

# **ENTERPRISE AND CULTURE COMMITTEE**

Tuesday 22 February 2005

Session 2

£5.00

© Parliamentary copyright. Scottish Parliamentary Corporate Body 2005.

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

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

---

# CONTENTS

Tuesday 22 February 2005

	Col.
INTERESTS.....	1601
ITEM IN PRIVATE .....	1602
SCOTTISH RUGBY UNION .....	1603
FURTHER AND HIGHER EDUCATION (SCOTLAND) BILL: STAGE 2.....	1637

---

## ENTERPRISE AND CULTURE COMMITTEE

### 5<sup>th</sup> Meeting 2005, 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)  
Mike Pringle (Edinburgh South) (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:

Allan Wilson (Deputy Minister for Enterprise and Lifelong Learning)

#### THE FOLLOWING GAVE EVIDENCE:

Phil Anderton (Former Chief Executive of Scottish Rugby Union)  
Gordon Dixon (Scottish Rugby Union)  
Norman Douglas (Scottish Rugby Union General Committee)  
Archie Ferguson (Scottish Rugby Union General Committee)  
Ian McGeechan (Scottish Rugby Union)  
Fred McLeod (Scottish Rugby Union)

#### CLERK TO THE COMMITTEE

Stephen Imrie

#### SENIOR ASSISTANT CLERK

Douglas Thornton

#### ASSISTANT CLERK

Seán Wixted

#### LOCATION

Committee Room 2



## Scottish Parliament

### Enterprise and Culture Committee

*Tuesday 22 February 2005*

[THE CONVENER *opened the meeting at 14:01*]

### Interests

**The Convener (Alex Neil):** As it is nearly 2 minutes past 2, I welcome everybody to the fifth meeting in 2005 of the Enterprise and Culture Committee. There are a few housekeeping matters to address. First, I ask everybody not just to put their phones in silent mode but to switch them off because they interfere with the broadcasting system. Secondly, I note that we have three substitute members present, as three members of the committee are unable to attend today. Fiona Hyslop will substitute for Michael Matheson, George Lyon will substitute for Mike Pringle, and David Davidson will substitute for Murdo Fraser.

Thirdly, before we consider item 1, I ask whether any member has any interests to declare.

**Susan Deacon (Edinburgh East and Musselburgh) (Lab):** I record—as I have recorded previously in committee—that I was a member of the advisory group that was established by the former chairman of Scottish Rugby, David Mackay, to look at the future of Scottish rugby.

**Mr David Davidson (North East Scotland) (Con):** My interests are recorded in the register of members' interests. I give advice free of charge to two departments of the Robert Gordon University.

## Item in Private

14:03

**The Convener:** Item 1 on the agenda is consideration of whether to take item 4 in private. Is the committee agreed that we should take item 4 in private?

**Members** *indicated agreement.*

## Scottish Rugby Union

14:03

**The Convener:** Item 2 is on the Scottish Rugby Union. We have three panels of witnesses this afternoon. The purpose of this afternoon's evidence session is for the committee to find out about the state of Scottish rugby, with emphasis on its future. The motto of my old school was "respite, prospice"—"look backward, look forward". I think that we will concentrate on the "prospice" rather than the "respite" this afternoon. I hope that I pronounced that Latin properly.

I welcome Gordon Dixon, the president of the Scottish Rugby Union; Fred McLeod, the acting chairman and interim chief executive; and a well-known face in Scotland, Ian McGeechan. I ask Gordon Dixon and his colleagues to say a few words, after which we will open up the debate for questions.

**Gordon Dixon (Scottish Rugby Union):** Thank you, convener. Good afternoon, ladies and gentlemen. It is a pleasure to be here. Our appearance before the Enterprise and Culture Committee provides Scottish Rugby with an opportunity to explain its plans for the future in support of sport 21. We believe that we will play our part in sports development and thereby help to improve the health and fitness of Scottish communities in general and of young people in particular.

Essentially, our written submissions cover the following: our commitment to deliver governance for Scottish rugby in line with the Sport England guidelines; our proposals on how we can put rugby clubs at the heart of sports development in the community; and our desire to make Scottish rugby sustainable by providing cost-effective development that supports activities in all local authority areas. Therefore, we anticipate that the committee's questions will focus on the governance of Scottish rugby, the development of rugby in Scotland and the funding of Scottish rugby.

**The Convener:** Does Fred McLeod or Ian McGeechan want to say a few words?

**Fred McLeod (Scottish Rugby Union):** I have nothing to add.

**Ian McGeechan (Scottish Rugby Union):** No.

**The Convener:** We will move to questions.

Obviously, we have read a lot in the newspapers about what has happened and what is happening in the Scottish Rugby Union. What are the current governance arrangements and what is likely to happen to them in the weeks ahead?

**Gordon Dixon:** The governance working party that I set up at a special general meeting has an independent chairman and is made up of nine or 10 individuals from across the spectrum of Scottish rugby. It has met on several occasions; it has deliberated and reached conclusions and is now in the process of writing up its recommendations for submission to us next week.

**The Convener:** What is the timescale for consideration of the recommendations and for implementing those that are accepted?

**Gordon Dixon:** We will consider the recommendations almost immediately. We will set up a special general meeting to take the recommendations to the clubs and they will decide on them.

**Fred McLeod:** The report will be tabled on Monday and the general committee will meet the working party next Wednesday. Thereafter, the report will form the basis of the special general meeting, which will be held on Sunday 10 April. The report will go to the special general meeting as tabled, but the committee will have the opportunity to propose amendments to it. As the president has said, the report and any amendments will be considered by the clubs at that SGM. At the end of the day, the issue will be for the clubs to decide.

**Christine May (Central Fife) (Lab):** Good afternoon, gentlemen, and thank you for attending.

I am passionately interested in rugby, but until I read the SRU's submission and recent press reports, I knew nothing about the structure of the game either at club or national levels. I am interested in whether my local club does well and in its developing young people in concert with schools, and I wish professional rugby in Scotland to be as good as it can be. Will you tell us briefly how you will manage the tensions that will inevitably arise between the business-oriented approach of the professional game and the game's necessary development at local level?

**Ian McGeechan:** It is most important that we have a strategy that has a wide base from which comes a community game that develops and retains rugby players, and that we have a talent-identification line that aims for world-class performance standards. That will ensure that the strategy is geared to enabling us to have a strong clubs and schools base that encourages participation, and a strong professional base on which we can build our performance. The integration of those two bases is important, and we envisage that it will be achieved—particularly for the 17-to-21 age group—through the support structures in coaching and teaching and the high-performance support structures, through which we have links with area institutes and the Scottish

Institute of Sport. That will lead into a full professional programme.

**Christine May:** It sounds as though that will be great when everything goes well. What arrangements are you putting in place to manage the inevitable tensions and to prevent them from spilling over into public discussions?

**Ian McGeechan:** It is important for the governing body to understand that it is part of sport in Scotland. We must introduce into our communities sport first and rugby second. I have often said that I see myself as a director of sport as much as I see myself as a director of rugby. If we are to do that, we must establish support programmes that allow things to happen.

It is important that we have a national rugby curriculum so that we deliver our sport through a multi-sport programme that enthuses people to make sport part of their community and culture. We can do that only if the governing body, the clubs and others work in partnership—such partnership would be with schools, local authorities and sportscotland and between clubs. We have considered not only how to facilitate links, but how to support them in a way that would allow things to happen. It is clear that we are promoting involvement first and excellence thereafter.

All the programmes are geared first to supporting delivery of sport, with our clubs being the centres of the community programmes. Through the clubs, we hope to extend programmes from schools and education. We could say that the wider agenda that the governing body should not ignore is the health agenda. I am biased—as the committee probably realises—but I worry that if our rugby and sport are not part of our culture, the next generation of youngsters will not have the opportunity to be involved, which is why the strategy must reflect youngsters' needs, from active schools in the primary sector to our high performers.

**Christine May:** I will press the other two panel members a little, because I do not yet have a feeling for how the difficult bits will be managed. What has been described is fine when all goes swimmingly, but what is the governing body doing to consider how to manage the difficult issues when they inevitably arise?

**Fred McLeod:** It is extremely difficult to answer that before we have announced the outcome of the governance working party, which is in line with UK Sport's guidelines on governance for governing bodies in sport. You are right to say that tensions will arise as we go forward. We have tensions between the professional and club levels and between the professional and international levels, which we must deal with as best we can.

People are always waiting to criticise when a decision is made for right or for wrong.

**Christine May:** That answer was helpful.

**Richard Baker (North East Scotland) (Lab):** In many ways, Christine May's final question addressed the subject of my question. The strategy that Ian McGeechan described, and which is described in the submission, is excellent because it will encourage participation and excellence. However, as Christine May suggested, unity of purpose is required if the sport is to achieve that strategy. Despite the tensions, does that unity of purpose exist when we go past some of the arguments? Are you optimistic that a new governing structure will help to achieve unity of purpose?

**Fred McLeod:** It is interesting that you use the expression "unity of purpose". Ten years ago, I was involved in establishing the first executive board at Murrayfield, and part of our mission statement referred to "unity of purpose". I think that there has always been unity of purpose, but there have been tensions between the two main bodies within the current structure, namely the general committee and the executive board. The governance working party should establish a way forward whereby such tensions can be eliminated and we can work together in the best interests of Scottish rugby.

14:15

**Ian McGeechan:** The operational structure is very important. As you can see from our submission, we deal with 14 regions, so we are trying to align ourselves with some of sportscotland's work in that regard. We are considering regionalising further; that is, making the regions smaller so that they reflect the needs of particular areas. Those regional groups would include representatives of schools, clubs and local authorities as well as professionals from the SRU.

We are trying to personalise our support and our structures so that the 14 or so regional development groups will have their own development programmes, within which there will be club development programmes, which must incorporate the needs of communities. If clubs are to be at the centre of communities, they must reflect the communities' needs. The sport must be big enough to acknowledge that if we are to introduce measures for people at primary school age, the measures should be part of a multi-sport approach rather than be simply a rugby agenda. That is the essence of the community-participation aspect. We can take such an approach only if we have representation from all quarters in the operational structure. I should probably have said that at the beginning.

**Richard Baker:** That strikes me as being exactly the right strategy. I know that other sports are considering adopting such a regionalised strategy in order to involve local partners more. Football is considering that approach, which seems to be the right way forward; it is good to hear that rugby shares that agenda. You have important partners in sportscotland and the local authorities, with involvement at regional level. You have, I presume, been able to carry on liaising with those bodies during the transitional period to ensure that there is still confidence in the strategy.

**Fred McLeod:** Absolutely. We have been in constant touch with our partners, including EventScotland, the local authorities and sportscotland in particular. Naturally, there are also our bankers. We have moved forward steadily since the events of last month.

**Mr Davidson:** I have been examining some of the figures. It would be helpful for the committee if you could describe the anomalies between the "Figures from the IRB annual census of playing statistics 2004" and the figures from the Genesis report. There is quite a disparity between them. The IRB report mentions that there are nearly 50,000 pre-teen male players, which I find staggering. There seem to be a lot of zeroes in some of the numbers that are cited. Could you give us an idea of what the accurate figures are, through to senior level?

**Ian McGeechan:** The anomaly relates to long-term player development, which is fundamental. It is about having fun and introducing the sport across the board. We have delivered Ford Foundation touch-rugby tournaments all over the country, and approximately 70,000 primary school children have been involved in activities that allowed them to try out the sport. It is about making that part of the active schools work at primary level.

The major challenge in developing participation comes from secondary 1 upwards. It is about converting people's feel for the sport as being part of a multi-skill approach into adult, full-contact rugby, which is very different. We have been very successful in getting many children to try rugby. We want to be able to work on that base and to achieve greater involvement in schools, from S1 upwards, in the full 15-a-side contact sport.

**Mr Davidson:** Is there a reason for avoiding introduction of the contact version of the sport at primary-school level, when children are trying different sports under the curriculum?

**Ian McGeechan:** No. We are very keen to have an integrated rugby curriculum. As you know, we have to carry out a risk-management exercise when rugby teams go out on a Saturday. After all, it would be wrong not to provide a clear

introduction to technical elements such as contact, tackling and scrummaging that require strength and technique. If we do that, we will know the criteria for introducing and developing such aspects to ensure that a child can control the forces that are part of the game. We will also be able to provide a whole view of anything that is introduced and how it fits into the bigger picture.

**Mr Davidson:** So—you link safety with the physical fitness that is needed to play the game. That follows the old adage that one should be fit enough to take one's knocks; indeed, when I played rugby, it did not matter whether you were fit enough or not, because you got the knocks anyway.

Obviously, an element of responsibility comes in. How can you facilitate extracurricular support or after-hours coaching by teaching staff in schools, of which there is very little at the moment?

**Ian McGeechan:** We want to introduce a number of initiatives, including a scheme that would pay experts—who might well be schoolteachers—to deliver training. We need to be able to provide expertise and after-school club activity. I have to say that it would be unfair to describe the curriculum simply as a national rugby curriculum; it should be part of an integrated physical education programme for youngsters' development, which would cover elements such as balance, speed and natural running technique. It does not matter whether the emphasis is on gymnastics or on another activity in which children have to control their movement; a child with such control will be in a strong position to succeed at sport.

As a governing body, we have to be able to present that in the form of a curriculum or direction. Within our coaching structure, we have expertise and development coaching programmes for teachers, which we integrate either with programmes in clubs—if there is no such major school project in a community—or with schools that are very active in such programmes.

**Mr Davidson:** I have been approached by many north-east clubs about a change in the funding rules for travel. Your model for different leagues and so on shows that that funding matter has been raised with your body and will have to be addressed. I presume that the clubs in the 14 regions that you mentioned will operate at a lower level of competitiveness and skills. However, the national team will need to be supported by a system of fairly strong national leagues that are based on quality, and by funding for coaching at various clubs around the country. Will your strategy document address that?

**Ian McGeechan:** I believe that the strategy document has addressed it. In order to develop



youngsters, we have introduced a very successful pathway between clubs and schools. We want any such approach to be club based. The first round of selection from the pathway would give us 18 teams, including school teams. From those 18 teams, we would choose six whose membership would provide us with international representation.

We must ensure that we do not discourage anyone and that we plan for disappointment. I spent 22 years as a schoolmaster and I am keen to keep up people's interest in sport, but I have always believed that it is important to cater for disappointment. When we start selecting and going down the performance line, we leave people behind. The support structure for the people who are left behind should be as effective and as obvious as the one that is used to take people forward. That is why we have separated the roles of the professional staff who will work in the new structure—I call it professionalising the structure. Some staff will have a role that relates specifically to development; that is, club development and player retention. Other staff will work on performance, which relates to team development and player development. The roles will be clear and will tie into a regional process that caters for both aspects. We will give people the opportunity to represent their region and we will use that as a base from which to select those who will eventually go to the under-18 international selection.

**Mr Davidson:** Perhaps your colleagues would care to comment.

**Fred McLeod:** I do not have much to add. We have a good professional team that will be strengthened by regionalisation.

**Gordon Dixon:** I genuinely believe that the staff structure at Murrayfield can fully support Ian McGeechan's proposals and that we can make progress in the game at all levels.

**Susan Deacon:** My questions are directed to any of you who care to answer.

We are all seized by the extent of the challenges and the opportunities that face rugby in Scotland both on and off the park, and there is a shared desire for progress. I am struck that, whereas about a year ago there was a sense of expectation that a direction of travel was emerging and there was momentum for change in Scottish rugby, that has been sent somewhat off course by dint of recent events. Some practical issues arise. For example, when Ian Robson, the then chief of sportscotland, appeared before the committee about a year ago, he pointed to the strategic review exercise as unlocking the potential of rugby in Scotland and he mentioned sportscotland agreeing a way forward for the future. Will you clarify how, given recent events, all who invest in

the sport and who take an interest in it can sense how direction and momentum are to be restored? In particular, will you clarify the differences between what was agreed at the SGM at the end of last month and the strategic review exercise that was carried out by the previous executive team? Has the substance of the review changed materially?

**Fred McLeod:** The president may wish to comment on the events of last month if he feels that they are important but, in effect, what happened last month was not related to the business plan for 2005 to 2009—other issues resulted in the resignations of the chairman and the chief executive. The main thrust of the strategic plan is still very much on course. Governance issues have arisen on which there are differences of opinion between the executive board and the general committee, but I hope that they will be resolved by the new working party, which will reach its conclusions next week. I see no reason at all why the main thrust of the strategic plan should be different from what it was previously.

**Gordon Dixon:** I agree with Fred McLeod. The events of last month were traumatic and probably involved a serious breakdown in communication that developed into mistrust. However, we can now move forward. As I have said frequently, I would like to draw a line in the sand and look beyond it to the future. I am an optimist and I genuinely believe that our plans are not substantially different from those that we had prior to last month. An SGM has given us the authority to proceed with our plans. As I said earlier, I believe that we have the staff and the ambition to drive Scottish rugby forward.

14:30

**Ian McGeechan:** What came out of last year's planning was that we need to be clear about the direction in which we want to take the sport. If that direction had not been there, I would probably not be sitting here now. The sport is very important to me. The delivery mechanism that the sport offers through its club network and its links with schools has exciting potential for the sport 21 initiatives. The governing body would be doing itself a disservice if it were not thinking along those lines. If rugby does not integrate itself with the bigger sporting picture in Scotland and we stay isolated or introverted, ultimately we will go only a certain way.

I feel strongly that the sporting culture that we as a nation want to promote is vital. Rugby should have a major part to play in the wider picture. I would love the next generation of children to have sport as part of their education culture and to enjoy sport for fun so that they become involved.

We never know from where we will get a world champion. If children are not involved in sport, we will never know, because they will never even take part. We must have the broader picture and we must be clear about what we can offer at community level and at high-performance, elite international level. We should not be afraid of saying that.

**Susan Deacon:** I am grateful to all the witnesses for their answers. We have discussed the matter previously and all members of the committee are of the view that we want to look to the future. You have clarified that the strategic direction that had been emerging remains largely in place. Is that a fair—if simplistic—summary?

You have put considerable emphasis on the fact that you are putting in place the structure to make progress. How will the people be put in place to lead that change? You deal with the issue in your submission, which refers to your aim of developing

“a structure which enables all groups within the rugby development community to work together”.

I accept that a structure can help to facilitate good relationships and so on, but in and of itself it will not deliver them. As regards the leadership of the organisation, I know that you are in the process of looking to the future. Can you give us a sense of how the SRU's leadership will be restored so that it can make progress in the years to come?

**Fred McLeod:** In the coming weeks, we will advertise for a chief executive, with a view to that person being in post as soon as possible after 1 July. The SRU's annual general meeting is on 24 June and we believe that we must have someone in place immediately thereafter. That process is under way and the post will be advertised in the weeks ahead.

At the moment, we have non-executives who are working on an interim basis. They might offer themselves for re-election at the AGM in June; I do not know whether that will happen. Depending on the outcome of the working party's deliberations, there might well be alternatives to the existing non-executives. I can say no more than that.

On the development side, Ian McGeechan will outline what will happen in the near future with regard to year 1 of our development plan.

**Ian McGeechan:** We have a four-year strategy to enable us to be clear about the direction in which we want to take the sport. There is not a big switch that we can just turn. We are assessing what we have and trying to clarify the difference between development and performance so that the roles are clear. An enormous amount of good practice is out there in clubs and schools. It is necessary to recognise and develop that and to

put down best practice models on which we can work with other regions—for example to show a local authority, a school, a club or a group of clubs what is possible. There will be a transition from what we have, which is, in effect, a programme of regional development officers in which each person covers both development and performance. The initial stages will involve separating the two elements so that it is clear whether someone's role is to be part of the development programme, which is very much club based, or whether they are part of the performance programme, which is very much about the individual, talent identification and team and player development. The aim over the four years is to establish approximately 14 regional development groups.

**Susan Deacon:** It would be useful to hear more about franchising. The briefing that was provided to committee members by the Scottish Parliament information centre indicates that, in the 2003-04 season, the three professional teams accounted for 33 per cent of Scottish Rugby's spend compared with 5 per cent on the national game and 10 per cent on the international game. I assume that those figures are broadly agreed.

As I understand it, the special general meeting approved the motion to invite private investment in the pro teams via franchising, but there is no timescale for that. Your written submission states:

“Franchising will not be something that is likely to be achieved in the short term”.

Can you elaborate on that? “The short term” is always an interesting phrase: politicians use it liberally and it can mean many different things. You would probably be more precise than we are with the use of the term. Can you clarify your plans? How do you plan to attract private investment in the pro teams and to sustain the current situation in the interim?

**Fred McLeod:** Part of one of the motions at the SGM was that we should have franchises in place by the end of February. That is totally impractical and for that reason the motion was subsequently amended. We are speaking to potential franchisees. Those discussions may well take some time, but there are interested parties. We are also talking to potential partners, as distinct from franchisees. There are different concepts in each of the pro team areas. We want investment in Scottish sport from whatever level and we are actively pursuing that.

I do not believe that franchising will be achieved in the short term; the process will take a considerable amount of time. That is where we are now. Obviously, the next question is how we will fund all that we want to do. The situation, as members well know, is that we have substantial

borrowings; we have a limit and that is as far as we can go. We have to generate cash surpluses that will reduce our debt. That will not eliminate our debt overnight, but it will reduce it over the coming years in line with the needs of our bankers.

We have had some fortuitous information since the SGM was held about three weeks ago. The television contract with the BBC has been renewed and substantially enhanced funding will come from that. That has enabled us to review our budget for next year. Yesterday, Ian McGeechan returned from a Celtic League meeting and an announcement will be made today to the effect that there will be a three-year accord between Wales, Ireland and Scotland for the professional teams to play in the Celtic League. That makes the competition a great attraction to sponsors and that will generate additional revenues for us.

We have taken a strong hand when reviewing our budgets for next year. We will maintain our intended cash surplus for next year while driving forward three professional teams that will be well funded. I hope that we will benefit further from potential franchising or other partnership moneys.

**Fiona Hyslop (Lothians) (SNP):** It is obvious that governance is key, both in the immediate situation and going into the future, particularly when the organisation is supported by public money via sportscotland.

You indicated that 10 April, when a special general meeting will be held, is a key date. Is that the date by which you will be able to give reassurance to sportscotland and your other sponsors that the immediate governance issue has been dealt with?

**Fred McLeod:** That is the key date when those decisions will be taken. The next stage will be to have the new structures in place in time for the annual general meeting on 24 June.

**Fiona Hyslop:** Does that mean that sportscotland's resumption of funding should begin from April or June?

**Fred McLeod:** I like to think so.

**Ian McGeechan:** We are talking about the structures and the programmes that we have in place. We had some additional sportscotland funding for the two coaches on our performance programmes. There will be no change to those and no change to the programme that is progressing as we speak. Everything about which we have been in conversation with sportscotland in relation to the community and our performance side is still taking place.

**Fiona Hyslop:** You are giving out a strong message of business as usual and saying that governance is a work in progress that will have a

positive resolution. There is good will in Scotland that those matters should be resolved.

Looking to the future, there is great excitement about the possibilities, particularly in sport for young people. It is unfortunate that Scotland trails the Organisation for Economic Co-operation and Development countries when it comes to the amount of time that is allocated to compulsory PE in schools. In addition, we send our children to school for longer, which means that less time is available for voluntary activity. With the advent of the national curriculum review and in the light of your comments about being a director of sport first and a director of rugby thereafter, how well are your plans integrated with the other agendas to encourage more active sport in general and rugby in particular?

**Ian McGeechan:** The active schools project has been very successful in primary schools. We are concerned about how we can develop that into the participation programmes from secondary 1 upwards—that is part of the physical education programme and the involvement of team sports in the curriculum.

There is still a question about whether we want school sport or sport in schools—should PE be delivered by teachers or by experts from the outside? I am slightly biased because I think that the best deliverer of education to children is a teacher. The more teachers whom we can actively involve, the better. Time is of the essence when one develops programmes and lesson plans.

I have been involved in the past with the development of primary school programmes and secondary teaching programmes for eight to 10 weeks of activity, which included rugby and a rugby ball, as well as other activities. We want to help develop a multisport, multiskill programme. There is worldwide evidence that the best sports people are multisport skilled rather than skilled in one sport. I am certainly of that opinion. To achieve that, we have to have an integrated programme. My worry is that we have made PE an examination subject; that has pluses, but it also has minuses.

**Fiona Hyslop:** I share your view about PE teachers. At the moment, however, the problem is that we have a great shortage of PE teachers. If we are trying to move fairly quickly on those fronts, some imaginative work needs to be done.

My question is on the link between schools and clubs. Are you saying that clubs will be more involved in the school agenda, particularly from secondary level onwards? Are you concentrating on sports participation at primary level? Perhaps that last question should be put to the next panel. However, if that is the case, will the clubs be satisfied, from a governance point of view, if they

are asked to take on a wider sports role? Could that not cause some tension for the clubs? Surely their concentration is on their core activity of rugby and the promotion of rugby in their own community and club.

14:45

**Ian McGeechan:** If we look at an integrated curriculum, we will see that what we have been trying to do in certain areas is not to have club age-grade programmes where there are school age-grade programmes. We do not want to see children being put on a rugby field or whatever on a Saturday and the same again on a Sunday. It is important that we have an integrated development programme for the involvement of children in the sport.

For club activities, particularly at the primary level—from the ages of eight to 12—we should not be afraid of running a multisports, multiskill programme and having skills festivals. If a youngster can use a rugby ball and do other things of that sort, that is fine. We must have the confidence to look outwards in what we present. If clubs have a development manager—that is what we are aiming for—instead of somebody who looks at a region and dips into different activities in different clubs, they can create an activity base from which to draw participation from S1 upwards.

**Fiona Hyslop:** I understand that you are developing a national registration scheme. From a shared agenda perspective, would such a scheme help in securing governance and accountability at national level as well as ensuring club participation at community level?

**Ian McGeechan:** Yes. One of the difficulties that we have had is that the numbers that were on the IRB charts came from a club accreditation scheme, which means that, although one could fill in boxes, the accuracy of the numbers was probably dubious. If we register all players in a scheme, as we are doing now, and register all youngsters, we will also want to register their support programmes. We will want to register information such as who is involved and when and where they play. Such a register will enable us to monitor the involvement of children and adult players and when, why or where they drop out of the sport. We can then identify the areas that we will have to go into and try to ensure that we make a difference.

**Fiona Hyslop:** Does that apply to accountability as well?

**Ian McGeechan:** Yes. We will get figures that are near accurate.

**Mike Watson (Glasgow Cathcart) (Lab):** I would like to take Mr Dixon at his word when he

says that what is in the past is in the past and that we should draw a line in the sand and move on. I go along with that. If what we are talking about is the future of Scottish rugby, however, surely one of the issues is that those who are charged with its advancement—if I can put it that way—must be seen to carry the support of rugby as a whole. They must carry the support of the clubs, the players and, indeed, the supporters, about whom I will say a bit more in a moment.

I ask Mr Dixon to explain a comment that he made in his submission, as I was somewhat surprised at the candour with which it was expressed. In talking about the resignation of the non-executive chairman, three non-executives and the chief executive, he said:

“The Committee had taken steps in anticipation of their decision, so that the vacuum was filled almost immediately”.

All of the committee are members of political parties; we know how to get rid of the people who are not wanted in an immediate grouping. We are familiar with that process—in fact, we might even admire the ruthlessness with which certain people in the SRU acted. My point in raising the issue is not to ask Mr Dixon to explain that, but to question whether those of you who were responsible for the decision should still be in charge. After all, you knew what the cascade effect would be. How can people who are looking at Scottish rugby from the outside, as well as those who are involved in the game, have confidence that you are the proper people to take the game forward?

**Gordon Dixon:** I take your point. The question is difficult to answer. Obviously there was a lead-up to the decision being taken and we took the view that if the decision was to be taken, we must put things in place or go down the road towards putting things in place. That is what we did. As president, I had a duty of care to ensure that the SRU's on-going business was as seamless as possible in the circumstances. I took on the personal responsibility of driving forward in a positive direction in taking those steps. We had to act quickly to try to reassure individuals that there was not a rudderless ship and we had to put in place people who could take control in the short term and guide us forward through a difficult time. That was the basis of the decision that I drove through.

**Mike Watson:** I will not dwell on the matter, but is the approach that you describe still being taken? You will have seen the reports in the weekend media about the executive board's decision to guarantee financial backing for the three district clubs until 2008, which has been the subject of criticism because it could be regarded as pre-empting discussions on matters such as governance. That is not just my reading of the

situation; it is that of fairly senior people in the game. For example, Kenny Hamilton, the spokesman for the premier 1 forum, said that he was astonished and David Johnston, who is someone whom I think that everyone who knows anything about rugby respects and who is involved in the governance working party, said that he was “staggered” that a transitional group could take such a fundamental decision.

My question is linked to my previous remarks. Is it right that, given the turmoil in the game, such an important decision should have been taken apparently without an attempt to carry along some of the people who might be directly affected by it or indeed the people who, during the discussions on the game's structure, might seek to overturn it, perhaps in favour of clubs?

**Gordon Dixon:** I prefer to let Fred McLeod answer your question, given that we are talking about a decision of the executive board.

**Fred McLeod:** First, the executive board is not an interim board; it is the existing executive board, on which interim appointees are sitting. There has been very much an attempt to do business as usual—people might contest that, but it is a fact. For the first time, there are general committee representatives on the executive board. We took the decision, which I hope that I have explained. We did not explain it in our press release and I have accepted that that was perhaps not wise—we should have said more than we did. However, members will have gathered from what I said that we could not tell people about the Celtic League accord, which was agreed yesterday and makes a tremendous difference to our ability to finance three professional teams.

The special general meeting approved the full funding of a minimum of two professional teams. For the reasons that I outlined, we now believe that we can go forward with three professional teams, with all the financial benefits that that will bring. The alternative approach of having just two professional teams would not just have meant that a third of the costs and income would drop out; it would have meant much more than that, because we would have ended up with only one team in the European cup and only one team in the European challenge cup. The loss of the benefits of having more than one team in the upper-tier competitions would have been quite material.

I want to return to the funding of the whole operation. I emphasised the importance of our relationship with sportscotland and our partners. However, we have perhaps not been in as close contact with parliamentarians as we might have been, to keep them apprised of what has been happening. We must address that in the future.

There is good news on the financial front. The 2007 rugby world cup will come to Edinburgh for two matches: one against New Zealand and one against another country—we reached agreement with France yesterday on that. I hope that that fact, coupled with our desire to bring the 2015 rugby world cup to Edinburgh, will be of immense importance to EventScotland and our other partners. Approximately £10 million is brought into the Edinburgh economy every time that we have an international at Murrayfield, and we have five or six of those in a year. We also bring approximately £20 million into the Scottish economy each time.

On the other hand, the committee should be aware of something that is referred to on page 2 of our submission. Every time that there is a world cup in the autumn, it costs the SRU an immense amount of money. During the 2003 world cup, loss of the autumn internationals cost us approximately £3.5 million. That also happened in 1999, although not to the same extent. Those are major contributory factors to the SRU's current financial situation. We pay to play in the rugby world cup. The economies of the countries concerned benefit, but we suffer financially. However, as we all agree, it is very important that Scotland participates and does well in the rugby world cup.

**Mike Watson:** That is very interesting—it does not have a great deal to do with the question, but it is interesting. I hope that the extra revenues that you mentioned come into the game, but for the good of the game I also hope that we can overcome the fears that were being expressed by some fairly influential people in the game as recently as Saturday.

I take your point about losing the autumn internationals as a result of the world cup, but do not all participating nations get some share of the revenues from television and the gates?

**Fred McLeod:** We have seen very little of that in the past. The first time that the unions will benefit will be in 2007, when the International Rugby Board has decided that there will be an equal allocation between the top 10 nations. That is inequitable, in as much as the southern hemisphere countries do not suffer when the world cup matches are played in the autumn. In 1999 and 2003 the matches were all played in our autumn—the same will happen in 2007—so it is inequitable that South Africa, Australia, New Zealand and Argentina should be compensated to the same extent as we are.

**Mike Watson:** I take that point.

On the issue of clubs and districts, I certainly want to see the maintenance of three district teams for Scotland and I hope that the financing will make that possible. However, it has always puzzled me that Murrayfield gets massive crowds

of 60,000 to 70,000 for international matches but club and district games get very small attendances. Where do all those people go? Even if there are 20,000 Welsh fans at a Scotland-Wales match, for example, there are still 50,000 people who go to internationals but do not seem to go to club matches. Some of them might be players, but how many people pay to watch club matches regularly?

**Fred McLeod:** That is hard to answer, but there has been a change in culture. Many other opportunities are available to individuals on a Saturday afternoon, not least of which is the chance to watch a big rugby match on Sky television if they so desire. Youngsters and adults are doing different things on Saturday afternoons.

Perhaps it could be argued that the quality of club rugby is the issue, but I have seen some very good club rugby matches. On Saturday, Ian McGeechan and I attended an excellent premier 2 game, at which there was a very good crowd.

**Mike Watson:** I accept that, but I find the situation strange. I would have thought that a team such as Borders, which is situated in the heartland of rugby in Scotland, would have been able to attract more spectators and increase its available revenue. From what I read in the newspapers, it seems that attendances barely get into four figures.

**Fred McLeod:** Another factor is the timing of games, which is often geared to the needs of television. One of the big issues is games such as the one against Wales being played at 4 pm on a Sunday afternoon. That is not the club scene, but the Setanta deal puts restrictions on our professional teams' timings. We hope that we can persuade the company to change that, but I doubt it. The success of Edinburgh Rugby last year, when the side was winning, was due to the fact that the side played regularly at Meadowbank on a Friday evening, which attracted crowds of between 2,500 and 5,000 depending on the opposition.

15:00

**Ian McGeechan:** There is no doubt that if we produce winning rugby we will develop interest. Part of the strategy for the future is to create as strong a base as possible for success both in participation and on the international field. The funds behind every international team are significant. I have always told players that there is no hiding place when they get on the field at Murrayfield. Each player, wherever he comes from in the world, has a system behind him that we have to be able to deliver. That is why it is so important that the excellence and elite side of what we do comes out of the community side. We need to develop high-quality, high-performance support

structures. Such structures must be in place to allow players—we are not talking about a large number of players—to achieve success at international level. That is very important. However, with my ex-schoolmaster's hat on, I believe that participation and getting youngsters enthralled and enthused by what they see on a rugby field—whether it be a club, school or international field—is important if the sport is to move forward.

**Mike Watson:** I do not want to go over the ground that you have covered so effectively, as regards development of the game, but I would like to be a bit parochial. I was at the Scotland-Australia match at Hampden Park in November. I was struck by the fact that at half-time youngsters from Glasgow state schools were on the pitch showing their skills. I was surprised that such schools had any contact with rugby. That was symbolic, if nothing else. In Glasgow, we are afflicted with appalling blaes pitches. Such pitches may be just about acceptable for football, but one could not possibly play rugby on them. Leaving aside the other issues on which we have touched—the amount of time and the number of coaches and PE teachers available—if you are trying to build state school rugby in Glasgow, how do you deal with the fact that there must be a dearth of pitches on which you can begin to teach youngsters skills?

**Ian McGeechan:** Team sports—soccer, rugby and others—require a field on which they can be played. We should talk to other sports and have a joint facilities strategy. There are now third-generation artificial pitches that have been passed for the playing of rugby. If we had half a dozen or a dozen such pitches around Scotland on which people could play rugby and soccer, we would be able as part of a community programme to use those as a basis for activity. We need a piece of grass or a surface on which both sports can be played. The shape of the posts at each end is irrelevant.

**Mike Watson:** My final question is more general and relates to the Scottish Institute of Sport, which is mentioned in our papers. Mr McGeechan may be the best person to comment on the issue. Rugby is one of the sports that are supported by the Scottish Institute of Sport. What effect has that support had? Has it been effective in bringing through more young players? I see that Alastair Dempster of sportscotland is in the public gallery this afternoon, so I should be careful when I say this, but I understand that the institute is reviewing the number of sports that it supports. I do not know whether rugby will continue to be supported. Do you think that it should? How does the support that the institute provides fit in with what you are doing?

**Ian McGeechan:** I should declare an interest—I am on the board of the Scottish Institute of Sport. The institute has worked very well. The younger players who are coming through—Tom Philip, Alastair Hogg and one or two others—are institute players. The support programmes behind players are the key to developing them quickly. This is one of the major issues on which we need to remain focused. The institute programmes are directed at our 17 to 21-year-olds, in particular.

It is not only the physical development of our players that is important. It is also important, at a time when they would be going to university, getting a job or considering a career, that they get support in decision making, lifestyle management, health and nutrition. Those things are important in supporting parents in making decisions about whether a young player should take up rugby as a career. That requires professional support, and that is one of the major factors in the institute and area institute programmes that give young players the ability to see what they are capable of and what commitment is necessary. There is no doubt that a 17 or 18-year-old person now is very different than a 17 or 18-year-old person five or six years ago. They see rugby as a career and there is huge commitment in time and support from parents to make that a possibility. The great thing about the institute is that it is about supporting athletes, and that is making a difference in what their performance can be. We need that, because we need to be able to accelerate the development of our younger players.

**Mr Davidson:** We have heard a lot about ambition, but I would like to turn briefly to sustainable financial performance. The Genesis report stated that the union had not tried hard enough to acquire public sector funding on a par with the other home nations. What are you going to do to address that? Is there any risk to the ownership of Murrayfield stadium?

**Fred McLeod:** Ian McGeechan might want to speak about what we are doing with local authorities in regard to the regional development of the game and how active we are on that. We are obviously also working closely with sportscotland, as you will understand.

I have already outlined the impact of the rugby world cup on generating moneys from the International Rugby Board. Why should those who make the money for the world cup be the ones who pay to play? That in itself is probably worth some £6 million or £7 million to the union over the past four or five years, so we could have been helping ourselves if we had had some equity in the International Rugby Board.

**Ian McGeechan:** If we are looking outwards, we should be a meaningful part of education and health programmes. Seminars are taking place on

youth services and criminal justice, and sometimes what disappoints me most is that there is no involvement for sport. If we are talking about the problems that we have with our youth, sport is a major answer. As a governing body, we have to see it like that. We do not deserve support if we do not understand the direction that we have to take to support sport in our community. If we are doing that, we should be part of a wider network of support services that includes health, education and the development of youth.

**The Convener:** I thank all three witnesses for their written and oral evidence, which was extremely helpful and much appreciated.

**Gordon Dixon:** I thank you and your committee for allowing us to come here this afternoon to state our case. As I am acutely aware, governance is a big issue. You can be assured that, as that process is evolving, we shall keep you informed.

**The Convener:** I let that evidence session run longer simply because I thought that it was elucidating the subject. However, I remind members that we have the first eight sections of the Further and Higher Education (Scotland) Bill to deal with this afternoon, and we anticipate that the minister will be here sometime around 3.30, so I might not be able to be so generous with the next panel of witnesses.

I welcome Phil Anderton, former chief executive of the Scottish Rugby Union, and thank him for coming along. Before we ask questions, do you want to make a few introductory remarks?

**Phil Anderton (Former Chief Executive of Scottish Rugby Union):** Thank you for inviting me here today. The simple point that I want to make is that I am here to talk about sport. I am passionate about sport. I believe that it can play an important role in helping Scottish people become healthier and more confident. I am here to give my views on how we can help Scotland become more successful at sport.

**The Convener:** You have heard the evidence from Mr Dixon, Mr McLeod and Mr McGeechan. On the future, rather than the past, did they say anything with which you fundamentally disagree, or do you think that the past problems with governance and finance can be sorted out?

**Phil Anderton:** You will not be surprised to hear that I think that the future is quite rosy. Many people throughout Scotland—the various stakeholders in the game—put in a lot of work to produce a new strategic plan, which has been endorsed by the clubs. I am a great believer in the plan, because I was heavily involved in producing it and I am encouraged that it has been endorsed. However, I am concerned about governance; unless we have the right governance for Scottish rugby we will simply repeat the mistakes that we

have made over the past few years. I noted with interest Mr Dixon's comments about the difference of opinion between the general committee and the executive board. The new governance that has been recommended is in effect similar to the old in that there could be two bodies running the game in Scotland. I am concerned that although we have a great strategic plan, we do not have the right kind of structural governance in terms of decision making to implement it in the right way.

**The Convener:** Do you anticipate that the working party recommendations will take us back to square 1, rather than sorting the situation out?

**Phil Anderton:** We will have to wait to see what the working party comes up with. It is working on an amendment that came to the special general meeting, which sounds good on paper. It sounds like it will move us forward, but it raises great practical issues. The fundamental point is that we are not moving forward with the model of governance that UK Sport states clearly that a governing body the size of that for Scottish rugby should have. It is disappointing that although a working party that was set up at the end of last year by the general committee and the executive board called for a single decision-making body—in line with what UK Sport stated, with which those bodies agreed unanimously—that was strangely rejected and the clubs were not asked to take a view on it. I am concerned that, although the working party that has been put in place is claimed to be independent, it is not. There is every likelihood that, although the working party's recommendation looks okay on paper, it will in reality take us through the same scenarios that we have seen over the past five or 10 years.

**The Convener:** What would be the implications of that?

**Phil Anderton:** We would be sitting here in four years' time debating why certain people were removed, how the game can be taken forward, what the strategic plan is and who is accountable for what. Recently, the decision was made to maintain the three professional teams and we will see whether that was the right decision. If it turns out not to have been the right decision, under the current structure and given the proposed amendment that the working party is considering, who will be accountable? Will it be the executive board or the council? UK Sport states clearly, and the working party of the general committee and the executive board agree, that there should be one body of people with the requisite skills—business people, rugby people and club people working together and being accountable. If mistakes were made, everyone would know exactly who was responsible and who was accountable. We would avoid the situation that we have had recently whereby the game in Scotland

has been taken through the gutter. That is not what we want for Scottish sport in the future.

15:15

**Susan Deacon:** I ask you to comment on a couple of points that Gordon Dixon makes in his submission. First, one of his criticisms of the previous leadership and direction of the SRU is that

"we were heading too much towards a business focus rather than that of rugby."

Secondly, he states:

"The problem arose when matters of policy and matters of strategy almost became one and the same."

I read the paper quite a few times and I paused when I reached those points. Will you comment, not on the specific context but in general terms, on the distinction between a business focus and a rugby focus? That distinction has been made a great deal in recent weeks, months and even years, but is it a real distinction? How should the balance be struck in future?

**Phil Anderton:** If we go back 15 or 20 years, Scottish rugby was a fairly straightforward sport. It was completely amateur and no money was involved. It is now a highly complex organisation and enterprise. We have talked about the professional game, the clubs, the international game and the commercial aspects. If anyone says that Scottish rugby is not a business, they are completely wrong. In his report at the end of the 1990s, Lord Mackay stated clearly that Scottish rugby was a business. People out there might say that we are too involved in business and that we should concentrate everything on rugby. That is a nice theory, but if we do not have the right financial base for the sport, we will have no sport. One only has to look at some of the football clubs to understand that.

I refute the suggestion that during the past year or year and a half, under David Mackay's chairmanship, we became too business-focused. The vast majority of our time was spent working up a strategic plan for the future of the game. As members may have seen from their papers, and as Ian McGeechan stated eloquently today, the vast majority of the strategic plan is focused on rugby. However, if we do not have the right business base, we will not get anywhere. David Mackay inherited a position in which the business had a £20 million overdraft. A year before I came on board, the business lost £8.5 million. We can talk as much as we like about putting the right rugby processes in place or about having three or four professional teams, but if the bank is going to withdraw the loan and losses are made year after year there will be no sport to deal with in the first



place. The answer to your question is that business and rugby are both vital.

It was interesting to note the plethora of reasons that were given for the removal of David Mackay. The suggestion that matters of policy and strategy were somehow being blurred is a new one to me. That idea indicates to me that there is a problem with the structure—in other words, with having two bodies, one responsible for policy and one responsible for strategy and day-to-day running. In practice, it is difficult to differentiate between the two, and one ends up with conflict instead of what UK Sport recommends, what I would recommend and what the pre-Christmas working party between the general committee and the executive board recommended, which is that there should be a single body in which people with the requisite skills make the decisions that matter for the business.

The point about the differences between the general committee and the executive board in relation to policy and strategy almost implies that the executive board was making decisions on policy that the general committee was not involved in. What were those decisions? What matters of policy was the executive board encroaching upon? The answer is none, because the general committee was responsible for policy. The plan that has been put forward and accepted by the clubs is ultimately the general committee's plan. I do not think that the distinction between policy and strategy is helpful.

**Susan Deacon:** If I understand you correctly, in essence, you are saying that the current structure is a recipe for conflict and that it is almost inevitable that tensions will spill over into conflict from time to time.

**Phil Anderton:** Yes, absolutely. Lord Mackay, in his report at the end of the 1990s, clearly understood that the game was becoming complex, given the professional and financial aspects, and that to have well-meaning, committed volunteers running a £20 million to £30 million business in their spare time simply would not work. Lord Mackay advocated setting up an executive board to run the SRU's day-to-day affairs and a general committee that would meet four times a year to discuss policy matters. Again, that is absolutely fine in theory, but in reality, it simply does not work, because we end up blurring policy and strategy. That is why we have had conflict between the general committee and the executive board and, ultimately, the removal of David Mackay.

**Susan Deacon:** Let us assume that the structural arrangements are changed in the next few months. Do you agree with my contention to the previous panel of witnesses that structural change alone will not allow the sport to progress?

If so, in the light of your experience, what does your successor need to do to strike an appropriate balance between the various interests and stakeholders, not just those in the world of rugby but, crucially, those who work as partners with rugby?

**Phil Anderton:** Clearly, the right structure will not on its own be sufficient. We need a strong strategic plan, which I believe Scottish rugby now has. It must also have the right quality of people to implement the plan—I believe that Scottish rugby has excellent people who can deliver the plan. Fundamentally, the governance must be right—the right decision-making body with clear accountability is needed. In the past four or five years, Scottish rugby has not had that. I might be proved wrong, but I am concerned that the working group's recommendations will not deliver what UK Sport clearly states should be the governance structure for a governing body such as that which governs Scottish rugby. The executive should consider the recommendations carefully. I am surprised that there is no one on the so-called independent working group from sportscotland or from UK Sport to give expert advice on how to set up a governing body.

If we get all the ingredients together and generate the funding that is needed to run such a complex organisation and allow Scottish rugby to compete against the other nations, we will have the recipe for success. If we remove any one of the elements, we will begin to struggle.

**Fiona Hyslop:** As you will have heard, the previous panel of witnesses gave a clear message that business is going on as usual and that work is in progress. Your points are worrying and I hope that they are not realised. Given that the committee, the Parliament and the Executive require public accountability for the state money that goes to sportscotland to support rugby in Scotland, what key tests should be in place to ensure that the governance is satisfactory and to provide accountability for the public money that goes into rugby?

**Phil Anderton:** I believe that public money should be invested in sport. As I said earlier, sport can play a vital role in tackling directly many of the key issues that Scotland faces, such as those of health, obesity, confidence and instilling the values that we want in our society. We should also invest more money in rugby because the nations that we are up against have significant investment behind them. However, fundamentally, there should not simply be a dole-out of money to help out unions or clubs that are in difficulty.

I would rather see what we recommended for our clubs in the strategic plan, which is a move away from the old system of accreditation—that basically involved just writing cheques—to a

system whereby we would support clubs if they employed development officers to recruit youngsters directly into clubs.

If public money was being provided for Scottish rugby, I would first want a strategic plan that delivered against the objectives that the Executive thought appropriate—the existing plan would do that. Secondly, I would want a clear costed plan—not a plan that says that we hope that everything will turn out okay. I am encouraged that Mr McLeod has announced the television deal, the Celtic league deal and the rugby world cup deal that we put in place last year. I am pleased that he is lauding those deals, which give us the ability to move forward.

Finally, it is vital to have the right governance because, as I said, a fantastic strategic plan on paper will quickly move offline if the decision-making set-up is flawed and can drive conflict. However, it is in Scottish rugby's gift to deliver that governance and that decision-making body. If it did that, I would be the first person to say that the country should put more money into Scottish rugby and other sports.

**Christine May:** My question is similar to one that I asked the previous panel. I will ask about the tensions between the relatively amateur, volunteer-developed local club rugby and the need to develop the professional rugby business and to keep the show on the road. Will you talk about the proposed governance structure as you understand it and its ability to manage those tensions?

**Phil Anderton:** As the previous witnesses said, tension always exists between the different levels of the game. As Mr McLeod said, any decision that is made will be attacked by another party. If we get the grass-roots and professional elite levels right, they will support rather than fight each other. If the grass-roots level is right, that brings through players to compete at the highest level. If the highest level is right, that encourages more people to participate at the grass roots. The levels should not be in conflict.

The decision-making body should not have a structure that institutionalises the two groups and pits them against each other. However, what we have does that, by having a general committee that is composed of club representatives and a separate executive board that is composed of paid officials. I believe—and UK Sport clearly says—that we should have one body that works together with the right people from all the different backgrounds to deliver what is right for Scottish rugby overall.

The other fundamental development that should happen is that we should break down the barriers of ambition that Scottish rugby has set for its rugby clubs. The game went professional in the mid-

1990s and the union decided that none of the clubs that had existed for 100 years or more could be part of the professional set-up. As part of the strategic plan, we recommended that we should look for private investment in professional franchises, which could include clubs or a combination of clubs. Some clubs are frustrated with the union and with the professional game because they feel that they are not part of it. Under the old structure, they cannot be part of it. Under the new strategic plan, we say to the Melroses, Watsonians and Glasgow Hawks that if they want to, they can become professional teams. That would make a big difference to the structure.

**Mr Davidson:** In your suggested structure, you have a board member from either sportscotland or UK Sport. Who else would you want in a unified management structure?

15:30

**Phil Anderton:** I want to be clear: I was talking about the working party on governance. What I want—I think it would be sensible—is to have on the panel someone from UK Sport or sportscotland who specialises in setting up governance of sport governing bodies. At least someone from sportscotland or UK Sport should have the findings presented to them so that they can give a view on governance before the findings go to the vote.

If I were setting up a single body, I would concur with the unanimous findings of the working group that was set up in December by the general committee and the executive board. That group included the former—unfortunately—chairman, the current president, the senior vice-president, the four district chairmen and me. We agreed unanimously on how we should set up a single body to run the game. That body would include paid officials who have the appropriate skills to move the game forward in areas such as finance. It would also include a chief executive who would be charged with the overall welfare of the game, non-executive directors who would bring specialist expertise in business and sport, and direct representation of the people who are, in effect, the shareholders in the game—the clubs. All those people would sit round the same table to decide on appropriate strategies to develop the game. They would be completely 100 per cent accountable for every decision. That is what UK Sport recommends; Scottish Rugby and the working group agree wholeheartedly.

**Mr Davidson:** Why did that not happen?

**Phil Anderton:** The process was derailed by a number of members of the general committee, who believed that they would lose some of their

power under such a structure. To put it frankly, the fourteen members of the current general committee would not fit into four places.

**George Lyon (Argyll and Bute) (LD):** You have argued cogently that rugby deserves its current funding—with perhaps more funding in the future if proper governance arrangements are put in place. You have argued strongly for what you believe the proper arrangements should be. However, if proper governance arrangements are not put in place, should the Scottish Executive think twice about continuing to fund rugby?

**Phil Anderton:** I sincerely hope that that will not happen. I hope that the governance structure will be put in place—let us hope that the working group can come up with it.

I would like greater investment in sport in Scotland; as I said, it is fundamental that sport be supported. If we consider countries such as Sweden and Australia, which have invested in sport, we can see the massive impact that it has on society.

It is not for me to tell the Scottish Executive how to invest its money. I have talked already about the key pillars. Sportscotland has clear tests to decide how it will invest money. There has to be a strong strategic plan, and I think that rugby has that. There has to be a budgeted and costed plan that includes clear targets so that use of taxpayers' money can be measured. I do not have the costed plan, but I assume that the executive board will have it in place. The third thing that I believe is required is the right governance: it will be up to the Scottish Executive, through sportscotland, to judge whether we have that.

I repeat that there is no lack of clarity about how a governing body should be set up. If members just go to UK Sport's website, they will see it in black and white. If I were the Scottish Executive or sportscotland, I would simply consider those guidelines and ask Scottish Rugby why it is not implementing them.

**Richard Baker:** I want to ask a supplementary to David Davidson's questions. Obviously, rugby is not the only sport for which calls have been made for a radical change in governance. Many volunteers who have a passion for the sport are involved, and we could be asking them to vote for a change that would diminish their role. From your experience, are there lessons we can learn—not just for rugby but for sports in general—about how to take people along and how to allow them to be part of the change? How can we get people to be enthusiastic for change rather than resistant to it?

**Phil Anderton:** One way of achieving that at the top level lies in doing what we have just been talking about in relation to governance, which is to have volunteers involved directly in the key

decisions of the organisation and in the strategy or the policies—call it what you will.

The second way involves communicating clearly with the volunteers, engaging with them and listening to them. That is why last year we undertook the biggest-ever consultation in Scottish sport. We listened to people expressing what they felt about the game. I went out and personally met representatives of more than 50 clubs across Scotland so that I could listen to and understand their views. Like politicians, we clearly cannot enact everything that people want, but we do listen to their views.

Finally, on governance, we recommended that we as executive staff should meet directly with clubs. The general committee felt that it was the representative body for clubs, and that we could not speak directly with clubs' representatives. In my opinion, that makes the clubs feel that they are not part of the sport that they love. It is about communication and direct engagement with the people concerned, and about involving a number of them in the key decisions that will affect them and their clubs.

**The Convener:** That was exceptionally helpful. We now move to our third panel of witnesses. Before us are two members of the general committee of the SRU: Archie Ferguson and Norman Douglas. We have received a written submission from Archie Ferguson, which has been circulated to committee members, along with a briefing from the Scottish Parliament information centre.

Unfortunately, we need to be very conscious of the time. Although I want to ensure that Mr Douglas and Mr Ferguson get their fair share of time, I need to finish this evidence session at about 10 to 4 at the latest, because we need to consider the Further and Higher Education (Scotland) Bill, which we cannot postpone. I welcome Mr Douglas and Mr Ferguson. Would you like to make any introductory remarks?

**Norman Douglas (Scottish Rugby Union General Committee):** Good afternoon, ladies and gentlemen. I am from the SRU's general committee. I am a borderer born and bred and I have represented the general committee for some six years now, as European rugby cup director and now as six nations director.

More important, I am the district chairman for the Borders region and the chairman of the Borders professional team. Over the past three or four years, we have developed an important role model for development of the game. The Borders clubs recognised several years ago that development of the game lay in their own hands. Eight of the senior clubs in the Borders have gone out and employed their own development officers and

Scottish vocational qualification students—they have eight development officers and six SVQ students going out to schools. We regularly meet representatives of local authorities and local enterprise companies and members of the Scottish Borders Tourist Board at joint working parties and committees. The two regular SRU development officers meet the club development officers weekly. They set a strategy and monitor what is being done in schools.

**Archie Ferguson (Scottish Rugby Union General Committee):** Good afternoon, ladies and gentlemen. I am Archie Ferguson, vice-chair of Glasgow Rugby. I represent the Glasgow clubs, which form the biggest district, and I do much of the activity that my colleague described. I say simply that I do my best for Scottish Rugby, and that Glasgow Rugby is flourishing.

**The Convener:** You are here primarily in your roles of general committee members. Mr Anderton was fairly critical of the general committee and of the current process for the working party and its membership. Basically, I think that he was suggesting that conclusions might have been reached already, which would be in contradiction of the guidelines that have been laid down by UK Sport. Would you like to comment on Mr Anderton's comments?

**Norman Douglas:** No—not really. You can draw your own conclusions from his evidence. I would say that the game has moved onwards and upwards. I am getting very positive messages from the clubs, the three professional teams in Scotland and the national team. We met the national players at the weekend of the game with France and some excellent comments came from that direction. We are highly focused on where we want to go.

**The Convener:** I want to ask about the specific point that Phil Anderton made repeatedly, which was about the UK guidelines on governance, which state that there should be only one accountable body. He felt that having two bodies has been, and would continue to be, a recipe for disaster.

**Norman Douglas:** I will not pre-empt what the governance working party comes up with. That information will come out in the next two weeks. We in the general committee recognised the desirability of having only one governing body some time back and were working towards that end, but the past chairman and Phil Anderton prevented that from happening; we nominated two people to go on that body some six or seven months ago, but that was prevented by the chairman.

**Archie Ferguson:** As a member of the governance working party, I am not at liberty to

say what we will recommend, but I think that the Scottish rugby fraternity will be pleased with what comes out. I am surprised by Mr Anderton's comments about independence. There is a vested interest within the group—that interest is in rugby. The group is chaired by a respected member of the legal fraternity and full account has been taken of the recommendations on governance in sport.

**Fiona Hyslop:** It is extremely difficult for us to consider public accountability and the key issue of governance when the working group is on-going and no one can tell us anything. I respect the confidential nature of the group's work and I appreciate that you will want to announce your recommendations to your members in due course, but it would be helpful to us and to the public to hear a message that shows that you acknowledge UK Sport's position, which is that a single board would be helpful both for public accountability and governance. It would be most helpful if you could say whether you agree with that.

**The Convener:** We are talking about a point of principle. Although we would not expect you to pre-empt your detailed recommendations at today's meeting—it would be unfair to ask you to do so—we would like to know whether the point of principle that UK Sport has outlined, which is that there should be only one governing body, will be adhered to.

**Archie Ferguson:** I am bound by Sheriff Dunlop's plea for confidentiality, but I can say firmly that we are moving in that direction.

**Norman Douglas:** The general committee accepted that position a year ago. I sit on the new executive board on which there are some highly focused people. I am one of the so-called amateurs, but I run a business and make decisions daily; I can tell the committee that the best decisions are made at about 7 o'clock in the morning. As the governing body of the sport of rugby, we are in a business. The board might be an interim board, but we have a business to run and we are highly focused on that task.

**Susan Deacon:** How can the aspiration to have rugby at the centre of communities—as set out in the strategic plan and which Mr Ferguson repeats at the start of your submission—be made reality? An observation that many of us have made about the debate that has taken place in recent months is that a tremendously inward-looking approach has been taken by certain quarters, which is reflected in some of the comments that you have made in the past few minutes. I will not even begin to comment on whether the two people who were proposed for the committee were the right people; that may or may not be the case and it is not for me or for the committee to comment on that. Our discussions concern much higher stakes; they are

about growing rugby and growing sport in Scotland.

Given that we are where we are, what can be done locally and nationally to be—as was said earlier—outward looking rather than inward looking and to ensure that not only we parliamentarians but, to be frank, the wider world and those who fund the sport in many shapes and forms get a sense that that proactive and outward-looking approach is being developed locally and nationally? Many of us, including me, are still concerned about that.

15:45

**Norman Douglas:** I am here because I chair the Borders district committee, which has produced a development paper called “Alive and Kicking”—the “Kicking” refers to kicking the ball rather than people, as some would suggest. That document is first class and there is some excellent work going on. We monitor schools weekly and can tell on a Monday morning how many schoolchildren played school rugby in the district in the previous week. We have 500 children playing weekly.

Our development work is not only in rugby, because physical education is a health issue. A small part of the work that our development officers do is with a rugby ball; I assure you that they use every form of ball. The local authority education department gets our piece cheaply, because the clubs pay the cost of development officers’ going into schools and developing sport there, which they do daily. The professional team has a huge part to play, because the players are role models. They go into schools and take not only sport, but reading classes. There is a community focus. I would be happy to prove to anyone who comes to the Borders that we are doing that work and to show them our model.

**Susan Deacon:** Do you accept that what you do locally is inextricably linked with what happens at other levels, be it the professional level or the national game?

**Norman Douglas:** Absolutely.

**Susan Deacon:** Therefore, should not the bigger interest be in thinking about how that wider operation will be taken forward?

**Norman Douglas:** That is why it is important to have professional rugby throughout Scotland. The Borders professional team plays a huge role in the community in developing sport of all kinds.

**Mr Davidson:** Would an increase in the number of professional clubs be likely to result in a reduction in the number of local clubs?

**Norman Douglas:** No. If you lived in the Borders and did the work that I did, you would

know that the community clubs—the town teams, as we call them—are very important. We all played for them and they are focal points in communities. I represent the communities—I stand for election annually—and they would never allow me to increase the number of professional clubs to the detriment of their town teams. Local rugby is an extremely important part of the community.

**Mr Davidson:** I remember playing against Borders teams as a boy and young man. Every village and town in the Borders seemed to have a team.

Do you consider the professional game to be part of a stepladder towards possible international selection?

**Norman Douglas:** Yes. It has to be, because it is the next step up. All the boys aspire to get to that level and the town teams that they represent push them in that direction.

**Mr Davidson:** How should that be funded?

**Norman Douglas:** We need a leg up. We need help from the Government for youth development. My clubs, and businessmen within clubs who write cheques annually to fund the development officers, tell me that they need help and that they need partnership with the SRU, local authorities and the Government to keep the development officers in place and keep the kids in sport.

**Mr Davidson:** Would that be facilitated by the SRU?

**Norman Douglas:** Yes, but with a huge input from the local authorities. Scottish Borders Council is very supportive and puts money into our development work, but we need help nationally.

**Mr Davidson:** I will turn to Mr Ferguson. I thank you for your submission. In it you refer to abandoning certificated teaching of sport in schools. Can you expand on what you mean by that and how that would be replaced?

**Archie Ferguson:** Physical education has, to some extent, gone down an academic route. I can speak with some authority as I am a former member of the group that introduced certificated physical education to schools some years ago. There has been misdirection to the extent that core physical education has suffered as a result. I despair when I see young people in gyms with pieces of paper analysing forward rolls. I would much rather see young people being physically involved. I have challenged Her Majesty’s Inspectorate of Education, which tends to examine physical activity from the point of view of management and curricular programmes rather than from the point of view of how fit and active young people are. In my submission, I allude to the need to address the physical education

programme in schools to ensure that it meets the current needs of young people in respect of health, fitness and sport.

**Mr Davidson:** Would you support a move towards there being more compulsory hours of physical activity within the school week?

**Archie Ferguson:** Yes. That manifestly has to happen because of the condition that some of our young people are in. In some schools in this country, young people who are sitting five highers have no physical activity in the school week. If there is also nothing happening after school, it is no wonder that they become obese, addicted to computers and so on. I would make physical education compulsory. The pendulum needs to move back from the academic drive to take account of the physical and social needs of young people today.

**Richard Baker:** Following some of the comments that were made by Mr Anderton, you have made positive comments about how you view the governance structure going, although you cannot be explicit about that. It is clear that there are currently people involved in governance who have a vision and a supporting strategy, which encourages participation, so we can be optimistic about that. Mr Anderton also said that the SRU should look broadly at how it engages people from different backgrounds and different kinds of expertise in governance. Do you share his opinion that that should also be an aspiration? Should there be a new form of governance and some new people?

**Archie Ferguson:** That is an interesting question. People in rugby come from a range of business backgrounds and a range of involvement in other activities. It is interesting to consider the background of our current non-executives and of the members of the general committee. People presume that because members of the general committee are volunteers, they do not have substantial professional jobs. In fact, sport is gaining from the expertise that those professional people bring to the game and they work in tandem with executives and non-executives. There is a good mix of people without our necessarily having to bring in people from other sports. That is not to say that we should not work very closely with other sports.

**Richard Baker:** Nobody on the committee would use the term "volunteer" disparagingly. It is interesting that you say that that is already catered for.

**The Convener:** The third evidence session has been shorter because a lot of ground was covered in the first session in particular, and in the second session. I thank the witnesses for their written evidence and their oral evidence, which has been

extremely helpful. We look forward to seeing the recommendations of the working party next week.

**Norman Douglas:** Thank you for the opportunity to give evidence.

**The Convener:** I have asked the clerks to put on the agenda for next week a discussion of the evidence that we have heard today. I will suspend the meeting for six minutes so that we can have a comfort break until 16:00.

15:54

*Meeting suspended.*

16:01

*On resuming—*

## **Further and Higher Education (Scotland) Bill: Stage 2**

**The Convener:** We move to agenda item 3, which is our stage 2 consideration of the Further and Higher Education (Scotland) Bill. Before we start, I have three housekeeping points to mention. The first is that we will cover up to and including section 8 of the bill this afternoon. I hope to complete our stage 2 consideration next Tuesday and anticipate no problems in that respect. The second point concerns the civil servants who are with us today. As this is a stage 2 debate, only the minister and MSPs can speak—to all intents and purposes, it is like a plenary debate in the chamber. The third point concerns the use of my casting vote. In a stage 2 debate, there is no obligation on me as to the way in which I have to use my casting vote. I will therefore base it on the strength of the arguments that I hear one way or the other.

**Mr Davidson:** That is quite novel, convener.

**The Convener:** Before we move to the debate, I ask whether any member has an interest to declare.

**Fiona Hyslop:** My husband is a lecturer at Glasgow Caledonian University and also works on the Scottish wider access programme.

**Mr Davidson:** As I said earlier, convener, I have two interests to declare in connection with Robert Gordon University, both of which involve the giving of advice and are unpaid. I am also on the convocation of Heriot-Watt University.

**The Convener:** I should declare that I am chairman of the Scottish Universities Association for Lifelong Learning—funnily enough, it is called SUALL.

As there are no further interests to declare, we will begin our consideration of the bill. There are no amendments to section 1.

*Section 1 agreed to.*

*Schedule 1 agreed to.*

*Sections 2 to 4 agreed to.*

### **Section 5—Fundable further and higher education**

**The Convener:** Amendment 7, in the name of the minister, is grouped with amendments 9 to 13, 16, 18 and 19.

**The Deputy Minister for Enterprise and Lifelong Learning (Allan Wilson):** I remember the day when I could have counted on the convener's support. I suppose that the strong merits of the arguments that I present will have to suffice.

During stage 1 there was discussion about the use of the term “learning difficulty” in the bill. When we introduced the bill we believed that the term reflected the comments of respondents to the consultation that preceded the bill, such as Skill Scotland, which obviously had an interest in the matter. The term “learning difficulty” was intended to reflect long-term and short-term difficulties and the duty on the new council and fundable bodies to consider the education and related needs of all students and potential students. However, members will recall that during stage 1 we heard comments on the matter, and the committee's stage 1 report recommended that the Executive give further consideration to the terminology used in the bill.

We considered and discounted the term “additional support needs”, which was suggested by the committee. Members will be aware that the term is used elsewhere in legislation and I understand that it is not good drafting practice to use the same term in different pieces of legislation unless the meanings are identical.

The amendments therefore alter the focus of the bill by including a definition of “support needs”, which will encompass difficulties in learning as well as difficulties in participating in learning, which I think was the crux of the committee's argument. They clarify that the needs referred to in sections 7 and 20 specifically include support needs, so that the new council and fundable bodies are required to have regard to support needs. That approach removes the need for section 12, which defines “learning difficulty”. The duties in sections 7 and 20 will extend to all students and potential students. The amendments have been discussed with and are supported by Skill Scotland, and they address the recommendations that the committee made to us.

I move amendment 7.

**Fiona Hyslop:** I welcome the amendments. At stage 1 I raised concerns about the presentation of the bill. I acknowledge that, as the minister suggested, the term “additional support needs” has specific reference to the Education (Additional Support for Learning) (Scotland) Act 2004. However, I hope that the minister will agree that the term “additional support needs” will need to be explored in the context of further and higher education policy in future. In the meantime, the amendments represent a step in the right direction.

**The Convener:** Do you want to wind up, minister?

**Allan Wilson:** I am happy to do so. The requirements that are imposed on us in relation to school children are obviously different from those that relate to students in tertiary education. That is reflected in the revised terminology that the amendments propose, but the general points of principle are not at odds.

*Amendment 7 agreed to.*

**The Convener:** Amendment 8, in the name of the minister, is in a group on its own.

**Allan Wilson:** Members will be aware of our partnership agreement commitment to increase college opportunities for school-age pupils. The purpose of amendment 8 is to avoid potential confusion about what the council will be able to fund. Given the need for a student-centred approach to learning, the Scottish Further Education Council funds college courses for school-age pupils that comprise not a full unit but parts of different units, although a full unit is necessary for a formal award. Such courses can prepare people for participation in a further programme of learning, although they are not necessarily designed predominantly for that purpose. The study of parts of units has legitimate educational value for pupils who cannot cope with studying a full unit and can offer a better way of engaging pupils who might otherwise be disengaged from the learning process. Such activity is currently funded and we have no intention of removing that funding.

However, there is potential for doubt about whether the studying of partial units is covered by the definition of “fundable further education” in the bill. Given the importance that both we and the committee ascribe to school-college partnerships in increasing pupils’ curriculum choices, it is essential that we do not inadvertently limit the council’s ability to fund such provision.

Amendment 8 is technical. It would remove the phrase

“is designed predominantly to prepare”

from the bill and replace it with the simple term “prepares”. That should cover the study of partial units as well as complete units.

I move amendment 8.

**The Convener:** No member has indicated that they wish to speak.

**Mr Davidson:** I had my hand up—you will have to get wider-angle lenses, convener.

I am pleased that the minister agrees that further education colleges have a role to play in providing suitable training for certain school pupils. I would

like him to answer one or two questions. First, will the provision lead to an expansion in such courses? If so, will that expansion be funded by education authorities through contracts with local colleges, or will colleges have to fund it? Secondly, I am pleased that children will be able to build up units as they develop, as that will give them much greater opportunities. Presumably, the facility will not be limited to academic courses, but will extend to practical courses that may lead to modern apprenticeships and to attending college and so on. It would be helpful if the minister could answer those questions.

**The Convener:** The minister should answer them when he winds up. This is a debate, rather than a question-and-answer session.

**Allan Wilson:** As I said in my preamble, the funding council and—by virtue of the funding council—colleges will fund the process, which may better the employment and academic prospects of the students who take part.

*Amendment 8 agreed to.*

*Amendments 9 and 10 moved—[Allan Wilson]—and agreed to.*

*Section 5, as amended, agreed to.*

*Section 6 agreed to.*

*Schedule 2 agreed to.*

**The Convener:** It is funny going through the marshalled list—members are not allowed to disagree, by the way.

### **Section 7—Fundable bodies: further provision**

**The Convener:** Amendment 6, in the name of Michael Matheson, is in a group on its own. The amendment will be moved by Fiona Hyslop.

**Fiona Hyslop:** I apologise on behalf of Michael Matheson, who is on parliamentary business in Africa, along with Mike Pringle.

Amendment 6 reflects one of the recommendations in the Enterprise and Culture Committee’s stage 1 report on the bill. The committee recommended

“that the Scottish Executive brings forward such amendments as are necessary to ensure parity of treatment in relation to academic freedom between higher education and further education institutions and the individuals employed therein.”

Amendment 6 provides the opportunity for academic freedom to be extended to post-1992 universities and further education colleges, so it is very much in keeping with the committee’s recommendation. The wording of the amendment reflects exactly that of section 202(2) of the Education Reform Act 1988, which enshrines academic freedom for the pre-1992 institutions.



At stage 1, the Minister for Enterprise and Lifelong Learning stated:

"I share the belief that academics in both sectors should be free to challenge received wisdom and to express controversial or unpopular opinions, and I welcome the opportunity to state in the strongest terms that that freedom of expression should exist in all institutions."—[*Official Report, Enterprise and Culture Committee*, 20 January 2005; c 13681.]

I do not think that we heard anything contrary to that from any witness.

16:15

However, I acknowledge that the points that were made by people who disagreed that such a provision should be in the bill were about whether the bill was the appropriate place for the provision and whether contracts of employment would be sufficient to cover the point. It was also indicated that the Scottish public services ombudsman could adjudicate in such cases but we heard from witnesses that the ombudsman's role would not extend to employment matters, so that argument falls.

The issue is therefore whether the bill is the appropriate place for the provision. I think that it is, in that we are acknowledging those principles that we believe are important when we decide whether bodies are fundable and when we decide some of the criteria that underpin that. I do not think that there is any less important a criterion than the principle of academic freedom. Bearing in mind the fact that parity of esteem between further and higher education is part of the background to the bill, including the provision would send out a strong signal from the Parliament and the Executive that they are united in support for the recommendation in the committee's stage 1 report and for the extension of academic freedom.

I move amendment 6.

**The Convener:** Before I call the minister, does any other member want to speak to the amendment?

**Mr Davidson:** I support amendment 6 now that I have heard Fiona Hyslop's explanation as to the appropriateness of where the provision is placed. My party and I had some questions about that. I was not aware of the ombudsman's role, but it has been clearly stated by Ms Hyslop, and I offer my support for the amendment.

**Richard Baker:** To echo that, we can only debate the appropriateness of where to place the provision because there has been unity in the committee about what should be achieved. I am interested to hear whether the minister thinks that the provision should be placed in the bill. The issue of academic freedom has been brought up

by the Association of University Teachers and others during evidence sessions.

**Chris Ballance (South of Scotland) (Green):** I also support the amendment. It is important that the provision is included in the bill and I am interested to hear the minister's response to what has been said so far.

**The Convener:** As a member of the committee, and not as its convener, I obviously support what Fiona Hyslop has said. If the provision is not to be in the bill and if guidelines are to be issued, I hope that they will have statutory backing and not just be ministerial guidelines. That is the key point that we are trying to make.

As no other member wants to speak, I ask the minister to respond.

**Allan Wilson:** I hope that what I have to say will satisfy the committee's objectives as well as my own. The one point of dispute that I have with the mover of the amendment and its external supporters is that it is a simple amendment. My investigations have shown that it is anything but.

However, to address the crux of the matter, I point out that there is already provision in the bill in section 7(2)(a), which refers to

"the governance and management of the body"

concerned. Scottish ministers' powers are thereafter better defined in section 7(5), which states:

"The Scottish Ministers may issue guidance in relation to any of the matters referred to in paragraphs (a) to (i) of subsection (2)."

In order to expedite the committee's consideration of the amendment, I intend, subject to the committee's approval, to issue guidance to the funding council for reference to all fundable bodies, including those in whichever sector of the higher and further education field, that they should have regard to the wording in amendment 6. That would obviate both the necessity of amending the bill in this way and the need to consult more generally and widely within the sector in advance of inserting such a provision in the bill.

Given the nature of the issues involved, and as the Deputy First Minister said in response to the stage 1 debate, we intend to enter into discussions with all parties in the sector to examine better the case—or otherwise—for explicit guidance in this matter. Where there is agreement across the sector that such guidance is necessary, it is our intention to provide it, and there is provision within the bill for us to do so. I hope that those assurances and my commitment to issue guidance to the funding council as necessary, following consultation, obviate the necessity to amend the bill.

**Fiona Hyslop:** I am interested in the minister's response and pleased to hear his commitment to consider guidance. My only concern relates to the argument about the degree of complexity in amendment 6, which, unfortunately, the minister did not explain. I assume that the argument is probably to do with the need to consult on such a provision, which means that it would be difficult to put it in the bill at this stage. However, I will press amendment 6, on the basis that we can reflect at stage 3 whether consultation is required. I hope that the minister appreciates my concern. If it can be argued that it may not be necessary to consult widely about the change, we should not miss the opportunity to take the step now. I am assured that if the amendment is not successful, the guidance would underpin some of what it attempts to achieve, but I would prefer to have the provision in the bill, if at all possible. I will press amendment 6 to a vote.

**The Convener:** The question is, that amendment 6 be agreed to. Are we agreed?

**Members:** No.

**The Convener:** There will be a division.

#### FOR

Ballance, Chris (South of Scotland) (Green)  
Davidson, Mr David (North East Scotland) (Con)  
Hyslop, Fiona (Lothians) (SNP)  
Neil, Alex (Central Scotland) (SNP)

#### AGAINST

Baker, Mr Richard (North East Scotland) (Lab)  
Deacon, Susan (Edinburgh East and Musselburgh) (Lab)  
Lyon, George (Argyll and Bute) (LD)  
May, Christine (Central Fife) (Lab)

#### ABSTENTIONS

Watson, Mike (Glasgow Cathcart) (Lab)

**The Convener:** The result of the division is: For 4, Against 4, Abstentions 1. As I said earlier, I will use my casting vote to vote for what I consider to be the right way forward, so my casting vote is for amendment 6.

*Amendment 6 agreed to.*

*Amendments 11 and 12 moved—[Allan Wilson]—and agreed to.*

*Section 7, as amended, agreed to.*

#### After section 7

*Amendment 13 moved—[Allan Wilson]—and agreed to.*

#### Section 8—Funding of the Council

**The Convener:** Amendment 1, in the name of Fiona Hyslop, is grouped with amendments 2, 3, 14, 14A, 4, 5 and 29.

**Fiona Hyslop:** The issue that is raised by amendment 1 was the subject of a great deal of discussion during stage 1 in the committee and during the stage 1 debate in Parliament; it is one main focus of what is otherwise an uncontroversial bill. We must address the issues that are raised by the imposition of a system of variable fees in section 8, which of course was not in the draft bill and was introduced latterly.

My primary argument is that variable top-up fees are wrong in principle in a system of education in which we believe that access should be based on ability to learn, not on ability to pay. That is a fundamental principle, but practical issues also need to be addressed. For example, we must decide whether the bill is the appropriate place in which to introduce such a provision, even if we want it to be imposed. We must also question the Executive's policy thinking that lies behind the measure.

During the stage 1 debate, the minister argued that the prime reason to introduce variable fees was to address issues of cross-border flows, pending the imposition of top-up fees in England. Interestingly, we saw last week that applications from English students have increased by 18 per cent. However, when presented with that fact, Universities Scotland indicated that that would probably equate to an extra 200 to 300 students only. The question is whether we need to provide this legal mechanism, which could be extended. We know from the legal advice that we received in answers from Executive officials that it is the legislation, once passed, that matters, not the intent behind that legislation, and section 8 would introduce the opportunity for variable fees across the board.

If we are dealing with only 200 to 300 students, if it is medical students who are particularly problematic and if we recognise that one of the Calman report's recommendations was the introduction of 100 extra medical places to address a health issue, why are we introducing this fairly major student finance measure into the bill? We must question whether that approach is appropriate and whether the measure would be deliverable in practice.

In addressing the minister's argument that the measure was intended to tackle cross-border flows, I refer the committee to the statement made by Jim Wallace on 24 June 2004. He said that the top-up fees that he intends to charge English students will be used to pay for the costs of larger loans to cover fees charged to Scottish students by English universities.

However, the argument is not that the measure is about prevention and deterrence of cross-border flows but that it is more of a revenue-raising provision. On the same day, Mr Wallace said:

"Murdo Fraser makes the point that if an English student was sitting next to a Scottish student in the University of Edinburgh, one of them would be paying a fee and one would not be. That is the position at present and, given that there has been a 12 per cent increase in applications from English students this year"—

by which he obviously meant 2004—

"it does not seem to have put them off."—[*Official Report*, 24 June 2004; c 9492.]

I contend that the minister made it quite clear in his statement last June that the purpose of the measure was not necessarily to deter cross-border flow among students, but was to do with revenue. That being the case, the policy memorandum and financial memorandum accompanying the bill should have addressed that issue.

The general issue is whether, in a country that has population problems, we should be sending out the message that we want to put up barriers at the border to deter students, and I do not think that we should. We should recognise that we are introducing into law a broad-brush provision. I recognise the contributions made during the stage 1 debate by members of all parties who said that, even if we agreed with concerns about addressing the situation of medical students, the sheer breadth of the scope of the measure is inappropriate. I think that the best thing to do is to ask the minister to support the deletion of parts of section 8. I argue that as a point of principle, but I recognise that there is support from other members who think that there are issues of a practical nature involved.

If the working party, which has not reported yet, were to recognise at some point in the future that there was a problem, another piece of legislation specifically about student finance—or, preferably, about health recruitment and retention—would be a more appropriate place for the provisions in section 8. It is unfortunate that an otherwise supportable bill has been hijacked by those provisions, which damage the unity that we want to present to the sector that the rest of the bill aims to support. I ask the minister to reconsider, and I ask colleagues to support the arguments made not only by me but by students that this is not the appropriate bill for such a measure.

I move amendment 1.

**The Convener:** Before I call the minister, I point out that, if amendment 5 is agreed to, amendment 29 would be pre-empted. I ask the minister to speak to amendment 14 and the other amendments in the group.

16:30

**Allan Wilson:** Section 8 sets out the conditions relating to the funding of the council. The National Union of Students and others have recently

expressed concern about the section, as they believe that it allows for the introduction of variable top-up fees. We have stated repeatedly—and I do so again on the record today—that there will be no top-up fees in Scotland for Scotland-domiciled students. Unlike the English arrangements, our proposals do not envisage institutions setting their own fees or retaining the income generated over and above the current level of tuition fees.

Top-up fees are being introduced in England and it is vital that we in Scotland are able to act to counter any threat that could prevent Scotland-domiciled students from getting places at Scottish universities. All the key stakeholders, including the National Union of Students, accept that that is the position, although there are different views about how countering it is best achieved.

Having considered how best to respond to what everybody agrees is a genuine threat, we created the implementation advisory group, which has been considering the principle and the practicalities underpinning our intention to review the level of tuition fees from 2006-07. The committee has now seen a progress report on the work of that group, and I understand that members have had the opportunity to read the notes of its meetings.

The problem appears to be particularly acute in medicine. The Calman report found that non-Scotland-domiciled graduates tend to work outside Scotland, which results in problems in recruiting for the national health service here, and the Minister for Health and Community Care and the Deputy Minister for Health and Community Care are considering how best to address that.

There remains the real threat that top-up fees in England will make studying in Scotland more attractive for students in other parts of the UK. It is necessary for us to address that threat. The bill does not itself set any fee levels, but it provides ministers with powers to set a general fee level and, where necessary, a separate, higher fee for a specific subject.

Much of the focus of the debate, including today's discussion, has been on the new power to differentiate fees for different subjects, but very little attention—and none this afternoon—has been given to the fact that the powers under the bill make the process of setting fees much more rigorous and transparent than has hitherto been the case. Under the bill, fee levels must be set by secondary legislation. Critically, that allows for scrutiny by the Parliament before the fee is set—it is a question that Parliament and the parliamentary process will determine.

We have listened to the concerns that were expressed during the committee's evidence gathering and in its stage 1 report. Taken together,

the Executive amendments will ensure that there is full consultation before any change and that both the orders—the one for a specific programme or course and the one setting the fee level—are subject to the affirmative procedure. That is an important change in the process, and it will ensure that the appropriate parliamentary scrutiny of any prospective change is undertaken.

We are due to consider the bill up to section 8 today. Amendment 14 covers the point about consultation and amendment 29, which the committee will not vote on today but to which I must still speak, makes both of the orders subject to the affirmative procedure. Amendment 14 will include the new Scottish further and higher education funding council as a statutory consultee. In any consultation that takes place before the establishment of the new council, we will consult the existing councils.

Here is an interesting point for the committee to consider, although I am sure that it was not envisaged by the member who moved amendment 1. Amendments 1 to 5 would in fact remove any scrutiny from the setting of fee levels. They would certainly remove the ability of ministers to set different fee levels for specific courses. As I said earlier, that would potentially leave us unable to respond should top-up fees in the rest of the UK make certain courses in Scottish universities more attractive, leading to Scotland-domiciled students being unable to get places on courses at Scottish universities—that would be too bad.

I suspect that it was not envisaged that amendments 1 to 5 would remove the controls that we have proposed for ministers when setting general fee levels. However, if the amendments were agreed to, ministers would be free, under section 8(2), to set such terms and conditions as they considered appropriate, without any form of parliamentary scrutiny: we would have untrammelled power so to do without any consultation.

Amendment 14A specifies NUS Scotland as the student body that should be consulted prior to making an order under section 8(6) or section 8(7). When we drafted amendment 14, we carefully considered whether we should include an explicit reference to the NUS in Scotland, but we decided against that as we felt that it would restrict flexibility now and in the future, specifically with regard to any prospective name or constitutional change that might or might not take place in the NUS here in Scotland and whether any legal liability would be imposed on its successors. As members will be aware, NUS-affiliated bodies do not include all student unions within fundable bodies and the proposed mandatory reference to NUS Scotland might not be appropriate for

unaffiliated bodies. Although such instances would be rare, they could occur.

Having said that, I am sympathetic to the aims and objective of amendment 14A, which as I understand it is to include a statutory reference to the NUS in the process and not necessarily to exclude anybody else we might want to consult in addition to the NUS. If Richard Baker considers it acceptable, I suggest that we lodge an amendment at stage 3 that makes specific reference to the NUS Scotland and/or their legal successors as a statutory consultee in this context. We would ensure that the terminology that is used reflects any prospect of constitutional or name change that might or might not feature on NUS Scotland's agenda—I do not know about that.

Notwithstanding the differences of opinion between us on the relative size of the threat or otherwise of Scotland-domiciled students being displaced from Scottish courses of their choosing by virtue of our inability to set differential fees, I ask Fiona Hyslop to withdraw amendment 1 and to not move amendments 2, 3, 4 and 5, not least because they would remove any parliamentary scrutiny of the process of setting general fee levels. The effect of agreeing to the amendments would be to undo all the good work that the committee has done in ensuring that levels are not set unilaterally by ministers and that, prior to any change being effected, the processes are subject to the affirmative procedure and so to parliamentary scrutiny and approval by this and future Parliaments.

**The Convener:** I ask Richard Baker to speak to amendment 14A and other amendments in the group.

**Richard Baker:** I will speak to amendment 14A first, but I will also speak to the other amendments, as I also have views on them.

As the minister said, the intention of amendment 14A is not to preclude consulting any other student body as part of the process. I very much welcome there being more consultation before fees are varied, as has been indicated could happen for medicine. The aim of the amendment is to ensure that NUS Scotland is consulted, which I feel needs to be specified, and I welcome the minister saying that the Executive will come back at stage 3 with a statutory requirement. I feel that way because, although NUS Scotland does not represent every institution, it is the only national representative organisation with a clear democratic policy-making process, which includes its membership in 57 affiliated colleges and universities. That membership covers 85 per cent of higher education students and 94 per cent of further education students, which indicates how important it is that NUS Scotland should be consulted.

Unfortunately, despite that, in its 30-year history, Governments have at times chosen not to consult it, so it is important that there is a statutory obligation.

Based on the assurances that I have received from the minister that we will return to the issue at stage 3, I will not move amendment 14A. Of course, it was not my intention to bind the Executive to consult an organisation that does not exist or that changes its name or structure. I look forward to seeing the Executive amendment at stage 3.

I would like to speak to the other amendments in the group. Is this the right time to do so, convener?

**The Convener:** Are you talking about Fiona Hyslop's amendments?

**Richard Baker:** Yes.

**The Convener:** At the moment, you have the opportunity to speak only to your amendment. I will bring you in first when I open up the debate on the group. At the right stage in proceedings, I will also ask you whether you wish to press amendment 14A.

**Richard Baker:** Thank you.

**The Convener:** As the minister mentioned in his speech, because some of the amendments in the group relate to sections beyond section 8, we will vote on them at our meeting next week. I am sure that everything is absolutely clear to everybody.

I open the debate on all the amendments in the group. I call Richard Baker.

**Richard Baker:** Back to me; splendid.

I speak in opposition to Fiona Hyslop's amendments 1 to 5. I have stated my position in previous debates. When we talk about Universities Scotland's comments on recent increases in admissions from applicants south of the border, it is important to say that Universities Scotland is not opposed to inclusion of the mechanism in the bill. It is possible that the mechanism will serve an important purpose. It is also important to say that the new level of consultation that I propose in amendment 14A could add important safeguards. It would add an important level of dialogue with stakeholders about the level of fees that should be set before any decision is made.

The committee needs to recognise that the Executive amendments in the group are an important development. Certainly, they signify progress and allay some of my fears about the way in which fees will be set. I am much more comfortable with things as they stand now that the Executive amendments in the group, which I intend to support, have been lodged.

It is also important to reiterate what the minister said about fees. What we are talking about is neither a top-fee up by any understanding of the term nor discriminatory. Not only will Scotland-domiciled students not pay any more, but—and this is particularly important given the new level of consultation on what the fees should be—England-domiciled students should not be discriminated against, as they will not pay any greater level of fees to study in Scotland than they would at an English institution. That parity is important.

Although we have asked the Executive to consider other options, the option on the table is important and should remain in legislation. I am not persuaded that some of the other mechanisms that have been proposed are better than the one that is in the bill. The mechanism is a valuable addition to the legislation and should remain in the bill. If it does not remain in the bill, there would be a real threat to the important balance that has been created in the system. The mechanism is not discriminatory; it is a practical way in which to deal with the difficult problem that has been set for us by another part of the union.

**Christine May:** I will not go over the points that Richard Baker made because, by and large, I agree with them. I speak in opposition to Fiona Hyslop amendments in the group, largely because of the assurances that the minister has given.

When the Subordinate Legislation Committee, of which I am the sole representative on this committee, examined the subordinate legislation provisions in the bill, it was clear that the affirmative procedure would give the necessary degree of scrutiny. The Subordinate Legislation Committee was pleased that the Executive came back and agreed the point.

Neither I nor the Subordinate Legislation Committee would ever want to give ministers untrammelled powers—the thought fills me with horror. If Fiona Hyslop's amendments in the group were to be accepted, the door to that possibility could be opened and that would worry me greatly. For that reason, as well as for the reasons that I outlined earlier, I cannot support her amendments.

**Mike Watson:** I am not in favour of Fiona Hyslop's amendments in the group. My only concern on the question of fees is one on which the minister did not comment and concerns an issue that was drawn to our attention by, I think, the University of Strathclyde's student association, during our stage 1 consideration of the bill.

The point was made that Scotland-domiciled students might still be required to pay fees because either they are doing—I think I am right in saying this—a second degree or they have started one course, dropped out after a year for whatever

reason and then tried to study another course. Such students could be caught in a loophole that would involve only a small number of people, but would be a loophole nonetheless. I would be interested to hear the minister's response on that.

16:45

**Chris Ballance:** I support Fiona Hyslop's amendments. I feel that the proposed mechanism is not appropriate for the bill. Originally, the committee was entirely consensual. The mechanism that amendment 1 seeks to address was put on top of the original draft bill and it does not belong there. It has the potential to introduce top-up fees by the back door.

I hear the minister's assertion that the Executive does not intend to use the mechanism as such, but we are not voting on the Executive's doubtless good intentions; we are voting on the exact wording in the bill. My reading of the wording as it stands is that it clearly would enable such fees to be introduced. That is not necessary at the moment and it would have been far better to wait and see what happens after the changes south of the border. If legislation were required to make further changes specifically designed to address any problem, it could have been introduced at that stage.

**Mr Davidson:** Christine May commented on the affirmative procedure, which represents one of the founding principles of this Parliament in that it ensures scrutiny. That aside, Mike Watson's comment about loopholes and delays for whatever reason—be it through ill health, family bereavement or whatever else—is important and I give him credit for making that point at this stage.

I will support Fiona Hyslop's amendment 1 because the Executive has not proposed satisfactory amendments that meet the committee's recommendations set out in paragraphs 56, 57, 59, 60 and 61 of the stage 1 report.

We do not feel that amendment 14 goes far enough and there is nothing in it that gives an undertaking to use the response to any consultation in making fee adjustments. It simply says that the Executive will consult and then do its own thing. That is quite wrong. I understand that Richard Baker might not move his amendment 14A, but as we will not support amendment 14, we will not support amendment 14A.

**The Convener:** Before I call Fiona Hyslop to wind up, I say to the minister that if he wants to participate in the general debate, he is perfectly entitled to do so. That would give him the opportunity to respond to some of the points made by Mike Watson and others.

**Allan Wilson:** I would like to respond to Mike Watson's point because it is a concern shared by me and my minister colleagues. We await the report of the implementation advisory group to address not just the University of Strathclyde example of repeat-year students, to which Mike Watson referred, but the position of repeat-year higher national students and second-degree students. There are a couple of categories. Mike Watson referred to loopholes and it is certainly our intention to close them following our receipt of the implementation advisory group's report, subject to consideration of its more general implications for student funding. I hope that I have given the assurance that Mike Watson seeks.

David Davidson started by saying that he supported the Subordinate Legislation Committee's position on using affirmative resolution to impose changes in general fee levels, then he said that he would support amendment 1, which seeks to remove that affirmative process.

On the duty to consult, which we intend to introduce by virtue of amendment 14, it is of course implicit that we will take on board the outcomes of the consultation process.

I have responded generally to the points that Fiona Hyslop made, but on the question of there being a financial incentive, I totally refute the proposition that any revenue raised would be used to supplement loan revenues to students studying in England. There is no financial incentive involved.

**Susan Deacon:** I have a brief comment to make. I am sorry, but I felt moved to say something in the light of David Davidson's comments. David is absolutely within his rights to be present as the substitute member and to express a view, which I respect. However, as somebody who has sat on the committee throughout its deliberations, I am bound to say that I do not agree with his point that what the minister is proposing does not accord with the aims and intentions of what the committee set out. The comment about the Executive not including a commitment to do absolutely everything that might come out of the consultation is utterly spurious, partly because of what the minister has said about how these things are enshrined in legislation and partly because, by definition, a range of views are expressed in consultations and it is for the Government to act accordingly.

**Fiona Hyslop:** I refer first to the debate on amendments 14 and 14A. We should acknowledge that there is more than one representative body of students in Scotland. There is the National Union of Students Scotland—of which Richard Baker is a former president so that he no doubt has an interest in lodging amendment 14A—the coalition of higher education students in

Scotland and others. I am sure that if the Executive was going to consult, it would take on board those bodies' views. I support amendment 14, but I suggest that, at stage 3, the first line of paragraph (b) could be amended to say "bodies" rather than "at least one body". That might keep Richard Baker, CHES, the NUS and other organisations happy. Perhaps we can address that later.

On the substantive point about the fees, I remind members what we are talking about. Section 8(6) is clear that the fees are not general fees but variable fees. Section 8(6)(a) states that the fees are payable

"by such class of persons as the Scottish Ministers may by order specify".

That is a general provision. Section 8(6)(b)(i) refers to "such programmes" and section 8(6)(b)(ii) refers to "such courses" as ministers may specify, so the fee is variable by course. Members might agree that top-up fees variable by course are a good thing. The minister's main argument was that if we were going to have such fees, there should be an affirmative instrument. I would not be lulled into a false sense of security by the arguments about how good and generous affirmative instruments can be. They are only good insurance if we believe that fees variable by course are good in themselves.

I also remind members that, at stage 1, in response to the question whether we needed to have legislation to set general fee levels, Jim Wallace replied that it could be done by letter. If my amendments are agreed to, in effect we will return to the status quo, whereby the minister can set general fee levels. What we have in the bill is not the ability to scrutinise an affirmative instrument in relation to general fee setting; the provision is about setting variable top-up fees, as specified in section 8(6) onwards. The key words are "such programmes" and "such courses", which reflect the variable element.

Richard Baker talked about new levels of consultation, but there will be new levels of consultation only if the introduction of variable fees is agreed in principle. I point out that Scottish students will also be liable for fees; only the administration of those fees will be different from the administration of fees for students from south of the border. It will be done by the Student Awards Agency for Scotland, by the traditional methods and by letter.

There is a difference of opinion about the scale of the problem. I understand that the number of Universities and Colleges Admissions Service applications in Scotland is running at 29,000. In 1999, there were 36,000 applications. We are addressing the possibility that we will suddenly get

a flood of students from England, but I ask members to reflect on, first, the population level in Scotland and, secondly, the fact that we do not have evidence that a substantial number of students will come to Scotland and, in so doing, remove Scottish students' places. If that did happen, our job would be to expand the higher education sector rather than to put up barriers.

It seems to me that the Executive is presenting an insurance policy but does not know the scale of the problem or whether it will occur. It is prepared to introduce a large, wide-ranging swathe of provisions to open the door to comprehensive fee-setting that is variable between courses and will deter people. Rather than welcoming people to Scotland, the Executive wants to deter them. I question the Executive's rationale also because we have heard Jim Wallace acknowledge that finance has not been a deterrent so far. Therefore, why is the Executive introducing a financial deterrent to resolve a problem that does not exist?

There is a difference between the comments that the minister has made today and the comments that Jim Wallace made on 24 June. Either there is a financial deterrent or there is not. The Deputy Minister for Enterprise and Lifelong Learning seems to argue that the Executive wants the position to be neutral, but in that case why has it sought to make such major amendments to the legislation? Why do we not wait for the results of the implementation advisory group? If ministers still thought that there was a problem that needed to be addressed, provisions could be introduced via the most appropriate vehicle.

I hope that members will listen to the argument that the provision in the bill is good neither in principle nor in practice. It does not address the problem that the Executive thinks exists. On that basis, I press amendment 1 and ask that we vote on it.

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

**Members:** No.

**The Convener:** There will be a division.

#### FOR

Ballance, Chris (South of Scotland) (Green)  
Davidson, Mr David (North East Scotland) (Con)  
Hyslop, Fiona (Lothians) (SNP)  
Neil, Alex (Central Scotland) (SNP)

#### AGAINST

Baker, Mr Richard (North East Scotland) (Lab)  
Deacon, Susan (Edinburgh East and Musselburgh) (Lab)  
Lyon, George (Argyll and Bute) (LD)  
May, Christine (Central Fife) (Lab)  
Watson, Mike (Glasgow Cathcart) (Lab)

**The Convener:** The result of the division is: For 4, Against 5, Abstentions 0.

*Amendment 1 disagreed to.*

**The Convener:** Does Fiona Hyslop want to move amendment 2?

**Fiona Hyslop:** I will on the basis that it is a substantive amendment, which would delete sections 8(5) to 8(10).

I move amendment 2.

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

**Members:** No.

**The Convener:** There will be a division.

**FOR**

Ballance, Chris (South of Scotland) (Green)  
Davidson, Mr David (North East Scotland) (Con)  
Hyslop, Fiona (Lothians) (SNP)  
Neil, Alex (Central Scotland) (SNP)

**AGAINST**

Baker, Mr Richard (North East Scotland) (Lab)  
Deacon, Susan (Edinburgh East and Musselburgh) (Lab)  
Lyon, George (Argyll and Bute) (LD)  
May, Christine (Central Fife) (Lab)  
Watson, Mike (Glasgow Cathcart) (Lab)

**The Convener:** The result of the division is: For 4, Against 5, Abstentions 0.

*Amendment 2 disagreed to.*

**The Convener:** Does Fiona Hyslop intend to move amendment 3?

**Fiona Hyslop:** As the substantive amendments have been lost, I will not move amendment 3.

*Amendment 3 not moved.*

*Amendment 14 moved—[Allan Wilson].*

*Amendment 14A not moved.*

*Amendment 14 agreed to.*

*Amendment 4 not moved.*

*Section 8, as amended, agreed to.*

**The Convener:** That concludes consideration of amendments for today. We move into private session for agenda item 4.

16:59

*Meeting continued in private until 17:03.*



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

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

The deadline for corrections to this edition is:

**Thursday 3 March 2005**

#### PRICES AND SUBSCRIPTION RATES

##### OFFICIAL REPORT daily editions

*Single copies: £5.00*

*Meetings of the Parliament annual subscriptions: £350.00*

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

##### WRITTEN ANSWERS TO PARLIAMENTARY QUESTIONS weekly compilation

*Single copies: £3.75*

*Annual subscriptions: £150.00*

Standing orders will be accepted at the Astron Print Room.

Published in Edinburgh by Astron and available from:

**Blackwell's Bookshop**  
53 South Bridge  
Edinburgh EH1 1YS  
0131 622 8222

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

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

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

**Telephone orders and inquiries**  
0131 622 8283 or  
0131 622 8258

**Fax orders**  
0131 557 8149

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

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

**RNID Ttypetalk calls welcome on**  
18001 0131 348 5412  
Textphone 0845 270 0152

sp.info@scottish.parliament.uk

All documents are available on the Scottish Parliament website at:

www.scottish.parliament.uk

**Accredited Agents**  
(see Yellow Pages)

and through good booksellers

Printed in Scotland by Astron