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Official Report

ECONOMY, ENERGY AND TOURISM COMMITTEE

Wednesday 7 October 2015

Session 4

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ECONOMY, ENERGY AND TOURISM COMMITTEE
24th Meeting 2015, Session 4

CONVENER

*Murdo Fraser (Mid Scotland and Fife) (Con)

DEPUTY CONVENER

Dennis Robertson (Aberdeenshire West) (SNP)

COMMITTEE MEMBERS

*Chic Brodie (South Scotland) (SNP)
*Patrick Harvie (Glasgow) (Green)
Johann Lamont (Glasgow Pollok) (Lab)
Richard Lyle (Central Scotland) (SNP)
*Gordon MacDonald (Edinburgh Pentlands) (SNP)
*Lewis Macdonald (North East Scotland) (Lab)
Joan McAlpine (South Scotland) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Colin Borland (Federation of Small Businesses)
Dr Matthew Dutton (Edinburgh Napier University)
Robert Kilgour (Dow Investments)
Alan Spence (Accord Energy Solutions Ltd)
Duncan White (United Kingdom Homecare Association)

CLERK TO THE COMMITTEE

Douglas Wands

LOCATION

The James Clerk Maxwell Room (CR4)

Scottish Parliament

Economy, Energy and Tourism Committee

Wednesday 7 October 2015

[The Convener opened the meeting at 09:45]

Witness Expenses

The Convener (Murdo Fraser): Good morning, ladies and gentlemen. I welcome you all to the 24th meeting in 2015 of the Economy, Energy and Tourism Committee. I remind everyone to turn off, or at least turn to silent, all mobile phones and other electronic devices, so that they do not interfere with the committee's work.

We are a little low in number this morning. We have apologies from three committee members who are either unwell or have to be elsewhere: Dennis Robertson, Richard Lyle and Johann Lamont. Two other members, Patrick Harvie and Joan McAlpine, and one of our witnesses have been hit by travel delays. I hope that they will all be with us shortly.

Agenda item 1 is witness expenses. Are committee members content to delegate to the convener the responsibility for arranging for the Scottish Parliamentary Corporate Body to pay, under rule 12.4.3, expenses of witnesses in our inquiry?

Members *indicated agreement.*

Work, Wages and Wellbeing Inquiry

09:46

The Convener: Under item 2, we continue to take evidence as part of our inquiry into work, wages and wellbeing in the Scottish labour market. I welcome our panel: Colin Borland is senior head of external affairs at the Federation of Small Businesses; Alan Spence is director of Accord Energy Solutions Ltd; Duncan White is senior campaigns officer at the United Kingdom Homecare Association; and Dr Matthew Dutton is senior research fellow at the employment research institute at Edinburgh Napier University. Robert Kilgour, of Dow Investments, is on his way.

There are a number of issues that we are keen to explore: wage levels, the living wage, zero-hours contracts, the involvement of small businesses and the work of Government agencies in promoting fair work, the fair work convention, the Scottish Government's Scottish business pledge, trade union involvement in business and the impact of different models of ownership, such as employee ownership.

That is quite a range of topics to cover in the time that we have—I will try to run this session until about 11 o'clock, so we have around an hour and 15 minutes. Given that we have, or shortly will have, five witnesses, please do not feel that you must all answer every question, or we will be here for a long time. I ask members to direct questions to one panel member; if a witness wants to respond to a point that someone else has made, just catch my eye and I will bring you in as time allows.

Let us start with different models of ownership and the impact that employee-owned businesses have.

Chic Brodie (South Scotland) (SNP): Good morning. I will direct my question to Alan Spence, but if anyone else wants to comment, please do so. The benefits of employee ownership have been mentioned on a number of occasions by witnesses to our committee. Research that the Employee Ownership Association commissioned found that employees in such businesses report high levels of satisfaction in job quality. Contributory factors in that regard were improved communication and decision making. Will you comment on the above-average quality of jobs in employee-owned businesses?

Alan Spence (Accord Energy Solutions Ltd): It might be worth giving some background. Accord was established in order to take to the next stage a business model that two colleagues and I had developed. We had developed an open style of management with a flat structure in the organisation and we found that that gave very good results. We felt that the next step in the development of the model was to introduce an element of employee ownership. When we founded Accord five years ago, it was basically to develop that model further. We also had the intention of attracting good people and retaining them, because we felt that that would set us apart as a business, differentiate us from our competitors and, we hoped, lead to success.

We have fairly quickly grown to having 35 staff, with around a dozen or more external consultants supporting us.

Chic Brodie: How long has that taken?

Alan Spence: It was from 2010.

We developed quickly. It is easy to focus on the turnover and financial aspects of the business, which have been good—we are turning over £6 million a year—but what is more gratifying and probably a better reflection of the model is that, in that period, we have lost only three people. Three people have moved on. That in itself speaks volumes for the model and the way in which we operate the business.

Chic Brodie: To get into the detail, clearly with employee ownership, there is an aspect of legal compliance and governance. What percentage of the company is owned by employees? I presume that you retain the capability, whether by two-thirds majority or something else, to make decisions.

Alan Spence: We operate very much as a normal business with a board of directors. Above the board of directors we have a board of trustees—an employee ownership trust. The trustees are the governance body of the organisation. In effect, they ensure that the company is operated in the best long-term interests of the employees. They can take the board to task if they feel that that duty is not being exercised.

As we were the first company to be employee owned from start-up, the way that we distribute equity in the company is based on the profits of the company. The plan is that the employee ownership trust will own 51 per cent of the company and the employees will, in effect, through a share incentive plan, own 30 per cent of the company. At the moment, through the share incentive plan, which is a very tax-efficient way to proceed, employees own just over 20 per cent of the company. The employee ownership trust owns 15 per cent of the company, on behalf of the employees. However, because of the nature of the employee ownership trust's governance role, it has a golden or preference share, which in effect allows it to outvote anyone else. The company cannot be sold unless there are very special circumstances in which the founder directors, the employee ownership trust and at least 70 per cent of the employees believe that that is the appropriate action in the circumstances.

Chic Brodie: That is interesting. Would anyone else like to comment?

Dr Matthew Dutton (Edinburgh Napier University): I was particularly struck by Alan Spence's comment about the low job turnover. We spoke to about 13 employee ownership businesses as part of our research, including Accord. Low job turnover was one of the striking features of those employee-owned businesses. That is because people feel as if they have a stake in the business and that they are being listened to. For us, that was particularly noticeable in what the employees reported.

Chic Brodie: What is the FSB's view on inclusion of employees in small businesses?

Colin Borland (Federation of Small Businesses): Although we have not done any specific work on different ownership models, there is a body of evidence that employees in microbusinesses are among the most satisfied. That is for the reasons that Dr Dutton cites: they feel more involved, they have more of a stake in the business and they are closer to the people who make the ultimate decisions. For those reasons, they feel that they have more ownership of the job, whether or not they have a formal stake in the company. That tends to lead to higher job satisfaction levels.

Chic Brodie: I would like to come back later to ask Mr White about that aspect in the care sector.

The Convener: Before I bring in Gordon MacDonald, I welcome Robert Kilgour, the chief executive officer of Dow Investments—thank you for joining us.

Robert Kilgour (Dow Investments): I apologise, convener. There were no leaves on the line; it was just bad traffic from Fife.

The Convener: As you might have noticed, we have two members of the committee missing, for similar reasons to do with traffic disruption, so we are a little light on this side of the table.

I will come back to you in a second Mr Kilgour, but Gordon MacDonald wants to pursue the issue that we have just been discussing.

Gordon MacDonald (Edinburgh Pentlands) (SNP): I want to continue on the theme that Chic Brodie asked about. I was struck by the written evidence from Clansman Dynamics on its employee ownership change. It flagged up that turnover is up 90 per cent, profits are up 140 per cent and employment is up 30 per cent. My question is for Dr Dutton, who has carried out a survey of a number of employee ownership companies. What effect is there on sickness absence, disciplinary levels and productivity levels? We should bear in mind that, as we have seen elsewhere, it costs roughly £3,500 per employee to recruit.

Dr Dutton: We spoke to senior management at Clansman and to individual engineers on the floor, and they said that absenteeism, sickness and job turnover are negligible. We cannot just assume that they are negligible because it is an EOB, but it appeared that the employees genuinely believe that they have a stake in the business and that they are genuinely listened to. Because of the share ownership structure, the employees' activities and actions are directly aligned with the business, so they feel that they have a genuine stake in the business.

Clansman is an interesting example. It holds what I think are called Friday pizza meetings, where everybody gets together on a Friday afternoon for an hour or so. The staff are given pizzas and drinks, and the time is used to raise any issues that the staff or management want to discuss. Some of the staff said that they were initially quite intimidated by the idea of talking openly with managers about things that might be bothering them. It might have taken some time for that style of meeting to iron itself out and find its feet, but almost all the staff seemed to agree that it is a genuinely useful and productive way of improving the running of the business. Staff feel that they can discuss things with the management, raise issues and get things changed, rather than grumble away from managers, as often happens in the workplace—we all have a moan about people we work with. The approach encourages openness and transparency in the way in which the business is operated.

Gordon MacDonald: In relation to productivity, I presume that that approach frees up a lot of managerial and supervision time to concentrate on growing the business.

Dr Dutton: As I said, we have to be careful about making direct links between increased productivity and the company being an EOB, but there is an apparent link. The evidence is qualitative, so it has to be taken with a pinch of salt, but there is a suggestion that, because issues are being raised openly, addressed at the centre and are not left to drift, problems that might cause people to leave the workforce are addressed by management, and there is a possibility that that might have an effect on turnover.

The bigger issue on turnover is the point about share ownership. Employee share ownership is a very efficient way of aligning the interests of the company with the aims of individual employees. They can see that what they are doing has a direct impact on the day-to-day running of the business.

10:00

Gordon MacDonald: Were the companies that you spoke to in one particular sector or were they in a range of sectors?

Dr Dutton: They were in a range of sectors. We had 12 Scotland-based companies in total, including companies in the oil and gas sector, the engineering sector, the manufacturing sector and consultancy and health services. A reasonable spread of businesses were involved.

We should be cautious about the number of businesses, because we were commissioned by Scottish Enterprise to focus on those 12 businesses. That said, when themes start to recur, such as job wellbeing, employee satisfaction, low levels of job turnover, improved productivity and so on, it starts to tell a certain story about what is going on in EOBs compared with the non-EOB sector.

Gordon MacDonald: I want to ask Colin Borland a couple of questions. You rightly pointed out that the vast majority of businesses in Scotland are small businesses that employ up to 10 people. How many of your 19,000 members are employee ownership businesses?

Colin Borland: We have not done any work on that; it is not something that we have asked. Speaking anecdotally, I imagine that the number would be small.

Gordon MacDonald: Given the evidence about savings to businesses and the fact that we are trying to encourage businesses to grow, and that many family-owned businesses fail when they reach the second or third generation, or somebody retires and the business goes, does the FSB offer any encouragement or support to businesses in handing over from one model to the other?

Colin Borland: Succession planning gets overlooked because we all want to talk about setting up and growing a business because that is exciting. We do not like to talk about exit, because it somehow seems as if we are talking about failure. I think that we need to have better conversations about how one exits a business.

One issue that we have encountered quite a bit is that when someone has set up a business and it is their business and their house is on the line, they can be reluctant to let other people in. We see that with equity partners or other investors or other types of investment that involve giving up an equity stake. In the past, there has been a level of resistance to that among the small business community in Scotland. If we are going to go down that route, we will have to consider some of those cultural questions.

Gordon MacDonald: Is support required to give owners confidence that doing this might be a way to stabilise or grow their business?

Colin Borland: People need to begin to think about it at some point. It is not as if people are unaware of the fact that they are getting older or that there is no one to take over the business. However, when they begin to have those discussions, their initial contact with the business support system has to be a good one; they have to be put in touch with the right people first time. If it is not right, businesses will ignore it and they will not go back a second time.

I am not sure that it is a good idea to say to people generally that employee ownership is a brilliant idea and that they should bear it in mind, because the message will wash over them if they are not already interested in it at the time. When they come to make the inquiry, we need to make sure that employee ownership is one of the suite of options that is presented to them.

Gordon MacDonald: Thank you.

Dr Dutton: I agree with what Colin Borland said about there being resistance in some businesses to taking part in the EOB structure. Several of the businesses that we spoke to said that their former partners were resistant to becoming EOBs because they felt that, over the years, they had taken the risks, they had put their houses on the line and they did not see why they should hand over what they had taken huge risks to do for the wider benefit. Maybe it just takes greater vision to see beyond that.

The Convener: Before I bring Chic Brodie back in, I want to pursue with Dr Dutton and Mr Spence the challenges around employee ownership. For years, Tullis Russell was the flagship employee ownership business. I sit, I am sad to say, on the Tullis Russell task force that is dealing with the aftermath of that business having folded. Is there any sense that an employee ownership business finds it harder to take difficult decisions? Perhaps Tullis Russell is not the best example in that regard, because the business model and the international competition made it difficult for it to succeed under any ownership model. If a decision has to be taken to substantially downsize, for example, would that be a hard decision to take with an employee ownership model?

Dr Dutton: There is no evidence directly suggesting that the harder decisions were not made or were deferred, but there was evidence that perhaps decision making was slower and took longer. Maybe in some cases employee ownership could lead to problems. Tullis Russell may be an EOB, but it operates not in a bubble but in an international marketplace, which was, at the time, a difficult one.

After having spoken to the employees and the managers, I would not assume that difficult decisions would not be made for the reason that you mentioned because they emphasised the openness and transparency in decision making. I presume that difficult decisions would be made in the open, too, but I do not have details of individual cases.

Alan Spence: Accord Energy Solutions is in the oil and gas business, so we are, as you can imagine, in a difficult position. Many major operators are our clients. We are seeing activity levels dropping—there is quite a bit of pressure on our rates and decisions are being taken based not on quality but on the cost of the service. Just last week, I was with a client who told us that we would have to cut our rates by 20 per cent. The rates had already been discounted significantly. With that client, we are going to be at the margins of making money, but we do not have a choice—we cannot walk away, because there is not that much business out there.

We have thought about our strategy on how to continue the business for as long as possible and we have put in place measures that will allow us to get through the downturn. We have been in the business for a long time, so we recognise that the oil industry can be boom and bust. We have taken measures to ensure that we have sufficient financial resources to keep the company going for longer—rather than take profits out of the company to reward employees, or sell our shares to the company, we have built up a reasonable amount of money in the bank, which we feel is prudent. That will help us.

Additionally, we have been looking at how we will respond if more clients cut our rates or if work dries up more. We have drawn up a league table of where we would start cutting to ensure that the business remains viable until the industry hits an upturn. At the end of the list is redundancies—it is not the first but the very last action that we would take. We have communicated that to our staff, and we will communicate it to them again, because obviously they are concerned for their jobs. We need to make them aware that redundancies are the last resort, that we are not looking to maintain profits, that we are happy not to make a profit and that we are potentially in a position to make a loss. However, we must face a future with a low oil price.

Matthew Dutton referred to the pizza meetings at Clansman Dynamics. We have a monthly staff meeting where, as well as all the general day-to-day issues with running the company, we present the monthly profit-and-loss accounts. That means that the staff know exactly how much money is coming in, how much money is going out, where it is going and what the problems and issues are. They understand the finances of the company as well as the directors do, so it would not come as a surprise to them to know that, as I have said, we are facing pressure. Both turnover and profits are going down. Therefore, I think that the staff recognise that the management team is doing everything that it can to address the issues and to see the company through this difficult period.

Chic Brodie: I will come back in briefly. At an American company that I was with, we used to have a Friday feast, which was drinks and sandwiches at half past 4, but you had to get the meeting over pretty quickly, because too much drink led to other complications afterwards.

One of the burgeoning sectors in our economy is the social enterprise and third sector, which is largely employee owned. Is the success of that sector just down to employee ownership or is there a defined change in culture that you can discern in that sector?

Colin Borland: The FSB does not have many social enterprise members at the moment, although some are now joining. I am not sure that the ultimate objective necessarily makes that much difference, because when people talk to me about what social enterprises are there to do, it sounds very like what a lot of our members are there to do, which is to provide employment, deliver services and be an important part of the community. The only real difference, I suppose, is that while most businesses are there with the primary objective of making profits, a social enterprise has an additional goal over and above that.

As far as how the teams are structured and motivated, and all the rest of it, is concerned, I am not aware of any significant differences, although my answer might change if our membership profile were to change in the years ahead and we were to have a greater number of members from that sector.

Lewis Macdonald (North East Scotland) (Lab): I want to come back to Alan Spence's very interesting comments about the sector in which he operates and how the employee ownership model makes a difference. In the most recent period of sustained low oil price in the late 1990s and early 2000s, an awful lot of people were laid off—it was almost the default position of companies in the sector to reduce staff costs first or very early. What you have described is an attempt to do quite the opposite of that, but a few weeks ago, as part of our inquiry, we discussed whether your company's response is typical, or whether a lot of companies are again defaulting to reducing staff costs first. In your view, as someone who operates in the sector, what is the sector's response to the current position? What difference does how a business is owned and operated make to the choices that are made about how to reduce costs in difficult times?

Alan Spence: On the United Kingdom continental shelf it is mostly private companies that are operating. Those companies are driven by shareholder returns. The shareholders do not take a long-term view of the business; they take a short-term view of the business that is about generating as much money as possible from their ownership of shares in the business. Because of that, most of the goals of the board of directors reflect that. Although it would be wrong to say that they do not take a long-term view, the short-term view of returning shareholder value is very much to the fore—often at the expense of the employees of those companies. Often, the first step that is taken is to look at reducing the cost base through paying off members of staff. For many companies, getting rid of contractors is an easy cut to make. We are different in that we do not have any external shareholders and we can take a long-term view.

I can go a bit further back, to the 1980s, when the oil price dropped from $30 to $10 a barrel. I have been through this cycle two or three times, so I am quite sure that things will improve. It is a matter of getting through that period.

People make their choices. With an employee-owned business, where the money stays within the business and the aim is to ensure that the business operates in the best long-term interests of the employees, the option of paying off people has to be the last option.

10:15

Lewis Macdonald: That is clearly of benefit to the people who work in the business, because they do not face redundancy or the uncertainties that many of their peers currently face.

Is there a benefit to the business itself in retaining skilled and experienced staff? Does that reduce your costs, so to speak, when the upturn finally comes?

Alan Spence: Yes. Recruitment costs are exceptionally high for the type of people we employ. There is an issue there.

There is also a secondary effect, which I have tried to explain to some of our clients—although it is quite difficult for them to get it. Because we are a consultancy and a high-end engineering business, our consultants are often based in clients' offices for prolonged periods. They build up an understanding of the client's business, and become a relied-upon source of knowledge within that business. The value that we provide to clients lies in our ability to provide those people—if there is a low turnover—and the quality of service that they demand over the long term. Also, they do not have to bring in new people from other businesses—or even from us, if we lose people—and take them through that whole process of understanding the business, the technical challenges and so on.

For our clients, having a long-term approach and view is very valuable—although they are not prepared to acknowledge that at the moment. However, I think that there is that secondary benefit from being an employee-owned company.

Lewis Macdonald: So, there are business benefits both to you and to the client companies.

Alan Spence: Yes.

Lewis Macdonald: Do Mr Spence, Dr Dutton or others have a view about this? We are discussing an ownership model that clearly delivers great benefits to both the employee owners and the business, as you have described. Is there any reason other than inertia for why there is such a low level of employee-owned businesses in the economy? Is it simply that others have not discovered what you have discovered in developing the model from the start? What more can be done to make the model more accessible to more people?

Alan Spence: The number of employee-owned companies, both in Scotland and in the UK as a whole, is growing faster than ever. Employee-owned companies generate more revenue than the whole of the aerospace sector in the UK—they contribute quite significantly.

I am involved with Co-operative Development Scotland as an ambassador, and we are seeing regular inquiries involving companies that are considering employee ownership as a way forward.

I will return to something that was said earlier. About 80 per cent of companies that become employee owned do so because of succession issues. The owners will have a long-term view and will have built up the business over a considerable period. The business will probably also have a significant presence in its area. When the owners come to retire and leave the business, they find that the most palatable way of doing that is to sell the business to their employees.

Dr Dutton: On the difficulties with becoming EOBs—the question was about why there are not more—the dominant model in the private sector is the external shareholder model rather than the internal shareholder model. The issues that have been raised with us involve the complexity of moving a business into an EOB model. I do not know whether this was Alan Spence's experience, but the companies that we spoke to described an enormously complicated system under the HM Revenue and Customs regulations that govern the process of becoming employee owned. Many of them think that that is valid in some cases to protect the reasons why businesses would become EOBs and to ensure that they become EOBs for the right reasons.

However, the companies that we spoke to also felt that there is some difficulty in accessing additional finance because of the shareholding model of EOBs: their impression was that the banks are a little uncertain about what they are because they have less experience of dealing with EOBs, so external sources of finance that other companies may be able to look to could not be looked to for growth.

On the other side, not having external shareholders and not having to meet short-term demands, due to the shareholders being the employees, and the employees' actions being aligned with the business aims, give long-term stability and a long-term view.

Colin Borland: I will make just a brief point. Alan Spence and Matthew Dutton are absolutely correct to talk about companies. It is important to remember that a lot of businesses in Scotland are not constituted as limited companies. I do not have with me the exact figure, but I think that it is about half. The opportunity there is in a company moving from the sole-trader model to bringing in somebody else and becoming a partnership, or in a partnership bringing another partner. Obviously, that employee will not just get to share the money that the business makes; they will also become liable for all the business's debts. There are specific issues around company law and how we deal with limited companies, but we should remember that becoming an employee-owned company is completely off the table for anyone who is constituted as a partnership or a sole trader.

Alan Spence: Our experience is perhaps different from that of some of the companies that Matthew Dutton interviewed. In setting up the business, we found that it was very straightforward and simple to set up our share-incentive plan and our employee-ownership trust. That was not particularly expensive with the overall turnover of the business, and it certainly did not pose a barrier to setting up the business as employee owned.

Lewis Macdonald: Did you encounter problems with banks and other external bodies?

Alan Spence: The first time we really got involved with the bank was after our first year. James Arthur, Phil Stockton and I left as the management team of a small part of a large multinational, and our contracts precluded our employing anyone who had worked for us in that company: we had a one-year period in which restrictive covenants prevented us from employing former employees. However, we recognised that there was a good chance that a significant number of those people would join us after the first year, so our first dealings with the bank were to request an overdraft facility. The bank was very supportive, so that was not a problem at all. In fact, we did not have to use that facility and the business grew quite significantly in the second year. Our cash flow fears were unfounded.

Lewis Macdonald: I will go back to Colin Borland on limited partnerships simply to understand better the matter that Matthew Dutton described about succession for family traders or sole traders who wish to retire. In general, what is your experience of dealing with members? Do they come to you for advice about different models of succession or do you proactively offer such advice? Is there a mechanism for those discussions to happen for microbusinesses and small businesses?

Colin Borland: Our function in that respect is primarily signposting: we would send them to the publicly available support that exists. If people come to us and ask about that sort of stuff, they will have taken four or five steps already. They will be heading towards the door and be roughly where we want them to be. As colleagues have outlined, the bigger challenge is in how we get them to think about that and to move in the right direction before it is too late.

The Convener: We should move on to talk about other issues. We have had quite a good discussion on employee ownership.

During the inquiry we have been looking at wages as another theme, focusing on the two sectors of retail and care. We know that, through the fair work convention, the Scottish Government is very keen to promote the concept of a living wage and that the UK Government is bringing in the national living wage next year, which will rise to £9 an hour by 2020.

I will start with Duncan White before I bring in Robert Kilgour. Mr White, the UK Homecare Association has said that it believes that the new national living wage could lead to a

“catastrophic failure of home-based care services”.

Will you elaborate on that and explain why you think that that is the case?

Duncan White (United Kingdom Homecare Association): The home care sector is very different from other sectors, in so far as the vast majority of the business conducted in the sector is publicly funded. UK-wide, 70 per cent of its contracts and the fees that go with them are publicly funded. That leads us to an immediate problem. Given that the margins in publicly funded contracts are very narrow and that the fee rates do not reflect the actual costs of care, if the costs of a single component—for example, the wage that is paid to staff—are increased without a matching increase in fee levels, the economic model becomes squashed to the extent that it becomes non-viable. It then becomes impossible to sustain a viable market for company provision of care.

In our most recent surveys of large, intermediate and small providers, we have been astonished by how many providers are actively looking at novating and handing contracts back to local authorities. There are legal issues around that, but undoubtedly the cost model is so fragile that if we extend pay-propelling measures such as the national living wage that are disproportionate to the fees that are received, providers will not be able to provide services. It will not be economic to do so.

When we say that the national living wage could have “catastrophic” effects on the home care market, it is not an overstatement. We are not saying it for the wow factor—it is a reflection of reality.

The Convener: Mr Kilgour, do you want to add to that?

Robert Kilgour: Thank you, convener. The care home business is one of my business interests. My main business interest, Renaissance Care, has 650 part-time and full-time employees. Our two biggest issues, without any doubt, are staff recruitment—particularly nurse recruitment—and staff retention.

We know that 60 to 65 per cent of our income goes on wages. A large part of that is at the end that will be affected by the national living wage, which will be a minimum of £9 an hour by April 2020. We also have differentials, and the wages of employees who are paid slightly more than the wages at the living wage end will have to be increased to keep the differentials.

We have the clarity of knowing that our biggest cost will go up between now and April 2020, but we have no clarity around what will happen to the fee level between now and 2020. If there will just be annual cost-of-living increases, we will have a crisis on our hands regarding the 600-odd independent care homes in Scotland that directly employ 30,000 people and the local providers of other goods and services that employ or assist in the employment of many thousands more.

In our company, 75 per cent of our income comes from local authorities, which are quite happy to pay the living wage to the staff in their own care homes. Using freedom of information legislation, I found out from councils that the average cost of a room in one of their residential homes is £1,000 a week without nursing care, yet they pay us £609 a week for care that involves nurses.

There needs to be a level playing field. I am happy, if councils are, for us to have an open-book policy on the cost of care that councils provide in their own care homes and the cost of care that we provide in ours. There is no level playing field at the moment. Councils are happy to pay their care staff the Living Wage Foundation rate of £7.85—most councils in Scotland are doing that now—but they are not prepared to pay us the fees so that we can pay the living wage. We would be quite happy to pay the living wage and pass 100 per cent of the increased fee on to our staff, because that would help with staff recruitment and retention.

10:30

The Convener: We took evidence on the issue last week from some trade unions. I will try to paraphrase what Dave Watson from Unison said, which was quite interesting. In his view, there are three types of employer: the good employers who already pay the living wage; the willing employers who want to pay the living wage but who are constrained because of income; and the bad employers who do not want to pay it at all. You seem to be suggesting that you are in the middle category of being neither good nor bad but willing. You would like to pay more but you cannot afford to do so.

Robert Kilgour: Our margins are extremely tight. Over the past eight to 10 years, there have been pressures as a result of local authority fee rates and an increased regulatory burden from the Care Inspectorate in respect of extra things that we are required to provide. I fully support those things, but it is unfair that councils pay staff in their own care homes the living wage but are not prepared to pay a decent rate to enable those of us in the independent sector and the voluntary sector who are willing to pay the living wage to do so.

There is also the issue of cost. Let us say that a council says that it does not have money to pay us an increase. Ignoring land costs for the moment, I could build a new-build care home for about £75,000 a bed. Under FOI, East Lothian Council provided me with the information that its recently opened home in Tranent cost the council £170,000 a bed—more than twice what it would cost the independent sector. You could ask why the council is spending £10 million on a 60-bed care home when it would cost us just over £4 million. There is also an on-going weekly cost, because even councils have to pay that money back. There is unfair competition when councils plead poverty but their costs for care and a lesser service without nurses are way above what they are prepared to pay us for a service that includes nurses.

Duncan White: I would like to pick up on a couple of the points that Robert Kilgour made. I noted his point about the open-book accounting approach with interest. I would like to develop that line of thinking.

The UK Homecare Association has calculated that, nationwide, an hour of home care costs the provider £15.74 to provide. A recent survey under freedom of information of every local authority in the United Kingdom showed that the average fee paid by a local authority is £11.36 an hour. There is immediately a great difference there.

On Robert Kilgour's point about open-book accounting, we have been quite successful in a couple of local authorities where we have succeeded in entering into an open-book accounting process to identify the actual costs of care with local providers and the local authority. For example, in the far south-west of England it was shown unequivocally that the fees that were being paid were wholly inadequate, and they have been raised from just under £12 to £16 per hour. In another instance where we are undertaking open-book accounting, the local authority has realised that it is just not viable, by any stretch of the imagination, to pay £11.50 or so for an hour of care.

I have experienced the unfairness that Robert Kilgour described in the context of local authority provision versus private sector provision. I sat down with a Yorkshire council a few months ago to compare in-house provision that comes out at about £39 per hour for reablement care with the fee of marginally over £13 per hour that is paid to private providers. That sort of imbalance is a national trend and a national problem.

The Convener: I do not know whether you are familiar with the ethical care charter. Two weeks ago in Paisley, the committee heard from Renfrewshire Council about its work in that regard. The council has been working with contractors to ensure that those who contract for council services, including care services, pay the living wage, and that open-book approach seems to have had some success. Is that a model that works and can be progressed?

Duncan White: Yes. We would welcome such a move in every sphere. We would champion that approach. It is productive, it engages with providers, it supports a viable and sustainable market and it provides an open-book arrangement so that people can see what the pressures are. We all know that local authorities are working under duress, but the need for strategic decisions to be made in the commissioning process must be recognised. Commissioners must make decisions about what is sustainable, strategically and in the long term. We unequivocally support the approach that you describe.

The Convener: Is Robert Kilgour familiar with the ethical care charter? Have you had dealings with Renfrewshire Council?

Robert Kilgour: No. We have homes in Moray and Peterhead, four in Aberdeen and one in Blairgowrie, and the rest are in Edinburgh and East Lothian.

If we are prepared to open up our books and show how we make our small margins and where our pressure points are, the councils have to do that as well. I have been involved in the care sector for 26 years. In my experience, and particularly in my recent experience, councils are making efforts to hide the true weekly cost of care in their own care homes, because they are embarrassed about the differential between their costs and the costs in the independent sector.

Chic Brodie: I spent the summer going round care homes in Ayrshire and talking to local authorities. I accept some of the points that Bob Kilgour made, but I did not find local authorities hiding their costs.

Wages are a key element in the context of recruitment and retention, and it is regrettable that the living wage is not being paid throughout the sector. I want to change tack a bit and ask about management quality in the care sector, given that that has implications for the incomes of the people who work on the front line. How well are care homes managed, generally?

Robert Kilgour: That is an area that I have been concerned about for a while. Given the huge pressure that managers and deputy managers of care homes are under, from several different quarters, I think that they do an exceptionally good job.

I am a strong supporter of the living wage and I would love to be able to introduce it—whether at £7.85 now or going up to £9 by 2020—across the entire group. However, as 75 per cent of our business comes from local authorities, which are refusing to give us the fees to pay the living wage, I do not see how that will happen.

My concerns in that area—

Chic Brodie: I am sorry to interrupt, but that point is very important in relation to the incomes of those who work in private care homes as well as those who work in local authority homes. What is your view on the procurement process, in terms of the issues that affect your ability to pay the living wage?

Robert Kilgour: By procurement, do you mean—

Chic Brodie: I mean the procurement process between you and the local authorities, for example.

Robert Kilgour: There is meant to be choice for potential residents, who also come up against the issue of bed blocking in national health service hospitals. If an elderly person is in a hospital bed, the money comes out of the NHS budget. If they come out of the NHS hospital and go into a care home, the money comes out of the social work budget. Pressures therefore arise where social work is slow at placing people who come out of hospital.

There is also the slightly controversial question whether local authorities give preference to their own care homes by placing people there rather than in homes in the voluntary or independent sector.

LaingBuisson, which is recognised as the UK leader in health consultancy, recently published some information on care homes. For the first time ever, between October 2014 and March 2015, there was a net loss of 3,000 care of the elderly beds in the UK. LaingBuisson put that down to the margin pressures, the fee pressures and the threat of the impending living wage. Older homes are closing at a faster rate than new homes are being built, which LaingBuisson cited as a growing trend. In Scotland, the net loss would have been around 250 to 300 beds in that period.

My concern is whether, if we do not get clarity over our biggest cost, we will survive as a business. There will be a crisis in the sector that will make the collapse of Southern Cross look like a picnic if we do not get clarity on our fee levels and some kind of level playing field between what the councils are spending in their own homes and what they are prepared to pay us.

Duncan White: I want to pick up on a couple of points that Mr Brodie raised: the quality of management in the care sector, and the procurement process. Our anxiety is that both those issues are dominated by short termism. There is a constant struggle to manage the tidal wave at any given point—usually, at 4.30 on a Friday, there is a tidal wave of people who need to come out of hospital. Anecdotally, there are other issues around how service users and patients are transferred from hospital care to social care, whether that is a nursing home or home care.

Management of social care is a constant struggle: you are running to stand still, and you are up against constrained fees and capacity problems because, as a result of short-term planning, you cannot afford to recruit the numbers of staff needed to absorb the sudden shocks of huge numbers of people coming out of hospital.

To pick up on Robert Kilgour's point, in the financial year 2013-14, the NHS spent £1.05 billion on delayed discharge and bed blocking. If that money was transferred to social care—to nursing homes or home care—it would provide an extraordinary fillip to the system. Procurement is characterised by perpetual, consistent short termism—trying to solve today's problems while not looking at tomorrow or next week, let alone next year.

We need a lined-up, cohesive, procurement/commissioning model of the kind that would look now at the financial year 2017-18, think about resource allocation and look at the resource pool, capacity and demand modelling so that we could put down on paper what we want the system in 2017-18 to do, instead of struggling to solve Monday's problems on Tuesday, which is just madness.

10:45

Lewis Macdonald: I am intrigued. This is an inquiry into work, wages and wellbeing in the labour market, and the care sector has been identified by witness after witness as one of the problem areas. However, the response from the sector's representatives seems to be: "Well, it's all the fault of local councils—they need to give us more money, and then we can provide a better deal for our workforce." That is what it sounds like; if you want to put me right on that, I would be very interested to hear it.

What would your advice be if a member of your own family wanted to work in the care sector? Given what you have told us today about your experiences in the sector, would you say that they would be better seeking a job in the local authority or the health service—that appears to be the implication of what you said—than work in the private sector? Are you telling us that your market is a failure and that you are no longer capable of delivering a service profitably while sustaining your workforce?

Robert Kilgour: We are doing our best to compete and to continue to provide a good quality of care service, but it is unfair to expect us to compete when the 75 per cent fee supplier to us has its own service provision whose costs are way above what it is happy to pay us. The councils are paying us a rate that is, in general terms, £609 a week for nursing care, when the councils' costs can be as high as £1,000 a week for residential care with no nurses.

You are saying that our model is broken. I certainly know from colleagues in the same business that—although I think that this is bad for the business—we are all looking at how we can increase our percentage of private residents. That would mean a shortage of beds for local authority residents being kicked back to the local authority to deal with, in a situation where the care sector in the UK lost 3,000 beds last year.

I also know that a number of my colleagues in the sector are looking at closing homes. There is no doubt that, given the clarity over our biggest cost between now and 2020 and the lack of clarity over the fee level, more and more homes will close between now and 2020. That is a fact; it is going to happen.

Duncan White: To answer Mr Macdonald's question about whether I would recommend that a family member work in the health or social care sector, I think that that question is very ably answered by the dynamics of the recruitment market out there. The 38 per cent staff turnover figure tells you that the answer of 38 per cent of the workforce is, "No, I don't want to work in social care." I am a nurse, and I know that a crisis is about to hit nursing. I do not have the figures in front of me, but we do not train enough nurses and have stopped training them. We have only to read the Roy Lilley newsletter to realise the grief that is going on out there with nursing.

In terms of what Mr Macdonald's second question implied about what our advice would be to the system, I would rewind to my response to a previous question. We need to get away from short-termism and get long-term planning into the system and start deciding what we need the system to do after the next 18 to 24 months. We need everybody in the system to have a clear, strategic direction and a clear idea of what the commissioning disposition is so that we can say, "Okay—this is where home care sits, this is where nursing homes sit, this is where hospitals sit and this is where accident and emergency and paramedics sit." If we get the constellation of organisations within the spectrum of health and social care lined up in a proper, organised and integrated way, everything else will fall out of that.

You seem to be anxious that we are pillorying local authorities for the lack of cash. We make no apologies for doing that, but the issue goes far beyond the readies that are available here and now for contracts; it goes to making long-term strategic decisions, planning and allocating bits within the system to specific roles that we want them to do. The answer lies in doing that and underwriting it with not only cash but resources, such as nurse recruitment and training and Scottish vocational qualifications. Standing still and carrying on as we are now ain't an option.

Robert Kilgour: A recent survey showed that there are probably between 800 and 1,000 nurse vacancies in the care sector in Scotland. At the moment, we have about 57 vacancies—25 for nurses, 20 for carers, 10 for ancillary staff and two in middle management.

Lewis Macdonald: I am still intrigued. Part of my concern is that, when people give evidence about what makes working life difficult for them, they talk not only about low wages and high turnover but low employee engagement, poor prospects of progression and poor opportunities for training. The care sector is in focus in relation to that, so I am interested to know what you as employers are doing about it, apart from lobbying for more money for the public sector, which is legitimate. Do you recognise trade unions, for example? What progression arrangements do you have in place for your staff?

Robert Kilgour: This year, we have increased our training budget by a third on last year and we will increase it by 50 per cent next year, so training is a huge part of our work. We hope that that will help with recruitment and staff retention. Staff turnover rates vary from home to home, but they are certainly much higher than we would like, so we have made a conscious decision to ramp up career progression and investment in training.

Those who are at the coalface say that it is a very satisfying job. I angst almost daily at the fact that I cannot give those members of my staff more support than I do financially, in staff back-up and in training. I do the best that I can on that and I would love to be able to do more, but we have huge constraints. That takes us back to the pressures from local authorities. I understand that local authorities are under huge pressures, but they need to consider where they spend their money on care and we need to have a level playing field. That is surely only fair.

Lewis Macdonald: Do you recognise a trade union? If not, what else do you do to engage staff?

Robert Kilgour: We did recognise trade unions, but membership has fallen away due to lack of interest among our staff. I asked that question of my operations director at Renaissance Care last week. I asked, “Didn’t we recognise trade unions three or four years ago when we took on some homes from Southern Cross?” and she reminded me that we did but, due to the lack of interest among our staff, it has lapsed, so at the moment we do not.

Lewis Macdonald: Have you any sense of why low-paid, insecure members of staff would not want trade union representation?

Robert Kilgour: No, I do not. They had the opportunity to have it when it was inherited as part of our taking on the homes from the collapse of Southern Cross. We were quite comfortable and relaxed about it, but the take-up was not there and it has just frittered away and disappeared. I know that some other care home operators have trade union members and I believe that Four Seasons Health Care, which I founded, does. However, most middle-sized companies like ours do not.

Duncan White: I think it only fair to say that there is no huge ethical problem with trade union membership; it just does not happen. That is very easy to say.

Home healthcare and adult social care is a very flat system. It does not have a huge hierarchy with ward sisters, nursing officers, senior nursing officers, principal nursing officers and so on. That sort of hierarchical arrangement just does not happen in home care. There is at most, perhaps, a supervisor or a liaison officer who works with the local authorities. There is not a progression or successor arrangement, which I think is a problem. The lack of a career structure is undoubtedly a brake on the development of the attractiveness of home care as a service.

UKHCA has a membership of some 2,200 organisations, and they are entirely at liberty to recognise trade unions. We would certainly not give direction or offer any sort of advice on doing so; it is an entirely localised business decision. Ethically and ideologically, we have absolutely no objection whatsoever to trade union members. If the majority of our membership organisations came to us and said they wanted advice about that, that is the advice we would give. I do not see it as an issue, to be honest.

Lewis Macdonald: When employers do not have trade union recognition—from what you say, it sounds as if almost none of them does—what other steps do they take formally to consult staff and engage them in the running of the business?

Duncan White: That is a local issue. A big company with 35 or 50 branches would do it differently from a company that has half a dozen small cells of workers.

I have been with several providers over the last couple of months. One in the east end of London, which provides services only to ethnic minority women, has a very tight-knit relationship with its carers. It has formal monthly meetings. I was also talking to a fairly large provider, which has 35-odd branches based in the midlands and south midlands, and it has quarterly meetings with staff. It is a question of what works best.

We would not want to impose or prescribe a model. In the two years that I have been with the UKHCA, I have yet to come across a provider that does not engage with its care staff in some way or other. I have no idea whether there are any providers out there that deliberately do not do that. I have yet to come across anybody that does not.

Robert Kilgour: We have staffing notices from the Care Inspectorate. Our staffing numbers per shift and per skill requirement are laid down on our staffing notice. That is our guide and that is what we stick to.

Communication is done locally through the manager and deputy manager. What happens in Forres is very different from what happens in Aberdeen; we even find that Peterhead is very different from Aberdeen. It is very much locally run. The quality of the manager and the deputy manager come into that delivery. It is our job to give them as much support as they need in order to do that at the coalface as best they can.

Lewis Macdonald: There are no formal structures, though.

Robert Kilgour: No.

11:00

Gordon MacDonald: Before I ask my questions, I want to correct a couple of things that Duncan White said. He said that we have stopped training nurses, but the university in my constituency is certainly still training nurses. Secondly, he talked about local authority rates being as low as £11.50 or so per hour. Some of the written evidence that we have received suggests that the hourly rate for Scottish local authorities is around £13.50.

Gentlemen, you paint a bleak picture of the care home sector. Mr Kilgour, you referred to LaingBuisson as the leading consultants in the sector. In a report last year, it estimated that profits were around 8 per cent. It also highlighted the fact that the weekly profit per individual in a care home is between £44 and £60. Last year, Grant Thornton issued a report that said that the care home sector is growing and that wages

“typically represent 49% of revenues”.

I understand that, in most businesses, wages represent about two thirds to 70 per cent of revenues. If the figure is 49 per cent in the care home sector, that suggests that there is room for manoeuvre.

Robert Kilgour: I would challenge those figures.

Gordon MacDonald: I can only go by the information that is there.

Robert Kilgour: I can only go by 26 years of experience and what I know about my business. Wages represent close to 65 per cent of our income. That is perhaps because we have 75 per cent local authority fees. If you have 75 per cent private residents and 25 per cent local authority residents, wages might be 49 per cent of your revenues, because you get higher fees from private residents. However, I assure you that the industry average is about 60 per cent and is nearer 65 per cent.

On the profit margin, I do not have a problem with telling you that, with 650 part-time and full-time staff, our turnover last year was just over £16 million and we made a pre-tax profit of £430,000. After tax and capital repayments to the bank, we then spend every single penny that we can—and more—on improvements, such as new carpets, new en-suite facilities, new furniture or whatever.

That is a personal thing: I do not take a salary out of the business, and I have not done so for around 10 years. This is not about fat cats making high percentages and moaning about being squeezed. We have had eight years of squeeze and pressure on our margins, and the margins have gone down. If we were asked in a survey, my finance director would say that our profit margin is about 3 per cent. That is perhaps because we have a higher percentage of local authority residents than other places, which will have a higher profit margin if they have a lower percentage of local authority residents.

Gordon MacDonald: The figures are from Grant Thornton, not me, and are based on its survey of the care home sector.

In the written evidence, UKHCA suggested that, in order to pay the national living wage, the hourly rate would have to go up to £16.50. I am trying to work out what the difference is between the national living wage of £7.85 and the £16.50 hourly rate that you would like to charge local authorities. I understand that you need to pay national insurance, cover for annual leave, cover for sickness absence and recover some of your general overheads. However, how does an annualised cost—at the £16.50 level for a typical employee—of about £32,000 relate to the amount that you will pay that individual, which is something over £17,000? Where does that difference come in? Does the money not cover your overheads?

Robert Kilgour: I do not have any home care businesses, so I cannot answer that.

Duncan White: I will send you a copy of how we worked out the model that you are quoting. It is broken down graphically in terms of the costs of providing an hour of home care. With the national living wage, that cost will certainly go up to £16.70 from the £15.74 it is under the minimum wage of £6.50 an hour.

The costs are easy to recognise if you look through the document. There is a plethora of costs involved, including registration fees, insurance, training and pension contributions. I do not have the costing model in front of me, but I will send it to you. I am quite happy to come and talk it through with you, as I did when I sat down with Scottish Government officials from the health and social care directorate three or four weeks ago. It is very transparent.

Chic Brodie: Are those UK figures that you are talking about?

Duncan White: Yes, they are UK nationwide figures.

Chic Brodie: They include London and the south-east, for example.

Duncan White: Yes, they are UK figures. They are an average of the averages. I explain that to every accountant I talk to.

On Gordon MacDonald's second point about nurse training, it is a matter of public record that, for every student nurse vacancy, there are five applicants, and that the number of nurses we are training nationally compared with five, six or seven years ago has dropped dramatically.

Gordon MacDonald: Is that UK-wide?

Duncan White: Yes, of course. I am sure that there are individual universities and hospitals that are above the average—some would have to be.

Patrick Harvie (Glasgow) (Green): Good morning. I apologise for arriving late. For once in my life, even I cannot blame the transport minister for the problems that ScotRail is having today.

Several issues have been raised that may be relevant to the Local Government and Regeneration Committee and the Health and Sport Committee, and we might find a way to refer to their work when we look at our conclusions about why the situation exists. Important points have been made in that regard.

I want to ask about the consequences for your businesses and your employees of very low and insecure pay. The issue is relevant to the care sector—and perhaps beyond, so the FSB could respond, too. What impact does poverty have on your business? What impact does it have on sick leave and your employees' ability to do a good job and to deliver your services? What are the consequences of the problem for your employees and for the quality of the services that you provide?

Duncan White: We have concerns about low pay and the consequences of extended long-term low pay. Our evidence to the chancellor for the spending review, which was submitted a week or 10 days ago, explained that the polarisation in the UK economy wage structure is locking in institutional low pay, particularly in the home care sector. I used to work in the nursing home care sector—it was 18 or so years ago—and I know that the problem is mirrored there.

In the home care sector, we are profoundly concerned that institutional low pay has become an absolute fact of life. What we expect to see over the next four, five or six years does not fill us with any enthusiasm that the situation will change any time soon. The consequences of low pay are manifest and that will not get better. There is staff churn; companies scrimping on, for example, training; staff having to buy their own uniform—a whole manner of corner and cost-cutting issues arise. That is a natural concomitant of a persistent low-fee situation. It is the elephant in the room.

Patrick Harvie: Can anyone give an assessment of the scale of the impact on, for example, absence due to sickness and stress connected to poverty pay?

Duncan White: We have not undertaken any longitudinal studies of such issues. Having heard your question, I probably need to go back to head office and say, "We've got a bit of work to do, chaps."

Anecdotally, the stress within the home care service at the coalface, to use a cliché, is undoubtedly ferocious. People are dealing with some of the most deprived, health-deficient situations imaginable and working in that environment constantly, carrying all the grief that goes with it, has a definite impact on their health and on their emotional and mental wellbeing, without a shadow of doubt. I put my hands up—I cannot give you any figures on that today, but I think that we probably need to work on that.

Robert Kilgour: Low pay, or lower pay than we would like to be able to pay—even, for example, to compete with local authorities—is certainly an issue. We cannot compete with local authorities on pay levels. If we were able to pay more, we feel that that would have a positive effect on staff retention and recruitment, and on sickness levels.

Working at the coalface in the care sector is a challenging job, but it is also extremely rewarding. I do my utmost regarding pay, terms and conditions and training opportunities. That is one of the reasons for our taking the initiative of increasing our training budget hugely this year compared with last year and next year compared with this year. We are trying any and every way that we can come up with to improve recruitment and staff retention, and to try to improve the working conditions.

With regard to the capital expenditure that is available to us once we have paid back the bank for the capital on the loans, we are spending more than we are earning on improving the quality of the services that we provide.

Patrick Harvie: Can I ask about insecure work as well as pay levels? One of the care providers that gave us written evidence explained how it organises its casual support workers. The employer has no obligation to provide specific hours so there is insecurity in the contract, but the employee has no obligation to accept the hours that they are given so they can set their own boundaries. The care provider draws a distinction between that arrangement and what it describes as an exploitative zero-hours situation in which the employer has contracted the employee to work the hours that they are given when they are given, with no guarantee of hours.

Do you recognise that distinction? Is what has been described as the more exploitative form of zero-hours contract common in the care sector?

Robert Kilgour: Our company has around 650 staff in total, working part time and full time. There are 309 full-time staff and 210 part-time staff. There are also 127 bank staff who work varying hours that suit them and suit us. Some of them also have other jobs. Only the bank staff are on what you would term zero-hours contracts.

Patrick Harvie: And none of them is obliged to take the hours that they are given.

Robert Kilgour: No.

Patrick Harvie: More widely within the care sector, is that distinction common?

Duncan White: I can see how that distinction has arisen. I think that it is far more subtle than that. There are probably not many UKHCA members out there who would recognise the black-and-white division between those two arrangements. Zero-hours contracts have latterly become looked on very unfavourably. If we describe the situation as a bank staff arrangement, that throws a completely different light on it. The vast majority of people on zero-hours contracts are, in reality, bank staff and that is what they want to be. Certainly when we have undertaken thumbnail examination reviews of people who work on that basis, the vast majority of them want that sort of arrangement.

Patrick Harvie: In which case, there would presumably be no problem in ensuring that people have a right to decide whether they want a contract that specifies hours or a flexible contract.

Duncan White: A lot of providers would struggle to give fixed-term contracts.

Patrick Harvie: I am not suggesting that they should all simply be moved to a fixed contract. If you are saying that the employees are happy with the flexibility as the system operates, there should be no objection to ensuring that they can choose whether they want that flexible arrangement.

11:15

Duncan White: I cannot sit here and pretend to speak for all our members by saying whether they would be happy with that. I revert to what I said a minute or two ago. They are bank workers by another name and that works well for everybody involved.

Robert Kilgour: We have a requirement for staff under our Care Inspectorate staffing notices. If we cannot fill our requirements for nursing and ancillary care and so on, we go to bank. If we cannot fulfil our requirements through bank, we go to agency.

Another area to consider is agency costs. Perhaps the Scottish Government should cap agency fees both for the NHS—the NHS has the same huge problem with agency fee levels as the voluntary and independent sectors have—and the independent sector. Capping agency fees would certainly help.

I mentioned earlier that we have about 57 vacancies across nursing, carers, ancillary and middle management. As far as I am concerned, any bank member who wanted to go on to a regular part-time or full-time contract would be able to do that because we have full-time fixed contract vacancies at the moment.

Colin Borland: May I make a point here about small businesses in general? I am really pleased that Patrick Harvie made the distinction between different types of zero-hours contracts—

Patrick Harvie: I referred to a distinction that was made in written evidence to the committee. It is not mine.

Colin Borland: Yes, and I think that you are right to highlight it. For a start, small businesses are unlikely to use any of the more exotic forms of employment. We tend to just employ people directly.

There is a distinction in which that kind of flexibility is necessary. Maybe students who work in bars or whatever do not really want to be tied down to certain shifts or to exploitative employment practices that tend to be used in large retail and other places that have been mentioned—I am sure that it goes on elsewhere. There is very little justification for exclusivity deals, or for using what is effectively a zero-hours contract, for somebody who would appear to anyone else looking in to have regular hours of work. That can let unscrupulous employers undercut decent employers by, for example, sidestepping bits of employment law. While we would not want to see the club completely taken out of the bag, and I accept that it is not a matter that anyone in this Parliament can sort out, some relatively straightforward legislative changes around the use of zero-hours contracts would probably make sense.

The Convener: We have run a bit over time, but Chic Brodie and I have a few more points to cover. Perhaps I could address my questions to Colin Borland in the first instance. I will ask them both together for the sake of time.

We have taken quite a bit of evidence on conditionality. Witnesses will be familiar with the Scottish Government business pledge, in which businesses sign up and undertake not to use exploitative zero-hours contracts, to endeavour to pay the living wage, and basically to be good employers. When we asked the enterprise agencies and the other Government agencies whether they treated businesses differently if they were signed up to the pledge, they told us no. There is no conditionality. What is the view of the FSB and indeed anybody else from the business community who is here? Should there be conditionality? That is the first point.

Secondly, we have also heard some evidence about employment tribunal fees and the fact that they have been increased by the UK Government. The Scottish Government wants to see those fees reduced when they are devolved. Does anyone have a view on that?

Colin Borland: I will deal with the conditionality point first. When the business pledge was first announced, we were clear in saying that it should not be linked to business support. Businesses work hard paying taxes, so they already pay for publicly funded support.

We get into very difficult territory when we start talking about making distinctions between good businesses and bad businesses. We are all in favour of driving better behaviour and encouraging the sharing of best practice, but to say that someone cannot walk through the front door of the business gateway or log on to the business gateway website without having their pledge card number next to them just did not seem right to us.

Whether at some point down the line enhanced services might be available to those who have signed up to the pledge is an interesting point. Again, I think that we would have problems with that. The committee will probably be sick of hearing this, given the length of its inquiry, but I think that what is a good job and what is a bad job is very difficult to define, and if it becomes a mechanical distinction, many of our members, through no fault of their own, will lose out.

An example that it might be appropriate to give is that the difference between a job in a small business and a job in a bigger business might be the difference between a job as a member's parliamentary researcher and a job as a member of the committee's estimable clerking team. Members of the clerking team will be on a higher salary, they will have a final salary pension, they will have lots of opportunities to move and be promoted internally, there will be a nice big training budget and so on. It looks like a very good job. Parliamentary researchers are MSPs' right-hand men or women, they are very close to the ultimate decision maker, they see a vast range of activities and get a huge range of experience, they are probably conversant on a dozen or more policy topics and they will know a great many people. On paper, that might sound like the worse job, but—

The Convener: It depends who they are working for.

Colin Borland: I would hesitate to describe you as a bad employer.

Until we get a better idea of what we mean when we talk about good work and bad work and good employers and bad employers, conditionality is risky.

In relation to your question about employment tribunal fees, we have said that we will be very interested to find out how what is proposed will apply, particularly in Scotland, in the context of businesses that operate across the UK. We do not want Scotland to become the Liberia of employment tribunals, whereby people in England with disputes can come up here and choke up our tribunals on the ground that there is a perceived locus because the company has a Scottish office.

The Convener: On the point of principle, do employers think that employment tribunal fees as they are set now are set at the right level, or should they be lower?

Robert Kilgour: I can speak on that. We have the fees that were introduced at UK level and which cover the UK. I understand that, under the Smith commission and the Scotland Bill, control of those fees will be devolved. Is that right?

The Convener: Yes.

Robert Kilgour: I would not have a problem with tribunal fees being reduced. It is very difficult to accept that one level fits all for the whole of the UK. I understand that, if control of tribunal fees is devolved, the Scottish Government plans to scrap them altogether. It is not my decision, but I would not be in favour of their being scrapped altogether, but I totally support their being reduced to a lower level.

Colin Borland: I would hesitate to get rid of fees in isolation, because although the decision to introduce fees might seem harsh, it was taken for a very good reason. There were a lot of vexatious cases that never made it anywhere near an employment tribunal. If a business owner dismissed someone for very good reasons, they would stick in a claim and, even if it was utterly without merit, the business owner still had to spend time defending themselves against that claim. In an owner-managed business, if the owner is not working, they are not earning; they are spending time away from the business.

If we could find a way of making the proposal less controversial, taking out those costs for businesses and making it a level playing field, we could look at it, but I do not think that we should simply say that, as of a particular date, there will be no fee. There has been an 80 per cent reduction in the number of employment tribunal cases across the UK, but that would just go back up again. I cannot see why it would not.

The Convener: Chic Brodie will ask the last question.

Chic Brodie: I would like a very brief answer to this. A lot of enthusiasm has been expressed this morning, with the possible exception of the care sector, for employee ownership. Do you think that the Government and its agencies, such as Co-operative Development Scotland, are doing enough to support firms that are considering the employee-owned or shared-ownership model?

Alan Spence: Personally, I think that they are doing enough. I think that they are doing a fantastic job with limited resources. They are working very efficiently, are getting the message out there and are providing the support that is required.

Dr Dutton: I agree. From the businesses that we spoke to, there seemed to be a proactive approach from the Government agencies that have responsibility for promoting EOB as one possible source of business activity.

Colin Borland: Others are far better qualified than I am to comment on that.

Duncan White: From the limited contact that I have had with people in the EOB set-up, I would say that they are very keen and very happy with how things are going. I take their word for it.

The Convener: We must draw things to a close. I thank you all very much for coming. It has been quite a long session and we have covered a lot of ground on different topics. It has been very useful to our inquiry.

11:26

Meeting continued in private until 11:51.

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