.

A number of the arguments put to the committee at that meeting were based solely on the witnesses' imagination. There is no suggestion that the school would ever be suitable as a

nursery. I am regularly available to the school and one phone call to me would have clarified that matter, rather than trying to create parental concern that an alternative use for the school's premises was being proposed.

Primary education in the greater Dunblane area has been rationalised recently. That led to the closure of Kinbuck Primary School. The refurbishment of St Mary's was taken fully into account. Dunblane is an expanding community—there will be a continuing need for St Mary's.

Lewis Macdonald: I want to pursue your concerns about the placing requests legislation and the suggestion in your submission that that should be addressed more comprehensively. I take your point that the amendment simply adds another layer to an already complicated set of provisions—I would be interested in your comments on that.

Councillor Law: The rules are quite complex—there is a need to keep them as simple as possible, to allow staff, schools and parents to understand them. We should allow local authorities to have a say in this matter. While we welcome parental choice for the diversity it has created, we have to be careful. I appreciate the fact that we will now be allowed to do something on that.

What is missing here is that the rights of the child should also be a consideration. I cite a small town in my area that has four schools. Some children have been to all four schools, because instead of dealing with a problem, their parents moved them to a different school. We need to write in something about the rights of the child. I know that that will be central to the final document; however, in relation to placing requests, there has to be something that protects children.

I ask Gordon to expand on some of those points.

Gordon Jeyes: I would like to pick up the point about the rights of the child. We went through section 1 very quickly. I hope that committee members and their colleagues will ensure that the thinking behind section 1 equates to that behind the Children (Scotland) Act 1995 and that it will include the right of children to be involved in decisions that affect them. That has applied to children with special educational needs and children in care; now it applies to all children. I am not sure whether it is as clear as it could be, or whether it takes full account of the Human Rights Act 1998, which will come into force in October.

With regard to section 39, on placing requests, we believe that parental choice—or, more correctly, parental preference—has been a good discipline for the system, but it is not the sole priority. Education is a common good, not a consumer product. However important parental

preference might seem, particularly to the individual, it must not be at the expense of quality of education for others. Due to the way in which it inhibits planning, it can sometimes lead to crowded schools, unnecessary expense or parents being unable to get their children into the local school if they move into an area at a particular time. The bill addresses only the last of those three points.

The situation is complicated because it has evolved in various bills over a number of years. At the very least, it should be clarified and pulled together, particularly when there are three maximum class sizes in primary schools: 30 for primary one, primary two and primary three; 25 for composite classes; and 33 for primary four to primary seven. That is confusing for parents.

While saying that a child can get in for the infant years but not beyond primary four is welcome, it will be difficult for parents to understand. We already suffer, from time to time, with inconsistency in sheriffs' judgments—that can lead to further confusion for parents.

Perhaps some thought should be given to specialist tribunals involving parents' representatives and educationalists. The Convention of Scottish Local Authorities considers that such tribunals should be external to the local authority, to avoid the appeals system looking too much like the educational planning system. To some extent, because of the point that I made about sheriffs' judgments, we do not have a national system at present.

In addition, a clearer definition of the national priorities would help, because it would give us grounds for refusal, based on the fact that it would inhibit the promotion of those priorities. However, such matters should not just be left to directors of education, because it would be a case of, "They would say that, wouldn't they?"

Some adjudication on whether education is damaged by this general movement of pupils is necessary. These are not necessarily issues that can be addressed in the context of the bill, but COSLA argues strongly for a review of the parental choice legislation, while accepting that it has had a significant impact. We would not want to deny that.

The Convener: Lewis, are you happy with that?

Lewis Macdonald: Yes, that is helpful.

I take it that your concerns go beyond the ones that are addressed here and relate to a lop-sided system in places where some schools are much more popular than others. Is that a matter primarily for the local education authority to address, or do you think that it could be addressed by legislation?

Gordon Jeyes: The national framework needs

to be clarified. No matter how hard a local authority might try to address that matter, inconsistent sheriff judgments prevent it from delivering the level of service that parents require.

The Convener: I think that was quite clear. Thank you.

Ian Jenkins: Can you comment on the provisions for pre-school education? As a constituency MSP, I receive information on problems relating to the placing and timing of funding. Will the bill provide a seamless garment? Will parents be able to choose the two years in which they will get funding for pre-school education? How do local authorities envisage that working?

Councillor Law: Local authorities welcome the provisions in the bill. Keir Bloomer will be able to give you a detailed answer.

Keir Bloomer: As Helen Law says, COSLA's response made it clear that it welcomes the introduction of a statutory basis for pre-school education. It argued that that statutory basis could not be the same as that for primary and secondary education, if only because there has never been any suggestion that pre-school education should be compulsory—merely that it should be available. We were also concerned that trying to import too much of a common framework might have the unintended effect that other legislation, which would be inappropriate to the pre-school setting, would accidentally apply to it.

We are therefore glad that the bill makes clear that the duty on transport is not being extended to pre-school education. It has also been made clear that there will be no extension of placing request legislation to pre-school education. The anomaly of people using the placing request legislation to introduce their children to school early, as an alternative to pre-school education, will also be eliminated.

We have concerns about denominational education, which are not entirely resolved by what is said in the bill so far. There remain areas that, as the bill progresses through its stages, will need to be considered. On the whole, however, COSLA believes that an appropriate balance has been struck. There will be a statutory right, but it will not be of the same kind—at least, not in all detail—as that for primary and secondary education.

Gordon Jeyes: There remains some confusion about deferred entry. The consultation document makes clear that there is no need to address that issue: as we move towards a universal system, it will solve itself. To some extent that is true, but it would be better if there was a clear entitlement for each youngster to two years of pre-school education.

At the moment, we have two enrolment systems. One operates for the primary school and entitles the child to seven years of primary education; the other operates for early years education and operates on the serendipity of the date on which a child hits their third birthday. Some children may get only a year and a term of early years education—and we know from research that they may be the children who need it most. If there was a national system of entitlement to two years, the child hitting their third birthday around February could defer and have their two years' funding thereafter. Deferral would not create a problem as long as it happened at the start. It causes difficulty for local authorities only when it happens after the child has had 18 months of early years education.

Ian Jenkins: Could that suggestion be incorporated in the bill?

12:00

Gordon Jeyes: Yes, as long as children had a clear entitlement to two years of early years education instead of the period from their third birthday to when they start school.

Councillor Law: That is an important point. As local authorities have experienced some difficulties with deferred entry, it would be necessary to incorporate something in the bill to address the issue.

Ian Jenkins: Is an annual statement of improvement objectives a sensible idea? Might that not be too short-term?

Councillor Law: There is no difficulty with producing an annual statement as long as people are aware that trends take a long time to emerge and that the situation cannot be judged from an annual dip. It might be 10 years before we see the real outcome from early intervention strategies.

Keir Bloomer: I am glad that the discussion has come back to the improvement framework; it is extremely important for the committee to consider the issue. The education service, in common with local government as a whole, is struggling to cope with an extraordinary overload of planning and audit. Incidentally, there is little evidence that such planning and audit is significantly improving the performance of the education service or local authorities in general. As the improvement framework makes possible a more unified way of undertaking such activity, it means that much duplication of effort can be eliminated. We hope to develop the planning framework with that consideration in mind.

My second point was raised earlier in the meeting and relates to the kind of statement of objectives for the education service that should be inserted into section 2. The target-setting initiative

currently measures a very narrow range of school activities. If a sufficiently broad definition of purpose is built into the bill, the improvement framework and the associated plans and reports will address a much wider range of interests.

As Gordon made clear, we are not saying that we should not try to raise standards in the cognitive aspects of the curriculum, but the education service does some very important things for young people which deserve parity of esteem with that aspect of the educational experience and they should find a place within the planning and reporting framework. The possibility of doing that will be greatly strengthened if section 2 is greatly strengthened.

The Convener: I want to move the discussion on to the abolition of the SJNC. Why has not the SJNC been the most appropriate way of dealing with issues? How would COSLA support the proposal for an alternative body?

Councillor Law: When I became a member of the SJNC only a few months ago, I was shocked to find that I was more of a spectator than a participant. Most members were not really part of the bargaining process as such. Most meetings took place behind the chair, but could have been under tables and in cellars; they were certainly not taking place in the room with us. There was only a short period when everyone got together. The system was unwieldy and inefficient. We need to move to a more meaningful system that allows dialogue between the participants. We need to find a framework that allows national pay bargaining. We do not support local pay bargaining, but we are in favour of local flexibility. I will ask Keir to give some detail on the issues.

Keir Bloomer: Whichever aspect of the SJNC we examine, it is clear that its record is abysmal. The present negotiating machinery has been in existence since the Remuneration of Teachers Act 1967 became law. During that time, it has produced 30 negotiated settlements, not one of which has kept pace with the going rate for wage increases throughout the community. Its record—played 30, lost 30—makes it the Albion Rovers of the negotiating world.

Work load has dominated teachers' concerns for the past decade. It is interesting that the existence of the present framework of conditions of service has done nothing to protect teachers from the development of the work load crisis, which authorities will accept is genuine.

The negotiations on conditions of service that failed in the middle of last year had been going on, in effect, for a decade. They began with the review of conditions and salaries for the 1990s that was initiated in 1990 and was unsuccessful. They were pursued through the millennium review and the

subsequent negotiations and led to nothing. Despite the palpable concerns of at least one of the parties, the negotiating body has been able to achieve no change whatsoever in more than a decade. It is worth noting that the teachers have advanced claims for what they regard as improvements in conditions of service during the same period and have achieved equally little success.

The statutory basis of the body gives everyone a veto and has created a situation in which progress is impossible. In those circumstances, we believe that there is no possibility of the negotiating arrangements delivering a better outcome than they have done to date. Change is a necessity.

Nicola Sturgeon: I would like to ask Mr Bloomer the same question I asked the teacher unions earlier: do you think the consultation process with regard to the SJNC was adequate? I understand what you said about the failures of the SJNC, Mr Bloomer, but do you accept that the success or failure of any negotiating body depends on whether local authorities have the resources to fund pay settlements?

Keir Bloomer: The answers that you received from the teacher unions with regard to your first question were disingenuous. The minister's intention to remove the statutory basis of the current negotiating machinery had been signalled for months. There was an opportunity to comment throughout that time. Although the SJNC was not mentioned in the original draft bill, it was made clear that something about the SJNC would be included later. I think that the consultation process was adequate.

I would not argue that the structure of the negotiating machinery is the only reason for the outcomes that I described, but it is an important contributory factor. As you suggest, it is true that the extent to which local authorities are resourced is a key determinant. However, despite what the committee heard earlier, it is significant that other negotiating groups in local authorities have done significantly better over the 30-year period. They have done better because they have not adopted the rigidity of mind that has been the determining characteristic of the SJNC.

In the SJNC arrangements, everything is prescribed in the most minute detail. Unlike administrative, professional, technical and clerical staff, who get increases through the annual pay round or the regrading process, teachers have only one opportunity. Teachers rely totally on the annual pay round, in which the same kind of ability to pay criteria that apply across the local authority have been hugely to their disadvantage.

The comparison with England and Wales is instructive. There are considerable disadvantages

in a pay review body, some of which were touched on by the earlier witnesses. COSLA is not advocating a pay review body. However, teachers in England and Wales have done significantly better using that machinery than Scottish teachers have with the SJNC during the same period.

Considerations about ability to pay do not apply with the same force in relation to conditions of service, but the SJNC has been particularly successful in creating conditions that obstruct the freedom of local authorities without protecting the conditions of service of its members.

The Convener: Can you tell us what mechanism COSLA would support? Should there be a national arrangement or local flexibility?

Councillor Law: COSLA is advocating some form of national and collective pay bargaining organisation, with local flexibility on local issues. Teachers' pay should be decided nationally.

Gordon Jeyes: COSLA currently negotiates pay for other workers without the straitjacket of statute. We support a national framework for local bargaining, but the predominant voice in the bargaining should be that of the employers; local authorities. I was encouraged when I heard the unions talk about the need for diversity of practice, just as I am encouraged when HMI speaks in those terms. We can learn from diversity in conditions of service and how teachers undertake their professional responsibilities. That is separate from pay and there is scope for different arrangements to suit different circumstances.

Earlier, it was suggested that the SJNC has been successful because it is an example of partnership. There are better historians of the SJNC than me, but I understand that at the start of the SJNC, the ministers' representative took the chair and the Government was a full partner in the process. More recently, the Government participated in the SJNC after the fashion of Banquo's ghost. It is not just a matter of the funding arrangements, it is whether the Government, with its grasp of policy priorities, is fully participating or standing back and deciding what view to take thereafter.

Ian Jenkins: Could you give us some examples of the flexibility to which you refer?

Councillor Law: The local flexibility that we are talking about would include things such as absence cover.

Keir Bloomer: COSLA's position was set out during the millennium review. Members may recall that several task groups were set up as part of the millennium review. One of those groups dealt with the question of local flexibility. COSLA's position is that there should be national collective bargaining to determine the basic pay of teachers and to

consider the basic framework of conditions of service, such as periods of notice and maternity leave. Most conditions of service would be negotiated locally, as would conditions related to the promotion structure, which has salary implications.

12:15

It is worth pointing out two things about the task group's report. First, both sides of the SJNC were prepared to accept the approach. Secondly, the teachers' side was prepared to participate in the setting up of the task group only on the basis that the task group's remit would be to consider ways in which the performance of the SJNC could be improved, not whether the SJNC should continue. When unions mention their objection to the way in which the remit of the McCrone committee has been circumscribed, they do so with an element of forked tongue, because that is precisely the kind of manipulation of remit that was built into task group 4 in the first place.

The Convener: Ian, are you happy with that?

Ian Jenkins: No, not really.

The Convener: I should have asked whether you wanted to pursue the question.

Gordon Jeyes: I have an example. Stirling believed that planned activity time was an unprofessional way in which to demarcate time and therefore reached agreement with trade unions on teachers' professional responsibilities. It was agreed that the unions would support attendance at meetings outwith school hours. The agreement had to be referred to the SJNC—it could not be reached locally with Stirling teachers. It was 18 months later—because the SJNC was not meeting regularly—before a response was received to say that the agreement was fine. The process is rather unwieldy.

I have one final point to make. I hope that when the committee considers the bill it will consider how it relates to the issues being examined by the special educational needs forum. There are a number of issues that parents, in particular, have raised—which are well described in the excellent consultation document—which could slip between the two. Similarly, we were told at early discussions about the bill that because of the millennium review, staff issues would not be given particular consideration. There is, however, a great need to overhaul radically the 1956 schools code. The bill may provide an opportunity to address that.

The Convener: Thank you for that point and for your attendance. Unusually, we have finished early. I thank members for their attendance.

Meeting closed at 12:17.

Members who would like a printed copy of the Official Report to be forwarded to them should give notice at the Document Supply Centre.

Members who would like a copy of the bound volume should also give notice at the Document Supply Centre.

No proofs of the *Official Report* can be supplied. Members who want to suggest corrections for the bound volume should mark them clearly in the daily edition, and send it to the Official Report, Parliamentary Headquarters, George IV Bridge, Edinburgh EH99 1SP. Suggested corrections in any other form cannot be accepted.

The deadline for corrections to this edition is:

Friday 18 February 2000

Members who want reprints of their speeches (within one month of the date of publication) may obtain request forms and further details from the Central Distribution Office, the Document Supply Centre or the Official Report.

PRICES AND SUBSCRIPTION RATES

DAILY EDITIONS

Single copies: £5

Annual subscriptions: £640

BOUND VOLUMES OF DEBATES are issued periodically during the session.

Single copies: £70

Standing orders will be accepted at the Document Supply Centre.

WHAT'S HAPPENING IN THE SCOTTISH PARLIAMENT, compiled by the Scottish Parliament Information Centre, contains details of past and forthcoming business and of the work of committees and gives general information on legislation and other parliamentary activity.

Single copies: £2.50

Special issue price: £5

Annual subscriptions: £82.50

WRITTEN ANSWERS TO PARLIAMENTARY QUESTIONS weekly compilation

Single copies: £2.50

Annual subscriptions: £80

Published in Edinburgh by The Stationery Office Limited and available from:

The Stationery Office Bookshop
71 Lothian Road
Edinburgh EH3 9AZ
0131 228 4181 Fax 0131 622 7017

The Stationery Office Bookshops at:
123 Kingsway, London WC2B 6PQ
Tel 0171 242 6393 Fax 0171 242 6394
68-69 Bull Street, Birmingham B4 6AD
Tel 0121 236 9696 Fax 0121 236 9699
33 Wine Street, Bristol BS1 2BQ
Tel 01179 264306 Fax 01179 294515
9-21 Princess Street, Manchester M60 8AS
Tel 0161 834 7201 Fax 0161 833 0634
16 Arthur Street, Belfast BT1 4GD
Tel 01232 238451 Fax 01232 235401
The Stationery Office Oriol Bookshop,
18-19 High Street, Cardiff CF12BZ
Tel 01222 395548 Fax 01222 384347

The Stationery Office Scottish Parliament Documentation
Helpline may be able to assist with additional information
on publications of or about the Scottish Parliament,
their availability and cost:

Telephone orders and inquiries
0870 606 5566

Fax orders
0870 606 5588

The Scottish Parliament Shop
George IV Bridge
EH99 1SP
Telephone orders 0131 348 5412

sp.info@scottish.parliament.uk

www.scottish.parliament.uk

Accredited Agents
(see Yellow Pages)

and through good booksellers