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Official Report

EDUCATION, LIFELONG LEARNING AND CULTURE COMMITTEE

Wednesday 10 November 2010

Session 3

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EDUCATION, LIFELONG LEARNING AND CULTURE COMMITTEE
29th Meeting 2010, Session 3

CONVENER

*Karen Whitefield (Airdrie and Shotts) (Lab)

DEPUTY CONVENER

*Kenneth Gibson (Cunninghame North) (SNP)

COMMITTEE MEMBERS

*Alasdair Allan (Western Isles) (SNP)
*Claire Baker (Mid Scotland and Fife) (Lab)
*Ken Macintosh (Eastwood) (Lab)
*Christina McKelvie (Central Scotland) (SNP)
*Elizabeth Smith (Mid Scotland and Fife) (Con)
*Margaret Smith (Edinburgh West) (LD)

COMMITTEE SUBSTITUTES

Ted Brocklebank (Mid Scotland and Fife) (Con)
Hugh O'Donnell (Central Scotland) (LD)
Cathy Peattie (Falkirk East) (Lab)
Dave Thompson (Highlands and Islands) (SNP)

*attended

THE FOLLOWING GAVE EVIDENCE:

John Ireland (Scottish Government Education Analytical Services)
Stephen Kerr (Scottish Government Lifelong Learning Directorate)
Robert Moffat (National Autistic Society Scotland)
Michael Russell (Cabinet Secretary for Education and Lifelong Learning)
Alan Somerville (The Scottish Society for Autism)

CLERK TO THE COMMITTEE

Eugene Windsor

LOCATION

Committee Room 2

Scottish Parliament

Education, Lifelong Learning and Culture Committee

Wednesday 10 November 2010

[The Convener *opened the meeting at 09:30*]

Decision on Taking Business in Private

The Convener (Karen Whitefield): I welcome everyone to this meeting of the Education, Lifelong Learning and Culture Committee. I remind everybody present that mobile phones and other electronic devices should be switched off for the duration of the committee's deliberations.

We have received apologies from Christina McKelvie, who will join us later but is currently stuck in traffic.

Agenda item 1 is to decide whether to take item 5, which is consideration of the committee's approach to scrutiny of the draft budget for 2011-12, in private. Are members content to do so?

Members *indicated agreement.*

Further and Higher Education

09:31

The Convener: Item 2 is to take evidence from the Cabinet Secretary for Education and Lifelong Learning on issues relating to further and higher education. I am pleased to welcome Mr Russell, the cabinet secretary, to the committee this morning. He is joined by John Ireland, deputy director, education analytical services division; Stephen Kerr, deputy director, higher education and learner support division; and Andrew Scott, director of lifelong learning. Members will have noted that Mr Scott is a late substitute. I understand that his colleague is unwell and unable to attend, and Mr Scott is kindly standing in at short notice.

I invite the cabinet secretary to make a brief opening statement.

Michael Russell (Cabinet Secretary for Education and Lifelong Learning): Thank you for the invitation to talk about a variety of matters to do with further and higher education, in particular "New Horizons: responding to the challenges of the 21st century" and the work of the tripartite advisory group, or TAG for short.

"New Horizons" has resulted in a significant shift in the relationship between the Scottish Government, the Scottish Further and Higher Education Funding Council and the universities sector. More than ever before, the Scottish Government is setting clear expectations for how the public funding that goes into our universities should be used, aligning that expenditure with the Government's purpose and national performance framework.

At the same time, the Scottish funding council is moving to a lighter-touch approach to managing its relationship with the sector, reducing the burden of bureaucracy and freeing up the time of staff in universities to be put to better use.

The Scottish funding council has successfully introduced the new approach to funding that is described in "New Horizons" and that is based on the largely formulaic general fund for teaching and research, and the primarily project-driven horizon fund, which aims to incentivise new approaches and innovation across the universities sector, based on priorities that have been set by the Scottish Government. Universities have responded well to the challenge. They have provided strong evidence of their economic impact both at home and abroad, as well as of their contribution to increasing levels of economic growth.

All three parties—Universities Scotland, the Scottish funding council and the Scottish Government—have engaged positively with the work of the tripartite advisory group. As you know, TAG was set up to provide a forum to enable the sector to offer its views on how the new funding arrangements are working. Its terms of reference were published when "New Horizons" was published in November 2008. TAG's primary role is to offer the Scottish Government advice on how effectively the new funding arrangements and the funding council's new lighter-touch approach are working, as well as offering me advice on the amount of public funding that is required to maintain broad overall comparability with the rest of the United Kingdom and to maintain the sector's competitive position in the UK and internationally. I think that, overall, all three parties would agree that TAG is fulfilling its remit. The committee has already received a positive report from Alastair Sim, the director of Universities Scotland.

Initially chaired by Fiona Hyslop, TAG first met on 9 March 2009, and it has now met five times, most recently last week, on 3 November. Three of those times have been under my convenership. That is despite the fact that TAG's original remit suggested that it might meet only once or twice a year. That indicates how valuable the group is.

Consistent with its role of offering advice on the comparability of funding, TAG agreed at its first meeting to set up a technical group comprising representatives of Universities Scotland, the Scottish funding council and the Scottish Government's analytical services division to develop a shared evidence base. We agreed that there should be three aspects to the base: an assessment of comparative levels of higher education funding; measures to assess the sector's efficiency and effectiveness; and an assessment of the impact of universities' outputs. To ensure objectivity, the technical group undertook the work with external contractors.

As discussed at TAG just last week, the main findings confirm our expectations that funding levels are broadly comparable between Scotland and England and show that, as far as international comparisons are concerned, the Scottish sector is efficient and that, according to the available evidence, higher education overall has considerable economic benefits for the individual and the economy. Indeed, the findings show that a degree increases earnings by around 33 per cent over those of an individual with three highers and that the impact of maintaining the existing proportion of graduates among young people will increase Scottish gross domestic product by 4.6 per cent by 2051.

TAG has signed off all three reports, which we are publishing today along with a short summary of each. Copies of the reports will be provided to the committee—in fact, I am pleased to be able to give members copies of the summaries this morning—and I will ask John Ireland to talk through the main findings as questions emerge.

TAG has also addressed other aspects of its remit. For example, we have agreed an approach to outcome statements; reviewed the SFC's progress in implementing its response to "New Horizons"; and reviewed its arrangements for implementing the general and horizon funds and, notably, the new arrangements for funding knowledge exchange. Of course, not every meeting passes without disagreement but, throughout, the meetings have been positive and constructive and have demonstrated the value of the direct relationship between the Government, the funding council and Universities Scotland.

However, as I am sure you will wish to discuss, the context is changing and open and constructive dialogue, a solid and shared evidence base and Universities Scotland's work on the sector's impact are all important as we consider that changed future. In fact, I think that TAG is reaching its full potential, providing a platform for the Government, the funding council and the sector to discuss how best to deliver university education in the longer term. For example, in March, TAG provided the ideal opportunity for me to start my dialogue with the sector on the Scottish solution. We are working together constructively to get that solution in place for 2012-13, which will be exactly in step with developments in England. The SFC's new funding arrangements will mean that we are also better equipped for the future. Not only is the horizon fund supporting initiatives such as research pooling, industry-driven skills investment and knowledge exchange, it has the potential to support the spend-to-save initiatives that the sector is calling for.

Although I am happy to answer questions on access issues, given Claire Baker's recent work in the area, I point out that access is not just about universities and university funding. We have funded access initiatives, but access is also about changing expectations and, indeed, the system to ensure that such issues are addressed in nursery and other schooling, not just when young people move towards higher education. As we know, 21.7 per cent of entrants to higher education come from Scotland's 20 per cent most deprived areas. Often they go into college education, and many then articulate into universities. We should not ignore the role of colleges in delivering higher as well as further education.

The committee will want to address those and other issues this morning, and I look forward to our dialogue.

The Convener: Thank you for that opening statement. I am sure that the committee will follow up many of the points that you have highlighted.

I know that you will have read last week's evidence to the committee, especially the concerns that were expressed about a potential reduction of up to 16 per cent in the overall funding package and the consequences were such a move to become a reality. Was Mark Batho's suggestion of such a reduction in funding accurate or are we talking about another figure? What are the financial prospects for HE and FE in Scotland?

Michael Russell: The overall financial prospects for the coming year or two in Scotland are pretty grim. I will not go into the origins of that crisis unless you press me to, but the reality is that there are great difficulties ahead. I cannot talk in detail about the budget, which will be announced next week. I am sure that you will understand that it is clearly impossible for me to do so.

I will quote Mark Batho directly, because it is important that we realise what he said. He said:

"16% is the purely technical calculation you can arrive at".

He meant by looking at consequentials and budget figures south of the border, as well as the figures that Andrew Goudie prepared. He went on:

"However, the actual figure will depend on political decisions, but I do hope everyone has at least mapped that as a scenario."

Mark Batho is the chief executive of an independent body. What he said at the *Holyrood* conference was that people should of course plan for the worst. However, to repeat the quote, he said:

"16% is the purely technical calculation you can arrive at. However, the actual figure will depend on political decisions".

That puts it as well as I could put it. I am sorry that I cannot discuss the actual figures of change, but there will be change. However, I hope that the sector and the Government can work together closely to minimise the effects of that change, because we have a shared interest in delivering as well as we can for the young people of Scotland and for our collective future.

The Convener: The other issue on the funding package that was discussed at the committee meeting last week was the one-year budget. Universities Scotland and Scotland's Colleges raised concerns, as did the National Union of Students, that a one-year budget would constrain the ability to plan for the future, no matter how much money the sector was given, and could have fairly serious consequences for the sector. How do you respond to those concerns?

Michael Russell: Unfortunately, we are required to have a one-year budget—the pressure on us means that we have to do that. When we give the figures next week, the information will give enough clarity to allow the sector to plan ahead and to work ahead. We find ourselves in exceptional circumstances—I would not disguise that for a moment—and there will be difficulties for everybody in every sector in Scotland. Nobody will be immune from difficulties. The purpose of our working together is to ensure that we minimise the difficulties. I am doing everything that I can, and will continue to do so, to work with higher and further education to allow that to happen.

The Convener: Is it the case that a one-year budget is not your only option and that you might just be putting off difficult decisions until another day?

Michael Russell: No, that is not the case. As somebody who is involved in making very difficult decisions, I can say that that is absolutely not the case.

Elizabeth Smith (Mid Scotland and Fife) (Con): I thank the cabinet secretary for his introductory remarks on the aims of the tripartite advisory group. Just to pick up on the longer term, you have obviously been given lots of advice by various bodies on the long-term future. What is the Government's assessment of how the reform of funding will take place?

Michael Russell: I have answered that question from the member on many occasions and the First Minister, too, has answered it. I am happy to repeat the answer, although it has not changed since she first started asking the question. We embarked on a process of discussion with the sector and a wider group in February and early March, seeking a long-term funding and organisational solution for Scottish higher education. We did so in recognition of the environment that we were in, although at that stage we did not know quite how bad that environment would be.

Our timescale for the process was exactly the same as that for the process south of the border, but my strong belief was that we should do it within the sector to allow the sector to take ownership of what will be a series of radical changes, and not just to funding. Funding is a matter of money in, but there is also money out. In essence, how the sector spends its money and how it organises itself will be part of the debate. So far, we have gone exactly to plan. I was pleased to see the endorsement of the timescale from Anton Muscatelli in the *Sunday Herald* last weekend.

We have had wide-ranging discussions and there is an enormous and interesting list of

possibilities, some of which the member has contributed and more of which I hope will be contributed when we have our meeting next Monday. Early in December, we will publish a green paper that will list those possibilities in, I am sure, great detail. At that point, we and the sector will decide what the final options should be. Undoubtedly, that will be a matter that each of us will consider in the run-up to the election, and the way in which we decide to package university funding and expenditure might well be an issue of contention at the election. I hope that, regardless of who wins that election, there will thereafter be quick legislation. If I am still in this job, as I hope to be, I will commit myself to introducing quick legislation in 2011 that will bring in the final funding solution in 2012. That is a reasonable approach.

09:45

The Parliament rejected another approach—the independent inquiry approach—in a debate that took place in June, so I have parliamentary backing for my stance. I think that the approach is the right one and that the work that we are doing in that regard is going well and is productive. I hope that, when you see the green paper, you will realise that there is an enormous range of possibilities. I am not going to close that down by declaring at this stage a preference for any one funding route. I have a personal preference that is based on my belief that there is a need to recognise that the state bears the ultimate responsibility for funding education in Scotland. That is not only our tradition, it is what has made our education system work as well as it has. We would have to think carefully before we departed radically from that, and I think that there is a logical reason for looking at the issue in that way. If we ask individuals who have been through a particular part of education to pay more for that, one would ask where that would end. If higher education is an advantage, is learning to read and write an advantage? Should individuals who are taught to read and write pay more than those who are not? We have to be careful about this.

I hope that Scotland and Scottish politics are mature enough to have this debate. I value the ideas that have been brought to the table. I do not reject them out of hand. They will be considered as part of this process. I do not expect to sign up to the particular solution that has been proposed, as there are elements in it that strike me as being, essentially, a back-door tuition fee, but I am grateful to you for bringing something to the table, because that is useful.

Elizabeth Smith: Thank you for that full answer. I have listened carefully to what you have said on higher education recently and I know that you have previously put on record your personal preference for there being substantial Government or state commitment to higher education funding.

I want to ask you a direct question. Are you in agreement with Universities Scotland, Sir Andrew Cubie and others who recommend that there be a graduate contribution? I am asking about the principle, not a specific form.

Michael Russell: I do not agree with them, at this stage.

Elizabeth Smith: You are ruling that out.

Michael Russell: No, I am not ruling that out. It would be a pointless debate if, before it was under way—before the green paper is published—I were to tell you what I was or was not going to do. I am not ruling out the suggestion, but I am perfectly happy to say that I disagree with it. I disagree with the suggestion because, as I have said, the Scottish tradition of higher education is one in which the state takes primary responsibility. That is very different from the system that is being introduced south of the border. It is up to them what system they introduce south of the border; that is not for me to say. However, the system that is being introduced there clearly and explicitly takes responsibility away from the state and gives it to the individual student. That is what is being openly said and what is being demonstrated against today in London.

I believe that the state has the primary responsibility for education in Scotland. Therefore, I do not automatically accept that there should be a graduate contribution. However, I want to consider the matter in the round, taking account of all the issues. As you will know if you have been following what I have said on the matter, the argument is not just about students paying money. The first question that we should ask ourselves in Scotland is this: what is higher education for? Why is the state investing in it? What is it going to produce? A debate that is predicated only on the question of how much students should pay is not a debate. There are, for example, issues of accelerated entry, of how the baccalaureate fits in and of whether universities' work overseas produces a balance of funding. A range of such issues must be considered. I do not automatically accept that Scotland should have a system of graduate contributions.

Elizabeth Smith: I agree entirely that there are many issues other than finance and that this is also about accessibility, restructuring and all sorts of other things. That said, what the university system wants categorically is leadership on direction so that it can plan for future sustainability. The funding issue is not only about replacing what will inevitably be a reduction in the Government part of the commitment but about finding an

additional source of income, which is vital to universities in trying to find a sustainable future.

Although I am asking questions on the type of payment that you might consider, it is also important to know where the Government is coming from and what principles underlie its proposals. It is true to say that some of the rest of us have put our cards on the table. I heard you say that Government should have a very large responsibility for higher education. I also heard you say that you are not persuaded by a graduate contribution. What do you feel about a graduate tax?

Michael Russell: Before I answer that, I note that you used the word "additional". That was, of course, the language that was used south of the border about Browne until Browne was published and we discovered that the word was not "additional" but "substitute". We are now in a different debate on contributions to higher education.

I have a more general and important point to make. Higher education is a vital part of our national life and I will not rush into a decision about funding patterns without listening very carefully to all the arguments. I have shown myself to have an open mind. I believe that I have shown leadership in ensuring that the debate has started, has progressed, has a form and will come to a conclusion. I have guaranteed that to the sector. I have guaranteed the shape of the debate—we know how we will go from where we are to getting the solution—and I will not impose a solution halfway through the process.

I turn to the question on graduate taxation. It can be fairly argued that, if the Scottish Parliament had full tax powers, we could consider—I am not saying that I would want to do this—putting an additional penny on income tax as a way of filling a gap; that is if there was a gap, but we would need first to look at the exact figures. Interestingly, if you backed me on introducing additional income tax in Scotland, you would, of course, have moved your position on more tax powers. I am not saying that that is my preference, however. I want this to be a genuine discussion about a very large range of options, only some of which are about money in and many of which are about money out and organisation. We need to have that debate, which I defend vigorously. Indeed, I am doing that at some cost, given the constant attack. I defend vigorously the space that I have opened up for these decisions to be reached. I believe profoundly that this is the right way for the sector to do things, given the intelligence and ability of the sector and the need for it to take ownership of what will be not a single solution for its future but a range of solutions.

Elizabeth Smith: How do you respond to Sir Andrew Cubie, who said at the *Holyrood* conference last week that he wishes that the debate had happened two years ago as that would mean that we would now be further down the road towards making decisions?

Michael Russell: I disagree profoundly with him. There is another side to the argument. For example, Alastair Sim said earlier this year that he was glad to be in Scotland and not south of the border because things were far better in Scotland. Fond though I am of Andrew Cubie, if he thinks that now, he is talking with the benefit of hindsight. I have committed myself to the same timetable that is in place south of the border. Since I have been in post—in two weeks' time, I will have been in post for a year—a very substantial amount of my time has been focused on this issue. As I said, I started the process in late February or early March, but I was, of course, preparing for the process almost from when I came into office. This is a big issue that requires a Scottish solution. In the past year, universities received an increase in their funding. This year, they have not been penalised and have not suffered, but there are enormous difficulties ahead, which we will have to face.

Margaret Smith (Edinburgh West) (LD): I strongly support a great deal of what the cabinet secretary said about the state having primary responsibility for higher education, given the importance of the sector to society as a whole. Obviously, like others, including Universities Scotland, the committee has been looking at the idea of levering in additional sources of income. I took issue with Universities Scotland last week on hearing that its solution seemed to be that the only additional source of funding would be students. That seemed again to be the idea of the student substituting for the state as opposed to a wider consideration of the matter. I want to ask a couple of questions about that.

What other potential sources of income might we look to? We should certainly consider income from business. The principle of no taxation without representation takes us down the line of saying that, if we are going in that direction, the on-going discussions should not simply consist of the pure higher education sector talking to itself; rather, they should be widened out so that people in business and others whom we think should be more involved in funding the system are involved in them from the earliest possible stage. What additional sources of income can you think of? How will we get to the point at which people feel ownership of the solution?

Michael Russell: That is a helpful contribution. We should not constrain the debate. The reality, of course, is that university funding does not entirely

come from student fees and the state. I am sure that my colleagues can give an analysis of the funding of each university off the tops of their heads but, from memory, I think that the University of Glasgow receives the lowest funding from student fees in Scotland. I think that that figure is around 30 to 35 per cent. Am I right?

Stephen Kerr (Scottish Government Directorate for Lifelong Learning): The University of Edinburgh takes around 29 per cent of its income from the Government and raises the rest from international students or industry.

Michael Russell: Or research. The point is that universities' sources of funding vary. I think that Queen Margaret University has the highest percentage from student fees.

Stephen Kerr: Some of the smaller specialist institutions, such as the Royal Scottish Academy of Music and Drama and the art colleges, take more.

Michael Russell: The figure is roughly 60 per cent. No institution is totally dependent on student fee income, although some are substantially dependent on it. There are various other sources. There are overseas students, of course, and research plays an enormous part. Research funding in the most research-intensive universities is substantial.

The issue is how universities can continue to diversify their funding base so that the percentage of their overall income that comes from Scottish students and the Scottish state diminishes and the percentage that comes from others increases. Interesting ideas have been put forward about the involvement of businesses. I do not want to go into great detail about them, as they are other people's ideas, but the matter will be discussed in the green paper and, I hope, thereafter. Universities may need to find mechanisms in which businesses are more directly involved. We must ask what is in it for businesses. They will have got this far without making a contribution, so how can they be incentivised to make a contribution, and what will that contribution be? What return will they get from it? We must ask those questions. However, it is fair to say that the funding balance across higher education will require to change over the years. That is probably a more productive way of looking at matters than simply asking how much the student contributes.

Margaret Smith: I want to press you on the second point. I think that many people were concerned about "New Horizons" and the direction that was being taken, because of the sense that the discussion was narrow. That was possibly part of the reason why people called for a wider inquiry. We are now talking about a discussion that must be opened up. To use business as an example, businesses are unlikely to see that they will get something, whether they are incentivised or whatever, if they do not think that they have been part of the discussion process. I am simply looking for you to say that the discussion will be widened out in a way that the "New Horizons" discussion was not.

Michael Russell: That is exactly what I would like to do. I will agree with you in my own words. The process from the publication of the green paper through the early part of next year should be a wide-ranging public process in which we ask ourselves what we get from higher education and how we value it. The reports that have been published today give a strong evidence base about its importance.

I want to add to the detail of the answer that I gave earlier. Stephen Kerr has helpfully pointed out that core public sources accounted for 47 per cent of higher education revenue sources in 2008-09, which totalled £2.66 billion; international sources, including the European Union, accounted for 11 per cent; United Kingdom private sources accounted for 27 per cent; and other UK public sources accounted for 15 per cent. That shows that the cost to the Scottish state of higher education was less than half its total cost.

10:00

Margaret Smith: You referred to the TAG work in your opening statement. We are clearly at a slight disadvantage in that we do not have the work in front of us yet, but I will try to pick up on a couple of points. Clearly, one important piece of technical work was to look at the comparability of funding in Scotland and in England. There seems to be a shorthand presumption that there is a funding gap between Scotland and England. I think that that is a dangerous premise from which to start because—

Michael Russell: It is untrue.

Margaret Smith: Exactly. My understanding is that the premise is false. I do not particularly want to dwell on the fact that in the years of devolution the background for higher education has been of good funding from Governments and the Parliament, but as far as I understand it we are not in a situation in which there is a funding gap. I would be happy to hear what you have to say about that.

Another big concern is that the changes down south will automatically lead to a funding gap. Again, because of what you said about the difference between substitution and additional funding south of the border, the funding gap does not seem to me to be automatic, but at the same time there are some dangers. Will you expand on that?

Michael Russell: If you do not mind, I will ask John Ireland to talk about funding comparisons because he knows about the research. I apologise that you do not have copies in your hand today; the publication details were still being finalised yesterday, but it is now available.

I will use one statistic that is very revealing. The comprehensive spending review shows university teaching budgets in England being cut by 40 per cent and college budgets by 25 per cent. Those are cuts of approximately £3 billion to university teaching budgets and £1.1 billion to colleges. That is on top of the £400 million cut made by the previous Labour Government in this academic year, so a substantial cut is taking place south of the border. I make that point because there seems to be some fallacy that nothing is happening; in fact, the cuts are enormous.

John, do you want to address the comparison of funding north and south of the border to date and where we might be going?

John Ireland (Scottish Government Education Analytical Services): Yes, of course.

The TAG set up a technical group consisting of members of the Scottish Further and Higher Education Funding Council, the Scottish Government, Universities Scotland and two independent members: Professor Kim Swales from the University of Strathclyde, and the director of finance at Heriot-Watt University, Phil McNaull.

The group undertook three pieces of work. The first piece of work was on exactly the issue of funding comparability, and I will talk about that in a minute. Of the two other pieces of work, one looked at the comparable efficiency and effectiveness of the Scottish university system, and the other looked at the economic impact of Scottish universities. If it is helpful, I am happy to say something about those two pieces of work as well.

On the first issue, the comparability of funding between Scotland and England and funding in Scotland and internationally, we commissioned a group of chartered accountants, Scott-Moncrieff, to do the work. It has produced a comprehensive report that has a lot of statistics in it. This is not the right place to talk through all the statistics in detail—it is probably more useful for you to look at them when they are published on the Scottish Government website later today—but I can give an overview that I think will help to answer the questions on comparability that were being asked.

One issue is that there is a holy grail: everybody wants a simple figure that compares how much Scottish universities get from the public sector with how much English universities get from the public sector. Unfortunately, in real life that is just not possible, so we have to tackle the problem in a number of different ways.

Scott-Moncrieff tackled the issue in three ways. First—in a sense, the cabinet secretary has already revealed this to you—it looked simply at the proportion of funding that Scottish universities get from different sources. As the cabinet secretary said, just under half of that funding comes from the public sector, and just over half comes from other sources: the United Kingdom public sector, private sources and international sources. A similar breakdown can be produced for English universities, which gives a roughly similar set of results. The balance between tuition fees and teaching grants is slightly different in England, which reflects the additional variable fees that English universities can levy on students, but in broadly comparable terms the proportions are roughly similar.

Scott-Moncrieff's second approach was to examine the funding for teaching in the Scottish and English systems. That is really complex and is bedevilled by the fact that the Scottish funding council distributes its funding for teaching across a large number of subject blocks, whereas the Higher Education Funding Council for England limits the number to four or five. There is a massive conceptual difference from the start.

Scott-Moncrieff tried to crunch down the Scottish categories to make them broadly comparable with the English categories. Again, the issue is that the Scottish system has slightly higher funding for students' tuition on average, because we cannot levy additional variable fees as the English can. If we add in the ability for England to levy those fees, and compare the results with the Scottish averages, we get roughly comparable figures. In some cases, the Scottish figures are marginally above the English ones and, in other cases, it is the other way round, but they are broadly comparable, give or take a few hundred pounds. There is a table in the full report that addresses that in some detail.

Finally, Scott-Moncrieff did some useful work on breaking down the total funding into its components. It tried to give a sense of the growth in cash terms and real terms during the past decade or so. From that, it seems that from 2003-04 to 2008-09 there has been around a 20 per cent growth in funding from the state in Scotland and in England. That is approximate, however, because of the problem of comparability.

You will see when you read the full report that Scott-Moncrieff constructed six different indices. The results are complex, but one must make a judgment, which seems to be that in real terms the funding for the English and the Scottish systems has grown on roughly comparable terms. That suggests that, as you said, there is no additional

funding gap between the two systems to date, although the future is of course very different, as you discussed earlier.

That is the work that the technical group carried out on funding comparisons. There are two other pieces of work, on the efficiency and effectiveness of the Scottish and English higher education systems and on the economic impact. Would it be useful if I spoke about those?

Michael Russell: Perhaps we could come to those as we need them.

Margaret Smith: We do not have a crystal ball, but we hope that we will not end up with a funding gap between Scottish and English higher education institutions. However, if there is a funding gap, one concern is that there might be an increase in cross-border flows of students. I believe that there was a 20 per cent increase in the number of English students applying to Scottish universities when top-up fees were introduced by the Labour Government down south, so there is clearly some precedent.

What is the Government doing to assess the potential for cross-border flows of students to increase in that way? What solutions are you considering to deal with that?

Michael Russell: A clear policy objective would be to ensure that Scottish universities continue to be resourced in a way that will make them competitive in these islands and internationally. There is no doubt about that, and all members, I think, would share that objective. One would not wish to make decisions that allowed a funding gap to open up and, given the sector's vigorous nature and, indeed, the evidence that you heard last week, I do not think that one would be allowed to make such decisions. After all, what was happening would become very clear very quickly. The gap does not exist, and I thank John Ireland for his very comprehensive answer in that respect.

Of course, we remain alert to any options. I am very keen for Scottish universities to be chosen because they represent quality, not because they are cheap. As a result, we monitor cross-border flows and try to work out how many people there are, and the universities make representations to us on the effects of the present level of funding and what might happen if the level were to be raised. I think that cross-border flows are a good thing; I am absolutely not against them. In fact, I believe that the number of barriers in higher education should be reduced to zero and people should have opportunities to learn things elsewhere. As I have said publicly on a number of occasions, I want more Scottish students to spend time studying overseas. However, the green paper will lay out some options for managing cross-border flows and I think that we can find a way of ensuring that students choose Scottish universities not because they are the cheapest option but because they are the best option for them.

Christina McKelvie (Central Scotland) (SNP): I apologise for being late, convener.

On the challenges that the universities and colleges sector faces in the coming years, some of which both you and Margaret Smith have mentioned, a number of colleges have raised with me concerns about the changes to immigration status and student visas and the impact of the immigration cap on the sector's ability not only to attract overseas students and their income but to maintain a global network and ensure that different cultures merge and different ideas come together. In that respect, the issue is not just the money but everything else that comes with students. How will that policy impact on the sector?

Michael Russell: I regularly have representations made to me on the immigration policy that has been adopted. Indeed, just a month ago I, along with Universities Scotland and Scotland's Colleges, sent to the United Kingdom coalition Government's immigration minister what I would call a substantial critique of the present policy and an appeal for it to be changed. The letter has been published, but I am happy to provide copies to the committee to ensure that members have a chance to see it.

The policy is thoroughly counterproductive for Scottish further and higher education; indeed, the way in which it was handled by the previous Government at Westminster, which we should not forget started all this, and its tightening under the present Government are simply wrong for the sector. That is not just my view but the view of Universities Scotland, Scotland's Colleges and, I believe, the totality of the sector. As I say, representations are regularly made to me on the matter.

More worrying still, though, is the feeling expressed on my visit to China three weeks ago that, as a result of these caps, Chinese students are receiving a less than enthusiastic welcome. It is very difficult to overcome such a perception. Because of the enormous contribution that these students make to our universities and colleges not just financially but, as you have pointed out, intellectually and academically, I think that for the sake of Scottish further and higher education and, indeed, of Scottish prosperity the policy has to change.

Christina McKelvie: I have had representations from international students in our colleges and universities who very much fear that, because of issues around the extension of student visas, they will be unable to finish their courses. Have you

included that issue in your representation to the immigration minister?

Michael Russell: Yes, and we have also pointed out that certain disciplines in Scotland need to attract the highest-quality doctor of philosophy students and graduate students who will continue their doctoral work after graduation. A number of very prestigious Scottish institutions have a real fear that they will simply not get those students because they cannot get visas for them. Given their contribution to Scotland and the world, it would be disastrous if that happened.

Claire Baker (Mid Scotland and Fife) (Lab): The cabinet secretary said that under the timetable for the green paper, we would be looking at legislation towards the second half of next year, which would parallel decision making in the UK. What is the cabinet secretary's response to concerns that those entering further and higher education that year would be unclear about the funding situation in Scotland?

10:15

Michael Russell: It is absolutely essential that we show some dispatch in having our legislation on the same timetable as legislation south of the border, and the timetable strikes me as being eminently reasonable. There will always be people who are slightly disadvantaged, but we will do our best to help them. The universities want that timetable, and I have made a commitment to keep to it if, as I hope, I am responsible for the education portfolio after the election.

Claire Baker: The Browne review has proposed that the threshold for repayment be increased to £21,000 a year, and concerns have been expressed that that will have an impact on Scotland, where it would also be increased to that level, as that would decrease the amount of money that is available for student support. I understand that Scottish MPs are making representations on the matter to the United Kingdom Government. Has the Scottish Government made similar representations?

Michael Russell: That was one of the first representations that I made to the new UK Government. I felt that it was not appropriate that there be a unilateral decision by the UK Government on the matter, and I am glad to say that David Willetts agreed with me. Discussions are continuing to ensure that we have an influence on what is done. Higher education is one of the few areas in which there is responsibility across the border. To be fair to David Willetts, to whom I speak about these matters on occasion, he has been open to discussion.

Claire Baker: In discussions that we had last week with representatives of the sector, concern was expressed about the possibility that increasing demand on university places, in particular combined with a reduction in the number of university places, might mean that the widening access agenda is squeezed, as the people who will miss out on the advantages of going to university will be the ones who, in the past, have struggled to gain a place at university because they come from a non-traditional background, for example.

This week's *Times Educational Supplement* reported that the University of Glasgow had changed its admissions policy for arts and social sciences and increased the grades that students must receive in order to get an unconditional offer. We can see some indications in the sector that universities are starting to raise the standard required in their admissions policies in response to demand. Is that an issue that needs to be addressed? What action needs to be taken to deal with the problem?

Michael Russell: Of course it is an issue that needs to be addressed. I agree with you that access is an important issue. However, a few points must be borne in mind. First, it is not right to suggest that higher standards squeeze out students from poorer backgrounds. That ignores the issue of qualifications and assistance in gaining qualifications.

Secondly, I would be cautious about figures for the number of places. Within the past year, a 32 per cent increase in applications was being trumpeted, which I believe some people in this room might well have commented on. However, the figure turned out to be utterly bogus. It was not based on like for like at all and the increase in applications was substantially less than that. Another figure that must be approached carefully, and which has also been commented on by members of this committee, is the one that suggests that there has been a substantial fall in the number of places in the past year. Virtually all of that fall can be accounted for by the fall in teacher training places, which was well publicised and advertised and was required to bring the teacher training figures into balance. I do not want to go through all the evidence that I gave the committee two weeks ago, as that will simply lead to a further argument, but the point is that we need to be careful about how we treat such figures.

Thirdly, of course we need to ensure that resources and effort are put into widening access. It has been a perpetual problem. It was a problem when I was at university in Edinburgh between 1970 and 1974—if I can say that without sounding like Methuselah—when there was vigorous debate about the failure to achieve wider access.

What are we doing? We have made sure that greater resources are applied in the area of

widening access. Universities have prioritised issues of access. In addition, the Scottish funding council has undertaken and continues to undertake a detailed review of its work on access. That includes responding to the use of horizon funding in terms of transition and changes of practice. The curriculum for excellence should make a difference, because it will create a different set of qualifications and a different way of taking things forward. To make an odd comparison, although I do so deliberately, I am mindful of the fact that, if I invest as much as possible in early years and nursery provision, it might over a period of time have an effect. We often forget that education is a long-term business. It is about turning the proverbial oil tanker, if I may put it that way—changes take a long time to have an effect. If we do more on early years and nursery and perhaps, dare I suggest it, reduce class sizes in primaries 1, 2 and 3, in time, the figures will change, because that will make a difference as children go through school.

All those issues are being focused on. John Ireland referred to a holy grail. Widening access has been one of the holy grails—if we can have more than one holy grail, although perhaps that is stretching it a little far—that people in education have talked about for a long time. We are making progress, although it is never enough.

Claire Baker: The cabinet secretary is right that widening access has been a persistent issue in Scotland. Previous Governments and the existing one have made some progress, but it is slow. The issue is whether we have sufficient political drive and direction to make a more fundamental shift in the figures on access.

When we look behind the top-level access figure, which is starting to improve, we see that particular institutions still have a low intake of students from non-participation or non-traditional backgrounds. The cabinet secretary is right that to address the issue, we need education funding at an earlier stage in a young person's life. If we try to deal with the issue in the later years of high school, that is often too late for people to take the opportunities that exist. There needs to be greater investment in other years. The issue is whether we can sustain that in a period of tightening finances and whether that remains a focus.

On the increasing pressure on places, the cabinet secretary questions the figures, but we are entering a time when we would be pushed to find a university that is not experiencing an increased demand for places and is not finding it difficult to meet that demand. Constituents of mine who had good grades were unable to get a place at university last year, and we have all heard of similar experiences and tales. Although the cuts cannot be confirmed until the budget is announced, given the pressures that there will be on college and university places, how will we sustain the current places and opportunities? What other opportunities will there be for people if that aspiration cannot be met?

Michael Russell: To stray into a slightly different area of the portfolio, last year, when we looked ahead to the summer and considered summer leavers, we tried to create a situation in which we could meet the demand that would arise for training places, apprenticeships and places at college and elsewhere. We did that on the basis that, although we could not absolutely guarantee everybody everything that they wanted—that would be impossible in any system—we would guarantee help and support for every young person to find the opportunity that best suited them. I am happy to repeat that commitment. Our system should be designed to provide what help and support we can, but it is not possible to give everybody their heart's desire or the opportunities that they believe they require. That simply does not happen.

We should emphasise the positive, which is that hundreds of thousands of young people are successfully gaining access to institutions. Although I entirely accept Claire Baker's point that there is pressure on places, and I have never said that there is not, we should bear down on the figures to ensure that we express the situation as accurately as possible.

Kenneth Gibson (Cunninghame North) (SNP): Earlier, the cabinet secretary talked about the quality of our education system at university level. That is fundamental, so will he confirm that widening access will not mean a reduction in academic standards and a diminution of our universities' well-earned reputation for excellence, which of course makes them so popular among foreign and other students?

Michael Russell: The quality of higher education is precious. We should not do anything that diminishes the quality of higher education, but I do not think that wider access does that—wider access raises the standards for all. The quality of what we deliver in higher education is one of the jewels in our crown, and we must ensure that we maintain it.

Kenneth Gibson: We all support widening access, but I asked the question because last week Liam Burns from the National Union of Students talked about contextualisation. He suggested that some applicants who do not have high levels of academic qualifications should perhaps be considered differently, perhaps on the basis of postcode. As someone who comes from a poorer area, I found that suggestion highly patronising, and I also think that in a postcode area every household is different in terms of its

social and family circumstances and economic background.

Will you confirm that there are no plans to go down that road and that people will be considered not on their family income but on their ability to attain the appropriate academic entrance qualifications to go to university? Otherwise, our universities will be in the same situation as universities in many other countries, where standards have been allowed to drop year on year and the universities can no longer attract the students that we can.

Michael Russell: Mr Gibson, you are tempting me to fall out with the National Union of Students and with universities in other countries, neither of which I will do at this stage.

Let me explain what I understand by contextualisation. It does not involve the diminution of academic standards; it involves considering whether there are other ways in which some potential students can demonstrate ability or prowess that is not necessarily expressed in formal academic qualifications. A small number of students will be involved, but it is worth while to look at the rounded individual.

That point applies to those with the highest academic qualifications, too. It has been a method of selection at some of the oldest universities not simply to select on the basis of exam results and a piece of paper but to have an interview with people at which the university can discover their rounded personality. I would not say that you picked the idea up wrongly, but I have never heard it suggested to me that there should be a postcode lottery for people to be admitted to higher education. Equally, I think that it is possible to look at the individual in a more rounded way.

Kenneth Gibson: I remember the famous O'Reilly case at the University of Glasgow, in which the son achieved all the academic levels that were required but was not perceived at the interview stage to have what was required.

Surely the academic levels must be attained. I apologise if I have misinterpreted the view of the National Union of Students on this point, but alarm bells rang when I thought that someone who is in a poorer area but has a supportive family would be given an advantage over someone who lives a mile away in a high-income area but who does not get the same level of support from his parents.

Michael Russell: Just as I said to Margaret Smith that one policy objective must be to ensure that there is no comparative disadvantage, another policy objective must be to retain the highest standards that currently exist in higher education in Scotland. There is absolutely no doubt about that.

Kenneth Gibson: That has to be visible. Academic standards—

Michael Russell: It is visible in international comparisons and in the popularity of the institutions. Lots of people, including lots of overseas students, want to go to our institutions because they are regarded as leaders in their field.

Kenneth Gibson: I am pleased that the ability to learn and academic attainment of students will continue to be prioritised over the ability of their families to earn.

Ken Macintosh (Eastwood) (Lab): I want to continue some of the lines of questioning that we have had.

The funding situation in further and higher education is clearly not even, as colleges rely on public finance to a far greater extent than universities. We heard some worrying comments from Linda McTavish and others last week about the impact that cuts might have. What is the cabinet secretary's response to Linda McTavish's worries that colleges might fail and that the cuts will have a detrimental effect on the young people who use colleges to progress in life? In particular, what is the cabinet secretary doing to ensure that any cuts are applied not just evenly but fairly, considering the disparity of public funding for each sector?

10:30

Michael Russell: First of all, as I said to the convener, Linda McTavish was responding to a figure suggested at a conference by the chief executive of the Scottish funding council, which is, I point out, an independent agency. He said:

> "16% is the purely technical calculation you can arrive at. However, the actual figure will depend on political decisions, but I do hope everyone has at least mapped that as a scenario."

Linda McTavish made the quite legitimate point that, having mapped that scenario, she was worried about the viability of some colleges and saw difficulties ahead. I fully understand that view; I and my colleague Keith Brown work very closely with Scotland's colleges on a daily basis, and we will certainly work with them through these difficulties. All I am saying is that that figure came from Mark Batho not from the Scottish Government, and any changes that come about, some of which will be inevitable, will be, as they always are, very carefully thought through.

Ken Macintosh: Does the cabinet secretary recognise that colleges receive a higher level of public support than universities?

Michael Russell: I recognise the particular difficulties that will face colleges with a different

mix of students and support. For example, colleges have a far higher percentage of part-time students, who have lots of particular difficulties. I will not treat them in exactly the same way; indeed, no one could.

Ken Macintosh: I was slightly disconcerted by the way in which, in response to Claire Baker's question on teacher training, the cabinet secretary seemed to be using the cuts to teacher training to explain away and seemingly excuse the fall in the number of undergraduates and graduates in higher education. Indeed, I got the impression that he was proud of the fact that his cuts, rather than the cuts imposed by Westminster, had been responsible for the fall in the number of graduates.

Michael Russell: I think that your interpretation is wrong, Mr Macintosh. I have made it perfectly clear that my decision to reduce training places was necessary given the mistakes that the previous Administration had made. We can go through this once again, but it might be better not to. I was simply pointing out that the reduction in student numbers in Scotland was a partial consequence of the decision that I made to reduce those places. I felt that it had to be done. I would not say that I was proud of the move. You might never come to know this, Mr Macintosh, but ministers sometimes have to make decisions that they are not happy about but that they feel have to be made—and I made that decision.

Ken Macintosh: Indeed, and I am pleased that the cabinet secretary is not proud of it.

Given that the measure was, I assume, for the short term, does the cabinet secretary have any intention to change the number of students going through teacher training in the medium to long term? Will there be an announcement to that effect at some point?

Michael Russell: When I am ready to say something about the longer-term nature of teacher training, I will do so. One of the factors that will affect my thinking will be the Donaldson review which, as I made clear to the convener in writing the last time I was at committee, I expected to be available before Christmas but which, unfortunately, will not come out until after Christmas. The review will not be in my stocking—or indeed in yours, Mr Macintosh—but it will produce information on this very issue. When I am ready to make an announcement, I will do so. I stand by the decision that I made but, for the record, I would not say that I was proud of it.

Ken Macintosh: Just to—

The Convener: Mr Macintosh, I remind you that this morning's session is about HE and FE. I realise that the issue of teacher training is close to your heart and might well have some relevance, but I think that we might be slipping away from the subject of our deliberations. You might be mindful of that in your questions and claw back a little bit.

Ken Macintosh: I appreciate that, convener. On a final point of clarification, is the cabinet secretary able to confirm that the reduced number of teacher training places this year will remain in place? Surely if a decision is not to be made until after January there will be no attempt to change the position.

Michael Russell: I expect the situation to remain broadly flat. As I have said, when I am ready to make an announcement, I will do so.

Ken Macintosh: Will the Scottish Government's skills review, which is running parallel to the funding difficulties that everyone is wrestling with, look at the particular role of colleges and universities in vocational training?

Michael Russell: Andrew Scott will say something about the skills review's remit.

Andrew Scott (Scottish Government Lifelong Learning Directorate): Its remit is quite broad and covers, for example, higher national certificates. It does not include university education but covers most other aspects of post-16 education.

Ken Macintosh: So it involves colleges. We heard last week that neither the colleges nor the Scottish Trades Union Congress—nor, for that matter, the National Union of Students—had been approached about the review.

Andrew Scott: Things are happening quite quickly now. An expert panel is being formed and colleges have been invited to be part of it. A call for evidence will be issued in the next few days, if it has not been issued already. There will be two phases to the review: an evidence-collecting session that spans November and December, and a period of testing propositions in the new year. The review will be completed in mid-March.

Stephen Kerr: I can confirm that the review team has now contacted the NUS and that they are holding discussions on submitting evidence.

The Convener: Have the trade unions been invited? They seem to think that—

Michael Russell: They will be invited. Graham Smith and Willie Roe were present at a meeting that I chaired in which the skills review was discussed. It was the day before the committee's evidence-taking session, so things are moving.

The Convener: That is helpful, cabinet secretary.

Alasdair Allan (Western Isles) (SNP): We have had written evidence from Scotland's college principals, some of which is premised on headline figures of 16 per cent cuts and so forth. Is that

evidence based on a worst-case scenario? How would you describe it?

Michael Russell: Mark Batho—I hesitate to quote him for the third time, but I will—as the chief executive of the Scottish funding council, which is an independent body, told the conference:

"16% is the purely technical calculation you can arrive at. However, the actual figure will depend on political decisions, but I do hope everyone has at least mapped that as a scenario."

The word "scenario" occurs in that sentence; he was asking people to map for a scenario. It is not a figure that arises from any other circumstances.

Alasdair Allan: In that case, what efforts is the Government making to recognise the particular situation of colleges as opposed to universities in the years that lie ahead? You have referred in previous evidence to the different histories of the institutions, in terms of the reserves and so on. How are you taking into account the particular needs of colleges?

Michael Russell: We focus closely on the individual needs of colleges. There is regular liaison between the Scottish Government and the colleges in the person of Michael Cross, who would have been here today but is unwell. My colleague Keith Brown takes primary responsibility for that liaison. Tonight I am meeting the Scotland's Colleges organisation, with which we have regular dialogue. We also talk to and visit individual colleges, so I would hope that we have a comprehensive knowledge of the issues.

We value the contribution of the college sector enormously; an astonishingly large number of people go through the college system. Nothing can remain unchanged, and there will be changes in the college sector. However, we recognise the strength of the geographic link—I am thinking of Lews Castle College and the work that it does—and the necessity of colleges working together, through the merger in Glasgow, for example, as well as through more informal arrangements such as the university of the Highlands and Islands structure.

We recognise the contribution that colleges make to the delivery of higher education: just over 20 per cent of higher education is delivered through colleges. Adam Smith College in Kirkcaldy is doing strong work, and it is particularly keen on talking about that work and showing how important it is. There are many important things happening in the sector.

Nothing will remain unchanged: we are in a period of financial stringency that is unprecedented in the life of this Parliament and, in terms of overall public expenditure in Scotland, unknown to most people in this room in their political lifetime. One would have to go back 40 years to find anything broadly comparable to it.

We have a real difficulty, but babies are not being thrown out with bath water. We will focus on ensuring that, even in difficult times, we continue to support and see through those things—such as colleges—that are very important to us. I do not diminish the difficulty, but we will do everything that we can to help.

The Convener: That concludes our questions to you today, cabinet secretary. Thank you for your attendance and for bringing your officials with you.

Michael Russell: Copies of the summary documents are available to the committee; I offer my apologies that you did not get the full documents beforehand. John Ireland gave a more than adequate explanation of one of the important documents.

The Convener: Thank you. The committee will suspend for a short comfort break.

10:39

Meeting suspended.

10:54

On resuming—

Autism (Scotland) Bill: Stage 1

The Convener: Item 3 is the committee's first evidence-taking session in our consideration of the Autism (Scotland) Bill. I am pleased to welcome our witnesses. Robert Moffat is the national director at the National Autistic Society Scotland and Alan Somerville is the chief executive of the Scottish Society for Autism. We thank you for attending committee and for the written evidence that you submitted in advance of the meeting.

We believe that approximately 1 per cent of the Scottish population has autism or is on the autistic spectrum. How important is it for us to identify those people, to know where they are and to make an assessment of their needs?

Robert Moffat (National Autistic Society Scotland): It is vitally important that we go through a rigorous process of identification to identify the 38,000 adults who are missing from the statistics. Basically, it is expected that there will be 50,000 people with autism in Scotland. When we take into account family members, the reality is that autism touches directly the lives of 200,000 people in our nation. A great many of those people are unidentified and undiagnosed. Nevertheless, we know that they struggle with the condition. People with autism fail to access employment, appropriate housing and leisure opportunities. They also face social isolation; they are socially excluded. All those difficulties have a really dramatic impact on people such that, for many of them, the problems lead to serious breakdown, at which point some sort of crisis intervention is required, usually through psychiatric or mental health services.

Alan Somerville (The Scottish Society for Autism): I agree completely with Robert Moffat. The committee will find this morning that Robert and I agree on most things; the only point of difference is on how to go about addressing things.

A great number of people out there are undiagnosed. We do not know where they are, although I suspect that the great majority of them are living in their parents' houses, unemployed and sitting at the computer.

My problem is this: the state addresses people with autism only when they present with difficulties. Children have a right to education, which means that we know a lot about autistic children, including where they are educated. However, after they leave school, they are thrown out into the wide world. They emerge and present to the state in different places including, as Robert Moffat said, mental health services. Social services also provide for a number, but far too many end up in the criminal justice system. The number of people in prison who are on the autistic spectrum is alarmingly high.

The question is: how do we identify where these people are and where they are not? Since I have been in post, I have become disturbed at the piecemeal way in which evidence and statistics are collected. The picture never gets joined up and the state agencies do not agree on where the people are. One tactical problem in asking local authorities to measure populations is that they say, "We see what we see." It is a classic example of putting the telescope to the blind eye. All we learn is what they know already.

In my organisation, we have been thinking for some time about this. I have also discussed the matter with the NASS and other autism-specific charities. We agree that a proper piece of academic research needs to be commissioned from people who understand the four sectors of the state interface for people with autism. My view is that four universities—the University of Glasgow, the University of Strathclyde, Sheffield Hallam University and the University of Newcastle—could do the research. Those are the universities that can address the four sectors; they understand them and where they are.

The mantra that I have trotted out for some time is that we need to map the interface. The complexity of autism means that it does not exist on its own. We have to look at all the different mental disabilities and problems that are involved, such as Tourette's syndrome and attention deficit hyperactivity disorder, plus criminal behaviour and so forth. Indeed, anything on the spectrum of what we encounter in human beings can be overlaid and intermixed with autism. It is therefore easy for the system to double count or to miss out people altogether. A much more vigorous and academic exercise is needed than any that a local authority could undertake. The fundamental answer to the question is yes. We need to know who people are and where they are.

11:00

The Convener: Is the issue essentially for local authorities or is partnership working needed? When constituents come to see me, it sometimes strikes me that our mental health services in Scotland, particularly for children and young people, are not as good as they should be. It can also be quite difficult for families to access them. People will know that their child has an issue or problem and they will be concerned about them, but sometimes it is not easy or straightforward to access child and adolescent mental health services. Perhaps people might be able to improve

diagnoses if there was easier access to services. If clinicians and health professionals engaged with individuals at a much earlier age, long before those individuals ended up in crisis and, possibly, interfacing with our criminal justice system, diagnoses could be made that recognised that they were on the autistic spectrum and might need specialist help or intervention that would prevent them from having such difficulties later in life.

Robert Moffat: You highlight two issues. There is absolute consensus that early intervention is the key to solving the problem. As you say, early intervention prevents people from falling into crisis situations such as homelessness or drug and alcohol addiction, or from falling into the criminal justice system.

However, it is not just a matter of early intervention with children. We think of trying to diagnose children as early as possible, but autism affects people's whole lifespans. A child with autism will grow up to be an adult with autism. For an adult of 35 who is undiagnosed, it is crucial that we get in there as soon as possible and diagnose the condition. Diagnosis will lead to that person being able to access, with a little support, mainstream services that already exist, and which will help them to make sense of their life and history. Many adults with autism have struggled for years and face social isolation and mental breakdown. A diagnosis will not automatically lead to a person wanting services; rather, it will help them to make sense of their life and to plan and arrange their future.

However, it is absolutely correct that the earlier we diagnose children, the more likely it will be that we will have well-functioning young people and adults who will be able to take full advantage of society.

Alan Somerville: I completely agree. On early intervention, there is a lot of evidence that people's quality of life can be taken a lot further if their issues can be addressed as soon as possible. It has been explained to me that a person who has mental health issues and autism will be addressed through the mental health system and processed. I cannot say that they will be cured, but the best thing will be done for them and they will be discharged. However, the autism will remain.

The question is how to address the needs of the whole individual throughout their life, as Robert Moffat has said. If a person has a heart problem, for instance, they will get a letter following diagnosis that will say that they should turn up at a hospital, and a consultant will advise them on a course of treatment. If a person is diagnosed with autism, they themselves have to hunt around to find someone who is prepared to provide them with services. That entirely depends on a complex mix and where the person was addressed. Legislation has to include taking ownership of that individual for their whole life, as they will still be autistic whenever the service that is provided for them ends. They need to be passed on by the relevant agencies throughout their life, and their support needs to continue.

Robert Moffat: As well as highlighting the importance of early intervention for children, and of getting in as fast as possible with adults, the convener highlighted the issue of the willingness of health professionals to engage in the process and to recognise that there is a problem. We know that there are problems in the child and adult mental health services system and that health professionals, particularly those who deal with mental health, have a poor understanding of autism spectrum disorder and tend to view things from a medical model perspective, which is totally inappropriate in dealing with people with autism.

The main difficulty that society faces, however, is an unwillingness—I use that word hesitantly—among health professionals to engage with adults who are struggling. The best statistics that we have put the number of adults out there who are struggling with autism at 2,270, although we know that there should be 40,000 adults who have autism. I am not saying that every one of those nearly 38,000 missing adults will need services, but a significant number will, and we find that there is no access to diagnosis for those adults. There is no will for the support services to encourage people to come forward and go through the diagnostic process either to confirm or to deny that they have the condition.

However, whether it leads to services or not, it is crucial that both children and adults receive a diagnosis. For the parent of a child with autism or for an adult who has the condition, diagnosis is a light-bulb moment that suddenly makes sense of everything that they are experiencing. It helps them to make sense of their past life and to plan for their future life. There is a need to build the capacity for adult diagnosis, which is almost non-existent at the moment.

Elizabeth Smith: I thank you for your comments so far. I hear what you say and I agree entirely that there is a need for early diagnosis. I presume that you are very much in favour of improvements in teacher training to ensure that teachers in training are given additional help in being able to spot the condition early.

Robert Moffat: Yes.

Elizabeth Smith: What else can we do to improve the process so that autism is identified at the youngest ages?

Alan Somerville: That is not where the greatest problem lies. There is an autism toolbox, which

should be present in all schools, to help with identification at the youngest ages. It is an excellent document and a powerful guide, but it is not used to its full extent. It sits on shelves in a lot of schools and is not applied as it should be. Both the technology and the will exist; we just need greater encouragement for schools to use them.

Robert Moffat: Action in the early years is crucial. We are talking about early intervention, and that should start during the early years. To be fair, there have been improvements in child diagnosis over the past few years. People often ask whether autism is becoming more prevalent, but the evidence points more to the fact that there is now a greater awareness of autism, especially in the early years and in primary education. However, there is still much that we can do to skill people up so that they can recognise the characteristics of the condition, which are well documented in research literature. We feel that if every professional who works in early-years services were given autism-specific training, that would greatly facilitate the identification of autism at a younger age.

Elizabeth Smith: So, do you recommend that, outside teacher training colleges, that help should be progressed further down the scale to those who work in child care and nursery care?

Robert Moffat: Absolutely. One of the problems with the training is that although there has been some progress—after all, society in general is now more aware of autism—unfortunately, the improvements tend to have been made at a higher level, particularly at postgraduate level. I would not say that little has been done, but it has been done in a piecemeal rather than a joined-up fashion. We need to instigate a joined-up, coherent programme of training for people who work on the front line.

Elizabeth Smith: What else can we do to improve the provision of information to parents? Let us say that a child's diagnosis is missed in the early years or in school. What can we do to improve the process for parents?

Alan Somerville: General practitioners play a vital part, where there is a patchy picture. Some are very switched on. The GP is often the first person to whom a worried parent with a child who is not developing normally will go. It is the same with schools; there are spots where there is excellent service and autism is recognised immediately, but there are many places where it has slipped down the agenda and people are unaware of it. On an entirely unrelated visit to my doctor, I quizzed him and he knew nothing. I hope that he is not watching this.

Robert Moffat: Health visitors are a vital link because they are the point of contact with parents when their children are young. We are talking not only about staff who work in nurseries or primaries but about all staff who work on the front line with young children. Health visitors can be a valuable source of help, support and information for parents. They should be targeted.

Alan Somerville made a point about general practitioners. When surveyed, only 6 per cent of community health partnerships said that they thought that GPs were clued up enough on autism. Anecdotal evidence from the people we work with backs that up. Despite initiatives such as the NHS Education for Scotland resource for health workers, GPs are still largely unskilled and lacking in knowledge about autism.

Elizabeth Smith: We have been given a wealth of evidence, although I have to confess that I have not finished reading every submission. One of the most important issues is early diagnosis. We have just discussed how that might be improved. Many of the submissions suggest other problems—other barriers to helping people. Some of them relate to information within local authorities, in that local authorities are at different stages of advancement in terms of helping the process. If you had to flag up two or three things that you would like to be addressed as priorities in order to plug those gaps, what would they be?

Robert Moffat: Where do we start? There are so many. To begin with, only 13 per cent of adults with autism are in full-time employment, despite the fact that the vast majority of those adults are capable of taking on meaningful employment and making a contribution, not only to society but to the public purse. Those people want to work, but there are simple barriers. Prospects, our employment support service, is an expert service that is designed to support people with autism into work. It has shown consistently over 10 years that not only can it get people with autism into meaningful employment, but that those people can sustain that employment. Employment is a major area where more progress would make a tremendous difference to the country.

At the other end of the spectrum is something seemingly innocuous: better awareness in all agencies throughout society. Our service users highlight the issue of better awareness among police officers, library and museum staff, and people who work in public transport. Autism encompasses the lifespan and affects the whole life experience. That is what makes it such a complex and difficult problem to solve. The barriers are generally easily overcome, but the reason why we do not overcome them is simply that, largely, we do not understand the condition due to lack of awareness and training.

Alan Somerville: The barrier is really that there is no overall controlling mind. These people are shunted between the different agencies. When

someone is off your budget and on to someone else's, that is a tick—which is increasingly the case these days. They need long-term service, guidance and champions. However, those are rare. As I said in my evidence, you get to the age of 18 and all of sudden you are told, "You're an adult now." It would be like telling me that because I am an adult now, I no longer need my spectacles. It is ridiculous.

Equally, each of the agencies treats the people not as a problem but as a challenge or a technical issue to be resolved: they are processed and discharged. There is no controlling mind thinking about the individual—not just their particular problems, of which employment is an important example, but their whole life. Autism will be with them for life and so they need to be passed on to the next logical way to help them. That would have two major benefits. First, we could easily demonstrate what it would mean for the quality of life of the individual and, if it were done properly, it would produce a substantial cost saving for the state.

11:15

Robert Moffat: I will supplement what Alan Somerville said. One of the main overarching barriers that we face is the lack of a co-ordinated and joined-up approach, with the health boards and the 32 local authorities all working to some form of national standards. At the moment, as the committee no doubt knows, the support structures that we have deal largely with mental health or learning disability. It has become a rather tiresome cliché that people with autism fall into a black hole between those two, so the support structures that are available simply cannot meet their needs.

We need a joined-up approach that involves a national strategy to address the problems that people have, and we must ensure that that strategy is implemented in a concerted and coherent way, with all agencies working in parallel and in tandem. That is why we support the bill. We see legislation as the only enabling mechanism that will facilitate such joined-up working right across the nation.

Margaret Smith: Good morning, gentlemen. Thank you very much for sharing your evidence with us and for everything that you do in your continuing work.

In the light of that work, it is slightly difficult to put my question, which is about the bill as opposed to the more general issues that my colleagues have asked you about. What do you think of the bill? Is it necessary? What about its timing? It is clear from your submissions that your opinions on those matters differ. We have a judgment call to make on whether one of you is right and one of you is wrong. We must try to reach the position that you have articulated, which would involve the best possible provision of services to people. Is legislation necessary to achieve that?

First, I invite Mr Moffat to give his views on the need for the bill, the timing of it and whether it is the way forward.

Robert Moffat: We started to tackle the problem 10 years ago, when we recognised that it was a major issue in our society. We put in place mechanisms that we were entirely confident would do something to solve it. We had "The same as you?" review, which contained 29 recommendations and was hailed as a robust mechanism that would transform the lives of people with learning disability and autism. That was followed closely by the Public Health Institute of Scotland report on autism spectrum disorders, which made 32 recommendations and was hailed as a mechanism that would dramatically transform the lives of people with autism.

However, 10 years on, after adopting the recommendation-based approaches, implementing good practice guidelines and trying all sorts of means at our disposal that have not had legislative backing, we suddenly find that we are no further forward than we were when we started out 10 years ago. That is borne out by the statistics. In 2010, 10 years on from the advent of those recommendation-based approaches, a third of adults with autism are more likely to have severe mental health problems and children with autism are three times more likely to have severe mental health problems. Only 13 per cent of people with autism are in employment, half of them live with their parents and half are financially dependent on their parents. Apparently, there are 40,000 adults with autism out there, and we have managed to identify only 2,200 of them. The people whom we work with continually report to us that they still face incredible barriers to support and social isolation—basically, they are prisoners in their own homes. For them, the world is still a terrifying place that they do not understand.

We have made very little progress using recommendation-based approaches. We feel strongly that the time has come to take a radical and innovative approach by implementing a joined-up national strategy that is backed by legislation. After 10 years of following recommendation-based approaches, a strategy that is backed by legislation is the only way that we can make a meaningful change.

Margaret Smith: I want to follow up one point before I go to Mr Somerville. The National Autistic Society's written evidence states that the latest strategy—which, if what I have read is right, was

produced after the proposal to introduce the bill—is not

"robust enough to address the real challenges facing people with autism in Scotland."

Do you believe that it is not robust enough because you have considered it on its merits or because your experience of the past 10 years shows you that, although it might look good on paper, all the recommendation-led approaches of the past 10 years looked good on paper but failed to deliver and you do not see any reason why the latest one is any different?

Robert Moffat: Both those views are appropriate, but the most important view is that we have scrutinised the strategy and we do not see it as a strategy at all; we see it simply as a group of 26 recommendations. It is not a strategy, because it fails to address or even to recognise many of the major issues that people face today, such as issues of housing, employment, access to leisure and fair treatment by the criminal justice system. It fails to address the issues to begin with, so it cannot be called a strategy. It lacks any kind of national leadership or accountability, so, based on that, it cannot be a strategy. It does not prescribe how we will solve the problem of implementing a set of national standards and ensuring that everyone works to the same agenda, or how we can bring all the agencies together to provide a coherent plan for how to solve the problem nationally. It lacks national leadership.

We feel strongly that we cannot allow another recommendation-based approach to surface or allow the 32 local authorities to be left to pick up the problem and to have to deal with it themselves. The problem is a national one that requires a national strategic approach that is led by Government. We do not see the current strategy, as it is called, as a strategy at all, because it has no strategic framework or strategic feel. It is merely a set of recommendations.

Margaret Smith: Mr Somerville, the SSA takes a different approach, not on the need for a strategic view to be taken, on which the two bodies are in general agreement, but on the need for legislation and the timing of it. Will you give us your thoughts on that?

Alan Somerville: As I said in my written evidence, we will need legislation, but I do not think that we can say what we want to legislate for just yet. We disagree fundamentally with the National Autistic Society on that. I agree that the strategy that the present Administration has come up with is not a complete strategy—it is a first cut at one. However, what I find attractive about it is that it offers the prospect of a real evolution of understanding through the collection of data and a progression. If we legislate now, none of the things that we want from strategic leadership will be provided. We cannot define exactly what we require. I am much more worried about swingeing cuts to services than about going along with a bowl and asking for more—that is just not going to happen.

My fundamental point is that if we legislate now, we will preserve an imperfect system that completely lacks the resources that are required to make the change. The development of a strategy over time will allow us to commission various pieces of work that are relevant to Scotland. It will allow the reference group on which both bodies sit to provide a statement to the minister annually setting out the state of affairs. It will allow us to adapt strategically to the available resources.

I suggest that we address specific, costed problems in the short term, as resources allow, with a view to the longer term, which involves the strategic integration of the various state resources and the care that an individual requires over their entire lifetime.

In my submission, I referred to what has happened in England. The sentiments were noble and the aims were correct, but the ultimate strategy was so dumbed down and resourced down that it has guaranteed very little in terms of the advancement of the rights of people with autism. That is what troubles me most.

Margaret Smith: I want to come back on a couple of things—

Robert Moffat: Convener, may I add something to that? It is very important.

Margaret Smith: I want to clarify something that Mr Somerville said, convener. I am happy to let Mr Moffat come back in, but I want to clarify something first.

Mr Somerville, you said that the strategy that I asked you about was a sort of first cut.

Alan Somerville: I believe that that is the case.

Margaret Smith: However, Mr Moffat made the point quite forcibly that this was not the first cut. I was the convener of the Health and Community Care Committee 10 years ago, when "The same as you?" came out, and I am aware of various strategies and documents since then that have taken a recommendation-led approach, which Mr Moffat mentioned. How can you say that this latest strategy is a first cut?

Alan Somerville: It is not a first cut in those terms; it is a first cut for this Administration.

Margaret Smith: What makes you say that the lack of movement over the past 10 years will not continue for another 10 years if we do not have legislation on this issue?

Alan Somerville: As I said, I believe that we need legislation. However, the legislation needs to enforce the strategy, but we do not have the strategy. I do not see how having an act that said, "We will devise a strategy," would advance the situation at all.

Margaret Smith: On the points that you make about cuts and the difficulties that services face, which we are all alive to, do you accept that, if there were legislation backing up the case for people who are living with autism and require services, it would be more likely that services would be retained and provided in the face of the cuts that councils are facing?

Alan Somerville: That would be entirely dependent on what the legislation said and the degree to which it offered protection to services. If I took the Westminster legislation to, say, Glasgow City Council, they would be able to say "We do all of this." What is important is the degree to which the legislation is enforced and the level of service provision that is in place. That needs to be much more sharply defined in order to stop people falling through the holes. That is where I would like to get to. If we pass this bill, we will need a second autism bill in two or three years' time in order to define what we are trying to preserve.

Margaret Smith: In your written submission, you said that, if the Scottish Parliament passed the bill, it would not be the end of the story, but that you did not think that the issue would be revisited by Parliament. However, in the past few years, we were all blooded during the course of the Education (Additional Support For Learning) (Scotland) Act 2009, which amended the Education (Additional Support For Learning) (Scotland) Act 2004. Believe me, we come back to these things. We are alive to the fact that, because we do not have a second chamber, we must re-examine our legislation fairly quickly, so I would not assume that any autism legislation would not be revisited. However, if we get halfway through the process of the bill and it is thrown out, that might not have a good impact on the views of local authorities and health boards on this issue. Do you agree that that is more of a danger?

Alan Somerville: On balance, no.

Margaret Smith: Mr Moffat, would you like to comment?

11:30

Robert Moffat: Your last point is crucial. We believe that if this legislative approach fails we will be left back where we were 10 years ago with an approach that does not have legislative backing and depends instead on recommendations and a will to get things done. I do not want to be sitting here in 10 years' time, having spent another £23 billion on autism, saying, "We tried that approach then and, once again, it did not work," with the people we support still telling us that they are not supported, cannot access services, cannot get a job, cannot get into their local leisure centre and are actually prisoners in their own homes. If the bill fails, we risk being back in the same situation in 10 years' time.

As the English legislation is brand new, I think that Mr Somerville's comments about it are rather premature. It is certainly too early to sit in judgment on it. After all, any act or strategy will not be able to address this problem in one year, two years, three years or even five years. We are talking about a rolling programme. We cannot undo in a matter of a year or a couple of years the injustices and inequalities that people with autism face in their day-to-day lives; solving this very serious problem will take a very long time—and a very robust response that must be backed with legislation.

Margaret Smith: Mr Somerville says in his submission that although the bill

"has evolved considerably ... the original proposition was broadly to import the Westminster Act to Scotland."

How does the bill sit alongside what has been enacted south of the border? What are the differences? Why does Mr Moffat, for example, think that the bill will be more successful than the Westminster legislation?

Alan Somerville: I am simply reporting what I have been told by fellow chief executive officers of charities in the south. The original concept was good but, although Robert Moffat is right that it is too soon to say that it has failed, I believe that it will certainly take many years to develop. The way things are looking, the whole issue will be entirely resource driven; of course, that is the world we live in. However, precious few real rights have been achieved for individuals and that is my concern about the bill.

I echo Robert Moffat's point that solving this problem will take many years. Nevertheless, this is a fundamental philosophical issue between us because I believe that keeping the mechanism open, making recommendations and adapting our stance form a more powerful approach. My reading of the past 10 years is not that things have stood still but that substantial advances have been made.

Robert Moffat: Well, I am afraid that that is not what our constituents tell us. Their view is that we are really no further forward than we were 10 years ago. The statistics that I have already given you speak for themselves; indeed, I could sit here and give you stats until you fell asleep. What you have said is not what our constituents tell us. I also stand by my view that it is far too early to

make any judgments on the Welsh strategy or the English act and that it will take a long time to get together solutions to this problem.

The bill differs from the English act in that it is an appropriate piece of legislation. For a start, it covers the whole lifespan and addresses the problems that people face from cradle to grave. That is important, because autism is a complex condition that is poorly understood by society and, as I keep saying, any approach to it must be wide-ranging and involve joined-up thinking and working with, for example, local authorities and health boards—indeed, the whole of society—working in concert. As I have said, one of the main differences that we feel will have a dramatic impact is the bill's application to children and adults—from the cradle to the grave—and the fact that it will address all the issues that people face in their daily lives.

We all know that the issue of resources is important, but I personally feel that it has been overhyped. People with autism are not blind or misguided. They are intelligent people, and they know that we are in the middle of a financial crisis. They are not asking for swathes of money to be thrown their way or for special treatment, and they know the situation that we are in. What they are saying is that they cannot access mainstream services that already exist, because people do not understand autism or the difficulties that people with autism have, and that with small modifications those mainstream services can be tailored to meet their needs.

We should obviously pay close attention to resources—it is a rather contentious issue—but we are talking not about creating new services or diverting money away from other needy groups but about mainstreaming the services that we already have to meet the needs of people with autism.

Christina McKelvie: The bill includes a statutory duty on bodies to "have regard to" guidance. That really just means "to take into account", and there is obviously some concern about that. The bill would mean that local authorities and health boards could not ignore the guidance issued by ministers, but a duty to have regard to the guidance would not mean that they had to comply with it. What are your thoughts on that issue?

Robert Moffat: That has been part of the problem that has been inherent in the approach that we have taken over the past 10 years. It is a bit of a thorny issue, and my answer goes back to what I said a few seconds ago: people with autism do not expect special treatment or to be singled out and for people suddenly to start swamping them with support services. They do not expect screeds of money to be diverted away from other needy groups to create shiny brand-new autism services that will somehow change their lives. They realise that there are differing local needs and priorities and that the Government has set national priorities and higher-level objectives that need to be adhered to.

People with autism realise that there are demands on resources and differences in priorities. You will not get a revolution in the autism community simply because there is the phrase "have regard to" in legislation. It will simply not happen. I go back to what I said earlier: it is a question of mainstreaming services.

On the willingness of local authorities to tackle the problem in relation to resources or differing local priorities, there are plenty arguments to suggest that there are good reasons why local authorities should tackle the problem—in a way, I stress again, that need not necessarily cost a great deal of money. There is evidence to suggest that it is in the best interests of local authorities to tackle the issue and that doing so could actually save them money in the long run. At the moment, autism costs us £2.3 billion a year, and we know that a significant amount of that money is simply wasted. It is spent on crisis intervention because we do not get in early enough, and it is spent on providing services for people that are either inappropriate or absolutely fail to meet their need. We are sometimes throwing good money after bad.

There are plenty of incentives for local authorities to take action. At the same time, I stress again the thorny problem of prescribing absolutely what should happen. That is all down to priorities, and people with autism realise that.

Alan Somerville: Once again, I cannot argue—I do not disagree with much of what was just said. I just do not think that the bill will address the problem. The fact that the bill does not prescribe that bodies must follow certain actions, at a time when people are desperately worried about budgets, means that things will continue to go the way that they are already going. People will say that guidance has largely been addressed and that that is as good as they can do. I do not see how, if there is no prescription that must be followed for the specific delivery of services, collection of information and types of training, they will not just slip through the net. We agree completely on the issues and the problems that are faced, but I do not accept that the bill will address them.

Robert Moffat: Let us not fool ourselves about the scale of the problem that we face. I have already pointed out that there has been a rise in diagnosis among children, and we all accept that. Those children will grow up to be adults with autism.

We already know that there are large numbers of adults with autism who live with elderly parents. That is untenable in the long run, as those parents will pass away. For a parent of a child with autism, that is one of the greatest fears: you live in constant fear that you will pass away and your child will not be able to survive without some form of radical, dramatic crisis intervention.

That is what society faces. We are building up a logjam of problems that will break and swamp us in the future. It is vital that we take a new and innovative approach, because, as I said earlier, I do not want to be sitting here in 10 years' time and finding that we have been swamped by the problem. We have had recommendations and advice on good practice; we know what the problem is, and we know how to address it.

We need national leadership, and a proper, adequate, joined-up strategic response, rather than the Government's latest response, which is merely a set of recommendations—or tactics, if you like. The approach must be backed by legislation, or we will just build up a massive problem that will swamp us in the future.

Christina McKelvie: I know a family that has a set of twins in primary school, one of whom has already been diagnosed. The other has been told that they will wait perhaps 18 months for a diagnosis; they are on behaviour cards and all sorts of punitive things in school, but the symptoms are present. Would the duty to "have regard to" guidance or the circumstances surrounding that family improve the service?

Robert Moffat: I go back to the notion that the legislation is not prescriptive. It is not a magic wand, but an enabling device. It should be viewed in the wider context of disabilities and equalities, and even education.

We fully support the additional support for learning framework and believe that it is fit for purpose. The problem lies in its implementation. We have a piece of legislation—the Education (Additional Support for Learning) (Scotland) Act 2009—that is designed to address the problem that you have described, but it has not been implemented properly.

We view the bill as an enabling piece of legislation that would work by ensuring better implementation of other legislation such as the 2009 act. We already have the mechanism, but it is not working. We believe that the bill will fit in with several other pieces of legislation that are currently not being implemented rigorously enough. The bill is an enabling device that will pull all those together, highlight the problem and bring it to the forefront of public consciousness. We will never be able to get rid of the problems entirely, but we hope that the legislation will, by throwing a spotlight on problems such as you have described, bring them to the surface and create a better environment.

Alan Somerville: I disagree. I do not see that the bill has any advantage over the strategy that the present Administration is developing, which will also bring things into the spotlight. There is an attempt to produce a controlling mind, and to understand what is missing in between.

I come back to the fundamental point that the duty to "have regard to" things means that local authorities will, when the bill becomes an act, still be able to say, "We address all these issues." It is a question of degree, and taking ownership of the problem as a whole rather than simply paying lip service to it. Fundamentally, an evolutionary approach will generate better returns for people with autism.

11:45

Given time—I am talking about a relatively short period, not 10 years—and as our understanding evolves, we will be much better placed to define services and how they should be provided. Autism has moved on. A particularly good book on the history of autism is out just now. There have been all sorts of diversions, such as the frigid mother theory and the measles, mumps and rubella vaccine business, which was resolved only recently.

Trying to be heard in the world of autism is a bit like trying to have a conversation in Murrayfield stadium. There are so many different opinions about which way to go and how. There are medical interventionists and there are people who are entirely concerned with social care. The education set dominates part of the community, but issues to do with the fundamental right to an education are not mirrored in adult services.

The community is fragmented. There needs to be much more consensus among the autism community before we attempt to legislate. I am not talking about waiting for 10 years; I am thinking about three or four years. However, quite a bit of work needs to be done before we can resolve issues. Much as I share Robert Moffat's passion, I think that the bill will not achieve what is wanted, strategically or tactically.

Robert Moffat: I disagree entirely. The suggestion that an act of Parliament would make no difference or would have an impact that was equal to that of a set of recommendations that were put together by a group of academics and like-minded people, even if they had the best intentions in the world—I have no doubt that the autism reference group has the best intentions in its actions—does not compute. If recommendations have the same impact as an act

of Parliament, why bother legislating? We could simply get things done by focus group.

We are not here to discuss a whim. We are going through a serious process. We realise that the bill is not prescriptive and that local authorities might have reasons for not taking action. It is difficult to get round that. There are already powerful motivators for local authorities to take action, but local authorities do not realise that their services are not cost effective and that they often throw good money after bad. Nor do they fully understand the difficulties that people face, so they do not know how to tackle the problem. Therefore, autism is a big, scary problem for local authorities, from which it is easy to run away. There are plenty of motivators that would encourage local authorities to take the matter seriously and do something about it. Legislation would give the little bit of encouragement that is needed to get local authorities to step up and engage with and try to solve the problems that we face.

Christina McKelvie: You have made interesting points. I thank you both for being so candid about your difference of opinion. The committee needed to hear about that, and your comments will help us in our deliberations.

Alasdair Allan: I welcome this debate on an issue that has probably had an inadequate hearing in the past.

In its written evidence, the SSA said that

"it would be better to proceed on the basis of limited, costed interventions",

rather than push forward with a broad approach. Will Mr Somerville give more detail about the interventions that he has in mind?

Alan Somerville: We have touched on a few of them. We were talking about, for example, improving GPs' knowledge, in relation to early diagnosis and issues to do with infants. In its submission, the NASS made a point about the criminal justice system and the introduction of cards for people with autism, so that the police are aware that there is an issue. Relatively short-term interventions on such issues can make a difference.

I come back to the fundamental point, which is that resources are required. At a time when absolutely no new resources are available, if we spread our resources across a wide front we will advance one micron and nobody will notice. We should apply our limited resources for specific advantage in the short term, while not losing sight of the longer term, which will require legislation.

Alasdair Allan: Would you like to comment on that, Mr Moffat?

Robert Moffat: Yes. I do not believe that we should use resources for research projects and finding out how to go about dealing with the problem. We already know how to deal with it. We have had 10 years in which national and local good practice guidelines have been produced. There are swathes of them out there, most of which are recognised by professionals and their peer groups as containing elements of good practice. We already know that we have mechanisms out there. I disagree that a lot of resources will be needed to solve the problem.

I return to the point about mainstreaming services. There are services are out there, but people do not engage with them. That wrecks lives. I will give a few examples. Recently, I spoke to a young woman with Asperger's syndrome and sensory difficulties who had applied for and was accepted on to a further education course. She was desperate to go on the course, but when she joined it, she found that Internet Explorer was the only available internet browser. Internet Explorer causes her sensory problems; she cannot engage with it. She explained her sensory problem and asked the institution whether the browser could be changed to Firefox, Google Chrome or another such browser. The institution looked into the matter but said, "No. We can't do that." She had to leave the course. Where is the cost in that?

Another example is GP appointments. People tell me that they have great difficulty in getting a double appointment at their GP when they need it. They do not always need a double appointment—most of the time, they need to see their GP only about a simple matter—but, sometimes, the complexity of what they want to get across to their GP means that they need extra time. However, the surgery refuses to give them a double appointment, so they take the single appointment but get so stressed out about having to deliver all the information in a short period that they end up not going, resulting in lost appointments.

Another simple GP example is that, as you know, people with autism have communication difficulties, and it would make the world of difference to them if GPs, as they were talking to their patient, wrote out what they were saying in bullet-point form, printed it off and handed it over to the patient.

Alan Somerville mentioned the police autism identity cards. We worked with Strathclyde Police and Glasgow City Council on their development. They cost something like 20p each and carry the Strathclyde police logo. We also paid for a course of awareness training for all 17,000 staff at Strathclyde Police. The whole package cost £4,000. The 20p cards have saved a significant amount of money—one example is of when a

young woman was found in distress in the middle of the road.

I could go on and on. There are numerous examples of simple barriers to mainstream services that do not cost a lot of money to fix.

Alasdair Allan: I agree. The examples that you have given us are real problems that cry out for solutions. You spoke about the power of legislation. I accept that, but does the bill that is before us have the teeth to ensure that those solutions happen if local authorities or other agencies continue to refuse to find them?

Robert Moffat: As I said earlier, the purpose of the bill is not to be prescriptive. The bill is a starting point in the process. Ultimately, we want a strategy to deal with the problems that we face. The bill is a means to an end; it is not an end in itself. What is important is the strategy that comes out of the process. The bill will give a form of legal backing to the strategy that comes out.

Alasdair Allan: I appreciate that my next question, which is for both witnesses, may sound provocative. It is not meant to be; my intention in putting it is to be helpful. Do you appreciate that it is quite difficult for the committee to assess the view of families who live with autism on this and a range of other subjects when two bodies, each with almost an anagram of the other's name, have completely different views? That is not an attack on either body but a reflection of the fact that a few members around the table are genuinely puzzled by the situation. Can you shed any light on why—

Alan Somerville: In many ways, I do not think that we have opposing views; the issue is only with the tactics of how we address the problems. Our analysis of the requirements of people with autism and the problems that they face in interacting with services is identical. We have also discussed the fact that, whatever happens and whichever strategy is adopted—whether a strategy under the bill or the current Administration's strategy—we will collaborate to secure the best rights that we can possibly get for people with autism.

Robert Moffat: That is where our aims are shared.

We have not taken a unilateral approach to the matter. We have developed and sought consensus, and we have found consensus. We have gone through the process by forming a coalition of parents, carers, members, other autism groups and other disability groups to help us facilitate the process. We have consulted widely with our membership and our service users—the people whom we support.

The National Autistic Society has 20,000 members. We have gone through a process of wide consultation to come to our views on the bill. I am at the committee today to represent all the people whom we work with—my constituents; I am not expressing my views. I assure you that we are not coming at the matter from a unilateral position. We have sought, and have managed to achieve, a wide consensus.

Ken Macintosh: One of the main concerns that has been raised by both the Convention of Scottish Local Authorities and the Scottish Government is the costs associated with the bill and its implementation. The bill's financial memorandum suggests that the bill itself will not cost much but that the strategy will, and it also alludes to savings that have been made. Is that a fair reflection of the situation, or are COSLA and the Scottish Government right to suggest that there will be cost implications that are not outlined in the financial memorandum?

Alan Somerville: Fundamentally, that is where I was coming from originally. I believe that the bill will be hugely expensive. I am talking about whether there is a business case—if I can reduce it to that. We need to demonstrate to the Government that, over time, the sort of measures that we are agreed on will save the economy money because they will address the huge problem of people who are not able to work, people whose lives are destroyed and people who have to access emergency services in a number of ways. However, it is quite difficult to prove that those measures will save money. One recommendation in the strategy that the Government has produced is that the work of Martin Knapp, a leading academic, should be revisited in a Scottish context.

As I have said, we need to prioritise our resources and we need to have a business case, if you like, that shows which segments of the autism community are most expensive and most disadvantaged. We need to prioritise those areas and we need to understand what the payback would be for the Government. The fundamental point is that we cannot just say that legislation will address all those issues—that is such a loose statement that you could drive fleets of coaches and horses through it. Local authorities would be able to interpret the legislation exactly as they wanted to. I agree that local authorities would probably accept that there are cost savings to be had from the legislation, but they are currently in the mindset of hoping that they will still be alive tomorrow morning, and savings five years down the road are in another world. With the best will in the world, they will not implement an investment strategy that will produce savings on that timescale when they cannot hold the roof on now.

Robert Moffat: I add that there are several aspects to cost. At the risk of repeating myself, it is

extremely important for the committee to take on board the fact that we are not talking about the invention of a raft of new autism services that require swathes of money; we are talking about mainstreaming services and small modifications that will make dramatic differences to the lives of thousands of people with autism in Scotland. Furthermore, the work that Alan Somerville has been talking about by the National Audit Office identifies that, as I have said, we spend £2.3 billion a year on autism and that tremendous savings can be made if we take a strategic approach. We are talking not just about mainstreaming services at small cost but about potential cost savings.

As I have also said, we cannot ignore the social and economic problems that we are building up for ourselves in the future. It is vital that we adopt a new and innovative approach to the issue. To use a business cliché, after 10 years of recommendations-based approaches, the time has now come to work smarter, not harder. We do not need to throw stuff at the problem; we just need to be much more inventive and innovative.

However, before we can do that, we need to understand what the problem is. We need to understand the barriers that people face and to have a greater awareness of what it means to be a person with autism or a parent of a child with autism. That relates back to training and awareness.

The time has come for a different approach. Some people will still require autism-specific services, just as they do now, but I must stress that we are not talking about devising a raft of new services that will suddenly be a drain on the public purse. There are dramatic savings to be made.

12:00

Ken Macintosh: Let us put to one side the argument about the cost of any services, additional or otherwise, that may be outlined in a strategy and the potential savings to be made, and address the other argument, which is about whether there are hidden costs.

We have already had a discussion about whether legislation has an impact. To my mind, the very fact that the Government and COSLA are saying that we should have a strategy and not legislation—because a strategy does not cost anything whereas legislation does—seems to prove that legislation would make a difference. Legislation would give a strategy teeth, which is precisely the reason for having legislation. Does my logic make sense? In other words, the very fact that COSLA and the Government raise costs as a concern implies to me that they think that the bill would be effective and would give a strategy teeth. To my mind, that is another reason for supporting it.

Robert Moffat: I agree with you.

Alan Somerville: I disagree, as you would expect. I think that COSLA and the Government are being realistic. They recognise that if we are to tackle the issue properly and if the legislation that I would ultimately like to see is to have teeth, we must first have the strategy and understand the cost of it. The whole argument boils down to that. I believe that we should evolve a strategy and then implement legislation to enforce it. Robert Moffat believes that we should have legislation, which will generate a strategy further down the road. That is what the argument is about.

Robert Moffat: I go back to what I said earlier. The presumption of COSLA and other objectors is based on the—in my view, misguided—view that somehow the bill will cost inordinate amounts of money and that we are asking for brand-new, shiny autism services. I again go back to the point that that is not the real issue. People with autism do not expect that and it is not necessarily what they need. They want society to recognise that, at the moment, they cannot access mainstream services because of the difficulties that they face. Those services all already exist. I feel that the presumption that the bill will cost extraordinary amounts of money is misguided. That fear is unfounded.

What the bill proposes may very well have a cost, but it is not the cost that people imagine. That is what we are told by service users about the concept of mainstreaming services. I mentioned the number of people with autism who are living with elderly parents and the number of children who are being diagnosed with autism. A logjam is building up that will break, which will cause us tremendous problems in the future. In the current climate, we should be open to the idea of spending to save.

Ultimately, if we put in small amounts of investment, we strongly believe that the bill will lead to significant savings in the long run. People are being shoehorned into inappropriate services that do not meet their needs. Those are costly services. People are being misdiagnosed with conditions such as borderline personality disorder and schizophrenia, and they are being catered for by psychiatry and mental health services, when really the problem is just autism. The underlying autism is not being picked up on. Believe me, it is a lot cheaper to deal with autism than it is to deal with something that is deemed to be a psychiatric problem. There are areas out there in which we are wasting money, so why not spend to save?

Alan Somerville: I completely agree, but you must define where you are going to get the

savings to get that return. In other words, you need a co-ordinated strategy in advance of the legislation or you will be unable to define and enforce it.

I take issue with some of the things that Robert Moffat said. I agree that the services are out there, but they are expensive and local authorities resist buying them. Even in our organisations, the capacity exists to provide far more services. I regularly talk to groups of our service users' parents, and I co-ordinate the value of service packages with individuals to whom I talk. They are powerfully motivated, tough people who have fought to achieve the services that their children get. They do that in the face of public authorities' resistance to spending money. What I am looking for is a definition for converting that requirement into rights. That needs a lot more detail and understanding than we have at present. Our motivations are identical, but I do not believe that toothless legislation will achieve them.

Robert Moffat: It is not about the services that organisations such as ours provide, or about local authorities buying in services. There is an allusion to the notion that the needs of people with autism can be met only by placing them in costly services. That is misguided.

I go back to my point that although there are many mainstream services out there that fit all our needs, people with autism cannot engage with them, for want of a small change—a little tweak—in the way in which the person interfaces with those mainstream services. That leads to gross inequalities, and has been the case for 10 years. People are socially excluded and isolated. Their mental health worsens and they face poverty and hardship. That is the reality. It is not about the services that people provide or any unwillingness on the part of local authorities to find the cash to buy in services. It is about re-examining and rejigging the mainstream services that are already out there to fit the needs of people with autism.

Alan Somerville: We are talking about different parts of the spectrum. Robert Moffat is, correctly, addressing the overall issue, whereas I was referring in particular to my service-user base. We tend to operate at the most disabled end of the autistic spectrum, where the issue is largely about the purchasing of services. However, once again the core argument prevails, which is that even making mainstream services widely available to people with autism requires a strategy.

Robert Moffat: The people whom Alan Somerville is talking about, who have classic autism and a learning disability, are usually automatically picked up by society. We have learning disability services that do a fair job of supporting those people. The real problem is the 38,000 adults out there who are undetected and undiagnosed, yet who are struggling with the problem day after day. I am talking about people who are prisoners in their own home, who live with ageing parents, who experience mental health problems and eventually face mental breakdown. Those people have to be supported through costly interventions. People at the more challenging end of the spectrum tend to be automatically picked up and well supported by the structure that we already have—in other words, learning disability services.

Kenneth Gibson: The Scottish Society for Autism's submission states, with regard to the bill, that

"we may only get one shot at this, and wasting the opportunity on a Bill which fails to deliver real rights for people with an ASD could set us back years".

It goes on to say that

"the initiative is, on balance, counter-productive."

How could the bill be improved to make it effective, or can it not be improved at this time?

Alan Somerville: My fundamental problem is that I would like the strategy to be developed properly and then implemented through legislation. I do not understand how any strategy that the bill says should be developed will not be diverted according to the resources that are available at the time. I would prefer an open-ended approach that allows us to evolve what we are doing. I do not see why a strategy that is backed by the Administration is necessarily weaker than legislation that does not enforce specific measures.

I would prefer the Autism (Scotland) Bill eventually to make specific provisions for an individual to be looked after throughout their life so that they do not have problems of transition between education and employment and so that there is someone who champions their cause and sees them through. I would also like the bill, ultimately, to place a responsibility on the health, education, social care and criminal justice systems to collaborate properly in looking holistically at the needs of the individual. The bill is in danger of setting out a framework of duties that people are readily able to evade on the basis of cost.

I am looking for much more detail about the ways in which we will enforce the rights of the individual to access mainstream services. I agree completely that the vast bulk of people do not present as emergency cases, but that does not mean that their lives and the lives of the people who care for them are not blighted. Over time, as their mental health or frustration with an unsatisfactory life leads eventually to criminal behaviour, it becomes a matter of managing the situation, which requires much more detail about what we intend to do than there is in the bill at the

moment. That is why I think that, even if the bill becomes an act of Parliament, we will need a second bill, later on, containing the detail of what we are trying to do for individuals.

Robert Moffat: That is not necessarily so. If the strategy that emerged from an act of Parliament were robust enough to be a good starting point from which to address the problems that we have, we would not need to rush to change things.

The bill is not an end in itself but a means to an end—it gives a strategy teeth. Okay, questions have been raised about how sharp those teeth are, but there can be no doubt that legislation will give the resulting strategy teeth. I return to what I said earlier: we have had 10 years of non-legislative approaches. We started out on a journey, but we have barely left the front door. I do not want to be sitting here, going through all this again, in 10 years' time.

We feel that the bill, as drafted, is open-ended enough to take account of changes in the world of autism, in financial priorities and in local needs. We feel that it is flexible enough to respond to such changes. The strategy that will come out of the bill is the important thing. Harking back to the Government's strategy, I reinforce our view that it is not a strategic piece of work. Basically, we are looking at legislation being an enabling mechanism that develops a strategy after wide-ranging consultation with all stakeholders—which has not been the case for the Government's current strategy—out of which we get some form of robust mechanism that truly addresses the problems that people face. And, yes, it will have some teeth.

12:15

Kenneth Gibson: Quarriers has raised concerns about a lack of recognition in the bill of the voluntary sector's role. Does either of you want to comment on the role of voluntary services under the bill if it is enacted?

Alan Somerville: We are part of the voluntary sector. I cannot have any more involvement than sitting here answering your questions.

Kenneth Gibson: Yes, but how does the bill reflect the role that the voluntary sector would play in implementing what it is trying to achieve? Quarriers feels, I think, that that has been missed out.

Alan Somerville: To an extent, I have not played that card because I have an organisational interest and a stake in it. We would like to provide many more services and expand our operations, but the decision about what the public services provide and what is farmed out to the voluntary sector is a political one. It is not really for us to say.

Robert Moffat: Any strategy that did not involve the voluntary sector would be a poor strategy indeed. We must have consensus. We have already spoken about the need for a national response, national leadership and a joined-up approach. It involves everyone who has an interest in the matter, which is practically everyone in society.

Kenneth Gibson: Are you saying, in effect, that the bill would have to be amended to take proper account of the voluntary sector?

Robert Moffat: Well, I presume that the voluntary sector would be considered a stakeholder.

Kenneth Gibson: My colleague Ken Macintosh talked about the COSLA submission. Both your organisations are clearly focused on autism, but local authorities and the Parliament have to consider the bill's wider implications for everyone. COSLA says:

"we are concerned that legislation in this area could set a precedent for a raft of legislation to be brought forward for other client groups where a significant lobby exists. Such an approach could jeopardise councils' capacity to deliver for their entire populations by effectively ring-fencing resources."

The Association of Scottish Principal Educational Psychologists stated:

"any legislation introduced to address the needs of a specifically identified group ... is potentially discriminatory; it runs the risk of highlighting the needs of one group of individuals over other groups who also have additional support needs."

Does that mean that we should consider legislation for other groups or does it make it difficult for us to advance with a bill that addresses autism specifically? For example, we considered the additional support for learning legislation, which covered a raft of conditions. What do you feel about that?

Robert Moffat: The reason why we have got to this point is, basically, that many conditions are fairly well understood and recognised by society. It goes back to the point that a diagnosis does not necessarily lead to a need for costly support. The problem that we have with autism, which we have had for decades, is that it is a hidden disability. Society does not recognise it and understands it poorly.

We already have mechanisms that recognise learning disability or mental health problems. Within the education system, we have mechanisms that put in place supports for people who have dyslexia or other conditions. However, people with an autism spectrum disorder remain an invisible population. They suffer gross

inequalities. They are not able to engage in society, which does not recognise them—it has not recognised them for years and years. That is why we are in the situation that we are in at the moment.

On the diversion of resources from other groups, if you speak to people with autism you will see that they realise that there are other groups that have needs. They do not ask for resources to be diverted away from those other groups; they simply ask for society to recognise that they exist. At the moment, they are hidden, invisible and cannot engage with society. They simply ask for the rights and entitlements that we all take for granted.

It is a wider question of equality. People with autism suffer gross inequalities that would rarely be seen in other conditions. Let me put it this way. As I have said, we know that there are close to 38,000 unidentified adults out there with autism. If the same thing happened with 38,000 adults with Down's syndrome, cerebral palsy or some other condition, it would be a national scandal, but somehow it is okay to have 38,000 people who are basically prisoners in their own home and financially dependent on elderly parents. This is why we are in the current situation.

Alan Somerville: I agree. Autism is a special case. People with most other disabilities are at least able to communicate their difficulties, but many of these people look on the world in a completely different way and are unable to engage with the process to get what they require. We should also bear in mind the sheer complexity of the condition, with people on different points of the spectrum with all sorts of attendant problems and co-morbid difficulties. From that point of view, it is the hardest end of the disability world to deal with. As Robert Moffat said, people with autism are uniquely disadvantaged by their condition, in that they cannot readily interact with the rest of society to express their problem.

Kenneth Gibson: I will finish on that note of consensus, convener.

The Convener: That concludes our questions. I thank the witnesses for their attendance and the robustness with which they have put forward their views. I am sure that the committee will reflect carefully on the evidence.

I suspend the meeting briefly to allow our witnesses to leave.

12:21

Meeting suspended.

12:22

On resuming—

Subordinate Legislation

Special Restrictions on Adoptions from Haiti (Scotland) Order 2010 (SSI 2010/341)

The Convener: Agenda item 4 is consideration of a negative instrument. Members might be interested to learn that no motion to annul has been lodged in respect of the order and that the Subordinate Legislation Committee's comments are set out in paragraph 9 of the clerk's briefing paper.

If members have no comments, is the committee agreed that it has no recommendations to make on the order?

Members *indicated agreement.*

The Convener: We move into private session.

12:23

Meeting continued in private until 12:25.

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