



OFFICIAL REPORT
AITHISG OIFIGEIL

DRAFT

Education, Children and Young People Committee

Wednesday 9 October 2024

Session 6



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EDUCATION, CHILDREN AND YOUNG PEOPLE COMMITTEE
26th Meeting 2024, Session 6

CONVENER

*Sue Webber (Lothian) (Con)

DEPUTY CONVENER

Evelyn Tweed (Stirling) (SNP)

COMMITTEE MEMBERS

*George Adam (Paisley) (SNP)
Stephanie Callaghan (Uddingston and Bellshill) (SNP)
*Pam Duncan-Glancy (Glasgow) (Lab)
*Ross Greer (West Scotland) (Green)
*Liam Kerr (North East Scotland) (Con)
*Bill Kidd (Glasgow Anniesland) (SNP)
*John Mason (Glasgow Shettleston) (Ind)
*Willie Rennie (North East Fife) (LD)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Jackie Dunbar (Aberdeen Donside) (SNP) (Committee Substitute)
Jenny Gilruth (Cabinet Secretary for Education and Skills)
Clare Hicks (Scottish Government)
Nico McKenzie-Juetten (Scottish Government)
Jaxon Parish (Scottish Government)

CLERK TO THE COMMITTEE

Pauline McIntyre

LOCATION

The Robert Burns Room (CR1)

Scottish Parliament

Education, Children and Young People Committee

Wednesday 9 October 2024

[The Convener opened the meeting at 09:30]

Decision on Taking Business in Private

The Convener (Sue Webber): Good morning and welcome to the 26th meeting in 2024 of the Education, Children and Young People Committee. We have apologies from Stephanie Callaghan and Evelyn Tweed. Jackie Dunbar joins us today as a substitute member, and I welcome her back.

The first item on our agenda is to decide whether to take item 4 in private. DO members agree?

Members indicated agreement.

Education (Scotland) Bill: Stage 1

09:30

The Convener: The next item on our agenda is the final evidence session in our stage 1 scrutiny of the Education (Scotland) Bill.

We will pause for a moment.

09:30

Meeting suspended.

09:33

On resuming—

The Convener: The next item on our agenda is the final evidence session in our stage 1 scrutiny of the Education (Scotland) Bill. We will hear from the Cabinet Secretary for Education and Skills, Jenny Gilruth. Alongside the cabinet secretary are three Scottish Government officials. Clare Hicks is director of education reform, Jaxon Parish is team leader for new qualifications body policy, and Nico McKenzie-Juetten is a lawyer in the Scottish Government legal directorate. I welcome you all.

I invite the cabinet secretary to make an opening statement. You have up to three minutes, Ms Gilruth.

The Cabinet Secretary for Education and Skills (Jenny Gilruth): Thank you for the opportunity to discuss the Education (Scotland) Bill. I have watched with great interest the evidence that the committee has taken and I look forward to engaging with members and hearing their views throughout today's meeting.

The bill represents a single but significant component of our on-going programme of education reform, building on the findings in the report by the Organisation for Economic Co-operation and Development and those in Professor Ken Muir's review. It also provides the scaffolding on which other non-legislative reforms are being built and it will act as a catalyst for a range of changes that we need to see right across our education system.

The establishment of qualifications Scotland and His Majesty's chief inspector of education is fundamentally about improving pupil outcomes and better supporting our teachers. National education bodies have been too distant from those whom they serve and are often perceived by teachers as being an impediment to delivering excellent teaching in the classroom.

As the committee knows, various reviews have also confirmed that, if trust in those bodies is to be restored, pupils and teachers must be put at the

centre of decision making. The bill includes provisions that will support efforts to enable the organisations to build that trust, restore confidence and change their ways of working to more readily involve stakeholders and increase the transparency of decision making. The requirement under the bill for the board of qualifications Scotland to include practising teachers across school and college settings and a person with knowledge of the interests of those who undertake qualifications will provide greater diversity and challenge in the operation of the board.

The creation of the learner and teacher charters, which will be developed with users, will provide greater transparency and accountability. The statutory learner interest committee and teacher and practitioner interest committee will ensure that the views of a wide range of pupils, teachers and other people directly influence the organisation's decision making.

For the inspectorate, the bill will enshrine in legislation the independence of inspection and reporting. It will move the balance of power from ministers to the chief inspector, which is a significant change. That will increase public confidence in the independence of inspection and, perhaps most important, ensure that the strengths and challenges that they identify directly drive improvement.

It is essential that the new inspectorate engages with the views of education stakeholders and partners. The bill will introduce strengthened governance arrangements, including the establishment of an advisory council, which will ensure that wider perspectives are brought to bear while maintaining the crucial independence of the chief inspector.

However, legislation alone will not create the level of change in practice and culture that is needed for qualifications Scotland and His Majesty's inspectorate of education. In addition to our work on the bill, we are looking at how qualifications Scotland and HMIE will operate to ensure that they will work differently and be more responsive. For example, I have commissioned the Scottish Qualifications Authority to look at options for qualifications Scotland's leadership structures and the establishment of a schools unit in the new body. That unit would support teachers to deliver excellent teaching, learning and assessment, ensuring the best outcomes for our children and young people.

Work is continuing at pace with regard to the new centre for teaching excellence and we are progressing the refocus of Education Scotland to lead on the curriculum improvement cycle and support curriculum design and delivery. That work is well under way, as the committee will be aware.

Our national bodies need to be high performing, accessible and transparent. They must garner the trust of the teachers and children and young people whom they are there to support. It is vital to achieve reform that is right for our system and that creates meaningful change in practice and culture. I believe that the bill, along with the range of non-legislative reforms that are already under way, will deliver that for the benefit of pupils and teachers alike.

I look forward to hearing from committee members.

The Convener: Thank you, cabinet secretary. We move straight to questions from members, kicking off with George Adam.

George Adam (Paisley) (SNP): The evidence that we have taken—you have said this, too, cabinet secretary—is that the national bodies, and the SQA in particular, can seem too distant, and trust in the SQA has been eroded. Some witnesses have told the committee that they feel that this is just a rebranding exercise. It is almost as though this is the new improved SQA—like the Daz super-white challenge. Is there a difference between how it has worked and how it will work? How will it be better than what we currently have?

Jenny Gilruth: I have been listening to the committee's evidence on that with great interest. As Mr Adam will be well aware, some of the challenge in relation to the SQA and how it is perceived by teachers, parents and pupils dates way back to before the pandemic. In the previous parliamentary session, I sat on the other side of the committee table with some members who are still on the committee, and we debated a range of these issues. What happened during the pandemic undoubtedly crystallised the need for significant change, and I think that the way in which we are approaching that is really important.

It cannot be seen as a rebranding; it has to feel different. Over a number of years, teachers have been frustrated by some of their engagement with the SQA, and that situation has to get better. I have been really taken by the evidence that the committee has heard from School Leaders Scotland and the Educational Institute of Scotland that things have improved in the past year and that engagement is already looking and feeling different. That is part of the story. The bill crystallises the need for change.

It is important to set out that, fundamentally, we still need a qualifications body to deliver the exam diet. If you consider Professor Louise Hayward's recommendations, you will see that at no point did she suggest that we get rid of all final examinations, although she did suggest that for national 5s. She looked at rationalising the delivery of qualifications and, in particular, at

having an approach in Scotland that really looks at high-stakes final examinations. As I said, we still need a body that will deliver our qualifications system, but that body must look different and it must interact with people differently. To my mind, that is where a lot of the sense of frustration has come from.

The final point that I will make in response to your question is about rebuilding trust. The pandemic undoubtedly had an impact in eroding that trust. As the committee knows, particularly through the evidence sessions, I have been pretty pragmatic about that. I am of the view that having the new qualifications body is an imperative and that I cannot deliver on some of the aspirations in relation to Professor Hayward's recommendations without the SQA really changing and becoming a new front-footed organisation that has the views of teachers, pupils and parents at its heart.

George Adam: Based on my time as a member of the committee and my time as Minister for Parliamentary Business, I note that people are always saying that we must legislate on this, that we need some legislation to do that, or that they want something to be on the first page of a bill. In this case, unusually, we have heard from a lot of people that some of it could have been done without our having to legislate. Culture change has been one of the issues, for example. What do you say to the arguments that have come up in our evidence sessions that we may have been able to do things slightly differently? That evidence has been highly unusual because, normally, people are always saying that we should legislate.

Jenny Gilruth: All of that was considered by the previous cabinet secretary prior to my time in office. On reforming the SQA, we could have made administrative changes to the body, which might not have needed primary legislation. We could have changed what it is called and how some of the governance structure looks. However, the bill is fundamentally about rebuilding trust and saying that things have to be different. I am of the view that, if we had not taken this approach, we would not have taken people with us.

George Adam: That is what I was thinking, based on the evidence. I have come to the conclusion that, if we had not legislated but had simply made changes, we would not have got the belief out there in the real world, among parents and everyone else, that things are going to be different.

Jenny Gilruth: I think that the view would have been that Government had not listened. It is important that we do that. We have to learn lessons from the pandemic and all that happened during that time. It was deeply damaging to our education system and our young people, and Government has to respond. A decision was taken

prior to my time in office to replace the SQA. I agree with that decision, and I think that it is important that we legislate on the matter.

On the issue of the chief inspector, separating out the independence via primary legislation is a significant change. That was not done previously. Again, that speaks to the need for independence and for the chief inspector to be able to offer objectivity in the process. Particularly during the previous session of Parliament, an argument was espoused that, in Education Scotland, we had the inspectorate marking its own homework, and that challenge was levied at Government, too. We debated that issue pretty routinely in the previous session.

I believe that our acting with legislation in relation to the SQA is the right thing to do. Separating out the chief inspector role and creating that new office holder in statute for the first time is also important.

Liam Kerr (North East Scotland) (Con): Good morning. On the rebranding point, which George Adam made well, I note that Fiona Robertson of the SQA told the committee that the bill creates a new organisation that has the same functions, not only in broad terms, but in quite specific terms, as the existing organisation. If it will be the same organisation with a new name, but with the same people and the same specific functions, how can you, as cabinet secretary, be sure that the issues that arose will not happen again, and that the trust that you demand will be earned and maintained? How will it be monitored?

Jenny Gilruth: We will probably come on to talk about the people who are involved. The committee will be aware that we have a new chair in Shirley Rogers, which has been key to driving some changes in the organisation. Shirley has been tasked with taking a range of measures in relation to looking at our leadership structures, for example, which we might come on to talk about later. We also have a range of new board appointments, which officials assure me will be announced and confirmed imminently, which is important in shifting some of the balance.

I go back to the point that I made to George Adam: we still need a qualifications body to exist at the end of the process, but the test will be how it engages with parents, teachers and pupils, and how that will be different. That takes me to the governance structures. Embedding the learner and teacher voices in the governance structures is really important. For too long, in my experience—having worked in schools—it often felt as though the SQA was quite detached from the reality of what went on in our schools. For example, changes might be made to a qualifications requirement in the middle of the academic year, which was deeply frustrating for teachers. That

does not happen any more. There is much more engagement, as the committee has heard.

However, we need to continue that improvement journey. Mr Kerr is right that we will be judged on that. That cultural change will not happen overnight with legislative change, so we need to continue to embed it through the governance structures and the right people. The appointment of Shirley Rogers is really important in that regard, as are the appointments of the new board members that I referenced and the work that she is undertaking in relation to whether the current leadership structures in the organisation are fit for purpose for a new qualifications body.

09:45

Liam Kerr: You mentioned that changes to qualifications could happen. Do you have any concern that doing what the bill does in isolation from, or at least separate from, the other reforms that have been recommended—the Withers reform, the Hayward reform and the Muir reform—risks the reform being piecemeal and siloed, rather than holistic across the sector?

Jenny Gilruth: That is an interesting point. I gave Parliament the update on Professor Hayward's recommendations a couple of weeks ago. In that statement, I set out my intention to come back before the end of the year to set out our updated national improvement framework, which will look at that longer-term strategic vision—which, to my mind, pulls together the strings from all those reports.

It is really important that the approach is not siloed. We need to reform the qualifications body. I also need to deliver on the aspirations of Professor Hayward's review, but I cannot do so without that reform of the qualifications body, so the chronology is important. As the committee will be aware, I built in an extra year. Committee members might argue that that was the wrong thing to do, but I believe that it was important because hearing the voices of teachers is really important.

Mr Dey is leading on the wider work in relation to post-school reform. That work needs to sit together with our wider qualifications reform, which is linked to the work on accreditation. We might come on to talk about the latter. Fiona Robertson gave an update on her work in relation to accreditation. It is really important that we consider the matter holistically across our education system.

My final point in response to your question concerns our governance structure in relation to post-school and education reform. I have brought those two pieces together in Government. This might not be of interest to the committee, but we

were previously quite siloed—I sat on one side with my responsibilities as cabinet secretary and Mr Dey sat on the other. I brought the two teams together in the overall governance structure of education reform in order to avoid the siloed approach that Mr Kerr has spoken to.

The Convener: Bill Kerr, please. [*Interruption.*] I mean Bill Kidd. Who is Bill Kerr? At least it was not a swear word. [*Laughter.*]

Bill Kidd (Glasgow Anniesland) (SNP): Thank you for being here, cabinet secretary, and thank you to your team. To what degree is the culture in an organisation dependent on its structures? Alternatively, how much is it dependent on the leadership? Are you confident that structural changes alone will bring about the desired changes to the organisational culture in the SQA?

Jenny Gilruth: No. I do not think that if you change structures you change culture. You must do both. Part of that is about embedding learner and teacher voices in the organisation, which is a new approach. For example, we have looked to increase the number of teachers who are represented in the structure. It is really important that practising teachers are involved in the governance arrangements, because it will bring credibility to the organisation.

People are important, too. In my opening statement, I talked about the comment of a secondary headteacher coming into the organisation, which was quite deliberate. It sends a message to the wider education system that we trust Scotland's teachers to deliver on the qualification improvements. I want teachers to be empowered to lead the change that we need. I have made that happen through the curriculum improvement approach, with the appointment of Andy Brown as the national maths specialist, who is a secondary headteacher and a maths teacher.

I want to replicate exactly the same approach in qualifications Scotland. Having a secondary headteacher with the knowledge and understanding of delivering qualifications in a secondary school is really important. We need to see more of that in how the new qualifications body works, so that we are using the expertise of the people who work in our classrooms at the chalkface every day to drive the improvements that we need.

For too long—I know that the committee has heard this, not just in recent weeks but in the previous session—it has felt as though the qualifications body has been distanced from the profession. We need to see that closer working, which is part of the reason why I brought in the secondary school headteacher, but I do not see that as an end point. We must continue to change and evolve the culture. Throughout the process,

we are looking at how we can better embed the teacher voice and the learner voice. The setting up of committees is part of that, as is the new chair appointment that I alluded to in my response to Mr Kerr.

Bill Kidd: That is quite reasonable and rational. It is the organisation itself and who makes up that organisation that is the way forward.

Jenny Gilruth: I agree with that.

The Convener: Pam Duncan-Glancy, over to you.

Pam Duncan-Glancy (Glasgow) (Lab): Thank you, convener, and good morning, cabinet secretary and officials.

We have heard a lot of evidence on the bill and I am sure that the cabinet secretary will have carefully watched, or listened to, most if not all of it. A number of people remain concerned that the bill still does not resolve some of the issues. For example, Ken Muir told the committee:

“it is probably not the case that the bill, as it is currently constituted, will drive a bottom-up approach.”—[*Official Report, Education, Children and Young People Committee*, 18 September 2024; c 9.]

The cabinet secretary spoke about the need to take people with her, but the evidence has suggested to us that people are not necessarily going with her on this. How would she respond to those comments?

Jenny Gilruth: Well, we do not always have to use legislation to drive change, although I think that it is part of the solution here. I suppose that it goes back to Bill Kidd’s question about cultural change. When I was appointed, I looked at some of the changes, and I had to question critically where we were. I built in a delay last year partly so that I could work with Scotland’s teachers. We could have powered ahead with the bill last year, but listening to Scotland’s teachers was really important to and instructive for my view of Professor Hayward’s recommendations.

We will hear a range of different views, but we also exist in a Parliament of minorities, so I am keen to hear committee members’ suggestions for improvements and where you think that the bill could be strengthened. I want to work with you on this, but I do not think that sitting still with the status quo is acceptable. We have to get a grip of where we are post-pandemic on the senior phase and the delivery of qualifications.

As committee members are aware, there are myriad challenges out there. Part of the solution is legislative reform of the qualifications body, but that is only part of the jigsaw. I can create legislation that we can debate until 2026, if committee members are so minded. However, legislation is only part of the jigsaw, as we also

have to think about wider education system recovery, post-pandemic.

I take on board the critique, but I am also looking for answers. If committee members have strong views that we are not in the right space on a range of different issues, I am happy to hear them. We can look again at how we can strengthen the bill, but we cannot stand still. It is pretty much accepted in Scotland’s secondary teacher community that where we got to with the SQA during the pandemic was not acceptable, so we have to legislate to replace the SQA. How we do that is really important, and I commit to working with all committee members to that end.

Pam Duncan-Glancy: That is appreciated, and I think that most people will agree that standing still is not an option. The higher history stuff is an example of that. The Association of Directors of Education told us, and teachers also told us, that they do not think that the bill responds to their views in the way that you have suggested. That is something that you should reflect on.

If it is not about legislation and it is not always about structures, how would the Government characterise responsive leadership? How has it supported that and a good culture in education in the past 10 years?

Jenny Gilruth: Ten years ago, I was in a classroom, so I might have to defer to my officials on the history of how the Government has worked to support the agencies. I worked in one of those agencies when Professor Ken Muir was in a leadership position, going back 10 years. We were bringing in the new qualifications at that time, so the Government was working to support leadership in all those organisations.

If I can be frank, in the past 10 years, education in Scotland has become deeply politicised. Committee members all know that. It is perhaps less so in the current parliamentary session than in previous sessions, but education is deeply politicised as an issue.

One of the reasons why education has become so deeply politicised is because my party put closing the poverty-related attainment gap squarely at the front of our ambitions. That brings a different level of challenge for all leaders in Scottish education, and committee members should be mindful of that. When I engage with leaders in Scottish education, I am mindful that we are all used to the cut and thrust of Scottish politics in a way that some people in those organisations are not—and nor should they be, arguably, because it is not their job. That landscape has informed some of the challenges that those bodies have faced in the past 10 years.

I met the teaching trade unions yesterday, and they raised that issue. During the previous

parliamentary session, we heard evidence in this room about how we can work to depoliticise education. I am being a bit of an ideologist this morning but, fundamentally, we are all in this for the same reason. We want to improve Scottish education for our young people, and that is what the bill is about.

Civil servants have worked to support leadership across the different bodies. Doing so has not been without challenge. We heard about that during the previous session, as Ross Greer and Willie Rennie will remember. Without getting into personalities, I can say that we worked to support leadership in those organisations.

Clare Hicks (Scottish Government): Pam Duncan-Glancy's question is important. The bill sets out the structures for the national bodies and the way in the which leadership of those bodies should work in the education system. The bill's aim is to be clear about their roles and the functions that they undertake. The Scottish Government can support clarity in the culture.

The bill also seeks to embed a systematic approach to learner and teacher involvement. Historically, that has been an evolving picture, but the legislation means that it is not an optional extra but is anticipated and should be considered in part through how those organisations operate, with Government support.

Pam Duncan-Glancy: In what ways will learners, practitioners and parents see a difference during the next five years?

Jenny Gilruth: During the next five years, we will have established new governance structures through the committees that Clare Hicks spoke about. Embedding them in governance structures is important. Having their voices as part of the way in which the organisations—particularly qualifications Scotland—work will be hugely important to driving a difference.

Looking at practitioners from a teacher's perspective, I think that the new qualifications body has to be more front footed in engaging with Scotland's teachers. Many of the staff in the SQA have come from the classroom. Most of our markers are teachers, and they are involved in setting the national standard. We have to create new ways for teachers to be involved in the organisation. Part of that is about the secondary headteacher secondment that I spoke about. I envision an opportunity for Scotland's teachers to engage with the organisation more directly. The governance arrangements will stipulate that qualifications Scotland should be more front footed in engaging with teachers and listening to their views, which is important.

The organisation has to feel less defensive. At times, that has been a challenge. It has to work

with Scotland's teachers, our learners and their parents. It should be less about gatekeeping, as has been the perception of it, whether that is fair or otherwise, in the past.

Pam Duncan-Glancy: Does it worry you that the people who have given evidence do not think that the structures that you have built into the bill will deliver that?

Jenny Gilruth: I have heard a range of different points of view on that, so it is not necessarily the case that everyone is of the same view that Ms Duncan-Glancy has just espoused. However, as I mentioned in my earlier response to her, I am here to listen to committee members. If there are parts of the bill that the committee has issues with, I will hear about those challenges and we will reflect on them in the changes that we might be able to make at stage 2.

Willie Rennie (North East Fife) (LD): I have a couple of quick questions. First, it has been raised with us that teachers who are looking to be employed by the SQA sometimes take a pay cut. Are you trying to resolve that? Secondly, after hearing all that has been said in the media and in the committee, do you think that the leadership of the SQA can become the leadership of qualifications Scotland?

Jenny Gilruth: I discussed the pay-cut issue with the SQA on Monday, when we were talking about opportunities for teachers. There is an issue in relation to pay. I am not going to be able to resolve it overnight, because, bluntly, it relates to budget and—as committee members will all be aware—the Government faces a particularly challenging time with our budget. We have had to make some tough choices, such as settling high pay claims as a result of inflation being through the roof, and that is making things difficult. However, I take Mr Rennie's point, because it is important. It relates to the point that I was trying to make to Ms Duncan-Glancy, which is that we facilitate opportunities for teachers to come and be part of the organisation.

There are a range of ways in which we could do that, such as secondary headteacher secondment, which I have cited. I would like to provide more opportunities for expertise from the organisation to be shared with the profession. The profession should feel that the organisation belongs to it, not that it is something that is done to it, which is how it has felt in the past.

Mr Rennie asked about the leadership of the SQA and qualifications Scotland. I mentioned the appointment of Shirley Rogers as the new chair. We are also advertising for a new chief inspector and a new Education Scotland chief executive. We have been recruiting for new board members, the

results of which we will announce imminently, I am told. That will change things.

10:00

I mentioned in my response to Mr Kerr that I have asked Shirley Rogers to look at leadership structures in the organisation and to provide me with advice on whether those are fit for purpose in the new body.

Willie Rennie: Should all the leadership change?

Jenny Gilruth: I know the question that Mr Rennie is asking me, but we also need to be mindful that these are people's jobs. The approach that we have taken in relation to qualifications Scotland is that people will be protected by the no compulsory redundancies policy. I hear the point that Mr Rennie is making.

The Convener: That was tactfully answered by the cabinet secretary.

We turn now to questions from John Mason.

John Mason (Glasgow Shettleston) (Ind): We will now look at learner and practitioner involvement. I will ask a few questions, and colleagues will come in after me.

We have heard quite a lot of evidence on this. One of the issues is that there will be interest committees for learners and practitioners. The word "learner" is interesting, because it could mean someone who is quite young or someone who is quite old. In particular, there was concern from the Children and Young People's Commissioner Scotland that the bill does not specifically say that children should be involved in some way. Do you have any thoughts on that?

Jenny Gilruth: I was quite taken with the evidence that the committee took on that, because I do not like the word "learner". I think that it is really generic. We use it all the time in Scottish education because it is a bit of a catch-all term. I hear the view on that, and I am pretty sympathetic to it. I was discussing the issue with officials in advance of today's evidence session, and I think that we will look at ways in which we might be able to better reflect it. "Learner" is a generic term, and we need to look at how we ensure that children's voices are heard.

I am sympathetic to the point that Mr Mason makes, and we will reflect on that after the evidence session today to see what more we can do to strengthen that approach.

John Mason: That is helpful.

A related issue is how children and young people can be involved. The point was made that the whole system can be very adult centred and,

obviously, most of the people in the system will be adults, so how do children fit in? We had slightly conflicting evidence on that. I do not think that people want the learner interest committee to be taken over by children, but do you have thoughts about how children's voices can be heard? For example, one child at a committee would find that quite difficult.

Jenny Gilruth: I think that the committee has taken evidence on the need for children's involvement not to be tokenistic. Some members would have been in the Parliament during the year of young people in 2018, in the previous parliamentary session. At that time, we had a real push to embed the learner voice, or the pupil voice—young people's voices, essentially—within a range of approaches across Government. Sometimes, to my mind, that can feel tokenistic, so it is important that their involvement is meaningful.

It is also important to say that, prior to the introduction of any legislation, young people have been involved throughout the reform process. They were really involved in the national discussion, for example, and their views were fundamental in driving some of Professor Hayward's recommendations.

Very recently, I have engaged pretty closely with the Scottish Youth Parliament, and I am keen to continue that engagement in the development of the bill.

The approach to the learner charter is fundamental to my mind, because—

John Mason: I do not want to get too much into the charter, because colleagues will ask about it later.

Jenny Gilruth: I apologise.

John Mason: I was thinking more of the learner interest committee.

Jenny Gilruth: The committee has to support decision making, and it has to support better decision making in the interests of learners or young people—whatever term we want to use to differentiate them. It is hugely important that the new approach to governance informs better decisions for young people and learners across the piece.

John Mason: I know that you do not want to be too specific in the bill, and I broadly agree with that, but do you envisage there being another group, made up entirely of young people, that discusses some of the issues and feeds that into the learner interest committee? Is that a possibility?

Jenny Gilruth: I might defer to officials on that. From a teacher's perspective—taking off my cap

sec hat—I do not see why we would be against that approach, in which the committee would seek to listen to the views of young people. I suppose the point that the member is making is that it should not be tokenistic: young people should be able to speak freely, but if they are in a room full of adults, they will not be able to do that.

John Mason: Yes, and the commissioner said that a lot of young people are more comfortable in a grouping that is primarily made up of young people. I agree with that. I think that the bill will provide us with an opportunity to address the issue.

The Convener: For the purposes of the *Official Report*, I note that the cabinet secretary's officials were agreeing.

John Mason: I will push that a little bit further. The point was also made to us that it is relatively easy to engage with good pupils—or whatever term we use. I visited a school recently and met some of the sixth year, who were clearly the crème de la crème, or whatever you want to call it—they were the most committed and enthusiastic pupils. Will there be a way for us, through the bill, to engage with pupils or young people who are disengaged?

Jenny Gilruth: Reaching young people who are disengaged is a challenge for everyone across Government, not just me in the education portfolio. Fundamentally, we need to think about how we engage the next generation in political structures. That is not just about education reform. You are going to get a speech from a former modern studies teacher now, Mr Mason, but our education system has a role to play in engaging young people in politics and decision making.

I hear your view about meeting young people who might be the—I am not sure whether I should repeat the way that you described them.

John Mason: No—I do not know whether that was a good phrase.

Jenny Gilruth: When we go on school visits, we all see a side to schools that is presented to politicians, but I also know classroom teachers well. In schools, we need to try to build the opportunities for young people to be engaged. It is a bit like voter apathy. You have to try to reach those people. Scotland's teachers do a really good job of reaching young people every day. I will pick on modern studies because it is a subject that is unique to the Scottish curriculum. It allows not only for decision making to be talked about in class but for apathy to be challenged.

Qualifications Scotland will have to work hard with Scotland's teachers and schools to engage young people in decision making through the new approach to the charter and the learner interest

committee. I suppose that your point is that we do not want to hear a host of the same voices that we routinely hear from the same stakeholders. I know that the committee has taken evidence on that. We routinely hear from the same stakeholders in Scottish education and we need to think critically about how we go wider than that. Although the voices that are heard at this committee are important, there are other voices out there. How do we pull out those who are perhaps, as Mr Mason has pointed out, apathetic?

John Mason: Parents and carers are also an important group. I do not think that there is a lot of mention of them in the bill, but we took some evidence that they want to be included as well.

Jenny Gilruth: They are referenced in the policy memorandum, but they will also be part of the learner interest committee and the charter. We will also look at developing guidance on how we can support further clarification on that point.

I heard the challenge in relation to the point regarding parents and carers. I should also say that, more broadly, as committee members might be aware—I think that Ms Duncan-Glancy asked me a topical question on this not that long ago—we have changed the way in which we fund parental organisations in Scotland. We are now providing additional funding to Connect to develop a national assembly. That approach to having a parent voice at the national level will be very important to challenging the Government on a range of issues, not least qualifications.

John Mason: You mentioned the learner interest committee. Will there definitely be a parent voice on that committee?

Jaxon Parish (Scottish Government): It is not set out in legislation, but the expectation—

Jenny Gilruth: In the policy memorandum.

Jaxon Parish: —in the policy memorandum is that those who are closest to young people and children have their interests at heart, so it is essential that they be part of the learner interest committee.

Jenny Gilruth: If committee members are of the view that we should stipulate that, I am open to listening to that, but the policy memorandum gives us a bit of—

Jaxon Parish: A bit of structure around what we would expect to see in the learner interest committee.

John Mason: Others will go into more detail about exactly how some of the interest committees will be made up, but there is obviously a bit of concern among not only parents but others about who will be on that committee.

Will the people on the committees act as representatives? For example, how would someone be appointed to the teacher and practitioner interest committee? One of the unions suggested that there might be a teacher on the committee, but that that teacher might not be very representative of, or particularly answerable to, other teachers. I think that the teacher unions would like to see those people being elected by union members or teachers generally, for example. Can you expand on how you see that working?

Jenny Gilruth: We can consider that. Again, we must be mindful that too much stipulation in primary legislation can be challenging. It can limit and dilute the pool of people who are available to fulfil some of these opportunities. I am happy to hear views from committee members to that end. If the committee is minded to ensure that that is specified, we can look at that, although there might be some unintended consequences of doing so.

Mr Mason's point is about whether that representative might be there to speak on their own behalf or on behalf of a trade union, for example. I will work with committee members on that if the committee has a strong feeling about it. At the moment, it is fair to say that we are taking an open approach.

John Mason: I do not think that the committee, as a whole, has a view on that as yet—we have not really discussed it—but it came up quite strongly in evidence. For example, I am an accountant and if I were on a committee in order to represent accountants, I would need to somehow be answerable to those other accountants. That is the point that hit home to me.

Jenny Gilruth: You are saying that the committee does not have a view on this, so I will await your deliberations. We need to be careful about how we specify that and what it might look like. I am not ruling that out. I have heard various views—there is not a uniform view on it. I will bring in Clare Hicks.

Clare Hicks: There is probably a balance to be struck across a number of the structures. I think that we would anticipate the strategic advisory council being where the representative stakeholder organisation sits, so that would involve teaching unions, parent fora and so on. As the decision-making body, the board has an increased number of teacher and practitioner representatives. The teacher and practitioner interest committee is slightly different, in that it is the opportunity for qualifications Scotland to embed the teacher voice in its structures. There is a question about the extent to which teachers' involvement should be representative or carried out in a personal capacity. The legislation does not

set out how that will operate in practice, but it could be done in a range of ways.

John Mason: Okay, but the legislation sets out that there should be a qualifications Scotland staff member on the committee. Why is that?

Jenny Gilruth: We see that as being largely for an administrative purpose, because it is important that the body is in the room at the same time that the groups meet. It is also important that, if the groups raise a challenge with qualifications Scotland, the body is there to respond to that challenge. Therefore, a qualifications Scotland staff member will be present for two reasons. It will have a representative in the room because it is its organisation, too, so it is important that it hears the challenge. It is there to respond. One of the key challenges that the SQA faces is that, arguably, it has not been responsive in the past, so let us try to manage that through the governance structures. The qualifications Scotland representative will not be there to be a voice for learners or teachers—that is not the approach that we would take to their presence in the room. It will have a representative present to respond to any challenge; largely, that will have an administrative purpose, because it is its body, too.

George Adam: I just have a quick question. The teacher trade unions were at the committee two weeks ago. In effect, they said that they should be running the show—

Jackie Dunbar (Aberdeen Donside) (SNP): You just pinched my question.

George Adam: I am sorry, but I asked the trade unions about this, as well. Basically, they said that they should be running the show. When I put that to the parents groups, they got quite upset, because they said that they should have an input, too. If you are looking for an opinion from me, cabinet secretary, I will tell you that, in my time as a councillor and as an MSP, I have always found that parents are an important part of the conversation—

Jenny Gilruth: Yes, I know—they are.

George Adam: We have to ensure that they have that voice. The EIS always made it sound as if—

The Convener: George Adam, you said that this would be a brief supplementary.

George Adam: Sorry.

The Convener: Please get to the question. Thanks.

George Adam: The question is: what do you think of that, then, cabinet secretary?

10:15

Jenny Gilruth: I have heard some of the teaching trade unions' views on that issue. It is worth saying that we have increased the number of teachers to four teaching and college professionals. We reflected and wanted to make sure that there was substantive teacher voice in the new body. It is important that we listen to other stakeholders, as Mr Adam set out. Scottish education is always about partnership working, and parents are a key component of that, so it is important that their voice is heard, too.

The trade unions' view is that we have stipulated four members, and that that does not stipulate a majority. However, it is not as though we have said, "This is the maximum and there cannot be any more." Others who come from a teaching background may have experience in corporate governance and fulfil other positions on that body. There are still opportunities for teachers to engage outwith the four that we have stipulated.

George Adam: Thank you—and sorry, Jackie.

The Convener: I am sure that there will be trouble at the end of the evidence session.

Ross Greer (West Scotland) (Green): Good morning. I will follow up on that theme. I will start with the learner and teacher interest committees. My understanding of the current proposed structure is that they will report to senior management. Is there not a stronger rationale for them to report directly to the board, given the experience that we have had with the learner panel at the SQA? In essence, the learner panel often bluntly provided feedback that SQA senior management did not want to hear, and the management made sure that that did not get any further. If the two committees were directly accountable to the board, there would be nothing stopping senior management from engaging with them and soliciting their opinions where required, but that would strengthen accountability and resolve the issue that we have seen with the current equivalent structures.

Jenny Gilruth: I will bring in Jaxon on that point.

Jaxon Parish: The package of governance changes includes new members coming on to the board of qualifications Scotland who then would inherently have a role in the respective interest committees. For example, there would be an expectation that the teacher members joining the board would have a relationship with the interest committees.

On the specifics of the bill, the committees are accountable to qualifications Scotland, rather than to the board of the organisation. The bill does not

prescribe whether that is senior management or otherwise.

Ross Greer: I appreciate that. My question is to the cabinet secretary. Would it not strengthen the bill if we were to specify that the committees were directly accountable to the board rather than to the organisation as a whole? If we do not specify that in legislation, it is an operational decision for the organisation to make. I would not trust our current qualifications agency to make such a decision. We all share the hope that the new body will have a better culture and will not make decisions similar to the SQA's. If we put it into primary legislation that the two committees are directly accountable to the board, would that not strengthen accountability?

Jenny Gilruth: The member raises an interesting point. I am not against the suggestion. We will take that away and consider whether we can look again at the approach that we have adopted thus far on that issue.

Ross Greer: That is much appreciated.

The relevant sections of the bill specify that a majority of members of the committees have to be learners or teachers and practitioners, which sounds good until you realise that that means that up to 49 per cent of the committees can be staff of the organisation. The bill requires that staff cannot be a majority; therefore, just under half of the members can be staff.

This goes back to the question that was asked a moment ago, but surely those committees do not require qualifications Scotland staff to be on them at all. They are committees that are supported by qualifications Scotland staff and that QS staff can draw on for advice. I struggle to understand why there would be a requirement for any staff to sit as a member of those committees. I would totally get it if staff were to provide a secretarial function and appear before the committee to ask it questions or be asked questions, but I am confused as to why there would be any members of staff sitting on the committees as members.

Jenny Gilruth: I do not think that my expectation is that they would sit as members. It goes back to the point that Mr Mason made about the role of qualifications Scotland staff being largely administrative, responding to challenge and listening to and understanding the views of members. If Mr Greer's view is that we need to stipulate that in primary legislation, we can look at that. That feels quite specific, but I take the point that he is making.

When we are talking about the credibility of the organisation, we need to be mindful that the structures have to introduce a level of challenge that has arguably been lacking in recent times. I do not want to see them stacked with the staff who

work in that organisation. That is not the purpose of those structures. They are there to provide a different view and a different role, and to provide challenge.

I am not sure whether we would stipulate that in the primary legislation, but there might be something that we could do around guidance. I might defer to officials on that point. Again, I am pretty sympathetic to Mr Greer's point.

Clare Hicks: There is an important point around linking the learner interest committee and the teacher interest committee with board members who would potentially be members of those committees. They would not be qualifications Scotland staff, if you like, but they would be treated as such in terms of their membership of those committees.

The broader membership of the committees might not just be those with lived experience of learning and teaching, but they might be there to facilitate better engagement. They could be external people and not just staff members of the qualifications body.

As the cabinet secretary said, the broad point is about ensuring that we safeguard the purpose of the legislation, and we could look at that.

Jenny Gilruth: Absolutely. I take Mr Greer's point that the 49 per cent suggestion would fly in the face of the purpose of the legislation.

Ross Greer: Absolutely—thank you.

I have a final question. There is a section in the bill that requires consultation with the strategic advisory council. Would it not be more in the spirit of the wider reform agenda of the United Nations Convention on the Rights of the Child and so on, for that requirement for consultation to be broader than just consultation with the SAC? It would not have to be incredibly specific about how that should take place and list stakeholders, but there could be a broader requirement for the organisation to consult key stakeholders beyond the advisory council.

Jenny Gilruth: Which stakeholders would Mr Greer envisage that we should stipulate? I hear him saying that we should not stipulate, but there are many broader stakeholders in Scottish education. I do not want to close the door to that wider engagement, but we need to be careful that we are not being overly specific about some of this.

Ross Greer: I do not propose listing everybody who should be consulted. My point is that the requirement is to consult only with the SAC. It would be helpful if qualifications Scotland was required to consult stakeholders in the system more widely. That does not mean consulting every stakeholder on every issue, but it would give the

organisation a clear mechanism or impetus to at least be able to evidence that it has consulted regularly on key strategic issues with whoever the relevant stakeholders might be. As you recognise, that has been a challenge for the SQA.

Jenny Gilruth: I will bring in Jaxon on that point.

Jaxon Parish: It is an important point. There is specific provision in section 7 to the effect of what you are getting at, Mr Greer, about having regard to the interests of those using the body's services. That embodies the spirit of what you are saying. The role of the strategic advisory council should not be seen as a single point of contact for the organisation. Members of that council would also be expected to engage with their networks and relay information back, which is also set out in the provisions as an expectation of the council.

Ross Greer: I appreciate that, and I recognise the point about section 7 and taking into account the interests—I cannot remember the exact phrase. On my first reading of the bill, I thought that the SQA could argue that it already takes those interests into account.

Jenny Gilruth: I am sure that it would.

Ross Greer: I do not think that everybody who is sitting round this table would agree that it does, or that it does so effectively. I am therefore proposing that the provision is strengthened to be a bit more specific on the need to consult and engage, but not to be specific about who that would be with and the mechanisms that should be used.

Jenny Gilruth: The member makes a fair point, so we will take that away and reflect on how we could strengthen the approach, although I would be worried about specifying. We will look again at how we can strengthen some of the wording around our expectations on consultation so that it is meaningful.

Ross Greer: Thank you—that is much appreciated.

The Convener: Can members try to taper off and be concise with their questions? I have my eye on the clock. Pam Duncan-Glancy is next.

Pam Duncan-Glancy: My question is in a similar vein. The Government has laid quite a lot of responsibility for fixing some of the issues with the qualifications body and the wider education landscape on the charters. How will the Government ensure that the charters are sufficiently ambitious?

Jenny Gilruth: Part of that is for the Government, but it is partly about co-creation, too. The approach that we are taking is not about the Government dictating things, but about our

stakeholders saying, “This is how ambitious we want to be, and this is where we want to go.” There was a lot of support for the charters in the consultation, particularly around the role of children and young people, but some concerns were raised about their potentially becoming a token gesture, and we might come on to talk about that.

We must have better transparency; that is the real purpose of the charters, and it is something that has probably been a challenge for the organisation in recent history. Therefore, the charters have to be co-designed with the groups whom they are intended to serve, and I think that that will answer the call for ambition, as all user groups need to be content with the co-design approach. It is not me, as cabinet secretary, who will decide the level of ambition—I think that that would be quite wrong. Instead, it is for those groups to come together and set their own aspirations. I imagine that they will be very ambitious, and we will have to respond to that.

Pam Duncan-Glancy: I agree, but as it stands the bill says that qualifications Scotland will decide who to engage in the development of the charters.

Jenny Gilruth: The charters have to be co-designed with those groups, though, so I do not think that qualifications Scotland will get to dictate the level of ambition.

Pam Duncan-Glancy: But the bill determines that it will, in effect, choose who it will engage.

Clare Hicks: With regard to the specificity of the legislation in respect of responsibility for and ultimate ownership of the charter, I think that the policy memorandum and other areas give a clear level of expectation about co-design. They also make it clear that ministers will be consulted in the process, so there will be a degree of oversight in that ministerial responsibility to ensure that the process is being undertaken as effectively as we would all want.

Jenny Gilruth: Is the member concerned that qualifications Scotland would seek to stymie the level of ambition?

Pam Duncan-Glancy: I do not think that that would be an unfair fear.

We have also heard evidence, including from Connect, that there is no explicit role for parents. Indeed, the children’s commissioner raised that issue last week with regard to the role of children and mechanisms for engaging children in the process. There are concerns that there is not enough in the bill to protect relevant interests in the development of the charters, and I would like a further response on that.

In the interests of time, I will ask my other question. If the new body does not meet the

expectations that are set out in the charters, what can anyone do about it?

Jenny Gilruth: A range of consequences flow from the charters. First of all, they provide the new accountability framework that we have talked about, but a level of scrutiny will come with them, too. That scrutiny will come from Parliament and the public, but ministers will also have a role in ensuring that the charters deliver on expectations.

The member mentioned parental involvement. In response to a previous question, I spoke about the role of parents on both of the interest committees and our expectations with regard to the policy memorandum. We can, perhaps, look at strengthening some of that, too.

The charters are really about scrutinising qualifications Scotland’s adherence to what stakeholders, whoever they may be, have been telling it and ensuring that it addresses and drives forward any required changes and that, as a result, it is not tokenistic. That is, I suppose, a challenge on which the committee has heard a range of views—that is, how we ensure that the governance structures drive meaningful change in practice. After all, a bill—a piece of legislation—is not necessarily going to drive the type of meaningful change that we need in that organisation. Changing some of the governance structures is key, and I think that that is the point that the member is making.

Pam Duncan-Glancy: It is also the point that Ken Muir made when he said that the bill, as drafted, does not yet give the “bottom-up approach” that is needed to do what the cabinet secretary wants. Do you agree with that?

Jenny Gilruth: No, not necessarily. I go back to the point that I made to the member at the start of this evidence session: if there are specific parts of the bill that the member thinks are deficient in some way, I am happy to work with her on looking at how we can strengthen them.

I have to come back to my original point, though, which is that the status quo is not working. We have to get this right. We have to reform the qualifications body, because I cannot deliver on the aspirations of Professor Hayward’s review unless we do this work. The body has to listen to the views of teachers and young people. It has not been able to fulfil those expectations in recent history, so how we reform and change it is really important.

Look, I am a politician, and I am quite sure that we will all disagree on parts of the bill, but there will also be areas on which we can make progress. However, if the member thinks that this area needs strengthening, I will be happy to hear any of her views further to that.

10:30

Ross Greer: I have a brief question on the charters. Sections 10 and 11, on creating the charters, require qualifications Scotland to

“consult such persons as it considers appropriate.”

The subsequent section, which is on review or revision of the charters, contains no requirement for consultation; qualifications Scotland would be empowered to do that unilaterally. Should the position in the earlier sections not be replicated so that there is a requirement for any review or revision of a charter—any new version of it—to be consulted on?

Jenny Gilruth: The member makes what sounds like a reasonable point. Again, I will defer to my officials.

Nico McKenzie-Juetten (Scottish Government): The subsequent section—in section 12(5), I believe—applies the consultation requirements in sections 10 and 11 to any revised charter, so that aspect is taken care of.

Ross Greer: Grand—thank you. That is a useful clarification. That was my bad.

Willie Rennie: I have a few questions on accreditation. Fiona Robertson from the SQA indicated that if it was felt necessary, for integrity, that the accreditation function be removed from the new qualifications Scotland, that should be considered. It has been mentioned that perhaps the Scottish Credit and Qualifications Framework, or even the inspectorate, could be a home for that. What have you considered?

Jenny Gilruth: Many of the considerations on accreditation pre-date my time in office, but I know that a range of proposals were considered at the time—moving accreditation to the SCQF was one. There were other proposals on moving it out of the body completely or creating a new one. I do not think that we are in the financial market for creating new bodies, at the current time. However, for example, consideration was given to the Scottish Funding Council doing accreditation, moving it to the new inspectorate or to Education Scotland, or moving it within qualifications Scotland with increased separation.

On the point that Mr Kerr made at the start, we have to be mindful of wider education reform work. I am aware that next door to my office is Mr Dey, who is leading on all the post-school reform work. Accreditation affects him, too. I am taking forward the bill in this parliamentary year and Mr Dey will be working on reform of post-school education next year. The work on accreditation cuts across both, so it is really important that we get our approach right. The committee heard evidence from Fiona Robertson on that. She is exploring that aspect through our short-life working group,

which is considering the role of quality assurance across education and in our qualifications system.

Clare, do you want to come in on that?

Clare Hicks: The point about considering the scope of accreditation—by which I mean the qualifications that it applies to—is very important. The short-life working group, which the cabinet secretary referred to, is chaired by the Scottish Government and involves a range of organisations that are involved in quality assurance.

Willie Rennie: I will come back to that. My question is more about where accreditation is placed. Why did you decide not to move it?

Jenny Gilruth: I might defer to my officials on that. I think that the decision was taken prior to my time.

Clare Hicks: We went through a detailed appraisal of the options that the cabinet secretary has set out. The preferred option of strengthening the governance arrangements to separate accreditation from awarding was based on the evidence that we had received up to that point on stakeholders’ confidence in the accreditation process. That evidence said that the process that the SQA currently runs is strong, but stakeholders wanted greater clarity on the separation of functions.

Willie Rennie: I think that that has changed. There is a growing consensus that separation would bring confidence.

Clare Hicks: All that I will say is that the bill seeks to strike the right balance and not to make an arbitrary decision whether to move the function to a separate body, or to have a stand-alone body, in the current context of challenging financial circumstances.

Jenny Gilruth: I will not add to that, but Mr Rennie might want to come back in.

Willie Rennie: Let me just park that. However, I think that there is consensus on the matter. Even Fiona Robertson acknowledged that, perhaps for confidence purposes, it could be considered.

Jenny Gilruth: That is something that we need to look at. I do not want to take away from the points that Mr Rennie is making, but Clare Hicks is right to say that the financial realities that we are living in are a pressure. We need to be cognisant of that.

As for the challenge, I know that the committee has taken evidence on the matter, but as cabinet secretary, I have not received much correspondence about it. I have had representations from the accreditation team within the qualifications body, who have a very clear view. Colleagues around the table might have heard views from the professional trade union or

from the SQA. Apart from representations from the SQA, however, I do not recall receiving representations on accreditation, in recent history. I might be wrong about that, but it is not an issue that has been routinely raised with me.

Willie Rennie: I do not think that people are marching in the streets about it, but there is a wider view.

I want to move on to the voluntary nature of the accreditation and regulation system, which is something that Fiona Robertson indicated should perhaps change. Largely, those functions are voluntary; I think that she was indicating that there should be a greater degree of compulsion with regard to involvement. What is your view on that?

Jenny Gilruth: That is quite a contentious issue, in itself. As you have set out, Mr Rennie, the system is voluntary, except when it comes to Scottish vocational qualifications, which need to be accredited.

There will be a range of views on whether accreditation should be mandated. I am not going to give Mr Rennie a direct answer on that today; I will consider it. After all, taking such a decision would not be without consequences. I suspect that the main consequence would be to do with resource—which I do not have.

As a result, we need to be pragmatic about the realities of where we are. Would I, in an ideal world, look to mandate accreditation of all qualifications? I am not sure that I would, because it might have unintended consequences for a range of qualifications.

Fiona Robertson knows qualifications better than I do. She delivers a suite of different qualifications in a range of educational settings. It has probably grown quite naturally that accreditation is not mandated for every qualification that is offered. However, that is something that we will continue to consider. Moreover, I do not want to divorce the challenge from Mr Dey's wider work on reform of post-school education, which is why the work of the short-life working group is really important.

Willie Rennie: I have a final question on accreditation. I understand that the accreditation and regulation function in Wales has five times the budget of the accreditation and regulation function in Scotland. Are you familiar with that? Do you know why that has happened?

Jenny Gilruth: I am not directly familiar with the Welsh approach to accreditation, but officials might be. If Wales had five times the budget, that would intrigue me.

Clare Hicks: The establishment of Qualifications Wales, which has that regulatory and accreditation function, is relatively new. Its

scope is wider than the accreditation function within the SQA as it stands, and its role with regard to Welsh qualifications reflects the fact that Wales has a market in the school sector that we do not have in Scotland. There are differences. I point out that we have, as part of the work of the short-life working group, which is looking at the scope of accreditation, made contact with regulators across the UK to look at their different models—there are different models in each part of the UK—to see what is appropriate.

Jenny Gilruth: I think that such an approach would affect qualifications in different ways, given that so many of the qualifications that are delivered by the SQA are not delivered in schools. Our focus today might mean that we are looking at this through a school-unit lens, so perhaps we should ask secondary headteachers to look at the issue in the future. I am not against doing so. My question, though, is always going to be this: how would that improve things for learners? How would it improve outcomes for our children and young people?

Willie Rennie: My final question is on child protection. Last week, the Children and Young People's Commissioner Scotland raised the issue of there being a vacuum, or an absence of powers, in inspection, related to the child protection powers that local authorities and schools have with regard to removal of teachers. The General Teaching Council for Scotland has a function in respect of individual teachers, but there is concern that the system that is operated by local authorities and schools is not sufficient and that it is not inspected. Do you have a view on that?

Jenny Gilruth: I am sorry, but that was not a point that I picked up on in the previous evidence session. Does that relate to the protection of vulnerable groups scheme and fitness for teaching?

Willie Rennie: No. Basically, the GTCS regulates individual teachers, as you know.

Jenny Gilruth: I do.

Willie Rennie: Local authorities are obviously the direct employers of the teachers, and there is concern that there is no scrutiny of their systems for checking who is employed in their schools, or of the complaints that are received.

Jenny Gilruth: I discussed that with the chief executive of the GTCS very recently—I think that it was last week or the week before—and I have agreed to meet Disclosure Scotland to discuss it. If it would be helpful, I could write to update the committee on that, because I share the concern that has been raised.

The Convener: Can I come to Bill Kerr now, please?

Bill Kidd: No, you can't.

The Convener: Bill Kidd. I am sorry.

Bill Kidd: Liam Kerr is William as well: maybe that is where that came from. Anyway, Bill Kidd here.

I am aware that the convener has said that we are a wee bit short of time.

The Convener: We are okay. Carry on—I just needed us to get a bit more momentum going.

Bill Kidd: I have a couple of quick questions on the chief inspector of education. We already have an inspection regime. What will be the purpose of changing it for the future?

Jenny Gilruth: That relates to the point that I made previously about the perception—real or otherwise—that joining the inspectorate with Education Scotland was not good for independence or accountability. Separating the role and legislating for the post gives it objectivity and clarifies roles and accountability for improvement. That is a pretty significant shift.

I was also quite taken by some of the evidence that the committee had from Fife Council—it might have been written evidence—about there being a gap in the system, in that without the annual reports that the chief inspector would have published previously, local authorities do not necessarily have national guidance on their improvement priorities such as used to exist in the system. It is important that we bring that back.

I was also quite taken by evidence that the committee heard from Professor Graham Donaldson, who essentially talked about the challenges in the system just now, and how the role of inspection is meant to address them—it is meant to flag up areas of concern.

Let us take attendance and behaviour: those issues should have been known about and flagged up through inspection reports. There is a wider challenge. It is not necessarily about the legislation but about the purpose of inspection, which is why Janie McManus, the interim chief inspector, is carrying out a review of the inspection framework to ensure that our inspection reports are challenging the system robustly and giving it support where it is needed, and that they are flagging up to the Scottish Government, and to me as cabinet secretary, where the challenges are in the system.

This time last year, we had a range of debates on behaviour. Throughout that time, from the Government's perspective, the evidence base was quite reliant on the "Behaviour in Scottish Schools 2023" research that was published last November. The most recent report before that was undertaken in 2016, so there was a gap. In that

time, I would have expected that inspection reports would have provided challenge and advice to ministers, but that is not necessarily captured in how we currently inspect schools. I suppose that there is a wider question about whether our inspection reports are asking the right things. That is why Janie McManus's work on the framework is really important.

To go back to Mr Kidd's original question, legislating to create the post sends a message to the system that we have an independent and impartial chief inspector who will challenge me, as cabinet secretary, and will challenge local authorities, which have the statutory responsibility for education.

Bill Kidd: Okay, so legislation will enhance the independence of the post and of the person who fills that post.

Jenny Gilruth: Absolutely. That will clarify the role and deliver greater accountability.

Bill Kidd: Great. That explains that.

I am going to have to read this, because it is a wee bit complex. What is the timescale for the expected UK-level subordinate legislation that is required for the chief inspector to be designated an office holder in the Scottish Administration?

Jenny Gilruth: The process is very technical. It is also quite unique because, although the post of chief inspector existed previously, it was not legislated for. I am therefore required to complete the process under section 126 of the Scotland Act 1998. We need to work with the United Kingdom Government on that, because it is outwith the competence of the Scottish Parliament. We propose that that will be done via a section 104 order, so I need to write to and engage on that with the Secretary of State for Education and with other devolved Administrations. The order is being prepared, alongside passage of the bill, in order to have it ready to be laid in Westminster after the act receives royal assent. We expect completion of the bill process to be in the summer, which will allow the chief inspector's office to be operational by autumn next year.

Bill Kidd: That is very clear. Thank you.

10:45

The Convener: We have that process up to autumn next year. What will be the process for the Government to recommend a chief inspector for appointment by His Majesty? What role, if any, will Parliament have in that?

Jenny Gilruth: As committee members will be aware, we are already undertaking appointment for the chief inspector's substantive role. It is

important to say that Janie McManus is currently in the interim role.

The chief inspector will be accountable to Parliament in the same way as other public roles are accountable to Parliament—for example, through their being called to give evidence at the committee. Additionally, the chief inspector will be required to lay the inspection plan in Parliament. It is a senior civil service appointment, so the approach is very similar to that for other appointments in that space. The Civil Service Commission will also be involved in the process.

The Convener: So, there is no specific role for Parliament.

Jenny Gilruth: There is no direct role.

The Convener: When, and how frequently, does the Government use its powers of direction to the inspectorate right now? We have had some evidence on that. The cabinet secretary referred to impartiality. Some people have suggested that the inspectorate should report to Parliament rather than to ministers. Does the cabinet secretary envisage similar levels of direction under the new arrangements?

Jenny Gilruth: No. In my experience, direction is very rarely deployed. I think that I have deployed it only once. We discussed this yesterday: it has been used only eight times, I think. Direction is very rarely used and, when it is used, it is usually at the behest of a senior member of HMIE, who would provide the cabinet secretary with advice.

It might be that a cabinet secretary takes a decision—I think that it has happened in the past—to direct inspection, if issues have been raised with them directly. However, in my experience, the evidence base comes from the inspectorate, which raises concerns with me, and we then act to provide it with the powers to carry out an inspection.

We will still be able to request that inspections be carried out by the chief inspector, but there is quite a significant movement away from ministerial power and towards the chief inspector providing the main thrust of direction.

The Convener: You understand that sometimes it is about the optics of things, and the perception of independence.

Jenny Gilruth: Yes.

The Convener: Do you agree that the position might not be quite as independent as you are seeking it to be, given the structures of reporting to Government?

Jenny Gilruth: We did not need to legislate for the office of chief inspector, but I chose to do so in order to enhance the inspectorate's independence

from ministers. That independent role and the challenge to Government are really important. If anything, the bill takes ministerial power away and empowers the chief inspector to lead on direction of inspection. They will no longer, for example, as is the case at the current time, need to come to me for permission if they think that they need to carry out an inspection for whatever reason. Therefore, the bill actually dilutes ministerial power.

The Convener: Nico, do you want to add to that?

Nico McKenzie-Juetten: It is important to highlight the fundamental shift of power away from ministers and towards the chief inspector that the bill would bring about. Basically, the current law in relation to inspections is that ministers, and only ministers, can “cause”—as the law calls it—inspections. That relates to all inspections—not only special inspections, which we just talked about, but regular inspections.

Under the bill, the inspection programme will, generally speaking, be in the hands of the chief inspector, with the exception of specific circumstances in which ministers might require the chief inspector to inspect—what we would call “special inspections”, I guess, at this point in time.

Jenny Gilruth: Those are very rare.

Nico McKenzie-Juetten: They are very rare. They tend to be connected to regulation of independent schools, for example, or to particular concerns that are raised with ministers. Ministers have general functions around, for example, raising standards, under section 3 of the Standards in Scotland's Schools etc Act 2000. There are good reasons for ministers retaining some authority to require inspection in limited circumstances. That is what the bill does, while moving away from the fundamentally different current position.

The Convener: We have also heard that the bill focuses on the inspection of the establishments rather than the learner's experience—we have already decided that we do not like the word “learner”—or how bodies or establishments work together to support outcomes. Is it the intention that inspection should be limited to the educational establishment?

Moreover, does the bill allow future chief inspectors the flexibility to innovate in the inspection programme? Nico McKenzie-Juetten said in his previous answer that the programme could evolve, if it is in the hands of the inspector to decide what it looks like. Is that possible under the bill?

Jenny Gilruth: It is. That degree of flexibility is already happening. As the committee might be

aware, Janie McManus's team is currently leading on work to inspect the improvement function of our local authorities. I have a concern that, in some parts of Scotland, there might not be the support that should exist. Ms McManus is leading on that work, and it is really important. Now that we are recovering from the pandemic, we are looking at the post-pandemic attainment gap and all the challenges that exist in schools, and I need to be sure that our local authorities have the mechanisms in place to help to support our schools. That is not about inspecting establishments—it is about inspecting local authorities' improvement functions.

I think that the committee also heard evidence from Graham Donaldson on initial teacher education. The inspectorate has the power to inspect that, but it has never been used. However, I am interested in that because, although we do not often debate initial teacher education in the chamber—it does not get the parliamentary coverage that it should—it is integral to delivering quality learning and teaching.

The inspectorate is also carrying out a thematic review of behaviour in Scotland's schools and a thematic view of maths in relation to numeracy across the curriculum. It does not always narrowly examine institutions through school reports; it can also look across the piece at a range of issues. It is already undertaking that work, and I foresee that being the case in the future, too.

The Convener: The inspectorate also has the opportunity to inspect early learning and childcare settings.

Jenny Gilruth: Yes.

The Convener: Those settings could be double inspected, given that we have both the Care Inspectorate and the chief inspector of education. What are your thoughts on that? How will the inspectorates work together?

Jenny Gilruth: The solution to that, as proposed in the Muir report, is the shared inspection framework, which has been developed with HMI and the Care Inspectorate. Ms Don-Innes and I met HMI and the Care Inspectorate recently to discuss that, and that work is being taken forward.

You make an important point, convener. We are not doubling the workload here; instead, this is a shared approach to the inspection of early learning and childcare, which is unlike other parts of our education system. That is exactly why the Care Inspectorate sits alongside HMI in that respect. That work is being taken forward, and I am happy to write to the committee with further detail if that would be helpful.

The Convener: It would be helpful, yes.

Liam Kerr: I have a final question on that topic, cabinet secretary. Under the bill, the chief inspector would also have to establish a strategic advisory council, which would consist of those who would be impacted by the chief inspector's functions. What would that look like on a practical level? How would the advisory council support and, indeed, critique the chief inspector in practice?

Jenny Gilruth: I will bring in Clare Hicks on the practicalities of the advisory council and then come in to talk about how I envisage it driving improvement.

Clare Hicks: The bill sets out that the office-holder of chief inspector must set up an advisory council, and we expect the stakeholder groups that are affected by inspection to form that council. Its independent role will provide an important additional safeguard, as it means that there will be a body on which a group that is affected by inspection can influence the decisions that the chief inspector will take about the programme of inspection.

We expect ADES, teaching unions, young people's organisations and parental organisations to be involved in that advisory council, as they are affected by the practice of inspection and the information that comes out through it. The council would advise on, for example, the reporting that comes through inspection and how the culture and innovation of inspection should change over time.

Liam Kerr: Do you want to add anything, cabinet secretary?

Jenny Gilruth: No—I do not think so. It is really important that the advisory council is there to challenge the chief inspector. It is not about having cosy consensus but about disrupting and challenging some of the status quo thinking around inspection. Part of that work lends itself to Janie McManus's review of the strategic approach to inspection and how that will change in the future.

The point that I was trying to make in my earlier response is that, at the current time, there are a number of areas that we might have expected to be flagged up in inspection reports but which have not necessarily been. Perhaps our inspection reports are not looking at the right things. A number of stakeholders that the committee has heard from have a range of views on that matter, and the strategic advisory council will be helpful in providing that level of challenge.

Liam Kerr: The removal of the inspection function will leave a legacy body to support the curriculum. The committee has heard wide views on that remainder body, the possibility of overlapping roles and lack of clarity with other organisations. Is the bill sufficiently clear on that?

What role will the stakeholders that Clare Hicks listed earlier have in developing the governance of the remainder organisation?

Jenny Gilruth: I just want to check, Mr Kerr, whether you are referring to the remainder of Education Scotland.

Liam Kerr: Yes.

Jenny Gilruth: I answered a Government-initiated question on that in June, and I set out a clearer approach for my view of Education Scotland as a body.

I should probably declare an interest as a previous employee, but Education Scotland has become an organisation that, to my mind, is involved in lots of different things in Scottish education. I have asked the chief executive to provide the sort of much more focused approach to curriculum support for the teaching profession that Learning and Teaching Scotland previously provided. We need to refocus some of the organisation's strategic priorities to look at how it can better support the teaching profession. Historically, that is what it was all about; over time, though, it has become more about advice and guidance to the profession, and advice and guidance to teachers does not necessarily always land well. Practical support is better, and it is better if we can develop it with Scotland's teachers.

The approach that we have used for curriculum improvement also speaks to the role of practitioners in the organisation. I know that it is a bit of a niche point, but I was a secondee to Education Scotland in 2012, when a team of us came out of school to support the development of the new qualifications. The approach to staffing had secondees coming in and out of school, and it was good for the system. It was good to get the opportunity to come out, work at national level and go back into school again.

The current approach to the staffing structure in that organisation, which Gillian Hamilton has inherited, is one of static employment. That is challenging, because it means that we need to look at the skill set that we have in the organisation. We also need to look out to the teaching profession, which is why the appointment of Andy Brown is really important for leading on numeracy. However, I want the same approach to be replicated in every curriculum area.

We need to think again about how we get teachers into that organisation. I see the centre for teaching excellence as playing a key role in that regard, by providing opportunities for folk to come out of school on short-term secondments and engage with pedagogy and practice in a way that professional development opportunities do not always allow for at local authority level.

Liam Kerr: Finally, the financial memorandum sets out the costs of the reforms, but it focuses on the obvious structural costs and concludes that they will fundamentally be "similar". If it is accepted that the activity cost is fundamentally the same before and after reform, does that not bring us back to the point that I made at the start of this evidence session? We will have the same organisations with the same costs and, therefore, the same outcomes.

Jenny Gilruth: They will not be the same organisations, because they have to change. We have spent a lot of this morning talking about what that change might be, whether it be structural, in relation to governance approaches, or whether it is cultural, in relation to how people are treated and how stakeholders are engaged with.

Obviously, a financial memorandum sits alongside the bill, so committee members will interrogate that. If there is an ask from Mr Kerr for additionality, I am happy to hear it. It might be challenging to deliver it in the current climate, but we have to consider these things in the round. We have to deliver meaningful change, and that is the challenge with this bill. The new organisation cannot be a replication of what came before.

I know that there is a range of views about the bill perhaps not satisfying everyone's expectations. That is okay—we are at stage 1, so I will listen to views on how we can improve the legislation. However, standing still is not good enough, and I cannot deliver on the aspirations of Louise Hayward's report unless we reform the qualifications body. The chronology is really important.

The funding is attached to the financial memorandum. Mr Kerr asked about engagement with stakeholders and how that might be better facilitated or supported financially. Again, I am happy to work with him on that. If he has strong views about our needing to reconsider the approach, we will look at what we can deliver, while recognising the challenging state of our public finances.

11:00

Liam Kerr: I will throw that back to you slightly, because the committee has heard that meaningful change leads to more costs. Cabinet secretary, you talked about proper engagement, and you acknowledged in answer to Ross Greer's question that there are a lot of stakeholders. Indeed, Clare Hicks listed a number of them in response to my earlier question. New development comes at a cost; there is, for example, a cost to councils in releasing teachers to engage in the process.

The committee has heard that more is needed. Does it concern you at all that recent financial

memorandums, particularly in other portfolios, have been the subjects of successful challenge? Is there value in the Government actively looking again at the financial memorandum to ensure that all those issues have been accounted for?

Jenny Gilruth: The member makes a reasonable point. I have no overt concerns with the financial memorandum as currently drafted—I see Clare Hicks indicating that she wants to come in, but I just want to say that the point is about additionality, and, if that is the case, we will get into party politics, which I do not really want to do in this evidence session. The question, though, is this: from where will that additionality come? Mr Kerr is right to say that if we want to drive meaningful change, we will have to resource it.

I am watching a number of UK Government budget lines. For example, I am watching what is going to happen with VAT, because the additional consequentials are apparently coming to Scotland. When? I do not know. I am watching for the 6,500 extra teachers that were promised down south and the consequentials that I expect to flow from that. I am watching for the breakfast clubs that were committed to and the consequentials that I expect to flow to my budget.

I do not disagree with Mr Kerr, but I am, to some extent, constrained. I do not want to be overtly political—although I probably have just been, convener—but I must ask this: from where in the Scottish Government's budget should funding come, if Mr Kerr does not think that the present funding is appropriate? If he wants to specify that, I will be happy to look at it.

Clare, did you want to come in on the financial memorandum? We will set the party politics aside.

Clare Hicks: I just wanted to say that the financial memorandum reflects the best estimate of the transition cost of establishing the new organisation. We are looking at that, as we would, and we will have to look at any amendments to the bill that might require changes to the financial memorandum.

The separate point is how qualifications reform more broadly takes place and the funding that is required to do that. That is not just about bodies engaging differently, but about what they are actually delivering. That is separate to what is set out in the financial memorandum, but we will need detailed financial planning and the appropriate budget process to support that.

Liam Kerr: Indeed.

The Convener: Jackie, no one has asked your question, so crack on.

Jackie Dunbar: That is because George Adam is after me this time, convener. *[Laughter.]*

Good morning, cabinet secretary. Going back to the transition to the new bodies, can you tell us about the Government's engagement with the staff of the current national bodies in the process of transitioning over to the new structures? How is that going?

Jenny Gilruth: As cabinet secretary, I have met staff in all organisations on a number of occasions—and with their professional associations, too, I should say. Civil servants leading on the bill have engaged with staff throughout the process, and I think that there were staff sessions on the bill. In addition, trade union membership from the SQA sits on the transition board, so staff have been engaged throughout the process.

This has undoubtedly caused a degree of concern for staff, because they are going through a reform agenda. Our no compulsory redundancies commitment has helped in that regard, and we have tried to work with them throughout the process, but it has been an unsettling time for them. After all, we are talking about change.

Jackie Dunbar: With that in mind, what kind of feedback has been coming back from them? I understand that it is an unsettling time, but has the feedback been positive, or have concerns been raised?

Jenny Gilruth: I think that there is a recognition in the SQA and in Education Scotland that things have to change, and they want to be part of the new change. It is not my role as cabinet secretary to talk for the staff, but in general, I would say that they are supportive of improvement and reform. However, they want to be part of it—they do not want it to be done to them—so it is important that we take them with us.

The Convener: John Mason has a supplementary question.

John Mason: Following on from that and Liam Kerr's question, I note that Mr Kerr asked about on-going costs, but we were also told that the reform team that was set up to specifically look at the changes was stopped in March, because of a lack of funding. Does something need to happen in that space?

Jenny Gilruth: I will bring in Clare Hicks, as she has indicated that she wants to come in.

Clare Hicks: Following the cabinet secretary's appointment, we revised the approach to reform to reflect the cabinet secretary's priorities, and I asked the SQA and Education Scotland to subsume some of the costs of reform into their working practices during that period. That meant a change from having that dedicated stand-alone team.

The reform programme budget, which sits with the Scottish Government, is being utilised to support the reform process, and we are working with the bodies on what additional costs will need to be met during this financial year and into the next. Funding is already flowing to the SQA to support project management and the reform process.

The Convener: I call George Adam.

George Adam: Luckily, this is the last question.

The Convener: Maybe—we will see. I might come in with something.

George Adam: If it is possibly the last question, then I am not stealing anybody else's.

My question is short but important. There is much talk of Gaelic in the bill, but no mention of British Sign Language. However, our predecessor committee considered legislation to give BSL equal status as a language. What are your thoughts on that?

Jenny Gilruth: I am very amenable to that suggestion. We will reflect on it and provide an update to the committee, but I broadly agree that we need to be very mindful of BSL's place as a language and how we can better reflect that in legislation.

George Adam: Thank you.

The Convener: That will be helpful, because we have had quite a lot of email traffic on that topic.

I thank the cabinet secretary and her team for coming along today. That concludes the public part of our proceedings. I allow our witnesses to leave, and the committee will move into private session to conclude its final agenda items.

11:06

Meeting continued in private until 12:11.

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