

ENTERPRISE AND CULTURE COMMITTEE

Tuesday 16 November 2004

Session 2

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ENTERPRISE AND CULTURE COMMITTEE **25th Meeting 2004, Session 2**

CONVENER

*Alex Neil (Central Scotland) (SNP)

DEPUTY CONVENER

*Mike Watson (Glasgow Cathcart) (Lab)

COMMITTEE MEMBERS

*Richard Baker (North East Scotland) (Lab)
*Chris Ballance (South of Scotland) (Green)
Susan Deacon (Edinburgh East and Musselburgh) (Lab)
*Murdo Fraser (Mid Scotland and Fife) (Con)
*Michael Matheson (Central Scotland) (SNP)
*Christine May (Central Fife) (Lab)
Mr Jamie Stone (Caithness, Sutherland and Easter Ross) (LD)

COMMITTEE SUBSTITUTES

Mark Ballard (Lothians) (Green)
Mr David Davidson (North East Scotland) (Con)
Fiona Hyslop (Lothians) (SNP)
Margaret Jamieson (Kilmarnock and Loudoun) (Lab)
George Lyon (Argyll and Bute) (LD)

*attended

THE FOLLOWING ALSO ATTENDED:

Fiona Hyslop (Lothians) (SNP)
Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD)

THE FOLLOWING GAVE EVIDENCE:

Colin Gilchrist (Scottish Executive Legal and Parliamentary Services)
Chris Masters (Scottish Higher Education Funding Council)
Roger McClure (Scottish Funding Councils for Further and Higher Education)
Esther Robertson (Scottish Further Education Funding Council)
Audrey Robertson (Scottish Executive Enterprise, Transport and Lifelong Learning Department)
Gill Troup (Scottish Executive Enterprise, Transport and Lifelong Learning Department)
Jim Wallace (Deputy First Minister and Minister for Enterprise and Lifelong Learning)

CLERK TO THE COMMITTEE

Stephen Imrie

SENIOR ASSISTANT CLERK

Judith Evans

ASSISTANT CLERK

Seán Wixted

LOCATION

Committee Room 6

Scottish Parliament
Enterprise and Culture
Committee

Tuesday 16 November 2004

[THE CONVENER *opened the meeting at 14:02*]

Items in Private

The Convener (Alex Neil): Welcome to the Enterprise and Culture Committee. First, I ask everyone who has a mobile to switch it off, please. Secondly, I have received apologies from Susan Deacon, and I was to give Jamie Stone's apologies if he did not come. Those are hereby recorded.

Item 1 is to consider whether to take items 4 and 5 in private. I will take them separately, because we had a brief discussion about taking item 4 in public. What does the committee feel?

Christine May (Central Fife) (Lab): I have absolutely no problem with taking it in public.

The Convener: We should be as open as we possibly can be. There is no great party-political divide on item 4. Is everybody happy to take it in public?

Members *indicated agreement.*

The Convener: We have struck a blow for freedom and transparency, and will take item 4 in public. I presume that we will take item 5 in private. Is that agreed?

Members *indicated agreement.*

The Convener: We have struck a blow for privacy as well.

Further and Higher Education
(Scotland) Bill: Stage 1

14:03

The Convener: We now move to item 2, which is the Further and Higher Education (Scotland) Bill. I welcome Chris Masters, chairman of the Scottish Higher Education Funding Council, Esther Robertson, chairman of the Scottish Further Education Funding Council, and the chief executive of both, Roger McClure. Chris and Esther will say a word or two to begin with, then we will open up the discussion for questions.

Esther Robertson (Scottish Further Education Funding Council): Thank you for the opportunity to come along today. We provided a—hopefully suitably brief—written submission on behalf of both councils. I want to make only a small number of introductory comments.

As the committee is probably well aware, we have already welcomed the bill and support the principles that underlie it. We have identified five key challenges that arise from it, which are challenges for us all, not just for the funding councils, to ensure that we achieve greater coherence and have diversity in the system.

A first important challenge will be to maintain the standing and integrity of the credit and qualifications framework that we have designed in Scotland. We have no doubt that a successful framework will be an essential tool in achieving better coherence for learners, and we welcome the prominence that is given to it in the bill.

Secondly, we are clear that the framework will be successful only if it is fully implemented and trusted by learners and—as important—employers. One way to ensure that will be to ensure that all stakeholders continue to collaborate to make the arrangements work. We will need better all-round collaboration if we are to achieve the wider goal of improved coherence. Learners should be entitled to expect such collaboration among the various public agencies to ensure that the outcome is a better deal for them.

A third important challenge for the future is the membership of the new council. Clearly, the new council will be smaller than the two existing councils combined and will have a much wider remit than either of them. We believe firmly that, if the council is to be effective, it will be essential that it has a diverse and balanced membership.

Chris Masters (Scottish Higher Education Funding Council): I totally agree with Esther Robertson that it is essential that the new council has the right mix of membership. In that context, it is important that the funding council should

continue to include people from both the public sector and the private sector who have the appropriate range of skills and experience. It is also important that, where possible and appropriate, we should look to attract people from outwith Scotland to participate on the council.

On research, it is vital that the new council has access to expert advice of the highest level from both within and without Scotland. As the committee will be aware, Scotland currently benefits from a strong research base that includes some internationally recognised research teams. However, it is important to recognise that that is a moving feast. If we are to continue to attract and retain the best people and to maintain our international standing, we need to stay ahead of the game. Therefore, it will be essential that the single council retains a strong focus on the importance of leading-edge research for the nation's future health and prosperity.

If we are to meet the future challenges, I am totally convinced that we must be committed to maintaining diversity of provision in both further and higher education. If there are two certainties, they are: first, that we cannot predict the future; and secondly, that change is endemic to all our activities and the rate of change is continuously accelerating. If Scotland is to be in the best position to respond to such change, it is vital that we maintain the range and diversity of our further and higher education institutions both within the sectors and, indeed, between the sectors.

I will sum up. A respected credit and qualifications framework is a basis for easy articulation between further and higher education. Meaningful collaboration and joined-up thinking are required among all the various bodies and stakeholders. The new council will need the right balance of skills and experience to cope with what, by anybody's definition, will be a challenging remit. We need to maintain a Scottish research base that is the envy of the world. Most important, we need to safeguard diversity throughout the system. Those are just five challenges that we believe arise from the bill.

That said, both funding councils are totally convinced that the move to merge the councils is the right course for Scotland. The bill has significant potential to help us to meet the challenges. I will stop on that positive note. As Esther Robertson said, we are delighted to have the opportunity to interact with the committee. We look forward to responding to members' questions and comments.

Christine May: I thank the witnesses for their brief and succinct comments. Mr Masters said that the rate of change will continue to accelerate. However, one would hope that the fairly large event that the bill proposes would happen rarely.

Can I take it that people are not looking for further legislative changes?

Chris Masters: Far from it. I was referring to the external environment in which we all operate, which is unpredictable. Increasingly, we will have to meet challenges that arise from outwith Scotland, both at Westminster and internationally. Rather than trying to freeze the system in stone and say, "We've got it right," we need to ensure that we have a system that can respond rapidly to whatever the challenges are. We certainly do not need more legislation.

Christine May: You said that you hoped that we might have membership of the council from outwith Scotland. Is there precedence for that in other, similar organisations throughout the world? How do you see that that might work?

Chris Masters: I am not sure about other organisations around the world, but the Scottish Higher Education Funding Council has had on it a principal from the University of Newcastle upon Tyne. His input was extremely useful, especially in the area of quality enhancement. When we were looking to fill the existing places on the council, we again considered people from outwith Scotland. The advantage of such people is that they bring a different perspective—an international or national perspective—and, increasingly, a new dimension. I would be keen on that, and I am sure that there are precedents outwith Scotland.

Christine May: My second question relates to the first bullet point on page 6 of the submission, which concerns

"a process for approving and modifying a list of fundable bodies."

I have raised in the past the issue of whether it is appropriate that the council should do that or whether it would be more appropriate for the council to make recommendations to the minister and for the minister to do it. Do you have a view on that?

Chris Masters: We agree. I hope that the minister would take advice from the council, as it would be the expert body. Making modifications to the list is certainly a matter for ministers.

Roger McClure (Scottish Funding Councils for Further and Higher Education): My understanding of the bill is that it is not intended that modifications to the list should be decided solely at the discretion of the council. The council is invited to propose or approve, but I believe that the process involves the Executive as well—I do not have the section in front of me. It would be quite normal for the council's advice to be sought and for it to give its view on a specific proposal.

Christine May: I am grateful for that. That was my understanding of how it should be, ideally. I

consider the wording in the bill to be a little ambiguous on the matter. Thank you for your clarification. We will perhaps take up the matter with the minister.

The Convener: My first point follows on from what Christine May said. In their education provision, the Irish have been successful at bringing in people from the Organisation for Economic Co-operation and Development, who have a fund of knowledge about what happens in a range of countries. We do not make enough use of such people, who were instrumental in many of the educational reforms that took place in Ireland.

I have two questions on the research committee. First, what do you envisage as being the relationship and the division of labour between the research committee of the new, merged council and the Scottish Science Advisory Committee? Is there a case for making the research committee and the Scottish Science Advisory Committee one and the same body? We do not want to separate the spending from the strategy and the advice.

Secondly, some witnesses have expressed concern about the fact that there is no equivalent committee for skills built into the bill. Under the legislation, the council is quite free to set up a skills committee or any other committee that it wishes to set up and to bring in outside experts. Is there a need to build into the bill a statutory skills committee or something similar?

Chris Masters: I will kick off on the research committee. My personal view is that the two bodies should not be merged, as they have different remits. The Scottish Science Advisory Committee covers the remit of science in schools, policy on how we get people more involved in science and the sort of event that was held here last week—I think that it was called science in the Parliament. It has a much broader remit and a broader, more diverse membership.

The research committee will be focused on much more technical issues, such as funding, so it requires a different balance of skills. My guess is that trying to get the required mix of skills on one committee would not work. Our current research policy advisory committee includes highly qualified international research people who are good at research, but I am not sure that they are the people I would use to develop science in schools. It is all about horses for courses. The committees have separate remits.

14:15

Roger McClure: I agree entirely. The purpose of the research committee will be to help the funding council to channel funds into research activity, which involves thinking about how basic research should be developed in Scotland's

universities. The boundary between the committees is clearly drawn. As Chris Masters said, the Scottish Science Advisory Committee has a much wider remit.

Esther Robertson: I want to pick up the point about the skills committee. It is interesting, because, ultimately, it will be for the new council to determine what its committee structure should be, other than what is set out in the bill. Both funding councils have been thinking about what kind of model might be chosen. Recently we had a debate about that in the Scottish Further Education Funding Council, which was focused on our learning and teaching committee, which is a joint committee with SHEFC. One of the thoughts that emerged was that perhaps the skills committee approach is more appropriate. We discussed whether a committee of council was the right approach. You asked specifically whether a skills committee should be provided for in the bill. I have not given that any thought, but I believe instinctively that we should keep the number of committees specified in the bill to a minimum simply because we want the legislation to be as long-standing as possible. Research is not going to change, neither are skills, but the focus might change. Subject to my colleagues' view, my instinct is to say that it is not necessary to provide for a skills committee in the bill; the new funding council might choose to adopt that position anyway.

Roger McClure: I amplify Esther Robertson's final point that it is not just that we want the legislation to be long-lasting, but that it will not be helpful for the new body if it finds that it must meet a legislative requirement even when it appears to have become redundant because of changes that have been made, of which we have already had examples. As the member pointed out, the council will have all the powers that it needs to create whatever committees it wants to create and will be able to change the committees as needs determine.

The Convener: My second question relates to quality. One of the issues that arose in the previous Enterprise and Lifelong Learning Committee's lifelong learning inquiry and was the subject of recommendations in its report was the multitude of quality audits that institutions have to go through, particularly in the FE sector, and the need to rationalise the system. As you would expect, there is a commitment in the bill to the new council having great regard to quality, but are we making progress on the quality front?

Chris Masters: Esther Robertson will cover FE and I will cover HE. We have certainly made progress in HE.

Esther Robertson: We have made progress in FE, too. You will be aware that over the four-year

term we have been through our first round of quality assessments by Her Majesty's Inspectorate of Education, with which we have a contract, which has shown that we have made significant progress on the quality front. We have also taken the opportunity to move, as HE is doing, to a model that is more about quality enhancement. However, we were clear that there was a huge burden. A number of pilots have tried new ways of doing things, but they have not come up with an easy answer. Colleges that have done well through their existing evaluations can now get credit transfers for nine of the 10 Scottish Quality Management System standards that the enterprise networks use. That is a good example of how instead of our having to go through two processes to achieve the same end, nine out of 10 targets can be covered by the work done by SFEFC, which saves another audit having to be done. It is a challenge. Work still needs to be done and we are working closely with the colleges and various agencies to draw work closer together and to reduce further the burden.

Chris Masters: In higher education, we have made a lot of progress. Roger McClure referred to the previous legislation, which required us to have a quality assessment committee, which has outlived its usefulness, because we have now moved to a new enhancement-led approach to quality assurance, based on the principle that we need continually to improve.

The key features are, first, an internal review process, in which the higher education institutions monitor the quality of provision—after all, that provision is individual to the institutions. Secondly, there is an external review of institutions' processes, which is called an enhancement-led institutional review—I realise that that is a mouthful. Yesterday, we had an all-day meeting with one of the institutions—I had better not say which one it was—and the people who were responsible for the quality of teaching said that they were absolutely amazed at how well the process was working. That slightly worried me until we asked the four students who were present how it was working. They confirmed that it really was working: they had much more input to the quality of provision; that quality was improving; and they now had a model that was learner-focused rather than based on audit.

As a result, considerable progress has been made. The question of how an institution handles the system all depends on its maturity. My guess is that we will see FE moving along that route as the systems become robust enough for people to trust.

The Convener: So, there has been progress, but there is more to be done.

Chris Masters: Yes, that is a fair comment.

The Convener: We have received evidence from the Equal Opportunities Committee and others on funding for people whom the bill refers to as students "with learning difficulties". The point has been made in particular in respect of funding for students who go to specialist colleges down south, which are primarily—but not exclusively—within FE provision. For example, someone who goes to a ballet school in London does not receive funding, whereas they would if they went to the Royal Scottish Academy of Music and Drama in Glasgow. Although the 32 local authorities are responsible for providing discretionary funding to those learners, 14 of them do not provide any funding. Is there a case for transferring that responsibility from local authorities to the new, merged council or to another agency such as the Students Awards Agency for Scotland?

Chris Masters: This is a highly technical area.

Roger McClure: Are you talking specifically about students who go south?

The Convener: Yes.

Roger McClure: Moving responsibility for that funding to the SAAS would be logical and would have the benefit of consistency, because all the awards would be made by a single agency. After all, higher education students derive their loans and other bursaries to which they are entitled from that agency.

However, you will be aware that at the moment—and under the proposed provisions—support for students who are undertaking higher education is provided not through the merged funding council but through SAAS and, in some cases, local authorities.

Esther Robertson: Although we provide support for students, we give it to 42 FE colleges, which then disburse the money. We do not have any funds that we would disburse to other people who want to go elsewhere.

I am immediately struck by the fact that I come from a local authority that has supported a range of people who have gone to specialist colleges, of which ballet school is the classic example. I had not realised that the practice is not common across the country. That said, it would be stretching things somewhat to make it a funding council responsibility. That would mean having to make an individual student assessment, and we have never been involved in anything like that at all.

Chris Masters: I am thinking on my feet, but I think that it would be wrong to give that responsibility to the funding council. It would be right to make it a condition of grant or whatever is seen fit, but funding should go direct to the student from SAAS or another body rather than via the funding council.

The Convener: So it would be more logical for SAAS to have that responsibility rather than the funding council.

Chris Masters: I would have thought so.

Christine May: My question is very much on the same topic, although the point has not yet been raised in relation to this bill. What about funding for non-accredited courses? After all, many drama courses are not strictly part of the mainstream FE or HE curriculum. We might wish to raise the matter with the minister because, unless the situation has changed over the past 18 months, Fife Council no longer funds courses outside Scotland as well as some RSAMD and other such courses.

The Convener: But there is an inconsistency across Scotland in that respect.

Christine May: Yes, as well as across the UK. Many local authorities down south do not fund such courses either.

The Convener: That is right.

Richard Baker (North East Scotland) (Lab): I have three questions, the first of which concerns membership of the new council. At the moment, councils benefit from the membership of people who are able to give the student perspective. Do the plans for the new body include provision to continue such representation? Will the staff perspective also be included?

Chris Masters: Obviously, those decisions will be up to be the new council, but it is important that the people who are on the council are on it because they have been chosen to make a contribution to the whole and not to act as a representative of a particular constituency. That said, when we were thinking about the specification for the Scottish Higher Education Funding Council, we thought that it was extremely important to have people who at least have direct experience of the student perspective, although not necessarily people who represent the National Union of Students Scotland or whatever.

As I said, it is important to get the right balance on the council. We need to include the customers—if I can say that—the providers and, at the end of the day, the stakeholders who represent business or whatever. It will be difficult to do that given the limited number of places on the council, as one needs quite a mix of skills. That said, I think that the number is the right number. It would be dangerous to put into the bill a requirement for this or that representation. It is up to the chair of the council to ensure that the balance is right.

Richard Baker: That was a helpful answer. I did not mean to suggest that it should be included in the bill.

My second question concerns the development of the qualifications framework and your role in it. When Universities Scotland gave evidence, Professor Archer said:

“It is important that advice on the qualifications framework should largely come from the sector, which works at the sharp end of the issue. We would expect the funding council to be in the middle of those conversations, from where it can transmit views to ministers and receive, one hopes, approvals for proposals.”—[*Official Report, Enterprise and Culture Committee*, 2 November 2004; c 1160.]

Is that how you see the council's role in the development of the framework? Would you say that there is unity of vision on the issue?

Roger McClure: Yes. It is a bit like the question that the convener asked earlier. Although the new funding council—or, indeed, the existing two funding councils—will fund courses within the framework, they do not fund everything that falls within it. The matter is more one for the Scottish Executive, which must take an overview of the qualifications that it deems to be appropriate and to which it is prepared to provide funding. In the main, it is public funding that is going into this.

Of course, as is the case in all such matters, the Scottish Executive will not have to work out the detail. It will rely on practitioners and others to come together as has happened before to put together an appropriate framework. This is another instance of the wording of the bill being slightly ambiguous. If the Executive intended to say that only the funding council will be able to decide on the appropriate framework and adopt it, I do not think that that is the right way of doing things. We are talking about a wide matter in which there is a breadth of interest. The Scottish Executive requires to be content on the matter.

Richard Baker: My final question is—

The Convener: I am sorry to interrupt you, Richard, but I have a follow-up question. The bill currently says:

“The Council is to promote such credit and qualification framework as it may adopt.”

Surely that brings us back to the general question that Christine May raised about the division of responsibility between ministers and the new council. It seems that ministers would adopt the framework and you would be told, “This is what you will fund.”

Chris Masters: That is one of the challenges that we have identified. The convener is absolutely right: the key issue is the need for the system to be totally credible and highly regarded throughout the sector. Input from the sector is needed.

The Convener: It should not be funding driven.

Chris Masters: No. Obviously, having taken the advice from the council, Scottish Executive

ministers will have to take the decision. It will then be up to the council to adopt it—or promote it.

Esther Roberton: One of the things that we have discussed is the fact that the bill should refer to “a framework”. Again, it is quite possible that a time might come when the framework has to be changed and given a new name. We should keep things flexible and not tie ourselves into something at this stage—albeit that it is something that all of us have bought into, which means that it should be in place for a while.

Roger McClure: Currently, we live in impressively harmonious times.

The Convener: We can change all of that.

Roger McClure: I was about to say that it is possible to imagine a time when disagreements could arise on some of these things.

Christine May: We know disagreement all too well.

Roger McClure: As the legislation is currently drafted, it would appear to be possible for the funding council to decide to adopt and promote a completely different framework from everyone else. The council distributes a lot of money, which might cause people to change their allegiance. That all just serves to reinforce the fact that the framework will have to be determined at the highest policy level after all the consultation and input. That will mean that everyone has the same framework.

14:30

The Convener: Sorry, Richard.

Richard Baker: That is fine. The clarification was helpful.

My final question concerns the duty to secure coherent provision. You referred to the fact that there is bound to be discussion on what that is. Your submission says that the organisation has already introduced

“a key aim of achieving ‘a coherent system of well-led, innovative and responsive colleges and institutions.’”

Clearly, there have been debates about aspects such as mergers and how to achieve the most efficient provision. A review of FE governance is also coming up. How can you achieve coherence of provision and what are your developing thoughts about what that means generally?

Esther Roberton: As we said in our submission, the two councils have been working ever closer together since SFEFC was established. We have started to do that kind of work, but bringing the councils together formally will create many more opportunities. The colleges are beginning to discuss what opportunities the

merger might provide and we would like them to join with HE institutions.

The focus of our new governance memorandum is being developed to address both sectors in as close to the same way as is practical given their different statutory positions. Coherence is already coming out of the work that we are doing on matters such as widening participation and articulation. A good start has been made, but again there is a long way to go. The sectors are much closer together, and the widening participation forums and the like are contributing to that.

Chris Masters: As we said in our submission, the key issue is having well-managed institutions in both FE and HE, with high-quality leadership and excellent transparent governance. That must be the key and there is still a way to go.

We are working on a new financial memorandum that will put less prescription but more requirements on the governing councils to ensure that there is good leadership, whatever organisation they are responsible for. If we can achieve that, we will start to see the real benefits of cohesion across the system.

Chris Ballance (South of Scotland) (Green): I have three questions, none of which will surprise the witnesses if they have read the *Official Report* of last week’s meeting. First, concern was voiced about the erosion of academic freedom that has been seen to be taking place during the past few years with extra funding coming in from business and so on. Concern was also expressed that the merger of the funding councils might further erode that freedom. Would you care to comment on that?

Secondly, there was a fear that the economic benefits of learning were taking greater priority within the new council’s jurisdiction than the cultural or health and well-being side of learning, and that with the merger of the funding councils, that might well be accentuated.

The third question relates—

The Convener: We will take those two points first and then come back to you, Chris.

Roger McClure: You said that you thought that academic freedom had been eroded in recent years, but I do not think that I have picked up on that. Are you referring to a specific change that you believe is causing that erosion?

Chris Ballance: As more and more academic research is funded by outside and non-governmental organisations, there is a fear that researchers’ freedom to work as they would wish to work is lessened. The researchers start to become almost employees of outside organisations. There is also a fear that the merger

of the councils might send things even further down that road.

The Convener: In addition to that, the Association of University Teachers made a specific point in its evidence about the pre-1992 universities having academic freedom already built into legislation, while that does not apply to the post-1992 institutions. Part of the AUT's evidence was its view that every institution should have the same guarantee when it comes to academic freedom.

Roger McClure: One could give a somewhat trite answer on the first point: when universities take on research that is commissioned by businesses or whomever else, they do so voluntarily. At the same time, public funding for research has continued to increase at a substantial rate. There has not been a falling back in the amount of discretionary funding that is available for research.

It is a question of what institutions choose to do. At the moment, the balance is quite reasonable. The degree of discretion has kept pace with, or indeed outpaced, the growth in funding for other aspects of universities' work. The universities make choices about what kind of other research they want to take on. Contract research work is not a great profit-making activity, however; the money that the universities are paid to do the work simply covers the cost of their providing the research. One of our worries is that the research costs are greater than the money that is being paid by industry. Provided that the institutions have reasonable freedom of choice in deciding what work to take on and in negotiating that work, I do not see their undertaking such work as an erosion of academic freedom.

I agree with your general point that there should be the same provision of academic freedom across the board. Whether that requires changes in the legislation depends on whether you think that there are substantial differences in practice in the freedom of academics at the different types of institution.

Chris Masters: The thrust of the question was whether the creation of the merged council will erode academic freedom or take away from education in a cultural sense, making it a purely economic consideration. My view is that it will not; I think that the absolute reverse is the case. Roger McClure has made a point about what taking on contract research means for academic freedom.

A lot of research comes from charities such as the Wellcome Foundation. Having a dedicated, high-profile research committee, which is enshrined in legislation, which has the ability to attract the right people and which is responsible for distributing public funds, would be more

beneficial for academic freedom in the field of research than what we have at the moment. I see that as a positive move.

The issue around the economic benefits of learning has worried me in the past. There has been a danger of too much emphasis being put on spin-out companies and too little emphasis being put on the major contribution that further and higher education make to the country—the production of highly qualified, well-taught graduates.

If we have a joint council that deals with both sectors, rather than two separate councils, there is more chance that we will recognise that the economic and cultural benefits are interrelated and that they are important for the health of the nation. I am quite positive about the proposals. While taking on board the concerns, I think that the legislation will diminish rather than accelerate them.

Esther Robertson: Section 20, which covers an area that our council has discussed a lot, says:

“the Council is to have regard to ... skills needs in Scotland ... issues affecting the economy of Scotland; and ... social and cultural issues in Scotland.”

Having discussed whether those factors had been listed in the bill in the right order, we accepted in the end that they had not been listed in order of priority, and that they were just three things. We welcomed the fact that

“social and cultural issues in Scotland”

had been included, because that will help to avoid education being considered purely in terms of economic ends, as opposed to social and cultural ends. We were quite heartened by how the bill had addressed that.

Chris Ballance: I see where you are coming from on that and I take the point that a merger of two organisations with different cultural values may work either way. Obviously, it is to be hoped that the outcome will be what you say that it will be. Are you putting in place any measures to ensure that that will be the case?

Esther Robertson: Although we welcome what is in the bill, much of the role of the new council—as with the existing councils—will be determined by the letters of guidance from ministers. That provides the opportunity for Parliament and the Executive to shape the agenda more regularly. If the ministerial decision was that we were to have a more economic focus, we would have to adopt such a focus to deliver on the letter of guidance. However, we feel that it is unlikely that we would be asked to do that, given the spirit of what is in the bill.

Chris Masters: Anticipation of the merger has been around for a long time. I have always been a

great fan of the idea, although I readily admit that I wanted it to be implemented three or four years ago, which was probably the wrong time. I think that now is the right time for the merger.

There are a number of joint committees that receive input from the arts side and the science side, so there is a balance. That balance will protect the cultural contribution and the economic contribution. That said, it is important to acknowledge that higher education and further education must be of economic benefit to the nation and must demonstrate that they are fulfilling that part of their role.

Roger McClure: I wonder whether it would help to remind the committee that, some 18 months ago or more, the two councils came together and produced a joint corporate plan. In other words, they were working together well before the legislation was drafted.

The joint plan's vision of the two councils was:

"to play our respective roles in creating and developing an outstanding and sustainable system of tertiary education"—

"tertiary" was the word that we used at that time—

"learning, training and research which:

- enriches society and the lives of individuals;
- stimulates and supports economic development; and
- increases skills, knowledge and understanding."

The economic role is incredibly important—without it, how will the economy develop and innovate in the 21st century? Of course, the fact that that is not the only role is always present in our minds.

The Convener: At the top of page 5 of your helpful submission, you talk about securing collaboration. You state:

"Achieving timely and effective collaboration will continue to be a challenge and this would be assisted if a reciprocal statutory duty to collaborate was placed on the range of other bodies that will be expected to work with the new Council."

Does that suggest that someone is not collaborating and, if so, will you name and shame them? Which are the key bodies on which a similar statutory duty should be placed?

Esther Robertson: I will turn that question on its head by saying that one of the reasons for that recommendation being included in our submission is that, when my council considered the bill, we were very uneasy about the notion that a duty to secure collaboration should be placed on us, because although we will do all that we can from our side of the table, it is very difficult to force the issue if there are players who do not want to play; we are not saying that there are such players.

The duty should require us to act collaboratively or, if it is a duty to secure collaboration, it should be placed on all the players. Part of the difficulty is

that the list of players would be quite long, because it would include Scottish Enterprise and Highlands and Islands Enterprise and perhaps the Scottish Qualifications Authority and others, all of whom we are working with collaboratively. Our point was that it would be right and proper not to place the sole responsibility on the funding council. That was the reason for that recommendation.

The Convener: Is the duty to secure collaboration another example of something that should be a ministerial duty? A statutory duty to collaborate is different from a statutory duty to secure collaboration.

Esther Robertson: That was our view.

The Convener: I would have thought that the council—and other organisations—should have a statutory duty to collaborate, but that the duty to secure collaboration should be ministerial.

Chris Masters: I agree totally. The answer to your question is yes. Collaboration is a two-way process that is essential, perhaps more so in Scotland than in other parts of the UK. Given the size of the country and the organisation's remit, it would be ridiculous not to have meaningful collaboration. It is not for me to decide, but I think that the letter of guidance to all the organisations should say that collaboration is a key part of their remit going forward.

14:45

Esther Robertson: I have a specific example of a long-term problem, which is not about those who refuse to collaborate. I am sure that the example came up in the predecessor committee's original inquiry. Further education colleges are required to consult local enterprise companies and seek their co-operation with the colleges' corporate plans. However, there is no reciprocal duty for a local enterprise company to include an FE college. That situation creates an imbalance and the perception of an unequal relationship. Examples of that appear regularly and are a matter of public record.

The Convener: I thank you for your written evidence—I think that it is the fourth submission that you have made over the past three years on the same subject—and your extremely helpful oral evidence.

We move to agenda item 3. I welcome Jim Wallace, the Deputy First Minister and Minister for Enterprise and Lifelong Learning. I invite the minister to introduce his team and to say a few introductory words.

The Deputy First Minister and Minister for Enterprise and Lifelong Learning (Mr Jim Wallace): I am delighted to give formal evidence to the committee for the first time since you took over the convenership.

On my right are Gill Troup, who heads up the higher education division, and Colin Gilchrist, from the office of the solicitor to the Scottish Executive, whom the committee specifically requested to attend. Also with me are Audrey Robertson and Gavin Gray, from the Enterprise, Transport and Lifelong Learning Department, who have primary responsibility as the bill team. I hope that, from our meetings on the bill, they will know it inside out.

In giving evidence to the committee, it is important to mark the fact that the origins of the bill came from the committee's predecessor committee—Mr Neil was its convener—which called, in one of its reports, for a merger of the funding councils. The bill that is before members looks somewhat different from the one that we issued for consultation; nevertheless, the policy position has remained largely unchanged. I believe that what we have done is a good example of how our system in Scotland can work well. Those of us who were engaged in the preliminary work, before the Parliament was established, on how we would develop legislation were anxious that transparency and consultation should be built into our process. What we have done on the bill is a good example of that in practice.

The officials and I consulted widely on broad policy issues before drafting the bill and the consultation. There was general agreement among the partners about the broad thrust of our policy intentions. However, it is fair to say that, when policies were translated into the formal legal language of legislation, some sections gave rise to concerns among stakeholders. Issuing the draft bill as part of the consultation allowed us to focus on specific concerns that had not arisen earlier because our policy intentions were not in legislative form.

Both texts were discussed in some detail during bilaterals and a series of open meetings, which were held across the country, at which people were able to make their views heard. There were also two written responses. By taking all that information into account, we have produced, I believe, a stronger and better bill. That can be measured by the responses of stakeholders. There has been acknowledgment—notably in evidence from Universities Scotland and the Association of Scottish Colleges—that the consultation worked well. I believe that the bill, as introduced, addresses a number of the concerns that were aired. That shows the strength of our pre-legislative consultative process.

I have been aware, since the publication of the bill, of concerns about the provision on fees. Some have interpreted that provision as the introduction of top-up fees. I repeat what I have said in other forums: categorically, this provision will not permit top-up fees.

As the committee knows, top-up fees will be introduced in England and Wales. That is a reality that we have to face. Our phase 3 higher education review tried to take into account what would happen as a result. The broad consensus among stakeholders and in the Parliament was that we needed to do something to respond to the real challenges that are thrown up by Westminster decisions, not least with regard to the cross-border flow of students. Committee members will recall that I set out to the Parliament in June the measures that we proposed to take. Those decisions have not been easy, but I remain convinced that doing nothing was not an option.

In the specific case of medical students, the committee will be aware that the Calman report highlighted the fact that around half the medical students in Scottish universities already come from outwith Scotland. I have noted that changes in fee levels in England might result in greater difficulties in recruiting sufficient numbers of graduates to the national health service in Scotland. That finding was worrying and echoed findings in the phase 3 review back in March. The issue is serious and has led us to consult on the principles and the practicalities of introducing a separate flat-rate fee for medicine. Responses to that consultation were due by the end of October and are being analysed.

It is important to acknowledge that the provisions in the bill do not negate that consultation in any way. Ministers have still to determine whether to introduce a different fee rate for the specific course. Should that be deemed necessary, the section in the draft bill will allow ministers—subject, of course, to the approval of Parliament—to implement any proposals to introduce a separate flat-rate fee for medicine. As things stand in legislation, we could not implement any such recommendation; we would require primary legislation. This particular section of the bill simply facilitates our taking that option—an option that will be used only if deemed necessary as a result of consultation and if agreed to by Parliament.

Scotland-domiciled students who are studying medicine or any other first degree will continue to have their fees paid for them in full. Any change in fee levels will have no financial impact on Scotland-domiciled students, but students who are not eligible for fee support from the Scottish Executive will pay more. In the face of tough choices, striking that balance best discharges our duties as Scottish ministers.

Another point that I wish to make relates to the provision on the Scottish public services ombudsman. The bill gives students, however funded, and other aggrieved persons the right to refer complaints about colleges or universities to

the ombudsman when institutional mechanisms fail them. That proposal came originally from the recommendations of the inquiry into lifelong learning that this committee's predecessor undertook. The proposal was picked up in the partnership agreement.

I believe that the bill, as introduced, will help to secure the coherence, responsiveness and relevance of further education and higher education as delivered in our colleges and universities, and will help to ensure that those colleges and universities continue to be recognised by all as delivering high-quality further and higher education to all students, as well as carrying out research that is recognised internationally.

The Convener: That is very helpful, minister. I always welcome it when people adopt a policy that has been recommended by a committee that I chair. I could send you a few more documents.

It is fair to say that, in all the evidence that we have heard, everybody has accepted the principle of the merger. You will find, therefore, that most of our questions are on the practicalities or on the wording of the bill. You will no doubt have read much of our evidence; much of today's meeting will be about clarification—not least on some of the legal points that have arisen.

Christine May: Perhaps I could ask two questions. One is on new fundable bodies and the question of who will have responsibility for making the ultimate decision. There is ambiguity in the bill's wording over whether the council would have responsibility or whether you or a subsequent minister would have responsibility on a recommendation of the council. Could you clarify that?

Mr Wallace: I am looking for the relevant section—

The Convener: While you are doing that, it might be useful to say that similar issues arise in other areas, such as the credit and qualification framework. In a number of areas, the drafting of the bill in relation to the division of responsibility between ministers and the new council might require clarification and definition; in some cases, it might not be the right way round.

Christine May: If the minister and his team need some time to consider and revisit the issue, I would be happy to wait for an answer.

Mr Wallace: Obviously, we would consider any of the committee's stage 1 recommendations. Section 7 indicates that the decision to add or remove fundable bodies would ultimately be one for ministers, because that would have to be done by way of an order. However, it is important—I recollect that this issue came up during the

consultation—that any such decision should be based on an objective analysis. Concerns were raised in relation to the original draft when the power was solely in the hands of ministers. I suppose that theoretically I or, more likely, one of my successors could have woken up one morning and said, "Let's abolish X university." It was never intended to be like that. It was suggested that we should have objective criteria and analysis, the provision of which is properly the role of the funding council.

The criteria are set out in section 7. If the funding council believes that an institution meets all the criteria, or fails to meet them, it can make the appropriate recommendation to the minister to add or remove the body, and ministers can then make the decision. When ministers take the initiative and feel that a body should be added or removed, the safeguard is that the funding council would make the appropriate checks before action was taken. Although the council would be required to approve such a proposal, that would not be the final approval. It would be more in the nature of an endorsement, because ministers would have to lay an order.

The convener referred to the Scottish credit and qualification framework. Representations were made during the consultation that the bill should refer to the SCQF. We can take legitimate pride in Scotland in leading the way in developing a qualification framework. I know from contacts within the Bologna process that Scotland is looked to for much of the progress that we have made. It is therefore important that we develop the framework and embed it within our system, to ensure that as students move through the system their learning is recognised and appropriately rewarded. The provision to promote that is appropriate.

At some future date, there might be a different framework. The funding council has the necessary expertise, working in collaboration with the colleges and universities, to determine which framework should be adopted but, clearly, if ministers were to disagree with that, there would still be the option of a ministerial direction, which would be subject to a parliamentary debate. I think that I am right in saying that ministers can give a direction on that.

Promoting the SCQF is not an exclusive responsibility of the funding council. We as ministers, and the sector itself, would wish to do that as well. Bringing the SCQF within the ambit of legislation has been widely recognised and acknowledged. We have struck the right balance, but if the committee feels that tweaking is needed I will have regard to what it says, provided that the general thrust is observed.

The Convener: That sounds like a drafting issue more than anything.

Christine May: My second question follows on from my first question on fundable bodies, and has been raised on a number of occasions. When a fundable body that comes about as a result of a new institution coming into the group of fundable bodies rather than by a merger of two existing institutions is agreed to, how will capacity in the funding mechanism be made available for it? Will that be done by diluting the existing funds across all of the institutions, including the new one, or will additional budgetary capacity be made available?

15:00

Mr Wallace: We have set out our spending review plans for the period up to 2007-08, and they are widely recognised as being a fair and generous response to the representations that we have received. I do not expect that we will be able to top that up considerably, but one never knows—end-year flexibility might allow us to do something at the margins.

The reason why we have the arrangements that we have is to allow the possibility of new bodies emerging that would merit inclusion. As I hope the criteria that would have to be met recognise, that is not something that would ever happen lightly. It is obvious that, over a period of time, a body would have to work up accreditation and a track record that would allow the funding council to recommend that it should be included. Therefore, I think that we would be given a reasonable amount of notice. I do not believe that there are any such recommendations in the pipeline.

It remains our position that we will fund only existing providers and that additional providers will be included only if we find that the existing colleges and higher education institutions are not delivering in a particular area. I think of the situation as being one of filling a gap or taking account of something that might have fallen by the wayside rather than of bringing in people who are waiting in the wings.

Christine May: Do you accept that it is not beyond the bounds of possibility that a philanthropist might come along, buy land, endow buildings and so on—in short, meet all of the criteria—and thereby create an institution that would have to be funded? Has any consideration been given to that eventuality?

Gill Troup (Scottish Executive Enterprise, Transport and Lifelong Learning Department): The designation of a body as a fundable body does not carry with it an obligation on the funding council to fund it.

Christine May: That is helpful.

Mr Wallace: It was quite deliberate that the designation was of a “fundable body” rather than a funded body. I know that the difference seems small, but it is quite important.

The Convener: You have to know the difference between your ables and your eds, no doubt about it.

Murdo Fraser (Mid Scotland and Fife) (Con): Have you finished your sentence, convener?

Christine May: Was there a verb?

Murdo Fraser: I will return to fees, in particular for medical students, which are probably the most controversial aspect of the bill, as the minister will be aware.

Last week, when we took evidence from the National Union of Students, Melanie Ward expressed detailed concerns about that issue. She said that ministers have the power to vary fees for all students, although the bill specifically mentions cross-border medical students, and SAAS will pay the extra. However, ministers have the power to stop SAAS paying the extra. According to Melanie Ward, if the bill were passed as drafted, ministers could completely change the student funding system by removing funding from SAAS and varying fees for various courses, starting with medicine and, in time, extending the variation to other courses.

I am sure that you will tell us that that would never in a million years be your intention, but is it the case that if the bill were passed unamended, legally you would have the power that Melanie Ward said you would?

Mr Wallace: I have that power at the moment. With regard to subsections (6) and (7) of section 8, if we were to have a different fee structure or a different fee for a different course, the ability to have different fees for different subjects would not be on a ministerial whim; it would require parliamentary approval.

Members might recall that we abolished tuition fees for Scotland-domiciled students on a first degree at a Scottish university by means of a letter that Nicol Stephen, the then Deputy Minister for Enterprise and Lifelong Learning, sent to Mr Stephen of the Student Awards Agency for Scotland. Therefore, things were done at the stroke of a pen. I believe that that was good, and I assure the committee that the Administration has no intention of renegeing on that decision.

Murdo Fraser: I appreciate that you have the power to change SAAS's funding payments, but do you currently—before the bill is passed—have the power to vary the fees that universities charge?

Mr Wallace: In general terms, yes, but not the power to have a different level of fee for different courses, which is why we want to take the powers to do so through primary legislation. You might recall that, when I made my statement to Parliament back in June about the impact on cross-border flows, I indicated that we would look to set a higher fee level, which of course would be met by the Executive for Scotland-domiciled students, who would not pay. We could do that with existing powers but, because of the possibility that we might want to set a different fee for medicine, for example—I do not want to nit-pick, but medicine is not specified in the bill; it is mentioned in the accompanying documents, although it is, basically, what we have been discussing and, again, I emphasise that the position will be no different for Scotland-domiciled students who are studying medicine, who will continue to have their fees met—we want to take powers under primary legislation to have a different fee level for a different subject.

Murdo Fraser: I understand that.

I would like to ask one more question. There are specific exclusions for students on teacher-training courses and postgraduate students. Why have you restricted exclusions to those two specific areas?

Mr Wallace: History is the reason behind that. When the Westminster Government brought in the whole issue of fee paying in 1998, a provision was inserted in the Further and Higher Education (Scotland) Act 1992 that meant that the level of tuition fees that ministers could set could not exceed the overall level of student support that they would provide. That provision never really kicked in because we abolished the payment of tuition fees by Scotland-domiciled students in January 2000.

That fee-matching power was replicated in our consultation draft of the bill but, on reflection, we considered that it was unnecessary, given the changes that we had made. Our understanding was that there was also provision to prevent ministers from setting different fee levels for different teacher-training subjects. In repealing one part of the 1992 legislation, we thought that it was important to leave the part that related to teacher training. We are currently considering whether that is still the best way of achieving our objectives for teacher training.

Murdo Fraser: Thank you. I am sure that other members will want to come in on those points.

The Convener: We are dealing with fees, so members may ask all the questions that they have about fees so that we can have a continuous discussion.

Richard Baker: I have a couple of questions. First, one of the issues that the NUS raised was

the fact that there was a lot in the draft bill and that excellent procedure was used in revising it. I speak with my Procedures Committee hat on when I say that that is good for the future of that kind of procedure. However, why was the fees issue not in the original draft bill? Why has the bill been chosen now to respond to the issue?

Mr Wallace: That was very much about the timing of events. You will recall that the draft bill and associated consultation documents were issued at the end of April. In my statement to Parliament in June, I said that we would give considerable consideration to, and consult on, how we should respond to the phase 3 review and the Calman report. Only at that point did we conclude that we might need to set a different fee level for medicine. Therefore, the decision was taken post publication of the draft bill. Since it became apparent at that stage that primary legislation would be required if we decided to pursue that course of action, it made sense to incorporate the provisions in the legislative vehicle that was available.

Richard Baker: My second question is about the alternatives that might exist. We are still waiting to hear back from the NUS about some alternatives that it proposed at our evidence-taking session last week, which, admittedly, I thought impractical. To what extent has the Executive been able to consider alternative proposals that might discourage swathes of English students from rushing north to take a place on a course in Scotland?

Mr Wallace: It is too early to provide an analysis of the responses that we received to our consultation on the Calman report. It is a bit like when the vote counters flick through the bundle. We want to analyse properly and consider the range of responses that we received. Some alternative might then emerge, but it is too early to say. My understanding is that we received some diverse responses to our consultation on the Calman report.

Gill Troup will elaborate on that.

Gill Troup: As members might be aware, an internal working group is working up proposals. Ministers aim to make an announcement on the subject by January. The group includes all the key stakeholders and it has input from student representative organisations. Our work is still at a stage where, if a workable alternative were proposed, we would have the time and scope to consider it.

Richard Baker: It is interesting to hear that the bill does not rule out other workable alternatives that might come forward.

My final question seeks reassurance for the student community, so it is helpful to have Colin

Gilchrist here. I am reassured that the bill does not provide for a top-up fee or anything comparable but is simply a response to what is happening in England. However, it is clear that the student community needs further reassurance on what the consequences of the bill might be. We have had a letter on the status of the explanatory notes, but I would be interested to hear further views on that. Also, is the minister able to give any further reassurance to the student community?

Colin Gilchrist (Scottish Executive Legal and Parliamentary Services): The legal principle is that if, exceptionally, there is found in the explanatory notes a clear assurance by the Executive to Parliament on the meaning of a section or on the circumstances in which a power will or will not be exercised, that assurance may in principle be admitted against the Executive in proceedings in which the Executive places a contrary contention before the court. Based on that principle, it is conceivable that a person could raise a litigation based on assurances in the accompanying documents. There is no guarantee that such a claim in litigation would be successful, but that is the legal principle.

Richard Baker: So the assurance in the explanatory notes could be at least considered in the courts.

Colin Gilchrist: Based on that principle, it could be considered in the courts.

Richard Baker: It is interesting to hear that the explanatory notes could carry that degree of weight.

Mr Wallace: Colin Gilchrist will correct me if I get this wrong, but I am sure that the assurances on the limited nature of the Executive's intent that I have given on the record to the committee today and that I propose to give when we debate the stage 1 report on the floor of the chamber are also subject to a *Pepper v Hart* effect. I hope that members of the committee find that helpful.

Also, without getting into drafting technicalities, I point out that, once one reads through the legalese, the clear position under section 8(6) is that all institutions will be required to charge the fee that ministers set. Therefore, it will not be the case that different institutions will be able to bid against each other, as under the Westminster legislation on variable top-up fees. The bill itself is intended to give that guarantee.

Richard Baker: That is an important clarification.

15:15

Fiona Hyslop (Lothians) (SNP): I will pursue that point with the minister and with Colin Gilchrist. Regardless of whether the Executive's intention is

not to introduce variable fees or to open up the bill for other uses, it is what Parliament decides and what Parliament passes that makes the difference. Colin Gilchrist just cited Lord Steyn in the case of *Westminster City Council v National Asylum Support Service*. In his additional notes, he said that although the explanatory notes could be submitted to the courts, in the case that the Executive cites, they did not place any reliance on the explanatory notes in reaching their judgments. Lord Steyn said:

"What is impermissible is to treat the wishes and desires of the Government about the scope of the statutory language as reflecting the will of Parliament. The aims of the Government in respect of the meaning of clauses as revealed in Explanatory Notes cannot be attributed to Parliament. The object is to see what is the intention expressed by the words enacted."

Therefore, although the Executive might make statements about how a phrase might be used, Parliament is perfectly entitled to decide whether it wants to pass legislation that opens up the potential to use the provision not just for medical students. Do you agree with that interpretation of Lord Steyn's judgment?

Colin Gilchrist: Yes, I do. I agree that the principle does not establish the Parliament's authority to pass the legislation and that it is the confirmation by the Executive that is relevant.

Fiona Hyslop: So, once the bill is passed and is law, it does not matter what has been said either by the minister to this committee or in explanatory notes.

Colin Gilchrist: Yes. The accompanying documents cannot be interpreted to confirm the view of Parliament, but they can be interpreted to confirm the view of the Executive.

Fiona Hyslop: So, if the committee is to review the principles of the bill—the main principle is to open up a new provision—it has to review what is drafted in the bill rather than the notes.

The House of Lords also ruled in the case of *Regina v Secretary of State for the Environment, Transport and the Regions and Another, Ex Parte Spath Holme Ltd* that secondary legislation could be introduced regardless of the original intention in the explanatory notes. You are saying that there would have to be a statutory instrument to introduce the medical fees. Are you aware of that case in relation to this?

Colin Gilchrist: No, not in relation to this.

Fiona Hyslop: It might be helpful if you could reflect on it.

Another ruling was made recently in the case of *Bidar v Ealing London Borough Council*, which has gone to the European Court of Justice and is specifically about residency issues. Education is

now within the ambit of the Maastricht treaty and there is concern about indirect discrimination on the basis of residency. If you were to use the provision for medical students, it would concern students coming to Scotland from outwith Scotland and would be based on nationality or residency. Have you considered the recent ruling in the case of *Bidar v Ealing London Borough Council*?

Colin Gilchrist: The Advocate General's decision in the *Bidar* case has been issued, but the ruling of the court has not. Obviously, Scottish Executive Legal and Parliamentary Services will consider the implications of the ruling when the court issues it.

Mr Wallace: We are aware of the *Bidar* case. As I have perhaps said in the past, there is provision in our budget for student support if the ruling goes the wrong way.

Where Ms Hyslop has got it wrong is in suggesting that a different fee would apply to students based on residency. The same fee would apply to everyone; the difference is that Scotland-domiciled students and European Union-domiciled students who do not come from the rest of the UK would have their fees paid for by the Scottish Executive. It is not that we set a different fee level for English, Welsh or Northern Irish students; the difference is that we pay the Scottish students' fees.

Fiona Hyslop: So, it would be an additional fee across the board.

Mr Wallace: But we pay Scottish students'.

The Convener: So, it would be funded.

Fiona Hyslop: I have a final question on the general policy. Following whose initiative was the new section introduced? Was the policy intention a health initiative to ensure that more doctors stay in Scotland or was it just about keeping right the number of Scottish students who could access medical courses?

You mentioned the Calman report, which made a range of recommendations about ensuring a better balance in the representation of Scottish medical students. Why did you pick one recommendation and ignore the rest?

Mr Wallace: Our approach should come as no surprise to anyone, given that I specifically flagged up the medical student issue when I made my statement to the Parliament in June. I discussed the Calman report and its implications with the former Minister for Health and Community Care. There are implications for the availability of places at Scottish universities for Scotland-domiciled students, which in turn have longer-term implications for the recruitment of graduates to the NHS in Scotland. Evidence comes across in the Calman report that students who are originally

from Scotland have a greater propensity to stay in Scotland than students from furth of Scotland have—it would be wrong to suggest that all students who are not from Scotland leave Scotland, but there is certainly a greater likelihood of their subsequently practising outside Scotland. If, over time, an ever-increasing proportion of places at Scottish medical schools is taken up by students who do not come from Scotland, there could be highly problematic implications for staffing the NHS in Scotland in the much longer term—even 10 or 15 years ahead. The Executive is concerned about that and I hope that there is recognition across the Parliament that we cannot take lightly or ignore the issue.

Christine May: I want to return to the point about ensuring that, when the Parliament takes a decision, everyone is clear about the will and intention of ministers. I recall that in preparation for a previous debate, we were given guidance that indicated that clarification of ministerial intentions and of the wording of legislation could be provided through an amendment to a bill, by specific exclusion or inclusion in subordinate legislation, or by the minister during the debate, before the vote. Can you confirm that that is your understanding of how such matters may be dealt with?

Colin Gilchrist: Are you directing that question at me?

Christine May: Yes.

Colin Gilchrist: That is my understanding of the situation.

Christine May: That is helpful.

Mr Wallace: It is important to make the point that, at the end of the day, orders would be voted on by the Parliament. The fee levels that would be determined under section 8(7) would be set out in an order subject to the affirmative procedure. If, at some stage in the future, the Parliament thought that ministers were abusing their powers, it would have the last word.

The Convener: Perhaps the committee should consult the Parliament's directorate of legal services to clarify the situation. I am sure that we take the Executive at its word, but we always like to double check.

I see that Chris Ballance wants to ask a question; go ahead if your question is on fees—I want to wind up that part of our consideration. I will bring you back in later if you want to ask about something else.

Chris Ballance: I want to take Fiona Hyslop's point a little further, to ensure that there is complete clarity. Colin Gilchrist said that a student could instigate a case and that the courts could consider the explanatory notes and the minister's statement. However, do you agree that the

putative student would be ill advised to found a case purely on the explanatory notes and the minister's statement and that the courts would be quite within their rights to place no weight on that evidence?

Colin Gilchrist: It would be legally possible for a claim to be based on the principle, against the contention of the Executive.

Chris Ballance: Is it the case that the courts would be quite within their rights to give no weight to the explanatory notes or the minister's statement?

Colin Gilchrist: The courts would have regard to the House of Lords decision on the principle that was set out in *Westminster City Council v National Asylum Support Service*, which I mentioned.

Chris Ballance: I understand that principle to be that the courts need give no weight to the explanatory notes or the minister's statement.

Colin Gilchrist: A statement in the explanatory notes or the minister's statement would be a persuasive statement. There would be no guarantee that the court would follow it, but it would be a persuasive statement that could be considered in the litigation if a student were to raise such an issue.

Chris Ballance: I think that I shall take that as a yes.

Mike Watson (Glasgow Cathcart) (Lab): I had not intended to ask a question on fees, but I was struck by something in the minister's response to the question from Fiona Hyslop about medical students. You said that your concern was that as many graduates as possible should remain in Scotland and put their skills to use in the NHS in Scotland. I am aware that University of St Andrews medical students go for part of their course to hospitals in Manchester. Given that St Andrews has a lot of non-Scottish students anyway, it seems to me that that diminishes the chance of them remaining in Scotland after their training is finished. Do you or your officials have anything to say about that? Would it be appropriate, or even possible, for your officials to tell the University of St Andrews that its focus should be on Scotland and that, as far as possible, training should take place entirely within Scotland?

Mr Wallace: I am certainly aware of the issue. If memory serves me correctly, it was raised in Professor Calman's report. I know that St Andrews has been examining it. The concern addressed by that section of the bill is about the overall number of funded medical student places in Scotland. Your point about the University of St Andrews is indirectly relevant, as it is my understanding that the university is actively considering the points made in the Calman report.

The Convener: I think that it has done something already.

Mike Watson: I am glad to hear that. I had not realised.

The Convener: Is your next question on fees?

Mike Watson: No.

The Convener: I know that Jeremy Purvis wants to ask about fees, and I really want to make that the last question on fees. After that, I will come back to Mike Watson's other points.

Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD): I am grateful for the opportunity to put my questions to the minister, and for the opportunity to be a substitute for Jamie Stone, if that is really possible.

Mr Wallace: I shall refrain from comment.

Jeremy Purvis: That was not a question to the Deputy First Minister.

There is a fair amount of agreement with Brian Adam, the SNP member, who said in the chamber in June:

"I welcome the fact that he is to address the difficulty with medical schools in Scotland. I look forward to hearing detail on the level of charge that will protect the national health service in Scotland."—[*Official Report*, 24 June 2004; c 9489.]

We probably all agree with that.

On the fear of an extension and the difference between primary and secondary legislation, I would be interested to hear about the elements of a legal challenge. My understanding is that there can be an extension only on an affirmative vote of the Parliament. Without an affirmative vote of the Parliament, it would be impossible to make any extension to the provisions.

Mr Wallace: Section 8(6) is the one that obliges all universities and institutions to charge the same fee. The instrument to determine the programme of learning or course would be subject to negative resolution, but the fee level would be subject to affirmative resolution. It is a two-part process, and one is not worth the paper it is written on without the other. The committee might wish to consider whether it thinks that all orders under section 8(6) should be subject to affirmative resolution.

The Convener: I think that we would.

Mr Wallace: You might be pushing at an open door.

Mike Watson: I would like to ask about academic freedom, on which we have had some discussion today and in previous evidence-taking sessions. Section 8(12) gives assurances that funding decisions by ministers will not be tied to conditions affecting particular programmes of

learning or courses, but that is in effect institutional academic autonomy. Academic staff have raised the point that the question of individual academic freedom is not really addressed in the bill at all. That is highlighted by the anomaly of the position of those institutions that were universities before 1992, as opposed to those that have subsequently attained that status, as individual academic freedom does not apply in the newer universities. The bill offers an opportunity to bring all universities—indeed, all of further and higher education—into line. Is there any good reason why that opportunity should not be taken as the bill progresses?

15:30

Mr Wallace: That question allows me to confirm that one of the features of the bill is that it extends institutional academic freedom from the higher education sector to the further education sector, which is something that I wanted to see.

The reason why there are differences between the position of the pre-1992 universities and that of the others is that the academic freedom that allows staff the freedom to challenge perceived wisdom and express controversial or unpopular opinions without fear for their jobs came in under the Education Reform Act 1988 and therefore, by definition, pre-dated the 1992 legislation. The issue was not picked up in the drafting because the bill is very much focused on the institutions' funding arrangements rather than on their internal organisation. I know that the AUT raised the issue in its evidence. I have asked whether the long title of the bill will allow us to address the issue and I am hopeful that it will.

Consideration of the issue is at its early stages, as I am trying to respond to what the AUT said in its evidence. We could perhaps make it a requirement that in order to become a fundable body it is necessary for an institution to observe the principles in the 1988 act that apply to the pre-1992 universities. It has only recently been drawn to our attention by the AUT evidence that such a difference exists. I am sympathetic to the principle, because I cannot see any logical reason why individual academic freedom should be applicable in only a limited number of institutions. I have therefore asked officials to consider whether, within the scope of the bill, there is a way in which we could make progress on the issue.

Mike Watson: I am encouraged to hear that. Can I clarify that you are talking about further education as well as higher education?

Mr Wallace: That would be my intention.

Mike Watson: Thanks. I have nothing further to say on that matter, in view of the positive answer.

Section 21 refers to equal opportunities. The committee has received representations about students with disabilities. There seem to be two issues. The first is one that we have already considered to some extent today and it primarily applies to further education. Students with disabilities who want to study outwith Scotland may or may not get funding. We heard that 14 of the 32 local authorities do not automatically give funding and some never give funding. That seems to be an uneven way of proceeding. The funding councils were asked whether they felt that the new funding council should be given responsibility. Their answer was, in short, no. How would you feel about a responsibility resting with Scottish ministers, perhaps through SAAS or another body—if there were another appropriate body—to ensure that all students with disabilities who apply for funding to study outwith Scotland have an equal chance, irrespective of where they are domiciled?

Mr Wallace: We are aware of the issue and we are currently drafting a consultation paper on it to investigate current practices. I am aware that, as you say, some local authorities provide funding and others do not. We want to establish the view of local authorities on their role in the provision of bursaries, particularly for those with additional needs who require to study outside Scotland. We also want to take stock of the demand for places that offer specialist provision outside Scotland and establish what the cost would be for us to meet that demand within Scotland. One option is to try to ensure that such provision is available within Scotland.

I do not shy away from the difficult issues that this matter raises. Fiona Hyslop has mentioned the Bidar case and what the eventual judgment might be. If the situation ends up being that Scottish ministers fund provision in colleges outwith Scotland, there could be difficulties. The intention with a consultation is to try to tease out those issues and engage all the relevant stakeholders. We are aware of the issue and we are taking soundings and consulting on it.

Mike Watson: I welcome that response. There might be a distinction to be drawn between students who want to go south of the border to take courses for which there is no equivalent in Scotland and students who simply choose to study at an institution south of the border, regardless of whether there is an equivalent course in Scotland. If there was no opportunity to take a specific course in Scotland, a student wishing to take up a place south of the border might be denied it simply on the whim of the local authority. I hope that both situations can be taken into account.

Mr Wallace: We will consult on that.

Mike Watson: The second question is terminological. It has been drawn to our attention that section 12 uses the term “learning difficulty”. It was suggested that the broader term “additional support needs” would be more appropriate and would ensure consistency with the Education (Additional Support for Learning) (Scotland) Act 2004. Could you respond to the representations made by various organisations and by the Equal Opportunities Committee, which has written to our convener asking us to raise the issue, by making a change along the lines suggested?

Mr Wallace: We seek to address the issue in the bill in a number of ways. The term “additional support needs” came through the Education (Additional Support for Learning) Act 2004, which imposes a duty on education departments in local authorities. It is fair to say that local authorities have a much wider range of responsibilities to those of school age—or those under the statutory leaving age—than FE and HE institutions have to students. We have tried to acknowledge that the colleges are under statutory obligations under both the Disability Discrimination Act 1995 and the Special Educational Needs and Disability Act 2001. We have changed the wording. We borrowed substantially from the Further and Higher Education (Scotland) Act 1992, but we changed the wording from “learning disabilities” to “learning difficulty”, because a disability might imply a longer-term issue, whereas a difficulty might be of a shorter duration. In that way we have tried to broaden the scope, but we need to correct the explanatory note, which still uses the word “disabilities” as opposed to “difficulty”.

I draw to the committee’s attention a number of other provisions. Section 20(3) states:

“In exercising its functions, the Council is to have regard to the educational and related needs of persons who are, and the likely educational and related needs of persons who might wish to become, students of any of the fundable bodies.”

That is intended specifically to ensure that the new funding council has proper regard to the needs of students with learning difficulties. Section 12 relates specifically to learning difficulties and section 7(2)(g) states that one of the criteria for deciding whether a body should be a fundable body is the arrangements that it has with regard to the

“educational and related needs of persons who are, and the likely educational and related needs of persons who might wish to become, students of the body.”

In determining whether an FEI or HEI should become a fundable body or should continue to be a fundable body, the funding council has to direct itself as to the adequacy and appropriateness of the arrangements that the body makes for those with learning difficulties.

Mike Watson: I hear what you are saying, and having that on the record is helpful. However, as I read them, sections 7(2)(g) and 20(3) are not explicit. Someone could easily read them and not understand that they mean what you say they are intended to mean. It would be helpful if those sections were a bit more explicit. I suspect that we will return to that when we come to consider amendments. For the moment, there are no further points that I want to make.

Fiona Hyslop: I followed the progress of the Education (Additional Support for Learning) (Scotland) Bill very carefully and was involved in scrutinising it. There was a perceived gap in provision for 16 to 17-year-old young people going into colleges of further education in particular. As I recall, the Executive’s view was that the powers within the bill could not extend to further education colleges. There were concerns about some of the provisions in that bill and, although we tried to improve it so that it addressed that issue, there remained a gap.

If it was not thought appropriate for that bill to cover further education colleges, should this bill not be used to extend the broad and important policy concept of additional support needs as opposed to special needs? That is a huge area, which is not just about changing the name from “learning disabilities” but which involves quite a comprehensive policy statement. It would be helpful to have an idea of the Executive’s thinking on that from a policy perspective as opposed to a presentation perspective.

Mr Wallace: Bearing in mind Mike Watson’s point about whether the intention is immediately apparent in the bill, I point out that the bill refers to “educational and related needs”. We are not talking exclusively about students’ educational needs. As I said in my opening response to Mike Watson, colleges and HEIs are also covered by the Disability Discrimination Act 1995 and the Special Educational Needs and Disability Act 2001.

The Education (Additional Support for Learning) (Scotland) Act 2004 makes some provision for the transition from school to post-school provision so that there is a continuum of support. Subordinate legislation will have to be enacted under that and it could well be that that will place some duties on further and higher education to assist education authorities as they prepare, plan and make arrangements for the transition of pupils with additional support needs. I understand that a code of practice is to be published by ministers prior to the commencement of the act next year. Institutions will be required to have regard to that code of practice as well. There is therefore a range of measures adding up to quite a substantial package.

The Convener: I have a couple of quick questions on governance before we conclude the meeting. I understand that, under the act that took the colleges out of local government, councillors are debarred from chairing the governing boards of FE colleges. Is that true and, if it is, is it not time to revisit that restriction?

I have a second question. When we consider new fundable bodies, it is very clear that proper arrangements for governance are a condition of being a fundable body. However, as you know, there has been some difficulty, particularly with a college in Glasgow where some of the practices were questionable and the college was not abiding by the decision of statutory bodies. That has given rise to a lot of concern. Are you satisfied that, in relation to existing institutions in the FE sector in particular, the provisions and requirements for governance and management are satisfactory?

15:45

Mr Wallace: On your first point, there was a report of a review of governance that made several recommendations. We have recently concluded a consultation on whether there should be a relaxation or a removal of the restriction on local authority employees and councillors becoming the chair of a college board of management. Your question proceeds on the correct premise that, at the moment, that is not allowed. We have concluded a consultation on that, and we are now examining the results. My understanding is that if we wish to change it, the change could be made by way of an order and would not require to be incorporated into the bill. We hope to be in a position to give an indication of how we intend to proceed on that point within the next few months.

On more general issues of governance and the case that you mentioned, you will be aware, as we had an exchange about it in the chamber, that an independent review has been established. The review has engaged the Scottish Further Education Funding Council and the college concerned to examine issues of governance. My intention is that the review's findings should be public and that if it makes recommendations, they should not be restricted to the one college if they are capable of wider application. I assure you that, although ministers do not become involved in the detail of governance, we expect the highest standards of governance across the board, including in employee relationships.

The Convener: Are the powers that are available to the funding council and ministers satisfactory to deal with any need for intervention?

Mr Wallace: I believe that they are. If others think that they should be improved in any way, I

would be willing to reconsider them, but I believe that they strike the right balance.

Chris Ballance: We have heard, from the AUT in particular, of concerns that the merger of the funding councils will emphasise the economic values of learning while downgrading the cultural and social aspects. We have just heard from Chris Masters that that is not a matter for the new funding council, but a matter of how ministers set it up. Are you aware of those concerns and what are you doing to address them?

Mr Wallace: I was aware of the concern during our consultation but, if you look at section 20 of the bill, you will find that

"In exercising its functions, the Council is to have regard to—

- (a) skills needs in Scotland;
- (b) issues affecting the economy of Scotland; and
- (c) social and cultural issues in Scotland."

In fact, we made significant changes from the original draft of the bill to try to reflect some of the concerns. If I remember correctly, the original draft was very much focused on skills needs in Scotland and on the Scottish context, but because we want to ensure that our universities and colleges remain competitive and improve their competitiveness in the United Kingdom and globally, section 20(2) gives the proposed new council a responsibility to have regard to the UK context and the international context when exercising its functions. I was aware that the point was raised during the consultation, and we specifically addressed it by adding provisions to the bill.

The Convener: That is fine. Thank you very much indeed. We hope to publish our stage 1 report before Christmas, so it will be good Christmas reading for any and all.

Mr Wallace: I look forward to debating the report in the new year.

The Convener: Thank you. That is helpful.

We will suspend the meeting for five minutes, because the temperature in here is quite hot because of the lights.

15:48

Meeting suspended.

15:55

On resuming—

Arts in the Community Inquiry

The Convener: Item 4 on our agenda—of course, we are still in public session—is consideration of a draft report on our arts in the community inquiry. A downside of holding this discussion in public is that we are limited in the extent to which we can engage the clerks. We might not hold every such session in public, but it is fair to have this initial discussion in public, to give a broad outline of what we want to do. A paper has been circulated to members, which provides a broad outline of a suggested approach. I open up the meeting for comment and suggestions.

Christine May: Susan Deacon—who cannot be here today—has spoken to the clerks and to me on the issue. She wonders, given the nature of the inquiry and the nature of some of the evidence that we took from voluntary and community groups—people who were not the usual suspects—whether we should, as well as doing what is suggested in our paper and producing a two-part report as we did for our renewable energy inquiry, consider commissioning a DVD or video so that people could actually see and hear evidence. I have not had time to discuss the suggestion in detail with broadcasting staff or anybody else but, if resources are left in the committee's budget, such a DVD or video should perhaps be commissioned. For an inquiry such as this, it might be a very good way of getting the message out.

The Convener: I agree. That is a good idea that is worth exploring. If the committee agrees, we could ask the clerks to do some costings and to consider who might do the work. We might have to go through a procurement procedure to keep ourselves in line with Parliament's procedures.

Mike Watson: It is an idea that would often not be appropriate, although clearly it would be in this case. It would also add a bit to our leaflet, if we were to produce another. It is a very good suggestion.

Richard Baker: Are we just agreeing to explore the practicalities, which would be immense?

The Convener: That is right.

Richard Baker: It is a good idea if it is doable.

The Convener: The clerks will talk to Susan Deacon in more detail about what she has in mind and will come back, perhaps in two weeks, with a report.

Richard Baker: Would the DVD or video be to augment the report?

The Convener: Yes.

Mike Watson: Timescales might be an issue. I know that we are not looking beyond the end of the year, but if performances are to be announced and things have to be put together, edited and linked, time issues might arise.

The Convener: We might do what our predecessor committee did and get our report done and dusted but delay publication until the DVD is ready. Susan Deacon's suggestion does not stop us producing our report.

Do members agree that, in principle, we are happy to explore the suggestion, and that we will consider the practicalities and the cost when we see the report that we ask the clerks to prepare?

Members indicated agreement.

16:00

Michael Matheson (Central Scotland) (SNP): I have to leave within the next five minutes, but I want to raise a point in relation to the section in our paper under the heading "Practical support", which talks about

"the need to secure stability by providing three-year rolling funding ... potentially to local or regional based-funding".

For the limited period when I was involved in the inquiry, my impression was that the issue was about sustainability of funding over three years, which comes from local agencies such as local authorities, and which can be matched by national bodies such as the Scottish Arts Council, although the process was not always devolved to regional or local level. Several local arts organisations whose representatives I have met are anxious about funding being devolved to local level, where it would probably be administered by local authorities. The current problem is that local authorities provide only annual funding and the Arts Council does the same. There is an issue of balance and the problem is not simply about a potential move to local or region-based funding. The paper does not quite show the balance that I had picked up on.

The Convener: I know that Michael Matheson has to leave us shortly, but the easiest way to deal with the matter is to go round the table for members' views or comments, in particular on what they think is missing from the paper. That will allow the clerks to absorb members' comments as they start to prepare the first draft of our report.

Christine May: I will return to something that I have banged on about for a long time—I will bang on about it again—but which is not in the paper. Public funding is delivered in silos, but I wish that it would be delivered across a range of policy objectives. Such a change being effected and the committee's encouragement of it would have a

huge benefit to community arts and activities such as those which we have considered today. Those activities do not fall neatly into community services, education, health, social work or other boxes, but they do come under the policy objective of building stronger communities. I would have liked that to have come through among our recommendations.

The Convener: Is that agreed?

Members *indicated agreement.*

Mike Watson: I saw a draft of the paper earlier, and I had one or two changes to suggest, but they have been incorporated. The only point that I would make is on the final recommendation, which is that we

“launch the report in early January, on a Friday, at an external venue.”

I am not sure whether it is taken as read that that should be some form of arts or cultural venue. If we are to produce a DVD, someone who features in it could perhaps be there, just to add something for the media at the launch.

The Convener: We might want to revisit holding the launch in early January; we may have to hold it back a wee bit for the purposes of the DVD.

Mike Watson: I mentioned to the clerks last week the Tolbooth in Stirling, which is an imaginatively refurbished old building that has been made into an arts and cultural centre. That is merely a suggestion; there will be many other places, but holding the launch at such a place would enhance and give extra weight to our report.

Richard Baker: My point follows on from what Christine May said—I made the point last week, too. The “Philosophy into practice/Making it happen” section of the paper makes lots of good references to sharing experience, best practice and expertise. As Christine May said, it is sometimes a matter of sharing resources. Funding already goes into some education budgets to allow schools to engage in cultural experiences, and something similar applies to some health budgets. Some of the resources, which involve people working at various projects, could be shared more widely around the community. It is not just about sharing best practice and experience; there is also a resource issue. In many ways, I am just echoing what Christine May said.

Chris Ballance: I have a couple of things to raise, starting with one of the bullet points under the “Practical support” heading in the paper, which refers to

“the need to secure stability by providing three-year rolling funding”.

Two issues come under that bullet point. The first concerns “three-year rolling funding” and is about

striking a balance between keeping funds available for projects on a one-year basis while also providing security of funding for others—it is not about providing three-year funding for all. We ought possibly to be considering new solutions.

It is extremely difficult to get an initial year’s funding, because projects have to prove that what they will do is good and worthwhile and is not provided elsewhere. Having got the first year’s funding, the process of obtaining continuation funding should be slightly easier. We could explore that within the report. There is tension between three-year funding and one-year funding. There is a case for both, but we should consider developing alternatives.

My second point is on the potential to create funding to assist organisations with professional marketing. I have given that a fair bit of thought because, as I said, I used to manage an arts mental health organisation. Such funding might not have helped us, but we could have been helped by a volunteer base. Instead of having a fund to which one could apply, it would be helpful to have a base of experienced volunteers who could help organisations. Arts & Business Scotland has a contact database for professional arts organisations and has 45 placements under its scheme, but there is nothing to help unfunded amateur community arts organisations. That is far more relevant to community arts, so I would prefer us to look in that direction.

We do not in the report examine the fact that HIE has cultural responsibilities within its remit although Scottish Enterprise does not, and has not since the reform of what was formerly Lothian and Edinburgh Enterprise Ltd and the other development agencies. I would like to be able to express an opinion on that. I do not know whether the committee would like to do so.

The Convener: Scottish Enterprise never had responsibility for the arts. Its predecessor organisation was the Scottish Development Agency. The Highlands and Islands Development Board was the predecessor of HIE; from 1965, when the HIDB was set up, it always had a social and economic remit, which was inherited by HIE. The SDA never had a social responsibility; it always had a purely economic responsibility, which was inherited by Scottish Enterprise.

Chris Ballance: I understood that organisations such as LEEL had social responsibilities.

The Convener: Not in statute.

Chris Ballance: The question could still be examined in the inquiry, because we have seen that HIE supports the arts and community arts in a way that is not open to organisations furth of the Highlands.

The Convener: I am cautious about that. If we were to broaden Scottish Enterprise's remit further the jam would be spread even thinner. Scottish Enterprise is trying to get out of that. The memorandum of understanding that is apparently to be agreed between it and a number of bodies will define the parameters of its involvement in social and cultural issues. I do not think that Scottish Enterprise is qualified or skilled to do much of that stuff. That is not to say that it should not be allowed to put funding in now and again as part of a regeneration project. There is nothing to stop it doing that.

Christine May: If you take on board my suggestion that there should be theme-based funding, local authorities and enterprise companies would have a remit to grow the economy. It would then be for arts projects to show that they would fulfil that growing-the-economy remit, and would therefore be eligible for funding. That would make it clearer for funding bodies in making determinations, and clearer for applicant organisations in saying exactly what they are about.

Chris Ballance: That is fair enough and I agree, but any arts body that wished to make that case to Scottish Enterprise would find doing so difficult, because that is not part of its culture and thinking.

The Convener: That is a separate issue.

I agree with Christine May's suggestion, which is a sensible approach. If we agree to it in principle, we can leave the practicalities to another day. Do you agree to that, Chris?

Chris Ballance: Sure—I am happy with that. I have a final point on location, which is that my vote would be for the Gracefield arts centre in Dumfries, because I do not think that we do enough within the south regions. Gracefield is an all-round centre. We have had many positive comments about it from Dumfries and Galloway Arts Association.

The Convener: Every member of the committee is entitled to suggest, through the clerks, where the event should take place. However, members should bear it in mind that it is a public launch and, if we want coverage for it, it will need to be located within a reasonable radius of an outside broadcasting unit. Any suggested location would need to be a manageable proposition.

Chris Ballance: Border Television is located very close to Dumfries.

Murdo Fraser: I am not sure what that says about Dumfries.

The Convener: That would be an interesting discussion. However, every committee member should feel free to nominate a place. I am sure that we can have a public discussion on where we want to do the launch.

Murdo Fraser: On Chris Ballance's point about Scottish Enterprise, we can guess what the current chief executive's view of that might be, but I will go no further down that road.

I have three points, the first of which is a general one. A two-part structure to the report is a sensible way forward—I am sorry, but I am reminded that there are to be three parts: two on paper and a DVD.

Christine May: I love the way our suggestion has been assimilated.

Murdo Fraser: It is a good suggestion because it will make the report much more readable and user friendly. I have two more specific points. The first is on the final bullet point in the second section of the briefing paper, "Philosophy into practice/Making it happen", which is about "the need to develop centres of best practice".

I do not disagree with that, but we must be careful not to go down the road of proposing yet more buildings. It seems to me that we have enough arts centres in the country, some of which have rather difficult economic arrangements. Plenty of other possible venues are already underused, such as schools and village halls. We probably do not need more in the way of physical locations for arts centres. That point is in tune with a decentralising approach.

My second specific point is on something that came out of our trip to Inverness and which I believe was referred to in the report of that trip. The suggestion is to have for the arts something similar to the sports leader awards in Scotland—for example, arts leader awards—to try to promote excellence and provide a challenge, particularly for younger people, to achieve in the arts in the same way as they do in sports. I would like that suggestion to be explored further.

Richard Baker: I want to return briefly to two points. One is about a bullet point in the "Philosophy into practice/Making it happen" section, which talks about

"the need to develop better networks and relationships between government-funded and voluntary agencies".

I mentioned outreach work by, for example, the national companies. We did not hear much direct evidence about that, but some people talked about people from Craigmillar who were successful in the arts going back to their community. I hope that we will return—perhaps when the cultural commission reports, if not in our report—to outreach work by national companies, which could help encourage community arts.

Secondly, to back up Chris Ballance's point about a database of volunteers, many national business companies—I think Alastair Ross from

HBOS might have referred to this—not only donate money as part of their corporate social responsibility policies, but encourage employees to share their experiences and talents with charities and, I am sure, with arts groups as well. In a volunteer database we could find, for example, a graphic designer from the Bank of Scotland who could give time to help a theatre company produce materials. Such a database would be useful and major business companies might take it on board when considering their CSR work.

Christine May: In Fife, we have two toolkits. One is a funding option for voluntary organisations, which provides a step-by-step guide to establishing an organisation, accessing funding sources and so forth. The second is one that I launched last Friday, which is the Fife environmental network toolkit. Each of those is suitable for arts organisations. I know that the toolkit's subject matter is specific to Fife, but it comes on a DVD and could easily be adapted for other areas. It might also help if our report suggested that examples of best practice—I am sure that there are others across the country—should be available on a national database.

The Convener: Are members agreed?

Members *indicated agreement.*

The Convener: Our next discussion on the draft report is on 30 November, St Andrew's day. As the clerks obviously have a lot of work to do between now and then, I ask those who have been most heavily involved in the inquiry to put out some feelers when the clerks have completed the initial draft to get some comments on it. I am quite happy for folk to submit their comments to the clerk as the draft proceeds in order to ensure that, by the time we receive the next draft, it is as close as possible to what the committee is looking for. Do members agree?

Members *indicated agreement.*

The Convener: Excellent. We now move into private session for item 5.

16:15

Meeting continued in private until 16:32.

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