



OFFICIAL REPORT
AITHISG OIFIGEIL

DRAFT

Education, Children and Young People Committee

Wednesday 3 December 2025

Session 6



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CONTENTS

	Col.
SUBORDINATE LEGISLATION	1
Disclosure (Scotland) Act 2020 (Commencement No 6, Consequential Amendment, Saving and Transitional Provision) Regulations 2025 (SSI 2025/352)	1
TERTIARY EDUCATION AND TRAINING (FUNDING AND GOVERNANCE) (SCOTLAND) BILL: STAGE 2	2
CORRECTION	100

EDUCATION, CHILDREN AND YOUNG PEOPLE COMMITTEE

35th Meeting 2025, Session 6

CONVENER

*Douglas Ross (Highlands and Islands) (Con)

DEPUTY CONVENER

*Jackie Dunbar (Aberdeen Donside) (SNP)

COMMITTEE MEMBERS

*George Adam (Paisley) (SNP)

*Miles Briggs (Lothian) (Con)

*Pam Duncan-Glancy (Glasgow) (Lab)

*Ross Greer (West Scotland) (Green)

*Bill Kidd (Glasgow Anniesland) (SNP)

*John Mason (Glasgow Shettleston) (Ind)

*Paul McLennan (East Lothian) (SNP)

*Willie Rennie (North East Fife) (LD)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Stephen Kerr (Central Scotland) (Con)

Ben Macpherson (Minister for Higher and Further Education)

CLERK TO THE COMMITTEE

Pauline McIntyre

LOCATION

The Robert Burns Room (CR1)

Scottish Parliament
**Education, Children and Young
 People Committee**

Wednesday 3 December 2025

[The Convener opened the meeting at 09:00]

Subordinate Legislation

**Disclosure (Scotland) Act 2020
 (Commencement No 6, Consequential
 Amendment, Saving and Transitional
 Provision) Regulations 2025 (SSI 2025/352)**

The Convener (Douglas Ross): Good morning, and welcome to the 35th meeting of the Education, Children and Young People Committee in 2025. The first item on our agenda is consideration of an item of subordinate legislation, which is being considered under the negative procedure.

If members have no comments, does the committee agree that it does not wish to make any recommendations in relation to the instrument?

Members *indicated agreement.*

**Tertiary Education and Training
 (Funding and Governance)
 (Scotland) Bill: Stage 2**

09:00

The Convener: Our next item is continued consideration at stage 2 of the Tertiary Education and Training (Funding and Governance) (Scotland) Bill. I welcome back Ben Macpherson, Minister for Higher and Further Education, along with his supporting officials. I remind members that the officials who are seated at the table are here to support the minister but are not able to speak in the debates on amendments. Members should therefore direct their comments or questions to the minister. During the meeting, we will also be welcoming a number of non-committee MSPs who are attending for part or all of the meeting to speak to their amendments and participate in the groups.

**Section 5—Funding for Scottish
 apprenticeships and work-based learning**

The Convener: Amendment 94, in the name of Stephen Kerr, is grouped with amendments 9, 10, 95, 30, 96 to 102, 31, 11, 32, 103 to 109, 33, 110 to 112, 12, 113 to 120, 34 and 35.

Stephen Kerr (Central Scotland) (Con): Good morning. I will speak to amendments 94, 96 to 100 and 119, which are in my name and which all relate to the funding of Scottish apprenticeships and work-based learning, an area that is absolutely central to whether the bill succeeds or fails in its practical purpose.

The bill as introduced moves large responsibilities from Skills Development Scotland to the Scottish Funding Council, yet it does so without providing the clarity, transparency or accountability that such a transfer demands. I have lodged amendments to correct that deficiency and to ensure that the new funding system is coherent, credible and oriented towards Scotland's long-term economic needs.

At the heart of the amendments lies the clear principle that a skills system cannot function if the funding that underpins it is opaque, unstable or poorly aligned with the needs of learners and employers. Apprenticeships and work-based learning thrive when funding mechanisms are predictable, when they encourage participation and when they incentivise high-quality provision. They falter when funding is inconsistent or unresponsive. The bill, as drafted, risks the latter. These amendments, taken together, aim to secure the former.

Amendment 94 would introduce a requirement that people aged 16 to 24 who are not in full-time

education or employment be offered access to a publicly funded apprenticeship or work-based learning opportunity. The amendment speaks to a moral obligation that we have to ensure that every young person in Scotland has equality of opportunity. Far too often, our education system focuses on university as the gold standard. It often forgets about those who are not academically inclined. Amendment 94 would provide a clear legal right to equality of opportunity. It would shine a light on those who have fallen through the cracks in our education system and provide a hand up, not a handout.

John Mason (Glasgow Shettleston) (Ind): Amendment 94 refers to

“a publicly-funded Scottish apprenticeship”.

Does that mean in the public sector? Would it mean that local authorities would have to provide any number of apprenticeships?

Stephen Kerr: No. I am referring to the mechanism by which places are funded rather than where the places are located, whether in the public or private sector.

John Mason: We could not insist on the private sector creating apprenticeships if it did not want or need them. Would it therefore fall to the public sector to provide those?

Stephen Kerr: I think that John Mason will find that there is great demand for apprenticeships. Currently, that demand is unmet. If you listen to employers, as I am sure John Mason has done, you will find that they are crying out for those. That is particularly the case in the small and medium-sized enterprise sector, which we all know is a huge element of the Scottish economy. More people work in SMEs than in large-scale businesses, and SMEs are desperately keen to bring on apprenticeships, particularly for young people.

I do not think that the question is whether the demand exists; it is whether we have the will and accept our moral responsibility to make that provision when public funding is required, and that is what my amendment would do.

Amendments 96, 97 and 98 would build on that commitment of equality of opportunity. Amendment 96 would provide that the council must ensure that apprenticeships

“include pathways targeted at—

- (a) unemployed persons,
- (b) persons seeking to change careers, and
- (c) persons at risk of labour market exclusion.”

Amendment 97 would oblige the Funding Council to

“promote and support school-to-work pathways, including school college partnerships, foundation apprenticeships and work-based learning for senior phase pupils.”

Amendment 98 would require the council to

“take steps to expand the range and number of graduate apprenticeship frameworks”

and,

“in doing so, prioritise sectors experiencing skills shortages”.

The amendments are targeted specifically at those who are either left out or are at risk of being left out of the labour market. They are targeted to reduce economic inactivity and, crucially, to ensure equality of opportunity across the board. As members will have detected from my remarks, I have a commitment—as I am sure they do—to the concept of creating more equal opportunity in our country and our economy.

Amendments 99 and 100 would strengthen the link between funding and quality. They would require ministers and the council to ensure that funding does not simply support provision but supports provision that is fit for purpose and capable of delivering meaningful outcomes.

We recognise that apprenticeships are not simply another educational pathway; they are a contract of sorts between the state, the learner and the employer. When that contract is honoured, productivity rises, job prospects improve and the system commands public confidence. When funding is detached from quality, the entire system risks mediocrity. The amendments would provide a safeguard against that outcome.

Amendment 119 addresses the long-standing problem of volatility in apprenticeship funding. The availability of places in Scotland too often fluctuates unpredictably from year to year. We have seen that happen particularly in the past two or three years. That creates uncertainty for employers and learners alike, along with everyone else in that ecosystem.

Apprenticeships require continuity. Businesses must know when they are planning that, if they invest in new talent, the system will support them. Amendment 119 would require ministers to consider stability and continuity in funding, so that the apprenticeship system can grow rather than lurch from one year to the next.

I am bound to point out that, in respect of the current amount of money that is raised and allocated to Scotland through the apprenticeship levy every year, we are spending nothing like the amount of money that is designated for apprenticeships on apprenticeships, to the tune of hundreds of millions of pounds.

Taken together, the amendments present a coherent view of what a modern, effective funding

system must look like. It must be transparent, predictable and aligned with economic need. As I said in response to John Mason earlier, there is undoubtedly genuine demand for apprenticeships. Together, these amendments are all about high-quality provision that equips Scotland's workforce for the future. Those are principles that my party, the Scottish Conservatives, have championed consistently throughout the scrutiny of the bill, and they are principles that would make the legislation better. I know the minister well enough to know that his motivation would be to make it work better.

Apprenticeships and work-based learning are not peripheral concerns; they are central to Scotland's productivity, competitiveness and opportunity. If the funding system is weak, the entire structure weakens with it. That is why the amendments in my name in the group seek to strengthen the bill, which I believe urgently needs reinforcement if it is to mean anything.

I invite colleagues to support amendments 94, 96 to 100 and 119.

Jackie Dunbar (Aberdeen Donside) (SNP): My understanding is that the term "work-based learning" is intended to cover all types of activities currently undertaken as foundation apprenticeships. However, the definition of work-based learning in the bill would not cover all foundation apprenticeships. Only Scottish credit and qualifications framework level 6 includes learning in a working environment, which is a key aspect of the definition in the bill, whereas levels 4 and 5 are limited to experiences such as challenge projects, based on a scenario from the employer but conducted in a school or college.

The SFC already has powers to fund learning in a college environment, but it has no powers to fund education or training in schools, and it is intended that all current foundation apprenticeships, including school based, will be secured by the SFC. To ensure a smooth transition on day 1, my amendments 9 and 10 would ensure that the SFC can fund work-based learning in schools in the same way as SDS does now. For that reason, I hope that members will support them. I have spoken to the Food and Drink Federation Scotland, which supports my two amendments. I believe that Universities Scotland has written to you, minister, asking for clarity on whether you envisage that my amendments would include graduate apprenticeships or whether that would have to be addressed at stage 3.

The Minister for Higher and Further Education (Ben Macpherson): I will come to that in my remarks, if that is okay.

Miles Briggs (Lothian) (Con): Good morning. My amendment 95 would add a new definition of work-based learning—it would make it clear that

foundation apprenticeships are included in the statutory definition.

Amendments 101 and 102 would ensure that good practice in local authorities is taken into account and that the SFC engages with our local authorities.

On amendment 103, as I outlined last week, the Scottish Conservatives hope that the bill can be an opportunity for a culture shift across our education and skills system so that working relationships with the college sector, as part of the wider tertiary sector, can be more collaborative, and so that colleges are empowered to become drivers of change, rather than merely recipients of funding. Amendment 103 is intended to empower our colleges to deliver opportunities in their local areas and drive forward economic growth.

The SFC's report, "Financial Sustainability of Colleges in Scotland 2020-21 to 2025-26", recognises the worsening financial health of Scottish colleges. However, unless the SFC is ultimately given the power to address the financial sustainability of the college sector, the current position is unlikely to change.

Audit Scotland has evidence that there has been a 17 per cent real-terms reduction in funding in the college sector between 2021 and 2025. That has resulted in colleges having to deliver significant annual recurrent savings that will have a material impact on learners and those institutions.

My amendment 103 would provide for the delivery of Scottish apprenticeships or work-based learning through a college-first presumption, with a minimum of a 75 per cent share of grants, loans and other payments being made directly to Scottish colleges in the public sector or a college consortia.

Amendments 110 would change the definition of a training provider by replacing the word "person"—

Pam Duncan-Glancy (Glasgow) (Lab): On amendment 103, will the member explain the 75 per cent figure and what the current split is, so that we can get an understanding of that?

Miles Briggs: I worked with Colleges Scotland on the amendment, and 75 per cent is the capacity that it would expect to be able to deliver, leaving 25 per cent for other providers in the sector. There would be a transfer of additional apprenticeship work. I hope that there will be a growing capacity. On a number of visits—especially to parts of the economy here in Edinburgh—I have heard about the opportunity for more collaboration between businesses. Other amendments that I have lodged would provide additional funding for colleges to

supplement that. For example, the construction sector is crying out for more people to be trained.

Edinburgh College told me that it could take three times the number of people it is currently training, which the sector is desperate for. The amendment would provide for a minimum level of 75 per cent, and I would hope that the college sector could raise additional opportunities.

09:15

I realise that I have a lot of amendments in the group, so I will try to make a bit more progress.

Amendment 110 would change the definition of “training provider” from “a person” to a “registered company or accountable body”.

Amendment 111 would create a mechanism for colleges to act

“as a lead delivery partner for ... Scottish apprenticeships and work-based learning in”

their region when they receive funding under proposed new section 12J of the Further and Higher Education (Scotland) Act 2005.

Taken as a package, the amendments would ensure that our colleges are formally enabled, and required, to act as lead delivery providers, securing their role rather than leaving management wholly to training providers. The minimum percentage floor would therefore ensure that a guaranteed share of modern apprenticeships is anchored in our college sector, thus preserving capacity, aligning the college infrastructure to what is needed and maintaining local access.

My amendments 104 to 107 deal with the role of SMEs in providing training opportunities and with the provision of dedicated access to grants, loans and other payments to allow them to deliver Scottish apprenticeships. The amendments would provide that regard must be had to the economic priorities of Scottish ministers and to the skills needs in different industries.

There are a number of amendments in relation to reporting requirements around transparency and accountability.

Willie Rennie (North East Fife) (LD): For my four amendments in this group, I have been working with SELECT—Scotland’s electrical trade association. Amendment 30 specifies that Scottish ministers may make

“provision of grants, loans or payments to managing agents”

for the delivery of Scottish apprenticeships or work-based learning.

Amendment 31 would add a reference to “managing agent” alongside training providers in relation to the SFC making grants for apprenticeships and work-based learning.

Amendment 32 is consequential, and amendment 33 would add the definition of “managing agent”.

The purpose of the amendments is to address what has been quite a controversial debate during the scrutiny of the bill, about the role of managing agents. I know that Mr Adam had a particular concern about the margin and the profitability that it is claimed that some of those managing agents take. My amendments are an attempt to rebalance the discussion, because managing agents have an important role to play, within a strict set of rules. Therefore, they should be specified in the bill to ensure that we provide assurance about those who provide a very good service, in order to enhance the role of skills development and work-based learning in Scotland.

Managing agents undertake a variety of different important roles, including offering pre-employment assessments to all applicants; arranging the enrolment of apprentices and adult trainees to 22 colleges across Scotland; co-ordinating and timetabling courses at colleges; providing teaching materials; paying college fees; and providing training support to apprentices and employers.

I am keen to hear the minister’s response to that, to see whether the amendments are necessary and whether he can provide me with assurances about the role of good managing agents.

Ben Macpherson: The dialogue that we have had so far this morning speaks again to the strong alignment across the Parliament and the committee to improve the system, which is working very well for many just now but could work even better for many others. I look forward to continued constructive engagement on that throughout the remainder of the bill process.

As this is quite a large group of amendments, I would be grateful for colleagues’ patience as I work through them.

Amendment 11, in my name, is a technical amendment that responds to SDS’s written evidence to the committee at stage 1. SDS raised the question whether the bill’s provisions limited training providers’ ability to generate any profit in the course of their business of providing training in the delivery of national training programmes or apprenticeships. The policy intention is that legitimate and proportionate profit is not to be prohibited, and the bill’s initial provisions were not intended to imply such limits. That is why we have lodged amendment 11.

My amendment 12 allows the SFC to limit managing agent fees. During the stage 1 evidence-taking sessions, managing agents set out how they used the funding that they received, with one outlining to the committee that they retained 40 per cent of it. That was, I know, of particular concern to Ross Greer; George Adam raised the matter last week; and other members of the committee have been interested in it, too. Indeed, Ross Greer's amendment 51 in group 4 also addressed it.

There is a need for managing agents, and they are an established part of the skills system. I acknowledge that issues can arise from the proportion of fees that some of them retain when securing the delivery of training through subcontractors. As I want to ensure that as much public funding as possible goes to the front-line delivery of education and training. I have lodged amendment 12, under which the SFC must determine the appropriate percentage that a managing agent may retain and make that a condition for funding.

I think that that is a proportionate approach that balances the legitimate costs of managing agents with the need to use public money wisely. I believe, too, that it provides the flexibility to respond to individual contracts in practice in a way that putting a number into primary legislation simply would not have done. I therefore encourage members to support amendment 12.

I also want to address Ross Greer's comments last week about the drafting of amendment 12. In his view, it is vague; I would argue, in short, that it is not. Its drafting shows a deliberate and clear intention. It just takes a different approach to Mr Greer's amendment, and I hope that the member will be open to it.

Amendment 12 deliberately gives discretion to the SFC to respond to individual circumstances instead of setting a cap in primary legislation, which, even with the ability to change such a cap by regulations, would be arbitrary and inflexible. The amendment also provides that any subcontractors used to deliver training must comply with the criteria in the bill for what makes a training provider, and the amendment is deliberately framed to stipulate that no training provider is entitled to retain more than the "reasonable" fee. That framing is designed to close down the possibility of a provider getting around the restriction by creating some kind of artificial training scheme in order to pass along the funding or by claiming that a subcontractor is not a training provider in the true sense, thereby getting a higher percentage. For all of those reasons, I encourage members to vote for my amendment 12, in preference to Ross Greer's amendment 51.

I hope that that explanation is helpful to Mr Greer, too.

On amendments 30 to 33, in the name of Willie Rennie, I have listened carefully to what the member has said about them, and it appears that their purpose is similarly concerned with limiting managing agent fees. I believe that amendment 12 will do that in a proportionate way, without requiring additional complex regulations that might not allow for appropriate flexibility. In my view, the SFC is best placed to assess what is reasonable in the context of particular arrangements.

Therefore, I ask Willie Rennie not to move his amendments, but I am happy to engage with him further in our dialogue ahead of stage 3. I note that he has had engagement with SELECT on the provisions in his amendments, and I would be keen to hear more from him, in due course, about its concerns.

I support amendments 9 and 10 in the name of Jackie Dunbar. Her amendments ensure that the term "work-based learning" encompasses all the types of activities and learning that currently constitute foundation apprenticeships. I want to take this opportunity to stress that the use of the term "work-based learning" in the bill does not seek to diminish or devalue what we currently know as foundation apprenticeships. The Scottish Government remains committed to increasing the skills of Scotland's young people through work-based learning; indeed, that is very important, as I argued in our previous session on the bill.

I listened carefully to the evidence given to the inquiry on graduate apprenticeships. Universities will be able to provide work-based learning as appropriate, and current and similar arrangements for graduate apprenticeships will be available. The bill simply adds options. For example, a university could deliver work-based learning and be funded to do so under section 5.

Graduate apprenticeships will be covered by the definition of "Scottish apprenticeship", not the definition of "work-based learning". Officials will be engaging with Universities Scotland next week, when there will be more discussion on that point.

Willie Rennie: If the minister has finished with Jackie Dunbar's amendments, I want to make a point about my amendments 31 to 33. They are not about limiting fees, but about having special recognition for managing agents. Currently, that sort of recognition does not exist, so the amendments seek to include those agents in the bill. Will the minister address that point, or can we have a discussion about it afterwards?

Ben Macpherson: In the bill, a managing agent is a training provider, and I value the important role that training providers and managing agents play in the current system. I would also be

interested in having further engagement, and I do appreciate the constructive engagement that we had from Mr Rennie ahead of the amendments being lodged. As part of our dialogue ahead of stage 3, I would like to listen to more about those points, and I would be grateful if we could use that time to have more discussion.

Several other amendments in the group relate to foundation apprenticeships and work-based learning. Amendment 95, in the name of Miles Briggs, would bring a reference to “foundation apprenticeships” into the definition of “work-based learning”. The definition has already been designed to cover foundation apprenticeships, and will do so in a better way through amendments 9 and 10. Adding the definition proposed in Miles Briggs’s amendment and introducing provision for foundation apprenticeships when we already have provision for work-based learning could be confusing and could risk creating unintended consequences. We have also had a discussion about how we do not want to have the term “foundation apprenticeships” in the bill. Therefore, I encourage Mr Briggs not to move amendment 95.

There are several amendments that seek to replicate existing legislative requirements on the SFC to have regard to various matters in section 20 of the 2005 act or to collaborate with various bodies listed in section 22 of that act. They include amendment 100, in the name of Stephen Kerr; amendment 102, in the name of Miles Briggs; amendment 106, in the name of Miles Briggs—an amendment that would duplicate the provision in amendment 47, in the name of Ross Greer, which I intend to support when we get to that group; amendment 107, in the name of Miles Briggs; and amendment 109, in the name of Pam Duncan-Glancy. I do not consider it necessary to duplicate the current requirements. However, if members do not move their respective amendments, I will undertake to review what is covered by section 20 of the 2005 act and consider their respective issues ahead of stage 3.

Other amendments seek to make legislative provision in areas that would be better handled administratively. I agree with the spirit of those amendments, but putting such matters in legislation would limit the ability of future Governments to change tack and adapt to different circumstances, or for the SFC to have a flexible and agile operation. Those amendments include amendment 101, in the name of Miles Briggs, which would require the SFC to take account of “good practice”. It is unclear what such “good practice” would be or where it would derive from, and, in any case, we already expect the SFC to do that in how it operates in practice.

Amendments 104 and 105, in the name of Miles Briggs, concern SME grants, which are matters for the terms and conditions of grant funding and/or guidance from Scottish ministers. Amendment 115, also in the name of Miles Briggs, relates to cost benefit analyses and equality impact assessments, which are already a requirement for new policies and, therefore, are already catered for.

I am sympathetic to Miles Briggs’s amendment 116, but it is not needed. Transparency, accountability and cost effectiveness will be central principles in the delivery of work-based learning. Where it is necessary to say anything additional about those principles, that can be done through guidance or in Scottish ministers’ terms and conditions of grant to the SFC.

Again, the issue covered in amendment 120, in the name of Daniel Johnson, is best dealt with as an administrative matter. It is not appropriate for the bill to spell out in detail all the matters that should be covered in the SFC’s annual report. The amendment covers one important matter, but there are many others of equal importance.

09:30

A number of amendments attempt to protect expenditure on apprenticeships and work-based learning. The proper place for determining budgets is the Scottish Government’s budget bill, following the budget process. Amendment 34, in the name of Willie Rennie, would, in effect, duplicate the Scottish Government’s budget bill process and the process by which money is moved from one budget line to another through the autumn and spring budget revisions. The bill includes specific powers for ministers to provide grants to the SFC to support apprenticeships and work-based learning, and its provisions also expressly require that such grants issued by Scottish ministers be administered by the SFC only for those specified purposes. Scottish ministers set out their high-level priorities for the SFC through the annual letter of guidance. Together, those provisions make clear the purposes for which the SFC must use the funding provided to it.

Stephen Kerr: Minister, do you accept that this approach will create uncertainty in the funding of apprenticeships? In effect, you are saying that all of this will be done at the top line and that it is all directional, with an envelope of money given to the SFC, but there is nothing to say that the SFC will spend the money one way or another. It might spend money in each of the areas that you, as the minister, have designated, but that does not mean that there will be consistency in funding. That will undermine the whole apprenticeship system.

Ben Macpherson: I refer back to what I said about the letter of guidance and the stage 2 discussions that we have had on how the apprenticeship committee will direct the SFC's considerations with regard to the deployment and implementation of funding for apprenticeships. I will say a bit more about those points later, so I ask Stephen Kerr to bear with me.

Amendment 103, in the name of Miles Briggs, would require 75 per cent of any grants made by the SFC for Scottish apprenticeships and work-based learning to be given to colleges of further education. That would represent a significant change of emphasis from the current model, in which the majority of training is provided through independent training providers.

Whatever the rights and wrongs of the distribution of funding between the public and private sectors, it would not be appropriate to set a limit in legislation. I go back to my previous point about flexibility. As it stands, amendment 103 would make a smooth transition to the SFC on 1 April 2027 difficult.

Let me turn to other topics covered in this group of amendments. Amendment 94, in the name of Stephen Kerr, seeks to ensure that every young person between the ages of 16 and 24 who is not in full-time education or employment

“is offered access to a publicly-funded Scottish apprenticeship or work-based learning opportunity.”

Although I understand that, in lodging the amendment, Stephen Kerr seeks to be useful, it would be very difficult for any Government to guarantee what he is asking for, not least because it would depend on there being employers and sufficient jobs, apprenticeships and work-based learning opportunities available. I noted the exchange between John Mason and Stephen Kerr in that regard. I appreciate that there is significant demand at the moment, but we must legislate in a way that caters for the circumstances of the future as well as for the short term.

I am supportive of the principles behind amendment 96, in the name of Stephen Kerr. Providing pathways for unemployed persons, people seeking to change careers and people at risk of being excluded from the labour market is entirely sensible; however, making selective provision would cut across the overarching duty on the SFC to secure coherent provision. A similar argument applies to amendment 97.

Amendment 98, in the name of Stephen Kerr, seeks to ensure that steps are taken to expand the range of graduate apprenticeships and frameworks. That might be the right approach in practice, but we would not want to constrain ourselves in primary legislation. In the future, it might be more efficient to have, say, fewer

broader frameworks rather than a proliferation of frameworks. Hypothetically, a broad framework that covered the health professions might be preferred over a number of frameworks covering individual professions. We must create capacity for flexibility.

Again, I share the ambition behind amendment 99, in the name of Stephen Kerr, for year-on-year growth in the number of apprenticeships. However, it is important to note that there are certain constraints on the number of apprenticeships that the Government and the Parliament simply cannot control, including whether employers are willing to take them on. In a recession, businesses might be reluctant to hire, so it might be harder to secure the number of apprenticeship starts.

Stephen Kerr: Does the minister accept that there is quite a lot of unmet demand, especially in the SME sector? Does he also understand that hundreds of millions of pounds, cumulatively, have been passed to the Scottish Government as part of the block grant, under the heading of apprenticeship levy money, that are not being spent on apprenticeships at all?

Ben Macpherson: We will discuss the apprenticeship levy in later groups of amendments, but the fact is that the situation is not as Stephen Kerr sets out. It is more complicated and challenging than that, but I will comment on the apprenticeship levy specifically later.

Last week, I acknowledged, in answer to a general question in the chamber, that there is unmet demand. Indeed, one of the reasons for taking this primary legislation through the Parliament is to have a better arrangement for meeting unmet demand in the period ahead. I would also point to the support that the bill has had from the Federation of Small Businesses, which represents the many businesses in the SME sector that are very supportive of the bill. The current system is quite challenging for some SME businesses, and we want to improve the system for them. That is one of the strong reasons why the Parliament passing the bill is the right thing to do, and I look forward to Stephen Kerr's support at the end of stage 3.

On a wider point, I do appreciate that Stephen Kerr and I did not have any engagement ahead of stage 2. Obviously, I engage with all members of the committee, but, if Stephen Kerr would like to engage with me ahead of stage 3, I would be happy to facilitate that and to listen to him.

Amendment 108, in the name of Miles Briggs, would have no effect; the SFC would, in any case, have to specify the amount of grant that it awarded to a local authority. The bill gives ministers the

power to set out in regulations the criteria for a person to be a training provider, and SDS funds a broad range of such providers. Indeed, sometimes the employer is the training provider.

Amendment 110, in the name of Miles Briggs, would potentially preclude some employers and other forms of training providers.

Amendments 111, 112 and 118, also in the name of Miles Briggs, also attempt to delegate the SFC's duty to secure Scottish apprenticeships and work-based learning to colleges and to do so on a regional basis. The amendments would allow colleges to act as managing agents, and they attempt to restrict the managing agent fee that colleges can retain.

The bill does not prevent a college from acting as a training provider, and, therefore, as a managing agent, but it would be a very significant departure from current arrangements and would lack the statutory processes and safeguards that apply to the SFC in managing funding. There is also a danger that there would not be coherent provision across Scotland. I am supportive of creating a strong regional partnership, something that I know that Miles Briggs is exercised about, but I believe that that can be done through the bill's existing provisions and the 2005 act. Therefore, with respect, I am not able to support the amendments.

Amendment 113, in the name of Daniel Johnson, embodies reasonable points about value for money, transparency and fair work practices. However, it is not clear whether the amendment would exclude colleges, given that they are public sector bodies. It is also unclear how the SFC would assess what constitutes value for money and what mechanisms would be used to assess transparent spend. In any event, it is likely that to prescribe fair work practices in such a way would be beyond the legislative competence of the Government and the Parliament, as we discussed last week in relation to other amendments.

I do agree with the intent behind amendment 114, in the name of Pam Duncan-Glancy, but I ask her not to move it, so that I can consider the framing ahead of stage 3 in relation to amending section 20 of the 2005 act.

Pam Duncan-Glancy: I have been pulling up the exact detail of amendment 113. Although I appreciate the conversation that we had last week on fair work practices, does the minister accept that there must be a way of determining clearly and transparently whether the money leaving the Government and the public purse and going to organisations is providing value for money and whether those organisations are adopting fair work practices? How else, if not through amendment

113, does the Government plan to assure that that is the case?

Ben Macpherson: I thank Pam Duncan-Glancy for that intervention. She and other members will recall that amendment 73 in group 5 covered similar ground, and the issue was subject to some discussion and challenge from Pam Duncan-Glancy last week, as well as in her intervention just now. My reasons for resisting amendment 113 are similar to those for resisting amendment 73.

As I said last week, the general principles of value for money, fair work practices and transparency are of course important to the Government, as they are to members of the committee. However, it is likely that prescribing fair work practices in the way that is set out in those amendments, including amendment 113, would be beyond the legislative competence of the Scottish Government and the Scottish Parliament, due to the reservation in that regard.

Last week, I said that I would not give an undertaking to lodge a similar amendment at stage 3, but I undertook to be open-minded and to have further engagement with Pam Duncan-Glancy on the wider issues that were raised in amendment 73, and that applies in respect of amendment 113, too.

Pam Duncan-Glancy: Will the minister take another intervention?

Ben Macpherson: I would like to make progress, if that is okay.

The reform to the skills landscape that we are taking forward does not anticipate skills planning to be something for the SFC to lead on. Amendment 117, in the name of Miles Briggs, would pre-empt the priorities that are to be determined by the new skills planning function within the Scottish Government. Further, it would not be appropriate to name particular sectors in the bill, not least because they might change over time, or equivalently important sectors might come to the fore.

Amendment 119, in the name of Stephen Kerr, would give the SFC a role that is not for it to play. The SFC's role is to secure provision, and it is for the Scottish Government to assess labour market demand and skills shortages, with other public bodies.

Amendment 35, in the name of Willie Rennie, would, in effect, recreate the Scottish Apprenticeship Advisory Board. Given that the apprenticeship committee set out in the bill is designed to take on the SAAB's functions, the proposed additional board would duplicate the work of the apprenticeship committee and therefore complicate the landscape. However, I refer back to the discussion with Willie Rennie that

I had last week on considerations ahead of stage 3 with regard to further industry involvement.

In conclusion—and I know that members and the convener will be glad to hear that phrase—other than Jackie Dunbar’s amendments, the Scottish Government and I, for the reasons that I have given, cannot support any of the other amendments in the group. However, as with every other group, I thank members for their constructive engagement, and I am happy to keep an open mind on the question of funding for apprenticeships ahead of stage 3.

I ask the committee to support amendments 9 and 10 from Jackie Dunbar and my amendments 11 and 12, and not to support the other amendments in the group.

The Convener: There is clearly some interference in the room, which we are trying to sort out. Are members content that we continue, or is it too distracting? I see that we are okay—that is fine.

I call Pam Duncan-Glancy to speak to amendment 109 and other amendments in the group.

Pam Duncan-Glancy: Good morning. Forgive me, because I have already spoken and have not said that yet.

My amendment 109 says that work-based learning or foundation apprenticeships must be delivered collaboratively with employers, local authorities and schools and that consideration must be given to the attainment gap, post-school destinations and rural access and transport barriers.

Andrew Ritchie from Aberdeenshire Council, when giving evidence to the committee, said that moving foundation apprenticeships from the apprenticeship family to

“as yet undefined work-based learning courses”

poses a risk that

“foundation apprenticeships will be no more”.—[*Official Report, Education, Children and Young People Committee*, 14 May 2025; c 6.]

East Ayrshire Council’s education service said that the bill

“endangers the provision of school-based qualifications and effectively places them solely in FE domain.”

In addition, John Vincent, of Colleges Scotland, said that it would be an “enormous loss” if foundation apprenticeships, particularly at SCQF level 6, lost their status as a result of the measures in the bill.

09:45

The Government did not support many of my other amendments on foundation apprenticeships. Amendment 109 is a backstop that would protect foundation apprenticeships in the legislation, and guarantee that the experts in delivering them—local authorities, education services and colleges—are involved in the future development of them. Given that the Government does not support any of my other amendments, I hope that it can support amendment 109.

My amendment 114 says that the Scottish Funding Council

“must have regard to the needs of small and micro businesses”

in the work that it does. When we took evidence on the bill, one of the concerns—it is one of many—was that it did not deliver for trade, industry and businesses. One of the ways in which I am seeking to address that is through amendment 114. I appreciate the minister’s comments about not necessarily needing to state that in the bill, but, as we have seen in recent years, if something is not put in statute—if it is not in primary legislation—when the going gets tough, it usually has to get going. That is why it is incredibly important to include the provision in the bill.

I move to my colleague Daniel Johnson’s amendments. His amendment 113 seeks to ensure that, if public money goes to private and independent providers for in-work learning and apprenticeships, that we require for the public pound value for money, fair work as standard and transparency on spend. It would also require that we publish the shift in that funding, so that if it is moving from public sector provision, that would be seen clearly and transparently.

I note the minister’s point that we are in agreement that value for money, fair work and transparency are important. However, I again refer him to my comments about the fact that, if that provision is not in the bill, we run the risk of that not being done in a system that is already particularly stretched. All that amendment 113 seeks to require is that, when public money is spent by a private provider, we get value for money and ensure that they adopt fair work practices. The minister noted that, through the amendment, we would be setting out what fair work practices would be—it was something along those lines. That is not what amendment 113 says. It merely says that a provider must adopt fair work practices. Requiring the adoption of such practices should not be a surprise or news to the Government, which talks about its commitment to fair work. If it is committed to such practices, I urge the Government to support amendment 113.

Daniel Johnson's amendment 117 seeks to place a duty on the SFC to expand modern work-based earn-and-learn routes, including graduate levels, which is why we support his amendment over others in this group that seek to do a similar thing. The amendment would apply to sectors in which there are shortages, such as the NHS, care, net zero, digital and planning. As we know, work-based learning programmes have been slow to adapt and have not addressed major public service gaps, such as NHS roles. Amendment 117 would future proof work-based learning and would enable us to address some of the significant skills and workforce gaps in the key areas where we know Scotland will need skills and people in the future.

Daniel Johnson's amendment 120 would require the SFC's annual report to include information on the amount of funding that is provided to employers and training providers for the purpose of delivering Scottish apprenticeships, including, for each framework, the level of funding that is provided for an individual Scottish apprenticeship. We know that contribution rates are frozen, including in plumbing and in other industries. Stakeholders fear that, inside the Scottish Funding Council, apprenticeship money could become the easiest pot to raid and that SMEs will just stop taking on apprenticeships in that circumstance. Amendment 120 seeks to address that.

Ben Macpherson: I have heard before the misconception about apprenticeships not being a priority for the SFC, should the Parliament pass the bill and it be implemented. I want to underline again this Government's commitment to providing apprenticeships. We are providing a record level of apprenticeships and are seeking to enhance that provision. As I mentioned earlier, the letter of guidance will set ministerial priorities, so it will be up to the Scottish ministers to stipulate the priorities of the Government. I urge colleagues to be cautious about insinuating that apprenticeships will not be a priority for the SFC, because there is no evidence of that. *[Ben Macpherson has corrected this contribution. See end of report.]*

Pam Duncan-Glancy: The amendment is not about saying that the SFC would not prioritise apprenticeships. It is about recognising that the SFC is quite busy with other fires that it needs to fight, including in universities and colleges across the country. People can do only so many things at one time.

Ben Macpherson: Will the member give way?

Pam Duncan-Glancy: I will finish my point, then I will be happy to do so. In the minister's letter to the committee, he sets out the future responsibilities of the redesigned funding body. He says:

"We would aim to launch this new capability by April 2029."

The minister goes on to say that

"SDS would provide a time-limited managed service for two years beyond April 2027, giving the SFC the time to build and prove the new system while protecting continuity for learners and providers."

The minister, in his letter to the committee, recognises that the SFC is not ready. If the SFC were ready, the Government would not be considering that option to delay the rejig of quangos.

Ben Macpherson: The language that Pam Duncan-Glancy used at the end of her comments is, again, unhelpful. I know that it is a good line for a press release, but the bill is about making serious institutional change, based on the recommendations of the Withers report, in order to improve our system and to meet the needs of the modern economy and of learners, and enhance opportunities by funding apprenticeships, colleges and universities through the same institution.

As was rightly emphasised, the body will be a redesigned institution, which will incorporate many of the staff from SFC. We have discussed, particularly in the stage 1 debate in the chamber, the importance of their role and expertise, and how much their contribution is valued now and will be in the redesigned model. *[Ben Macpherson has corrected this contribution. See end of report.]*

On the safe transfer of powers, the SFC will be ready for 1 April 2027. It is the new information technology system—*[Interruption.]*

The Convener: I am sorry, minister. I know that you are intervening on Ms Duncan-Glancy, but I will suspend the meeting, because there are now too many noises in the room, coming from all different directions.

09:53

Meeting suspended.

09:56

On resuming—

The Convener: Welcome back. The minister was midway through his intervention on Pam Duncan-Glancy, so I apologise for having to suspend at that point. We have sorted out the background noise and will go back to the minister.

Ben Macpherson: I clarify that the SFC will be ready from 1 April 2027. The points that Pam Duncan-Glancy referenced with regard to 2029 relate to the new information technology system. I do not want to make any further comments on her amendments. I know that Pam Duncan-Glancy, like me, wants to make the skills system as good

as possible. I look forward to hearing more on her amendments.

Pam Duncan-Glancy: I thank the minister for the intervention and for recognising the desire to make the system better. One of the comments in the letter to the committee from the minister is about the need for more

“due diligence on the implications and risks associated with”

the options

“prior to making a final decision”

on how the IT system will be transferred to the SFC. I take the minister’s point that it is about an IT system, but, ultimately, it is also fair to say that the IT system in question is pretty integral to the delivery of apprenticeships. That is the point.

Amendment 120, in the name of Daniel Johnson, requires the SFC to report on the amount of funding provided, including

“in relation to apprenticeship frameworks, the level of funding provided for an individual Scottish apprenticeship”

and seeks to address the concern around contribution rates being frozen and stakeholders worrying that that could all get lost within an organisation that has a lot else on. As the minister said in his letter, it will require time to be able to do that. Daniel Johnson’s amendment seeks to protect some of that process, make it very transparent and help people to understand where money is changing hands, including between employers and training providers.

Before I conclude my remarks, I note that we will support many other amendments in the group, and where we do not, it is likely that we support the intention of the amendments—there are too many to name in the interest of time—but we have amendments in either my name or Daniel Johnson’s name that seek to do something very similar.

The Convener: I call Stephen Kerr to wind up and press or withdraw amendment 94.

Stephen Kerr: The minister is right that we have not had the opportunity to discuss my amendments before today’s meeting. I am quite anxious to engage with the minister on those issues, because at their heart is my concern, which I know is shared across all parties, that there is currently a disparity of esteem between the post-school routes that a young person might take.

I raise broader issues in my amendments, but at the heart of my concerns lies a concern about a baked-in inequality in which different groups of young people are being given different amounts of backing, particularly when it comes to public

funds. In my view, that approach has discriminated in favour of universities.

10:00

There is a strong predominant feeling in the country, which I feel is misplaced, that going to university is the be-all and end-all on leaving school. That is clearly not the case, particularly in the age of the apprenticeships that we now enjoy, including those that we describe in Scotland as graduate apprenticeships. By the way, I believe that those apprenticeships are misnamed; they are really degree apprenticeships, because they are not for graduates but for undergraduates. Indeed, I have raised that point before.

At the root of this is my personal dissatisfaction—though, again, I think that it is shared by many other people in all parties—with the current description of positive destinations. It is an inadequate measurement, with a very short-term follow-through—I think that the maximum is about nine months. There are variable degrees of what one might call a “positive destination”, and I feel that it is an inadequate way of describing our young people’s post-school experience.

It is because of my on-going concern about inequality of opportunity for young people—and, in fact, inequality of opportunity across society—that I have lodged my amendments. Because I have not had the opportunity to meet the minister and discuss the amendments in detail, and because I believe that there is some mileage in the amendments that we should explore, I will not press amendment 94 or move any of my other amendments in the group. I will meet the minister, have a discussion with him, see what common ground there might be, reconsider the matter and see what amendments might be lodged at stage 3.

Amendment 94, by agreement, withdrawn.

Amendments 9 and 10 moved—[Jackie Dunbar]—and agreed to.

The Convener: Amendment 95, in the name of Miles Briggs, has already been debated with amendment 94. Mr Briggs, do you wish to move or not move the amendment?

Miles Briggs: I have listened to what the minister has had to say about all the amendments in this group. It is quite telling that all colleagues have tried to highlight in their amendments different aspects of what we had hoped would be in the bill, and I still believe that the bill is missing a vision for our college sector. I am happy not to move my amendments now, but we really need to see that vision from Government as we move towards stage 3, and I am happy to have more conversations on that matter.

Amendment 95 not moved.

Amendments 30, 96 to 102 and 31 not moved.

Amendment 11 moved—[Ben Macpherson]—and agreed to.

Amendments 32 and 103 to 108 not moved.

Amendment 109 moved—[Pam Duncan-Glancy].

The Convener: The question is, that amendment 109 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Briggs, Miles (Lothian) (Con)
Duncan-Glancy, Pam (Glasgow) (Lab)
Ross, Douglas (Highlands and Islands) (Con)

Against

Adam, George (Paisley) (SNP)
Dunbar, Jackie (Aberdeen Donside) (SNP)
Greer, Ross (West Scotland) (Green)
Kidd, Bill (Glasgow Anniesland) (SNP)
Mason, John (Glasgow Shettleston) (Ind)
McLennan, Paul (East Lothian) (SNP)
Rennie, Willie (North East Fife) (LD)

The Convener: The result of the division is: For 3, Against 7, Abstentions 0.

Amendment 109 disagreed to.

Amendments 33 and 110 to 112 not moved.

Amendment 12 moved—[Ben Macpherson]—and agreed to.

Amendment 113 moved—[Pam Duncan-Glancy].

The Convener: The question is, that amendment 113 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Briggs, Miles (Lothian) (Con)
Duncan-Glancy, Pam (Glasgow) (Lab)
Rennie, Willie (North East Fife) (LD)
Ross, Douglas (Highlands and Islands) (Con)

Against

Adam, George (Paisley) (SNP)
Dunbar, Jackie (Aberdeen Donside) (SNP)
Greer, Ross (West Scotland) (Green)
Kidd, Bill (Glasgow Anniesland) (SNP)
Mason, John (Glasgow Shettleston) (Ind)
McLennan, Paul (East Lothian) (SNP)

The Convener: The result of the division is: For 4, Against 6, Abstentions 0.

Amendment 113 disagreed to.

Amendment 114 moved—[Pam Duncan-Glancy].

The Convener: The question is, that amendment 114 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Briggs, Miles (Lothian) (Con)
Duncan-Glancy, Pam (Glasgow) (Lab)
Rennie, Willie (North East Fife) (LD)
Ross, Douglas (Highlands and Islands) (Con)

Against

Adam, George (Paisley) (SNP)
Dunbar, Jackie (Aberdeen Donside) (SNP)
Greer, Ross (West Scotland) (Green)
Kidd, Bill (Glasgow Anniesland) (SNP)
Mason, John (Glasgow Shettleston) (Ind)
McLennan, Paul (East Lothian) (SNP)

The Convener: The result of the division is: For 4, Against 6, Abstentions 0.

Amendment 114 disagreed to.

Amendments 115 and 116 not moved.

Amendment 117 moved—[Pam Duncan-Glancy].

The Convener: The question is, that amendment 117 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Duncan-Glancy, Pam (Glasgow) (Lab)

Against

Adam, George (Paisley) (SNP)
Briggs, Miles (Lothian) (Con)
Dunbar, Jackie (Aberdeen Donside) (SNP)
Greer, Ross (West Scotland) (Green)
Kidd, Bill (Glasgow Anniesland) (SNP)
Mason, John (Glasgow Shettleston) (Ind)
McLennan, Paul (East Lothian) (SNP)
Rennie, Willie (North East Fife) (LD)
Ross, Douglas (Highlands and Islands) (Con)

The Convener: The result of the division is: For 1, Against 9, Abstentions 0.

Amendment 117 disagreed to.

Amendments 118 to 120 not moved.

Section 5, as amended, agreed to.

After section 5

Amendments 34 and 35 not moved.

The Convener: Amendment 121, in the name of Daniel Johnson, is grouped with amendments 122, 123, 125 and 126.

Pam Duncan-Glancy: Amendment 121 is about transparency. The Scottish Government states that it has not received a breakdown of the apprenticeship levy revenue that has been

collected since 2020-21, but it is possible to calculate that the Scottish Government receives more from the levy than it spends on skills and interventions.

The fact is that Scottish levy-paying firms cannot easily see how their levy is being used, and some fear that they are being short-changed. Amendment 121 stipulates that

“As soon as is reasonably practicable after the end of each financial year, the Scottish ministers must publish and lay before the Scottish Parliament a statement setting out the amount of funding received in that financial year ... as a result of the apprenticeship and skills levy”.

John Mason: Is it not a fundamental principle of devolution that when we get money from Westminster, we can use it as we see fit? There would be no point in devolution if we just copied exactly what England did all the time.

Pam Duncan-Glancy: The member is quite right—that is what devolution is about—but we do not hear the Scottish Government saying that it has too much money to spend on skills and is therefore choosing to spend it on something else. What we hear it saying is that it does not have enough money to support colleges or deliver apprenticeships for every young person who has the right grades to secure one. When the Government says that, it is important for us to understand its thinking, instead of letting it hide behind the devolution settlement and blaming other people, as it usually does.

John Mason: Is it not the case that the Government has been quite clear that child poverty and the health service are two high priorities? That is where we have prioritised the money, and therefore, inevitably, everything else has to slide down slightly.

Pam Duncan-Glancy: I am not sure that the Government and ministers have been quite as clear as John Mason, who considers that priorities such as colleges and skills have slid down. That could be a surprise to people—although not to people working in colleges or who have been unable to access education through colleges or other sectors because the funding has been cut by 20 per cent over a significant number of years. However, it would be a surprise to people who think that the Scottish Government says—or pretends to say—that those things are a priority. Politics is about priorities, and amendment 121 seeks to help people to understand the Government’s priorities at any given time.

Stephen Kerr: Would Pam Duncan-Glancy agree that part of the way to tackle the country’s health challenges, as well as the child poverty that John Mason mentions, is by investing in the people of Scotland through skills, education and

training—the very things that are supposed to be the focus of the bill?

Pam Duncan-Glancy: I whole-heartedly agree. There are skills gaps throughout the economy and the public sector, and we cannot fill them and thereby deliver on Government priorities, such as the NHS, if we do not upskill the workforce to do that. Members will have an opportunity to tease out more of this issue in the debate this afternoon.

Amendment 122, in the name of Daniel Johnson, states that funding from the levy

“must be used for the purpose of securing the delivery of skills training, including apprenticeships and initiatives for upskilling and reskilling.”

All Government priorities require a workforce, and that workforce must be skilled. That is why it is crucial that levy-paying employers can see where the money has gone so that they can understand and influence the way in which it is spent. That influencing must be done within the parameters that are set by some of the previous amendments on value for money, fair work and transparency—amendments that, sadly, the Government was unable to support. Nonetheless, amendment 122 seeks to make the situation much clearer, so that organisations that are paying the levy can see how much of the money is being spent on skills. It is also important for the public to understand what the Government is spending its money on. Transparency has not been a key feature of the current Government, and the amendment seeks to change that.

Amendment 125, in the name of Daniel Johnson, would require the Government to maintain skills spend as a separate budget line, distinct from the SFC’s education spend, to increase transparency by making clear in the budget how much is to be spent on the delivery of skills initiatives.

Amendment 126, in the name of Daniel Johnson, seeks to place an explicit duty on the Scottish ministers to set annual targets for growth in the number of skills development programmes that have started, and for ones that involve SMEs, ones in which the person undertaking the programme is over 25 years of age and ones for specified shortage sectors.

Again, that is not just so we can expose gaps in a particular Government’s priority, but so we can expose and understand gaps in industry, trade and the public sector. If we do not collect that data and understand what the gaps are, we will continue to find sectors struggling to recruit and meet demand, and having to recruit from elsewhere.

This suite of amendments seeks to make spending more transparent, help with workforce planning and ensure that the priorities of the

Scottish people are delivered, through a skilled workforce.

I move amendment 121.

10:15

Miles Briggs: Similarly to what Pam Duncan-Glancy outlined in speaking on behalf of Daniel Johnson, I lodged my amendment 123 to secure greater transparency in relation to the apprenticeship levy. Money that is raised through that levy from businesses in Scotland is not easy to follow through our training system.

The apprenticeship levy is a United Kingdom-wide tax and is collected by His Majesty's Revenue and Customs. It came into force in 2017 and is set at 0.5 per cent of the employer's annual wage bill. The way in which the funds are used differs. In Scotland, levy receipts go to the Scottish Government via the block grant. However, in England, levy-paying employers access their own digital accounts to spend funds directly on apprenticeships. That is an interesting model that we could have pursued.

HMRC data shows that, between 2020 and 2024, at least £875 million was raised from Scottish employers under the apprenticeship levy. However, the data shows that only £704 million has been spent on graduate, foundation or modern apprenticeships in Scotland by either Skills Development Scotland, the Scottish Funding Council or the Student Awards Agency Scotland. That means that £171 million has been taken from employers in Scotland to fund apprenticeships but has been diverted elsewhere.

John Mason: We are on the same ground on which I interacted with Pam Duncan-Glancy earlier. Does the member accept that we receive money from London that is not ring fenced, and that, for example, we do not have student fees here, so we need money to go into that sector? The Scottish Parliament chooses to do that, and his party, if it was ever in Government, might want to do it differently. The Scottish Government's spending is absolutely transparent. It is audited and clear, and we can get information on what is spent. I suggest that there is no lack of transparency.

Miles Briggs: I disagree. The member has always called for more financial accountability on resources. I take it that his argument is that he believes that £171 million has been diverted by ministers to different priorities, without being transparent.

John Mason: I disagree with the use of the term "diverted". Money coming from Westminster is not for a particular purpose. If, for example, we spend more on the health service, do not charge

student fees or put more into the environment, that is not diverting money—it is just us making a different choice.

Miles Briggs: That is why my amendment would make ministers set out the whether the money that they receive—which, let us remember, has come from employers, who expect it to go towards the people whom they need to run their businesses—has been spent elsewhere.

It would be fair for the Government to say that child poverty is its number 1 priority and that it will use the money to fund its priorities, instead of helping businesses. I would be happy if ministers were willing to be that transparent. We just do not currently have that transparency, and that is what the amendment would achieve.

George Adam (Paisley) (SNP): I have a simple question. Does road tax pay for roads? The answer is that it does not. Governments win elections and make their own decisions. That is the point that John Mason is making.

Miles Briggs: The establishment of the apprenticeship levy was slightly different. Employers accepted that they would pay 0.5 per cent of their annual wage bill towards it and they expect that to be used to support them. Many businesses that I have spoken to do not access the money because they do not have the capacity or the opportunities to take on board more apprenticeships.

Ross Greer (West Scotland) (Green): I am aware that the levy was set up by a UK Conservative Government that decided—rightly, I think—not to ring fence the proceeds that it then passed on to the Scottish Government. Miles Briggs says that employers pay the levy with a certain expectation. Is that not ultimately the responsibility of the previous UK Conservative Government, which set up the fund and applied the levy to employers in Scotland but then—correctly, I think, out of respect for devolution—did not ring fence it?

Ultimately, a UK Government took that policy decision in 2016. As John Mason outlined, the Scottish Parliament is simply exercising its right to make its decisions, as the people of Scotland voted for in 1997. I struggle with Miles Briggs's argument that employers have an expectation of how the money is spent, because the UK Conservative Government made a conscious choice to apply the levy in Scotland but not to require that the proceeds were ring fenced. It was his party that made that decision, was it not?

Miles Briggs: I think that it was respecting devolution. The bill needs to deliver greater transparency in relation to those funds in Scotland. Without such transparency, employers will consistently ask, "Where's that money gone?" As

parliamentarians, all of us should want greater transparency in that regard. I have consistently raised the need for greater transparency. Last week, I asked the Deputy First Minister a question on that very subject in the chamber. She said that the Scottish Government is not against greater transparency or more scrutiny in relation to the apprenticeship levy, so I am surprised by the position of some members of the governing party.

I am pleased that amendment 123 and Daniel Johnson's amendments give the committee and Parliament an opportunity to make sure that we will have greater transparency. That is why I lodged amendment 123. I am open to any of the amendments on the issue, with a view to ensuring that, at the end of the day, the bill delivers a framework in which reporting on the apprenticeship levy and how it is spent in Scotland is more transparent than it currently is.

Pam Duncan-Glancy: Forgive me for sneaking in as you were concluding. I want to check the meaning of subsection (2)(b) of the section that amendment 123 proposes to insert in the bill:

"the persons to whom such funding has been allocated".

Is it your understanding that the report would break down the spend to that level of detail, or do you mean persons in the sense of training providers, as opposed to individuals? Would the report say, for example, that Pam Duncan-Glancy did such-and-such an apprenticeship?

Miles Briggs: The amendment would ensure that we captured all the apprenticeship levy spend. I am open to working with the Government to look at the wording. The officials advised me to include the wording to which you refer so that all apprenticeship levy moneys would be captured and smaller allocations of funding would not be missed out.

Ben Macpherson: As Pam Duncan-Glancy said, Daniel Johnson's amendments 121 and 122 seek to provide for greater transparency in relation to the funds that are received from the UK Government's apprenticeship levy and how those are spent by the Scottish ministers. I have listened carefully to Pam Duncan-Glancy and Miles Briggs, and to the interventions from John Mason, George Adam and Ross Greer, just as I have listened carefully, in my tenure in this role so far and in my years as a constituency MSP, to the voices of business on these matters. Therefore, I can say in good faith that this is an important discussion.

I and the Government would also like to have more clarity on the exact amount that the Scottish Government receives under the apprenticeship levy, but that is out of our control. Since 2020-21, Scotland has received a Barnett formula share of the UK Department for Education's apprenticeship levy funding via the block grant, as other members

have emphasised. The Scottish Government does not receive a specific allocation of the apprenticeship levy revenue, so we cannot directly link funds raised from the levy to any funding stream.

It is also important to emphasise that, because of the way in which HMRC and the UK Government share information, it would simply not be possible to implement Daniel Johnson's amendments 121 and 122, or the annual reporting requirement for which Miles Briggs's amendment 123 would provide.

Miles Briggs: It has been reported that £875 million has been raised from the apprenticeship levy, but that only £704 million has actually been spent by Scottish Government agencies on apprenticeships. Does the minister recognise those figures?

Ben Macpherson: As I have said, there are issues with the way in which information is shared. We are hopeful that the plans that the UK Government has announced for replacing the apprenticeship levy with the growth and skills levy will provide an opportunity for better information sharing with the Scottish Government. My officials are engaging with that process in order to understand what impacts the changes to the levy might have on Scotland.

For all the reasons that I have set out, I cannot support amendments 121, 122 and 123, and I ask the committee to reject them should they be pressed.

On amendment 125, in the name of Daniel Johnson, the allocation and specification of funding is—properly—the purpose of the annual Scottish budget process, as John Mason, George Adam and Ross Greer emphasised, and that would be a better place to deal with it. I encourage Pam Duncan-Glancy, on behalf of Daniel Johnson, to engage with that process to make the case for specific funding to be allocated to skills development.

Amendment 126 would require ministers to

"publish annual targets for growth in... the ... number of skills development programmes".

Although it might seem helpful to have annual targets, the Government does not want to focus only on meeting prescribed targets but rather to be flexible and meet skills demand where it arises. Therefore, I am afraid that I cannot support amendment 126, either.

Although I understand the motivation behind all those amendments, I urge members to exercise caution about what we put into primary legislation, which would be binding on successor Governments and Parliaments. What matters now might not matter quite so much in the future.

Regarding the levy changes, it may well be that we do not receive a Barnett share in the future, and that we will have to consider how we fund apprenticeships ourselves. There is a lot of potential for change.

It might make sense to set targets now for skill shortages or an older age group, but that might be less relevant in the future. Where targets are set, that implies that funding will follow them. In the future, that could mean money flowing away from the priorities of the time. It might seem sensible to require a specific separation of funding, but that would limit the ability for flexibility and for the recipients of funding who work in skills, education and training to optimise how they use their shares of the funding.

In short, there might be unintended consequences from all or any of the amendments in this group. Although I understand why members have lodged them, I hope that they will also appreciate why agreeing to them would not be useful. I therefore encourage Pam Duncan-Glancy, on behalf of Daniel Johnson, and Miles Briggs not to press their respective amendments. Should they do so, I ask members to vote against all the amendments in the group.

Pam Duncan-Glancy: I have listened carefully to the minister and I respectfully disagree with him. The amendments are useful; they are about transparency and they would be helpful in fostering understanding and a social contract between people who receive the skills, people who need the skills and people who pay for the skills. That is incredibly important. To say that the amendments are not useful in that regard is disappointing.

On the point about the Government's inability to determine how much is raised by the skills levy and how much of it is spent in Scotland, I cannot accept that it is beyond the wit of either the UK Government or the Scottish Government to make that happen. It is about the will to make that happen, and I do not think that there is such a will from the Scottish Government, because doing that would be far too transparent for it. Transparency is what the amendments are trying to address, and I do not accept the minister's response. On that basis, I will press amendment 121.

The Convener: The question is, that amendment 121 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Briggs, Miles (Lothian) (Con)
Duncan-Glancy, Pam (Glasgow) (Lab)
Rennie, Willie (North East Fife) (LD)
Ross, Douglas (Highlands and Islands) (Con)

Against

Adam, George (Paisley) (SNP)
Dunbar, Jackie (Aberdeen Donside) (SNP)
Greer, Ross (West Scotland) (Green)
Kidd, Bill (Glasgow Anniesland) (SNP)
Mason, John (Glasgow Shettleston) (Ind)
McLennan, Paul (East Lothian) (SNP)

The Convener: The result of the division is: For 4, Against 6, Abstentions 0.

Amendment 121 disagreed to.

Amendment 122 moved—[Pam Duncan-Glancy].

The Convener: The question is, that amendment 122 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Briggs, Miles (Lothian) (Con)
Duncan-Glancy, Pam (Glasgow) (Lab)
Rennie, Willie (North East Fife) (LD)
Ross, Douglas (Highlands and Islands) (Con)

Against

Adam, George (Paisley) (SNP)
Dunbar, Jackie (Aberdeen Donside) (SNP)
Greer, Ross (West Scotland) (Green)
Kidd, Bill (Glasgow Anniesland) (SNP)
Mason, John (Glasgow Shettleston) (Ind)
McLennan, Paul (East Lothian) (SNP)

The Convener: The result of the division is: For 4, Against 6, Abstentions 0.

Amendment 122 disagreed to.

The Convener: Amendment 123, in the name of Miles Briggs, has already been debated with amendment 121. I call Miles Briggs to move or not move amendment 123.

Miles Briggs: It is important to note that Conservative, Labour and Liberal Democrat members are trying to achieve a framework that provides more transparency. The minister has not outlined whether he would take that forward with us, so I will move amendment 123, and I hope that at stage 3 we can improve on it.

Amendment 123 moved—[Miles Briggs].

10:00

The Convener: The question is, that amendment 123 be agreed to. Are we all agreed?

Members: No.

The Convener: There will be a division.

For

Briggs, Miles (Lothian) (Con)
Duncan-Glancy, Pam (Glasgow) (Lab)
Rennie, Willie (North East Fife) (LD)
Ross, Douglas (Highlands and Islands) (Con)

Against

Adam, George (Paisley) (SNP)
 Dunbar, Jackie (Aberdeen Donside) (SNP)
 Greer, Ross (West Scotland) (Green)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Mason, John (Glasgow Shettleston) (Ind)
 McLennan, Paul (East Lothian) (SNP)

The Convener: The result of the division on amendment 123 is: For 4, Against 6, Abstentions 0.

Amendment 123 disagreed to.

The Convener: Amendment 124, in the name of Daniel Johnson, is grouped with amendments 196 to 202, 208, 209, 211 and 210. I call Pam Duncan-Glancy to move amendment 124 and speak to all amendments in the group.

Pam Duncan-Glancy: Amendment 124, in the name of Daniel Johnson, sets out that

“The Council must secure that . . . providers of high quality training and learning may continue to receive payments from the Council (on the same basis as post-16 education bodies)”,

and would require a formal transition scheme to be arranged so that no learner employer is stranded mid-programme.

Amendment 196, in the name of Daniel Johnson, would require ministers to lay a statement before the Scottish Parliament to set out the anticipated costs of transferring apprenticeship functions and confirm that the funding for delivery of apprenticeships will not change as a result of the transfer.

In relation to both those amendments, I note that the minister’s letter to the committee of 24 November outlines that transfer costs have again been upgraded, this time by approximately £2 million. The minister also states in the letter that no decisions have been taken about some of the transfer options associated with the bill, including decisions on IT, as the minister set out earlier. One of the options outlined in the letter suggests that the transfer would not complete until 2029.

Everybody wants the system to work for the end users—the learners, the people who need the skills and the people who deliver them. That is what the amendments seek to make happen. Therefore it is disappointing that it would appear that, yet again, a bill has come before Parliament for which the diligence work to get the systems right—including determining the cost of transferring staff, which I have not touched on yet—has yet to be done, and we are now looking at delays in commencement as a result. One would expect that for a bill of this sort, if the end user is the minister’s focus, those issues would already have been addressed. Instead, it appears that we have a bill that is not quite ready or fit for purpose.

I will speak to my amendments in the group. Amendment 198 would require ministers to engage with trade unions on the transfer of functions or staff, restructuring and material changes to terms and conditions. Ministers would have to establish formal joint groups and share information with them and report on that engagement to Parliament. Those are fairly standard requirements that would protect the staff who work in those organisations. The staff I have spoken to are worried, not just about great inertia in the system resulting from the structural change that the Government is proposing, but about the lack of consultation and engagement in the process to date to ensure that their rights and conditions are protected. Amendment 198 seeks to ensure that that engagement happens.

Amendment 200 would require that ministers set out a “pre-implementation report”. That is crucial because of the uncertainty that trade unions, including Unison and the Public and Commercial Services Union, and others have highlighted to members individually and to the committee as a whole.

Amendment 199 would require the Scottish Government to set out the functions and roles that will be transferred. If the Government did not want to do that in advance of royal assent, it would have to do so as soon as possible afterwards, to give a level of stability to staff. The staff are essential for the system to work, and are working day in, day out for this to happen, but they do not yet know whether they will be working for one organisation or another, or, indeed, whether they will be working in SDS under a managed contract with the SFC, because the system is not quite ready to transfer.

Amendments 208, 209, 211 and 210 would provide that regulations on staff and functions transfer can happen only after the consultation, a pre-implementation report and a statement on the uninterrupted processes and—crucially—the uninterrupted provision of apprenticeships.

I move amendment 124.

Miles Briggs: The minister suggested earlier that amendments were criticising the Scottish Funding Council. I do not agree with that characterisation. This group of amendments—lodged by Pam Duncan-Glancy, Daniel Johnson and me—is more about concern for the delivery and expansion of apprenticeships and the potential for those to be lost in translation through the bill.

Amendment 197 is straightforward. During the committee’s evidence sessions, it became clear that major concerns were being expressed about the financial implications of the transfer of responsibilities under the legislation. Amendment

197 would create a new part on transitional measures, after section 17, which would require the Scottish ministers to provide the Parliament with financial transparency about the implementation of the legislation. As soon as is reasonably practicable after royal assent, the ministers would have to lay before the Parliament a statement outlining the financial implications of any transfer of functions resulting from the legislation.

That, and other amendments, could ensure that the Parliament is fully informed of the financial impact of moving 59 responsibilities to the SFC. It would also, I hope, provide a check for the Parliament to ensure that there are not any unintended consequences or potential reductions in the delivery and facilitation of apprenticeships—which should be our greatest concern. I am concerned that the bill could create more of a pause in our apprenticeship system as it comes to terms with the changes. That is why I have lodged amendment 197, which I will move.

Ben Macpherson: Committee members are right to focus on the matters that are set out in this group of amendments and on how important the transition will be, should it be the will of Parliament that the bill passes. I am as keen as colleagues are to keep costs under control, to keep staff engaged and make sure that they know that they are valued, to keep track of progress and to ensure that there is no disruption to current service provision. That has, rightly, been emphasised—including by Miles Briggs.

The question that we have is how best to do that. Ironically, creating lots of statutory obligations can have the opposite effect to the one that is intended, and can generate additional and unhelpful administrative demands and associated costs.

I am pleased to support amendment 197 in the name of Miles Briggs. It takes a sensible and pragmatic approach to updating the Scottish Parliament on the financial implications of any transfer of functions related to the bill. I will consider coming back at stage 3 with an amendment to finesse the wording, because the bill does not directly transfer any functions. However, I am happy to support amendment 197 at this stage and I thank Miles Briggs for lodging it.

I contend that the other important points raised by colleagues, including by Pam Duncan-Glancy, in relation to the amendments in group 10 are best handled administratively, so I cannot support any other amendment in the group. I would be happy to commit the Scottish Government to updating the committee regularly on the progress with implementation and the matters covered by the amendments. I hope that that commitment is sufficient to encourage members not to press their

amendments—other than, as I emphasised, amendment 197.

One reason why it is better to handle those matters administratively is that we do not want to lock ourselves into an approach to consultation, engagement or reporting that later turns out not to be the best way forward. For example, Pam Duncan Glancy's amendment 198 would make various provisions for engagement with trade unions; although I agree that that is paramount, it may not be the right thing for ministers to establish formal joint consultation groups. We have to be careful to give the public bodies their proper roles in supporting and delivering the changes. The SFC, not the Scottish Government, will be the employer of any staff transferred from SDS to the SFC, so there are matters on which it is proper for the SFC to engage with staff and unions, rather than for ministers to do so. It is my clear expectation that the SFC and SDS will have a process in place to do that—just as I have been clear with all the bodies involved in the transition of staff outwith the bill that they must engage meaningfully with their staff throughout the process.

Miles Briggs: I am grateful to the minister for giving way and I welcome the fact that he supports my amendment 197. There will be a conversation with him ahead of stage 3 on what else must be included in letters of guidance. Would he be open to that conversation including Pam Duncan-Glancy and Daniel Johnson to make sure that those elements are also part of the discussion? Amendment 197 could be improved, and other aspects of what has been outlined could also be taken forward with cross-party agreement.

Ben Macpherson: Despite the challenge of the festive break between stages 2 and 3, I am very committed, as I hope has been clear from the past few weeks, to having strong and constructive engagement with all colleagues who are interested in the bill. It would be useful to have another meeting with Miles Briggs, Pam Duncan-Glancy and Daniel Johnson, as we did between stages 1 and 2, so I am of course open to that.

I am clear, for the reasons that have been given, that in this group, amendment 197 is the amendment that I intend to support and finesse at stage 3.

Amendment 124, in the name of Daniel Johnson, seems designed to provide some certainty of future funding to training providers, which is, again, an admirable aim. It is the Scottish Government's intention to ensure that there is no disruption to service delivery when responsibilities are transferred to the SFC on 1 April 2027. A new contract for training provision is expected to come into force on 1 April 2027, which will be procured by SDS for handing over to the SFC. However, as

with any procurement exercise, we cannot guarantee that the same training providers will win the contract. Therefore, I cannot commit to the terms of the amendment, nor, I am afraid, to any other amendment in this group other than amendment 197 by Miles Briggs, as I have indicated.

I therefore ask that Pam Duncan-Glancy, on behalf of Daniel Johnson, does not press amendment 124 or move 196, and that she does not move amendments 198 to 201. I ask Miles Briggs not to move amendment 202. If they do so, I encourage members to vote against the amendments.

The Convener: I call Pam Duncan-Glancy to wind up and press or withdraw amendment 124.

Pam Duncan-Glancy: I listened carefully to the minister, but I do not agree that such matters are best left to be done administratively, because, frankly, they have not been. That is why Daniel Johnson and I seek, through our amendments in this group, to put the provisions into statute.

The Government and the minister speak of intention, but it has not happened. The trade unions have not been involved in the process. The staff are worried about what is happening, where they will be working and how the provision of the service will continue. Leaving it to administrative responsibility is simply not enough. Although I recognise that the Government is not directly the employer here, it is funding the organisation that is the employer on both accounts.

We need to show leadership, but I am afraid that saying that it is best left to an administrative function lacks leadership. On that basis, I will press amendment 124.

The Convener: The question is, that amendment 124 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Duncan-Glancy, Pam (Glasgow) (Lab)

Against

Adam, George (Paisley) (SNP)
Briggs, Miles (Lothian) (Con)
Dunbar, Jackie (Aberdeen Donside) (SNP)
Greer, Ross (West Scotland) (Green)
Kidd, Bill (Glasgow Anniesland) (SNP)
Mason, John (Glasgow Shettleston) (Ind)
McLennan, Paul (East Lothian) (SNP)
Rennie, Willie (North East Fife) (LD)
Ross, Douglas (Highlands and Islands) (Con)

The Convener: The result of the division is: For 1, Against 9, Abstentions 0.

Amendment 124 disagreed to.

Amendment 125 moved—[Pam Duncan-Glancy].

The Convener: The question is, that amendment 125 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Briggs, Miles (Lothian) (Con)
Duncan-Glancy, Pam (Glasgow) (Lab)
Ross, Douglas (Highlands and Islands) (Con)

Against

Adam, George (Paisley) (SNP)
Dunbar, Jackie (Aberdeen Donside) (SNP)
Greer, Ross (West Scotland) (Green)
Kidd, Bill (Glasgow Anniesland) (SNP)
Mason, John (Glasgow Shettleston) (Ind)
McLennan, Paul (East Lothian) (SNP)
Rennie, Willie (North East Fife) (LD)

The Convener: The result of the division is: For 3, Against 7, Abstentions 0.

Amendment 125 disagreed to.

Amendment 126 moved—[Pam Duncan-Glancy].

The Convener: The question is, that amendment 126 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Duncan-Glancy, Pam (Glasgow) (Lab)
Greer, Ross (West Scotland) (Green)

Against

Adam, George (Paisley) (SNP)
Dunbar, Jackie (Aberdeen Donside) (SNP)
Kidd, Bill (Glasgow Anniesland) (SNP)
Mason, John (Glasgow Shettleston) (Ind)
McLennan, Paul (East Lothian) (SNP)
Rennie, Willie (North East Fife) (LD)

Abstentions

Briggs, Miles (Lothian) (Con)
Ross, Douglas (Highlands and Islands) (Con)

The Convener: The result of the division is: For 2, Against 6, Abstentions 2.

Amendment 126 disagreed to.

The Convener: I will suspend the meeting at this point for a 15-minute comfort break.

10:45

Meeting suspended.

11:00

On resuming—

Section 6—Information sharing

The Convener: Welcome back. Amendment 127, in the name of Daniel Johnson, is grouped with amendments 128 to 131, 17, 195 and 23. I call Pam Duncan-Glancy to move amendment 127 and speak to all amendments in the group.

Pam Duncan-Glancy: Amendment 127 would make provision for the publication of information relating to payments to private and independent providers, broken down by Scottish public authority and other bodies, and require ministers to explain any significant change in distribution and increases or decreases in payments made. That touches on amendments 113 and 73, as well. The Educational Institute of Scotland has said on the record and in correspondence that it is alarmed that the student support part of the bill appears to streamline the way in which private and independent training providers can be treated as fundable bodies. The EIS was told by the bill's drafters that those provisions were just tidying up the legislation, but it feels that the change opens the door to skills money being diverted from colleges towards private providers, which are able to increase their profit margins without offering any transparency. The EIS argues that that would accelerate competition and hollow out college provision in areas such as construction, engineering and care. Amendment 127 seeks to address that.

Amendment 195, in my name, sets out that the sharing of information on socioeconomic disadvantage, such as eligibility for free school meals, care experience and residence in one of the 20 per cent lowest-ranked areas in the Scottish index of multiple deprivation, is a key factor. I have highlighted those issues in order to add coherence to the system and support articulation so that bodies can get support to where it is needed.

Everyone in this room is keen to address the issue of widening access to all areas of tertiary education, so that people who are furthest from the labour market get the support that they need. That is what amendment 195 seeks to ensure.

I move amendment 127.

Ross Greer: Amendment 128 would encourage public bodies to be open and proactive in their publication of data. That has been a bit of a hobby horse of mine—John Mason will be familiar with that from Finance and Public Administration Committee meetings.

The David Hume Institute did some pretty thorough research on the issue a couple of years

ago and found that there was around an astonishing £2 billion-worth of lost value to the Scottish economy each year because of the huge volume of public data that, in practice, is not available to the public, either because it is not being proactively published or because it is published only on copyrighted websites and is therefore often essentially unusable for a lot of the purposes that people would want to use it for. As things stand, the Scottish Funding Council, Skills Development Scotland and a number of colleges all have copyrighted websites. There is not a clear rationale for that, but that is the case. They restrict the use of even the most basic information that they have.

To its credit, the SFC has been engaging with my office on the issue, so it is now looking at adopting the same open government licence that the Scottish Government, some councils and other public bodies use, which is essentially an alternative to traditional copyright. As an example of what that means in practice, any information that is on the Scottish Government's website, other than the Government's own logo—its brand—is freely available for anyone else to use for any purpose. It is public information, so it is not copyrighted. Amendment 128 would require the council and any fundable body that receives payment from it to take steps to adopt a proactive approach to the publication of data that is appropriate for disclosure in the public domain. It defines "proactive approach" as

"the routine identification and publication of appropriate information without the need for specific requests."

That means that the information should be accessible without the need to submit a freedom of information request.

The definition of what is appropriate to be in the public domain will vary. For example, universities will have far more commercially sensitive research information. Some information that is held by Scottish universities is also classified under national security legislation because it comes from joint research projects with UK Government departments. That is obviously not suitable for the public domain, and the amendment contains the flexibility to deal with that.

I honestly wish that we could just expect institutions to do what the amendment calls for, but, despite the efforts of the David Hume Institute, myself and others, uptake of even the open government licence, which I think is the lowest rung on the ladder, has been absolutely glacial.

In its report, the institute said:

"The vast majority of institutions make no provision for open data and some have stated vague plans. Universities and colleges play a crucial role in planning the future

workforce, understanding population and migration trends and the development of research.”

More proactively published data from higher and further education institutions would have a valuable impact on businesses and on planning for the economy. Even at the most basic level, if we take the example of businesses that require the use of meeting rooms and conference facilities around the country, the fact that most councils, universities and colleges have copyrighted websites means that it is not even legal for any organisation to create a central database of all publicly available meeting rooms that can be booked, the capacity of those rooms, the rate and so on, because most of that information is held on copyrighted websites, despite that not being remotely necessary. It would be much more efficient for the institutions if they were proactively putting appropriate, publicly available data into the public domain and did not constantly have to respond to freedom of information requests.

George Adam: Because of a job that I used to do, I am aware of the proactive publication of data, which I always used to encourage. The amendment uses the term “appropriate for disclosure”, which is a bit vague. For someone who is not publishing that information as best practice, that wording might give them an open door not to publish. It might not do what you want it to do.

Ross Greer: I wrestled with that point when I was drafting the amendment. My first instinct was to be a bit more prescriptive. However, in recognition of the fact that universities are fundable but are not public bodies, it is appropriate for there to be greater flexibility.

Ultimately, what I am trying to do is to trust fundable bodies. We are primarily talking about universities and colleges. I am trying to place a degree of trust in them by saying that it is their decision what is appropriate information to put in the public domain. By putting it in legislation, we are providing them with a clear steer that they should be proactively doing that. Until this point, they have been encouraged and cajoled and so on, and that has not worked. With colleges in particular, as public bodies, we might get to the point at which we have to be really quite prescriptive to get them simply to do this. I would suggest that more ministerial direction in this area would be welcome and would perhaps be an alternative to putting the provision into primary legislation. That is why I landed on the language that I used. I want us to set a clear direction of travel and expectation for those institutions, but without becoming too prescriptive about exactly what kind of information we are talking about.

George Adam: Again, from past experience, when we encourage proactive publication, we

sometimes get accused of the opposite—that we are data dumping and making it more difficult for people to find information. How do we get that balance?

Ross Greer: It is a tricky balance to strike. At the moment, in the region of 90 per cent of all public data in Scotland is not proactively published—it is not immediately available to the public—so we are not at the tipping point into a data dumping situation. There might be specific situations in which our cynical Opposition members feel that, for example, the Government has done a data dump on a Friday afternoon to try and mask something but, on the whole, the balance is skewed massively towards public information not being routinely published and available to the public. The aim of amendment 128 is to provide a clear steer that such publication should be happening routinely, without becoming so prescriptive about what should or should not be published that either we force the publication of something that should not be in the public domain or we get it wrong and give institutions the excuse they need simply not to publish information that they should. It is always tricky to strike a balance. My aim is to set a clear direction of travel and, ultimately, trust institutions to make a judgment about what is or is not appropriate.

Miles Briggs: Amendments 129, 130 and 131 add training providers to the list of organisations that can be required by regulation to notify the Scottish Funding Council about specified matters. It means that, alongside post-16 education bodies, training providers involved in delivering apprenticeships or work-based learning could be brought under the same notification requirements by the Scottish ministers. That widens the consultation duty to cover all organisations involved in apprenticeships, work-based learning and national training programmes, and not just post-16 education bodies. The amendments would ensure that such organisations are formally included in the consultation process. I welcome Ross Greer’s amendment 128.

Ben Macpherson: Amendments 17 and 23, which are in my name, will enable data sharing so that our most disadvantaged learners can be identified. During the stage 1 debate, I indicated that I was cautiously optimistic that I could do something on widening access, and I am therefore delighted to have been able to lodge the amendments. I welcomed the committee’s interest in the issue and its recommendation in the stage 1 report, which is what I am seeking to implement through amendment 17.

The Scottish index of multiple deprivation has served us well as an indicator of deprivation to widen access to university. However, it has its limitations, particularly in providing useful data at a

granular level and below postcode level. That indicator has taken us only so far, and we know that there are young people who have grown up in poverty and whose families and households have experienced social and economic disadvantage but who are living outside the 20 per cent most deprived areas. Those learners might not be benefiting from our ambition and commitment to widen access, and it feels appropriate to ensure that all people for whom our policy on widening access might potentially apply get the opportunity to go to university if that is right for them.

Amendment 17 will create a power for the Scottish ministers, by way of regulations, to set out the information that must be shared and the information holders and relevant bodies that must share it for the stated purpose. The amendment will allow Scottish ministers to require the sharing of information about learners who belong to identified underrepresented socioeconomic groups. The amendment would mean that learners can be given a fair chance to progress and succeed in education in the way that is right for them and that enables them to fulfil their full potential.

Amendment 23 will make those regulations subject to the affirmative procedure, which is appropriate for such significant information sharing and will give the Parliament an appropriate role in scrutinising the secondary legislation.

Given the committee's interest and the support of the commissioner for fair access for measures in this regard, I hope that members will support my amendments.

On the other amendments in the group, Pam Duncan-Glancy, in presenting amendment 127, which is in the name of Daniel Johnson, referred to points that were raised by the EIS. I refer back to the discussion that we had on amendments 1 and 2 in group 2, which addressed those points. From dialogue that I have had with the EIS, I know that it is positive about the fact that the Government proactively sought to respond to its concerns, which Pam Duncan-Glancy articulated. I hope that amendments 1 and 2, which we have already discussed, have reassured on those points.

I understand the intention behind amendment 127, which is in the name of Daniel Johnson, and I listened carefully to the argument in favour of the amendment that was put in his stead by Pam Duncan-Glancy. However, the 2005 act already places a duty on the SFC to publish reports on its activities. For example, the SFC publishes an annual report alongside its accounts. Amendment 127 would duplicate the existing law and therefore, with respect, is unnecessary. However, I undertake to consider what improvements might be made to reporting to ensure that reports meet

the needs of members and stakeholders, which can be done administratively.

Amendment 128, which is in the name of Ross Greer, seeks to give effect to a matter that he raised in the stage 1 debate in relation to concerns about public bodies having copyrighted websites and restricting access to information. I understand his concern but, with respect, we again feel that the amendment is unnecessary. I have highlighted that the SFC already proactively publishes data. I am also concerned that the amendment extends to fundable bodies, which also have commercial considerations, and would require them to routinely identify and publish "appropriate" information—George Adam highlighted the vagueness of that term. I hope that Ross Greer can see how challenging it would be for us to make that requirement in law on those bodies and that it is unnecessary in relation to the SFC.

Ross Greer: I appreciate the length of time for which the minister has been in his current role, but I have raised this issue with the Government in this portfolio and across the board for a number of years.

If the Government believes that this does not need to be in legislation, why has it not just instructed every public body in Scotland, at the very least, to adopt the same open government licence that the Scottish Government itself adopted some years ago?

11:15

Ben Macpherson: I thank Ross Greer for raising that more general point, which I have heard him raise many times in the chamber in recent months and years. If it would be of assistance, and if it would be appropriate, I would be grateful to have the opportunity to take that more general point away and to write to him personally on it.

Stephen Kerr: On amendment 17, I noted subsection (6), in particular, which talks about "socio-economic groups" that are "under-represented" and so on. Interestingly, no part of that amendment—and particularly not that part—mentions apprenticeships. Is the minister not concerned that there might be underrepresented socioeconomic groups that are unable to access apprenticeships?

Ben Macpherson: I understand why Mr Kerr raises the point, and I share his determination to create greater parity of esteem and opportunities that are available to all. The fact is that, with regard to the evidence that was heard and the 2005 act itself, the widening access considerations are concerned with further and higher education. As for the accessibility of apprenticeships, I think that the member will agree with me that, in

general, they are more widely available to different socioeconomic groups.

However, I take Mr Kerr's point, and I would be pleased to consider it further and have more dialogue on it in the discussions that I have already undertaken to have.

Stephen Kerr: Will you allow me just to say—

The Convener: I am sorry, Mr Kerr. Minister, are you accepting the intervention?

Ben Macpherson: Yes, I am.

Stephen Kerr: To be sure that we have the fair representation and, indeed, the enhanced equality of opportunity that the minister will understand is my objective, I think that it would be good to identify the specific access issues that exist in relation to apprenticeships. I believe that, as time goes on, apprenticeships will increasingly be seen as a pre-eminent and desirable route from school, particularly for young people.

Ben Macpherson: I share the member's aim of ensuring that all persons of all socioeconomic groups can consider whether an apprenticeship is the right pathway for them, and that we have that shift of consciousness in our society towards genuine parity of esteem. I look forward to having further discussions on the matter.

Amendments 129 to 131, in the name of Miles Briggs, seek to extend the duty to notify the SFC of matters specified in regulations beyond the post-16 bodies to training providers. Again, it is worth noting that training providers are largely private sector entities that are supported by their sectors but which receive public money for specific purposes. Therefore, it would be inappropriate to extend the provisions to them.

Such providers differ from colleges and universities, whom I think we would expect to advise the SFC on matters that might indicate a serious problem at an institution, or a threat to a number of institutions. Universities, although in the private sector, are fundable bodies and have the privileges and obligations that that status entails.

It would not be appropriate to require the SFC and, in turn, ministers to have oversight of independent commercial operations. Moreover, the SFC would not have the functions or capacity to do anything with the information. I think that we would want to guard closely against any overreach into business here.

Amendment 195 covers similar ground to my amendment 17, but there are flaws in its drafting. Local authorities are unlikely to have many obligations at all under the 2005 act, and none of the bodies listed has any obligations under the bill itself. Also, no procedure has been listed for the regulation-making power, which is something that I

am sure that the Delegated Powers and Law Reform Committee will have views on, too. I do support and share the intention behind Pam Duncan-Glancy's amendment 195, but given my amendment 17, I suggest that it is not required, and I ask her not to move it.

I will be moving amendments 17 and 23 and ask members to support them.

I hope that Pam Duncan-Glancy will not press amendment 127. If she presses it, I encourage members to vote against it.

I encourage members to vote against Ross Greer's amendment 128, for the reasons that I have set out. In response to Ross Greer's intervention, I offered to correspond with him, but I may inquire whether it would be more appropriate for another minister to write to him on the matter that he raised. I will make sure that such correspondence is arranged.

I hope that Miles Briggs will not move amendments 129 to 131. If he moves them, I encourage members to vote against them.

As my amendment 17 covers similar ground to the ground that Pam Duncan-Glancy's amendment 195 covers, I hope that she will not move amendment 195. If she does, I encourage members to vote against it.

The Convener: I invite Pam Duncan-Glancy to wind up and to press or withdraw amendment 127.

Pam Duncan-Glancy: I press amendment 127, but, in the light of the minister's comments about amendment 195, I will support his amendment 17 and will not move amendment 195.

The Convener: The question is, that amendment 127 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Duncan-Glancy, Pam (Glasgow) (Lab)

Against

Adam, George (Paisley) (SNP)
 Briggs, Miles (Lothian) (Con)
 Dunbar, Jackie (Aberdeen Donside) (SNP)
 Greer, Ross (West Scotland) (Green)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Mason, John (Glasgow Shettleston) (Ind)
 McLennan, Paul (East Lothian) (SNP)
 Rennie, Willie (North East Fife) (LD)
 Ross, Douglas (Highlands and Islands) (Con)

The Convener: The result of the division is: For 1, Against 9, Abstentions 0.

Amendment 127 disagreed to.

Section 6 agreed to.

After section 6

Amendment 128 moved—[Ross Greer].

The Convener: The question is, that amendment 128 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Briggs, Miles (Lothian) (Con)
Duncan-Glancy, Pam (Glasgow) (Lab)
Greer, Ross (West Scotland) (Green)
Mason, John (Glasgow Shettleston) (Ind)
Ross, Douglas (Highlands and Islands) (Con)

Against

Adam, George (Paisley) (SNP)
Dunbar, Jackie (Aberdeen Donside) (SNP)
Kidd, Bill (Glasgow Anniesland) (SNP)
McLennan, Paul (East Lothian) (SNP)
Rennie, Willie (North East Fife) (LD)

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

As the outcome of the division on amendment 128 is tied, I will use my casting vote as convener to enable the committee to reach a decision. I vote in favour of amendment 128.

Amendment 128 agreed to.

Section 7—Notifications to the Council by post-16 education bodies

Amendment 129 moved—[Miles Briggs].

The Convener: The question is, that amendment 129 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Briggs, Miles (Lothian) (Con)
Duncan-Glancy, Pam (Glasgow) (Lab)
Greer, Ross (West Scotland) (Green)
Ross, Douglas (Highlands and Islands) (Con)

Against

Adam, George (Paisley) (SNP)
Dunbar, Jackie (Aberdeen Donside) (SNP)
Kidd, Bill (Glasgow Anniesland) (SNP)
Mason, John (Glasgow Shettleston) (Ind)
McLennan, Paul (East Lothian) (SNP)
Rennie, Willie (North East Fife) (LD)

The Convener: The result of the division is: For 4, Against 6, Abstentions 0.

Amendment 129 disagreed to.

Amendments 130 and 131 not moved.

Section 7 agreed to.

Section 8—Recommendations to fundable bodies

The Convener: Amendment 132, in the name of Miles Briggs, is grouped with amendments 13, 133 to 135, 14, 14A, 14B, 136 to 141, 143, 142, 144 and 15. I point out that, if amendment 14A is agreed to, I will not be able to call amendment 14B, due to a pre-emption.

Miles Briggs: Amendments 132 to 136 seek to add two new elements that the Scottish Funding Council may examine when carrying out an efficiency study. The first new element would allow such a study to look at whether staff needs and interests were being met, including in relation to fair work first principles, which were discussed last week. The second new element would allow such a study to assess any part of the legislative or administrative framework that shapes how a fundable body is funded or delivers further or higher education. Those additions would broaden what the SFC can currently review beyond financial efficiency and would enable it to review workforce conditions and systemic governance factors.

During our consideration of the bill and in our work on the University of Dundee, the committee has identified a number of areas in which we want improvements to be made in relation to intelligence about governance being made available to the Scottish Funding Council. As I have previously argued, improved transparency should be central to the bill.

Amendment 133 would give the Scottish Funding Council the power to carry out formal reviews of any post-16 education body and to compel information from institutions and their accountable officers or committee chairs. Following a review, the council could publish its findings, require an audit or investigation, mandate the training of senior figures or recommend to ministers that an accountable officer or governing body member be removed. It would also allow certain individuals, as defined in section 23B of the Further and Higher Education (Scotland) Act 2005, to request that the council undertake such a review, and require the council to give reasons for a refusal to do so.

Amendments 135 and 136 are consequential amendments that would widen the scope of monitoring and advice to cover organisations that are involved in apprenticeships, work-based learning and national training programmes, not just post-16 education bodies, to ensure that provisions relating to the monitoring of financial sustainability extend to persons or training providers receiving grants, loans or payments for the purpose of the delivery of training programmes

for employment, Scottish apprenticeships or work-based learning.

I move amendment 132.

Ben Macpherson: The 2005 act gives the SFC the power to arrange for efficiency studies in order to improve economy, efficiency and effectiveness in the management or operations of any fundable body. The bill as introduced gives the SFC powers to make recommendations to fundable bodies following an efficiency study.

Amendment 13, in my name, will require the SFC to consult the relevant fundable body before publishing any recommendations that it has issued to the body following an efficiency study. The amendment responds to a concern from Universities Scotland that the SFC had sole discretion with regard to whether to publish recommendations, which could cause certain issues to arise. For example, publication of some recommendations could raise issues for staff or creditors, and it is possible that the SFC might not be fully aware of that possibility. The requirement will give the institution the opportunity to point out any issues before publication. I hope that members agree that that is a sensible addition to the provisions and that they will support amendment 13.

Staying with efficiency studies, amendment 132, in the name of Miles Briggs, would provide that efficiency studies that are carried out under section 15 of the 2005 act may also include consideration of the extent to which the needs and interests of staff are being met, including in relation to fair work principles, which apply to grants that are made to and/or by public bodies. I support that aim, but the second limb of the amendment, as drafted, does not work. I am content to support the amendment and hope that Miles Briggs will be content for me to make any necessary changes at stage 3.

Amendment 14, in my name, will enhance the powers of the SFC to monitor the financial sustainability of post-16 education bodies, and it has been lodged in response to recent issues at the University of Dundee. It will enable the SFC to secure the carrying out of independent examinations into financial sustainability. The provision will also require the governing body to provide such information and make available for inspection any accounts and other documents as may be reasonably required for the independent examination. I anticipate that that information might be used when the SFC is unable to obtain the information that it requires from a post-16 education body, or is dissatisfied with the information with which it has been provided. I hope that members will be able to support amendment 14.

Ross Greer has lodged two alternative amendments to my amendment 14. Amendment 14A would render the scope of the independent examination very wide—too wide, in fact—and there would be no limit on what the independent examination might look at. I therefore cannot support it. However, his amendment 14B would enable the examination of financial governance as well as financial sustainability. That seems appropriate, so I am happy to support amendment 14B.

Amendment 15, in my name, will amend the power in the bill as drafted for the SFC to issue guidance to fundable bodies and any other person it funds. That is in response to the recommendations of the Delegated Powers and Law Reform Committee, which in turn informed this committee's recommendations in its stage 1 report on the bill. The Scottish Government agrees that it would be helpful to be clearer about what type of content such guidance might include. Amendment 15 therefore sets out an illustrative list of the types of matters that the guidance could cover. I want to be clear that it is still the case that the SFC can continue to issue other non-statutory information, including guidance, that it considers appropriate, including in respect of the topics in the amendment. I hope that amendment 15 meets members' expectations and that the committee can support it.

11:30

A number of amendments in the group would require reports, assessments or information to be provided to or by the SFC. Amendments 137 and 138, in the name of Pam Duncan-Glancy, would require the SFC to report annually to Scottish ministers on the financial sustainability of post-16 education bodies. Amendment 140, also in the name of Pam Duncan-Glancy, would require the SFC to report on the participation of learners from socially and economically disadvantaged backgrounds. Amendment 141, in the name of Stephen Kerr, would require the SFC's annual report to include information about outcomes delivered, including student progression.

Those are not the only amendments that call for reporting on a range of information. I am thinking about how much time and resource would require to be applied, mainly by the SFC, to fulfil all such functions, should all those amendments be agreed to. I therefore ask Pam Duncan-Glancy and Stephen Kerr not to move their respective amendments, to allow me, my officials and the Scottish Government to consider all the reporting requirements together and to lodge a suitable amendment to cover reporting duties and responsibilities at stage 3.

I cannot support amendment 133 in the name of Miles Briggs. It would create a new power for the SFC to undertake a review of the activities of a post-16 education body. The SFC already has a duty to ensure that provision is made for assessing and enhancing the quality of fundable further and higher education that is provided by the post-16 education bodies. The SFC has the power to secure efficiency studies of the management and operation of bodies. Governing bodies also have a statutory duty to provide the SFC with such information as might reasonably be required for the SFC to carry out its functions.

Amendment 133 would also enable a wide range of persons to ask the SFC to undertake a review. That broad list could result in the SFC being encumbered with requests for reviews on an ad hoc basis, which would be unmanageable in practice and create inconsistencies across the sector. I therefore ask Miles Briggs not to move amendment 133. Should he do so, I encourage members to vote against it.

Amendments 134, 135 and 136, in the name of Miles Briggs, would require the SFC to monitor the financial sustainability of all training providers and persons who deliver training programmes for employment. It is not the SFC's role to monitor the financial sustainability of commercial enterprises. There are many more training providers involved in apprenticeship provision and work-based learning than there are fundable bodies. The requirement would be an onerous duty on the SFC, even if it were appropriate. Any concerns about safeguarding public money need to be managed in the same way as other commercial transactions, such as not paying in advance of service delivery, for example. I hope that Miles Briggs agrees and will not move amendments 134, 135 and 136. Should he do so, I encourage members to vote against them.

I completely agree with the sentiment behind Pam Duncan-Glancy's amendment 139. Nobody wants to see pupils' learning disrupted. However, I am not convinced that such a legislative framework is the right way to approach that. The circumstances of each situation will be very different and it would be better for the SFC to be able to tailor its response accordingly. I hope that that reassures Pam Duncan-Glancy and that she will not move amendment 139. Should she do so, I encourage members to vote against it.

Pam Duncan-Glancy: Amendment 139 is specifically about future-proofing and addressing a concern about continuity in learning. In recent months, various institutions have had to take some difficult decisions that have been catastrophic for courses, students and staff. Amendment 139 seeks to empower the Scottish Government, through the Scottish Funding Council, to help

organisations to recognise that there could be disruption to continuity of provision and to plan for that. I struggle to understand why the minister does not think that that is a good thing.

Ben Macpherson: As I said, I agree with the sentiment behind the amendment, but I do not think that a legislative framework is the best way to approach the issue. I would be happy to have more dialogue with Pam Duncan-Glancy on that in due course.

It appears that amendment 143, in the name of Daniel Johnson, would require the SFC to make arrangements for assessing and enhancing the delivery and standard of programmes of training for employment, work-based learning and the training of apprentices.

The drafting of the amendment is unclear and it could suggest that the assessment and enhancement is conducted by the grant recipient. In my view, quality control is more appropriately managed through the conditions of grant or terms of contract. Given those points, I hope that Pam Duncan-Glancy, on behalf of Daniel Johnson, will not move amendment 143 and if it is moved, I encourage members to vote against it.

Amendment 142, in the name of Daniel Johnson, would require the SFC to conduct financial scrutiny of payments that are made to fundable bodies and others. As financial scrutiny is not defined and is therefore open to interpretation, it is unclear what the provision aims to achieve. In light of that lack of clarity, I ask that Pam Duncan-Glancy, on behalf of Daniel Johnson, does not move amendment 142. I would be happy to discuss the intent behind the amendment and the matters therein with Pam Duncan-Glancy and/or Daniel Johnson to see what a different approach might achieve, possibly at stage 3. If amendment 142 is moved, I encourage members to vote against it.

Amendment 144, in the name of Ross Greer, would allow the SFC to arrange for an independent investigation into the fundable body's compliance with terms and conditions that the SFC imposed when providing payments to that body. The 2005 act already requires the governing body of any fundable body to provide the SFC with any information that it requires in connection with the exercise of its functions. Penalties for non-compliance are more appropriately set out in grant letters or contracts issued by the SFC. I hope that that reassures Ross Greer and that he will not move amendment 144, but should he do so, I encourage members to vote against it.

Ross Greer: Will the minister take an intervention?

The Convener: You can if you want to.

Ben Macpherson: Briefly.

Ross Greer: I do not entirely agree with it, but I understand the minister's position that penalties for non-compliance should be laid out in grant letters. However, I am concerned that there seems to be a disconnect between what the Government is saying and the SFC's position. My understanding is that the SFC wants a wider suite of powers than just clawback. If the Government's position is that the SFC can already set out other penalties, has it engaged with the SFC on that? It seems that the minister's position and that of the SFC are not aligned. Everybody seems to agree broadly that clawback is not an ideal penalty and other options should be available. The SFC does not seem to think that other options are available to it, however.

Ben Macpherson: Officials and I have engaged significantly with the SFC during the bill process thus far and we will do so in the period ahead as the bill progresses. I will consider the points that Ross Greer has raised about amendment 144, but I stand by what I have said and will leave it at that.

The Convener: I call Ross Greer to speak to amendment 14A and other amendments in the group.

Ross Greer: The minister has already set out the purpose and effect of amendments 14A and 14B and indicated that he would support amendment 14B. I will not run through it all again, other than to say that I will not move amendment 14A but I will move amendment 14B.

I want to put on the record that I engaged with the SFC specifically on the amendments, and my understanding is that it is sympathetic to the intention of what I am trying to do, particularly given the issues highlighted by the situation at the University of Dundee. The core issue there is one of governance, which resulted in a crisis of financial sustainability, but it is important that we broaden that out. I am glad that the Government is able to support amendment 14B.

I will expand a little on amendment 144. The rationale for it is best explained in the context of the situation at the University of Dundee and the Gillies review. My understanding is that the university complied with that investigation, but ultimately it was not under any obligation to do so. If there was an investigation in the future, the SFC or whoever conducts the investigation could face more significant barriers.

Amendment 144 would provide that the bill would specify that the council may, where it considers it to be necessary, carry out an independent investigation into the compliance of a fundable body, with terms and conditions imposed on any payments made, and that the governing bodies of the fundable bodies, such as university

courts, for example, must provide anyone who is carrying out the investigation with the relevant information and documentation.

Clearly, there is a difference between my position and that of the Government on what is already required of the governing bodies.

My understanding is that there was no legal obligation on the court of the University of Dundee to provide the information that it did. It chose to comply, which was absolutely the right thing to do and I welcome it, but there is no guarantee that that would happen in the future.

As I elaborated on in my intervention on the minister, I am keen for the Funding Council to be able to set out non-financial penalties. We have discussed, in the committee and in the chamber, the drawbacks of the financial clawback power. I think that we, collectively, recognise that it is necessary, but it would be a rare situation in which taking money out of an institution would actually resolve whatever problem has arisen.

My understanding is that the SFC itself is keen to have a wider suite of powers available to it. I recognise, however, that, at stage 1, we did not get into the question of what those other penalties might be. I am proposing, therefore, that that is laid out in regulation by ministers. That is the rationale for—

Pam Duncan-Glancy: I am sorry to have interrupted the member mid-flow; I was trying to find the right time to intervene.

Has the member considered the impact of his amendment on Office for National Statistics classification? Has he had any representations from the universities on it?

Ross Greer: I have engaged on these amendments with the SFC, which is sympathetic to the intention behind them.

With regard to engagement with universities, I highlight—without meaning to sound cynical—my frustration with the engagement from the university sector on this matter, in that it very much mirrors the engagement that we saw in 2015 around the bill that became the Higher Education Governance (Scotland) Act 2016. It feels a little bit like the boy who cried wolf, in that, as much as I respect the leadership of Scotland's university sector, it has, on almost every occasion that proposals have been made to strengthen the governance of its institutions, claimed that that would compromise ONS classification. At no point, as of now, has that actually been the case.

I struggle, therefore, to accept the position that Universities Scotland most often puts forward, which is that many of the proposals that have been made in these stage 2 proceedings would potentially endanger ONS classification.

To be blunt—I say this with respect to those in the lobbying organisation and in the individual institutions—we have been here before. The sector has objected to almost every single proposal that has been made to strengthen governance arrangements. When those proposals have been passed in legislation—in the 2016 act, for example—they have not resulted in the situation that the sector claimed at the time would arise. I therefore struggle to accept the arguments that universities have put forward in relation to ONS classification here, and I would welcome further engagement with universities ahead of stage 3.

To go back to the debates that we had last week, I think that it would be beneficial for the committee and the Government if we engaged collectively with the ONS on—I think that it was John Mason who made this point—exactly what would trigger potential reclassification. It is fair to say that there is still some ambiguity around that, and further clarification on the matter from the ONS itself would be useful. Nevertheless, I treat the position of Universities Scotland on that specific issue with a bit of scepticism, because I feel like we have been here before and the potential risks have never been borne out.

On that point, I am happy to conclude.

The Convener: I call Pam Duncan-Glancy to speak to amendment 137 and other amendments in the group.

Pam Duncan-Glancy: Amendment 138, in my name, would insert in the bill a requirement on the SFC to report on the financial sustainability of post-16 bodies, and it would require there to be a focus on “continuity of learner provision”. It would also require ministers to give a statement to Parliament on that. Amendment 137 is consequential.

Amendment 139 would require that, where the SFC

“reasonably considers that there is a material risk of a post-16 education body being unable at any point in the next 6 months to deliver contracted learner provision without significant disruption”,

it must notify the governing body. In addition, the SFC must

“require the post-16 education body to prepare a recovery and continuity plan”

and must provide it

“with reasonable advice and support to enable it to continue to deliver contracted learner provision.”

Amendment 140 would require the SFC to report on socioeconomic disadvantage in all fundable bodies. I think that it is fair to say that in some—although not all—areas, we have made progress on that, but the picture is unclear and

varies across different opportunities and models, including apprenticeships, FE and HE. The amendment seeks to address that. It would require the report to include detail on regional differences, on

“whether the learner has a disability”

and on

“the level of deprivation experienced.”

The Government would have to pay “due regard” to that report and make a statement on it.

11:45

I have listened carefully to the minister’s comments and I am minded not to move amendments 139 and 140, in order to work with the Government, if it is prepared to give a commitment to work with me at stage 3 to give effect to an amendment that would do what I have described. If the minister is prepared to intervene to confirm that, I would welcome such an intervention.

While the minister is perusing his detail on that, I will move on to speak about amendment 143—

Ben Macpherson: Will the member take an intervention?

Pam Duncan-Glancy: Yes.

Ben Macpherson: As I have articulated in today’s proceedings, I am happy to engage further with Pam Duncan-Glancy more widely ahead of stage 3, and we can certainly cover the issue that she highlights. I cannot give an undertaking right now that we will lodge an amendment in that space, but I would be very pleased to discuss the matter.

Pam Duncan-Glancy: Okay—I appreciate that. I am looking for something a bit more concrete on reporting, but I take the minister’s point that there are a lot of amendments that relate to reporting and that it would be sensible to tidy up the amendments for stage 3. However, I am not prepared to let the issue drop without a commitment that a reporting amendment will be discussed for stage 3.

Ben Macpherson: I refer Pam Duncan-Glancy to the points that I made in my earlier remarks. I said that I would be grateful if these amendments were not moved so that we can consider all the reporting requirements.

I said that I was not committed specifically to the matters in Pam Duncan-Glancy’s amendments, but, looking at those amendments together with Stephen Kerr’s amendment, we can consider in the round all the reporting requirements that have been suggested by both members in their amendments in this group. We can then lodge a

suitable amendment at stage 3 to cover reporting duties and responsibilities, and I would welcome engagement on that. I hope that that gives Pam Duncan-Glancy the reassurance that she is looking for.

Pam Duncan-Glancy: I thank the minister for that answer—yes, it does. I look forward to the minister's engaging with me, Stephen Kerr and other members to pursue amendments in that regard.

Daniel Johnson's amendment 143 would require assessment of the quality

"of programmes of training for employment, work-based learning and training of apprentices".

Amendment 142 would require financial scrutiny to be carried out, including an assessment of value for money. The Further and Higher Education (Scotland) Act 2005 already requires the quality of fundable bodies to be assessed. Amendment 142 simply seeks to mirror that requirement for other bodies that will be funded under the bill. It would apply equivalency in scrutiny and transparency to all providers that receive public apprenticeship or skills funding from the SFC, not just colleges and universities, including private training providers and managing agents, thereby following the public pound.

Colleges Scotland has said that, if the SFC is to fund a much wider delivery base after absorbing Skills Development Scotland's functions, the whole base should face proportionate financial and quality scrutiny.

Again, I listened carefully to the minister's comments on amendment 142. I do not think that the amendment as currently drafted contains the complication that the minister set out, or that it is unclear on the requirements. I will, therefore, be moving that amendment.

On amendment 144, in the name of Ross Greer, I thank him for his response to my intervention about ONS classification; I welcome the clarity in that regard.

I will probably not move amendments 138 to 140, in order that we can discuss and pursue reporting amendments at stage 3 with members, including the minister.

The Convener: I call Stephen Kerr to speak to amendment 141 and other amendments in the group.

Stephen Kerr: I heard very clearly what the minister said. I simply add in relation to amendment 141 that, if the Scottish Government is asking the Funding Council to take on an expanded and more complex role, the council should operate under a clear and disciplined statutory framework of the kind that a number of

amendments in this group have spelled out. Nevertheless, I look forward to further engagement with the minister in relation to the reporting criteria. I will not be moving amendment 141.

The Convener: I call Willie Rennie.

Willie Rennie: I want to challenge amendments 14, 14A, 14B and 15. Universities Scotland has serious concerns about all those amendments; it believes that they would threaten ONS classification.

In relation to amendments 14, 14A and 14B, the Funding Council already has powers to request information, and its external auditors already produce annual accounts that are then shared with it. Amendments 14, 14A and 14B would introduce greater reach but also a lack of clarity. In particular, the phrase,

"where it considers it necessary to do so",

is very vague; it needs to be much more specific to avoid overreach.

Members will know that ONS classification is based not on whether powers are actually used but on the possibility of powers being used. Therefore, even if the powers are used only on very rare occasions, the fact that they can be used is, in itself, a threat to ONS classification.

On amendment 15—

The Convener: Will the member give way?

Willie Rennie: Certainly.

The Convener: Does the member understand what the trigger in that respect would be? It is an issue that has been raised with the committee. I take seriously what he is saying, but other members do not believe that this is a risk. The fact is that none of us knows what the trigger is. Until we know that, are we not legislating with one hand behind our back?

Willie Rennie: I think that that is the case. The strength of the opposition from Universities Scotland should make us think. I take on board Ross Greer's point that it has, in the past, made such warnings, and those warnings have not come to fruition. However, that does not mean that we should carry on relentlessly increasing the powers of the Funding Council and our reach into that space. At some point, the cumulative effect might affect ONS classification.

Douglas Ross is right about there being a lack of clarity with regard to exactly where the trigger is. That has been tested, to some degree, through the use of the section 25 powers in the 2005 act. Over time, through the use of those powers, ministers have gradually become much more explicit in their direction to universities. Things

ebbed and flowed with Dundee, but, nevertheless, the lack of specificity in this respect is a problem. That is why I would encourage members not to move amendments 14, 14A, 14B and 15.

Ben Macpherson: I thank Willie Rennie for raising those points, and I thank Universities Scotland, too, for its correspondence and engagement on these matters. As I said earlier, officials will meet Universities Scotland next week, and I look forward to further engagement with it on the bill, and on those points in particular.

The considerations with regard to ONS classification are, rightly, of pertinence, and are a priority for us all. As other colleagues have suggested in the debate, it is the existence, and scope, of intervention powers and the avoiding of operational control that we need to be mindful of. I will seek to move amendments 14 and 15, as I have emphasised, but I undertake to engage with Universities Scotland and to consider the point about the use of the word “necessary”.

We have been assured that the amendments that I will move, and the consequential amendment in the name of Ross Greer, which I support, are appropriate and balanced when it comes to consideration of ONS classification. However, I am grateful to Willie Rennie for raising those points, and we will consider them further as we proceed.

Willie Rennie: Let me go through some of the other arguments.

On amendment 15, the Scottish Funding Council already has the statutory duty to secure coherent provision, but it is believed that the issuing of statutory guidance specifically on

“the needs and interests of current and prospective learners”

is an overreach, too. As members will know, some of the learners at our universities are international students, who are privately funded. As those students receive no public finance for their education, I do not understand why the interests of all current and prospective learners should be the responsibility of the Funding Council when it does not contribute towards the education of those students. What particular tools does the Scottish Funding Council have to assess that anyway?

Amendments 14, 14A, 14B and 15 would give the Funding Council greater responsibility and, therefore, greater reach in relation to the role of universities. That is the concern here. Moreover, those amendments do not draw a distinction between colleges and universities. As we know, colleges and universities have different ONS classifications, and bringing in a set of rules that would treat them equally would undermine those classifications.

My final point is on the University of Dundee. It was an extreme case, and it was unique—perhaps not that unique, but unique enough. We should not legislate on the basis of a crisis in one institution. We need to be incredibly careful that we do not put in place a set of rules that potentially threatens ONS classification, as that could potentially give rise to greater crises than we have seen at Dundee university.

I come back to what Ross Greer said. On two separate occasions, he said that there was no compulsion and no ability to compel. Those two requirements are, I think, a challenge. These institutions—the universities—should have the freedom to act as the independent bodies that they are. If the Government, through the Funding Council, has the opportunity to compel them to act, we will be overreaching into the ONS classification space.

Therefore, despite what the minister has said, I encourage us to take a deep breath and take some time before stage 3 to have proper discussions on this matter, involving all members, so that we can all be confident, in the way that Mr Ross has set out, about having clarity on ONS classification, and when it is and is not applied.

Ross Greer: Will the member take an intervention?

Willie Rennie: Yes.

Ross Greer: I very much appreciate the case that Willie Rennie has made, and, on that basis, I will not be moving amendment 14. However, if the minister moves amendment 14, which I think he should—he has indicated that he will—I will certainly move amendment 14B, but not amendment 14A.

I agree that we should discuss the matter further ahead of stage 3. This is perhaps a matter for that wider discussion, but I am interested in Mr Rennie’s position on the point about compulsion and respecting the autonomy of those institutions. As we have seen, the University of Dundee is too big to fail. There is a collective agreement across the Parliament—and there is certainly an expectation from the public—that we cannot allow it to fail. It seems that there is a tension between those two things: it is an independent institution, but we cannot allow it—or its management, I should say—to independently run itself into the ground.

How does Mr Rennie reconcile those positions? It seems to me that, at a certain point, when an institution is at risk of failure and collapse, there is an unavoidable need for public institutions to step in and safeguard it, if it is an institution that we collectively agree is, indeed, too big to fail. How do we do that without having the backstop ability to

compel the institution to do what we need it to do to maintain its survival?

Willie Rennie: I think that such an approach will give false confidence, because I am not confident that the SFC will have the wherewithal and the expertise to interpret how the institution is performing, beyond what the external auditors, the court and the senate are already scrutinising. If we introduce the proposed powers, there is a danger that they could not only threaten ONS classification but give the public a belief that we are on top of this, when, in fact, the SFC might have no more ability to understand how the university in question is functioning or should function. Therefore, I think that we should rely on the existing mechanisms to provide that challenge and ensure that these institutions, which are, in many cases, too big to fail, do not fail in the end.

We, and the public, will be more alert. The court, the senate and the external auditors will have learned from the Dundee experience, and they will provide greater challenge. That should not mean that there should be a guarantee that the Government has a right to interfere or a compulsion to do so.

I will conclude on that point.

The Convener: I call Miles Briggs to wind up and to press or withdraw amendment 132.

Miles Briggs: I have nothing further to add, except to say that I am happy to press amendment 132, with the proviso that there will be some tidying-up amendments at stage 3.

Amendment 132 agreed to.

Amendment 13 moved—[Ben Macpherson]—and agreed to.

Section 8, as amended, agreed to.

After section 8

Amendment 133 not moved.

Section 9—Financial sustainability of post-16 education bodies

12:00

Amendments 134 and 135 not moved.

Amendment 14 moved—[Ben Macpherson].

The Convener: I call Ross Greer to move amendment 14A. I remind members that, if amendment 14A is agreed to, I cannot call amendment 14B, due to pre-emption.

Amendment 14A not moved.

Amendment 14B moved—[Ross Greer].

The Convener: The question is, that amendment 14B be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Adam, George (Paisley) (SNP)
Dunbar, Jackie (Aberdeen Donside) (SNP)
Duncan-Glancy, Pam (Glasgow) (Lab)
Greer, Ross (West Scotland) (Green)
Kidd, Bill (Glasgow Anniesland) (SNP)
Mason, John (Glasgow Shettleston) (Ind)
McLennan, Paul (East Lothian) (SNP)

Against

Briggs, Miles (Lothian) (Con)
Rennie, Willie (North East Fife) (LD)
Ross, Douglas (Highlands and Islands) (Con)

The Convener: The result of the division is: For 7, Against 3, Abstentions 0.

Amendment 14B agreed to.

The Convener: The question is, that amendment 14, as amended, be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Adam, George (Paisley) (SNP)
Dunbar, Jackie (Aberdeen Donside) (SNP)
Duncan-Glancy, Pam (Glasgow) (Lab)
Greer, Ross (West Scotland) (Green)
Kidd, Bill (Glasgow Anniesland) (SNP)
Mason, John (Glasgow Shettleston) (Ind)
McLennan, Paul (East Lothian) (SNP)

Against

Briggs, Miles (Lothian) (Con)
Rennie, Willie (North East Fife) (LD)
Ross, Douglas (Highlands and Islands) (Con)

The Convener: The result of the division is: For 7, Against 3, Abstentions 0.

Amendment 14, as amended, agreed to.

Amendment 136 not moved.

Amendment 137 moved—[Pam Duncan-Glancy].

The Convener: The question is, that amendment 137 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Briggs, Miles (Lothian) (Con)
Duncan-Glancy, Pam (Glasgow) (Lab)
Greer, Ross (West Scotland) (Green)
Ross, Douglas (Highlands and Islands) (Con)

Against

Adam, George (Paisley) (SNP)
Dunbar, Jackie (Aberdeen Donside) (SNP)

Kidd, Bill (Glasgow Anniesland) (SNP)
 Mason, John (Glasgow Shettleston) (Ind)
 McLennan, Paul (East Lothian) (SNP)
 Rennie, Willie (North East Fife) (LD)

The Convener: The result of the division is: For 4, Against 6, Abstentions 0.

Amendment 137 disagreed to.

Amendments 138 and 139 not moved.

Section 9, as amended, agreed to.

After section 9

Amendments 140 and 141 not moved.

Amendment 143 moved—[Pam Duncan-Glancy].

The Convener: The question is, that amendment 143 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Briggs, Miles (Lothian) (Con)
 Duncan-Glancy, Pam (Glasgow) (Lab)
 Greer, Ross (West Scotland) (Green)
 Ross, Douglas (Highlands and Islands) (Con)

Against

Adam, George (Paisley) (SNP)
 Dunbar, Jackie (Aberdeen Donside) (SNP)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Mason, John (Glasgow Shettleston) (Ind)
 McLennan, Paul (East Lothian) (SNP)
 Rennie, Willie (North East Fife) (LD)

The Convener: The result of the division is: For 4, Against 6, Abstentions 0.

Amendment 143 disagreed to.

Amendments 142 and 144 not moved.

Section 10—Guidance to fundable bodies

Amendment 15 moved—[Ben Macpherson].

The Convener: The question is, that amendment 15 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Adam, George (Paisley) (SNP)
 Briggs, Miles (Lothian) (Con)
 Dunbar, Jackie (Aberdeen Donside) (SNP)
 Greer, Ross (West Scotland) (Green)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Mason, John (Glasgow Shettleston) (Ind)
 McLennan, Paul (East Lothian) (SNP)
 Ross, Douglas (Highlands and Islands) (Con)

Against

Duncan-Glancy, Pam (Glasgow) (Lab)
 Rennie, Willie (North East Fife) (LD)

The Convener: The result of the division is: For 8, Against 2, Abstentions 0.

Amendment 15 agreed to.

Section 10, as amended, agreed to.

Section 11—Support of learners' needs and knowledge exchange in exercise of functions

The Convener: Amendment 145, in the name of Miles Briggs, is grouped with amendments 146, 47, 147 to 150 and 16.

Miles Briggs: The amendments in this group and the next are consequential. Amendments 145 and 150 seek to set out new duties for the Scottish Funding Council, requiring it to ensure that strategy and funding across the tertiary education system are aligned through collaboration with local authorities, training providers, employers and further and higher education bodies. The amendments would embed a statutory expectation of joint planning and co-delivery by all key partners when the council exercises its functions. As a result, amendment 150 would insert local authorities as a new first grouping within the schedule.

Am I to speak to the second grouping, as set out in amendments 151 to 171, convener?

The Convener: Well, amendment 145 is grouped with amendments 146, 47, 147 to 150 and 16.

Miles Briggs: Sorry—I have just amendments 145 and 150 in this group.

I move amendment 145.

The Convener: I call Stephen Kerr to speak to amendment 146 and other amendments in the group.

Stephen Kerr: My amendments 146 to 149 in this group seek to deal with how the Scottish Funding Council will exercise the significant and expanded functions that the bill will confer on it. I have lodged the amendments because, as the bill currently stands, the framework for exercising those functions lacks essential safeguards, clarity and discipline. Without those amendments, the council would be asked to shoulder major new responsibilities without the statutory requirements that are necessary to ensure transparency, consistency and a focus on Scotland's long-term interests.

Amendment 146 seeks to ensure that, when the council exercises its functions, it does so in a way that is aligned with Scotland's economic needs. My party has consistently argued that the tertiary system should be one of the central drivers of national productivity and national competitiveness. However, although legislation requires the council

“to have regard to ... skills needs in Scotland”,

I believe that that requirement is too broad and allows for crucial factors to be overlooked.

Amendment 146 seeks to correct that by requiring the Funding Council to have explicit regard to Scotland’s employer demand, labour market shortages, skills needs and, crucially, future economic priorities at national and regional levels. Legislating to match support to employer demand will reduce, as far as possible, the funding of low-value courses that do not correspond to employer demand and which result in young people being stuck either in unemployment or in jobs that do not match their skill sets.

I believe that legally mandating that the council have regard to our labour market shortages will force the council to prioritise addressing crucial reoccurring gaps in our national workforce and to prioritise emerging sectors, such as artificial intelligence, to ensure that Scotland is at the forefront of emerging sectors. It is also crucial to mandate that economic priorities at both national and regional levels be considered, as that will ensure that the distinct skills needs in every part of Scotland are not overlooked by a centralised body in Edinburgh.

The amendment would ensure that the council’s work was not simply administrative but strategic, purposeful and grounded in the realities of the economy that it is meant to serve in the present and in the future.

John Mason: It is sometimes said that people go to university and end up with degrees that do not get them applicable jobs. Is the member looking at that issue, too, in his amendment?

Stephen Kerr: Yes. I think it important that, as part of the totality of the Funding Council’s work, current and future economic prospects, as forecast, be considered. We all know people— young people, in particular—who have worked hard and obtained a degree but who are unable to fulfil their aspirations, because the jobs that their particular qualification is for are just not there or the qualification is not regarded by potential employers. I share that concern.

Amendment 147 seeks to introduce a duty to minimise administrative burdens, which is very apt, given the conversation on the previous group of amendments. Everyone around the table will have spoken to countless employers and will know that one thing that they all say is that the current skills landscape is too complex and has too much red tape. I have spent time with businesses in my constituency that will not, for example, take on apprentices, simply because it is far too heavy and onerous an administrative task. We need to have a council and a skills system that are focused on delivery, not on paperwork.

In order to do that, we must have a system that small businesses—indeed, even medium-sized and larger-sized businesses—find easy to access and not intimidating. As a result, amendment 147 seeks to mandate that

“The Council must exercise its functions in a manner that minimises administrative burdens on colleges, training providers and employers.”

Amendment 148 would ensure that support is not just provided and focused on young people but is also available to adults who are retraining and for lifelong learning, because that will become more of a feature in the future than it is currently.

We all agree that there is a concerning high level of economically inactive adults in our society. At the same time, however, we do far too little to support them out of the poverty cycle or to retrain in different sectors. Amendment 148 is designed to shift the dial to support them by pushing the Funding Council to support flexible pathways that are suitable for adults with responsibilities, rather than rigid courses that are designed solely for young adults.

Amendment 149 would introduce an obligation on the Funding Council to protect college autonomy. At present, the bill gives the council significant discretion, but discretion without guiding principles can lead to uneven or unpredictable decision making. That is why my amendment would ensure that the Funding Council acts in a manner that is fair across institutions, balanced in its interventions and respectful of the autonomy of fundable bodies, while still protecting learners and the public interest. The amendment seeks to reinforce the principle that oversight should be robust but not arbitrary.

Taken together, my amendments would strengthen the bill considerably. They would ensure that the Funding Council’s expanded powers are exercised with clarity, fairness, transparency and responsiveness, and would embed economic purpose into its work. The amendments reflect the wider principle that we— certainly on the Conservative side of the chamber—have championed throughout the passage of the bill, which is that Scotland’s skills system must be more than an administrative machine. It must be a strategic asset in driving national prosperity.

For those reasons, I invite my colleagues on the committee to support amendments 146 to 149 in my name.

Ross Greer: Amendment 47 seeks to add a new section to the 2005 act, stating that the SFC must have due regard to

“the economic, social and environmental priorities of the Scottish Ministers”.

The issue of a lack of policy coherence and direction from Government across the post-16 education landscape has been raised frequently in evidence. In their reports, Audit Scotland and James Withers made it clear that the core issue in relation to skills delivery has been the lack of clear leadership from the Scottish Government.

I will quote from James Withers's report, because he made a recommendation that crystallises that point. He said:

"there must be a clear articulation of the areas that are a national priority. This goes beyond signalling 'economic transformation' or 'net zero' into a specific articulation, aligned to strategic policy intentions, of the sectors and occupations that will be critical to their delivery and their workforce needs."

That was backed up by the Construction Industry Training Board and other industry stakeholders.

The SFC and SDS are not independent organisations. They are public bodies, but, albeit for different reasons in each case, they have not aligned well enough with the rest of the system. I think that there is more of an alignment issue with SDS than with the SFC, but, given the legislative underpinning, we can set the requirements of the SFC in a way that we cannot with SDS.

I do not think that ministers should be micromanaging here, which is why the amendment seeks to put an obligation on the SFC to have due regard to the priorities that ministers have set out, instead of putting additional requirements on ministers to involve themselves further, because broad alignment is necessary. Placing a requirement on the SFC to give due regard to the Government's priorities is relatively light touch, and it would mirror the approach that we took just a couple of months ago in relation to Qualifications Scotland. I hope, therefore, that the amendment is not controversial.

The aim here is to give the SFC a clear direction. We expect it to be broadly aligned with the priorities set out by ministers, because what has come back from Audit Scotland, James Withers, industry stakeholders and others is that we need clear alignment in the sector. Amendment 47 would not, in and of itself, solve all of that, but it sets out the clear principle upon which the SFC should operate.

George Adam: I will just speak to my own amendment, because, basically, we all know that it is all about me. That is a joke—I do not take myself that seriously.

Amendment 16 is straightforward. It would amend section 22 of the 2005 act to require the SFC to consult and collaborate with employers of Scottish apprentices or their representatives, and training providers or their representatives.

The amendment would also give ministers the flexibility to update the list through subordinate legislation, as is the case with existing consultation lists. That would give us the opportunity for future proofing and would provide the flexibility that is needed, as it would mean that we could add key delivery partners now and more in the future, if needed.

We all agree that employers and delivery partners must be at the heart of the apprenticeship scheme, and that is what the amendment seeks to do. It is practical and necessary, and it delivers—much like me. Therefore, I ask members to support amendment 16.

12:15

Ben Macpherson: I want to make it clear the Government's commitment to fair work principles, which we have set out jointly with the Scottish Trades Union Congress, and to the fair work first policy and the conditions in that regard that we apply to grants made by the Scottish Government. We expect all our public bodies to adhere to and implement the spirit as well as the letter of those principles in all that they do, and we expect those organisations making grants on our behalf to apply fair work first, too.

I am therefore pleased to support amendment 145, in the name of Miles Briggs, which would require the SFC to have regard to the desirability of protecting and promoting the interests of

"staff, including in relation to Fair Work First principles".

As it seeks to put in place a softer duty of consideration rather than something that would create binding legal sanctions or compel compliance, it will not cause the same issues with legislative competence that we have discussed with regard to other amendments.

I also welcome Ross Greer's amendment 47, which would require the council to have regard to

"the economic, social and environmental priorities of the Scottish Ministers".

I am happy to support it.

That said, in respect of both amendments, I might need to come forward at stage 3 with some technical adjustments to ensure that section 20 of the 2005 act works well as a whole and as intended. I am sure that Miles Briggs and Ross Greer will appreciate that.

George Adam's amendment 16 would put beyond doubt Scottish ministers' expectations with regard to the need for the SFC to consult and engage widely. The amendment seeks to create a new list of persons in section 22 of the 2005 act with whom the SFC would be required to consult

and collaborate with, and a new power to amend the list by subordinate legislation, if required.

Under amendment 16, the SFC would be required to consult and collaborate with employers of Scottish apprentices, training providers and representative bodies of both groups. It would also provide for the list to be added to in future by order, as I have mentioned. That is an important expansion, reflecting the SFC's wider remit under the bill, and I hope that it will allay concerns expressed by a range of stakeholders and the committee about the particular role played by key delivery partners. I hope that everyone will welcome business and employers playing a key role at the heart of the process in relation to apprenticeships, and I am therefore happy to support George Adam's amendment.

Unfortunately, I cannot support the other amendments in the group, and I will set out briefly why. With respect, amendments 146 and 149, in the name of Stephen Kerr, raise questions about interpretation that might, in practice, generate administrative effort and cost. For example, different people might have different interpretations of what the phrase "respects the autonomy" means in practice. As colleges of further education are public bodies and are classified as part of central Government, it would be confusing to state in legislation that they are autonomous.

I must also ask Stephen Kerr not to move amendment 147. I would like to consider it further, because it is worth considering the burden on the organisations that are mentioned. I would be grateful if we could discuss that as part of the dialogue that we will have between stages 2 and 3.

However, I cannot support Stephen Kerr's amendment 148. It is contingent on amendment 119, which was already debated in group 8. It is not the role of the SFC to secure assessment of labour market demand and skills shortages; the identification of skills needs is a job for SDS to do.

Amendment 150, in the name of Miles Briggs, would cut across the provision in section 3 of the 2005 act, which is amended by the bill. Broadly speaking, section 3 places a duty on the SFC to secure the coherent provision of tertiary education and training. With amendment 16 and with section 20 of the 2005 act, as amended by some of the amendments that have been supported here today, broadly the same result will be achieved.

In summary, I can support amendments 145, 16 and 47, and I hope that members will vote for them. I do hope that Stephen Kerr will not move his amendments 146, 148 and 149, but if he does, I encourage members to vote against them. The same applies to Miles Briggs's amendment 150.

The Convener: I call Miles Briggs to wind up, and to press or withdraw amendment 145.

Miles Briggs: I welcome the minister's acceptance of amendment 145, and I also welcome my colleague Stephen Kerr's amendments and the work that has been done to ensure that these various important aspects are covered. The Scottish Conservatives cannot support amendment 47, as we do not think that it is a welcome step forward; indeed, the Scottish Funding Council must be independent of ministers and not influenced by their priorities. We will support amendment 16.

I press amendment 145.

Amendment 145 agreed to.

Section 11, as amended, agreed to.

Section 12—Consideration of skills needs and socio-economic issues

The Convener: I call Stephen Kerr to move or not move amendment 146, which has already been debated with amendment 145.

Stephen Kerr: On the basis of what the minister said, I think that I will have a further conversation with him, so I will not move amendment 146.

Amendment 146 not moved.

Section 12 agreed to.

After section 12

Amendment 47 moved—[Ross Greer].

The Convener: The question is, that amendment 47 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Adam, George (Paisley) (SNP)
Dunbar, Jackie (Aberdeen Donside) (SNP)
Duncan-Glancy, Pam (Glasgow) (Lab)
Greer, Ross (West Scotland) (Green)
Kidd, Bill (Glasgow Anniesland) (SNP)
Mason, John (Glasgow Shettleston) (Ind)
McLennan, Paul (East Lothian) (SNP)
Rennie, Willie (North East Fife) (LD)

Against

Briggs, Miles (Lothian) (Con)
Ross, Douglas (Highlands and Islands) (Con)

The Convener: The result of the division is: For 8, Against 2, Abstentions 0.

Amendment 47 agreed to.

Amendments 147 to 149 not moved.

Amendment 150 moved—[Miles Briggs].

The Convener: The question is, that amendment 150 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Briggs, Miles (Lothian) (Con)
Greer, Ross (West Scotland) (Green)
Ross, Douglas (Highlands and Islands) (Con)

Against

Adam, George (Paisley) (SNP)
Dunbar, Jackie (Aberdeen Donside) (SNP)
Duncan-Glancy, Pam (Glasgow) (Lab)
Kidd, Bill (Glasgow Anniesland) (SNP)
Mason, John (Glasgow Shettleston) (Ind)
McLennan, Paul (East Lothian) (SNP)
Rennie, Willie (North East Fife) (LD)

The Convener: The result of the division is: For 3, Against 7, Abstentions 0.

Amendment 150 disagreed to.

Amendment 16 moved—[George Adam]—and agreed to.

Amendment 17 moved—[Ben Macpherson]—and agreed to.

Section 13—Amendment of lists of fundable bodies in schedule 2 of 2005 Act

The Convener: Amendment 151, in the name of Miles Briggs, is grouped with amendments 152 to 171.

Miles Briggs: These amendments are not a whistle-stop tour of Scotland, as they might come across, but are in fact consequential amendments that would insert the names of local authorities as a new first grouping in the schedule, as previously debated. Amendment 151 would, effectively, insert local authorities as a new grouping in the schedule before the list of colleges and universities, so that each local authority would be a fundable body, followed by a second category introducing other bodies that would appear in the remainder of the schedule.

I move amendment 151.

Ben Macpherson: Miles Briggs's amendment 151, and the other amendments in the group, would have the effect of adding Scottish local authorities to the list of fundable bodies in the 2005 act, as the member has just mentioned. In fact, they would do so twice over.

The defined term "fundable bodies" is only relevant to the provision of

"fundable further and higher education"

under the framework of the 2005 act. Adding local authorities to that list would only mean that the SFC could, in theory, provide them funding to deliver fundable further and higher education.

However, it would also make local authorities subject to the suite of provisions and requirements in the 2005 act that relate to the further and higher education institutions. I am not sure that local authorities would see that as desirable and I am not aware of any appetite from local authorities to be added to the list of fundable bodies.

Miles Briggs: The rationale for including local authorities is so that they can look at how, in some cases, training has changed. One example of that is here in Edinburgh, where, as the minister will know, Edinburgh College has lost its traditional building skills course. Across the Forth, Fife Council has taken the decision to help fund training places for those skills. My amendments would provide for and facilitate a local authority being the lead deliverer of such training. The minister and Government need to be aware of the different models that are emerging in response to very specific, often niche, shortages in the workforce—workers with traditional building skills being one of them. I am happy for the minister to take that away ahead of stage 3. However, it is important that that role for local authorities is included in the bill so that they have the potential to deliver such training.

Ben Macpherson: I thank Miles Briggs for raising those points. I agree with the importance of traditional building skills and other—to use his word—niche skill sets that we need to be mindful of. However, I stand by what I have said. In my engagement with COSLA before stage 2, it expressed no appetite for councils to have those powers, as far as I am aware. I hear Miles Briggs's point in general terms about specific skills, and we will consider that further, but I still believe that the amendments in the group are not the way that we wish to proceed.

The bill forms part of our work of reform that is aimed at simplifying the skills landscape and post-16 education and training. It seems to me that adding another suite of fundable bodies would have the opposite effect. It would also apply to local authorities the provisions and requirements of the 2005 act that further and higher education institutions must abide by, which I believe would be undesirable. It would not help us in simplification, and it would create more burdens on local authorities.

Where it is appropriate for the SFC to provide funding to local authorities, the 2005 act, as amended by the bill, makes provision to do that. That would be when local authorities are acting in the capacity of training providers—for example, in respect of national training programmes, apprenticeships and work-based learning.

Therefore, I cannot support any of the amendments in the group, and I encourage

members to vote against them if Miles Briggs chooses to press them.

The Convener: I call Miles Briggs to wind up and to press or withdraw amendment 151.

Miles Briggs: As the debate has demonstrated, there is an important role for councils to start to play in providing more training opportunities, specifically with regard to some of our sector skills shortages.

Ben Macpherson: That point is understood and agreed on. I just want to emphasise that local authorities can be training providers under the bill.

Miles Briggs: I am grateful for that clarification. I hope that any further conversations about making it easier for councils to do so will take place ahead of stage 3, and that the minister and his officials will look at that.

I know of some really good work taking place in my region in Edinburgh to look at shortages of adult carers. That work is led by different organisations—Edinburgh College as well as the City of Edinburgh Council. There is a need to make that work more streamlined. Who would be the best lead on it? It should not always be the college; that role could sit in the council as well.

I am happy to have conversations with the minister on any inclusion of that approach in the bill at stage 3, so I will not move amendments 151 to 171, which I am sure members will be glad to hear.

The Convener: They may be, but we have to do it in a slightly different way. Miles Briggs seeks to withdraw amendment 151.

Amendment 151, by agreement, withdrawn.

12:30

The Convener: Amendments 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170 and 171, all in the name of Miles Briggs, were all previously debated with amendment 151. I invite Miles Briggs to move, or not move, amendments 152 to 171 en bloc.

Miles Briggs: Convener, you would make a great auctioneer.

Amendments 152 to 171 not moved.

Section 13 agreed to.

Section 14—Appointment of members of the Council

The Convener: Amendment 172, in the name of Pam Duncan-Glancy, is grouped with amendments 173 to 180 and 36.

Pam Duncan-Glancy: Amendment 172 in my name states that, if council members' tenure is extended, the Government must publish a statement of reasons. I have lodged the amendment because the membership of the new boards and the council must be fresh and reflect the talent that is needed. The bill purports to take a different approach to skills, and that should be reflected in the tenure of members on the board.

Amendment 173, in my name, states that the SFC should include on its board students at colleges, universities and someone undertaking an apprenticeship. That, in my view, is essential, given the significant impacts that any bill or legislation in this space could have on students at colleges and universities and those undertaking apprenticeships.

Amendment 174 seeks to add those with capacity in

“research and innovation ... financial due diligence”

and

“workforce planning”

to the council. As the committee has heard—indeed, all of us will have had representations from industry and others on this—it is crucial that the council has that kind of capacity to reflect the changing requirements that the bill will place on it.

Amendment 176 seeks to add accountable officers of colleges and universities to the council. I think that they will be a useful addition, given the council's role in ensuring that those organisations are held accountable.

Amendment 177 would ensure trade union representation on the council. The University and College Union is keen on the amendment, and I can understand why, given the circumstances being faced by its members across Scotland as we speak.

John Mason: Will the member give way?

Pam Duncan-Glancy: I am happy to do so.

John Mason: In one sense, there is an argument for each of the proposals that the member has put forward, but am I right in saying that she is looking for at least six additional designated places—that is, a union rep for universities, colleges and apprentices and a student rep for universities, colleges and apprentices? Given that the board comprises between 11 and 14 people, would we not be getting things a little bit out of balance?

Pam Duncan-Glancy: No, I do not think so. I think that we would be getting the balance absolutely right by putting at the heart of all of this those who either deliver in the sectors or who

receive education from the sectors. That is incredibly important.

John Mason: I agree that those who teach and work in the sector and those who study are incredibly important and, indeed, are the reason for our having colleges, universities and apprenticeships, but does the member not think that we must involve a fair number of people who are real experts in the field, who have studied or worked in it for years, or who are academics? Surely that group of people is pretty important, too.

Pam Duncan-Glancy: Absolutely. I agree that experts in the field are crucial. The fact is that I consider staff who work in the system and students who engage with and are educated in it to be experts, too.

I should also point out that amendment 174, in my name, seeks to bring in those with

“capacity in ... research and innovation”—

in other words, the expertise that John Mason talked about when he referred to research in the area. Financial due diligence is another skill that I know the member will be very keen to have on the council, given the council’s role in that respect and the member’s interest in that matter.

I do not think that the amendments in my name, which seek to ensure that those people have places—and rightfully so—on the council, preclude others, because, as the member has pointed out, there are other spaces on the council. I am just seeking to protect spaces for students, apprentices and trade unions on the council.

Amendment 175, in the name of my colleague Daniel Johnson, seeks to ensure that the chair of the skills board that he proposes be established also sits on the Scottish Funding Council, in order to retain the link between the organisation that will distribute the funds for skills and the sector that will deliver those skills, and employers that represent some of that sector. I hope that the amendment will receive support from across the committee.

I move amendment 172.

Ross Greer: Amendment 178 would add

“persons who have experience of the interests of persons undertaking a Scottish apprenticeship or work-based learning”

to the list of people who should be considered when appointing members. I admit that that language is tortuous, but it reflects the language that we landed on in relation to a similar provision in the Education (Scotland) Bill. The aim is to recognise that it is good to include people who can represent a particular group—in this case, those doing apprenticeships—while also recognising that someone who is on the council is not there to

represent the interests of a particular group. As I said, I admit that that is tortuous language, but it is language that already exists in relevant legislation for very similar bodies.

The amendment would simply have the effect of ensuring that the voice of those who are undertaking an apprenticeship or work-based learning is heard directly on the board of the SFC. As with every other institution or organisation that operates in this sector, I would expect those who are at the receiving end of decisions that are being made by the SFC to be involved in making those decisions.

Similarly, amendment 179 would add persons who are representative of the interests of the council’s staff. That would solidify current practice and ensure that, because it is in legislation, it cannot be changed or drawn back on in the future. Again, that mirrors amendments that were made to the Education (Scotland) Bill earlier this year.

Pam Duncan-Glancy: I support the amendments in Ross Greer’s name. Does he agree that, although he does not set it out in the detail of amendment 179 as I have done in my amendments, his intention is that trade union representatives would be covered by the amendment?

Ross Greer: Yes, the intention is absolutely for trade union representatives to be included. If we are talking about those who can represent the interests of a particular group—in this case, the staff of the organisation—it is trade union reps who are in a position to do that. Without rehearsing the debates that we had at stages 2 and 3 of the Education (Scotland) Bill around the language that we need to use, and the debates that we have already had around the need to avoid straying into reserved territory in relation to employment law, trade union law and so on, I can say that the intention of the amendments is absolutely to make sure that there is a place on the council for trade union representation.

As I mentioned, that is currently the case in relation to the representative of the staff of the SFC, and my intention is to ensure that we are solidifying that in legislation. It is true that the language that I have used does not say that specifically, but, for reasons that are already well rehearsed, that is certainly my intention. I cannot think of anybody else who would be able to represent those interests nearly as effectively as a trade union representative, and there is certainly no one who would have the equivalent democratic mandate from those workers.

Miles Briggs: The amendments in this group, on which members have done a lot of work, go to the heart of something that I think is vital, which is that representative voices of teaching and non-

teaching staff must form part of the decision-making process on the board of the SFC. That would be in line with provisions in the Higher Education Governance (Scotland) Act 2016 and the Colleges of Further Education and Regional Strategic Bodies (Membership of Boards) (Scotland) Order 2023, so I think that it is important that that consideration is included in the bill.

My amendment 180 is very similar to Pam Duncan-Glancy's amendment 177, as both look to ensure that a trade union representative is appointed to the council.

John Mason: Mr Briggs says that his amendment is similar to Pam Duncan-Glancy's, but he is talking about a—that is, one—trade union representative, which I assume would cover universities, colleges and apprenticeships. Does he not agree that there would need to be a representative for each of those sectors, because they are quite different from each other? Even the unions representing college staff tend to be different unions from those representing university staff, and I think that there have been quite large differences between them in the past. How would Mr Briggs respond to that?

Miles Briggs: As is the case with the two other provisions that I have outlined, trade union representatives are already included. It is important to ensure that a union representative is part of the board, but there would not necessarily have to be representatives of all of the sectors that Mr Mason outlined.

It is important to have that representation and that the Scottish Funding Council takes those conversations forward when it appoints the board. I am content to support amendment 177 and, if that is not agreed to, to move my amendment 180.

The Convener: I call Paul McLennan to speak to amendment 36 and the other amendments in the group.

Paul McLennan (East Lothian) (SNP): I will speak just to my amendment 36, which would amend the bill in relation to the provision for the SFC to appoint co-opted members. Amendment 36 is a small change that would make it clear that the terms and conditions on which co-opted members of the SFC are appointed would include any remuneration and allowances that they are to receive. I hope that the committee can support that clarification of the bill.

Ben Macpherson: Appointing the right people to the council is obviously important, and I can see from members' amendments that they agree with that overarching aim.

Pam Duncan-Glancy's amendment 172 would cut across the public appointments process and

the code of practice for ministerial appointments to public bodies in Scotland, issued by the Commissioner for Ethical Standards in Public Life in Scotland. Therefore, with respect, it is not clear to me why the amendment is necessary. When we appoint new council members, their relevant skills and experience are highlighted in the press release and relevant publications. Barring the reappointment of a member for a period of four years from the end of their tenure, which is limited to only four years, is unduly restrictive. If the commissioner considers a maximum term of eight years to be appropriate, why do we need to be more restrictive, as proposed by amendment 172? If a member had relevant skills and experience when they were appointed, I am not sure of the benefit of checking again on reappointment. Therefore, I do not support amendment 172.

I turn to amendments 173 to 180. It is currently at ministers' discretion who to appoint to the council. The 2005 act sets out some of the skills and experience to which ministers should have regard when making appointments. It is helpful for the legislation to provide pointers to ministers as to what to consider, but it is unhelpful for the legislation to bind ministers. We do not know what tomorrow's issues will be, and we need the flexibility to appoint a council that is well placed to respond. For example, five years ago, it was unclear that AI would become such a dominant consideration as it now is; it is likely to have a dramatic impact on the tertiary education system, training and workplaces. Amendments 173 to 180, however, would require the council to have the following members.

Pam Duncan-Glancy's amendment 173 would require the appointment of a student at a college of further education—they could also be the person with experience of undertaking fundable further education, who would be required under amendment 174—a student at a higher education institution and an apprentice or workplace learner.

Pam Duncan-Glancy's amendment 174 would also require the appointment of a deputy chair with a research and innovation background; someone with experience of financial due diligence and someone with experience of workforce planning.

Daniel Johnson's amendment 181 would require a chair of an industry skills board.

Pam Duncan-Glancy's amendment 176 would require an accountable officer of a college of further education and an accountable officer of a higher education institution.

Pam Duncan-Glancy's amendment 177 would require the appointment of three people nominated by recognised trade unions representing the employees of colleges, higher education institutions and the three public bodies.

All those people would account for potentially 10 of the 11 to 14 positions available. It is just not appropriate or desirable for legislation to bind ministers in that way.

Ross Greer: Will the minister give way?

Ben Macpherson: Yes, shortly. Ross Greer's amendments 178 and 179 and Miles Briggs's amendment 180 would add additional categories to the list of desirable criteria to which ministers are to have regard when appointing members to the council. Unlike previous amendments in the group, amendments 178 to 180 would not bind ministers.

It will always be challenging to come up with a particular set of skills or experience that everyone is content with. I am not suggesting that the other amendments are without merit. On the other hand, it would be better to commit to working with the committee and other interested members to ensure that the process that we follow for recruiting new council members in 2026, when there are five positions available, secures the right people for the context.

I cannot support the amendments that propose to make the changes that I referred to just a moment ago, those being amendments 173 and 175 to 180. However, I am prepared to come back at stage 3 with suitable amendments to respond to the points that members have made about the skills and experience that are needed on the council. On that basis, I hope that members will not move amendments 173 and 175 to 180.

I also hope that members do not press amendment 172 or move amendment 174. If they do, I urge members to vote against them.

12:45

I should note that Daniel Johnson's amendment 175 is contingent on his amendment 181, which we will come to in group 16. Amendment 181 would remove the apprenticeship committee and replace it with a different committee, and I do not see the benefit of that.

Paul McLennan's amendment 36 is helpful in that it makes clear that co-opted members of the SFC may receive remuneration and allowances as appropriate, and that ministers will approve them as part of the terms and conditions of their appointment. That is suitable, and I am happy to support the amendment.

The Convener: Can I just check that you do not want to give way to Mr Greer?

Ben Macpherson: I had hoped that I had reassured Mr Greer that I will come back at stage 3, but I am happy to take his intervention if that is helpful.

Ross Greer: I am grateful to the minister. On the basis of what he said, I will not move my amendments in this group, because I am keen to work with him at stage 3. However, I am struggling with what he said about the overall rationale because it does not seem to be compatible with the conclusions that we reached on the Education (Scotland) Bill and the comments that the cabinet secretary made just a few months ago. I appreciate his point about the need for balance. I was not going to support all the amendments in this group for that reason, but I did intend to support some of them. I am happy not to move my amendments and to work with the minister ahead of stage 3.

However, I want to ask the minister whether he or his officials have made any reference to or looked back at the considerations that were made at stages 2 and 3 of the Education (Scotland) Bill about who sat on the board of Qualifications Scotland and who sat on the advisory council of the inspectorate, because it is a similar argument for similar organisations within the same area of Government. The minister's argument does not appear to be compatible with the position on those bodies that the cabinet secretary accepted just a few months ago.

Ben Macpherson: That wider context is important to our considerations and I am grateful to Ross Greer for the amendment that seeks to probe those matters. I look forward to further discussion with him ahead of stage 3 on the points raised. I also thank the convener for his patience in allowing that intervention.

Pam Duncan-Glancy: I intend to press—let me get the exact number of the amendment so that I do not get them confused—amendment 172, because I do not accept the minister's concern about it being too prescriptive about the need to explain, at the very least, why a membership of the council has been extended. In particular, the minister's comments on the changing requirements around AI, for example, underpin the need to keep checking. That does not suggest that we would check and get rid, but that we would sense-check and make sure that the representation on the council reflects need and demand across the sector. On that basis, I will press amendment 172, but I am prepared to hold the Government's position to account ahead of stage 3 on the representation on the council in other amendments such as 173, 174, 176 and so on.

Ben Macpherson: To be clear, amendment 174 is not one of the amendments that I said that I would want to reconsider ahead of stage 3, but 173 and 175 to 180 are.

Pam Duncan-Glancy: I welcome the minister's clarification on that point. In that case, I will move amendment 174 when the time comes.

In the meantime, I am prepared to work with the Government. I have made it clear that the council must have representation from students and trade unions across the different bodies. I hope that the minister will help to deliver an amendment to that effect at stage 3, so I will not move amendment 171 at this point.

The Convener: I thought that you were going to press amendment 172.

Pam Duncan-Glancy: I am sorry—you are correct. I will press amendment 172. My screen is frozen; I am trying to fix it.

The Convener: That is fine.

The question is, that amendment 172 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Duncan-Glancy, Pam (Glasgow) (Lab)
Greer, Ross (West Scotland) (Green)

Against

Adam, George (Paisley) (SNP)
Briggs, Miles (Lothian) (Con)
Dunbar, Jackie (Aberdeen Donside) (SNP)
Kidd, Bill (Glasgow Anniesland) (SNP)
Mason, John (Glasgow Shettleston) (Ind)
McLennan, Paul (East Lothian) (SNP)
Rennie, Willie (North East Fife) (LD)
Ross, Douglas (Highlands and Islands) (Con)

The Convener: The result of the division is: For 2, Against 8, Abstentions 0.

Amendment 172 disagreed to.

The Convener: Amendment 173—*[Interruption.]* My understanding is that if we have disagreed to amendment 172, we have in effect agreed to section 14. John Mason asked the same question of the Deputy Presiding Officer last week.

Section 14 agreed to.

After section 14

Amendment 173 not moved.

Amendment 174 moved—[Pam Duncan-Glancy].

The Convener: The question is, that amendment 174 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Duncan-Glancy, Pam (Glasgow) (Lab)

Against

Adam, George (Paisley) (SNP)
Briggs, Miles (Lothian) (Con)
Dunbar, Jackie (Aberdeen Donside) (SNP)
Greer, Ross (West Scotland) (Green)
Kidd, Bill (Glasgow Anniesland) (SNP)
Mason, John (Glasgow Shettleston) (Ind)
McLennan, Paul (East Lothian) (SNP)
Rennie, Willie (North East Fife) (LD)
Ross, Douglas (Highlands and Islands) (Con)

The Convener: The result of the division is: For 1, Against 9, Abstentions 0.

Amendment 174 disagreed to.

Amendment 175 moved—[Pam Duncan-Glancy].

The Convener: The question is that amendment 175 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Duncan-Glancy, Pam (Glasgow) (Lab)

Against

Adam, George (Paisley) (SNP)
Briggs, Miles (Lothian) (Con)
Dunbar, Jackie (Aberdeen Donside) (SNP)
Greer, Ross (West Scotland) (Green)
Kidd, Bill (Glasgow Anniesland) (SNP)
Mason, John (Glasgow Shettleston) (Ind)
McLennan, Paul (East Lothian) (SNP)
Rennie, Willie (North East Fife) (LD)
Ross, Douglas (Highlands and Islands) (Con)

The Convener: The result of the division is: For 1, Against 9, Abstentions 0.

Amendment 175 disagreed to.

Amendments 176 and 177 not moved.

Section 15—Skills and experience of members of the Council

Amendments 178 and 179 not moved.

The Convener: Amendment 180, in the name of Miles Briggs, was debated with amendment 172. I call Miles Briggs to move or not move his amendment.

Miles Briggs: Give the minister's commitment to further conversation at stage 3, I will not move it.

Amendment 180 not moved.

Section 15 agreed to.

Section 16—Co-opted members of the Council

Amendment 36 moved—[Paul McLennan]—and agreed to.

Section 16, as amended, agreed to.

Section 17—Apprenticeship committee

The Convener: Amendment 181, in the name of Daniel Johnson, is grouped with amendments 182, 37, 18 and 183 to 194. I point out that, if amendment 181 is agreed to, I cannot call amendments 182, 37, 18 and 183 to 192, due to pre-emption.

I call Pam Duncan-Glancy to move amendment 181 and speak to all the amendments in the group.

Pam Duncan-Glancy: Amendment 181 is in the name of my colleague Daniel Johnson. It would replace the apprenticeship committee established by the bill with an industry skills board that would include representatives from levy-paying businesses, SMEs, colleges, independent training providers and trade unions.

The skills board would be led by a senior figure from industry and would have a defined role with regard to apprenticeship standards, using the SAAB terms of reference as a starting point. It would strengthen employer input to and endorsement of the strategic direction of apprenticeships and work-based learning pathways, thereby supporting the apprenticeship system to meet the needs of industry. It would ensure the alignment of apprenticeships with economic growth and job opportunities. It would set and maintain the guiding principles for the core requirement of apprenticeship frameworks that they must produce a competent, highly skilled and flexible workforce.

It would inform and make recommendations on the priorities for development and continuous improvement activities, including in the area of equalities. It would provide advice on relevant matters affecting employers and on emerging policy that is likely to impact on the strategic direction of apprenticeships, such as apprenticeship levies, for example. It would act as a custodian for approved apprenticeship frameworks on behalf of industry, and it would be an ambassador for apprenticeships with other businesses and with young people. It would also make an annual assessment of skills gaps to assess annual modern apprenticeship demand and, crucially, make binding recommendations on grant allocations on the basis of those assessments.

I will now move on to three amendments in the group that are in my name. My amendment 183 would ensure that the membership of the apprenticeship committee would include someone representing small and micro businesses. My amendment 185 would add a provision to ensure that someone who is doing an apprenticeship or a college course was represented on the apprenticeship committee.

My amendment 193 would require the Government to report within a year on what support should be provided to enable persons who are undertaking a course of education or training and who are not in a paid sabbatical role to become a member of the council or of a committee of the council. Those would be people who, as other amendments would require, should be represented on the council. It is important that people who are asked to take on roles with such a level of responsibility are supported to do so.

Finally, I will speak to Monica Lennon's amendment 186, which would make it clear that the council must include trade and industry representation on the apprenticeship committee. It is important to ensure that bodies that represent professions, such as those in the electrotechnical sector, where safety is of the highest priority, are included on the committee as trade and industry representatives. Without the involvement of recognised bodies that are connected to electrotechnical apprenticeships, there is a significant danger that any changes that are made to safety and technical operations could be overlooked, and that might lead to dangers throughout a young person's apprenticeship. Bodies such as the Scottish Joint Industry Board for the electrical industry in Scotland, which includes representation for employers, Scotland's Electrical Trade Association for the electrical contracting industry—SELECT—and the industry trade union Unite the Union, would be the ideal representative bodies to ensure that those who are undertaking the electrical installation apprenticeship programme are protected going forward.

I hope that the amendments meet with support from across the committee.

I move amendment 181.

Miles Briggs: My amendments and those of Stephen Kerr go to the heart of the Scottish Conservatives' concern that the bill does not reflect adequately enough the voice of industry and business. My amendments 182, 184, 187, 188 and 189 would provide for a voice for business to be placed at the centre of the development partnerships and draw on the wealth of talent and business voices who want to be involved in our apprenticeship systems and on that committee.

Amendment 184 would add a requirement for the apprenticeship committee to include members who represent the interests of businesses in relevant industries, along with other individuals whom the Scottish Funding Council considers appropriate. That would ensure that the committee would have an industry-focused representative and representation, while giving the council flexibility to include additional expertise.

Amendments 187, 188 and 189 would ensure that employer perspectives were considered in shaping the apprenticeship committee's membership alongside ensuring that the Scottish Funding Council directly considers including people who represent the interests of businesses and relevant industries, as well as delivering geographically balanced employer representation. That was not discussed at any length during the committee's work on the bill, but it would ensure that the apprenticeship committee was not dominated by particular parts of the country.

Stephen Kerr's amendments 190, 192 and 194 go to the core of whether the bill will create a credible, accountable and employer-led apprenticeship system, or whether it will simply replace one layer of bureaucracy with another.

We should view this group of amendments as one of the most important, because they concern the institutional architecture that will determine whether Scotland's apprenticeship system succeeds or fails in meeting the needs of learners, employers and the wider Scottish economy. The bill proposes the creation of committees and boards that will advise the council on apprenticeships and skills, but, as it is drafted, the bill leaves critical questions unanswered. It does not guarantee that the people who understand apprenticeships best—the employers, practitioners and industry representatives—will have meaningful influence over decision-making, nor does it ensure that their advice carries weight, visibility and accountability. Too much is left to the discretion of ministers and the Funding Council, and too little is embedded in statute. My colleague Stephen Kerr's amendments are designed to correct that weakness and to ensure that the governance structures have the strength, legitimacy and transparency that a modern skills system requires.

13:00

Amendment 190 would require that the committees and boards established under the bill be composed in a way that reflects the real economy. That is fundamental; if a body is charged with advising on apprenticeships, it must not be dominated by bureaucratic or academic voices at the expense of the employers who create the apprenticeships. For many years, Scotland has benefited from the Scottish Apprenticeship Advisory Board, which we all acknowledge and agree on. It brought direct employer insight into the system, and the model should not be weakened. Amendment 190 would ensure that committees are not tokenistic but generally representative of industries that depend on the apprenticeship system for their future workforce.

Amendment 192 would introduce a critical element to the apprenticeship committee: transparency. Under the bill, committees and boards may operate entirely out of sight, with no obligation for their advice to be published, shared or even explained. That is not good governance, and it is not good enough for a system as important as our apprenticeship system. Therefore, amendment 192 would require that the advice that is provided by those committees be transparent and that the Funding Council should set out how it will respond to the advice. That is essential for accountability. If the Funding Council chose not to follow the advice of committees, it should explain why it has not done that; if it accepts the advice, learners, employers and providers should be able to see the rationale behind the decision making.

Amendment 194 would build on that by ensuring that the committees and boards had a clear statutory purpose and defined responsibilities, rather than vague consultative roles. Like others, we have repeatedly made the point that advisory structures are effective only when they are empowered. Without a statutory mandate, committees risk being sidelined or used selectively—consulted when convenient and ignored when not.

Amendment 194 would ensure that the advice of those committees be sought, considered and responded to. It would move the system from a discretionary model to a principled one, in which employer and industry insight was not an optional extra, but a structural requirement. Taken together, the amendments would do something vital: they would stop Scotland's apprenticeship governance being dragged back into a centralised bureaucratic model and, instead, would embed the principle that apprenticeship policy must be shaped by those who understand apprenticeships best.

The amendments are the difference between a system that listens and a system that merely hears; between employer-led governance and institution-led governance; and between a skills system that responds to the economy and one that expects the economy to respond to it. If the Scottish Government is serious about improving productivity, reducing skills shortages and expanding high-quality apprenticeships, the bill must empower employers, industry and practitioners—not sideline them. Amendments 190, 192 and 194 would do exactly that. For those reasons, I invite colleagues to support the amendments in the name of my colleague Stephen Kerr.

Willie Rennie: Amendment 37, in my name, seeks provide that the chair of the Funding Council's apprenticeship committee should be an

employer or someone who represents the views and interests of employers.

I have set out arguments in the debates on previous groups about the role of employers in the new system. We know that there is anxiety among employers about the abolition of SAAB and the transfer to a single source of funding from SDS. My proposed provision would help to build confidence among employers that their voice was valued and heard. It would ensure that their unique expertise and insight were brought into the system as the policy was developed. I encourage members to support amendment 37.

Bill Kidd (Glasgow Anniesland) (SNP): I will make this as sharp as a pokey stick so that we do not sit here all day. My amendment 18 seeks to require the SFC to have regard to the desirability of including certain persons when appointing members of the apprenticeship committee. Those persons are: employers of Scottish apprentices or their representatives; representatives of colleges and universities; training providers or their representatives; and representatives of any trade union that represents the interests of Scottish apprentices.

We heard a lot at stage 1 from stakeholders about the need for the new committee to be representative of the skills and experience that are needed to exercise its proposed powers and functions under the bill. My amendment 18 would not restrict the SFC—that would be inappropriate and would run counter to the independent public appointments process. However, it would set a clear expectation that the groups mentioned would be represented on the new committee.

It is clearly important to members that the new apprenticeship committee contains a wide range and depth of expertise for the SFC to draw on. I therefore hope that members will support my amendment, which would achieve that in a way that is more flexible and less restrictive than some of the approaches that members have taken in other amendments in the group.

Ben Macpherson: I am pleased to support Bill Kidd's amendment 18, which responds to requests made by trade unions and SAAB. The council will be required to have regard to the desirability of appointing the types of persons set out in the amendment, should it be agreed to. It rightly identifies employers, colleges and universities, training providers and trade unions—

The Convener: My apologies, minister. This is my fault, but I should have called Ross Greer first, who is to speak to amendment 191 on behalf of Lorna Slater and to other amendments in the group. I had scored amendment 191 out incorrectly.

I call Ross Greer.

Ross Greer: The minister will be glad to hear that I will be very brief.

Amendment 191, in the name of Lorna Slater, would simply change “may” to “must” in section 17(4). The effect is that it would require ministers to issue guidance to the council regarding the composition of the apprenticeship committee and its functions, closing off the possibility of ministers not issuing that guidance. I hope that the amendment is therefore seen as straightforward and that committee members will agree to it.

The Convener: My apologies again, minister—back to you.

Ben Macpherson: With the convener's permission, I will continue from where I finished.

Bill Kidd's amendment rightly identifies employers, colleges and universities, training providers and trade unions representing the interests of apprentices as having a strong interest in the work of the apprenticeship committee. I agree with him, and I would welcome strong representation on the committee from those groups.

In the same vein, I am happy to support Miles Briggs's amendment 188, which would effectively expand the scope of desirability considerations by the council to include people who represent the interests of businesses in relevant industries. His amendment 189 covers similar ground to that covered by amendment 188, so I hope that he might see that it is now not needed.

Amendment 187, also in the name of Miles Briggs, seeks to require the SFC to consult persons who appear to represent the interests of businesses in relevant industries when appointing members of the apprenticeship committee. The emphasis on consultation is helpful and I support the amendment, although I may wish to tidy up the framing at stage 3, should Miles Briggs be agreeable to that.

Amendment 182, also in the name of Miles Briggs, is not strictly needed, because the apprenticeship committee can consult and collaborate under the same duties and powers as the SFC, where appropriate. However, the amendment seeks to emphasise the importance of the views of local authorities in shaping apprenticeship delivery, which I agree with, and I am therefore happy to support it.

Lorna Slater's amendment 191, as spoken to by Ross Greer, would change ministers' power to give the SFC guidance on the operation of the apprenticeship committee into a duty to do so. It is absolutely our intention to issue such guidance to the SFC, so I am happy to support the amendment.

I hope that amending the bill in the way proposed in amendment 191 will give comfort in respect of members' concerns about who should be a member of the apprenticeship committee, because ministers will issue guidance on the issue. For example, the Scottish ministers could specify that more than half the members have to be employers or employer representative organisations, and could insist on there being representation of other groups.

A number of amendments in the group aim to specify that particular types of people should be members of the apprenticeship committee. Pam Duncan-Glancy's amendment 183 seeks to require at least one member from a body that represents the interests of small and micro businesses, and at least one member who is an employer in a sector in which a majority of the businesses that are engaged in that sector are micro businesses. Miles Briggs's amendment 184 seeks to require that one or more members must represent the interests of businesses in relevant industries. Pam Duncan-Glancy's amendment 185 seeks to require that one member must be a Scottish apprentice or work-based learner, and one must be a college student. Monica Lennon's amendment 186 would require at least one member who is a trade and industry representative.

Those are all reasonable suggestions, but it might not be helpful to set such requirements out rigidly on the face of primary legislation in the way that those members envisage.

Ahead of stage 3, I would like to consider whether we need to say anything more in the bill about the types of member of the apprenticeship committee beyond what is in Bill Kidd's amendment 18. In doing so, I will take on board all the types of representatives that members have sought to include through their respective amendments.

Daniel Johnson's amendment 181, which Pam Duncan-Glancy moved, would remove the apprenticeship committee from the bill and substitute it with provision for an industry skills board. The apprenticeship committee is capable of delivering the requirements that are set out in Daniel Johnson's amendment 181. I prefer the approach that is set out in the bill, so I cannot support amendment 181 and I urge members of the committee to reject it.

Willie Rennie's amendment 37 seeks to ensure that the chair of the apprenticeship committee is an employer or represents the views and interests of employers. I share his concern that the apprenticeship committee must reflect and consider the needs of employers, but I think that there is a better way of achieving the same aim. It is important that the apprenticeship committee is

chaired by a member of the SFC, but amendment 37 would remove that requirement. The apprenticeship committee should be chaired by a member of the SFC for reasons of effective governance and to make sure that the committee has a powerful voice on the SFC board. However, the chair of the committee must have the right skills and experience, which means ensuring that there are members of the council who have the skills and experience that Willie Rennie has set out and can, therefore, be asked to chair the committee effectively.

The SFC will make further appointments in 2026, and the Scottish Government will ensure that the skills and experience that Willie Rennie is looking for are acquired through that process. That is the most appropriate way forward.

I would be happy to discuss all of that with Willie Rennie ahead of stage 3, together with the discussion that I have undertaken to have about his amendment 24, which falls into the same wider area of consideration.

As Miles Briggs set out on his behalf, Stephen Kerr's amendment 190 would require the apprenticeship committee to have at least 20 members, and the majority of the members to be employer or industry representatives. There is a balance to be struck around the size of this or any committee. If there are too few members, it will not have sufficient variety of skills, experience and views, and if there are too many, it will be costly and hard to manage, even with regard to simple things such as finding mutually convenient dates for meetings. It would therefore be unhelpful for the bill to set a specific number of members when we have not accumulated any experience of the way in which the committee will operate.

The SFC needs to engage stakeholders, including employers and workforce representatives, on the design of the committee and whether it should have subcommittees to support it. It would be premature to set the size or composition of the committee in primary legislation, as amendment 190 envisages. Therefore, I cannot support the amendment.

Stephen Kerr's amendment 192 seeks to require the apprenticeship committee to report to the Scottish Parliament on how employer views have informed its decisions and recommendations. Scottish ministers will give the SFC guidance on the committee's functions, and that guidance can set out what, if anything, the apprenticeship committee needs to publish and when. Reports from the apprenticeship committee will be best dealt with administratively, especially given the SFC's statutory duty to provide an annual report that includes the work of its committees. In terms of governance, it would be inappropriate for a committee of the SFC to report

directly to the Scottish Parliament, given that the SFC's role is to report to Scottish ministers, the Parliament and publicly. Therefore, I cannot support amendment 192.

It is not fully clear what Pam Duncan-Glancy's amendment 193 seeks to achieve, although I appreciated what she said about it earlier. It appears to be about ensuring that learners have the support that they need to be a member of the council. That could be financial support, but council members are remunerated and can claim expenses. It is not obvious that learners would need something additional, beyond what the SFC would be required to provide in making reasonable adjustments to support a member with a protected characteristic. I do not consider that amendment 193 is necessary, but I undertake to ensure that we communicate to the SFC our expectations for support for council members, including in relation to aspects such as training.

The bill forms part of our work to simplify the funding body landscape so that it is more efficient and achieves better outcomes. I fully support the need for regional skills planning and an appropriate response to that in terms of provision. However, I cannot support Stephen Kerr's amendment 194, as it would result in a plethora of regional skills boards with associated costs. It is unclear how those boards would interact with the apprenticeship and skills committees, with which they are more likely to come into conflict given their overlapping roles.

The amendment would also give a specific function to the SFC that currently sits with SDS, so I cannot support amendment 194.

13:15

In summary, I ask members to vote for Bill Kidd's amendment 18, Miles Briggs's amendments 182, 187 and 188, and Lorna Slater's amendment 191.

In light of my commitment to look again at the issues raised in their amendments, I ask Pam Duncan-Glancy not to move amendments 183 or 185, Miles Briggs not to move amendment 184, and members not to move amendment 186 on Monica Lennon's behalf. If they do, I encourage members to vote against the amendments that I have listed.

I hope that Pam Duncan-Glancy, on behalf of Daniel Johnson, will not press amendment 181; if she does, I encourage members to vote against it. I hope that my undertaking on board appointments will persuade Willie Rennie not to move amendment 37; if he does, I encourage members to vote against it.

I ask Miles Briggs not to move amendments 190, 192 and 194 on behalf of Stephen Kerr; if he does, I encourage members to vote against the amendments. Finally, I hope that I have assured Pam Duncan-Glancy that I share the aims behind her amendment 193 and that she will now not move that amendment. If she does, I encourage members to vote against it.

The Convener: I remind members that if amendment 181 is agreed to, I cannot call amendments 182, 37, 18 and 183 to 192, due to pre-emption. I call Pam Duncan-Glancy to wind up and indicate whether she wishes to press or withdraw amendment 181.

Pam Duncan-Glancy: On the basis of commitments from the Government on membership of the apprenticeship committee, I will not move amendments 183 and 185.

On behalf of Daniel Johnson, I undertake to engage with the Government in the hope that agreement can be reached about the importance of the proposed committee—the industry skills board—as Daniel Johnson and I have envisaged it. Therefore, I will not press amendment 181, in the name of Daniel Johnson.

Amendment 181, by agreement, withdrawn.

Amendment 182 moved—[Miles Briggs]—and agreed to.

Amendment 37 not moved.

Amendment 18 moved—[Bill Kidd]—and agreed to.

Amendments 183 to 186 not moved.

Amendments 187 and 188 moved—[Miles Briggs]—and agreed to.

Amendment 189 moved—[Miles Briggs].

The Convener: The question is, that amendment 189 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Briggs, Miles (Lothian) (Con)
Duncan-Glancy, Pam (Glasgow) (Lab)
Ross, Douglas (Highlands and Islands) (Con)

Against

Adam, George (Paisley) (SNP)
Dunbar, Jackie (Aberdeen Donside) (SNP)
Greer, Ross (West Scotland) (Green)
Kidd, Bill (Glasgow Anniesland) (SNP)
Mason, John (Glasgow Shettleston) (Ind)
McLennan, Paul (East Lothian) (SNP)
Rennie, Willie (North East Fife) (LD)

The Convener: The result of the division is: For 3, Against 7, Abstentions 0.

Amendment 189 disagreed to.

Amendment 190 moved—[Miles Briggs].

The Convener: The question is, that amendment 190 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Briggs, Miles (Lothian) (Con)
Ross, Douglas (Highlands and Islands) (Con)

Against

Adam, George (Paisley) (SNP)
Dunbar, Jackie (Aberdeen Donside) (SNP)
Duncan-Glancy, Pam (Glasgow) (Lab)
Greer, Ross (West Scotland) (Green)
Kidd, Bill (Glasgow Anniesland) (SNP)
Mason, John (Glasgow Shettleston) (Ind)
McLennan, Paul (East Lothian) (SNP)
Rennie, Willie (North East Fife) (LD)

The Convener: The result of the division is: For 2, Against 8, Abstentions 0.

Amendment 190 disagreed to.

Amendment 191 moved—[Ross Greer]—and agreed to.

Amendment 192 not moved.

Section 17, as amended, agreed to.

After section 17

Amendment 193 moved—[Pam Duncan-Glancy].

The Convener: The question is, that amendment 193 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Duncan-Glancy, Pam (Glasgow) (Lab)

Against

Adam, George (Paisley) (SNP)
Briggs, Miles (Lothian) (Con)
Dunbar, Jackie (Aberdeen Donside) (SNP)
Greer, Ross (West Scotland) (Green)
Kidd, Bill (Glasgow Anniesland) (SNP)
Mason, John (Glasgow Shettleston) (Ind)
McLennan, Paul (East Lothian) (SNP)
Rennie, Willie (North East Fife) (LD)
Ross, Douglas (Highlands and Islands) (Con)

The Convener: The result of the division is: For 1, Against 9, Abstentions 0.

Amendment 193 disagreed to.

Amendments 194 and 195 not moved.

Amendment 196 moved—[Pam Duncan-Glancy].

The Convener: The question is, that amendment 196 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Duncan-Glancy, Pam (Glasgow) (Lab)

Against

Adam, George (Paisley) (SNP)
Briggs, Miles (Lothian) (Con)
Dunbar, Jackie (Aberdeen Donside) (SNP)
Greer, Ross (West Scotland) (Green)
Kidd, Bill (Glasgow Anniesland) (SNP)
Mason, John (Glasgow Shettleston) (Ind)
McLennan, Paul (East Lothian) (SNP)
Rennie, Willie (North East Fife) (LD)
Ross, Douglas (Highlands and Islands) (Con)

The Convener: The result of the division is: For 1, Against 9, Abstentions 0.

Amendment 196 disagreed to.

Amendment 197 moved—[Miles Briggs]—and agreed to.

Amendment 198 moved—[Pam Duncan-Glancy].

The Convener: The question is, that amendment 198 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Briggs, Miles (Lothian) (Con)
Duncan-Glancy, Pam (Glasgow) (Lab)
Greer, Ross (West Scotland) (Green)
Ross, Douglas (Highlands and Islands) (Con)

Against

Adam, George (Paisley) (SNP)
Dunbar, Jackie (Aberdeen Donside) (SNP)
Kidd, Bill (Glasgow Anniesland) (SNP)
Mason, John (Glasgow Shettleston) (Ind)
McLennan, Paul (East Lothian) (SNP)
Rennie, Willie (North East Fife) (LD)

The Convener: The result of the division is: For 4, Against 6, Abstentions 0.

Amendment 198 disagreed to.

Amendment 199 moved—[Pam Duncan-Glancy].

The Convener: The question is, that amendment 199 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Briggs, Miles (Lothian) (Con)
Duncan-Glancy, Pam (Glasgow) (Lab)
Ross, Douglas (Highlands and Islands) (Con)

Against

Adam, George (Paisley) (SNP)
Dunbar, Jackie (Aberdeen Donside) (SNP)
Greer, Ross (West Scotland) (Green)

Kidd, Bill (Glasgow Anniesland) (SNP)
 Mason, John (Glasgow Shettleston) (Ind)
 McLennan, Paul (East Lothian) (SNP)
 Rennie, Willie (North East Fife) (LD)

The Convener: The result of the division is: For 3, Against 7, Abstentions 0.

Amendment 199 disagreed to.

Amendment 200 not moved.

Amendment 201 moved—[Pam Duncan-Glancy].

The Convener: The question is, that amendment 201 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Briggs, Miles (Lothian) (Con)
 Duncan-Glancy, Pam (Glasgow) (Lab)
 Ross, Douglas (Highlands and Islands) (Con)

Against

Adam, George (Paisley) (SNP)
 Dunbar, Jackie (Aberdeen Donside) (SNP)
 Greer, Ross (West Scotland) (Green)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Mason, John (Glasgow Shettleston) (Ind)
 McLennan, Paul (East Lothian) (SNP)
 Rennie, Willie (North East Fife) (LD)

The Convener: The result of the division is: For 3, Against 7, Abstentions 0.

Amendment 201 disagreed to.

Amendment 202 not moved.

Section 18—Designation of private providers of higher and further education

The Convener: Amendment 19, in the name of the minister, is grouped with amendments 20 to 22 and 203 to 205.

Ben Macpherson: My amendments 19 to 22 all make minor technical amendments to the bill's provision on the designation process for private providers of further and higher education.

The bill will enable regulations to be introduced that will set out in detail the process for applying to become a designated private provider, as well as, through the amendments, the process for the approval of particular courses of education offered by those providers. That will ensure effective oversight of the courses that are to attract public funding. I therefore cannot support Miles Briggs's amendment 203, which seeks to remove from the bill the power to designate private providers, meaning that students and education providers would be unable to benefit from the transparency offered by the new process that will be set out in regulations.

It is possible that amendment 203 is motivated by a misunderstanding about the privatisation of tertiary education. Some stakeholders have misunderstood part 3 of the bill as allowing private providers to be funded in the same way as fundable bodies. That is not the case. Several students already undertake further and higher education courses that are run by education providers that are not post-16 bodies under the 2005 act, because those providers have historically offered a type of provision that was not commonly delivered by publicly funded colleges or universities—mainly in creative courses such as dance, musical theatre and drama. Therefore, there are good reasons why private providers exist in the sector, and the purpose of part 3 of the bill is to make the process for supporting students at those providers more transparent. *[Ben Macpherson has corrected this contribution. See end of report.]*

Although I support the intention behind amendments 204 and 205, both of them raise operational difficulties and risk placing a very high administrative burden on colleges, which we would want to avoid. I would like to consider further what can be done by amendment at stage 3 in relation to reporting more generally. I thank Pam Duncan-Glancy for lodging the amendments and would be happy to hear more from her to help inform our thinking, but I invite her not to move them at this time. If she does, I ask members to vote against them. Likewise, I urge members to vote against Miles Briggs's amendment 203 but to vote for my amendments 19 and 22.

I move amendment 19.

Miles Briggs: Amendment 203 is a probing amendment, as the minister has touched on. Concerns have been expressed by organisations such as the EIS on the impact of the modification of the Education (Scotland) Act 1980, which he will be aware of, which would allow private providers to be designated for the purpose of paying student allowances and loans. The clarification that the minister has provided is helpful. I do not intend to move amendment 203, given the assurances that he has given the committee.

Pam Duncan-Glancy: Amendment 204, in my name, would set out that ministers must direct that the body administering funds for student support in FE,

“must ensure that advice ... is provided in person (if requested by the person applying for ... such funds), ... is reasonably available at the place of further education, ... is adequately resourced and has regard ... to the needs of learners at risk of exclusion, including low-income students, student carers, disabled learners and rural and island learners”.

If a new body is to administer funds, it must build on the key unique selling points of the way in

which they are currently provided in further education.

The amendment further requires that the body

“report annually to the Scottish Ministers on whether the provision of advice met the conditions ... and what action, if any, the body or person intends to take to ensure access to advice about the provision of funds”.

That is to recognise the difference in the way in which student support funds have been given to students studying different courses across the piece and the fact that college students have traditionally been able to access it a bit differently from university students. Colleges and college students are keen to preserve the good bits of that rather than lose them in the transition.

Amendment 205 requires the SFC and SAAS to,

“within 12 months of the provisions in Part 1 and Part 3 coming into force, jointly prepare a report on the provision of maintenance support”.

The report should

“compare core maintenance support entitlements across further education, higher education, national training programmes and apprenticeships, ... assess distributional impacts on protected groups and socio-economic disadvantage, including by Scottish Index of Multiple Deprivation quintile and care-experienced status”

and

“set out options for improving equity and adequacy, including indicative costs and implementation considerations.”

The report should be

“published and laid before the Scottish Parliament”

and the Government should respond to it.

The effect and purpose of the amendment is to look at the maintenance system in the round and create a mechanism to review it. The bill proposes to change tertiary education in various ways, so it is an appropriate juncture to consider the sorts of maintenance support that are available to students attending or undertaking any post-16 education. Amendment 205 was lodged to test the Government’s intentions or commitment to considering whether maintenance support needs to be reviewed.

13:30

The Convener: I call the minister to wind up.

Ben Macpherson: It may be of assistance to Pam Duncan-Glancy for me to clarify that we are not changing the way in which colleges handle FE student support through the bill. I hope that that provides reassurance. Aside from that, I have nothing to add to my opening remarks.

Amendment 19 agreed to.

Amendments 20 to 22 moved—[Ben Macpherson]—and agreed to.

Amendment 203 not moved.

Section 18, as amended, agreed to.

Section 19—Directions relating to student support

Amendment 204 not moved.

Section 19 agreed to.

Section 20 agreed to.

After section 20

Amendment 205 moved—[Pam Duncan-Glancy].

The Convener: The question is, that amendment 205 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Duncan-Glancy, Pam (Glasgow) (Lab)

Against

Adam, George (Paisley) (SNP)

Briggs, Miles (Lothian) (Con)

Dunbar, Jackie (Aberdeen Donside) (SNP)

Greer, Ross (West Scotland) (Green)

Kidd, Bill (Glasgow Anniesland) (SNP)

Mason, John (Glasgow Shettleston) (Ind)

McLennan, Paul (East Lothian) (SNP)

Rennie, Willie (North East Fife) (LD)

Ross, Douglas (Highlands and Islands) (Con)

The Convener: The result of the division is: For 1, Against 9, Abstentions 0.

Amendment 205 disagreed to.

The Convener: We move to group 18. Amendment 206, in the name of Pam Duncan-Glancy, is the only amendment in the group.

Pam Duncan-Glancy: Amendment 206 requires the SFC to carry out a review of the act. It states that the review should include the experience of learners of access to information and support in relation to different learner options; the experience of employers who provide work-based learning; the participation, progression and completion outcomes in respect of different socioeconomic groups or other characteristics that the Funding Council reasonably considers to be underrepresented; and any changes in the uptake of fundable further education, higher education, work-based learning and Scottish apprenticeships, broken down by region and sector. That is in order that we can have a real understanding of the impact of the act.

I move amendment 206.

Ben Macpherson: The suggestion of post-legislative scrutiny would continue the engagement process, and I am very supportive of that in principle, but I have several issues with the framing of the amendment. First, it would not normally be for a public body to conduct a review; it would be for ministers to do so. Ministers may involve relevant bodies in reviewing legislation, where they have responsibilities and duties for implementation, and, in this case, the SFC would be relevant for that purpose. However, to cover all the aspects that Pam Duncan-Glancy is looking for would likely involve other public bodies, such as colleges. Secondly, the review period is too short. It is not only that an annual review would be overly burdensome but that having that kick in only a year after the bill came into force would mean that the first review—and maybe the first few reviews—would not have much material to go on.

However, I understand, appreciate and respect very much the appetite for post-legislative scrutiny. As with many of the amendments that we have discussed at stage 2, I cannot support amendment 206 as drafted, but I would like to consider what we can do to review that ahead of stage 3. Therefore, I ask Pam Duncan-Glancy not to press amendment 206. Should she do so, I ask members to vote against it.

The Convener: I call Pam Duncan-Glancy to wind up and to press or withdraw amendment 206.

Pam Duncan-Glancy: Given the commitment from the Government to look to progress this provision at stage 3, but changing it, I am happy not to press amendment 206.

Amendment 206, by agreement, withdrawn.

Sections 21 and 22 agreed to.

Section 23—Regulation-making powers

Amendment 23 moved—[Ben Macpherson]—and agreed to.

Section 23, as amended, agreed to.

Section 24—Commencement

Amendments 207 to 209, 211 and 210 not moved.

Section 24 agreed to.

Section 25 agreed to.

Long title agreed to.

The Convener: That concludes the committee's stage 2 consideration of the bill. I thank the minister and his supporting officials for their attendance.

Meeting closed at 13:36.

Correction

Ben Macpherson has identified errors in his contributions and provided the following corrections.

The Minister for Higher and Further Education (Ben Macpherson):

At col 19, para 3—

Original text—

I have heard before the misconception about apprenticeships not being a priority for the SFC, should the Parliament pass the bill and it be implemented. I want to underline again this Government's commitment to providing apprenticeships. We are providing a record level of apprenticeships and are seeking to enhance that provision. As I mentioned earlier, the letter of guidance will set ministerial priorities, so it will be up to the Scottish ministers to stipulate the priorities of the Government. I urge colleagues to be cautious about insinuating that apprenticeships will not be a priority for the SFC, because there is no evidence of that.

Corrected text—

I have heard before the misconception about apprenticeships not being a priority for the SFC, should the Parliament pass the bill and it be implemented. I want to underline again this Government's commitment to providing apprenticeships. We are supporting over 38,000 modern apprentices in training. As I mentioned earlier, the letter of guidance will set ministerial priorities, so it will be up to the Scottish ministers to stipulate the priorities of the Government. I urge colleagues to be cautious about insinuating that apprenticeships will not be a priority for the SFC, because there is no evidence of that.

At col 20, para 6—

Original text—

As was rightly emphasised, the body will be a redesigned institution, which will incorporate many of the staff from SFC. We have discussed, particularly in the stage 1 debate in the chamber, the importance of their role and expertise, and how much their contribution is valued now and will be in the redesigned model.

Corrected text—

As was rightly emphasised, the body will be a redesigned institution, which will incorporate relevant staff from SDS. We have discussed, particularly in the stage 1 debate in the chamber, the importance of their role and expertise, and how much their contribution is valued now and will be in the redesigned model.

At col 96, para 1—

Original text—

It is possible that amendment 203 is motivated by a misunderstanding about the privatisation of tertiary education. Some stakeholders have misunderstood part 3 of the bill as allowing private providers to be funded in the same way as fundable bodies. That is not the case. Several students already undertake further and higher education courses that are run by education providers that are not post-16 bodies under the 2005 act, because those providers have historically offered a type of provision that was not commonly delivered by publicly funded colleges or universities—mainly in creative courses such as dance, musical theatre and drama. Therefore, there are good reasons why private providers exist in the sector, and the purpose of part 3 of the bill is to make the process for supporting students at those providers more transparent.

Corrected text—

It is possible that amendment 203 is motivated by a misunderstanding about the privatisation of tertiary education. Some stakeholders have misunderstood part 3 of the bill as allowing private providers to be funded in the same way as fundable bodies. That is not the case. Some students already undertake further and higher education courses that are run by education providers that are not post-16 bodies under the 2005 act, because those providers have historically offered a type of provision that was not commonly delivered by publicly funded colleges or universities—mainly in creative courses such as dance, musical theatre and drama. Therefore, there are good reasons why private providers exist in the sector, and the purpose of part 3 of the bill is to make the process for supporting students at those providers more transparent.

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