

EDUCATION, LIFELONG LEARNING AND CULTURE COMMITTEE

Wednesday 23 January 2008

Session 3

£5.00

© Parliamentary copyright. Scottish Parliamentary Corporate Body 2008.

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

Produced and published in Scotland on behalf of the Scottish Parliamentary Corporate Body by RR
Donnelley.

CONTENTS

Wednesday 23 January 2008

	Col.
GRADUATE ENDOWMENT ABOLITION (SCOTLAND) BILL: STAGE 2	551
EDUCATION AND SKILLS BILL	562
SUBORDINATE LEGISLATION	571
Individual Learning Account (Scotland) Regulations 2008 (SSI 2008/1)	571

EDUCATION, LIFELONG LEARNING AND CULTURE COMMITTEE 2nd Meeting 2008, Session 3

CONVENER

*Karen Whitefield (Airdrie and Shotts) (Lab)

DEPUTY CONVENER

*Rob Gibson (Highlands and Islands) (SNP)

COMMITTEE MEMBERS

*Aileen Campbell (South of Scotland) (SNP)

*Ken Macintosh (Eastwood) (Lab)

*Christina McKelvie (Central Scotland) (SNP)

*Mary Mulligan (Linlithgow) (Lab)

*Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD)

*Elizabeth Smith (Mid Scotland and Fife) (Con)

COMMITTEE SUBSTITUTES

Richard Baker (North East Scotland) (Lab)

George Foulkes (Lothians) (Lab)

Hugh O'Donnell (Central Scotland) (LD)

Shirley-Anne Somerville (Lothians) (SNP)

*attended

THE FOLLOWING ALSO ATTENDED:

Richard Baker (North East Scotland) (Lab)

Fiona Hyslop (Cabinet Secretary for Education and Lifelong Learning)

THE FOLLOWING GAVE EVIDENCE:

David McPhee (Scottish Government Enterprise, Energy and Lifelong Learning Analytical Services)

Rachel Sunderland (Scottish Government Schools Directorate)

Maureen Watt (Minister for Schools and Skills)

CLERK TO THE COMMITTEE

Eugene Windsor

SENIOR ASSISTANT CLERK

Nick Hawthorne

ASSISTANT CLERK

Andrew Proudfoot

LOCATION

Committee Room 5

Scottish Parliament

Education, Lifelong Learning and Culture Committee

Wednesday 23 January 2008

[THE DEPUTY CONVENER *opened the meeting at 10:04*]

Graduate Endowment Abolition (Scotland) Bill: Stage 2

The Deputy Convener (Rob Gibson): Good morning and welcome to the second meeting in 2008 of the Education, Lifelong Learning and Culture Committee. The first item of business is stage 2 consideration of the Graduate Endowment Abolition (Scotland) Bill. I welcome to the meeting the Cabinet Secretary for Education and Lifelong Learning.

I should point out for the benefit of members who have not been through stage 2 consideration of a bill before that we are required to debate and dispose of any amendments lodged at stage 2 and to agree each section of the bill and the long title. Members should have copies of the marshalled list and groupings.

Sections 1 to 3 agreed to.

The Deputy Convener: I will now pass over to the convener, who has just arrived.

After section 3

The Convener (Karen Whitefield): Amendment 1, in the name of Richard Baker, is in a group on its own.

Richard Baker (North East Scotland) (Lab): I hope that the committee will agree to amendment 1. According to the policy memorandum, the bill has been introduced as part of the Scottish Government's agenda of widening access. The Government seeks to abolish the graduate endowment because, it argues, the policy has not succeeded in widening access.

I realise that neither the Parliament nor the committee has reached consensus on these matters, but there is consensus on the need to ensure equity of opportunity with regard to studying in higher education. Amendment 1 seeks to give Parliament the chance to examine in future whether the graduate endowment's abolition had played a material role in widening access to higher education and to find out whether students from poorer backgrounds who went to university made progress when they got there.

It should not be onerous for the Scottish Government to report annually to Parliament on such issues. After all, much of the data are already available. However, collating the information, assessing its relationship to the Government's policy and laying it formally before Parliament will help the Parliament in its future deliberations on these important issues. We all accept the need for on-going scrutiny of and debate on these vital concerns, and such reports would undoubtedly help the committee's post-legislative scrutiny. On that basis, I hope that the committee—and, indeed, the cabinet secretary and the Government—feels able to support the amendment.

I move amendment 1.

Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD): Even though Richard Baker and I have had our differences over the bill's general principles, I support amendment 1. During its stage 1 consideration, the committee was struck—not, I should stress, in a positive way—by the level and quality of the Government's information. Given the paucity of information on access, the committee should support the amendment, as it seeks to put into legislation the means for the Government to provide Parliament with further information on an issue on which there is general consensus—the need to increase access to higher education for people from poorer backgrounds. Of course, the Government might have to introduce other policy instruments to bring that about.

It is for ministers to decide whether the level and quality of information is such that the Government needs to commission new research or simply continue collating the information while finding a way of presenting it accurately. I hope that if the Government does not support amendment 1 it supports the reasons behind it.

I hope that the committee supports amendment 1.

Ken Macintosh (Eastwood) (Lab): I, too, support amendment 1. Like my colleagues, I felt at stage 1 that the bill was predicated on assumptions that were not borne out by the evidence that was presented to the committee or to Parliament. Given that all parties agree that widening access is important, I am concerned that we have such different approaches to achieving the objective. The cabinet secretary believes that the bill will help to widen access, while some of us believe that it will have quite the reverse effect. Amendment 1 seeks to address the provision of information in future, and will allow us to check whether the bill is achieving our joint objective of widening access.

Aileen Campbell (South of Scotland) (SNP): I agree with some of the sentiments that have been expressed, in that we all want to widen access to higher education. Richard Baker stated that much of the information is already publicly accessible, so I do not see any point in duplicating the work if we, as parliamentarians, can access that information and see for ourselves whether or not the abolition of the graduate endowment widens access. I firmly believe that the graduate endowment's abolition will widen access, as do many of the people from whom we took evidence.

Rob Gibson (Highlands and Islands) (SNP): I would like to challenge the assumption that everything about widening access should be contained in the bill. The bill is only part of a package. It is doing a specific part of the job of moving towards free education. I am surprised that, with the resources that are available in Parliament, members feel the need to lodge amendments such as amendment 1. The relevant information is easily available from the Higher Education Statistics Agency. The HESA papers are available for everyone to read, and the tables in HESA reports clearly show the trends.

The committee will scrutinise many such issues throughout its life, and they will normally come up when we consider what happens in education annually. I believe that there is no need for amendment 1. The information that it seeks is easily accessible and can be discussed in other fashions. The provisions of amendment 1 would clog up an otherwise simple bill.

The Cabinet Secretary for Education and Lifelong Learning (Fiona Hyslop): As a minority Government, we accept that every piece of legislation is subject to the will of Parliament. That means not only that Parliament must approve the principal behind each of our legislative proposals, as was the case at stage 1 of this bill, but that parliamentary committees will wish to exercise close and careful scrutiny of the detail. I am happy to appear before the committee this morning to discuss the two amendments.

On Richard Baker's amendment 1, on assessing the impact that the bill will have on widening access, my position on the issue has been clear and consistent throughout the process. Debt and the fear of debt have an adverse effect on the decisions that young people make about entering university. That in turn influences how successful all universities, agencies and Government can be with widening access initiatives. Debt is a particular disincentive for people from low-income backgrounds.

The Scottish Further and Higher Education Funding Council has been given a particular role in widening access to higher education. The council's corporate plan for 2006 to 2009 sets out

seven broad aims. First among them is access to higher education

"to offer ... fair access to a diverse range of learning programmes suited to individual learners' circumstances."

The corporate plan embraces the recommendations of the "Learning for All" report and sets out 15 targets on widening access under the broad objectives of reducing the barriers to enrolment and progression that still face many people and of improving the pattern of the supply of lifelong learning programmes. It is open to the Parliament and its committees to take evidence on that at any time.

The Scottish funding council has two main strands of widening access funding: the widening access premiums that are paid to institutions and funding for the four regional widening access forums. In 2007-08, specific allocations for widening access initiatives represented £25 million to all Scotland's higher education institutions. As well as substantial Government investment, the institutions themselves are active in funding and in pursuing widening access initiatives.

As I said, the funding council funds the four regional widening access forums, which cover access to college and university and are charged with developing policies and delivering collaborative projects to meet local and nationally set priorities. The forums are managed by representatives of colleges and universities.

Each year, as Rob Gibson indicated, the Higher Education Statistics Agency publishes performance indicator figures showing widening access performance by individual institutions. The figures show the number of students from lower socioeconomic groups—both from state schools and from low-participation neighbourhoods—and are important analytical tools in monitoring performance. I agree with those members who have stressed the importance of our analysing widening access initiatives. The figures fluctuate from year to year, but they have not improved over the past four years.

In addition, the Scottish Government publishes data on entrants to Scottish universities from deprived areas, which I think is mentioned in amendment 1. The data were produced for the first time in 2007, and over time they will enable us to track progress on widening access.

10:15

The main driver for widening access policy is the report "Learning for All", which was published in 2005 by the Scottish Higher Education Funding Council and the Scottish Further Education Funding Council, whose successor body, the Scottish funding council, has developed an action plan and holds an annual conference on widening

access. The second annual conference will take place in March, and it is open to members of the committee to attend, to receive a report from it or to take evidence. The conference provides an opportunity for all stakeholders to consider the action plan and options for the year ahead.

Given that background, I query the benefits that would be gained if amendment 1 were agreed to. A reporting requirement would probably have been more appropriately included in the Education (Graduate Endowment and Student Support) (Scotland) Act 2001, which set up the graduate endowment fee, the explicit policy intention of which was to widen access.

Debt and the fear of debt have an impact. As I have consistently said, the abolition of the graduate endowment fee is only one element in our plans to reduce student debt, therefore it might be difficult to draw out and assess the direct impact of abolition of the fee on widening access. However, it goes without saying that if the committee agrees to amendment 1, I will fulfil the requirement on the Scottish ministers to report on the bill's impact and effect. As Rob Gibson said, we should bear in mind the fact that many direct and indirect factors are at play, and abolition of the graduate endowment fee is only one factor. A report on the bill's impact would need to be very much within the broader context of other activity.

I would be concerned if the allocation of resources to the production of more reports on widening access meant that fewer resources could be put into action to widen access. The Government thinks that amendment 1 is unnecessary and bureaucratic, and suggests that the committee reject it. The bill is short, but amendment 1 would increase its length by 25 per cent, while doing nothing to widen access.

Richard Baker: A substantial increase in the length of a two-page bill should not be a huge concern for the committee.

I challenge Mr Gibson's assertion that all the information that would be required is easily accessible and highlighted in the way that it should be. It is important to draw together all the information, so that we can focus on the impact of the policy on its goal of widening access. That would deliver an important service to parliamentarians and to all people who have concerns about the policy and want to ensure that it is properly scrutinised in future.

I am disappointed that the Scottish Government, which says that it is committed to widening access, does not agree that an annual report on how its policy is driving that agenda forward would be desirable. Such a report is necessary, in particular given the paucity of research and evidence that was provided with the bill, which Mr

Purvis mentioned. The cabinet secretary said that not all data on widening access have been published regularly. The committee should send a clear message that such data should be published regularly.

Parliamentarians would be quite able to weigh up the effect of other activity on the outcomes in the report. I press amendment 1.

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

Members: No.

The Convener: There will be a division.

FOR

McIntosh, Ken (Eastwood) (Lab)
Mulligan, Mary (Linlithgow) (Lab)
Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
Smith, Elizabeth (Mid Scotland and Fife) (Con)
Whitefield, Karen (Airdrie and Shotts) (Lab)

AGAINST

Campbell, Aileen (South of Scotland) (SNP)
Gibson, Rob (Highlands and Islands) (SNP)
McKelvie, Christina (Central Scotland) (SNP)

The Convener: The result of the division is: For 5, Against 3, Abstentions 0.

Amendment 1 agreed to.

The Convener: Group 2 is on the effect on student support. Amendment 2, in the name of Jeremy Purvis, is the only amendment in the group.

Jeremy Purvis: Amendment 2—which contains only 64 words, cabinet secretary—is significant and I hope that it will gain the committee's support. The Government was elected on clear commitments to dump all student debt and to replace all loans with grants. One of those policies has been arbitrarily dumped and there is considerable concern among students about the other.

The cabinet secretary and others have said that abolition of the graduate endowment is a small measure in an overall journey. The problem is that members of all parties are uncertain about the Government's destination. The Government was elected to remove all student debt, but now it plans simply to reduce that debt. I am afraid that we cannot take it on trust that the sum of money that was raised previously by the graduate endowment will continue to be earmarked for its purpose and that that purpose will be retained. The statutory duty that the budget and budget documentation reflect the sum that is raised by the graduate endowment and that the money is spent on student support—grants and servicing loans—will be repealed. My amendment 2 addresses concerns about the potential negative impact of abolishing the graduate endowment on the money

that is available for student support and the purposes for which it is used, as the Scottish ministers will have to state clearly in budget documentation the sums that are available for student support. Student support through the provision of grants and loans will continue in the normal way.

There are on-going concerns that such money will no longer be available. The statements of the Cabinet Secretary for Education and Lifelong Learning are on the record, but I do not think that they are sufficient. I lodged amendment 2 to ensure that the money that is raised by the graduate endowment continues to be spent on student support and that it is made clear what sums are available.

I move amendment 2.

Rob Gibson: I question whether this is the place for such a debate. Surely the proper place is the committee that debates the budget's provisions. To my knowledge, Mr Purvis's party did not raise the issue in the Finance Committee, where one would have expected it to be raised. Instead, the matter has cropped up here and is causing the Education, Lifelong Learning and Culture Committee to interfere in the budget process. I seek a ruling on whether the amendment is competent. Even if it is, it is bad practice to insert budget restraints in other legislation. It may be that the amendment falls outwith the scope of the legislation.

In addition, the cabinet secretary has already made clear that the abolition of the graduate endowment will not affect student support moneys. The Government can be held to account on that point. Those moneys are already secured in the budget, so there is no need for the amendment.

Ken Macintosh: I speak in favour of Jeremy Purvis's amendment 2. Both this morning and during the stage 1 debate, the cabinet secretary asserted that claims were made that the abolition of the graduate endowment was the be-all and end-all of widening access, when it is merely part of a broader package of measures. In fact, the contrast is between the sweeping and unfounded claims that the cabinet secretary has made for the bill and what it actually does. For example, the cabinet secretary conflates the broader issue of debt, on which the Government has made sweeping and unfulfilled promises, with this specific and limited measure, which provides a post-graduation benefit to some. I am particularly concerned that the minister confuses debt with the worrying issue of student hardship, on which the bill says nothing so far. That is why I am pleased that Jeremy Purvis has lodged amendment 2.

Richard Baker: I, too, speak in favour of Mr Purvis's amendment. It is right that there should

be a legislative requirement for student support to be provided and for there to be proper accountability for the level of that support. We will debate the impact of the bill on student funding. In the context of the Government's argument—which is disputed—that the bill will not affect student support, amendment 2 seems perfectly sensible and should be included in the bill. I support the amendment.

Christina McKelvie (Central Scotland) (SNP):

I support the assertion of my colleague Rob Gibson that amendment 2 is not competent. Ken Macintosh and Richard Baker brought up a number of different issues that confused me slightly. Earlier, it was not accepted that the abolition of the graduate endowment is part of a package for widening access and supporting students through their studies. The contradictory response, especially from Ken Macintosh, was that the graduate endowment is only part of a package of measures to widen access. I am confused, because both points contradict each other.

I question the assertion that the bill is the right place for the amendment. It should have been brought forward in addressing the budget. I do not support the amendment.

Fiona Hyslop: I welcome the chance to give the committee my view on Jeremy Purvis's amendment 2. I have been consistent on the financial impact of the bill and the fact that the abolition of the graduate endowment fee will have no effect on the amount of student support funding that is available in Scotland.

To put things in perspective, student support funding for 2008-09 is planned to be in the region of £280 million, more than a third of which will go on young student bursaries. The graduate endowment fee income goes directly to the Government in Scotland, which comes to us from students who pay the fee via the student support system. Within the legislative restrictions that are outlined in the Education (Graduate Endowment and Student Support) (Scotland) Act 2001, that income must be used to fund student support. In practice, the Government has implemented the provisions of that act by specifically applying the income from the fees to the cost of providing student loans.

We must bear it in mind that two thirds of students add their graduate endowment fee to their loans. That addresses Ken Macintosh's point about how important the abolition of the graduate endowment fee is to tackling student debt. The previous Liberal Democrat and Labour Government used the income by freeing up some of the budget for the student loan subsidy, which could then be used elsewhere within the lifelong learning budget. The income will no longer be

available to free up some of the student loan subsidy budget for other uses, but that only means a loss of flexibility, not the loss of student support.

I have sympathy for this committee and the Finance Committee as they have to understand the Government's accounting on this issue, which is not easy to follow. However, it is clear that only the additional flexibility to fund in-year non-baseline pressures will be lost. The previous Government did not use the income from the graduate endowment fee to fund baseline regular student support for fees, grants or bursaries. Only the flexibility to fund in-year non-baseline pressures will be lost. There will be no effect on the fees, grants and bursaries that are currently paid by the Student Awards Agency for Scotland. Because of that, there will be no adverse effect on the amount of money that is available for student support that arises by virtue of the abolition of the Education (Graduate Endowment and Student Support) (Scotland) Act 2001.

I accept that it will be for committee members to decide whether they agree with my view or that of Jeremy Purvis. However, the Government's position is that the proposals in amendment 2 are redundant, given that there is no actual adverse effect. I hope that Mr Purvis is prepared to take my assurance, and I urge him to withdraw amendment 2.

If he presses the amendment, I urge committee members to reject it on two grounds, the first of which is the reasons that I have just given. Secondly—this is just to inform the committee's deliberations and nothing more—I query whether Mr Purvis has got the terms of the amendment right. Budget proposals are, as we know, subject to the will of Parliament, and proposals are different from enacted provisions that have been approved by a majority of MSPs. It is important to note that the current position, as established by the 2001 act, is that, contrary to what Mr Purvis said, there is no statutory duty to provide student support in the Budget (Scotland) Bill, so there is an issue about whether the amendment could rectify anything, even if members thought that there was something to rectify.

The amendment does not address the issue in several ways. Regardless of one's position on whether the problem exists—I do not think that it does, and I have said why—and needs to be rectified, I am not sure that budget proposals would be the solution.

I have raised two grounds for objecting to the amendment and, on that basis, I ask that the amendment be withdrawn. If Mr Purvis presses the amendment, I ask the committee not to agree to it.

10:30

The Convener: I invite Jeremy Purvis to wind up the debate on amendment 2 and to say whether he wishes to press or withdraw it.

Jeremy Purvis: Members will know that the amendment makes it clear that ministers would be required

“to rectify any adverse effect”

that arises from the abolition of the graduate endowment. That is quite clear with regard to the fact that there would be no reduction in the level of support that is provided to students while they are studying.

Rob Gibson and others stated that the bill is not the proper place to make such provision. The 2001 act—sections 1 and 2 of which the bill seeks to repeal—states clearly that provisions must be made within budget proposals with regard to the money that is raised by the graduate endowment. Amendment 2 is absolutely within the scope of the bill, and the bill is the proper place for the provision. The amendment would not have been selected for debate by the committee if it had been considered outside the scope of the bill.

Members will know that the Education, Lifelong Learning and Culture Committee included in its report to the Finance Committee as part of the budget process considerations with regard to student support and, indeed, university funding. It is perhaps for Scottish National Party members of this committee to ask why those considerations were voted down by SNP members of the Finance Committee. No doubt that will be mentioned in the debate this afternoon.

On holding the Government to account, we have heard from the Government commitments on student debt and increased support for students, but I am afraid that it is not sufficient to read the *Official Report* and take ministers at their word. We need the commitments to be reflected in the bill.

I press amendment 2 on the basis that, without it, there will be no legislative guarantee that the sums that have been ring fenced for student support will continue. Accepting the amendment will send a strong signal to students that, even with the abolition of the graduate endowment, the funds that have been made available to support students while they are studying will be protected. That is a strong signal for the committee to send. I hope that amendment 2 will get members' support.

Rob Gibson: Convener, can I ask whether the amendment is in order?

The Convener: It is in order. The decision is made at the discretion of the convener and I do not have to explain it, but I point out that I took

advice on all lodged amendments from the clerks, who advised me that amendments 1 and 2 were indeed competent. There was no question that they were outwith the scope of the bill. For your information, another amendment that was lodged was outwith the scope of the bill and it was ruled out of order.

The question is, that amendment 2 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

McIntosh, Ken (Eastwood) (Lab)
Mulligan, Mary (Linlithgow) (Lab)
Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
Whitefield, Karen (Airdrie and Shotts) (Lab)

AGAINST

Campbell, Aileen (South of Scotland) (SNP)
Gibson, Rob (Highlands and Islands) (SNP)
McKelvie, Christina (Central Scotland) (SNP)
Smith, Elizabeth (Mid Scotland and Fife) (Con)

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

The result is tied. I use my casting vote in support of amendment 2, which is therefore agreed to.

Amendment 2 agreed to.

Fiona Hyslop: May I say a word, convener? The committee has just accepted Jeremy Purvis's amendment on your casting vote. I ask the committee and particularly Mr Purvis to reflect on the technical impact of the wording that has been used. I and my officials will be more than happy to engage with him on that.

The Convener: We may well return to the issue at stage 3, if necessary.

Sections 4 and 5 agreed to.

Long title agreed to.

The Convener: That ends stage 2 consideration of the bill. Thank you for your attendance today, cabinet secretary.

10:34

Meeting suspended.

10:36

On resuming—

Education and Skills Bill

The Convener: The second item on our agenda is consideration of a legislative consent memorandum relating to the United Kingdom Government's Education and Skills Bill. We will take evidence on the LCM from the Scottish Government. I welcome to the committee Maureen Watt, Minister for Schools and Skills; Rachel Sunderland, team leader, qualifications, assessments and skills, Scottish Government schools directorate; David McPhee, statistician, enterprise, energy and lifelong learning analytical services; and Neel Mojee, principal legal officer, Scottish Government legal directorate.

For the benefit of any member who is unfamiliar with the procedure for committee scrutiny of an LCM, I point out that after we take evidence from the minister today, we will agree the contents of our report to the Parliament, which will consider a motion on the bill in due course.

I invite the minister to make a brief opening statement before we move to questions from the committee.

The Minister for Schools and Skills (Maureen Watt): I am grateful for the opportunity to speak in support of the legislative consent motion on the Education and Skills Bill.

The bill was introduced at Westminster on 28 November 2007. Its main focus is a proposal to raise to 18 the minimum age at which young people in England can leave education or training. Although the Scottish Government is committed to encouraging young people to stay in education or training, post-16, we do not consider raising the compulsory leaving age in Scotland to be the best way of delivering that change.

The bill also includes measures on the responsibilities of the Learning and Skills Council and on the registration of independent and special schools in England. Therefore, it deals almost entirely with issues that relate to England and—to a certain degree—Wales. However, we would like to extend to Scotland the bill's provisions in one area, which is data sharing.

The bill includes provisions to allow data sharing among the Department for Work and Pensions, Her Majesty's Revenue and Customs and the Department for Children, Schools and Families, allowing those organisations to monitor labour market outcomes, including the earnings and employment rates of those who take part in further education courses.

At present, that type of analysis is not possible in Scotland. However, one of the aims of the Scottish Government's skills strategy is to ensure that our investment in the skills of people who live in Scotland allows them to contribute as much as possible to sustainable economic growth. Therefore, we believe that it would be helpful to extend the data-sharing provisions to allow the Scottish ministers, if they so wish, to share information on further education qualifications so that that type of analysis can be carried out.

It is worth noting that the data would be shared for research purposes only and would not be used to identify individuals for any reason. Data security is important, so it may be helpful to the committee if I provide further information on that.

Individual data will be available to only a small number of people to allow data matching to be carried out. All the matched data will then be anonymised and will be kept extremely securely to limit the possibility of disclosure of personal data. The bill creates a criminal offence for anyone who is found guilty of sharing an individual's data for purposes other than research.

Using a legislative consent motion to extend the powers to Scotland will allow the Scottish Government to carry out the type of analysis that I mentioned, without having to create specific enabling legislation in Scotland. It is a proportionate response to the issue and avoids the potential difficulties of alternatives, such as using Scottish legislation to confer data-sharing powers on the DWP and HMRC.

I hope that the committee supports our view that the legislative consent motion is necessary. It will ensure that the labour market outcomes of those who take further education qualifications in Scotland, including earnings and employment rates, will be available for research purposes. In turn, that will help us to ensure that further education qualifications in Scotland are designed to allow individuals to contribute as much as possible to sustainable economic growth in Scotland.

Jeremy Purvis: Why has the Scottish Government decided not to legislate to confer the powers on reserved bodies? The Scottish Government must have considered allowing the Scottish Parliament to discuss and debate the issue. Why has it decided not to do so?

Maureen Watt: That would mean that the Scottish Government would have to draft a bill and put it to the Scottish Parliament. That bill would involve reserved departments such as HMRC and the DWP. We thought that the legislative consent motion was a more direct and less complicated route than drafting a bill for the Scottish Parliament.

Jeremy Purvis: Why would it be complicated to draft such a bill?

Maureen Watt: The actual drafting of the bill would not be complicated, but it would be more complicated than using a legislative consent motion and it would involve us in negotiations with HMRC and the DWP. They are reserved bodies, so there would not be a purely Scottish involvement; Westminster bodies would have to be involved.

Jeremy Purvis: The decision to allow the Scottish ministers to access data that are held by the DWP and HMRC is one issue but, vice versa, is not allowing those bodies to access Scottish data purely within the legislative competence of the Scottish Parliament?

Maureen Watt: Can you say that again?

Jeremy Purvis: Giving permission to the DWP and HMRC to access educational data in Scotland is purely within the legislative competence of the Scottish Parliament.

Maureen Watt: Yes.

Jeremy Purvis: So the reason for using a Sewel motion is simply that it is more convenient; it is not a result of consideration of whether the Scottish Parliament should have the right to debate the issues and vote on whether those bodies should have access to our young people's educational data.

Maureen Watt: We are seeking to transfer data back from HMRC or the DWP to our Scottish analytical services so that they can use that information to allow us, for example, to improve our tracking of which further education courses provide young people with better employment prospects and wage rates.

10:45

Jeremy Purvis: It is on the record that the SNP for many years has considered the use of the Sewel motion mechanism to be an abuse of Parliament—but there are no ironies lost on the minister.

My specific question concerns young people who are resident in England but go to school in Scotland. What impact will the bill have on them?

Maureen Watt: The member is talking about the general provisions of the bill, which the legislative consent motion does not concern. However, to be helpful to Mr Purvis, I tell him that, as I understand it, children who are resident in England but in school in Scotland will be subject to the main provisions of the bill because their residency is in England.

Jeremy Purvis: So young people who live in Berwick, for example, but go to school in Scotland will be required to carry on in education or training after the age of 16?

Maureen Watt: That is my understanding, yes.

Jeremy Purvis: What representations has the Scottish Government made to the UK Government in that area?

Maureen Watt: Perhaps Rachel Sunderland can talk about that, because she has been involved in discussions on the bill.

Rachel Sunderland (Scottish Government Schools Directorate): We have had a number of discussions at official level, with colleagues who developed the policy behind the bill, about some of the cross-border issues to which the member refers, such as what will happen to a young person who is resident in England but is employed or goes to school in Scotland, and vice versa. Residency is the issue. Our key focus was on young people who are resident in Scotland and ensuring that there were no implications for them, or for schools, businesses and learning providers in Scotland. The bill places duties on young people, businesses, parents and local authorities. In each of those areas, a residency requirement is set, so the provisions concern businesses and local authorities in England, and parents and young people who are resident in England. We have had discussions about that. I hope that that is helpful.

Jeremy Purvis: There have been discussions, but have no formal representations been made with regard to children whose parents will be resident in England but who are in school in Scotland?

Maureen Watt: Apart from the area to which the LCM relates, the main provisions of the bill—as Rachel Sunderland said—entirely concern people who are resident in England or businesses that are based in England, and to some extent, Wales. The main provisions of the bill will have no effect on Scotland.

Jeremy Purvis: Some children with parents who are resident in England are looked-after children in Scotland. What representations has the Scottish Government made to the UK Government with regard to looked-after children who are resident in Scotland but whose parents are resident in England being educated and schooled in Scotland?

The Convener: Before the minister or the official answers the question, I remind Mr Purvis that the scope of the questioning today covers the LCM and its competency. Any representations that should be made to the Westminster Government about the proposal—not the LCM, but the bill—

should be a matter for the elected representatives of the affected individuals, not elected representatives here in Scotland. The member needs to bear that in mind when he frames his questions.

Rachel Sunderland: There is a residency requirement. If a young person is resident in Scotland, they will not be caught by the bill, even if their parents are resident in England.

Jeremy Purvis: A looked-after child in Scotland would not be classified as being resident in Scotland. They would be under the age at which it would be determined that they resided in Scotland.

I am pursuing this line of questioning because such issues are within the Scottish Government's power. I am talking about the impact of the legislation. This will be members' only opportunity to ask Scottish ministers about their representations to the UK Government on the bill, why they decided that a legislative consent motion on sharing information was appropriate, and how they have approached their counterparts in the UK Government to discuss the interests of children in Scottish schools.

Maureen Watt: If the bill is passed, its provisions will not come into effect until 2013 for 17-year-olds and 2015 for 18-year-olds. There will be long delays to allow the Government time to put in place the extra support that will be required to deliver on its commitments. I am sure that all the details relating to specific groups of young people will be considered during that period.

The Convener: Before members ask any more questions, I remind them that the committee has responsibility for considering four main issues: the merits of the policy; the justification for using an LCM; whether we want to make any comments on the terms of the draft motion; and the recommendation to be placed before the Parliament, which will consider that recommendation. Members should consider those points in framing their questions.

Rob Gibson: I want to say something as an adjunct to the debate on the previous agenda item. We take statistics from the Higher Education Statistics Agency, which is a UK-wide body, and I am sure that what is being proposed is normal and is in line with the good relations between the Scottish Government and the Westminster Government. Indeed, I am sure that, in the future, we will take statistics from further afield in Europe and will reflect on the trends that they show. Will the trends and general policy advice that emerge from such a method of legislating guide the Government's policy or will individual cases be dealt with?

Maureen Watt: The proposal is absolutely not about individual cases. Data will be shared for

research purposes only; the proposal is not about individuals' details or their data. If we pass the legislative consent motion, we will be able to get information from the DWP and the HMRC on salaries, for example, which we can use to find out about the types of courses that lead to better destinations, better earning capacities and better employment prospects. The information will mostly relate to the further education sector, because there are better data relating to the higher education sector from other sources, as you rightly mention.

Rob Gibson: So there would be state-of-the-art provision that would allow us to gather the best possible information for our current knowledge.

Maureen Watt: Yes. We are talking about data that we did not have access to before.

David McPhee (Scottish Government Enterprise, Energy and Lifelong Learning Analytical Services): We have evidence on further education outcomes, but not in anywhere near the detail that we are talking about; rather, it is survey information, which means that we cannot delve into it. Matching information and obtaining anonymised data for research purposes will allow us to consider specific further education qualifications and courses, which will allow us to target provision much more effectively.

Maureen Watt: That type of information will be of great benefit to our skills strategy, which attempts to give young people more choices and chances.

Ken Macintosh: Perhaps I could offer a few supportive and constructive comments before asking a question or two about the bill.

I am delighted to see the minister championing legislative consent motions—

Maureen Watt: My neighbour, John Sewel, would be very proud of me, I am sure.

Ken Macintosh: I am delighted that the minister does not share the rather blinkered view that some of her colleagues have demonstrated in the past.

In a similarly constructive vein, I say that the committee should be delighted with this motion. Just last week, in the debate on the Organisation for Economic Co-operation and Development's report on Scottish education, we discussed the importance of being able to track graduates and students as they leave school, and the proposal in the memorandum is a sensible measure in that regard.

The Westminster bill implements various other aspects of the Leitch recommendations, including, for example, an entitlement to free education for adults up to national vocational qualification level 2. Did the Government consider some of those

other aspects of the bill? The recommendation on providing additional help for 17 and 18-year-olds is specifically ruled out—unfortunately, in my view—but I take it that you are not ruling out implementation in Scotland of some of the other proposals that are in the Westminster bill. In other words, I assume that, while the skills strategy is being consulted on, you are not ruling out implementation of some of the measures that will be in place in England and Wales.

Maureen Watt: We are still consulting on how we implement the skills strategy. At the moment, nothing is ruled out and nothing is ruled in. However, I cannot say that we are necessarily looking to what is happening in England as a way forward. We will consult businesses, colleges and young people in Scotland about how to take the skills strategy forward rather than look over our shoulder to see what is happening in England. When we were discussing the skills strategy, we made it perfectly clear that, although England was following the recommendations of the Leitch review, we wanted to ensure that our skills strategy was the way forward in Scotland.

Ken Macintosh: I am reassured by your remarks, I think. Is the possibility of providing free training to adults up to NVQ level 2—or even level 3—still under consideration? I am not sure whether that is part of this LCM.

The Convener: I am sure that it is not part of the LCM, so it is entirely up to the minister whether she wants to respond on that issue.

Maureen Watt: At this stage, we should wait and see what the recommendations are following the consultation on the skills strategy.

The Convener: I am glad to see that committee members are taking every opportunity to get in a few extra questions on unrelated matters.

That concludes questions to the minister. I thank her and her officials for attending.

We will suspend briefly to allow the minister to leave.

10:59

Meeting suspended.

11:00

On resuming—

The Convener: As I indicated, the committee is required to report to the Parliament on the LCM. The report should include our views on the merits of the policy and the justification of using the LCM, any comment on the terms of the draft motion and a recommendation on whether to give consent to the proposal.

Rob Gibson: I support the LCM as proposed. Although we have had a run round some of the issues, the LCM would provide a straightforward way of getting better information, which would be very helpful.

Elizabeth Smith (Mid Scotland and Fife) (Con): I add my support. Anything that better informs us about our young people, such as what employment they end up in and their journey from formal education into the world of work, is extremely important. I share some of the sentiments that were mentioned earlier that some of the evidence that we had about an earlier bill was not desperately convincing. The more evidence we have, the better able we are to make a decent decision about what is relevant and what could be helpful in the formulation of Government policy.

Jeremy Purvis: I, too, support the LCM. It is a good example of the LCM procedure and a proportionate response that confers more powers on Scottish ministers. I am glad that it has unanimous support in the committee.

I still have concerns about discussions—formal or otherwise—between the Scottish Government and the UK Government that led to this point. I am concerned about the “cross-border issues” that were mentioned earlier and which I am aware are outwith the scope of the legislative consent motion. I would hope that the Scottish Government has made formal representations on the matter. I am not sure whether we can express that concern in our report, but I recall that the minister said she was prepared to come back on that point—I do not know whether that would be to me, or to the committee. I will leave it to the convener to decide the best approach.

Mary Mulligan (Linlithgow) (Lab): I am happy to support the legislative consent motion. The information that can be provided will be useful in developing courses for the future. I am pleased that the SNP has been converted to the merits of LCMs and recognises the advantages of using the procedure. However, I share my colleague Ken Macintosh’s view that the SNP could have gone further because we all could have supported the extension of compulsory education to 18-year-olds; perhaps the minister will come back to us on that point. I look forward to that. At this stage, however, I support the motion.

The Convener: Members have raised a number of issues. It is clear that there is universal support for the LCM, which we should recommend in our report to the Parliament.

Several members raised issues that do not fall within the scope of the LCM. It would not be appropriate for the committee to reflect those issues in its report, because they are outwith its

competence. I believe that members have at their disposal a number of routes that would allow them to pursue those matters with the minister—by lodging written and oral parliamentary questions and by writing to the minister. If members, having used those means of communication, feel that they have not received sufficient responses, the committee might revisit the matter. However, at this point, there is no reason to suggest that such information will not be forthcoming from the minister. Individual members might like to pursue their concerns on their own initiative.

Are members content that the report should be published in due course and for me to sign it off, given that there is universal support for the LCM and no controversy about the report’s contents?

Members indicated agreement.

Subordinate Legislation

Individual Learning Account (Scotland) Regulations 2008 (SSI 2008/1)

11:04

The Convener: Agenda item 3 is consideration of a Scottish statutory instrument under the negative procedure. Members have a cover note and a copy of the draft SSI in their papers. No motion to annul has been lodged. The Subordinate Legislation Committee determined that it did not need to draw the Parliament's attention to the instrument. Do members have any comments?

Mary Mulligan: I note from the information that is before us that the instrument does not need to be approved until 18 February. Would the committee be interested in seeking more information on the instrument? Although at this stage I do not think that we will want to recommend that it not be approved, there are a number of questions that we could pursue. For example, why has the Scottish Government decided that a grant of £500 should be made available to part-time students, especially on a day when we have just completed consideration of the bill that will provide for the removal of a burden of more than £2,000 from some of our full-time students? Are we being ambitious enough in the support that we are giving to part-time students? Are we treating them with an equality that emphasises the worth of education, rather than the educational route that people choose? Is the individual learning account the right and best vehicle for introducing such support?

The Executive note states that the

"course fees for a complete part-time degree programme"

are "around £4,800". That is substantially more than the £500 grant that will be made available. The committee has recognised that we want to encourage more people into education and training and to ensure that people from less traditional backgrounds, who are often part-time students, take up that opportunity. Such people, especially older people with other financial responsibilities, may be deterred by course fees. I want to ensure that we are doing our best to encourage people into education and training. Perhaps the committee could take a bit of time out of its busy agenda to pursue some of the issues that I have raised.

The Convener: In the light of Mary Mulligan's comments, would the committee like to take evidence on the instrument? There is scope for us to meet next week for a short evidence-taking session on the instrument. Do other members think that that would be helpful and enlightening?

Ken Macintosh: I think that it would be. Like Mary Mulligan, I welcome the fact that additional funding for part-time learners in Scotland has been found. This is an important subject. Committee colleagues will have been impressed, as I was, by the evidence that Peter Syme from the Open University gave to us on the subject recently. I recall a lengthy inquiry into part-time learning by the Enterprise and Lifelong Learning Committee in a previous session. If the instrument is the outcome of the Government's deliberations on part-time education and is the solution that it is offering, there is merit in our discussing the policy. We need to establish how the Government came to its conclusion and what its long-term objectives are. As Mary Mulligan pointed out, there is still huge inequity in how we treat part-time students as opposed to full-time students.

The measure that we are considering is welcome, but we ought at least to explore the thinking behind the Government's policy on part-time education. I think that significant funding was found recently for part-time education in England and Wales and I am not sure whether the measure will place students in Scotland on a par with students in England and Wales. We could explore such issues. We are talking about an important policy development, which we should explore with the minister. As Mary Mulligan said, vehicles other than ILAs, such as fee waivers, might fund part-time education.

I am conscious that the committee will not meet next week. What is on the agenda for the following week? There is no hurry, given that 18 February seems to be the backstop.

The Convener: There is no reason why the committee cannot meet next week if it wants to do so. It might be easier to have a short meeting next week, rather than discuss the issue on 6 February, when we will meet for an informal session with Executive officials to discuss the Protection of Vulnerable Groups (Scotland) Act 2007. The minister offered that meeting some time ago because she is aware that the issues are complex, so the meeting might be lengthy.

Ken Macintosh: I appreciate that, but my preference is for a clear Wednesday morning, to be followed by a busy one. I would prefer it if there were no committee meeting next week and informal and formal meetings on 6 February, even though our agenda that day would be full. As the convener knows, having a clear morning makes quite a difference, given that we have to travel from our constituencies. I would rather come for a full morning. I think that there will be enough time on 6 February to have an informal discussion on vulnerable groups, which will last for about an hour and a half, and a chance to explore issues with the minister in what need not be a long discussion.

We would need to ascertain whether the minister would be available.

The Convener: Officials, rather than ministers, normally attend such meetings.

Rob Gibson: I agree that we need to find out as much as we can about the approach to getting more people into education, but I am conscious that the committee has a wide remit. The alacrity with which some members want to pursue issues to do with education is not matched by keenness to strike a balance and consider our other areas of responsibility. My interests have been met with comments like, "We'll do culture in our last week", and we do not seem to be striking a balance in our consideration of the country as a whole.

Given that culture was an add-on to the work of the Enterprise and Culture Committee in the previous session of the Parliament, we have a responsibility to take a much more balanced approach to how we plan the time that we spend on culture. Another session on education might be useful and politically important, but we should bear in mind our other areas of responsibility and consider our wider programme of work. I hope that members take that on board.

Elizabeth Smith: We should discuss part-time education further. The issue is extremely important—and increasingly so. It is vital that we get behind the Government's thinking, which I support in this context, and compare our approach in Scotland with approaches in other nations, so that we get a clear idea of how what we do benefits education and the economy. Therefore, I support the suggestion that we spend a little more time on the matter. It is important that we give it due consideration.

I take Rob Gibson's point, which is a matter for the convener, but culture and education are not mutually exclusive. Many people who study part time are involved with cultural issues and it is important that they should be able to access courses.

11:15

Mary Mulligan: I agree with Rob Gibson's concerns that the committee has not done enough on culture. Perhaps he wants to fill next week's vacant slot with something on that—I am sorry; that was not a serious suggestion. I was not on the committee when the work programme was discussed at the beginning of the session, but the convener has said that committee members can suggest ideas for what the committee could usefully investigate and I would be happy to consider our remit on cultural issues more thoroughly. However, I hope that that will not overshadow the suggestion that support for part-

time students is important and that the committee might want to consider it.

Ken Macintosh: On whether officials appear or the minister appears, I am keen that we discuss the policy background and we cannot really quiz officials about that. That would be unfair, as they would not be in a position to answer. Officials can explain some of the thinking behind the regulations, but they cannot go into explanations of policy. If the regulations are the conclusion of a process of policy development, it would be beneficial—for the Government as well as for us—to have the minister here.

Aileen Campbell: Could we get some written evidence from the ministers on the policy background and take oral evidence from the Government officials? Would that be acceptable to the committee?

The Convener: I will respond to those points. The committee as a whole agreed its work programme. We probably would not have been taking evidence on support for part-time students if the Government had not laid legislation before us. It has done that, so the discussion becomes about whether we want to take additional evidence. If the Government had laid cultural statutory instruments before us, we may well have wanted to take additional evidence on those.

We need to bear in mind that our work programme will be shaped in a number of ways: by us as committee members; by civic Scotland, which will make representations to us about the issues that the committee should consider; and by the Government, which will bring before us legislative proposals in the form of primary or secondary legislation. We need to reflect on that. I hope that, when the Government publishes its culture bill, which will come to the committee, we will spend a little more time on cultural matters. Evidence-taking sessions on the creative industries are planned for before the summer recess.

We are agreed that we would like to take further evidence on the regulations prior to having to report to the Parliament on 18 February. Mr Macintosh has suggested that we could do that on Wednesday 6 February. I have no objection to that and, if committee members are happy to have a longer committee meeting that would allow us to do that, there is no reason why we cannot combine a formal, on-the-record meeting on the SSI with a private session with the Government officials on the Protection of Vulnerable Groups (Scotland) Act 2007. I take it that the committee is content for the clerks to explore that.

Members indicated agreement.

The Convener: It is my understanding that the only measure that the committee can take with a

negative SSI is to annul it. That has generally been the reason why ministers have not come before committees on such instruments but officials have. We should ask officials to come, and I am sure that they will comply with that request. We can also request that a minister come. If no minister can come, that will not prevent us from taking additional evidence on the regulations or hinder our consideration of them, as it is highly unlikely that we will annul them. Most committee members think that the regulations are worthy of support, but they would like to explore some of the policy issues.

We will make an approach to the Scottish Government, ask whether the cabinet secretary or one of her ministers would like to attend along with officials, and revisit the issue on Wednesday 6 February at our next meeting. I thank members for attending.

Meeting closed at 11:20.

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

No proofs of the *Official Report* can be supplied. Members who want to suggest corrections for the archive edition should mark them clearly in the daily edition, and send it to the Official Report, Scottish Parliament, Edinburgh EH99 1SP. Suggested corrections in any other form cannot be accepted.

The deadline for corrections to this edition is:

Thursday 31 January 2008

PRICES AND SUBSCRIPTION RATES

OFFICIAL REPORT daily editions

Single copies: £5.00

Meetings of the Parliament annual subscriptions: £350.00

The archive edition of the *Official Report* of meetings of the Parliament, written answers and public meetings of committees will be published on CD-ROM.

WRITTEN ANSWERS TO PARLIAMENTARY QUESTIONS weekly compilation

Single copies: £3.75

Annual subscriptions: £150.00

Standing orders will be accepted at Document Supply.

Published in Edinburgh by RR Donnelley and available from:

Blackwell's Bookshop

**53 South Bridge
Edinburgh EH1 1YS
0131 622 8222**

Blackwell's Bookshops:
243-244 High Holborn
London WC1 7DZ
Tel 020 7831 9501

All trade orders for Scottish Parliament documents should be placed through Blackwell's Edinburgh.

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

Telephone orders and inquiries
0131 622 8283 or
0131 622 8258

Fax orders
0131 557 8149

E-mail orders
business.edinburgh@blackwell.co.uk

Subscriptions & Standing Orders
business.edinburgh@blackwell.co.uk

Scottish Parliament

RNID Typetalk calls welcome on
18001 0131 348 5000
Textphone 0845 270 0152

sp.info@scottish.parliament.uk

All documents are available on the Scottish Parliament website at:

www.scottish.parliament.uk

Accredited Agents
(see Yellow Pages)

and through good booksellers