



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

EDUCATION AND CULTURE COMMITTEE

Monday 7 December 2015

Session 4

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EDUCATION AND CULTURE COMMITTEE

30th Meeting 2015, Session 4

CONVENER

*Stewart Maxwell (West Scotland) (SNP)

DEPUTY CONVENER

*Mark Griffin (Central Scotland) (Lab)

COMMITTEE MEMBERS

*George Adam (Paisley) (SNP)

*Colin Beattie (Midlothian North and Musselburgh) (SNP)

*Chic Brodie (South Scotland) (SNP)

*Gordon MacDonald (Edinburgh Pentlands) (SNP)

*Liam McArthur (Orkney Islands) (LD)

*John Pentland (Motherwell and Wishaw) (Lab)

*Mary Scanlon (Highlands and Islands) (Con)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Angela Constance (Cabinet Secretary for Education and Lifelong Learning)

Liz Smith (Mid Scotland and Fife) (Con)

CLERK TO THE COMMITTEE

Terry Shevlin

LOCATION

Dunfermline City Chambers

Scottish Parliament

Education and Culture Committee

Monday 7 December 2015

[The Convener opened the meeting at 11:00]

Education (Scotland) Bill: Stage 2

The Convener (Stewart Maxwell): Good morning, everyone, and welcome to the Education and Culture Committee's 30th meeting in 2015. My name is Stewart Maxwell; I am a West Scotland MSP and the convener of the committee.

The committee is delighted to be meeting in Dunfermline city chambers as part of the Parliament day events. I thank everyone for their warm welcome and, in turn, welcome everyone to today's meeting. It is great to see people here—I hope that you have not come too far and have not got too wet getting here. Thank you very much for your interest in the committee's work. I remind everyone to keep all electronic devices, whether they be phones or whatever, switched off at all times during the meeting, because they interfere with the sound system. I do not want to have to interrupt or stop the meeting because someone's phone is ringing.

We continue our stage 2 consideration of the Education (Scotland) Bill. I welcome to the meeting Angela Constance, the Cabinet Secretary for Education and Lifelong Learning, as well as her accompanying officials, who are not permitted to participate in the formal proceedings. I also welcome Liz Smith MSP, who is back again with the committee.

Everyone should have a copy of the bill as introduced, the second marshalled list of amendments and the second list of groupings of amendments. For each debate, I will call the member who lodged the first amendment in that group to speak to and move that amendment and to speak to all the other amendments in the group. All other members with amendments in the group—including the cabinet secretary, if relevant—will then be asked to speak to their amendments. Members who have not lodged amendments in the group but who wish to speak should indicate as much by catching my attention or the attention of the clerks. If the cabinet secretary has not already spoken on the group, I will invite her to contribute before we move to the winding-up speech. The debate on the group will be concluded by my inviting the member who moved the first amendment in the group to wind up.

Following the debate on each group, I will check whether the member who moved the first amendment in the group wishes to press that amendment to a vote or to withdraw it. If they wish to press, I will put the question on the amendment. If a member wishes to withdraw their amendment after it has been moved, they must seek approval to do so and, if any member objects, the committee immediately moves to the vote on the amendment. If any member does not want to move their amendment when called, they should say, "Not moved." Members should note, please, that any other MSP may move the amendment. If no one does so, I will immediately call the next amendment on the marshalled list.

Only committee members are allowed to vote. As voting in any division is by a show of hands, it is important that members keep their hands clearly raised until the clerk has recorded the vote. Because the committee is required to indicate formally that it has considered and agreed to each section of the bill, I will put a question on each section at the appropriate point in the proceedings.

Before section 1

The Convener: I remind members that this group is about a big part of the bill. Given its size and complexity, I will give extra flexibility to and be as lenient as possible with members, who are welcome to come in, ask questions or intervene to ensure that they cover the issues that they need to cover.

Amendment 104, in the name of the cabinet secretary, is grouped with amendments 104A to 104G, 105, 106, 106A, 106B, 107, 107A to 107E, 159, 108 to 110, 160 to 163 and 129.

The Cabinet Secretary for Education and Lifelong Learning (Angela Constance): Good morning, committee. Collectively and individually, the Government amendments in the group will give effect to and support our key priorities of delivering equity and excellence for all children and closing the attainment gap between children from our most deprived communities and those from our least deprived communities. The key Government amendments in the group are amendments 104, 106 and 107, and I will focus mostly on them, as they are interrelated. I will also respond to the non-Government amendments that have been lodged. I thank all the MSPs who have invested time and effort in considering how to enhance this element of the bill. Consequently, the first group of amendments is significant in size as well as in purpose, and I ask for the convener's and the committee's forbearance as I speak to it.

The Government's amendments have been framed to take account of the views that a wide range of partners have expressed through both our consultation on the national improvement

framework and the constructive evidence that the committee took at stage 1. If the amendments are agreed to and the bill is passed, the amended sections will be part of the Standards in Scotland's Schools etc Act 2000, which will result in a single coherent piece of legislation that covers all aspects of education improvement—a step that many have welcomed.

Amendments 104, 105, 108 and 109 adjust the inequalities of outcome duties that form part 1 of the bill. In line with the committee's suggestion at stage 1, we are strengthening the due regard duties that are placed on education authorities and ministers. They no longer mention the desirability of narrowing the attainment gap; instead, they recognise that such action is a necessity. The duty on education authorities is also being extended so that it covers not only the making of strategic decisions but the implementation of those decisions. Amendments 105 and 108, which are consequential, remove the inequalities of outcome duties in sections 1 and 2.

Those changes represent a significant strengthening of part 1. We have listened to and taken on board the views of others.

We have carefully considered Mark Griffin's amendments 104A and 104D and Malcolm Chisholm's amendments 104B, 104C and 104F, which seek to extend the inequalities of outcome duties to cover specific groups of children—namely, looked-after children and children with certain health conditions. I absolutely accept that those children can also face challenges in relation to attainment, and for that reason they are already covered by the provisions of the Education (Additional Support for Learning) (Scotland) Act 2004.

I have previously made it clear that I am open to future discussions about how the regulation-making power that we are introducing might be used to support such children further. However, I am keen that we use the legislative opportunity of the bill to focus on the particular challenges that children who are impacted by poverty face.

We already know that, too often, poverty and additional disadvantage are interlinked. Many of the children for whom we must close the attainment gap are disabled, have a long-term serious health condition or are looked after, and I am confident that our approach and focus will reach them. The regulation-making power also allows us to review and potentially change that approach in the future. Accordingly, I do not consider amendments 104A to 104D or 104F to be necessary.

We are all aware of the challenges that children who grow up in poverty face, not least in accessing the whole of school life, and the

Government is committed to addressing them. Although I welcome the intent of Mary Scanlon's amendment 104E, I do not think that it is necessary. I am absolutely clear that, by placing a duty on the Scottish ministers and education authorities to "have due regard to" closing the attainment gap, we are requiring action to address issues that relate to access and participation.

Similarly, there is limited value in Mark Griffin's amendment 161, which seeks to introduce a statutory responsibility on Her Majesty's Inspectorate of Education to inspect and report on one particular aspect of the quality of education that primary schools provide. Ministers can already direct inspectors to look at specific issues in a school or an aspect of education under sections 66(1) and 66(1AA) of the Education (Scotland) Act 1980, and they have done so in the past. Inspectors already consider and report on the differing performance of children from different backgrounds and situations across all stages of education.

However, I offer my support for Mark Griffin's amendment 104G. I am sure that the committee will accept the importance of including all relevant parties in the new decision-making process that amendment 104 will require. Amendment 104G would ensure that our efforts to raise attainment, which is a complex issue, were a shared endeavour, by recognising the crucial contribution that teachers—in this case, represented by their trade unions—can make to such decisions.

I turn to amendments 106B and 107A to 107D from Mary Scanlon and amendments 162 and 163 from Mark Griffin, which focus on the setting of targets. I make it clear again that the Government's stated aim is to close the attainment gap, not to reduce it by a certain amount. That will not happen overnight, but it is the challenge that we must set ourselves. To settle for anything less would be to fail our children and young people.

The amendments raise two key questions: how do we most effectively measure the progress that children are making, and how do we assess the effectiveness of our efforts to address inequality? Can either aim be achieved through setting targets that focus on a small number of measures that view success through a narrow prism or focus on one element of learning, which might skew our view of a good education or give us a snapshot for a given group of children at a given time? Our experience with the targets that were set as part of the Standards in Scotland's Schools etc Act 2000 and the national priorities for education, none of which were achieved, suggests not.

Target setting also appears to go against the guiding principles of our education system and of curriculum for excellence, which is designed for every child to reach their full potential. Our

approach of creating a national improvement framework aims to build on those guiding principles. We will create a framework that results in improved availability of high-quality data not just in relation to the senior phase, as is currently the case, but at key points throughout a child's education.

The framework will give parents, parliamentarians and the public regular reports on the progress that we are making, to improve standards for all and to raise attainment for children who are disadvantaged in their learning across a range of measures. The reports will provide the information that we need to assess the effectiveness of our collective approach and to identify where further improvement is required. For those reasons, I cannot support the members' amendments.

In my evidence, I advised the committee of my intention to give a statutory underpinning to the national improvement framework, which is what amendment 106 will achieve. It requires ministers to prepare such a framework and review it annually. Amendment 129, which is included in the group, will amend the long title to reflect the establishment of such a framework.

Amendment 106 also declutters the current legislative landscape by removing the existing national priorities for education and associated reporting structures in the 2000 act. It is fair to say that our education system has moved on from those significantly. In the future, our priorities for the education system will be contained in the national improvement framework. They will be reviewed annually to reflect emerging trends and any evidence gathered through the framework. That will allow us to respond quickly without the need for secondary legislation, which is a key shortcoming of the existing arrangements under the 2000 act.

We will consult and engage with key groups in our annual review, including education authorities, trade unions and—vitaly—children and young people and their parents. That continues the approach that we have taken in developing the draft national improvement framework. Since publishing it in September, we have undertaken extensive engagement—we have reached and listened carefully to the views of more than 5,000 children, young people, parents, teachers, education professionals, academics and others. That engagement has identified widespread support for the priorities that are set out in the draft framework and a broad consensus that progress across the six drivers for improvement will deliver the benefits for children in Scotland that we all want.

At the same time, questions about a number of issues have been raised. I reiterate my

assurances, as well as those of the First Minister, in Parliament and elsewhere on those matters. We intend to avoid the perverse incentives that are associated with narrow and rigid approaches to national testing. We will support teachers' flexibility and autonomy to exercise their professional judgment, which we acknowledge is key to assessing and supporting children's progress and their learning, and we are determined to avoid the production of crude league tables.

11:15

Amendment 107 introduces a series of duties on the Scottish ministers and education authorities to produce annual plans and reports that describe past and future activity. The duties will require the Government and education authorities to set out the steps that we will take and to report on those taken, as well as the benefits that we want to achieve and those that we have achieved. That is critical to creating a rigorous evidence-led approach around the framework and to our efforts to close the attainment gap, as appropriate information will be gathered systematically to inform decision making, the allocation of resources and other improvement activity.

Given that we are committing to the publication of annual reports at local and national level and to an annual review of the national improvement framework, I cannot see what value would be added by Mark Griffin's suggestion, made through amendment 160, which seems to call for a one-off review approach to closing the attainment gap, when we are committed to continual improvement. Further, the idea that the review should describe our plans for setting the income tax rate seems to be inappropriate. Revenue that is generated from the Scottish rate resolution or devolved taxes will be added to the total funding that is available to the Scottish ministers. It will then be for ministers to decide how all the resources that are available to them should be allocated. As we have seen, the Government has had no hesitation in finding the necessary additional resources to give effect to our ambition of closing the attainment gap.

To assist education authorities to maintain a focus on equity and excellence and on closing the attainment gap, my amendment 107 also requires them to prepare and publish an annual statement on how they will encourage equal opportunities. Those arrangements will replace those previously set out in section 5 of the 2000 act, which is being repealed by amendment 106.

The detail to underpin the planning and reporting arrangements that I have described will be set out in the statutory guidance that accompanies the bill. That guidance will be issued under the existing section 13 of the 2000 act,

which is why amendment 109 will remove section 3 of the bill.

I am happy to support Mary Scanlon's amendment 159, which puts beyond doubt the need for the guidance to be the subject of appropriate consultation.

Mary Scanlon (Highlands and Islands) (Con):

This is a historic occasion.

Angela Constance: None of my amendments specifies the content of the framework or the detail of the assessment. That is deliberate. It would be inappropriate to specify the exact contents in primary legislation. The framework will evolve to reflect emerging trends in our system and support informed decision making at all levels. It is important that we allow for that and do not create legislation that unnecessarily restricts flexibility and innovation.

At the heart of our amendments is our ambition to create an approach to improvement that everyone agrees is proportionate, meaningful, robust, consistent and—to be frank—useful to achieving our priority purposes of closing the attainment gap while raising standards for all. We can agree on a number of principles on which to anchor our approach to measuring children's progress.

In line with international best practice, we will have a full range of evidence under one comprehensive framework, which will tell us how our education system is improving and where further action is needed. Teacher judgment will form the bedrock of the assessment process for children's progress on curriculum for excellence levels, as it does now. However, for the first time, teachers will have access to consistent national standardised assessment data for individual children that is designed specifically to support curriculum for excellence, which will help to inform their judgment about children's progress in literacy and numeracy.

Teachers will be able to use the standardised assessment during the school year to help inform their judgments about and action to support individual children. Assessment must be used in a way that informs and elicits timely action to improve outcomes for children.

We will undertake work to bring about greater clarity and consistency on standards within curriculum levels and the other pieces of assessment evidence that teachers can collect to inform their professional judgment. We will collect and publish a range of data that will provide consistent, robust and transparent information to support improvement.

Nationally and locally, we will collect and publish teacher judgment information on the achievement

of curriculum for excellence levels, initially for literacy and numeracy, at key points in primary school and early secondary school. Parents and the public will be able to access the teacher judgment information consistently across schools and local authorities, through such portals as the parentzone Scotland website. Schools will be able to use standardised assessment data and teachers' judgment about the progress of individual children to inform discussions with parents about children's progress and achievements.

That key part of our reports will give parents more consistent and specific information about their children's progress and learning and will help to signal to parents where they can help and support their children. Local authorities will also want to know how schools in their areas are doing and whether and how they have improved attainment, not least to help to fulfil authorities' new statutory planning and reporting duties. I, as cabinet secretary, will want to know how we are doing at a national level in order to close the attainment gap and to identify where we are making progress and where we might have more to do to help to meet the new duties that are being placed on ministers.

It is clear that assessment is just one part of the framework; that point has been somewhat overlooked during much of the recent debate on the framework. At the same time, it is widely accepted that assessment tools can play an important role in learning, which is why teachers throughout Scotland already use them. During the debate, the realisation has emerged that, while many are already using some form of standardised assessment, there is still a range of tools out there that assess different things in different ways. We simply cannot construct a national picture of how our children are doing from the information that local authorities already gather.

It is disappointing that Liam McArthur's amendment 106A does not recognise the need for—or, importantly, the benefits that will result from—a shift to a national standardised assessment. To rule out an approach that will provide us with consistent and meaningful data at all levels seems to be short sighted, and I do not support his amendment.

When we design the assessment, we will be sure to learn from the experience of other countries. We are committed to considering how our whole education system compares with the experiences and efforts of other countries around the world—hence the inclusion of a new requirement in proposed new section 3G(2) of the 2000 act that all annual reports that are produced by the Scottish ministers should take account of

relevant international benchmarking data. Suggesting that those considerations should be restricted to the incomplete list of surveys that are set out in Mark Griffin's amendment 107E—some of which are relevant, while others, such as the Organisation for Economic Co-operation and Development's teaching and learning international survey, are less so—makes no sense.

I am confident that the finalised framework, which will be published early in the new year, will carry broad support. We have engaged with and involved those who have an interest in that significant development in our education system, and we have worked hard to assuage concerns while listening to views on developing the framework's content.

Taken together, the amendments in my name, supplemented by Mark Griffin's amendment 104G and Mary Scanlon's amendment 159, will provide us with strong foundations for delivering sustained improvement across our education system in the years to come, and will—importantly—enable us to monitor improvement and progress to close the attainment gap. I encourage the committee to support those amendments.

I move amendment 104.

The Convener: Thank you, cabinet secretary. Before I call Mark Griffin, I welcome the pupils of Commercial primary school. It is good to see you—welcome to the Education and Culture Committee.

I call Mark Griffin to speak to and move amendment 104A and to speak to the other amendments in the group.

Mark Griffin (Central Scotland) (Lab): I believe that we need to put looked-after children at the heart of the attainment gap challenge. We are seeking to provide an equal footing for Scotland's kids in care within the new focus on children from poorer backgrounds. Amendment 104A would mean that local authorities would have to set out measures for how they will tackle the attainment gap for both looked-after children and children from deprived backgrounds.

Education is one of the most important economic policies that we can pursue. If we can give every child in Scotland a world-class education, they will be able to take advantage of the amazing opportunities that their future will bring. The Government will be judged on how it supports the most disadvantaged people in our society, and they do not come much more disadvantaged than young people in care. The system seems to be failing them in ways that it fails no one else. The state owes a particular duty of care to those children because they are all of our children. The state is the parent. We pay the bills and we have ultimate responsibility for their

upbringing and future. We cannot address the attainment gap without addressing the educational needs of our young people in care. It is of utmost importance that that should be on the face of the bill.

I am grateful for the Government's support on amendment 104G. I will not keep the committee too long on that amendment, which places a duty on local authorities to consult representatives of trade unions when setting out their measures to tackle the attainment gap. We believe that input from trade union representatives—the people who are on the front line of delivering education and closing the attainment gap—is key to the success of the planning and implementation of any measures.

I turn to amendment 107E. The national improvement framework will result in a new era of data being gathered by the Scottish Government on educational performance and outcomes. That new data will rightly support the Government and the Parliament in taking the necessary measures to close the attainment gap and scrutinise the Government's performance against comparator countries. I believe that international best practice should be at the centre of the new approach.

Amendment 107E would require the Government to look again at international benchmarks and studies and how they interact with the national improvement framework. As the amendment says, those studies are

"the Trends in International Mathematics and Science Study ... the Progress in International Reading Literacy Study"

and the

"OECD Teaching and Learning International Survey."

I take on board what the cabinet secretary has said about whether she believes that those studies are relevant. The evidence that we have taken from professionals in the field is that those are the international benchmarks against which we should set ourselves. The Government is taking a step towards standardised testing. If we can configure the collection of the new data in such a way that it marries with those international studies and comparisons, that will be the best way to allow us, as parliamentarians, and the country to scrutinise the Government's performance.

We are all ambitious about our country's future and we all want to cut the gap between the richest and the rest in our classrooms in order to make Scottish education the best in the world. I want to measure our educational performance and success not against countries throughout the United Kingdom, but against countries throughout the world. By undertaking such a review, we would be able to look again at how we benchmark progress in Scottish education against countries

throughout the developed world. As an outward-looking, confident country, Scotland should be prepared to participate in well-recognised, authoritative international studies.

On amendment 160, I believe in closing the attainment gap in our schools and we support the Government in its intention to do so. However, we remain concerned that, unless additional resources are focused on those who need them most, the goodwill and efforts of the Parliament and Government will be lost. That is why we are asking the Government to review the progress that is made on the aims of the bill and, specifically, to look at whether extra resources will be required in the context of the additional tax-raising powers coming to the Parliament. That would include looking specifically at whether we should raise taxes on the higher earners to raise extra revenue for the most deprived pupils.

11:30

The truth is that how much we care about this issue will be demonstrated by how much we are willing to invest. It is well rehearsed in the chamber and elsewhere that Labour members believe that we should commit to a higher rate of income tax for higher earners and devote those resources to closing the gap. I accept that legislation is not where such a policy would lie, but we would explore ways of ensuring that the eventual legislation will require proper consideration of the resources—including new additional resources that will be available to the Government—that could be devoted to achieving the purpose of the bill.

We are not asking the Scottish Government or members to commit to that position on a higher rate of income tax. Although that is our position, we are simply asking the Government to review the case for further resources once the act is in place and additional powers have come to this Parliament.

I turn to amendment 161. We believe that in order to facilitate the closing of the attainment gap, the issue should become a central part of the school inspection regime. A new duty on Education Scotland to examine the measures that schools are taking to reduce the gap will ensure that schools are focusing their efforts on closing the attainment gap; promote greater public understanding of this Government priority and raise the profile of the issue; ensure that schools are recognised for the work that they are doing to close the attainment gap; and allow Education Scotland to share its findings with regard to schools that are succeeding in this area and those that are not.

As part of Education Scotland's review of 2014-15, it suggested that a new, short, focused visit approach should be used in 2015-16. That will involve a school being visited for a short period of two and a half days with a smaller number of inspectors. Some of those visits will be tried out on a short-notice basis of two working days and others will follow a notification period of two working weeks. The visits will have a specific focus on raising attainment and achievement and how a school is addressing the need to close the attainment gap in teaching, learning and assessment. Given that that need is already recognised by Education Scotland, and given the current focus from all parties on the need to close the gap, that measure, along with others, will help to monitor and evaluate progress in this area.

I turn to amendments 162 and 163. We believe that a strong legislative framework is needed to secure faster progress in closing the attainment gap in every part of Scotland. In particular, we believe that an ambitious goal is needed to close the socioeconomic attainment gap in children's literacy and we want a clear approach and ambitious timescales for making progress to be set out in the legislation. The cabinet secretary says that we will not close the attainment gap overnight, and that is right. However, we want there to be an ambitious target to close that gap as soon as possible. The Government needs to set an ambitious target, as it has done in other areas of national policy. We have national targets for fuel poverty, climate change reduction and the eradication of child poverty. No one is saying that ambitious targets in those areas somehow detract from the overall aims.

We believe that enshrining targets in legislation will clearly articulate the scale of the Government's aims in relation to closing the gap. It will promote greater public understanding of a key Government priority, which I believe is the priority of all MSPs, and will raise the profile of the issue further. It will demonstrate the changes that need to occur to make the policy successful and will ensure that future Governments remain committed to this vital objective. Achieving those goals will require greater focus on supporting improvement for the poorest children, who are most likely to fall behind, while being consistent with the responsibilities of education authorities to support all children's attainment. The amendments will therefore drive a more effective strategic approach to closing the attainment gap at national and local levels.

On closing the literacy gap, at present 12 per cent of children are not reading well by the time that they finish primary school. The majority of those children live in the most deprived areas and that is a key driver of the attainment gap in Scotland and has damaging implications for those children's outcomes in later life. We believe that to

close the attainment gap, the immediate priority must be for schools, parents, teachers and the Government to secure rapid improvement in literacy outcomes, particularly for the poorest children. Evidence suggests that that is an achievable goal and that considerable progress can be made over the next decade.

We also suggest that attainment gap targets within the legislation could build on the existing attainment goals that are being worked on through the early years collaborative and the raising attainment for all initiatives. They include a goal for 90 per cent of children in participating areas to achieve all their expected development milestones by the time that they start primary school by the end of 2017 and a goal for 85 per cent of children in certain cluster schools to have successfully experienced and achieved CFE second-level literacy, numeracy and health and wellbeing outcomes in preparation for secondary school by 2016.

However, the current goals do not ensure that improvements are made for the poorest children—those who make up the majority of that 10 to 15 per cent of struggling learners. They are not included in those ambitions. Such improvements do not have national coverage and do not have a statutory status.

I move amendment 104A and ask members to support the other amendments in my name in the group.

The Convener: I welcome a second group of pupils from Commercial primary school to the Education and Culture Committee. I call John Pentland to speak to amendment 104B and the other amendments in the group.

John Pentland (Motherwell and Wishaw) (Lab): Amendments 104B, 104C and 104F were lodged by Malcolm Chisholm. He believes that the amendments would help to reduce pupil inequalities and strengthen outcomes, because when essential medication treatment is not provided during school hours there is an adverse impact on certain children's learning and an increase in inequality to the detriment of those who are already disadvantaged.

The Education (Additional Support for Learning) (Scotland) Act 2004 does not specifically address that issue. The guidance that is currently used is insufficient, out of date and extensively ignored. That concern has been echoed by the office of the Children and Young People's Commissioner Scotland. If the amendments were to be agreed to, the working group that is developing new guidance would be greatly assisted by having a mandatory basis for pupils' access to medication and medical treatment.

Mr Chisholm also notes that article 24 of the United Nations Convention on the Rights of the Child states:

"Children have the right to good quality health care—the best health care possible".

Without a mandatory basis for access, the health and educational outcomes of some children and young people will suffer and the attainment gap between those from more affluent backgrounds and those who live with disadvantage may increase.

The Convener: I call Mary Scanlon to speak to amendment 104E and the other amendments in the group.

Mary Scanlon: It is a great privilege to sit in this very grand room in Dunfermline. I am sitting looking at a plaque to the first provost of Dunfermline, who was provost in 1424. I think that it is worth acknowledging our wonderful surroundings today.

First, I thank Angela Constance for getting rid of a bit of gobbledegook. The school pupils here today will be able to understand the bill better, because in amendment 104, which inserts proposed new section 3A into the 2000 act, the cabinet secretary has replaced the phrase

"have due regard to the desirability of exercising the powers"

with

"have due regard to the need to exercise the powers".

It is important that any legislation that we pass is written in a way that people can understand, and I thank the cabinet secretary for that change.

Secondly, on the national improvement framework, I note that proposed section 3C of the 2000 act, as inserted by amendment 106, says:

"In pursuance of the duty imposed on them by section 3(1), the Scottish Ministers must prepare and publish a statement setting out strategic priorities and objectives in relation to school education (the 'National Improvement Framework')."

The problem is that we will not see the national improvement framework until January. This morning, the cabinet secretary has given us a bit more of an idea of what it is likely to contain, but what will it be based on? What will be reviewed? What is it? What does it look like? The fact is that we do not know. We will know in January, and I look forward to that, but it would have been helpful to have known that information prior to today's meeting.

I missed the debate that the committee had with the cabinet secretary on the framework, and I thank each and every member, including the convener, for the questions that were asked. I thought that I would have found some clarity on

the national improvement framework in the discussions that the committee had on 17 November, but what I found instead was the cabinet secretary saying:

“It will be obligatory for local authorities to work towards delivering the priorities contained in the ... framework, and the assessment of children’s progress is just such a priority, but that is quite different from anchoring the particular specification of a standardised assessment.”

Donna Bell said something slightly different, but, bearing in mind that 27 out of 32 local authorities have some form of testing, I note Iain Gray’s questioning of the cabinet secretary and that in response to your own question, convener,

“Is it your expectation that local authorities will stop doing what they are currently doing?”

the cabinet secretary said:

“Yes, it is.”—[*Official Report, Education and Culture Committee*, 17 November 2015; c 56-7.]

I am therefore a little bit less than clear about the testing.

However, I am clear—and I say this as an MSP for the Highlands and Islands—that children who have lower attainment at school do not always live in what we would know as deprived areas. That is why it is very difficult to count children from poorer backgrounds with regard to widening access in remote and rural areas; the Scottish index of multiple deprivation does not apply in rural areas. In village schools across the Highlands and Islands, pupils from the richest households sit alongside pupils from the poorest.

For that reason, I do not want all of the effort on attainment to be focused on areas that are classed as deprived or schools in those areas; instead, I want some focus on some form of assessment to ensure that, regardless of the school a child goes to, their ability to achieve a greater level of attainment will be highlighted, that sort of thing will be picked up and no child will be left behind. We need to ensure that, regardless of background, school, area, geography and whether they are from the islands or the mainland, children are given the help that they need to improve attainment. For that reason, I will not be supporting Liam McArthur’s amendment 106A.

I commend Mark Griffin for his amendments. I think that the Labour Party is attempting to make a bit of sense of something that is still fairly nebulous at this stage, but I listened carefully to the cabinet secretary’s points on whether or not the amendments are necessary.

As for my own amendments, I am very grateful to the Child Poverty Action Group in Scotland for what are probing amendments that are very relevant to the bill’s content. There are wider issues to be discussed, and I think that it is

appropriate for us to do so in the process of scrutinising the bill. I am grateful for the cabinet secretary’s response to these amendments and would be pleased to hear what other members have to say.

Amendment 104E, which addresses financial barriers to access and participation, would place a duty on education authorities and the Scottish ministers to ensure equality of access to, and participation in, education for all children in Scotland. Financial barriers to education can include costs for things such as school uniform; getting to and from school; classroom materials; snacks and meals; information technology equipment; trips and excursions; and clubs and extracurricular activities, among many other things.

11:45

For some children, there is a real risk that the costs that are associated with school are so great that they undermine the right of equal access to a free education as enshrined in the UN Convention on the Rights of the Child. It is for that reason that the Child Poverty Action Group sees that there is a need to measure attainment and reduce inequalities of outcome such as the attainment gap.

Education authorities and the Scottish ministers would have a duty to work with schools to report on the extent to which they have reduced inequality of access to, and participation in, education. They should seek to look at poverty-proofing procedures—for example, they should set out how they intend to make school trips affordable and look at the need for families to buy expensive equipment. Steps of that nature are simple and often cost neutral, and they could be taken immediately by education authorities following consultation with parents.

Amendment 106B would enable the Scottish ministers to set attainment gap targets in relation to the national improvement framework. Above all, it is thought that establishing targets will help to ensure that a suitable framework is in place to allow progress on reducing the attainment gap to be accurately measured.

We began today’s meeting by talking about narrowing the attainment gap, but I notice that the First Minister and the cabinet secretary have spoken about closing the attainment gap, which is very different from where we started. If we are looking at closing the gap, we need to have some sort of markers in place. What we mean by the attainment gap, and how we measure its size, are important points.

The existence of a legislative target would help to ensure that efforts to close the attainment gap

continue to be prioritised. It will illuminate the destination, thereby helping to ensure that the path that is taken is quicker and more directed. The amendment is deliberately drafted broadly to allow the Scottish ministers time to consult with education authorities and other stakeholders, and to consider in depth what the best and most effective targets are.

Amendments 107A, 107B, 107C and 107D would require education authorities and the Scottish ministers to report on the steps that they have taken and those that they plan to take. Those four amendments focus on the steps to meet the targets for closing the attainment gap. Given that more needs to be known about what works in order to improve attainment, those amendments seem to be fairly sensible with regard to meeting the central objective of the legislation, which is to reduce, or to close, the attainment gap.

That takes me happily on to amendment 159. I hope that the pupils from the local school who are here today will realise that this is an historic occasion, because a Scottish Conservative amendment is actually likely to be successful. I am grateful to the cabinet secretary for that.

The cabinet secretary Angela Constance, in introducing the national improvement framework, will delete sections 1 to 4 of the bill. In one form or another, those sections are being replaced by the amendments that we have heard about today, except for section 3, which relates to consultation prior to issuing any guidance. If there is one thing that we are all learning during the bill process, given the timing of amendments being lodged, it is that consultation is not only democratic but respectful and courteous. It gives all those working at the chalkface—if I can call it that—and in councils the opportunity to scrutinise what we are doing today.

I can only assume that the lack of provision for such consultation was an oversight, and I am delighted that amendment 159 is to be accepted, because I do not think that any of us would want any guidance to be issued without education authorities, parents, voluntary organisations and any other persons that the Scottish Government thinks appropriate being consulted. I ask colleagues for their support on that issue.

My next amendments relate to another section of the bill, so I will finish there.

The Convener: Thank you very much. I call Liam McArthur to speak to amendment 106A and the other amendments in the group.

Liam McArthur (Orkney Islands) (LD): I will start by offering Mary Scanlon some gentle advice. She might be in danger of overplaying her hand if the dark mutterings among Scottish National Party members are anything to go by; she is at risk of

snatching defeat from the jaws of victory. *[Laughter.]*

Now that we are an hour into proceedings, I offer some reassurance to the pupils and staff of Commercial primary school that the committee will at some stage get round to voting on the amendments but, as the convener indicated, it is a lengthy and complex set of amendments that we are considering.

As we have heard, I do not think that any of us disputes the fact that we need to do more to allow all children to fulfil their potential. Too often, a child's life chances are predetermined by the circumstances of their birth. The evidence consistently points to the fact that children from deprived backgrounds invariably finish their formal education with significantly lower levels of attainment than their more affluent peers. That is not acceptable.

A determination to close the attainment gap is not new, but progress has been limited and glacially slow, and that has been a frustration for successive Administrations, as well as MSPs of all political persuasions. In that sense, I applaud any effort to make a meaningful breakthrough and to deliver effective change.

As Children in Scotland reminds us in its briefing for today's session,

"the educational inequalities that stem from socio-economic disadvantage are complex and multifaceted".

Without decrying the attempts that the Government is making through the establishment of a national improvement framework, Children in Scotland has concluded that there is

"real concern within the sector over a number of controversial elements of the Framework as well as with the manner in which consultation with key stakeholders has been managed".

That has been a common refrain in relation to the bill and, as Mary Scanlon indicated, we find ourselves in the position of having to consider and vote on amendments to a framework that none of us has seen and which, as Children in Scotland, teaching unions and others have made clear, is far from commanding universal agreement. Frankly, that is a ludicrous position for us to find ourselves in.

Even the rationale for the framework has been questioned. At stage 1, we heard from various witnesses that "inequalities of outcome" was neither adequately defined nor set against any meaningful or measurable benchmarks. In turn, the framework uses the term "attainment gap" as though there is universal acceptance or understanding of what that means. That leads Children in Scotland to accuse ministers of

“reducing what is a complex set of issues to an easily identifiable slogan with the hope that these issues will be amenable to equally short-term solutions”.

Such a damning conclusion has uncomfortable echoes of Keir Bloomer’s earlier criticism of the Government’s approach in the bill as

“pious thinking masquerading as law making.”—[*Official Report, Education and Culture Committee*, 9 June 2015; c 20.]

One of the clearest examples of that oversimplification is the determination of ministers to press ahead with national standardised testing for pupils in primaries 1, 4 and 7 and secondary 3, which has been denounced by teaching unions as “a backward step”, and few teachers can be found who have a good word to say about it. Although they were undoubtedly well intentioned, the explanations that the minister gave to the committee last month simply created more confusion, uncertainty and disbelief among those in the sector. She denies, as does the First Minister, that the Government is ushering in a return to high-stakes testing, teaching to the test and league tables, yet few believe them.

The cabinet secretary is right when she says that assessment of pupils is at the heart of good teaching. Teachers do that on a daily basis: they observe what happens in the classroom, they mark pupils’ work, they glean information from the standardised tests that are already in place and, crucially, they have an in-depth knowledge of each young person as an individual.

The Scottish education system has no shortage of such data, particularly at classroom and school level. The focus should be on making better use of the wealth of information that we already have, as we heard in evidence last month. National standardised tests of literacy and numeracy will simply not provide a rounded evaluation of student learning; instead, they go against the whole ethos of curriculum for excellence. Such tests are prone to bias and human error, but that information will be used by local and central government to form policy and substantiate decisions. In addition, the information technology systems to support the tests are incredibly expensive.

Whether or not ministers believe that they are sanctioning teaching to the test and league tables, that is an almost inevitable consequence of introducing national standardised testing in the way proposed. My amendment 106A seeks to avoid that risk by removing such a provision from whatever is finally agreed in the national improvement framework. More consultation is needed generally, which will take time, but it is important that pupils, teachers and parents are given early assurance that the ill-considered plans for national standardised testing will not be a feature of those discussions.

Turning briefly to the other amendments in the group, the changes proposed in the minister’s amendment 104 are certainly an improvement on what was originally proposed, as Mary Scanlon highlighted earlier. However, I am worried by the extent, scale and implications of the reporting requirements that would be placed on local councils. They seem disproportionate and, in some cases, counterproductive in terms of the activity that they will generate. However, Mark Griffin’s amendments 162 and 163 would lend some strength to initiatives such as Save the Children’s “Read on. Get on.” campaign, which I have been very much in support of, so I will support amendments 162 and 163.

Mark Griffin’s amendments and those of Malcolm Chisholm and Mary Scanlon all seek to broaden the definition of those who would be likely to benefit from any concerted action to address inequalities of outcome. I think that all those amendments are worthy of some support, but I am particularly supportive of Mark Griffin’s proposals to include specifically those children who are looked after and/or in care. The minister insisted that her amendments give the option for the provisions to be so extended, but I think that the difficulty at present is that the Government appears to recognise formally only those affected by socioeconomic factors, which I think could create an unintentional hierarchy of need but which amendment 104A and others could help to avoid.

I remain deeply unhappy about the position that this committee has been put in as a result of the way in which the Government has approached the bill and the fact that we are being asked to vote on amendments in a partial vacuum, and in some respects a complete one. I hope—though I doubt—that the minister will heed the concerns that I have expressed, which are backed by teaching unions and many in the education and wider children’s sector, and call a halt to the ill-thought-out plans for what one expert described to me earlier this week as hopelessly blunt, one-size-fits-all national standardised testing.

The Convener: Thank you, Liam. If any other members wish to contribute to this debate, could they please indicate? I call Liz Smith.

Liz Smith (Mid Scotland and Fife) (Con): Thank you for allowing me to speak, convener. There is no doubt that every party in the Scottish Parliament is absolutely determined to do something to raise educational attainment and I commend the Scottish Government for prioritising this issue. However, I echo concerns that Liam McArthur and Mary Scanlon raised about the timescale and the process for the national improvement framework. We are not sure what the detail is, which makes it very difficult to make

amendments to the bill at stage 2 in preparation for stage 3.

When the cabinet secretary sums up, I would be interested in hearing some comment on the literacy and numeracy data that we already have. We were told by Calum Munro on 17 November that much of that data exists, and I presume that the cabinet secretary is trying to enshrine a lot of reporting in the legislation to ensure that it is more consistent. However, I think that the current proposals for the reporting duty would make it very top heavy. I worry that we are going to place a burden on local authorities and teachers, who will spend so much time reporting that it will be difficult for them to get on with the job in the classroom, which is the most important thing that they have to do.

12:00

When it comes to the concerns that we all have about narrowing the gap—I would say “narrowing”; it is difficult to talk about closing it altogether—it is important that we listen not only to those whom you have consulted but to those on the front line in local authorities who will have to deliver this. There are differences of opinion within local authorities on how we should try to narrow the gap. As Mary Scanlon rightly pointed out, different schools have different approaches.

I have two comments to make in summing up. First, it is unfortunate that we are being asked to make amendments at a time when we do not have the detail. Secondly, we have to be very careful indeed that we are not creating an extensive reporting bureaucracy, which could detract from what we all want to achieve.

Chic Brodie (South Scotland) (SNP): Good morning. I wish to speak against amendments 106B and 107A to 107D, in the name of Mary Scanlon, and amendments 162 and 163, in the name of Mark Griffin. Again, we have an obsession with targets. I congratulate the cabinet secretary and her team on talking about inequality of outcomes.

Targets are right only at the particular time when we set them against unknown circumstances. What is important for the individual child is to improve outcomes. We need to consider whether, after assessment, there a clear improvement in the outcomes both of the group as a whole and, importantly, of those who are, if you like, at the bottom of the pile just now, so that we close the gap.

I wish we would get away from the obsession with targets which, as I said, are right only at one moment in time. What happens is that people start to work towards the targets and forget what they are trying to do, which is to improve the outcome

of the overall establishment. On that basis, I strongly oppose the amendments that I mentioned, which embrace the demand for targets.

George Adam (Paisley) (SNP): When Mary Scanlon was speaking, I was reminded of an old colleague of mine at Renfrewshire Council, Jim Mitchell. When he was winning an argument and getting cross-party support, he went out of his way to make sure he lost it in the next 10 or 15 minutes. Mary Scanlon is not quite as bad as that, as we are still with her on one amendment.

The old chamber that we are in will have had many debates on educational attainment. We can almost feel it in the building. The council will have constantly had debates about narrowing or closing the attainment gap. The national improvement framework creates an opportunity to get the right resource to the right place, ensuring that we target the right resource to the right area and the right school for the right child at the right time, and the information can ensure that we do that.

Our 32 local authorities already use forms of assessment, and having the national improvement framework as a way to push this forward is a good foundation. In taking evidence, we have heard supportive comments from Ian Ellis, chair of the national parent forum of Scotland, who said:

“Most parents do not see the data, so we do not know how good it is. That is the good thing about the new framework ... We need to start sharing data properly and having meaningful discussions.”—[*Official Report, Education and Culture Committee*, 17 November 2015; c 6.]

It is important to ensure that parents are involved right from the start.

I think that it was Liam McArthur who mentioned Keir Bloomer, who is deputy convener of the Royal Society of Edinburgh’s education committee. He said:

“Where I do think that Nicola Sturgeon is certainly correct is that we do not have the information that we need to allow us to diagnose the problem and improve the system as a whole. Testing”—

we are talking about assessment here—

“does not of itself improve anything, but it gives you the evidence on which future improvement can be based.”

That last line is the most important aspect of the national improvement framework. It is about getting the right resource in the right place to the right child at the right time. The Government is to be commended for that. It shows us a way forward to narrow the attainment gap, in the hope of eventually closing it. We hope that chambers such as this one will not have to play host to debates like this one in future.

The Convener: Cabinet secretary, before I call you to wind up, I have three questions for you; I hope that you will be able to cover them when you sum up. The first is on amendment 104A, in the name of Mark Griffin. Over the past four and a half years, the committee has done a great deal of work on looked-after and disadvantaged children and has undertaken some substantial inquiries. The Government opposes amendment 104A. Why do you think that the bill as it stands—or with your amendments, should they be agreed to—will cover that area and will not leave a gap? In particular, as Mark Griffin has outlined, there might be a gap in relation to looked-after and disadvantaged children. I would appreciate more detail on that.

My second question is on amendment 104E, in the name of Mary Scanlon, and is roughly the same sort of question. The amendment covers the important issue of inequalities of access and participation, which the Child Poverty Action Group has raised with members. It would be helpful if you would outline the reasons why the Government does not support amendment 104E and say how we can ensure that there are no inequalities of access and participation for children and pupils throughout the country, particularly in relation to technology changes in schools and access to trips and so on, which are of great educational value.

My third question relates to crude league tables, which you mentioned in your opening statement. We all agree that we do not want the publication of crude league tables. How does the Government intend to avoid the publication of crude league tables by people who take information and misuse it to create such league tables?

Angela Constance: I gave a lengthy statement at the beginning of the meeting and I thank the committee for its forbearance. I will try hard not to repeat that lengthy statement; it is there for members to reflect on after the meeting and prior to our stage 3 considerations. In essence, Mary Scanlon asked how we can legislate without seeing the national improvement framework. I reiterate to the committee that there is widespread agreement that we need a national improvement framework and broad consensus on the six areas that will drive improvement. Although Liam McArthur did not say it explicitly, he implied that there is not support for a national improvement framework and that we are not focusing on the right areas. I take exception to that.

It would not be appropriate to commit the detail of the framework to the face of the bill. That is because we do not want to limit our ability to review and update the framework in light of emerging evidence that we will gather about what works. We have plans to review the framework—we have annual reporting action plans—and will

continue to work closely with a range of stakeholders, including teachers, parents, children and young people. Of course, the national improvement framework is subject to statutory guidance. If the committee agrees to amendment 159, in the name of Mary Scanlon, which I hope it does, that statutory guidance will be subject to statutory consultation.

We want closing the attainment gap to be at the heart of the long-term agenda of this or any Government. We have worked hard to develop a system and a framework that will evolve and, ultimately, meet the needs of children in the classroom.

We want to retain some flexibility, first and foremost to respond to the needs of children. We should also remember that, next week, the OECD report on broad general education will be published, and it is important that we all have an opportunity to reflect on that before January, when we publish the most up-to-date version of the national improvement framework—it is never the final version, because it evolves every year. Further, obviously, Parliament still has to consider the bill at stage 3.

We are confident that we do not need to legislate for assessment. Neither do we think that it is appropriate to legislate for assessment or, indeed, for there not to be standardised assessment. We have set an expectation around the use of standardised assessment. Local authorities are required to engage with the framework, and standardised assessment is one part of that.

Standardised assessment will give teachers and education authorities what they need. We will bear the cost of its development and delivery. It has been universally welcomed. It is about streamlining what is already being done and ensuring that consistent information can be gathered at a local and national level so that appropriate choices and decisions can be made.

Liam McArthur: On that point, you have referred several times to an assessment process. As I said, there is universal agreement that that assessment process is part and parcel of delivering high-quality teaching that is appropriate to the child at any time. However, you have not referred to the process of testing. At our previous session on the bill, Iain Gray—I think—asked whether what was being proposed was likely to be a single diet and whether, therefore, we would have information about the stage that had been reached by any child in any part of the country at any given time. Whether you call that assessment or testing, is it proposed that it will take place at largely the same time in schools across the country for the pupils who are eligible?

Angela Constance: With respect, Mr McArthur, I explicitly referred to that in my opening statement. However, I appreciate that it was a lengthy statement. Therefore, with the committee's forbearance, I will repeat an aspect of what I said.

We can and will develop standardised assessment that gives us the information that we need without specifying a narrow window. That is so that our children will benefit from an assessment that informs and elicits actions and improvements throughout the school year. I hope that that is clear.

It might also be worth reiterating what I have said about the publication of assessment data. We will publish teacher judgment data on curriculum for excellence levels in literacy and numeracy, which are, of course, informed by standardised assessment. On your point, convener, not operating a national assessment window limits the comparability of standard assessment data, which therefore removes many of the concerns that were previously raised around the publication of information.

In response to Liz Smith's point, Craig Munro, the director of education in Fife, clearly stated to the committee his view that standardised assessment would not add to teacher workload and that the policy was very much about assessing in a better way and having more reliable and consistent information. Our view is that the new Scottish standardised assessment should streamline and replace the assessments that are currently purchased by education authorities across the country. As I indicated earlier, the cost of the implementation of standardised assessment will be borne by the Scottish Government.

I turn to Mark Griffin's substantive comments. He spoke very eloquently about the needs of our looked-after children. I am not unsympathetic to what he aspires to achieve, but the additional support needs legislation very much captures the needs of looked-after children and, as the committee may be aware, the looked-after child strategy was published in the past week to 10 days.

12:15

I remain open-minded about using the bill's enabling powers to extend the duties to other groups of children in the future. However, I know that we all have a shared commitment on that issue. I am certainly always open to further discussion on the matter should Mr Griffin or any other member of the committee wish to pursue it further.

On Mrs Scanlon's point about participation, which the convener reiterated, the duty as drafted means that ministers and local authorities have to

have regard to access. Therefore, it strengthens the current position.

On setting targets for the reduction in equalities of outcome, our ambition is to close the attainment gap and not just to halve it or whatever. Members make the important point that we will need markers and milestones. The annual review process and action plans in which we will constantly review what we are doing and its effectiveness will be an important part of establishing, in due course, the appropriate markers or milestones.

It is worth remembering that we do not have good, reliable baseline information on broad general education, hence our support for standardised assessment. Once the review process has been implemented and we have commented and put into action the national improvement framework, we will be in a better position to introduce meaningful milestones or markers about how we intend to reach our ambitions.

I stress that we are not interested in crude, arbitrary or short-term target setting. We do not want to have targets that have a narrow focus or which could skew our view of what a good education looks like. Some of today's proposals on targets do not sit well alongside a curriculum that focuses on the needs of each and every child to achieve their potential, no matter where that potential lies.

In essence, we are taking steps to establish the national improvement framework to provide robust, consistent information about attainment that allows parents, parliamentarians and communities to monitor children's progress with their learning and, indeed, to hold local and national Government to account.

The Convener: Thank you very much. Before I call Mark Griffin, I welcome a third group of pupils from Commercial primary school. Welcome to you all—I hope that you enjoy visiting the committee.

I ask Mark Griffin to wind up on amendment 104A and indicate whether he wishes to press or withdraw his amendment.

Mark Griffin: I appreciate what the cabinet secretary had to say. I do not doubt for a second her or anyone else's ambition to close the attainment gap for looked-after children or children who are in care. Given that there is such a gap between the attainment of that group of children and that of others, I struggle to see why, when we are debating and discussing a bill that has a particular focus on reducing and closing entirely the attainment gap, we would not recognise that they are so badly affected that we should give them particular consideration.

As I said in my opening remarks, ultimately the state is responsible for these children and for ensuring that they have the best start in life and the same opportunities as everyone else. Although I appreciate the cabinet secretary's comment that she is open to discussing how this might be facilitated, I would find it difficult to be in the position of not wanting to put into the bill an amendment specifically on the needs of looked-after children and children in care and I will therefore press amendment 104A.

The Convener: The question is, that amendment 104A be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Griffin, Mark (Central Scotland) (Lab)
McArthur, Liam (Orkney Islands) (LD)
Pentland, John (Motherwell and Wishaw) (Lab)

Against

Adam, George (Paisley) (SNP)
Beattie, Colin (Midlothian North and Musselburgh) (SNP)
Brodie, Chic (South Scotland) (SNP)
MacDonald, Gordon (Edinburgh Pentlands) (SNP)
Maxwell, Stewart (West Scotland) (SNP)
Scanlon, Mary (Highlands and Islands) (Con)

The Convener: The result of the division is: For 3, Against 6, Abstentions 0.

Amendment 104A disagreed to.

Amendments 104B and 104C not moved.

Amendment 104D moved—[Mark Griffin].

The Convener: The question is, that amendment 104D be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Griffin, Mark (Central Scotland) (Lab)
McArthur, Liam (Orkney Islands) (LD)
Pentland, John (Motherwell and Wishaw) (Lab)

Against

Adam, George (Paisley) (SNP)
Beattie, Colin (Midlothian North and Musselburgh) (SNP)
Brodie, Chic (South Scotland) (SNP)
MacDonald, Gordon (Edinburgh Pentlands) (SNP)
Maxwell, Stewart (West Scotland) (SNP)
Scanlon, Mary (Highlands and Islands) (Con)

The Convener: The result of the division is: For 3, Against 6, Abstentions 0.

Amendment 104D disagreed to.

Amendment 104E moved—[Mary Scanlon].

The Convener: The question is, that amendment 104E be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Griffin, Mark (Central Scotland) (Lab)
McArthur, Liam (Orkney Islands) (LD)
Pentland, John (Motherwell and Wishaw) (Lab)
Scanlon, Mary (Highlands and Islands) (Con)

Against

Adam, George (Paisley) (SNP)
Beattie, Colin (Midlothian North and Musselburgh) (SNP)
Brodie, Chic (South Scotland) (SNP)
MacDonald, Gordon (Edinburgh Pentlands) (SNP)
Maxwell, Stewart (West Scotland) (SNP)

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

Amendment 104E disagreed to.

Amendment 104F not moved.

Amendment 104G moved—[Mark Griffin].

The Convener: The question is, that amendment 104G be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Adam, George (Paisley) (SNP)
Beattie, Colin (Midlothian North and Musselburgh) (SNP)
Brodie, Chic (South Scotland) (SNP)
Griffin, Mark (Central Scotland) (Lab)
MacDonald, Gordon (Edinburgh Pentlands) (SNP)
Maxwell, Stewart (West Scotland) (SNP)
McArthur, Liam (Orkney Islands) (LD)
Pentland, John (Motherwell and Wishaw) (Lab)

Abstentions

Scanlon, Mary (Highlands and Islands) (Con)

The Convener: The result of the division is: For 8, Against 0, Abstentions 1.

Amendment 104G agreed to.

Amendment 104, as amended, agreed to.

Section 1—Pupils experiencing inequalities of outcome

Amendment 105 moved—[Angela Constance]—and agreed to.

After section 1

Amendment 106 moved—[Angela Constance].

Amendment 106A moved—[Liam McArthur].

The Convener: The question is, that amendment 106A be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

McArthur, Liam (Orkney Islands) (LD)

Against

Adam, George (Paisley) (SNP)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Brodie, Chic (South Scotland) (SNP)
 Griffin, Mark (Central Scotland) (Lab)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 Maxwell, Stewart (West Scotland) (SNP)
 Pentland, John (Motherwell and Wishaw) (Lab)
 Scanlon, Mary (Highlands and Islands) (Con)

The Convener: The result of the division is: For 1, Against 8, Abstentions 0.

Amendment 106A disagreed to.

The Convener: Amendment 106B, in the name of Mary Scanlon, has already been debated with amendment 104.

Mary Scanlon: I am so persuaded by Chic Brodie's comments that I will not move amendment 106B.

The Convener: You do not have to give us a reason.

Amendment 106B not moved.

Chic Brodie: It was a very good reason.

The Convener: The question is, that amendment 106 be agreed to. Are we agreed?

Members: No.

For

Adam, George (Paisley) (SNP)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Brodie, Chic (South Scotland) (SNP)
 Griffin, Mark (Central Scotland) (Lab)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 Maxwell, Stewart (West Scotland) (SNP)
 Pentland, John (Motherwell and Wishaw) (Lab)

Abstentions

McArthur, Liam (Orkney Islands) (LD)
 Scanlon, Mary (Highlands and Islands) (Con)

The Convener: The result of the division is: For 7, Against 0, Abstentions 2.

Amendment 106 agreed to.

Amendment 107 moved—[Angela Constance].

Amendments 107A to 107D not moved.

Amendment 107E moved—[Mark Griffin].

The Convener: The question is, that amendment 107E be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Griffin, Mark (Central Scotland) (Lab)
 McArthur, Liam (Orkney Islands) (LD)
 Pentland, John (Motherwell and Wishaw) (Lab)

Against

Adam, George (Paisley) (SNP)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Brodie, Chic (South Scotland) (SNP)

MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 Maxwell, Stewart (West Scotland) (SNP)
 Scanlon, Mary (Highlands and Islands) (Con)

The Convener: The result of the division is: For 3, Against 6, Abstentions 0.

Amendment 107E disagreed to.

The Convener: The question is, that amendment 107 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Adam, George (Paisley) (SNP)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Brodie, Chic (South Scotland) (SNP)
 Griffin, Mark (Central Scotland) (Lab)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 Maxwell, Stewart (West Scotland) (SNP)
 Pentland, John (Motherwell and Wishaw) (Lab)

Abstentions

McArthur, Liam (Orkney Islands) (LD)
 Scanlon, Mary (Highlands and Islands) (Con)

The Convener: The result of the division is: For 7, Against 0, Abstentions 2.

Amendment 107 agreed to.

Amendment 159 moved—[Mary Scanlon]—and agreed to.

Section 2—Consultation, advice and support

Amendment 108 moved—[Angela Constance]—and agreed to.

Section 3—Guidance

Amendment 109 moved—[Angela Constance]—and agreed to.

Section 4—Reports

Amendment 110 moved—[Angela Constance]—and agreed to.

After section 4

12:30

The Convener: Amendment 111, in the name of the cabinet secretary, is grouped with amendment 112.

Angela Constance: Amendments 111 and 112 are related to the changes that have been made by amendments 106 and 107. Amendment 107 has introduced new consolidated plans and reports that will be focused on the need to close the attainment gap and to implement the national improvement framework priorities. The new arrangements will replace those in sections 4 and 5 of the Standards in Scotland's Schools etc Act

2000. Those sections require education authorities to prepare an

“annual statement of education improvement objectives”

describing activity to deliver the national priorities for education. As we have discussed, those provisions will be repealed by amendment 106.

However, annual statements of education improvement objectives also include important details about the activity that is being undertaken by education authorities to promote equal opportunities, to deliver Gaelic-medium education, to ensure parental involvement in education and to promote school health and nutrition. We feel that it is important that education authorities’ efforts in those areas continue to be the subject of local scrutiny. New section 3I, which will be inserted in the 2000 act by amendment 107—which we have debated—provides for that scrutiny in relation to equal opportunities.

Reporting on Gaelic-medium education is required by the assessment process in part 2 of the bill and in the context of Gaelic language plans, which education authorities already prepare. It has therefore not been necessary to replicate the existing requirement at section 5 of the 2000 act to report on such matters.

Amendments 111 and 112 will ensure continued reporting on school health and nutrition and parental involvement, respectively. Amendment 111 will require publication of a statement setting out planned activity, as well as a subsequent report setting out progress. That is important within the context of our continuing commitment to providing children with access to healthy and nutritious school meals under the Schools (Health Promotion and Nutrition) (Scotland) Act 2007 and the related Nutritional Requirements for Food and Drink in Schools (Scotland) Regulations 2008, as well as our commitment to ensuring that all our children participate in health and wellbeing activity and receive the target of two hours of physical education per week.

Amendment 112 will require an education authority to publish its strategy for parental involvement and to produce an annual report describing its efforts in implementing that strategy. We have sought to build in flexibility in relation to those reporting requirements and will encourage education authorities to satisfy those new duties through existing local processes, where possible.

Some education authorities may look towards their local education standards and quality report, which is produced under section 7 of the 2000 act, as an appropriate vehicle. Others may rely on children’s services plans, which are, from August 2016, to be produced under the Children and Young People (Scotland) Act 2014. Ultimately, the right solution for each education authority will be

the one that best meets the needs of the communities that they serve.

I trust that the committee accepts the significance of continued accountability in relation to those important aspects of education: it is on that basis that I encourage the committee to support amendments 111 and 112.

I move amendment 111.

Amendment 111 agreed to.

Amendment 112 moved—[Angela Constance]—and agreed to.

Amendment 160 moved—[Mark Griffin].

The Convener: The question is, that amendment 160 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Griffin, Mark (Central Scotland) (Lab)
Pentland, John (Motherwell and Wishaw) (Lab)

Against

Adam, George (Paisley) (SNP)
Beattie, Colin (Midlothian North and Musselburgh) (SNP)
Brodie, Chic (South Scotland) (SNP)
MacDonald, Gordon (Edinburgh Pentlands) (SNP)
Maxwell, Stewart (West Scotland) (SNP)
McArthur, Liam (Orkney Islands) (LD)
Scanlon, Mary (Highlands and Islands) (Con)

The Convener: The result of the division is: For 2, Against 7, Abstentions 0.

Amendment 160 disagreed to.

Amendment 161 moved—[Mark Griffin].

The Convener: The question is, that amendment 161 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Griffin, Mark (Central Scotland) (Lab)
McArthur, Liam (Orkney Islands) (LD)
Pentland, John (Motherwell and Wishaw) (Lab)

Against

Adam, George (Paisley) (SNP)
Beattie, Colin (Midlothian North and Musselburgh) (SNP)
Brodie, Chic (South Scotland) (SNP)
MacDonald, Gordon (Edinburgh Pentlands) (SNP)
Maxwell, Stewart (West Scotland) (SNP)
Scanlon, Mary (Highlands and Islands) (Con)

The Convener: The result of the division is: For 3, Against 6, Abstentions 0.

Amendment 161 disagreed to.

Amendment 162 moved—[Mark Griffin].

The Convener: The question is, that amendment 162 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Griffin, Mark (Central Scotland) (Lab)
McArthur, Liam (Orkney Islands) (LD)
Pentland, John (Motherwell and Wishaw) (Lab)

Against

Adam, George (Paisley) (SNP)
Beattie, Colin (Midlothian North and Musselburgh) (SNP)
Brodie, Chic (South Scotland) (SNP)
MacDonald, Gordon (Edinburgh Pentlands) (SNP)
Maxwell, Stewart (West Scotland) (SNP)
Scanlon, Mary (Highlands and Islands) (Con)

The Convener: The result of the division is: For 3, Against 6, Abstentions 0.

Amendment 162 disagreed to.

Amendment 163 moved—[Mark Griffin].

The Convener: The question is, that amendment 163 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Griffin, Mark (Central Scotland) (Lab)
McArthur, Liam (Orkney Islands) (LD)
Pentland, John (Motherwell and Wishaw) (Lab)

Against

Adam, George (Paisley) (SNP)
Beattie, Colin (Midlothian North and Musselburgh) (SNP)
Brodie, Chic (South Scotland) (SNP)
MacDonald, Gordon (Edinburgh Pentlands) (SNP)
Maxwell, Stewart (West Scotland) (SNP)
Scanlon, Mary (Highlands and Islands) (Con)

The Convener: The result of the division is: For 3, Against 6, Abstentions 0.

Amendment 163 disagreed to.

Before section 18

The Convener: Amendment 113, in the name of the cabinet secretary, is in a group on its own.

Angela Constance: The purpose of amendment 113 is to ensure that all children who are in receipt of funded early learning and childcare at partner providers have access to early learning and childcare if they are unable to attend their normal provider as a result of ill health or exceptional circumstances. Such provision already exists for children who receive early learning and childcare in local authority settings. Amendment 113 will allow—and, in some cases, require—local authorities to make suitable alternative arrangements to ensure that children at partner providers continue to receive early learning and childcare in those circumstances.

Amendment 113 will also have the effect of ensuring that the education authority's powers

under new section 53(11) of the 1980 act, which will be inserted by section 18 of the bill, to provide or secure a free school lunch to a child when he or she is unable or too ill to attend their normal educational establishment, will also apply when the child receives early learning and childcare at partner providers.

I move amendment 113.

Amendment 113 agreed to.

The Convener: At this point, we will have a short suspension of about 15 minutes.

12:38

Meeting suspended.

12:54

On resuming—

The Convener: Amendment 164, in the name of the cabinet secretary, is grouped with amendments 165 and 173.

Angela Constance: All children and young people are entitled to the high-quality learning and teaching that enable them to achieve their full potential. In recent years, a number of local authorities have brought forward budget proposals to reduce the school week, but all were subsequently dropped in the face of significant parental opposition. This year, however, we have seen renewed proposals from Highland to reduce the primary school week by two and a half hours in 2016-17.

I do not believe that it is right that parents should have to fight for their children's education in that way. No matter where in Scotland a child lives, he or she should be entitled to receive a consistent education offer. Education cannot be sacrificed in the name of savings, and we must all recognise the short-sightedness of such an approach.

In lodging amendment 164, I wanted to respond to some of the comments that have been made by the Convention of Scottish Local Authorities and others. Let me be clear: this is a considered response to a real issue. Teachers and parents have been asking us to make this change for many months now, and COSLA knew that it was under consideration.

The amendment is not based on anecdote or hearsay. As I have already said, councils have already made a number of proposals to reduce school hours—and, of course, those are just the proposals that we know about. In response to the concerns of parents and teachers across the country and in order to introduce effective protection of our school hours, amendment 164

seeks to place a duty on education authorities and the managers of grant-aided schools to make available to pupils a minimum number of learning hours annually. Amendment 173 amends the long title of the bill to reflect the provisions that I am proposing on the delivery of a minimum number of hours of school education.

I agree with the national parent forum of Scotland that any national entitlement should be secured only after full consultation, and I am conscious that this complex matter cannot be adequately addressed by establishing a blunt and inflexible duty on the face of the bill. What primary school children require in terms of teacher contact is unlikely to mirror the needs of secondary school pupils, and although, as we know, recent cost-saving proposals have focused on primary education, that does not mean that our secondary school pupils are not equally entitled to a guarantee in relation to their learning. As I have said, such complex issues are worthy of debate, but that debate cannot be about savings. Education is simply too important for that.

As a result, amendment 164 provides an enabling power for Scottish ministers to prescribe the minimum number of learning hours and the type of school education that constitutes learning hours. Our starting point is that primary school pupils' current education provision must not be diminished. That provision, which is currently on a non-statutory basis, equates to 950 hours of teacher contact time over the course of a school year, which reflects the level of contact time that was envisaged when curriculum for excellence was being developed. Prescribing learning hours in regulations, however, enables us to carry out a full and formal consultation with stakeholders in advance of exercising the enabling power.

We have also recognised the need to accommodate situations that depart from the norm. For example, there are children whose medical conditions restrict the amount of time that they can reasonably spend in school. Moreover, there are children who live far from their school and whose travel time lengthens their day to the extent that, particularly in the younger stages, it is inappropriate for them to spend as long at school as others.

Amendment 164 provides flexibility by enabling education authorities and managers of grant-aided schools to make exceptions where they are satisfied that it would not be in the individual pupil's interests to undertake the prescribed number of learning hours in a year. Education authorities and managers of grant-aided schools will also retain the power to determine their school day and school week within the overall requirement to provide the prescribed number of learning hours. I point out that there is no intention

to prescribe the way in which learning hours should be divided over the school year, and amendment 164 will not interfere with authorities' right to continue to operate an asymmetric week, if they so wish.

13:00

In contrast, amendment 165, which was lodged by Mr Griffin, affords no such flexibility. By prescribing the number of hours to be provided each week, the amendment would strip education authorities of their power to set the school day or vary weeks across the term. By placing the details of the duty on the face of the bill, amendment 165 precludes any opportunity for consultation, and I have been clear that I want to protect current local authority provision of 25 hours of teacher contact time with a registered teacher. By prescribing the minimum number of hours and the nature of those hours in regulations, amendment 164 affords us the opportunity to consult stakeholders to ensure that we have recognised and adequately addressed all the potential complexities of the issue. Unlike amendment 165, our provisions will reflect the fact that, in the post-curriculum for excellence world, teaching and learning will not always take place in classes.

I have touched already on the need for any minimum hours duty to recognise the different needs of particular groups of children, such as those for whom travel creates a lengthy day. Any school hours legislation needs to be able to accommodate different arrangements and circumstances, and my amendment provides that flexibility; I am afraid that amendment 165 does not.

I recognise the challenges and constraints that national and local government face as a result of the current financial situation. I accept that tough decisions have to be made, but surely such decisions should not be made at the expense of the education of our children and young people. We are not talking about placing new and unreasonable burdens on local authorities. It is about protecting primary school pupils from reductions to their school week that have been proposed purely on the ground of budget saving without regard to our commitment to raising attainment for all and reducing inequalities of outcome. No one can argue that less teaching time is the route to improving attainment, and I for one am not prepared to stand by and watch as education authorities make savings and then find out that that was to the detriment of their pupils.

I recognise that Labour seeks similar aims through amendment 165 and I welcome its support for our policy position. However, I believe that amendment 164, in my name, will better achieve the aims that we seek and I ask the

committee to support it while asking Mr Griffin not to move his amendment.

I move amendment 164.

Mark Griffin: We believe that the bill should give parents a guarantee that primary school pupils will receive at least 25 hours of teaching time every week. Parents who send their children to primary school should be confident that they will get at least 25 hours of teaching time each week. That should be secured in light of proposals from councils across the country to reduce the school week. It is clear from the cabinet secretary's amendment 164 and her comments that we share that policy position but have gone down different routes towards achieving it.

The recent report by Reform Scotland highlighted that the amount of teaching time a pupil gets can vary by up to 149 hours, depending on where the school is. That can have an impact on children's learning. Current legislation says that pupils should get 190 days of teaching time a year, but there is no definition of "day". Amendment 165 seeks to remedy that.

As I say, we agree with the Government's policy but I seek assurances from the Government on the areas in which there are differences between our amendment and the cabinet secretary's amendment. First, we would like to see the provisions in primary legislation rather than leaving the matter to regulation. With the greatest will in the world, there might come a point in time when we have a Government that does not support the policy, so we seek the additional security of primary legislation. Secondly, the Government has still to define what "learning hours" means in practice. Our amendment is clear that it means teaching time with a registered teacher but, again, the Government amendment leaves the matter to regulation rather than putting it in the bill. It would be helpful for us if the cabinet secretary could address those two concerns in her closing remarks.

Liam McArthur: The amendments in this group make me so angry. Leaving aside the substance of all three amendments and any potential merit that they may have, the cabinet secretary's decision to lodge that type of substantive amendment out of the blue and without any prior warning shows utter contempt for the committee.

We have already been put in the position of having to take evidence at stage 2 to deal with the Government's cart-before-the-horse approach to the bill. However, the lodging of these amendments suggests that the cabinet secretary is now in the realms of making it up as she goes along.

If the cabinet secretary really was giving serious consideration to an issue, problem or risk that has

long been established, why on earth was the committee not informed, either back in the summer or when she appeared before us to give evidence on proposed stage 2 amendments on the national improvement framework and the standard for headship?

Yes, Mark Griffin has lodged a similar amendment, but he is an Opposition member. At best, he can hope to probe the Government, although presumably he can also be invited to reflect on why he did not seek to raise the matter at stage 1 and gather evidence to back up his call.

By contrast, when the cabinet secretary lodges an amendment, given the way in which the Government has railroaded its agenda through the Parliament over the past four years—notwithstanding the minor historic triumph that Mary Scanlon enjoyed earlier today when her amendment was agreed to—it is fairly safe to assume that the provision in question will find itself on the statute books sooner rather than later. Even so, I urge Scottish National Party colleagues to think seriously about whether or not to support their cabinet secretary on this occasion. None of them sought to raise the issue at stage 1 either, and they know as well as I do that we have taken absolutely no evidence on what the policy costs and other implications of such a change might be.

COSLA has highlighted its concerns about the lack of consultation on the proposals; the lack of respect that has been shown for the role of local councils in delivering education in our schools; and the lack of any international evidence to show that the Government's proposed approach would deliver improved education outcomes. COSLA has also flagged up the effect of introducing yet more inflexibility into the system, on top of what we heard last week about the deal imposed with regard to teacher numbers. Those do not seem to be unreasonable points to make.

All three amendments in the group should be rejected on the basis that the arguments for supporting them have not been tested and can therefore be treated only as assertion or supposition. Local authorities in Scotland deserve better, and frankly so too does this committee. Being treated in this way by the cabinet secretary, who seems more anxious to avoid being outflanked and replaced in the affections of the Educational Institute of Scotland by Labour colleagues, is not acceptable to me, nor—I suggest—should it be acceptable to other members of the committee, regardless of their political persuasion. I encourage everybody to reject these amendments.

Mary Scanlon: Liam McArthur may be angry this morning, but he is not half as angry as Highland Council, which was absolutely shocked. I have had more correspondence from Highland

Council since last Wednesday than I have had in the past one, two or three years.

As an MSP who came to the Parliament in 1999, I have had plenty of differences with Highland Council and plenty of complaints about it in relation to planning, housing and various other things. However, I have never, ever had a complaint—from any parent or any pupil, or any community council or organisation—about the quality of teaching in Highland Council schools. It is worth putting that on the record.

I would be failing in my duty if I did not put forward the very strong objections to these amendments from Highland Council members. The first objections that I want to highlight have come from Councillor Margaret Davidson, who is leader of the independent group; Councillor Alasdair Christie, who is leader of the Liberal Democrat group; Councillor Jimmy Gray, who is leader of the Labour group; and Councillor Drew Millar, who is the chairman of the education committee, a very highly respected councillor from Skye and the leader of the Highland Alliance group.

Furthermore, it is worth putting on record that:

“The Highland Council has taken pride in its long standing, close and constructive relationship with the Scottish Government, regarding education and children’s services. We were therefore somewhat surprised by the announcement this week, without any notice or consultation, of a proposal to legislate for a 25 hour teaching week in all Scottish Primary Schools, regardless of local circumstances.

If this was to become legislation, we believe it could have major and severe implications for Highland children, families and communities—and therefore we have taken the unusual step”—

and this is unusual, believe me—

“of political group leaders in the authority, to write this joint letter to you.

Most Highland Primary Schools have always operated a 22½ hour week in P1—P3 classes. This involves 272 classes, from the North of Sutherland to Badenoch—mostly because of the length of the day for young children who may have to travel considerable distances to school.

The Highlands are not the central belt. Young children who travel to school for a 25 hour week, could be away from home for more than 35 hours—and travelling more frequently back and forward in the dark.

The Cabinet Secretary has said that this proposal is being introduced to raise attainment. We are committed”—

as I can confirm—

“to raising attainment for all Highland children, including those who live in less advantaged communities, but there is no evidence of a connection between the length of the school week and educational attainment.”

The council goes on to say:

“Most European countries operate with a lower number of teaching hours per year than in Scotland, with children

starting school at the age of six. Finland, Germany and Denmark, for example, all offer fewer hours than in Scotland—but their pupils either match or far outperform Scotland’s pupils in the internationally collated PISA measures of literacy and numeracy.

It has been asserted by Government that it cannot be argued that cutting the number of hours will improve education. Instead, what a more detailed analysis shows, is that the number of hours a pupil spends in class is far less important than the quality of educational experience that they receive ... The Government have claimed that the Curriculum for Excellence is based on a 25 hour school week. However, Curriculum for Excellence is designed to be the totality of children’s experiences in and out of school, recognising that children learn in a variety of contexts. A number of councils already operate successfully a 22.5 school week for younger pupils”.

My next point—I have many points to make, but I will leave aside the one I had intended to make next—comes from Drew Millar, who is the chair of the council’s education, children and adult services committee. I will not repeat anything that has already been said, but he said:

“The proposed imposition of a 25 hour week on schools and authorities does not take account of local needs ... For example, much education is supported by tutors, instructors and assistants who are not registered teachers.”

According to Councillor Millar,

“There is no evidence to support a connection between the length of the school week and educational attainment.”

Many MSPs will be familiar with Bill Alexander, who is often quoted in the Parliament. He is the council’s director of care and learning. He said:

“There is no correlation between a 25 hour primary school week and high attainment levels ... The critical issues are the quality of learning and teaching, and the infrastructure and support arrangements. This proposed amendment would create enormous doubt about the sustainability of education in many of our communities, and it is a step too far, when we are already facing enormous resource challenges ... It would mean providing more than 1000 extra teaching hours, and recruiting more than 30 additional teachers, at a time when it is difficult to recruit to existing vacancies, and this number of available teachers simply does not exist.”

13:15

Importantly, the budget leader, Councillor Bill Fernie from Caithness, said:

“An extra half an hour in class every day would cost Highland Council at least £2 million.”

The council is looking to cut £4 million, but it would not be allowed to have such a cut and the whole thing would cost the council £6 million. Councillor Fernie also said that there would be

“significant additional cost at a time when our budget is being substantially reduced with further grant cuts and a continuation of the Council Tax freeze. This would be yet another central imposition that would constrain how the local authority can manage its resources ... Unless this policy was centrally funded by the Scottish Government, it

could mean cuts elsewhere in education and children's services."

The proposal has come in late, so there is no financial memorandum or costing; very little, if any, thought has been given to that. Councillor Fernie went on to say:

"This new legislation will only increase that pressure, and will mean that some schools become less viable, which could force the authority to consult with parents about the possibility of mothballing."

I would go further and say that there is the possibility of mergers and closures. However, those are my words and not Councillor Fernie's; he used the word "mothballing".

Highland Council has been working for months on achieving efficiencies. However, Councillor Fernie finished by saying that what the Government proposes

"would ... reduce our capacity to achieve around £4 million efficiencies, meaning a total impact on the education budget of ... £6 million."

Councillor Drew Millar concluded on the Government's proposal:

"This latest announcement would be catastrophic for Highland Council, as we are already struggling to balance our budget in these extremely challenging financial times."

The Highland Council has a very good and constructive relationship with the Scottish Government; that is why I am shocked to read all those words, but it is my duty to pass them on. Councillor Millar ended by saying:

"I am astonished and dismayed at this further interference and imposition by Central Government on Local Authorities' remit and ability to deliver education in Scotland. Furthermore, I am disappointed that there has been no consultation about this matter, and hope that the Cabinet Secretary can now agree to take account of these views."

I have also received a briefing from Highland Council's former political children's champion and the councillor for the North, West and Central Sutherland ward, which is the largest council ward in Scotland: Councillor Linda Munro, from Bettyhill. Her briefing echoes most of what others have said on the issue, so I will not repeat it.

Councillor Gary Robinson from Shetland, who was in front of the committee last week, wrote:

"With teacher numbers, class sizes, free school meals, additional nursery provision, presumption against school closures and a 19% real reduction in our funding, this latest announcement only serves to show how out of touch the Cabinet Secretary is."

COSLA was never consulted on the issue. At the weekend I spoke to Allan Wright, the convener of Moray Council, who asked whether the proposal had been costed. He also wanted it put on the record that in Moray, primaries 1 to 3 operate a

22.5 hour week. He conveys his support for the points that have been made by Highland Council.

Finally, I come to the COSLA briefing, which is about seven pages long. We would be here all day if I read it all out, but some of its points are the same as those that I quoted from Highland Council. However, COSLA asked a number of questions, starting with:

"Since the announcement was made, the Cabinet Secretary has said publicly that this issue has been raised for months with her. If this is true, and it is a genuine and long standing concern of Government, why was it not part of the original Bill or communicated to Parliament with other likely amendments after the summer?"

recess? As Liam McArthur did, COSLA has questioned how long standing the Government's concern is, given that the proposal came to us only last week.

COSLA also asked:

"Why after a year of discussions on the Bill with the civil service did the subject of Ministers being minded to legislate for the length of school week never arise?"

Why, when COSLA met the Cabinet Secretary and other Ministers on 12 November to discuss the national improvement framework and the Education Bill, did Government not mention that they were considering this proposal?

Why has Government waited to the last possible moment to submit an amendment of such consequence?"

It is an important issue.

COSLA also asked:

"Can the Government state the source of the educational evidence which it has used to make the decision?"

If teachers and parents have been championing the matter for months, it was certainly not those who live in the Highlands. I have never heard of the evidence; I have never heard a parliamentary question about it; and the issue has never been spoken about.

In addition, COSLA asked:

"Why given the fact that some councils already operate a 22.5 hour school week successfully in some schools has this not been taken into account by Government?"

How will the Bill apply to primary special schools or to children with additional support needs in mainstream education?

What are the educational reasons that have driven the Scottish Government to seek the power?

Why was it not discussed with local government before it was announced?"

You will be pleased to know that I have almost reached the final question, convener. This is a very important one:

"What financial impact assessment has Scottish Government carried out on the proposal for a statutory school week?"

It would cost £6 million in Highland. I would love to know what it would cost elsewhere.

The final question was:

“Does Government realise that simply stating that it is protecting education from austerity is unfair and masks the complex and difficult financial challenges faced by local authorities?”

I apologise for taking so long, convener, but I have never received so many comments from the area that I represent on any piece of legislation that I have scrutinised. I would be failing in my duty to Highland Council were I not to raise the very serious concerns that have been raised with me.

Chic Brodie: I do not think that anyone could accuse Mary Scanlon of not robustly defending the views of her area. I am somewhat confused. The CFE operates on an assumption of 25 hours of teacher contact each week in primary schools. That has been reflected in comments by people such as the EIS’s general secretary, who warmly welcomed the Scottish Government’s announcement that it would legislate on the length of the primary school pupil week to ensure that it will remain at 25 hours. Members will recall that I said that the CFE “assumes” 25 hours of contact. More important, and with no reflection on the EIS, the National Parent Forum of Scotland said:

“This is something that the forum have been asking for for well over a year. We are happy that this will now mean that our children will have a teacher with them for 25 hours a week.”

Having listened to Mary Scanlon’s robust approach to the potential impact, and to what representatives in her area say would happen, I look at what is proposed. Amendment 164 says:

“An education authority and the managers of a grant-aided school must secure that no fewer than the prescribed number of learning hours are made available”.

It then says that

“an education authority is ‘responsible’”.

We then have the strong assumption of 25 hours of contact a week.

I understand some of what has been said, but I think that Liam McArthur’s view was unnecessarily aggressive—he talked about the amendment railroading things through. We need to look at the wording and the CFE’s assumption and take the amendment in that context, notwithstanding some of the assertions—in some cases they are misplaced—about what the bill proposes. I want that to be taken into account, particularly the comments by the National Parent Forum of Scotland.

Liz Smith: I associate myself with the comments that have been made by Mr McArthur and Mary Scanlon. There are two issues to take

into account here. First of all, irrespective of whether or not people agree with the amendments that have been lodged, there has, undoubtedly, been a lack of consultation on them. That is the view of not just Highland Council but many councils, and it is not just the view of the representation by COSLA. In the five days between Wednesday, when this amendment first became public, and today, I have consulted with—I hasten to add—not just Conservatives, but other council members, and there is considerable concern about how this has been brought forward. It is simply unacceptable, given that the local authorities are the ones on the ground that would have deliver these provisions. Moreover, the concerns that they have expressed are not only financial but very significant educational concerns.

Secondly, there is as yet no evidence whatever that the length of time in the classroom delivers better outcomes; indeed, the cabinet secretary has presented no qualitative data to press the case that extending the minimum requirement in terms of hours rather than days will deliver better quality education. Mary Scanlon has quoted evidence from Highland Council that points to European research showing that the opposite could be argued. In any case, one would think that if the cabinet secretary was seeking to make such a substantial change, she would have very convincing evidence to prove that her amendments had educational value. As yet, however, we do not have that evidence, and I am therefore very supportive of what Mr McArthur and Mrs Scanlon have said.

The Convener: Before the cabinet secretary speaks, I want to make one or two points.

First, I would be failing in my duty as convener if I did not point out that members are correct to highlight the lack of consultation. It is not the first time that this has happened with this bill or with others, so I say with all due respect that I expect the cabinet secretary to explain in her summing up how an amendment such as amendment 164 could have been lodged without any consultation. After all, it is a major change, and it is reasonable for members to make that point.

I have some questions about the amendments in the group. Although I understand and sympathise with Mark Griffin’s proposal in amendment 165, I think that there is a lack of flexibility in its drafting and will therefore not support it.

On amendment 164, I know that what is proposed will be done through regulations, but I wonder whether the cabinet secretary could tell us what exactly is covered by the phrase “learning hours”. Are school trips included or not included in teaching time, learning time or learning hours? What happens with special schools? I believe that

you said that schools could exempt individual pupils, but could there also be exemptions for, say, individual schools in an authority, for the provision of 22.5 hours that Mary Scanlon referred to in the early stages—say, P1, P2 and perhaps P3—of primary school? If not, why not?

With those questions, I ask the cabinet secretary to wind up.

Angela Constance: Thank you very much, convener.

We need to be absolutely clear here: decisions about the amount of time that our children spend in class with a teacher have to be made not on the basis of saving money, but on the basis of its having educational benefit. No council that has made proposals on reducing the school week has done so on the basis of educational benefit; the proposals have been based on the need to make financial savings. The Government is striving to protect what we already have. It is crucial to remember that the Highland Council has only in the past two weeks made formal proposals for a formal consultation on that and a range of other matters that affect it.

This issue has been the subject of oral parliamentary questions. I vividly recall being questioned by Angus MacDonald MSP when Falkirk Council had such proposals on the book and, when the Cabinet visited the Highlands earlier this year, I was challenged and questioned at a town hall event—a public meeting—with regard to what was then being perceived as the threat to reduce the school week.

13:30

This has been a live issue. COSLA has been aware of it, particularly given that Scottish Labour had signalled its intention to legislate during the stage 1 debate. Our decision to lodge amendments followed representations from key partners including the national parent forum for Scotland and the EIS. One reason for placing the detail of the new duty in regulations is that it will enable us to consult widely with stakeholders before bringing forward the detail of the regulations.

In addition, I am certainly well scrutinised here in committee at stage 2, and Parliament will have other opportunities at stage 3.

Liz Smith: Notwithstanding what you said about the financial criterion—I have some sympathy for that—is there educational evidence to support the idea that extending school hours will lead to better attainment? Councils are telling us, on an educational basis, that the opposite could be true and that it is about the quality of delivery and not the quantity. Does the Scottish Government have

evidence that, by making that change, we will improve the quality of education?

Angela Constance: No one can seriously argue that reducing a child's access to a qualified registered teacher will improve attainment. No one in mainstream education can credibly argue that having less time with a teacher is a route to educational equity or excellence.

Liam McArthur: Will the cabinet secretary take an intervention?

Angela Constance: In a moment.

Members have already pointed out that curriculum for excellence in the primary school years is based on a 25-hour week; the time is 27.5 hours in secondary schools. There are reams of evidence to suggest that access to high-quality teaching is imperative for the quality of our children's education and, as the national improvement framework identifies, it is a key area that drives improvement. That is why we have invested so much in things such as "Teaching Scotland's Future" and educational leadership, and it is why we have resisted all attempts to diminish the notion that teachers should be qualified and registered.

It is about the evidence on access to quality professionals; I have not heard anyone credibly argue that we can improve attainment in our schools by reducing what we already have.

Liam McArthur: I listened carefully to the exchange between the cabinet secretary and Liz Smith, which in a sense goes to the heart of the problem that we face. In the next five minutes, we will be invited to vote on the amendments. I am sitting here looking at figures that show that, in Denmark, for example, pupils in P1 get access to 600 hours annually, in P2 they get 690 hours and in P3 they get 713 hours. In Scotland, the figure is 960 hours. In Germany, the figures are 564 hours in P1, 592 hours in P2 and 705 hours in P3.

I do not know the answer to the question, but whether it is at stage 1 or, at the very least, at stage 2, when we have taken additional evidence on the national improvement framework and the standard for headship, we expect to be able to test the arguments that the cabinet secretary makes to justify her amendments. We have been denied that because of the way in which the Government has gone about addressing a problem that it says was evident to it when it was up at Highland Council earlier this year or last year.

The Government's approach has put the committee in an impossible position. I have not yet heard an answer to the question that the convener posed about why consultation—not just of stakeholders but in a way that would allow the

committee to do its job and hold the Government to account on its proposals—has been denied us.

Angela Constance: As we have heard from other members, the reality is that our curriculum for excellence is based on 25 hours a week of teacher contact time in primary school. You cannot compare whole education systems with other whole education systems in other countries based on one barometer. We should perhaps ask ourselves whether there would have been such a strong reaction from COSLA and local authorities if cutting the school week had not already been under active consideration by some councils.

I have not heard one argument that reducing the school week will improve our quest—a quest that we all share—to improve attainment and to close the attainment gap in Scotland. The idea of ministers taking steps to deliver a legal guarantee for school pupils in this way is not a new one. We already require schools to be open for 190 days a year, which nobody seems to take issue with, and we already require local authorities to provide 600 hours of early learning and childcare a year.

The regulations prescribing the number and nature of learning hours will be the subject of widespread consultation, including of local government. The regulations will also be subject to affirmative procedure, so we will be fully scrutinised by Parliament.

As I said earlier, the vast majority of local councils are already providing pupils with 25 hours of teacher time. If I can point Ms Scanlon back to my opening remarks, I repeat that we have also recognised the need to accommodate situations that depart from the norm. For example, there will be children whose medical conditions restrict the amount of time that they can reasonably spend in school. There are also children who live far from their school and whose travel time lengthens their day to the extent that it is, particularly for younger children, inappropriate for them to spend as long at school as others do.

That is why, along with enabling powers, I recommend the flexibility of approach that will allow the complexity of the detail to be considered in full and will allow full consultation. I hope that that will address some of Mr Griffin's concerns.

I also want to say to Mr Griffin and to the convener that the definition of “learning hours” is, essentially, contact with a registered teacher. We already know that meeting the provision of 25 hours as per curriculum for excellence requires the full-time equivalent of 1.1 teachers. We have to recognise that in the secondary school years the curriculum is based on 27.5 hours, but with the developing the young workforce agenda we are actively looking for learning opportunities outwith the classroom to give young people opportunities

to pursue vocational qualifications. We will want to define “learning hours” carefully but, as a basic starting point, “learning hours” is contact with a teacher.

The Convener: Thank you, cabinet secretary. The question is, that amendment 164 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Adam, George (Paisley) (SNP)
Beattie, Colin (Midlothian North and Musselburgh) (SNP)
Brodie, Chic (South Scotland) (SNP)
Griffin, Mark (Central Scotland) (Lab)
MacDonald, Gordon (Edinburgh Pentlands) (SNP)
Maxwell, Stewart (West Scotland) (SNP)
Pentland, John (Motherwell and Wishaw) (Lab)

Against

McArthur, Liam (Orkney Islands) (LD)
Scanlon, Mary (Highlands and Islands) (Con)

The Convener: The result of the division is: For 7, Against 2, Abstentions 0.

Amendment 164 agreed to.

Amendment 165 not moved.

Section 18—Provision of school meals

The Convener: Amendment 114, in the name of the cabinet secretary, is grouped with amendments 115 to 118, 166, 167, 119 to 125, 168 to 170 and 174.

Angela Constance: This is another big—and important—group of amendments and I hope that the committee will bear with me again as I take a little time to introduce them.

Providing young children in early learning and childcare with a healthy free school lunch helps to raise attainment, reduce inequality gaps, and improve the health and wellbeing of children at that crucial stage in their development.

The purpose of amendment 114 is to make the provision of a free school lunch under section 53 of the Education (Scotland) Act 1980, and as restated under part 3 of the bill, equally applicable to young children who receive their entitlement to early learning and childcare at partner providers.

Currently, only young children who attend education authority establishments and who meet the relevant criteria are eligible for free school lunches. It is important to rectify the discrepancy that exists in the legislation with regard to partner providers and the entitlement to a free school lunch, which will become increasingly relevant as more young children attend in the middle of the day as a result of increased flexibility; they may also attend more partner providers at this time.

Amendment 115 will enable an education authority to secure the provision of a free school lunch. Amendments 116 to 118, 120 and 123 are consequential to amendment 115. They will mean that the education authority can pass funding and arrangements for free school lunches and other food and drink on to others, such as partner providers, and they will not have to provide that directly themselves.

Amendments 121 and 122 will ensure that education authorities have the maximum flexibility with regard to where lunches and food or drink for children at their own or partner provider settings can be provided.

Amendment 119 will ensure that education authorities are not responsible for providing facilities for the consumption of food or drink that children bring to partner providers. That keeps the requirements on education authorities with respect to partner providers proportionate.

Amendment 123 will ensure, for the sake of consistency, that responsibility for determining what is suitable for consumption in “the middle of the day” remains with local authorities.

Amendment 125 seeks to make minor technical amendments to sections 56A and 56E of the 1980 act in consequence of the new version of section 53. Those amendments are required to maintain the current position in relation to nutritional requirements and sustainable development.

The Scottish Government provides free school lunch provision where it can within current budget constraints. We will take all opportunities to expand that provision where we can. Amendments 124 and 168 create a regulation-making power, which is subject to the affirmative procedure, to enable the Scottish ministers to require local authorities to provide meals other than a lunch. For example, our more vulnerable two, three and four-year-olds could receive a breakfast or tea instead of a lunch if that better suited the time of their session.

We have worked with stakeholders to make sure that the amendments in my name that relate to free school meals are proportionate and manageable for education authorities and their partner providers to implement. The stakeholders that we have consulted include COSLA, the Association of Directors of Education in Scotland, the National Day Nurseries Association and the Scottish Childminding Association, and there is consensus on the benefits to be gained by children as a result of the proposed changes to free school meal provision.

To that effect, funding has already been agreed and allocated to education authorities to support voluntary implementation of the provision of free school lunches to eligible pre-school children at

partner providers from August 2015, pending parliamentary approval of the amendments.

Mary Scanlon’s amendments 166 and 167 deal with free school meals for primary school children. Amendment 166 seeks to require education authorities to provide a free school lunch to all pupils in P1 to P3. Amendment 167 seems to negate amendment 166 by seeking to require education authorities to provide a free school lunch to all pupils in primary education. Perhaps Mary Scanlon will clarify her intentions when she speaks to her amendments.

I do not think that it is necessary to amend the 1980 act in the way that Mary Scanlon’s amendments propose for a number of reasons. First, in January this year, we extended free school lunches to all children in P1 to P3. That can save families around £380 a year per child. I am proud of the action that we have taken in recent years to extend free school meal eligibility.

Secondly, in section 53 of the 1980 act ministers already have a regulation-making power that allows them to extend the category of pupils who receive a free school lunch to other school years. Targeting our limited resources to provide for the youngest schoolchildren gives them the opportunity to benefit from a nutritious meal at a crucial stage of their education and to develop healthy eating habits that can be sustained as they grow older.

The latest statistics demonstrate that the extension of free school lunches to children in P1 to P3 is having a huge impact. More than 129,000 P1 to P3 pupils are now benefiting from a healthy and nutritious free school lunch, and almost 99,000 more primary school children are taking a free school meal.

13:45

The extension of free school lunches has been fully funded by the Government and £70.5 million of revenue funding has been provided over 2014-15 and 2015-16 to ensure that the policy can be delivered in partnership with local government. That has ensured that implementation has been achieved without having to call on the powers that the Scottish ministers have under the 1980 act to impose a duty on education authorities to provide school lunches. Instead, the policy is being delivered by virtue of the new discretionary powers that local authorities have to provide free school lunches to children. The Government intends to fund the policy fully in the future, subject to future spending reviews.

Provided that our existing agreement with local authorities continues to ensure implementation of that important policy, there will be no need for ministers to exercise the regulation-making

powers, or for primary legislation as proposed by Ms Scanlon. However, the Government is absolutely clear that, if any local authority suggests reneging on that commitment, we will not hesitate to use our regulation-making powers to ensure that all local authorities provide free school meals for all children in P1 to P3 in their schools.

I have met the Child Poverty Action Group, which makes it clear in its report “The Cost of the School Day” that continuing to provide free school meals to children in P1 to P3 is of the utmost importance as the cost of school meals remains a huge financial barrier for families in Scotland. Having said that, the provision for P1 to P3 is what is affordable, given the tight constraints that have been set on budgets from Westminster, and we are not in a position—and nor are local authorities—to fully fund the cost of free school meals to children beyond primary 3. Of course, children who qualify for free school lunches as a result of existing benefits-related criteria will continue to do so, and we will continue to focus our efforts on protecting entitlement to free school lunches under the UK Government’s welfare reforms.

I now move on from free school meals to the issue of school clothing, which is another financial barrier to education. Again, I recently discussed the matter with the Child Poverty Action Group. The policy behind amendment 169, which I announced last week, will provide welcome support for families who are impacted by austerity, will put money back into the pockets of families who need it most and—importantly—will ensure that all children and young people have suitable clothing to enable them to learn and thrive at school.

Crucially, the policy will provide consistency of approach throughout Scotland. Although local authorities currently have a general duty to make provision, it is clear from our discussions with a number of organisations that there is inconsistency throughout Scotland and it is unacceptable that any child should lose out. Amendment 169 gives ministers the power through regulations to place local authorities under a duty to pay a grant of a specified amount for the provision of clothing for certain pupils under certain conditions. We need to support the children and young people who need help the most and it is both sensible and timely to put those powers in place now.

The description of these pupils is still to be agreed and I look forward to continuing those discussions with COSLA. I fully intend to work in partnership with COSLA to agree a minimum level of grant provision throughout Scotland. Provided that agreement can be reached to ensure implementation, there will be no need to call on the enabling powers in amendment 169.

Amendment 169 future proofs our legislative framework. It allows local authorities to meet the needs of the children and young people for whom they are responsible through the provision of school clothing grants, and it allows the Government to amend or extend entitlement to school clothing grants if required in the future.

Amendment 168, to which I have already referred, makes the new regulation-making power subject to the affirmative procedure to ensure that the Parliament is afforded sufficient scrutiny of any change to the policy on the provision of school clothing grants. Providing the children and young people who need help most with school clothing grants will help to remove barriers to education, reduce inequality gaps, raise attainment and improve children’s health and wellbeing.

Amendment 170, in Mary Scanlon’s name, would not allow ministers to specify an amount of grant but would provide only for a grant to be paid to certain pupils, so the same level of disparity and inconsistency would continue to exist throughout Scotland. Families will still suffer from a postcode lottery, because amendment 170 does not allow for a minimum amount for school clothing grants to be set nationally.

Furthermore, amendment 169, in my name, can offer more flexibility to make different provision for different purposes. For example, a different amount of grant could be set for primary school pupils compared with secondary school pupils. I just cite that as an example—it is not necessarily a proposal. Amendment 170 allows for no such flexibility.

Amendment 170 also has an internal contradiction. New section 54(2) of the 1980 act, which the amendment would introduce, would impose a duty on authorities to

“provide pupils falling within subsection (3) with a school clothing grant.”

New section 54(6) would provide that the school clothing grant can only be paid

“to the parents of a pupil”.

It does not recognise that the pupil themselves may be in receipt of a specified benefit and, therefore, that the grant should be paid directly to them, not to a parent.

Amendment 174 is a minor technical amendment, which amends the long title of the bill to reflect the inclusion of the new regulation-making powers relating to clothing grants.

I ask members to support all my amendments in this group. Given what I have said, I ask Mrs Scanlon not to move her amendments.

I move amendment 114.

Mary Scanlon: I am pleased to say that I will not move amendment 170. Depending on when

amendments are lodged, we are not always fully aware of what is already there.

I have been working with the Child Poverty Action Group on my amendments and its members have told me that they are very pleased indeed that amendment 169, lodged by the cabinet secretary, will enable the Scottish Government to make regulations ensuring that all education authorities provide school clothing grants and establish a minimum value.

The Child Poverty Action Group feels, however, that there is still a need to consider the provisions of amendment 170, providing for a more direct approach and putting a requirement on education authorities to provide school clothing grants beyond any doubt. The group provides the example of all 32 local authorities in Scotland currently providing school clothing grants, although the rates vary dramatically, from £20 in Angus to £110 in West Lothian. According to the Child Poverty Action Group, Angus Council has recently announced its intention to scrap the school clothing grant altogether. The group highlights a real worry that, in the absence of a legal duty, other local authorities may follow.

I heard what the cabinet secretary said and, at the appropriate time, I will not move amendment 170.

My other two amendments in this group, amendments 166 and 167, also came from discussions with the Child Poverty Action Group. Both are probing amendments, which I think is highly appropriate at this point of consideration of the bill. Awareness should be raised and discussion should be had; I trust that colleagues will respect these issues being raised at this appropriate time.

Amendment 166 would give a legal underpinning to the Scottish Government's policy commitment to provide school meals to children in P1 to P3. It would put eligibility for free school meals for P1 to P3 on the same legal footing as the existing entitlement to free school lunches. To be fair, I listened very carefully to what the cabinet secretary said and I appreciate that the Government already has the regulatory powers to do that.

Amendment 167 is the other probing amendment. The Child Poverty Action Group has put the issue on the agenda in the past. It is simply seeking a discussion around extending the provision of universal free school meals beyond primary 3. I have to say that that is not my party's policy, but it is appropriate at this point to raise these issues for wider discussion.

Angela Constance: I can reassure Mrs Scanlon that the purpose of the Government amendments on school clothing is to introduce

consistency and to be clear about having a financial grant to those who require assistance with school uniforms. We have seen a proliferation of school uniform banks across the country and it is important that the Government responds to that. There is considerable variability across the country, with some councils considering scrapping school clothing grants while others continue to pay in excess of £100.

A lot of work has been done on that in the past and we look forward to continuing to work with COSLA on the matter as it has certainly verbalised its willingness to work with the Government. We hope to have a similar outcome for school clothing grants as we had through our work on free school meals. Although we have the powers and can take action, the powers have not had to be implemented because we reached a voluntary agreement. We want to reach such a voluntary agreement on school clothing grants but it is important to futureproof our position on the matter.

Amendment 114 agreed to.

Amendments 115 to 118 moved—[Angela Constance]—and agreed to.

Amendments 166 and 167 not moved.

Amendments 119 to 125 and 168 moved—[Angela Constance]—and agreed to.

Section 18, as amended, agreed to.

After section 18

Amendment 169 moved—[Angela Constance]—and agreed to.

Amendment 170 not moved.

Section 19—Enforcement of statutory duties

The Convener: Amendment 171, in the name of Gordon MacDonald, is in a group on its own.

Gordon MacDonald (Edinburgh Pentlands) (SNP): I am pleased to be moving amendment 171. It is a small and fairly technical measure but it could have a big impact. It is important that it also gives effect to a key aspiration that is certainly shared across the SNP group to enable greater participation in all aspects of public life.

People should have a say in how decisions are reached in all parts of life, and section 70 complaints are so fundamental to so many families and communities that it is right that if the Government is making changes to how they operate, however well-intentioned those changes are, it should consult on its proposals to make sure that it has at least listened to the views of others. Given that the regulatory powers that are proposed will address timescales for everyone from complainants to ministers involved in a

section 70 complaints process, it makes it even more important that those timescales are consulted on to ensure that they strike the right balance. I ask colleagues to support my amendment.

I move amendment 171.

Angela Constance: I thank Mr MacDonald for lodging amendment 171 on section 70 provisions. As he states, although section 70 is a small part of the Education (Scotland) Act 1980, it is nevertheless important. I agree that it is important that we make sure that the regulations that we make about section 70 should be subject to consultation. They will make provision about the timescales in which all parts of the section 70 complaints process should be completed.

In my response to the committee's stage 1 report, I indicated that we intended to consult on the regulations and amendment 171 puts that beyond doubt. I am happy to support Mr MacDonald's amendment.

Gordon MacDonald: Given the cabinet secretary's remarks, I have nothing to add, other than that I will press my amendment.

Amendment 171 agreed to.

Section 19, as amended, agreed to.

The Convener: Given the time, and what we still have to get through, I am not confident that we will complete stage 2 today. I will therefore bring the committee meeting to an end at this stage and we will pick up where we left off tomorrow morning at 10 o'clock, on day 3 of stage 2 of the Education (Scotland) Bill.

Before I bring the meeting to a close, I thank everyone who has organised and supported the meeting here in Dunfermline. It has gone exceptionally well. We have had a great welcome and the hospitality has been very nice too. We do not usually get a sandwich in committee, so I thank whoever organised that.

Mary Scanlon: The coffee is nicer than the Parliament's.

The Convener: Yes, the coffee is better here, so I thank whoever organised that.

I thank all those members of the public who came along, particularly the primary school pupils.

Meeting closed at 14:01.

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