EDUCATION, CULTURE AND LIFELONG LEARNING COMMITTEE

Wednesday 30 September 2009

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EDUCATION, LIFELONG LEARNING AND CULTURE COMMITTEE
26th Meeting 2009, Session 3

CONVENER

*Karen Whitefield (Airdrie and Shotts) (Lab)

DEPUTY CONVENER

*Kenneth Gibson (Cunninghame North) (SNP)

COMMITTEE MEMBERS

*Claire Baker (Mid Scotland and Fife) (Lab)
*Aileen Campbell (South of Scotland) (SNP)
*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)
Andrew Welsh (Angus) (SNP)

*attended

THE FOLLOWING ALSO ATTENDED:

Alasdair Allan (Western Isles) (SNP)
Fiona Hyslop (Cabinet Secretary for Education and Lifelong Learning)

CLERK TO THE COMMITTEE

Eugene Windsor

SENIOR ASSISTANT CLERK

Nick Hawthorne

ASSISTANT CLERK

Emma Berry

LOCATION

Committee Room 5

Scottish Parliament

Education, Culture and Lifelong Learning Committee

Wednesday 30 September 2009

[THE CONVENER *opened the meeting at 10:00*]

Schools (Consultation) (Scotland) Bill: Stage 2

The Convener (Karen Whitefield): I open this 26th meeting in 2009 of the Education, Lifelong Learning and Culture Committee. I welcome Alasdair Allan, who has joined us for our consideration of the Schools (Consultation) (Scotland) Bill. I remind all those present that mobile phones and BlackBerrys should be switched off for the duration of the meeting.

Agenda item 1 is stage 2 consideration of the Schools (Consultation) (Scotland) Bill. I am pleased to welcome the Cabinet Secretary for Education and Lifelong Learning, Fiona Hyslop. We will move straight to amendments.

Sections 1 and 2 agreed to.

Schedule 1

RELEVANT PROPOSALS

The Convener: Amendment 13, in the name of Alasdair Allan, is grouped with amendments 14 to 18.

Alasdair Allan (Western Isles) (SNP): Amendments 13 to 18 are relatively minor and, I hope, non-contentious, but they are nonetheless important and seek to strengthen the position of Gaelic in the bill. Members might ask why that is necessary. I appreciate that, at stage 1, the committee rejected proposals for amendments by Bòrd na Gàidhlig on the provision of Gaelic-medium education. The committee's reason for doing so might have been that members felt that such amendments would have strayed from the central purpose of the bill, which is primarily to govern the process around proposals for school closures.

I stress that my amendments have a slightly different purpose. There is cross-party consensus that the further development of Gaelic-medium education is positive, for a host of cultural and educational reasons on which I will not expand. Without an increase in the provision of Gaelic-medium education, even maintaining the present number of Gaelic speakers will be impossible. It is important that we do not allow that policy objective to be frustrated by school closures. I am not saying that no Gaelic-medium school or unit should ever close or that they should be uniquely protected. However, just as the bill cites specific factors such as the impact of a proposed closure on a rural community, it is right that it should cite the impact on the Gaelic language, where relevant.

Amendments 13 to 15 and 17 and 18 seek to achieve that. Amendment 13 clarifies the term "closure" so that it specifically includes not just the discontinuance of nursery provision or a stage of education but a form of education, namely Gaelic medium. It is reasonable to say that Gaelic medium is a sufficiently distinctive form of education to deserve a specific mention. In the interests of fairness, the amendment makes it clear that the safeguards would also apply in any instance in which a school chose to discontinue education through the medium of English. Amendments 14 and 15 make the same point later in schedule 1. They bring the wording into line by including reference to Gaelic-medium and English-medium education.

Amendment 17 deals in definitions, too. It amends the part of schedule 1 that offers definitions of terms such as "nursery class", "primary education" and "denominational school". Amendment 17 offers a definition of "English medium education" and "Gaelic medium education". It also clarifies—in case this were ever to be a matter of dispute—that we are talking about the Scottish variety of Gaelic, rather than the Irish or Manx ones.

Amendment 18 takes out the superfluous definition of "Gaelic medium education", as that has already been dealt with in amendment 17. It also takes out the word "the" before Bòrd na Gàdhlig, as the definite article is already implied by the presence of the word "na". Where other pedants might hesitate to irritate their audience by explaining the genitive case in Gaelic, I do not fear to tread.

With the committee's permission, I will not move amendment 16, which deals with the establishment of Gaelic-medium units in English-medium schools and vice versa. I believe that committee members received an e-mail yesterday from Bòrd na Gàdhlig, as did I, in which it expressed its support for all the amendments, save amendment 16, which it sees as being unnecessary and complicating the issue. There are already well-established practices of consultation when Gaelic-medium units are being set up. Unlike in the case of school closures, the demand invariably comes from parents themselves. Therefore, I concede that amendment 16 perhaps strays from the main point of the bill. After conversations with Bòrd na Gàdhlig, I accept

that amendment 16 could unnecessarily complicate matters and I defer to its view.

I seek the committee's support for all the amendments in my name, except for amendment 16, which I will not move.

I move amendment 13.

Ken Macintosh (Eastwood) (Lab): I thank Alasdair Allan for lodging these amendments. The committee noted that a large number of submissions asked that the bill be used as a vehicle to promote Gaelic-medium education and to give it further legislative backing. That of course was a Scottish National Party manifesto commitment. When I raised the matter with the minister at stage 1 I believe that she was unable to say when a bill on that commitment would be passed if this bill was not an appropriate vehicle for it. Does Mr Allan have a view on when such a bill will be forthcoming? Will that be before the end of this parliamentary session? If not, it strikes me that we should use this bill to implement the SNP manifesto and meet the demands of the Gaelic community.

Alasdair Allan: Well—

The Convener: You will get an opportunity to wind up at the end, Mr Allan.

Ken Macintosh: I was going to ask a question about amendment 16, but Mr Allan has already clarified the position on that, so I am happy about that.

I just want to get an understanding of this set of amendments. Did the Government help Mr Allan to draft the amendments, or did they come from Mr Allan's own office?

The Convener: No other committee member wishes to speak, so I invite the cabinet secretary to speak to this group of amendments.

The Cabinet Secretary for Education and Lifelong Learning (Fiona Hyslop): A number of good and useful points have been made on Gaelic-medium education both this morning and during the course of stage 1. During stage 1, I said to the committee in evidence that we need to be careful about the purposes for which the bill is used. Alasdair Allan reflected on that. I am pleased that the committee's stage 1 report recognised that the specific issues to do with Gaelic-medium education that were raised in written evidence are not a matter for consideration as part of this bill.

Also in evidence to the committee, I said that progress on supporting and promoting Gaelic-medium education can be achieved by various means. On Ken Macintosh's comments, you will be aware of the announcements during the summer recess of additional funding for the Gaelic schools capital fund and a Gaelic speakers action plan, which will help increase the number of Gaelic speakers and ensure a secure and sustainable future for Gaelic in Scotland. The minister for Gaelic will take that forward. I am sure that the committee will want to address those issues with him.

However, I also undertook to reflect further on the issues that were raised in relation to Gaelic-medium education. Having considered Bòrd na Gàdhlig's written evidence to the committee, I think that it is clear that there are a number of areas in the bill where amendments could be made to ensure that consultations that affect the provision of Gaelic-medium education are subject to the same rigorous and robust procedures that other proposals are. I discussed that issue with Alasdair Allan when he approached me about the Government's view on Bòrd na Gàdhlig's amendments in particular.

I acknowledge the parity that amendments 13 to 15 will achieve, so I am happy to support them. There are pros and cons to amendment 16, but Alasdair Allan has indicated that he does not wish to move amendment 16. I urge committee members to support amendments 13 to 15. Amendments 17 and 18 are simply technical amendments that follow on from amendments 13 to 15 and provide clarity on the meaning of terms used therein. I am also happy to support amendments 17 and 18.

The Convener: I invite Alasdair Allan to wind up the debate on this group of amendments and to respond to any points raised as appropriate.

Alasdair Allan: In answer to Ken Macintosh's questions, I am afraid that I cannot speak for the minister or answer questions about her intentions, but I am sure that the member will have opportunities to question her. Suffice it to say, I support the SNP's Gaelic commitments.

Ken Macintosh asked whether I sought advice on my amendments from the Government—I sought advice from both the Government and Bòrd na Gàdhlig. As you have seen today, I have deferred to Bòrd na Gàdhlig on the amendment that I will not move. However, the amendments and the initiative come from me.

Amendment 13 agreed to.

Amendments 14 and 15 moved—[Alasdair Allan]—and agreed to.

Amendment 16 not moved.

Amendment 17 moved—[Alasdair Allan]—and agreed to.

Schedule 1, as amended, agreed to.

Schedule 2

RELEVANT CONSULTEES

The Convener: Amendment 1, in the name of the cabinet secretary, is grouped with amendments 2 to 10.

Fiona Hyslop: The amendments to the list of consultees set out in schedule 2 will add the staff unions to the list of statutory consultees in every consultation. Councils, as employers, already consult unions on employment issues resulting from school consultations as a matter of course in most cases. However, having reflected on the matter further, I feel that there should be explicit reference to unions in the list of statutory consultees for all proposals to ensure that they are consulted in every case.

I am sure that everyone will welcome the amendments. Both the main teaching union, the Educational Institute of Scotland, and the Convention of Scottish Local Authorities, have been consulted and are content.

I move amendment 1.

Margaret Smith (Edinburgh West) (LD): I put on record how supportive Liberal Democrats are of the amendments. They deal with an important issue that comes out in the practicalities of such consultations—the voice of staff is often not heard. Headteachers and others are often put in difficult positions, so anything that brings clarity to that issue is very welcome.

The Convener: As no other member wishes to speak, I ask the cabinet secretary whether she has anything to say.

Fiona Hyslop: No. I am happy to accept Margaret Smith's comments.

Amendment 1 agreed to.

Amendments 2 to 10 moved—[Fiona Hyslop]—and agreed to.

Amendment 18 moved—[Alasdair Allan]—and agreed to.

Schedule 2, as amended, agreed to.

Section 3—Educational benefits statement

10:15

The Convener: Amendment 20, in the name of Margaret Smith, is grouped with amendments 21, 30 and 31.

Margaret Smith: I make no apologies for ensuring that the committee returns to the important issue of additional support for learning, which I know we are all very much committed to. We have spent a great deal of time on additional support for learning, but I believe that the issue also merits being considered in the context of the bill.

As many will know, I am involved in a local consultation on a school closure. As a result, I have received representations from parents and parent councils about the impact that closures have both on children who have been assessed as having additional support needs and on those who have not been so assessed but who come, as it were, just under the bar. Amendment 20 seeks to ensure that such children's needs—and the benefits or disbenefits to their education that will result from a proposed closure—are acknowledged.

The thinking behind amendment 20 is that, where the relevant wider systems work properly for changes to provision affecting children with special needs, a significant amount of time is taken to consider the different options, such as transition arrangements and so on. However, where such children are caught up in a school closure, less time might be taken despite the fact that the proposal could have just as great an impact on them. Therefore, I hope that the cabinet secretary will have some sympathy with amendment 20.

I move on to amendment 21. Although the statutory equality duties require public bodies, including education authorities, to have regard to the effect of their decisions on disabled people and people from different racial groups, some decisions on school closures do not seem to have taken those factors into account. Amendment 21 is backed by the Govan Law Centre, whose written evidence gives two examples of where such duties have not been taken into account. Let me quote the first example:

"Consultation documents were sent to parents of the children affected, asking for comments. Despite the fact that a large proportion of parents in the area do not have English as their first language, the consultation papers were only provided in English, thereby excluding many parents from meaningful participation. Some parents signed the document and returned it to school, thinking it was a consent slip for a school trip. This gives rise to concerns that the council's race equality duty has not been met".

I was particularly disturbed by the second example:

"Proposals for closure issued to parents of a primary school were not issued to the parents of pupils at the autism unit at that school. Only after realising they had been omitted and demanding the papers were the proposals distributed to these parents. Despite the fact that pupil with autism would be more adversely affected by a sudden change in school environment, the proposals included details of where pupils in the mainstream section of the school would attend if the school were closed, but said nothing about where the pupils at the autism unit would attend in that event. The parents were informed verbally that this would be considered after a decision on closure was taken, again denying them the opportunity of

full and effective participation in the consultation process. As in the above example, no impact assessment was carried out."

I share the concern that the current statutory duties do not provide sufficient safeguards for certain families. Yes, there will be examples of good practice across Scotland, but we also know that the opposite can be the case. I believe that the bill should explicitly acknowledge those duties by requiring authorities to conduct the consultation process in a way that takes proper account of their duties to promote equality. The equality duties require public bodies to conduct and publish impact assessments on all their functions, including school closures and changes. The purpose of impact assessments is to ensure that people are not disadvantaged by an organisation's decisions and activities and to identify where it is possible to take action to promote equality of opportunity.

I believe that the equality duties should be provided for in the terms of the bill. Amendment 21 proposes that the educational benefits statement that is provided for in section 3 should include a requirement to undertake an equality impact assessment. My proposal is within the legislative competence of the Scottish Parliament because it would impose duties on Scottish public authorities with no reserved functions.

Amendments 30 and 31 are consequential to amendments 20 and 21.

I move amendment 20.

Christina McKelvie (Central Scotland) (SNP): I listened closely to Margaret Smith's comments and I acknowledge that the race equality issue came up in the Glasgow schools consultation, but I am a bit worried about her proposals because section 3 already requires councils to provide an assessment of the educational benefits that would result for all pupils.

I am also concerned that, if pupils with a co-ordinated support plan are put centre stage, issues will arise with data protection legislation and how the sharing of that information is handled. I see where the stakeholders who were consulted are coming from, but I am concerned that that might be an unintended consequence of including the proposed wording in the bill.

Amendments 20 and 21 run the risk of losing some of the flexibility that councils will have in preparing an educational benefits statement that details the effect on all pupils. Requiring the statement to detail the effect on one category of pupil could create a situation in which only those pupils—rather than all pupils—become the focus of a closure proposal. That is why I oppose both amendments 20 and 21.

Ken Macintosh: I am grateful to Margaret Smith for raising the issue and for giving us the benefit of her experience. Given that we have just passed the Education (Additional Support for Learning) (Scotland) Bill, I am concerned to hear of the consultation exercise in which the effect on the school's autism unit was missed out. I am happy to support the practical measures that she has proposed.

Fiona Hyslop: I understand the intention behind amendment 20 and I agree with the sentiments behind it, but it is unnecessary to include the proposed wording in the bill. The purpose of section 3 is to require councils to set out the educational benefits of their proposals. Section 3(1)(a)(i) will require councils to include an assessment of the educational impact of their proposals on all pupils in the affected school or schools. I caution that we need to consider what the bill will do rather than what has happened in recent or current consultations. We need to focus on what the bill will do once it is enacted.

The educational benefits statement must already include the effect on pupils with co-ordinated support plans or those who have been assessed as having additional support needs. Indeed, where such effects existed, the statement would need to address them specifically. Those issues are, of course, critical to the overall educational benefits. That is already implicit in section 3.

Under section 3, councils will be expected to produce an educational benefits statement that contains meaningful and germane arguments that are specific to the proposal under consideration. If we included the wording in amendment 20, we would run the risk of losing flexibility and turning section 3 into a prescriptive tick-box list, which could invite a tokenistic approach that would be, unfortunately, protected in law.

I also have a concern that highlighting in the bill only pupils with additional support needs could suggest that the council's assessment should give greater importance to the impact of its proposal on that group than to the impact on any other group, such as children for whom English is a second language. Creating two tiers of affected pupils would be an unwelcome outcome of such an amendment.

As the committee knows, I have written to the convener to say that I am committed to providing statutory guidance on the educational benefits statement, among other things, and I am happy to extend that commitment to include explicit references to co-ordinated support plans and additional support needs in guidance. Such references in the guidance will, by the very nature of guidance, be fuller and more detailed than a reference in the bill. A number of other important issues, such as school facilities and the impact on

the curriculum, will also be covered in guidance. It would not be helpful to have just one aspect, however important—and I acknowledge Margaret Smith's point—included in the bill while others are included in guidance.

On the basis of the commitment that I have just given, I ask committee members not to support amendment 20, and I ask Margaret Smith to withdraw it.

I understand the intention behind amendment 21, too, and I share Margaret Smith's desire to ensure that equal opportunity issues are considered fully. However, it is not necessary to amend the bill as proposed. Section 3, on the educational benefits statement, specifically provides for the council's assessment of educational aspects of the proposal, not of wider issues such as equal opportunities, which, if they are included at all, should be included in the proposal paper rather than the educational benefits statement. I am concerned that requiring a reference to equal opportunity issues in the educational benefits statement might risk diluting or diverting the educational focus of that statement. Referring back to Christina McKelvie's point about amendment 20, I point out that there are issues with small primary schools. In small primary schools, it is very easy to identify individual children, so if an authority has to be explicit on the educational benefits statement or the proposal paper, it could identify children who have particular equality issues or need a co-ordinated support plan.

Section 4(1)(d), on the proposal paper, will require councils to include information or evidence that is relevant to their proposal. I already expect councils to include an assessment of the impact of their proposal on their adherence to equal opportunity requirements in line with duties placed on them by equalities legislation.

Although I acknowledge the importance of councils adhering to equal opportunity requirements, to highlight those and only those in the bill might suggest a greater importance on equal opportunity duties than on other statutory duties. Councils have many statutory duties to fulfil, such as raising standards in schools and ensuring best value, and it would not be desirable to single out one piece of legislation in that way. Again, I am happy to make a commitment to include a reference to equal opportunity requirements in the statutory guidance that I mentioned when I was speaking to amendment 20, with specific reference to the proposal paper as set out in the bill.

Margaret Smith identified shortfalls in the recent experience and used two examples: the language issue, and the autism unit. Under the new legislation—not the current legislation—a minister will be able to call in those two cases if they have not been referenced and consulted on.

I ask the committee members not to support amendment 21, and I ask Margaret Smith not to move the amendment.

Amendments 30 and 31 are technical amendments that support amendments 20 and 21 by inserting definitions of "additional support needs", "co-ordinated support plan" and "equal opportunity requirements" into the bill. I am happy to commit to including those definitions in the statutory guidance. As I have argued against the need for amendments 20 and 21, I ask the committee not to support amendments 30 and 31. I ask Margaret Smith to consider the commitments that I have given, particularly to providing statutory guidance, and the arguments that I have made, and to consider her position on the amendments.

10:30

Margaret Smith: That was a very useful contribution from the minister. It has certainly allayed some of my fears. I take on board the fact that if the two examples that were given to the committee were undertaken under the new legislation, they would be dealt with differently. I meant to ask the minister whether those examples would be covered as material considerations that the minister would consider using for a call-in. She has indicated that that would indeed be the case.

Christina McKelvie made a point about the identification of individual children, and I appreciate that that is an issue. My intention was that statements might go along the lines of saying that children who had been assessed as receiving services previously would continue to receive those services. I was thinking in those general terms rather than in individual terms, because I understand that there are sensitivities involved.

I am content with the cabinet secretary's comments on amendment 20, so I will seek the committee's leave to withdraw it. I will seek further assurances from the cabinet secretary about amendment 21 and engage in a bit more discussion with her outwith the committee, although I will not push the amendment at this point. I accept that, if I were to press the point, it might be better placed in the proposal paper rather than in the educational benefits statement. I will not press any of the amendments.

Amendment 20, by agreement, withdrawn.

Amendment 21 not moved.

Section 3 agreed to.

Section 4—Proposal paper

The Convener: Amendment 22, in the name of Margaret Smith, is grouped with amendments 26 to 29 and 32.

Margaret Smith: The Liberal Democrats support the bill, and particularly the inclusion in it of best practice on consultation on school closures. We accept that rural schools are likely to have a central role in the lives of rural communities. They are often crucial anchors for villages; they help to retain families and are often the only resource that can be used for a number of other community purposes. In recognition of that importance, amendment 22 would require a council to make it clear whether a proposal involves a rural school.

We whole-heartedly accept that the three factors of viable alternatives, community effect and the likely effect of different travel arrangements to an alternative school, as mentioned in section 12, should and must apply in any potential closure situation that affects rural schools. Where we differ from the Government is that we believe that those three factors are so important that they should be looked at in every potential school closure situation. The safeguard of enhanced consultation should be in place for every school and every family across Scotland.

We are confident that rural schools will be able to defend themselves robustly in terms of those three factors, but we believe that those factors need to be looked at in every case. Although it is true that some urban schools will not be able to make such a robust case for retention as a rural school might, it is clear that transport, viable alternatives and community impact are factors that should be looked at in urban situations as well. That position is shared by the EIS, which highlighted the fact that councils would be required to treat schools differently during a closure programme, and the Association of Scottish Community Councils. I refer to the excellent substantive briefing that we received from the Scottish rural schools network, which stated:

"Not one member of SRSN would like to see a community of any type disadvantaged during a consultation. Community issues and travel distances/times should be a consideration in any closure consultation. What we would like to see for rural schools is the spirit of the statement in the policy memorandum A presumption will thereby be established that no rural school will be proposed for closure (nor even the consultation process commence) unless and until these factors have been fully taken into account.

SRSN would very much support strong guidance which ensured that community factors and travel arrangements are considered during the consultation on any school."

We agree with those substantive points, but we think that those factors and safeguards should be there for every Scottish family. Therefore, I am at a loss to understand COSLA's position, which states that those three factors should not be extended to all consultations. It is particularly confusing given that COSLA's objection is, according to its latest briefing, based on its desire to see

"all schools, families and pupils treated equitably."

That is exactly what my amendments propose—equity of treatment so that schools, families and communities can make their case to education authorities. I refer to the evidence that Sandy Longmuir gave to the committee. He said:

"we have great sympathy for urban communities and do not wish to diminish the community impact of a school closure in an urban area. If you applied the three criteria to all schools, rural schools would separate themselves out anyway because of certain criteria such as the distance to travel to the next school."—[*Official Report*, *Education, Lifelong Learning and Culture Committee*, 13 May 2009; c 2358.]

We agree that rural schools will make a strong case based on those three criteria—a stronger case than the vast majority of urban schools—but that there will still be closures in, for example, deprived urban areas or on the semi-rural fringe of cities where issues around transport, alternatives and community impact will be central and must be taken into account. As the Association of Scottish Community Councils said:

"The process is equally valid in urban environments."—[*Official Report*, *Education, Lifelong Learning and Culture Committee*, 13 May 2009; c 2365.]

In my constituency, I have had examples of potential closures in respect of which alternatives, travel arrangements and community impact have ultimately played a part in securing the future of a local primary school. We do not diminish the case for rural schools by giving the same consultation rights to urban ones; instead, we strengthen consultation for all families. I hope that everybody on the committee will support that.

I move amendment 22.

Aileen Campbell (South of Scotland) (SNP): Although I understand why Margaret Smith has lodged her amendments, I urge the committee to reject them. There is a danger in losing a key part of the bill that is about recognising the unique importance of a rural school, not just to the teachers and pupils, but to the wider community and the local economy. Although those issues may be a consideration in an urban school, we cannot overlook the fact that, for many communities, the rural school is the only facility in the area.

In our report, we stated:

"The Committee accepts that additional factors need to be considered in cases where the closure of rural schools is proposed."

In the stage 1 debate, even Margaret Smith fully appreciated

"that rural communities are more strongly affected by the closure of a school that might serve many functions and make a significant contribution to the life of an area."—[*Official Report*, 2 September 2009; c19119.]

If we all acknowledge that it is right to draw a distinction, we should accept that, at some point, we must find a way to illustrate the difference explicitly. That is why we need to retain the specific reference to rural schools and make special provision for rural schools in the bill.

In our evidence sessions, we heard about some of the real challenges that our rural communities face, and some passionate speeches to that effect were made in the stage 1 debate. In what I believe to be a very helpful note, COSLA states local authorities' support for highlighting that difference in a bill that strikes the right and

"delicate balance of emphasising the importance of schools in rural communities".

COSLA states that we should also be mindful of the way in which the bill improves consultation procedures for all schools, making it more robust, regardless of whether a school is urban or rural. That shows that the importance of all schools is, rightly, recognised.

I hope that the committee shares my view that we must recognise the unique importance of rural schools and not dilute the policy intention of the bill, no matter how well intentioned such amendments might be. I therefore urge members to reject the amendments.

Ken Macintosh: I thank Margaret Smith for lodging the amendments. I am sympathetic to her arguments for equity of treatment and the need to protect our urban as well as our rural schools. In fact, I raised a point in the stage 1 debate about not having two different systems or applying criteria unfairly to different schools. Having said that, I am less sure about the amendments themselves. I have no difficulty with amendment 22, which would require local authorities to make a note about whether it was a rural school that was affected by the proposals, but I am unsure whether removing the references to rural schools from the rest of the bill would be a sensible move.

Margaret Smith quoted from the evidence that we heard from the Scottish rural schools network. I admit that I was heavily influenced by its evidence, both to the committee and in more recent correspondence with committee members. However, the reason that we are discussing the bill—although it will improve consultation on all school closures—is because of the work of the SRSN and other campaigners. The Government and most committee members have been motivated by the need to address the particular situation that occurs in rural areas. For example, the SRSN has highlighted the particular problem of repeated attempts to close certain schools in fragile communities. Although similar problems can arise in urban communities, they are not of the same nature.

Therefore, despite having argued at stage 1 for equality of treatment, I worry that amendments 26 to 29 and 32 go too far the other way. We could end up watering down the bill in a way that sends out the wrong signal and potentially undoes the fantastic work that the SRSN and other campaigners have done over the years. For that reason, although I am happy to support amendment 22, I urge Margaret Smith to rethink the other amendments and to discuss with the SRSN and others whether that is the correct approach. Perhaps she can revisit the issue at stage 3 if she feels strongly.

Elizabeth Smith (Mid Scotland and Fife) (Con): I have given extremely careful consideration both to the cogent arguments that Margaret Smith first made to the committee on 3 June and to the responses of the cabinet secretary and of the various witnesses who presented their case to the committee. In particular, I have tried to assimilate as much as possible not only of the available statistical information—both qualitative and quantitative—but of the educational and economic analyses to determine whether rural schools in fact face disproportionately more difficult situations or whether they are no worse off than other schools in, or close to, urban areas. That has not been an easy task, especially given the desire to enshrine in the bill the key principle that each school closure proposal should be examined on its individual merits.

I fully acknowledge that it is never easy to come up with definitions of "remote rural", "accessible rural", "semi-rural" and so on, but, having considered all those issues, I am not persuaded of the need to amend the bill in the way that Margaret Smith suggests. Given that some schools that are in close connection to towns and cities are already considered as rural schools, I think that the issue is more about definitions than about amending the bill to extend all three factors in section 12(3) to all schools.

I agree with Ken Macintosh that the defining issue is the severity of the social, economic, transport and educational challenges that face many rural areas to the extent that their entire community is under threat. That is why I do not believe that it is necessary to support Margaret Smith's amendments in this group.

Fiona Hyslop: My comments will focus mostly on amendments 26 to 29 and 32, which seek to remove the special provision for rural schools. I

take amendments 22 and 28 to be consequential on the others.

I am encouraged that the principle of making special provision for rural schools has received general support from the Scottish rural schools network, from COSLA, from some councils and from Consumer Focus Scotland. Indeed, as Ken Macintosh said, the genesis of the bill was in the desire to protect rural schools in particular. I have also taken some encouragement from the committee's stance. The committee's stage 1 report and those who spoke in the stage 1 debate accepted that additional factors need to be considered when the closure of a rural school is proposed. Indeed, in her very positive speech in that debate, the convener acknowledged that

"some rural schools might be the only facility in the community … Many rural schools make an invaluable contribution to their local area, and every attempt should be made to preserve access to a local school for rural communities."—[*Official Report*, 2 September 2009; c 19110.]

However, I also acknowledge that the committee asked me to keep under active consideration, and to provide clarity on, how the consultation process on urban school closure proposals might be improved.

I understand the points that have been made about urban communities also being deeply affected by the closure of their schools, which is why the bill will put in place a much more rigorous consultation framework for all school consultations, whether the school is urban or rural.

10:45

As a result of the bill, every council will have to prepare a proposal paper that covers all material factors. In an urban consultation, if community facilities and transport, for example, are factors that have particular relevance to or importance for that urban community, those factors will need to go into the proposal paper. Every consultation will require the council to produce an educational benefits statement that sets out the educational benefits of its proposal, and every consultation will benefit from an assessment by Her Majesty's Inspectorate of Education of the educational aspects of the proposal and of all the educational points that the consultees have raised. In every case, the council will have to produce a consultation report in which it responds to the representations from consultees and to the HMIE report, and ministers will have the power to call in a decision where there has been a serious deficiency. For example, if transport is clearly an issue in an urban case but is absent from the proposal paper, there would clearly have been a breach of the material factors requirement, which would lead to call-in. The provisions mean that all urban school consultations—indeed, all school consultations—will be subject to a robust process that we can have confidence in.

I take issue with the argument that extending the factors to all schools would mean that rural schools would not lose and that urban schools would gain. The need to consider viable alternatives to closure, the impact on the community and the impact of travel arrangements is important in all rural school proposals. I emphasise that those three factors are about the pre-decision to consult, not the consultation process itself. That is where the focus is clearly on the responsibility of councils before they embark on the full consultation process. The factors are not necessarily applicable in all urban school closure proposals. In an urban area, an alternative school may be in close proximity; it will certainly be in the same community.

We must keep in mind the harsh realities that rural communities face. Most members of the committee who spoke in the stage 1 debate explicitly recognised that and supported the bill's focus. We know that rural communities already feel under threat, with their post office, pub or village shop closing, and that populations in rural communities are ageing as young adults leave. Often, the school is the only remaining community asset or public building in the village. While the school remains, it is likely that families will remain or that new families will be encouraged to come to the village. The fear is that if the school goes, teachers, the school secretary and other families will go, other jobs will start to be threatened, and the community will become less viable. The message from the Government to rural communities is that it intends to protect them, their schools, and their long-term viability. The rural factors in the bill will be an important part of doing that.

I appreciate the arguments that have been put—indeed, people have put their arguments very well—but they are not necessarily appropriate with respect to the bill. Therefore, I ask Margaret Smith not to press her amendments on rural schools. If she does, I ask the committee to vote against them, support rural Scotland, and say to it that the Parliament values rural schools and rural communities.

Margaret Smith: There is absolutely no disagreement among us about the importance of rural schools in rural communities. None of us doubts what the impact will be of closing a rural school. The cabinet secretary eloquently outlined the impact in the loss of staff, jobs and community facilities. I, for one, would not be associated in any way with taking away further consultation rights or rural parents' rights to be able to fight for their schools and communities. However, in lodging the

amendments, I have attempted simply to acknowledge what the cabinet secretary has just acknowledged. She said that, de facto, such issues will anyway be considered for urban school closure proposals. Different transportation issues will be involved. Obviously, in urban areas, there will not be the same large distances that might require the council to pay for transportation, but children might have to cross busy roads. Community benefits must always be considered, particularly if a school in a deprived area of a city is to be closed. Undoubtedly, a community school has community benefits. As Liz Smith said, it is sometimes difficult to get statistics on that, but our common sense tells us that that is the case. Alternatives in an urban setting will sometimes appear adequate on paper, but they must be considered in terms of capacities and their ability to cope with the numbers and type of children who would be shifted.

The cabinet secretary has said that the three factors of transport, alternatives and community impact will—de facto—be considered in the process. I suppose that I just want the bill to be a bit more straightforward about that. Instead of the bill making special provision for just one set of parents, why not have equity in the bill so that all parents, families and schools will have the same right to have their voices heard on the three factors that the minister has acknowledged will be taken into account?

Opinions are mixed on the issue, which is probably the only matter of contention in a good bill. It seems likely that I will lose the argument on amendment 22, so I will just have to go down fighting. However, I do so with contentment that the bill as it stands will greatly improve the ability to consult across the board. I believe that the proposed amendments would have enhanced that ability, but I know when I am beaten. I will therefore not press the amendments, convener.

What Ken Macintosh said bears repeating on behalf of the committee and MSPs in general, which is to pay tribute to the Scottish rural schools network and other campaigners around the country, many of whom take on fights to save their schools that are undoubtedly David-and-Goliath struggles. We should therefore do anything that we can to enhance parents' ability to pull together the best possible arguments and evidence on behalf of their children, communities and schools.

The Convener: I take it that that means that you seek leave to withdraw amendment 22.

Margaret Smith: Indeed.

Amendment 22, by agreement, withdrawn.

Section 4 agreed to.

Section 5 agreed to.

Section 6—Notice and consultation period

The Convener: Amendment 19, in the name of Ken Macintosh, is the only amendment in the group.

Ken Macintosh: Amendment 19 would extend the consultation period from six to 12 weeks. The issue emerged in evidence at stage 1, but the committee decided that, on balance, six weeks is sufficient. However, I was left feeling slightly uneasy, to the extent that I raised the issue in the stage 1 debate in the chamber.

I lodged amendment 19 because I was contacted again by Consumer Focus Scotland—previously the Scottish Consumer Council—which repeated its concerns to me and expanded on the evidence that it had gathered and its views. The then Scottish Consumer Council undertook research in the area and found that the 28-day consultation period was unsatisfactory and that extending it to six weeks would not be enough.

At stage 1, we heard evidence from various bodies about the practicalities of consulting communities and various groups within a six-week period. There are particular issues with groups that meet only once a month or even less frequently. The suggestion that such groups could have special meetings is not practical. With such important decisions, we should meet the community's needs and not ask the community to meet the needs of the local authority or anybody else.

A recent letter from the minister to the committee re-emphasised the strong point that is in the Scottish Government consultation on good practice guidance, which was published in May 2008. It states:

"In order to meet existing SG consultation commitments you must … Allow consultees at least 12 weeks to respond, except in very exceptional circumstances".

That is also the official position of the UK Government Cabinet Office. When consultations are not 12 weeks long, which is the generally accepted good practice, they are not regarded as being sufficiently serious; they are regarded as Mickey Mouse consultations. That is an interesting argument.

A 12-week period is long enough to allow parents to make known their views. It is less than a school term, so it would not create uncertainty, which is a concern that the Scottish Government has raised. For me, the clincher, or one of the deciding factors, came when we discussed the issue at stage 1. Although the Scottish rural schools network and other bodies that have taken an active interest in the bill were happy with six weeks, my feeling is that, having thought about the issue at length, six weeks is likely to be a compromise position that the campaigners

reached with the Government when they agreed the content of the bill. I do not know whether that is the case, but it is certainly the feeling that I have. I did not detect any enthusiasm for a period of six weeks, but rather an acceptance that it will probably do.

The issue is not the biggest one in the bill, but it sticks out. A 12-week period would be better, as that is good practice and would be more acceptable to all concerned.

I move amendment 19.

Elizabeth Smith: I am not minded to support amendment 19, for three important reasons. First, it was the majority—although certainly not unanimous—view of witnesses that 12 weeks would be too long and that they are happy with the current proposal. They are important stakeholders in the process. Secondly, the summer term in Scottish schools is about 10 weeks, so a consultation period of 12 weeks at that time would be longer than the term. That could be awkward, because the consultation would include either the Easter or summer holidays. Thirdly, extending the period would allow more speculation and less focusing of minds. I do not accept Mr Macintosh's point that a short time gives "Mickey Mouse consultations". A shorter period focuses minds. It is important for the young people's education not to have too long a consultation. I am therefore not minded to support amendment 19.

Aileen Campbell: During our evidence sessions, we asked many times, of many groups—not just local authorities—whether they were content with the six-week timeframe. Judith Gillespie said:

"It is a good length of time, given that it happens during the school term."

Sandy Longmuir said:

"We were involved in the drafting of that element of the bill. Having been involved in many consultations, I think that the six-week consultation period is perfectly adequate. … I have always looked at the period—and I still largely do—as a 12-week period overall. If everything is added together, there are 12 weeks, which is within the national guidelines."—[*Official Report*, *Education, Lifelong Learning and Culture Committee*, 13 May 2009; c 2329.]

We cited that comment in our stage 1 report. In addition, COSLA's briefing to us states that it supports the six-week period.

11:00

We must be mindful that the bill already increases the consultation period. In our report, which Ken Macintosh mentioned, we reached the conclusion

"that the proposed six-week consultation period in the Bill is sufficiently long".

I recall that the post office closures consultation lasted only six weeks, despite what Ken Macintosh said about best practice, and despite the highly complex nature of the post office closures and their devastating impact on communities.

I am not persuaded by Ken Macintosh's amendment 19, given that so many of the folk who came to our committee, some of whom were involved in drafting the bill, are content with the timescale. I agree with COSLA that amendment 19 would prolong the process. Of course we want to empower communities and ensure that they have enough time to mobilise if they are faced with a closure, but that is already catered for in the bill. I therefore do not accept the premise of Ken Macintosh's amendment.

Margaret Smith: We are faced with a difficult decision. It could be argued that six weeks is not an adequate length of time: thinking ahead to my amendments on access to information, I believe that, in some cases, people will struggle to put together responses to a proposal paper in six weeks. However, I weigh that against the problems that are caused by continued uncertainty about whether a school will close. A school closure is an organic situation—parents make decisions all the time about whether to pull children out of schools and nothing hastens the end of a school more than extended or repeat periods of uncertainty in which closure is continually considered.

It is important to strike the right balance. I do not want to go too far down the trading route, but I say to Mr Macintosh that there is quite a lot of scope for a period between six weeks and 12 weeks. It could be argued that it would be helpful to add a couple of weeks to give people the necessary time to pull together their points of view, but given that 12 weeks could extend from one term into another, and given my comments on the impact on schools, I believe that extending the consultation period to 12 weeks would be excessive.

I take on board the Scottish rural schools network's comment that 12 weeks is a reasonable period for the different components of the consultation process under the bill. I might be persuaded that we should change the consultation period slightly, but a shift from six weeks to 12 weeks would be excessive.

Fiona Hyslop: The bill already considerably extends and enhances the consultation process. It is important to balance the need for fair access to the consultation with the need to minimise the period of uncertainty for pupils, parents, staff and councils. Margaret Smith made that point.

Amendment 19 would amend section 6(4) to add six weeks to a process that will already take about 15 weeks from start to finish, or 21 weeks for

closure cases. I echo Liz Smith's point that it is important that the six-week minimum consultation period fall within a single term. The bill also introduces a minimum period of three weeks after the council publishes its report on the consultation, during which further representations can be made. Parents will still be able to access councils during that period, before the decision is made. In closure cases, if parents or others allege that there have been deficiencies in the consultation, there will be a further six-week period during which representations can be made to ministers for consideration.

I note that, having considered all the evidence, the committee agreed in its stage 1 report that, given the further periods for consultation that are built into the overall process, six weeks is sufficient.

I am also aware that Consumer Focus Scotland has, as Ken Macintosh indicated, called for councils to consult for the same length of time as the Government. However, although school closures are of huge importance to their local communities, most Government consultations are significantly greater in scope and affect the whole of Scotland.

The bill already increases the time and opportunities for consultees to participate in school consultations. To extend those further would be to add significantly to the uncertainty that those who are affected by such proposals face. In that light, I ask Ken Macintosh to consider withdrawing amendment 19. Otherwise, I urge the committee to vote against it.

Ken Macintosh: I thank all the committee members for their comments and reasoned arguments on amendment 19. As at stage 1, there is a balance to be struck. I indicated that I was slightly uneasy about the six-week period and I agree with many of the arguments that have been advanced. Margaret Smith and the minister both pointed out that we have to strike a balance between undue haste, access and the need for focus. Elizabeth Smith also talked about the need for focus.

I am not entirely sure that I agree with Aileen Campbell's post office closures comparison. There are financial costs involved in a post office that are not comparable with a school. A post office is a commercial business as opposed to a community asset or facility.

A balance needs to be struck and, having heard the committee's views, I will not go down fighting, as Margaret Smith said; I simply seek to withdraw the amendment.

Amendment 19, by agreement, withdrawn.

Section 6 agreed to.

After Section 6

The Convener: Amendment 23, in the name of Margaret Smith, is grouped with amendments 24 and 25.

Margaret Smith: We acknowledge that there is a great deal of good practice among councils throughout Scotland in relation to school closures. However, we all know that there are situations in which parents, parent councils and communities find it difficult to access the information that they require to make properly informed judgments about a proposal or to judge whether or not proposal details are accurate.

The Scottish rural schools network has given us a great deal of background information on those issues, particularly in relation to the 2008 consultation on Eassie primary school in Angus. Moreover, in the recent debate in Parliament, MSPs cited concerns from throughout Scotland about access to information. The network outlines that it took 18 months to obtain some of the supporting documentation that people requested on the Eassie primary school proposal, with some of the detail becoming available only in the past few weeks. It also raises concerns about the limitation of freedom of information requests in relation to consultants who are employed by local authorities to do some of the work on school closures.

My reasoning behind amendment 23 is to ensure that parents' rights to information are safeguarded not by recourse to freedom of information legislation but because the bill covers the issue explicitly, and to ensure that those rights are front loaded so that parents get the answers to relevant questions sooner rather than later and not after a fight.

People who attend public meetings expect to ask questions and get answers. Those answers are of use not only to the questioner but to the rest of the audience, who clearly—from their attendance at the meeting—have an interest in the issue. However, there are a number of reasons why parents and others are unable to attend public meetings or feel intimidated by speaking at them. Moreover, parent councils and community representatives that try to access information will be unable to get every answer that they seek orally at a public meeting and will seek to access information in writing.

I am not talking about situations in which the day before the end of a consultation period a council receives a letter with 45 questions on it, but situations in which plenty of time is left in the process. It is absolutely critical that, when their doing so is reasonably practicable, education authorities answer questions that have been received in writing before the end of the

consultation period, in order to allow parents and others to take those responses into account in presenting their responses to the consultation. We should not underestimate the difficulty for parents, parent councils and communities in doing all that, because some of the stuff that is involved is very complex. On one side we have local authorities with large numbers of professionals working on proposed closures—and often on the closures alone—and on the other we have parents and communities who are seeking to pull together arguments and evidence and consultation responses while going about their usual work and undertaking their family commitments.

COSLA rightly points out that the bill requires that a consultation report be published further on in the process, and that it must include a response to all written and oral responses. Questions that had not been picked up by that stage may be picked up then, but that might be too late. We would prefer that properly informed responses were made as early in the process as possible, which would allow education authorities greater time to examine issues, inaccuracies or suggested alternatives.

Where further general information is being given to parents and others, it would be helpful if that new information had to be published for the benefit of other consultees and, ultimately—this is covered by amendment 24—for the benefit of councillors.

It has struck me time and again—putting to one side the merits of the case for closure in my constituency—that an education authority is in a powerful position when it comes to the flow of information to parents and consultees. Amendment 23 would put a duty on education authorities to do, in the interests of openness and transparency, what many, but not all, do already.

I believe that the bill represents a real improvement on the present system. The amendments in my name would deliver an even better system, which would benefit both parents and education authorities.

I move amendment 23.

Kenneth Gibson (Cunninghame North) (SNP): I am not entirely convinced by Margaret Smith's arguments, although I have to say that they were certainly well made. The bill will make a number of improvements to current practice, which Margaret Smith has understandably criticised. For example, any questions that are raised in consultation responses will have to be addressed by the relevant council in the consultation report. I do not believe that that would necessarily be too late to do anything about what is proposed.

I am a bit concerned that amendments 23 to 25 would place on councils an additional duty that may be somewhat unwieldy and unnecessary. I will therefore not support the amendments. However, although section 5 of the bill covers inaccuracies, it does not cover omissions. I ask the cabinet secretary to reflect on that in considering possible amendments for lodging at stage 3.

Ken Macintosh: I thank Margaret Smith for lodging amendments 23 to 25. I am grateful for her explanation and comments, in the light of the experience of many campaigners and parents who have faced school closures and have not received information that they have sought. It strikes me that one of the key words is "reasonably"—the local authority has to respond to questions only when it is "reasonably practicable." Is it reasonable for parents who have put a series of questions to a local authority to expect answers? I think it is. It is not an onerous duty for local authorities to respond to questions; it would not be an undue burden. It is what we would expect from most local authorities. In fact, I would hope that that is what authorities already do in most cases. I am certainly pleased that Margaret Smith has raised the issue. I want to hear, at the very least, how the minister intends to deal with it.

11:15

Claire Baker (Mid Scotland and Fife) (Lab): Amendments 23 to 25, which Margaret Smith has lodged, address an issue that was identified during stage 1, when there was recognition that it is difficult for parents and communities to gather information, resources and evidence. Margaret Smith has described it as a David and Goliath situation. As the education authority will be the primary source of information for parents and communities, I do not think it unreasonable to formalise parents' expectations with regard to the handling of requests, and to ensure that they have the proper information to play a proper role in the process.

Fiona Hyslop: I have carefully considered amendment 23 and understand the concerns that lie behind it. The intention of the bill is to create a robust, fair and transparent process that addresses such concerns. The new process creates incentives for as much relevant information as possible to be set out up front in the proposal paper. Section 10(2)(c) requires councils to respond in the consultation report to any questions or issues that are raised in consultation responses. That report is to be published at least three weeks before a final decision. Any questions that bear on education issues will be considered by HMIE in the report that it will prepare and submit to the council under section 8. Of course, section 5 already provides a new mechanism for consultees to challenge inaccuracies.

However, I have listened to committee members and am grateful to Margaret Smith for highlighting an aspect of the bill that could be improved. Although section 5 provides a mechanism to challenge the accuracy of the proposal paper, I accept that, as Kenny Gibson pointed out, it might not fully address a situation in which significant information has been omitted from the proposal paper.

In the stage 1 debate, Claire Baker asked how parents and others will be able to access not only accurate information but any information that they might be seeking. If parents need more information than is provided in the proposal paper, we must, as Ken Macintosh made clear, find some way of ensuring that their requests for that information are seen as reasonable. I do not think that it is unreasonable for councils to answer questions as they arise, but the point of the bill is to ensure that in the consultation paper—which, I repeat, will be published three weeks before the decision is made—all the information is shared with everyone. I believe that that is the point that Margaret Smith is making.

I am persuaded that the concern about omissions is valid, but it might be appropriate to address it at stage 3. As a result, I would welcome an opportunity to explore the issue further with Margaret Smith over the next week and, with her agreement, to lodge an amendment at stage 3 that addresses the problem and ensures that requests for information are responded to and the information shared with all concerned.

On the basis of that commitment, I ask Margaret Smith not to press amendment 23.

Margaret Smith: That just proves that if you hang on in there long enough, you get something in the end.

I am very heartened by the comments from the cabinet secretary and other committee members. I have certainly sought to approach the issue of omissions in the most constructive and effective way possible. Ken Macintosh and Claire Baker made fair points; this is all about ensuring that such requests are seen as reasonable. If a parent whose children's school is about to close asks their local authority a question about the closure, is not it reasonable for them to receive an answer before they set out their thoughts in a response to a consultation? I do not think that anyone in this room would deny a parent that right; it is, after all, a fairly basic element of the consultation process. My aim is for parents to have access to as much relevant information as possible. One would be surprised by the quite substantive information that has simply been left out of a number of proposal papers and which people have then had to go searching for.

The second issue concerns the need to ensure that, once an answer to such a substantive point has been pulled together and given to one parent, that information can be shared more widely with other consultees and, ultimately, with those who will make the final decision on the school.

I am more than happy to discuss those matters with the cabinet secretary and to lodge amendments at stage 3.

Amendment 23, by agreement, withdrawn.

Section 7 agreed to.

Section 8—Involvement of HMIE

Amendments 24 and 25 not moved.

The Convener: Amendment 11, in the name of the cabinet secretary, is in a group on its own.

Fiona Hyslop: In the bill, the timeframe for HMIE to submit its report to the council is three weeks after the council has complied with section 8(1). It is expected that, in the normal course of events, a council will send HMIE the consultation responses just after the end of the consultation period. HMIE will then have three weeks to prepare its report.

If a council sends everything to HMIE as it arrives and if, once it has sent a summary of oral representations after the public meeting, it receives no further representations within the consultation period, it could be argued that the council complied with section 8(1) on the day that it sent the summary of oral representations. That could lead to confusion about when the three-week period for HMIE to report starts and finishes.

Although that might appear to be an unlikely scenario, I have lodged amendment 11 to avoid such a situation arising in practice and to ensure that the intention that the three weeks cannot start during the consultation period is achieved. It will also ensure that the overall timeframe for the process remains as intended and is not shortened.

I move amendment 11.

Christina McKelvie: I welcome amendment 11 and the clarification that the cabinet secretary has just given. In the past, with some legislation we have had problems to do with interpretation. Amendment 11 will make the bill completely unambiguous and gives us an insight into some of the unintended consequences of previous legislation. I support it.

Amendment 11 agreed to.

Section 8, as amended, agreed to.

Sections 9 to 11 agreed to.

Section 12—Factors for rural closure proposals

Amendment 26 not moved.

Section 12 agreed to.

Section 13—Explanation of approach

Amendment 27 not moved.

Section 13 agreed to.

Section 14—Designation of rural schools

Amendment 28 not moved.

Section 14 agreed to.

Section 15—Call-in of closure proposals

The Convener: Amendment 12, in the name of the cabinet secretary, is in a group on its own.

Fiona Hyslop: Section 15(2) was originally drafted so that in the event of a council deciding to implement a closure proposal, it would have to notify the Scottish Government of that decision no later than the end of the next working day after making it. Amendment 12 will extend that period from one working day to five working days after the day on which the decision is made.

When they gave evidence to the committee, some councils expressed concern about the proposed timescale of one working day and in its stage 1 report the committee recommended that I consider extending the period to five working days. All the information that a council will need to send—an electronic version of its proposal paper and consultation report—will already have been prepared and published. The only thing that must be added is the decision that has been taken by the relevant council committee. In most cases, it will simply be a case of sending an e-mail.

That said, I have considered the views that some councils have expressed on the issue. I also appreciate the view that the committee took in recommending an extension of the timescale to five working days, so I am pleased to speak to an amendment that will do exactly that, by requiring notification to be given within six working days, starting on the day that the decision is made. As we all know, decisions by councils on school closures tend to be communicated, at least to the media and parents, on the day when they are made. However, the committee has made the commonsense suggestion that we extend the notification period.

I move amendment 12.

Amendment 12 agreed to.

Section 15, as amended, agreed to.

Sections 16 to 18 agreed to.

Schedule 3

ANCILLARY PROVISION

Amendment 29 not moved.

Schedule 3 agreed to.

Sections 19 and 20 agreed to.

Section 21—Definitions

Amendments 30 and 31 not moved.

Section 21 agreed to.

Section 22 agreed to.

Long Title

Amendment 32 not moved.

Long title agreed to.

The Convener: That ends stage 2 consideration of the bill. I thank the cabinet secretary and her officials for their attendance.

11:28

Meeting suspended.

11:38

On resuming—

Subordinate Legislation

Children's Hearings (Scotland) Amendment Rules 2009 (SSI 2009/307)

Education (Fees, Awards and Student Support) (Miscellaneous Amendments) (Scotland) Regulations 2009 (SSI 2009/309)

The Convener: The second item on our agenda is continued consideration of subordinate legislation. Members have had advance sight of the Children's Hearings (Scotland) Amendment Rules 2009 and the Education (Fees, Awards and Student Support) (Miscellaneous Amendments) (Scotland) Regulations 2009, and have indicated that they have no comments to make on either of the statutory instruments. No motions to annul either of the instruments have been lodged.

However, the Subordinate Legislation Committee determined that it needed to report both instruments to the committee and Parliament; its reasons for doing so are stated in the accompanying paper. Do members agree that the committee has no recommendations to make in relation to SSI 2009/307 and SSI 2009/309?

Members *indicated agreement*.

The Convener: That brings the public part of today's meeting to an end. The committee's next meeting will be on Wednesday 7 October at 10 am.

11:40

Meeting continued in private until 13:09.

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