



OFFICIAL REPORT
AITHISG OIFIGEIL

Economy, Energy and Fair Work Committee

Tuesday 25 August 2020

Session 5



The Scottish Parliament
Pàrlamaid na h-Alba

Tuesday 25 August 2020

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ECONOMY, ENERGY AND FAIR WORK COMMITTEE

25th Meeting 2020, Session 5

CONVENER

*Gordon Lindhurst (Lothian) (Con)

DEPUTY CONVENER

*Willie Coffey (Kilmarnock and Irvine Valley) (SNP)

COMMITTEE MEMBERS

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

*Maurice Golden (West Scotland) (Con)

*Rhoda Grant (Highlands and Islands) (Lab)

Alison Harris (Central Scotland) (Con)

*Richard Lyle (Uddingston and Bellshill) (SNP)

*Gordon MacDonald (Edinburgh Pentlands) (SNP)

*Andy Wightman (Lothian) (Green)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Dr Keith Baker (Built Environment Asset Management Centre)

Aileen Bearhop (Scottish Government)

Dr George Burgess (Scottish Government)

Jamie Hepburn (Minister for Business, Fair Work and Skills)

Gordon McGuinness (Skills Development Scotland)

Dr Paul Moseley (Scottish Futures Trust)

Charlotte Owen (Association for Decentralised Energy)

Nora Senior (Enterprise and Skills Strategic Board)

CLERK TO THE COMMITTEE

Alison Walker

LOCATION

Virtual Meeting

Scottish Parliament

Economy, Energy and Fair Work Committee

Tuesday 25 August 2020

*[The Deputy Convener opened the meeting at
09:00]*

Convener

The Deputy Convener (Willie Coffey): Good morning. I welcome members, witnesses and those joining us online to the Economy, Energy and Fair Work Committee's 25th meeting of 2020. We welcome back Gordon Lindhurst and Maurice Golden as permanent members of the committee. We have received apologies from Alison Harris.

Item 1 on the agenda is to choose our convener. The Parliament has agreed that only members of the Scottish Conservative and Unionist Party are eligible for nomination as convener of the committee. I understand that Gordon Lindhurst is the party's nominee for the post. Do committee members agree that we choose Gordon Lindhurst as our convener?

I see no objections to that. Congratulations, Gordon, on your reappointment as convener of our committee. I now hand over the chair to you.

Decision on Taking Business in Private

09:01

The Convener (Gordon Lindhurst): Thank you, deputy convener. Thank you also to the former members of the committee, Michelle Ballantyne MSP and Dean Lockhart MSP, for their work on the committee. It is good to be back.

Agenda item 2 is a decision on taking business in private. Do members agree to take items 6, 7 and 8 in private? I will pause to allow for any objections.

As no members object, we agree to take items 6, 7 and 8 in private.

Covid-19 (Impact on Businesses, Workers and the Economy)

09:02

The Convener: Agenda item 3 is the committee's inquiry into the impact of Covid-19 on Scotland's businesses, workers and the economy.

I am pleased to welcome our first panel of witnesses, who are Nora Senior, chair of the Enterprise and Skills Strategic Board, and Gordon McGuinness, director of industry and enterprise networks at Skills Development Scotland. Welcome to you both.

I will start by asking Nora Senior to set out the measures that the Enterprise and Skills Strategic Board's sub-group has recommended should be prioritised to minimise unemployment caused by Covid-19.

Nora Senior (Enterprise and Skills Strategic Board): Thank you. The sub-group was formed in late May and submitted a report at the end of June. The sub-group remit was to consider what practical actions could be implemented quickly, not only to help people in employment and keep them in employment, but to help those facing the threat of redundancy or who have lost their jobs. In developing its recommendations, the sub-group looked particularly at the challenges facing young people. Alongside that, we considered the strategic objectives of the Scottish Government and, in particular, the transition to a net zero carbon economy and the importance of embedding fair work in the labour market.

We looked at a number of significant recommendations—we had 63 across four areas. The four areas for immediate action were support for employee retention; assistance for those facing redundancy; training to enable unemployed people to transition into employment; and helping vulnerable people into employment.

We considered a number of areas, including expanding the single portal to help businesses access the information that they require; integrating accessible support; creating a toolkit, which we are working towards, to enable business to consider more innovative business models and workplace innovations embracing fair work principles; scaling up partnership action for continuing employment to offer proactive tailored support—so, reshaping the PACE model—and supporting sectoral and regional specialist approaches using local authorities' insights and intelligence; scaling up job search and job matching tools, looking at upskilling and reskilling and improving the My World of Work website, which Gordon McGuinness can give you more

detail on; looking at the apprentice pathway programmes and the innovations and flexibilities that might be necessary in order to help businesses to recruit and, importantly, retain apprenticeships; flexing college and university provision to address the key challenges and opportunities; and looking at how we could provide a series of short courses, particularly through online training. That also embraces a reintroduction of the transition training fund to expand scale and support for individual training accounts and the flexible workforce development fund.

We also adapted the delivery of the developing the young workforce programme and, working alongside Rob Woodward, we have looked at particular areas of the experience for under-25s. We are also reviewing additional measures for the longer-term unemployed, under the same remit. That is a broad overview of the areas that we have covered. I am happy to answer questions on those.

The Convener: Thank you. Could Gordon McGuinness comment—briefly, as time is limited—on the My World of Work website, on which Nora Senior mentioned that you might have something to add?

Gordon McGuinness (Skills Development Scotland): Given the requirement for social distancing, we have tried to put as many of our services as possible online and in a digital format, particularly for areas such as PACE. Obviously, staff were furloughed, so we have tried to create as much content as possible. For example, there are YouTube videos that give a broad introduction to PACE services.

We have also developed a facility called the job hub. In the early days of the pandemic, we worked with the Food and Drink Federation Scotland, which was concerned because it had many short-term vacancies for additional staff. We developed the job hub as a way for people to quickly indicate job vacancies and it has had 99,000 views so far. The number of vacancies has tailed off a little, but it was never our intention to compete with the private sector on job vacancies. The facility is there, and we can ramp it up and down as required.

We also created an online portal for free-to-access learning, particularly on digital and information and communications technology. That service has had more than 185,000 hits. We send people on to other sites, so our analytics on that are probably not too revealing, but it has had good traction. It involves organisations such as the Open University, Microsoft and others. It has been well used by people who have been furloughed.

The Convener: Thank you. We will move to questions from Richard Lyle.

Richard Lyle (Uddingston and Bellshill) (SNP): Thank you, convener. Covid-19 will be a challenge for everyone, but it may be a crisis for young people. Is there any evidence that employers are already recruiting fewer young people? If so, what should the Scottish Government and its agencies be doing to address that?

Nora Senior: The headline labour market statistics for quarter 2, which is April to June 2020, suggest that the negative impacts of Covid-19 have been felt most acutely by young people. Sixteen to 24-year-olds have experienced the highest percentage-point increase in unemployment and inactivity rates, as well as the highest percentage decrease in employment rates of any age group.

The latest statistics that were quoted to me were that the employment rate for 16 to 24-year-olds was 52.7 per cent, which was a decrease of 6.9 percentage points compared with the same period last year. The unemployment rate for 16 to 24-year-olds was 13.5 per cent, which was an increase of 6.1 percentage points compared with the same period last year. The focus therefore is on how to protect young people and keep them in employment. Sandy Begbie is taking forward the job guarantee scheme, which the sub-group recommended, and the Scottish Government has put £60 million towards incentives and support for business to keep young people in work. I am sure that Gordon McGuinness can say more about apprenticeship pathway programmes.

Richard Lyle: Gordon, do you have any comments on that question?

Gordon McGuinness: Our first quarter statistics for apprenticeships were published on 11 August—they are official statistics. They show that apprenticeship recruitment was sitting at around 20 per cent of where it was at the same time last year. That is perhaps not surprising; a lot of companies were in lockdown, and many training organisations, whether private or colleges, had also suspended business. We will need to wait and see—the second and third quarters will be important in those areas. There has been a huge impact on some sectors, such as tourism and hospitality. In other areas, such as ICT and digital, recruitment held up well, reflecting the importance of the digital focus brought about by the pandemic.

The measures that we have outlined in our reports suggest what can be done. We are looking for support to protect those apprentices. A number have been made redundant and the job retention scheme has probably masked the number of redundancies, as it has unemployment overall. As

that scheme starts to be wound down, we will get a better picture of the impact of the employment situation on apprentices.

The adopt an apprentice scheme offers an incentive of £2,000 for rehiring an apprentice. We are working with the Government on recommendations on how that scheme could be enhanced. We also have policy papers with colleagues in the Government on employer recruitment incentives and, as Nora said, Sandy Begbie has been asked to look at the Scottish youth guarantee. Our chairmen, Frank Mitchell and Damien Yeates, have been working with Sandy in the advisory group, and there has been significant input from our senior team.

We are working with the Scottish Government and with the Department for Work and Pensions at UK level on the kickstart scheme. There has been a series of round table meetings. It is Sandy's intention to give a unified offer to businesses in Scotland, so that there is no competition. We are keen to get as much support as possible to maintain apprenticeship recruitment through any additional measures that may be introduced.

Richard Lyle: Thanks, Gordon. How are Skills Development Scotland careers advisers supporting young people? What advice are they giving young people who are leaving school and looking for work? To explore what you have just said, do we need more incentives, and, if so, what should they be?

09:15

Gordon McGuinness: Given the pandemic and school closures, we had to remodel our entire service proposition to young people. We have a system called data hub, which records information on all young people aged 16 to 19 and then aged 19 to 24, although the service for the second age group is not as comprehensive. It is a data sharing system with local authorities, using the SEEMiS system, with colleges and with the Department for Work and Pensions. In schools, we can target the young people who have recorded additional needs and requirements. We looked at those who were coming up to leaving school and targeted specific support at them. That was developed online but there is also telephony support.

We are now back working in a number of schools, and we are working with schools on our engagement process. We have an agreement with each school on how services will be delivered, and, obviously, that must be done in line with social distancing arrangements. It is a challenging time—I do not think that it has been any more challenging. We can look back at the lessons from the last big downturn, which was in financial services, when we saw many more young people

staying on at school for a fifth and sixth year than would normally be the case. We are likely to see that happening again. Colleagues have been working with our careers teams, because we have stated preferences from individuals on where they want to go after school, so we will start to track them through the system.

You asked whether we need more incentives. I think that we need to get incentives into the labour market more quickly, so that employers can make informed decisions around that. The incentives also need to be co-ordinated so that there are not competing offers, resulting in employers making decisions that are based not on the longer term but on what they can secure financially from the system. We encourage people to offer a job with training, and we need to ensure that the system balances those things equally. Co-ordination is what is required rather than significantly more resource, because I think that the investment from the Department for Work and Pensions is substantial. Nora Senior also made reference to the additional resource that has been provided through the Scottish Government for the youth guarantee.

Richard Lyle: [*Inaudible.*—just a small piece. I know that the convener wants to move on.

The Convener: Thank you. I appreciate that there is a lot to say on many of these issues, but I ask members and witnesses to be succinct. There is the opportunity after the meeting for either of our witnesses to add information in writing on any question that has been asked. We would welcome that. Perhaps committee members could say which of our two witnesses they are looking for a particular answer from, which will help us to be focused. I now turn to the deputy convener for further questions.

Willie Coffey (Kilmarnock and Irvine Valley) (SNP): Thanks, convener. I invite Nora Senior to look back at the previous recession, following which it took about seven years for youth unemployment levels to get back to pre-2008 levels. Could you say a bit about the youth employment strategy and how that helped us to get youth unemployment numbers down a bit earlier in Scotland? In fact, I think that we met the target four years early. Is the pandemic now putting that progress at risk? Could you say a bit more about the apprenticeship programme that was mentioned a moment ago? Are we going to reach the target? Will the investment of £10 million—I think that that is what we have announced—for the modern and graduate apprenticeship schemes help to cushion us from the impact, or do we need to do more?

Nora Senior: First, I am not an expert on youth employment policy. The sub-group took a lot of evidence on youth unemployment and the impact

on young people. We know from previous recessions that young people are four times more likely to be made redundant. We also found out that it is better to build on and enhance a list of measures that are already proven to be effective than to try to invent new programmes. Sheltering young people in employment or education is one of the better ways of keeping them in the workplace and in the employment area. We should not be looking at short work programmes that will not lead to long-term employment.

I could not say whether the impact will be greater this time. On employment figures overall, I fear that business is going to be under very severe pressure, so it will be a challenge to keep unemployment down, particularly among young people. The sub-group has tried to make a determined effort to tackle the problem. The measures in place mean that we are still well placed to tackle the problem, but we perhaps need to accelerate those areas.

Gordon McGuinness might be best placed to answer your questions on apprenticeship programmes, particularly around the adopt an apprentice programme.

Gordon McGuinness: On targets this year, we are in dialogue with the Government team on those areas. We have not seen disruption like this before, and, as I touched on earlier, until the furlough scheme has been wound down, we will not see the impact on the numbers of apprentices who are already in the system—of which there are about 36,000—and on recruitment activity. I have been doing a lot of work in the aerospace sector, where there has been a huge impact, but some of those employers are saying that they are not going to change their plans for apprenticeship recruitment, because they recognise that business will come back, and they have been plagued with skills shortages in the past. Therefore, there are positive signs. Scottish Engineering has been doing some work with its members and although investment in training has subsided, there is still a recognition that apprenticeships are a positive.

I offer one word of caution, which is that we tend to focus on school leavers, but there is a real challenge in the numbers leaving further and higher education. There probably could not be a worse time to hit the labour market as a graduate, and we need to provide more focus for those individuals as well as for school leavers.

Willie Coffey: Thanks, Gordon. I appreciate that.

The Convener: We move on to questions from Andy Wightman.

Andy Wightman (Lothian) (Green): Thank you, convener. I have three questions, so I will just throw them all out and the witnesses can respond

as they see fit. First, one of the key recommendations in the Enterprise and Skills Strategic Board's report was about further and higher education. Could you give us a sense of the position that universities and colleges are in to take on many more people and to develop short courses? Secondly, do you have any concerns about digital inclusion? What are you doing about that? Thirdly, how much intelligence are you gathering about potential forthcoming redundancies? Obviously, employers are making plans, and, in a sense, we have never been in a better position to be able to predict what is happening, but that depends on having intelligence from employers. Are you getting that intelligence, and, if so, is it helping to deliver the support that you anticipate having to provide?

Gordon McGuinness: On further and higher education, there is a review, which is being led through the Scottish Funding Council, with Richard Lochhead as the minister. These are challenging times with the number of foreign students falling, so there are income challenges. I am on the board of Glasgow Clyde College, so I see things first hand. There has been a period of disruption, as there has been with schools, and the colleges are moving to find a safe way of working, but probably with more blended learning than we see in the school system. There will be challenges with that.

At SDS, we have tried to lead a programme of engagement with the regional colleges, drawing in the labour market information, and we have shared the labour market insight reports that we have had. We have been working with colleges on a regional basis, looking at the intelligence that we are getting, because the pandemic will land differently in rural and urban areas. We are looking at how—[Inaudible.]—colleges can, where possible, tweak the type of services that they offer.

You touched on digital inclusion, and, right from the high end to the inclusion end, we need to consider the issue of working from home and the work environment. We need to rethink how we are going to deliver some of our education programmes and gear people up with the skills, technology and access to broadband to support those services. Those are some of the biggest challenges that Glasgow Clyde College has faced.

On intelligence on redundancies, we have the PACE support programme. We normally pick that intelligence up from notifications through the HR1 form, but the Resolution Foundation has done some work on things such as the furlough scheme and who anticipated that they would lose their jobs. We have done some stronger work across the enterprise agencies on setting up an alert system for companies that we know are struggling and on how we support those. Our fear with regard to companies where many staff have been

furloughed is about how they approach the process of redundancy. We are encouraging companies to use the Advisory, Conciliation and Arbitration Service as much as they can to keep themselves and the workforce right, so that, where redundancies are considered, it is done in a fair and appropriate way rather than in a way that leaves companies open to challenge. We are doing as much as we can. Sometimes, companies are reticent to open up to the public sector about the challenges that they face, but the systems are as open as we have ever had them, and support is available.

The Convener: Does Nora Senior want to add anything?

Nora Senior: On further and higher education, colleges and universities have been flexing, through the workforce development fund, their ability to put on more short courses. The Open University is also recording record applications, including 675 for one digital course for which there were only 40 places. Therefore, the sub-group considered colleges and universities to be central to reskilling. There is demand for short, sharp training courses for those facing redundancy. On partnerships with business, we are encouraging employers to co-design schemes so that we create learning areas that will lead to employment. We have also asked for collaboration across courses and joined-up working across institutions, to ensure the maximum impact of public spending. Therefore, colleges and universities are already flexing to take on as many people as they can, and they are moving, where possible, to online platforms.

Andy Wightman: Thank you.

The Convener: Gordon MacDonald is next.

Gordon MacDonald (Edinburgh Pentlands) (SNP): Nora Senior, what progress has been made towards increasing collaboration and alignment in the school system between SDS, the Scottish Funding Council, Scottish Enterprise, Highlands and Islands Enterprise and the new South of Scotland Enterprise? How will that progress be measured? Gordon McGuinness, what support is in place for those young people who have left school and are struggling to make the transition from school to work?

09:30

Nora Senior: Thank you. On collaboration between agencies, when the Covid pandemic became an emergency, the agencies immediately created a joint working group. Many of the responses were created across the system. The enterprise agencies considered how to share best practice for dealing with the volume of businesses that were seeking support.

As members of the sub-group, SDS and SFC have collaborated on how to flex the education system to ensure that those facing redundancy are either sheltered within education or provided with a series of short, sharp courses that focus on a pathway to employment. Labour market statistics have been used in that regard. SDS has been particularly good at gathering information on labour market demand and where there are vacancies and passing that information to colleges and universities, which use it to align some of their available courses and signpost individuals to those areas of learning. Just as we saw the team come together to deal with Brexit, I have seen considerable collaborative working between the agencies from the start.

The next stage is to consider each of the sub-group's recommendations, agree a lead agency or partner—or it might be led by a Scottish Government department—and then consider the milestones, actions and outcomes, which are what the Enterprise and Skills Strategic Board would look at. We discussed the framework for the implementation plan at our board meeting last week. We have another board meeting in September, and we have asked the Scottish Government and the agencies, collectively, to come back with an agreed implementation plan against which the board will be able to clearly align milestones and actions.

Gordon McGuinness: With regard to young people who are leaving school or are currently unemployed, colleagues have developed a strong offer through the next steps programme. That is for school leavers aged 15 to 18 who do not have a positive destination, those who are already registered as unemployed and those who are care experienced. I mentioned our data hub information resource. Those young people are intensively case managed through a transition programme. They will be supported through either weekly or fortnightly coaching systems and services on care management skills, and we are working with partner organisations on opportunities for them.

We are starting to consider alternatives to the apprenticeship programme, in case of a downturn, as well as pathways to apprenticeships. We are working through the Scottish apprenticeship advisory board, which would help us to design and set up new programmes, potentially with an initial phase in college until we see more stability in the labour market, when we hope that young people would move into the formal apprenticeship programme.

A range of intensive, targeted support for individuals is under way, and we have staff and resource designed around that. We will flex that as required for the numbers of unemployed young

people, and we probably see that as our priority service, again learning the lessons of the past.

On the earlier question about what is different now, through the wider developing the young workforce programme, the work and activities of partners on data sharing are much slicker now compared with the previous recession.

Gordon MacDonald: Thanks.

Colin Beattie (Midlothian North and Musselburgh) (SNP): I want to ask about aspects of local authority involvement. In responding to our call for views, some local authorities suggested that a focus on the young could be to the detriment of other target groups. Do the witnesses have a view on that?

Gordon McGuinness: There was evidence during the last downturn that, when the problem of youth unemployment emerged to the extent that it did, what happened, as has been the case historically, was that the whole artillery swung towards youth measures and there probably were gaps in services for people over 25. There were policies in colleges, which were asked to prioritise young people, that were detrimental to the services for older workers.

We now have systems in place, and, as I said, we have shared our labour market insights. We are using data much more effectively to monitor how recessions and growth play out and where support is required for the over-50s, females and people who are disabled. Through that process, we need a strong focus on the types of support that are required, and we need to do more diagnostic work.

A great deal of the support that would be delivered through PACE for older people takes account of career history and transferable skills. There will be people who have been displaced from the labour market who will require enhanced support. We probably also need to think about financial stimulus. If all the incentives were targeted at young people, it could have a negative impact on older people going back into employment.

Colin Beattie: Therefore, you tend to agree with local authorities that, if the full focus is on young people, there is a risk that other target groups could lose out. Is that because of limited resources or something else?

Gordon McGuinness: It could be because of limited resources. It could also be about the type of opportunities that present themselves within the labour market. PACE works very well where we have a downturn in one sector while other areas are still increasing, but we are now seeing the labour market being disrupted in a way that we have never seen before, and how things might fall

out is very unpredictable—in the context of supply chains, for example. I touched on the work that we are doing as part of the aerospace response group. Some of the engineering companies, where there has been a big impact on supply chains, were probably flying high and in good health this time last year. Therefore, the factors that are causing this situation are falling in a way that is different from what we have experienced before.

We need to be alert to such things, use the evidence that we have and work with partners. So much of the work that we do now is with local authority partners, whether it is through business gateway or with our colleagues in the employability divisions across local authorities. I agree with you, but the responses should be proportionate, based on the evidence that we can gather.

Nora Senior: On that last point about evidence, the sub-group studied evidence and the latest Scottish labour market position. It is interesting to note that, although there are impacts associated with women and older workers, by far the greatest impact in relation to unemployment is on those aged 16 to 24. That age group is the most vulnerable, and not looking at the 16-to-24 group would have consequences for Scotland; there would be a long-term scarring effect.

It comes down to priorities. We expected a greater impact on labour market outcomes for women than for men, but the early evidence is that women have had a smaller reduction in employment, lower rates of furlough and a lower reduction in hours worked than men have had. That might be partly because many women are currently insulated from job losses because they have high employment in education and healthcare, whereas men have high employment in construction.

The sub-group's recommendation is to focus on young people, and that is our focus, because the long-term scarring effects on that group would be detrimental to the country and to economic recovery.

Colin Beattie: Given what Gordon McGuinness said about improved tools and data that we perhaps did not have previously, is it correct to say that we would quickly know whether a focus on young people was to the detriment of other target groups and that we would be able to respond to that?

Nora Senior: Gordon can say something about SDS, but in essence, yes.

Gordon McGuinness: Yes, I think that that is true; we just need to be alert to the issue. We are monitoring developments nationally and regionally to see how things land, and we are considering impacts across urban and rural areas; there is

evidence of the impact landing differently in the rural economy. We need to be alive to changes in labour market dynamics.

Rhoda Grant (Highlands and Islands) (Lab): I would like to follow up on that. I was interested to hear what you said about the impact on women. My understanding was that unemployment among women had risen by 50 per cent. That demonstrates a heavy impact. What is happening to protect them? Disabled people have experienced a similar impact. From the answers that you have just given, it seems that that has not really been factored into your response.

Nora Senior: With regard to the recommendations, our response was focused more on young people, but we recognised that women and people over 50 would be affected as well.

On what I said about the labour market outcomes, that is what we are seeing at the moment. We think that that may be a temporary outcome and that women may face a longer-term impact. Women are overrepresented in part-time and insecure work, so a sustained recession in Scotland will probably mean that women will be more vulnerable than men, but we are not seeing that yet.

When the sub-group considered the critical areas, we prioritised young people. That does not mean that we are not considering women or people over 50. In particular, through the upgraded PACE activity, we are considering the types of one-to-one advice that will provide specific guidance to those who already have skills on how they can be reskilled in line with the labour market.

At the moment, the evidence on women's employment does not support what you are saying. I am happy to get the analytical unit to write to support that.

09:45

Rhoda Grant: That would certainly be helpful.

Another issue that has been touched on briefly is taking a more regional approach. I cover the Highlands—[Inaudible.]—dependent on the hospitality sector. How are you ensuring that you take a regional approach, so that the responses are different, depending on the challenges in each area? Given that people have embraced home working during the pandemic, are there opportunities in remote rural areas? For example, we could transfer jobs out to rural areas—certainly Government and civil service jobs, but jobs in other businesses as well.

Nora Senior: I agree that there are immense opportunities to transfer jobs. The pandemic has

made business collectively move to online working in a way that it had not done previously. As one commentator has said, the adoption of digital working by business has moved forward five years in the space of three months. Therefore, there are great opportunities.

To go back to Gordon McGuinness's comment about digital poverty, one of our recommendations is that we need to ensure that our digital infrastructure throughout the country, but particularly in rural areas, is as robust as possible, to take advantage of those opportunities.

On tailored assistance to businesses, working through local authorities and having a regional focus, we and SDS are using local authorities' insights and intelligence for those who are facing redundancy. We are also tailoring assistance for businesses, again working through local authorities, and specifically focusing on sectors that may be affected in particular areas. Scottish Enterprise is working with partners in three regional economies—Glasgow and Clyde, Ayrshire and the north-east—on how more focused collaboration can work in practice.

Gordon McGuinness: On the tourism side, on a regional basis, Rhoda Grant will have been working with Mr Ewing and Mr Hepburn around the Scottish tourism recovery task force, which was set up by the industry. SDS, Highlands and Islands Enterprise, Scottish Enterprise and South of Scotland Enterprise have been active participants in that. We are also working jointly on the hotel recovery programme, which represents a further £14 million of funding.

On remote and digital working, we have already seen a change in some of the inward investment inquiries and the reshoring of work. Some financial services companies had really struggled with system security in places such as India when the pandemic struck, so we are already seeing a number of inquiries. There may be digital hubs but with dispersed workforces. Different business models could be exploited to get more work into rural areas.

Rhoda Grant: Is work on-going to encourage businesses to do that?

Gordon McGuinness: Businesses themselves will see that there are advantages from more flexible working patterns and hours of work. Businesses will not necessarily have the high costs of maintaining buildings in city centres, so business logic will drive some of those models, where that is appropriate. However, in areas such as financial services—I am not necessarily talking about just entry-level jobs—there is the ability to do some pretty sophisticated work if the models are right.

Maurice Golden (West Scotland) (Con): My questions are about the Scottish jobs guarantee scheme. What role should Skills Development Scotland and other agencies have in delivering that? Where does its delivery sit in practical terms?

Gordon McGuinness: Sandy Begbie is leading that work, which I referred to earlier. He has established a small advisory group, and our chairman and our chief executive have played an active part in that. I understand that his independent recommendations are at the final stage, ready to go back to Government.

As I mentioned earlier, Sandy Begbie is keen that we unify service offers as much as we can, that we make the most of the resources from the DWP's kickstart programme and, as Nora Senior said, that we learn the lessons of what has worked in the past. Obviously, he has had a strong interest in the inclusion agenda and the Government's no-one left behind policy.

As I said, we have made a significant contribution through the development of the data hub. Part of the work that we want to do is to extend the data-sharing process further through the Department for Work and Pensions and Her Majesty's Revenue and Customs so that we get a comprehensive picture of young people up to the age of 25. We can put a very robust system in place through such developments.

The expenditure details are still to be settled. SDS would stand ready to play whatever role Government wants it to. I understand that some of the kickstart-type discussions at the United Kingdom level could mean that employers could go into a direct contract with the Department for Work and Pensions. However, discussions on how the collaboration between the UK and Scottish resources can be managed are on-going in Scotland.

Maurice Golden: I have a brief supplementary question on that point. Obviously, you are still waiting to find out exactly what Skills Development Scotland's role will be and what the offering will look like. Once that has been confirmed, what is the likely timescale for Skills Development Scotland to set that up? For example, if you have to set up a new team to facilitate that offering, are we talking about a wait of months from that confirmation point?

Gordon McGuinness: [*Inaudible.*]*—will be central to delivery. We would be delighted if we are.*

I do not think that we can wait months. As I touched on earlier, we need initiatives in the field and employers making informed decisions about how they will recruit, train and develop young people. The Government will be as ambitious to

achieve that as we are, and I would expect to see more detail in the programme for government next week. From some of the dialogue that we have had about the transition training fund and the national retraining fund, I know that those are in the process for the programme for government, so I hope to see a timescale developed there. However, I expect that some of that will rest with ministers—obviously with input from Sandy Begbie and the programme of work that he is taking forward.

Maurice Golden: That is really useful.

Would both witnesses outline what role they might expect to play in delivering the transition training fund? What lessons can be learned from the previous £12 million oil and gas fund? In particular, how was that fund targeted at individuals who had directly transferable skills—I am thinking about engineers—as well as those who may not have had such transferable skills because they were more specialist, such as subsea divers, for example?

Gordon McGuinness: That question is probably more relevant for me than for Nora Senior.

We hope to play a strong part in the delivery of the new programme. Again, we need to wait for decisions from ministers. Reference has been made to a budget of £25 million in the current year. That gives members an idea of the scale of the potential programme and how quickly that needs to be taken to market. However, bearing in mind some of the challenges that we will face as the furlough scheme is wound up, there will be significant demand for that.

The lessons that can be learned from the previous programme are very positive. I was involved in the oil and gas task force. There was a flexible fund, and the fact that individuals were given ownership of some of the decision-making processes meant that they could tailor the support package. Our staff played a significant role in the design of the fund and in supporting it. The feedback on the programme, even from those who did not receive financial support, was very positive, because the interface with our staff helped people to recognise their transferable skills.

Another lesson that we learned was that taking things to market could be a bit slicker. I think that we might be looking at trying to use regional structures in a sort of brokerage system and working with training organisations to gear up to deliver a service at the necessary scale without SDS having to contract some of the work to training organisations and colleges.

On working with people with higher skill sets, the programme must respond to need and,

beyond the programme, we need to look across the support that is available from the wider public sector, because there may be college courses that are more appropriate for some individuals. We have been working with a number of engineers who are leaving Rolls-Royce, so they probably have the highest possible engineering skills. They are looking at transitioning to become renewable energy technicians, for example. We are trying to organise some information sessions and webinars, and we are working with Scottish Renewables, employers and training organisations to provide a picture of the sector. Helping people to make informed decisions about the type of training and future employment that they might want is an important aspect of any new development.

I hope that that answers your question.

Maurice Golden: Thank you. That was a very comprehensive answer.

The Convener: If there are no supplementary questions, we will have a brief suspension before we move on to the next panel of witnesses. I thank Nora Senior and Gordon McGuinness for their evidence today.

09:59

Meeting suspended.

10:06

On resuming—

Heat Networks (Scotland) Bill: Stage 1

The Convener: Welcome back. We move to item 4 on the agenda, which is evidence on the Heat Networks (Scotland) Bill at stage 1. Again, I ask members to identify which witness they are putting their questions to. Our witnesses are Dr Paul Moseley, the associate director of the Scottish Futures Trust; Charlotte Owen, the policy manager at the Association for Decentralised Energy; and Dr Keith Baker, a researcher with the Built Environment Asset Management Centre, or BEAM, as it is known. Welcome to you all.

Our time is limited, so I ask committee members and witnesses to be succinct. The witnesses may submit further written evidence following the session, if they feel that they were unable to cover any points sufficiently in their answers today.

First, are the witnesses content with the consultation process and the development of the bill thus far, or have matters been omitted that they would like to have seen included? There is a chat function on their screens where they can indicate that they wish to come in. Charlotte Owen would like to comment.

Charlotte Owen (Association for Decentralised Energy): Thank you. The association is very content with the process of engagement so far. The consultation process with industry and external stakeholders has been very satisfactory.

The Convener: Paul Moseley would like to come in as well.

Dr Paul Moseley (Scottish Futures Trust): I echo that. It is an important piece of legislation, resulting from several consultations. It includes everything that I would expect to see in such legislation.

The Convener: Is there any disagreement with that? Does Dr Baker want to comment?

Dr Keith Baker (Built Environment Asset Management Centre): Yes. We are generally okay with the consultation process, but—and this applies more widely to the Scottish Government—where people who could potentially benefit through contracting respond, that needs to be made clearer, not only in this process, but in many of the energy efficiency consultations that we have seen. I am conscious that someone who is giving evidence today is from an organisation that is part of District Heating Scotland. We have no problem with that organisation specifically, from what we know so far. However, when people are giving

evidence, it would be helpful to members of the public to be aware that some organisations will stand to gain from the process. I am not one of them.

The Convener: Thank you for that comment. Does either of the other witnesses wish to comment on the point about whether their organisation stands to gain from the process? Paul Moseley is happy to comment.

Dr Moseley: Just to clarify, District Heating Scotland is the heat network partnership for Scotland, which was established by the Scottish Government in 2013. It is a virtual organisation that co-ordinates support across public sector agencies for the development of heat networks in Scotland. The Scottish Futures Trust is a partner of District Heating Scotland, but it does not stand to gain from anything in the bill.

The Convener: Thank you for that clarification. We will now move on to questions from Richard Lyle.

Richard Lyle: The Heat Networks (Scotland) Bill was introduced in March 2020, and it provides for a regulatory and licensing system for district and communal heating, to accelerate its use in Scotland. Nowadays, we often hear the phrase “heating or eating”. How could definitions—and the bill as a whole—be future proofed to include emerging technologies such as sea-source heat pumps and shared group loops, to bring value heating systems to homes in Scotland?

Charlotte Owen: That is a really important question. We must consider fuel poverty when we look at any sort of energy legislation. The Association for Decentralised Energy proposes that the definition of “heat network” could be future proofed to ensure that it covers emerging technologies by including the phrase “production, capture and/or upgrade”, to recognise that heat may not always come from what we traditionally understand to be a source of production. For example, it could come from the use of a heat pump to upgrade a source of waste or ambient heat from an industrial process or the sea. By making the definition slightly more flexible and including that specification, we will ensure that we are capturing those—[Inaudible.]—approaches to heat networks that, ultimately, on our journey to net zero, we would like to see more of, to enable the heat networks industry to decarbonise.

Dr Moseley: Heat networks are entirely agnostic when it comes to where the heat is coming from, which can be from a variety of technologies. It can be recovered heat from the environment or waste heat given out by industry—heat can be generated from a range of sources. Essentially, district heating is a network of pipes, taking heat from the place where it is produced to

the place where it is needed. Therefore, over time, it is possible to switch sources of heat in and out, as lower carbon and cheaper sources of heat become available. That should filter through to the prices charged to the end user, so that they benefit from newer and cheaper sources of heat.

The Convener: I think that Dr Baker wants to come in on that as well.

Dr Baker: Yes, please. As the committee will be aware, I and two of my colleagues emailed the entire committee with some reports, and we urge you strongly to read, in particular, “Just Warmth: Developing Equitable and Sustainable District Heating Systems in Scotland” and “Carbon-free, Poverty-free: Heating Options for Rural Scotland”, in which we talk about multitechnology district systems, including the incorporation of thermal storage. That has been pioneered in Denmark by Ramboll UK Ltd, which is the world leader in what it does. I have raised the issue with Scottish Government civil servants before, and the planning for a multitechnology system on these designs largely seems to be ignored. I commented on the issue in *The National*, and I was told that it has been considered. I will not go into detail, because it would take too long, but I urge the Government strongly to become very aware of the technology. It is bringing costs down to between €30 and €50 per megawatt hour in Denmark, and it is an absolute game changer for district heating.

10:15

On the demand side, we are using energy performance certificates to assess demand in local areas. I and others have written consistently on that, and we are in dialogue with Kevin Stewart. We need to change dramatically the way that we produce EPCs or we will end up with either undersized or oversized district heating systems, which will mean either that the poor are not served with sufficient heat or that they are paying too-high costs, because the heat that cannot be sold will be passed on as part of standing charges. EPCs are a critical flaw in Scottish Government policy making on energy.

Richard Lyle: Do you not think that we must interest construction companies in bringing such systems in?

Dr Baker: As I said in my email to committee members, I would contact Ramboll. It has developed most of the world-leading district heating systems in Denmark. Question Ramboll as hard as you possibly can and get it involved in the process. I am not associated with Ramboll commercially, although we have done some work together in the past, but they are world respected as the best guys to do this on the ground. If we are going to have Scotland as a world leader, it is that

sort of international expertise that we need to access. However, I would certainly agree with your comment.

The Convener: Maurice Golden has the next question.

Maurice Golden: Are there likely to be any practical differences between having the Scottish Government or Ofgem as the licensing authority? Is there a preference for who the licensing authority should be?

Charlotte Owen: For the Association for Decentralised Energy, the way that the bill is drafted has built in a lot of flexibility for the discussion about who should be the licensing authority to evolve over time. It is important to recognise that the point of the bill is to stimulate market growth as well as to drive good consumer outcomes and support decarbonisation. However, in a situation in which we are encouraging that market growth and seeing greater levels of investment, we can expect that there will be an increase in the number of heat networks that will need to be regulated. As a result, in the long term, it probably does not make sense for that responsibility to continue to sit with the Scottish ministers, and we could envisage a role for a body such as Ofgem or somebody else. However, the way that the bill has been drafted to allow that discussion to evolve is probably quite practical, given that it is an emerging and evolving situation. Ultimately, the regulations from Westminster will also affect the regulatory package in Scotland and may change the perspective of both industry and the Scottish Government on a role for Ofgem versus ministers versus another body.

Dr Baker: As members will be aware, I work with Common Weal and other organisations, and we have a preference for the development of a Scottish regulator. Ofgem’s plan was unveiled earlier in the year. If you have a suspicious political mind, you might see a power grab going on there. We do not know—as Charlotte Owen said, it is an evolving situation—but it is something to be cautious about.

Heat networks do not cross borders unless we are building them right on the border. We do not see why regulation should not be fully devolved. It is worth bearing in mind that Ofgem considers economy 10, which includes a third of Scottish householders, as a non-standard tariff. Therefore, my general view is that Ofgem does not do enough to consider the Scottish situation, and we would be better served by a Scottish regulator, particularly on heat.

Dr Moseley: I echo the useful point that the bill is essentially enabling legislation and that it provides flexibility for the Scottish ministers to take on the role of regulator in the first instance and

then transfer that role to another entity in due course. It makes sense to allow that decision to be postponed, depending on how other matters evolve.

The other point is about the difference in approaches in Scotland and in England and Wales. The difference is in regulatory approach. However, from the soundings that we have taken, it is clear that the market is really interested in investing in Scotland, and the key point is that the bill provides a framework in which that investment can enter the Scottish market. I have heard nothing in my discussions with the market that would suggest that that is not the case, notwithstanding the fact that there is a slightly different approach.

Maurice Golden: To follow that up, are there any practical differences between a licensing authority, as is set out in the bill, and/or a regulator, as is set out in the policy memorandum?

Charlotte Owen: That is a really interesting question. I would say that there are—*[Inaudible.]*—but that they do not really amount to practical outcomes. The Association for Decentralised Energy would be happy to submit something in writing to the committee, exploring that question, if that is of interest. We could reach out to our members for a view on that.

Dr Moseley: It should not practically affect outcomes in the sense that what we need to achieve is a standard set of licence conditions for network operators to adhere to, to ensure that networks are built in the right places and to the right standards, with the right outcomes for customers. Whether those are administered through the Scottish ministers or through a different regulator is not the most important question. Getting the licence conditions correct and getting them out to the market as soon as possible are the key issues.

Maurice Golden: Convener, I have a quick supplementary question. Is there any potential for difficulties to develop with Ofgem as the result of the creation of a Scottish Government licensing authority? For example, is there a potential overlap that could lead to Ofgem and the new authority being at loggerheads? If so, is there a way to resolve that in the bill?

The Convener: I will bring in Paul Moseley and then Charlotte Owen and Dr Baker.

Dr Moseley: It is early days to envisage that sort of difficulty between regulators. The approach that is taken in the bill is correct in so far as it provides flexibility about the choice of regulator. I am not sure that I envisage a situation that could not be resolved in the future through the flexibility in the bill as drafted.

Charlotte Owen: I echo Paul Moseley's point about the benefit of the flexibility in the bill. In general—*[Inaudible.]*—go as far as the—*[Inaudible.]* However, there are opportunities that we can pursue to ensure that that tension does not happen. The Scottish Government's and the Department for Business, Energy and Industrial Strategy's teams are in regular communication to consider that issue, and industry is factoring it in when engaging on the Scottish bill and the discussions at Westminster. There will be a role for discussion and communication to ensure that tensions are ironed out. However, in general, the two Administrations are working well together, and that is not an on-going issue.

Dr Baker: The key words are "we need a different approach". I would like to see the body, as it may become, increase in scope to consider matters such as fuel supply chains. Those are the things that we may want to regulate—for example, to prevent unsustainable biomass from getting into the system. I do not think that Ofgem would be likely to consider those wider aspects, based on its activities in the past. Therefore, as part of an evolving role, we could scope out something really different in Scotland.

The Convener: We move on to questions from the deputy convener.

Willie Coffey: Thanks, convener. On technical standards, a previous witness identified the issue that a lack of standards led to

"the potential for the industry to be a bit like the wild west."—*[Official Report, Economy, Energy and Fair Work Committee, 23 June 2020; c 13]*.

Do you agree, and should we detail technical standards in the bill? Who should look after the technical standards? Should it be the licensing authority? Should we try to firm that up a bit more in the bill? What are your views on that?

Keith Baker talked earlier about the Danish model. How did they do it in Denmark? I would be keen to hear how technical standards are defined and protected there, so that we can learn something from that country.

Dr Baker: In my email to committee members, I said that we have been in talks with the Danish embassy and that we are happy to facilitate knowledge exchange with the Scottish Government. The Danish embassy is keen to do that. Denmark is a world leader in district heating because its history on that goes back to about 1901 in Copenhagen. In 1979, it introduced the Heat Supply Act, and it is critical that something along the lines of that act goes into the bill. That has been critical to the Danish success when you consider where Denmark has come from on this and where it is now.

On technical standards, we absolutely want to see scrutiny by the professional institutions, such as the Institution of Civil Engineers and the Institution of Mechanical Engineers, as well as the associations for building professionals. Those should scrutinise and oversee the technical scrutiny of all aspects of developing district heating, right from the top to working with local authorities on the ground to develop the networks. That has been a critical omission in a great deal of Scottish Government energy policy so far, and it is partly why we ended up with EPCs being as they are.

Willie Coffey: Could I hear from Paul Moseley and Charlotte Owen on that issue?

Dr Moseley: Local authorities have a key role to play in the consenting process for heat networks. Therefore, the licensing system will establish an operator as being a fit and proper person to operate and construct networks. That is a single-point-in-time application process, after which an operator will be licensed. However, they will still need to apply for a consent to operate a particular scheme. The local authority will have a role in that.

A key point is that you must ensure that the outcomes of the scheme are consistent with a local authority's desired outcomes for decarbonisation of its area; an appropriate contribution to decarbonisation objectives is needed. The technical standards are still in development and are evolving; currently, there is a voluntary code of practice. However, the consenting process should allow local authorities to say that, in order to be granted a consent, applicants must adhere to a certain set of technical standards for the construction and operation of the network.

10:30

Charlotte Owen: The Association for Decentralised Energy supports the inclusion of technical standards in the legislation. We can see a role for that coming through in this legislation or, more likely, through secondary legislation. Paul Moseley noted that we have the voluntary code of practice that was developed by the ADE and the Chartered Institution of Building Services Engineers. The industry view is that the voluntary code of practice has not been around long enough for us to have really seen its benefits and rewards yet, although there are many well-functioning networks that have implemented that technical standard.

Both the Department for Business, Energy and Industrial Strategy and the Scottish Government are exploring the introduction of a product specification or British standard for heat networks in the UK. That is an evolving discussion, so there

will be some clarification of how exactly the technical standards will fit with the forthcoming legislation. However, we definitely see a role for technical standards in the legislation, to boost the consumer outcomes that we want to see more of and to encourage decarbonisation and more efficient networks.

Willie Coffey: That is lovely. Thanks, convener.

The Convener: Thank you. Andy Wightman has the next question.

Andy Wightman: I want to explore some of the processes around licensing and consenting, which are key gateways to operating heat networks, elements of which will represent valuable business assets. Section 11, on revocation of heat networks licences, sets out the process for revocation. There are no regulations proposed there, so the circumstances in which revocation of a licence would occur will be as set out in the bill. There is also no appeals process for the revocation of a licence. That contrasts a bit with section 24, on revocation of heat network consent, which would occur in circumstances set out in regulations. In other words, there is flexibility on how consents will be withdrawn. Do the witnesses have any concerns, particularly about section 11, which gives little detail about the circumstances in which licences could be revoked? Are the witnesses concerned about the fact that there is no scope for any variation or about the absence of any right of appeal?

The Convener: All three witnesses want to come in.

Dr Moseley: Thank you for the question. There needs to be a degree of consistency in relation to the terms under which licences or consents—or, indeed, permits under part 4 of the bill—could be revoked. That is a question of fairness for operators. In particular, where private operators are making substantial investments in heat networks, they need certainty—as do any third party finance providers—about the terms under which licences will be granted, administered, modified or, in extremis, revoked. I think that the bill deals with that, but it is a good point.

I would expect there to be an appeals process for an operator that is threatened with revocation of its licence. That would be a normal process for licensing, which would apply to any utility; it would be no different for the energy sector.

Charlotte Owen: The Association for Decentralised Energy would probably agree with Paul Moseley. We need to ensure that the licensing package reflects the processes that we see in other regulated or licensed markets. That said, there are differences between the heat networks market and the gas and electricity markets that must be recognised. With regard to

revocation, there is always a balance to be struck, but we must always consider the outcomes for consumers. Ultimately, that is the most important consideration.

As drafted, the bill leaves scope for a process of discussion and a process where heat network operators that face potentially losing their licences are expected to engage in a dialogue with the licensor to try to improve the situation. That is welcome, but I could see a need for an appeals process to be embedded. I am not sure whether that should be done through primary or secondary legislation. However, the need for some sort of appeals process is a fair challenge, ultimately with the consideration that, as a principle, we must always consider what the best outcome is for consumers.

Dr Baker: Andy Wightman opens the door to the question of what we are licensing heat network operators to do. The term “heat network” encompasses a wide range of technologies and systems. The Association for Decentralised Energy report that came out yesterday included comments on being more technology specific and pushing specific technologies. That is a good message. I think that we need to go even further. We have a nascent industry and, as we said in our written evidence, we worry that some of the conditions in the bill are in danger of damaging it.

We need to develop exemplar systems—*[Inaudible.]*—whereby we can meet demand, and we must work with local authorities and give them more support so that they can put out contracts, or so that the Scottish Government can put out contracts, for systems that are designed to do X, Y and Z. As Andy Wightman said, there is not a lot of detail on that in the bill, and more detail is needed about the strategic planning, the systems that we will be putting into communities, and which communities the systems will be put into. In that way, an operator will have a much more focused set of licensing conditions under which to operate.

Andy Wightman: Thank you for those responses.

Dr Moseley, in response to a previous question, you said that local authorities have a key role to play in consenting, yet sections 19 and 20 of the bill, which are about granting consents, give that power to ministers, and local authorities have no role whatsoever. What did you mean by that comment?

Dr Moseley: My understanding is that there is flexibility and that local authorities will have a statutory duty to create a local heat and energy efficiency strategy, which is not set out in the bill but will be introduced by a separate piece of legislation. That will involve a duty to consider the building estate across the local authority's

administrative area and to identify zones for heat networks and other heat decarbonisation technologies. Local authorities may then tender opportunities in those areas for people to operate heat networks. My understanding is that local authorities will be involved in that consenting process and that the Scottish ministers could also issue consents. I think that the bill sets up the Scottish ministers as the entity that would initially award consents, but I imagine that local authorities would have a direct role in that. I would expect that role to be more than that of a consultee and that they would be involved in exercising that power in some way.

Andy Wightman: I will leave it there. I think that you are correct about permits and zoning but—*[Inaudible.]*—consent as well, but one of my colleagues may follow that up. Thank you, convener.

The Convener: The next questions are from Rhoda Grant.

Rhoda Grant: Do the witnesses feel that fuel poverty is adequately taken into account in the consenting process, particularly in the initial stages, given what was said about excess heat and cost to customers?

Dr Baker: I will take that question, as fuel poverty is my speciality, along with heat. The answer is no. I know that you will be hearing from Scott Restrict of Energy Action Scotland in later evidence sessions. I have already commented about EPCs and their impact, which could result in undersized or oversized systems.

On how to use district heating to address fuel poverty, we need the Scottish Government to take a strategic approach and to start looking at the fuel-poor areas of Scotland, where sensible district heating can have a real impact. That must be done at a strategic level, and we have set out proposals for a Scottish energy development agency that would do that. Part of the problem, which has also been an issue under local heat and energy efficiency strategies, is that, for a consortium, a local authority or whoever is going for these projects, the onus is very much on those tendering and those who want the project done rather than on the Scottish Government to say that it has identified areas with high levels of fuel poverty and high levels of vulnerability with certain resources—biomass, water or whatever. We need a much more strategic direction, because there is only so much money in the pot in the first place. We need to ensure that the systems have the greatest benefit from the start and then evolve the national networks from there.

Charlotte Owen: I agree with Keith Baker to an extent, but he is almost saying that some of the questions around fuel poverty sit more with other,

more strategic pieces of forthcoming legislation and policy from the Scottish Government. Given that consumer protection is not devolved to the Scottish Government, there is only so much that can be done within the scope of the bill to protect consumers. The Association for Decentralised Energy believes that, within Scottish competences, the bill goes as far as is possible in protecting consumers.

The inclusion of considerations around fuel poverty and the consenting process is particularly welcome. We support the role that heat networks can play in alleviating fuel poverty, and that should be embedded in any considerations about whether a heat network is appropriate for an area. Ultimately—[*Inaudible.*—]—can be locally effected. Therefore, including the fuel poverty assessment as part of the heat network consenting process, which is ultimately a local decision, makes a lot of sense. The bill generally does as much as it can to address the question of fuel poverty in the context of greater powers for the Scottish Government around consumer protection or forthcoming changes to fuel poverty legislation within existing competences. The flexibility with which the bill is drafted should also enable it to mould to those new circumstances.

The Convener: Thank you. Paul Moseley also wants to come in.

Dr Moseley: I agree with Charlotte Owen in recognising that there are limits to the bill's ability to tackle fuel poverty. However, there are good examples of where district heating has made a significant impact on alleviating fuel poverty, including in Aberdeen. In a previous evidence session, the committee heard from Michael King about the work that Aberdeen Heat and Power has been doing, which has helped to bring a lot of people there out of fuel poverty through access to low-cost district heating.

The wider point is that there is a tension between technology and the cost of heat to customers, and the cheapest solution is not necessarily the lowest-carbon solution. That is as true for district heating as it is for anything else. The bill can help in that regard by creating a set of conditions that allow investment to come in with the lowest possible cost of capital. If that happens, it will translate into the lowest prices for customers. Therefore, the key thing that the bill can do is help to create a set of investment conditions to de-risk the investments to enable the private sector to come and help to build out these networks at a low capital cost.

10:45

Rhoda Grant: What are the implications of the Scottish Government granting deemed consent?

Should we be considering other systems for planning permission, perhaps including the involvement of local government or communities? Should we be looking at something different? Does deemed consent by the Scottish Government create a hostage to fortune?

Dr Baker: To reiterate a point that I have already half made about the importance of the Heat Supply Act in Danish legislation—I should add that I first recommended that to the Scottish Government back in 2012—and to touch on the previous question, if you are developing a new source of waste heat, you should be putting in place infrastructure to deliver that to local communities and, ideally, retrofit it. That is an opportunity that we have missed in planning and that would fit quite well within the scope of the bill. It may require secondary legislation, but we could put something in the bill as a step towards, or setting out the need for, a heat supply act, to ensure that those who produce excess heat are not wasting it and that those who need that excess heat, because they are fuel poor, can be connected over time. The Danes staged it over multiple revisions, and that is how we must do it in Scotland. We could do it in a shorter time than the 30 to 40 years that it took Denmark, by learning from its experience. However, we are transposing generation 4 legislation from Denmark, in the form of the proposals as they stand, to a country that has less than 1 per cent penetration of district heat. There is a challenge and a potential solution in that answer, I hope.

Charlotte Owen: The Association for Decentralised Energy supported the inclusion of deemed planning consent in the consenting process. That was partly a response from the discussions in the working group that having to go through the planning permission process alongside a permitting, licensing and consenting process creates a significant amount of additional administration that ultimately increases costs for consumers. However, another reason for our support for deemed planning consent is that it helps to overcome part of the question around demand risk. It helps to overcome some of the investment barriers and to create a bit more certainty for investors about how likely it is that a heat network will happen. Planning has been known to be a barrier to the development of heat networks in some cases, so having deemed planning consent supports that.

That said, the committee is right to flag the importance of community engagement in the process. That is paramount. In the creation of local heat and energy efficiency strategies and heat network zones, we expect there to be an extensive consultation process with the local community so that people understand the processes, understand that a heat network has been identified as the right

solution for their area and understand that there is a low-cost, low-carbon opportunity available to them. That would also facilitate people's engagement in the process and their understanding of what the decarbonisation pathway for their home or business looks like.

Therefore, my answer is in two parts: we feel that deemed planning consent makes the most sense for the heat networks market and helps to overcome many of the barriers, and that it is a rigorous process that will support the delivery of the right outcomes for heat networks in Scotland and for the communities that are served by them. However, it is important that communities are engaged in the process and that, as Paul Moseley noted, the local authority has a role in the consenting process and that it is formally consulted and ultimately has some say in the designation of a consent.

Rhoda Grant: Should we have an appeals process? Is the balance of power too skewed towards the developer?

Charlotte Owen: That is where we see the benefit of having the Scottish ministers involved in the consenting process. We think that that power is fairly balanced by having the local authority, the Scottish ministers, the heat network developer and the local community involved in that discussion and process. The oversight by the Scottish ministers means that they must consider the overall strategic outcomes that the Scottish Government is seeking, including, for example, whether the project delivers the right thing for the local community and whether it supports the Scottish Government's net zero carbon ambitions. In general, the process is a rigorous way to ensure that we drive the right outcomes and engage the right people.

That said, there could be a role for an appeals process. However, in general, given how rigorous the bill is already, that is not a necessary amendment.

Dr Moseley: I echo much of what Charlotte Owen just said, particularly with regard to the role of community engagement. There is a practical point about the balance between regulatory benefit and burden. Under the Scottish proposals for regulation, operators will be asked to apply for a licence before they apply to operate or build any schemes, and they then need a separate consent. It makes sense to consider the planning applications for that in the context of the wider considerations in the consenting process, looking at the match between the application for a particular scheme in a particular place and the local authority's local heat and energy efficiency strategy to ask whether it is a good fit, whether it will deliver the right outcomes for customers and whether it is the right solution in the area.

The deemed planning consent avoids having to apply for a third consent. It makes sense for a deemed planning permission to accompany a consent, granted by the Scottish ministers, as the bill envisages, in the first instance, but, I imagine, with significant input and consultation with the local authority concerned, as I said.

Colin Beattie: How long, on average, might it take to recover the capital costs from a heat network? A fair bit of investment goes into the heat network in the way of equipment and various other assets. Based on past experience, how long would it take to recover that cost?

Dr Moseley: It can take a significant time for investments in heat networks to be recovered, because they are capital intensive. A significant up-front investment is made in installing the infrastructure, and the revenues to repay that investment accrue over a long time and are spread over a relatively small customer base. That is different from, for example, gas and electricity markets, where the costs are recovered through a regulated asset base over a large number of customers. The cost of a heat network will be recovered from the customers of the network. Because that is a relatively small number, the cost needs to be spread over a long time so that the charges to the customer are kept as low as possible.

Business cases for heat networks are typically done over a 40-year period, and it is not uncommon for the capital to be paid back over a period of significantly longer than 15 years. Therefore, it needs patient capital, and investors and contractors are content with that, provided that they can see the certainty of the revenue streams, which is about de-risking the demand for the heat networks.

Dr Baker: That question is two questions in one—there is a purely technical answer and a wider socioeconomic answer. On the technical answer, I largely agree with Paul Moseley that a period of 15 years is bandied about. However, in Danish projects such as those in Marstal and Brødstrup, by incorporating interseasonal thermal storage in heat networks, they have managed to reduce the payback periods and the cost of energy to householders. Incorporating interseasonal thermal storage should be seen as critical in the specification of future heat networks. It will not work in absolutely every case, but it works in those world-leading examples.

On the socioeconomic question, if you are dealing with fuel-poor householders, you get benefits to the economy from reduced costs to the national health service. With biomass, if you develop local and sustainable biomass, you get economic benefits for the local economy. Therefore, it is important to consider not just the

technical payback period but the wider benefits and the co-benefits. I covered that in a report on co-benefits of adaptations to built environments that was published with the “Climate Change Plan: The Third Report on Proposals and Policies 2018-2032”.

Those are the two issues. On the technical side, we can reduce the time if we follow the Danish example; on the socioeconomic side, we must consider the wider picture and factor that in to economic decision making.

Colin Beattie: There would therefore be a long time before any sort of transfer competition could take place. We are talking about 15 years, but potentially more, depending on the development. That would appear to need tight regulation, up to the point that some form of competition comes into play. Do the witnesses agree?

Charlotte Owen: That is an important question and one that we have considered a lot at the ADE and in discussion with our members, as well as through the Scottish Government’s heat networks working group. We are of the view that concession or permit-type processes help to introduce competition to the heat networks market by introducing various specific points at which competition takes place and where the outcomes that a heat network delivers will be considered. For example, to win a permit, operators would have to have a discussion about what sort of heat prices they might charge, whether they would meet certain decarbonisation outcomes and whether they would tackle poverty. That creates an incentive for the heat network operators to perform well and to deliver good customer outcomes. They would of course do that anyway, but there is that additional incentive, because they want to re-win the rights to continue to have control of the heat network permit or to have that advantage in that particular area.

The permit or concession-type model helps to introduce the elements that drive good customer outcomes into the market, particularly given the competences that the Scottish Government has through devolved powers. However, it is important to consider the interplay between that and the consenting process. That is why we welcome the introduction of a mechanism that supports the licensing framework to drive good consumer outcomes, given that heat network operators are being granted some level of benefit in a particular area.

Colin Beattie: Does the transfer—[Inaudible.]—whether it could be improved.

11:00

Dr Moseley: [Inaudible.]—of permit holders and the need to protect consumers through that

process. It is possible to define a concession competition that tightly links to the concessionaire’s ability to build out networks to consumers. If the concessionaire does not build out according to the agreement and the terms of the permit, the ultimate sanction is that the permit can be revoked and the assets transferred to a new operator. The bill envisages the mechanism through which, first, competition can be introduced and, secondly, the permit holder or concessionaire can be incentivised to comply with its terms.

It is important to realise that we need private investment in the networks, and at some scale. Heat networks work best when they operate at scale, and they benefit from economies of scale. There is a real advantage to having an operator who has the exclusive right, won through competition, to develop out networks in a particular area, to drive economies of scale and to bring their finance and expertise to that. It is really important to balance the potential for harm from a monopoly environment with the benefits that can be gained through bringing in expertise, a long-term view and strategic planning from heat network operators.

Dr Baker: The flipside of regulation is getting the design and specification right in the first place. If we are talking about overregulating the district heating market in Scotland at the moment, that shows how far we are from where we need to be when it comes to getting the technical specifications and the technical side right.

I have been in contact with the heat networks team in the Scottish Government, and I am aware of District Heating Scotland, but I do not see that technical expertise there. To put it bluntly, you are not paying the guys enough. The sort of people who we need to be involved in setting the specifications are consulting engineers, who will be charging 50 grand a year more for their salaries. I know James Hemphill, and I happen to know what his salary is. We need to pay our technical experts better and create a technical hub, in line with our proposals for a Scottish energy development agency. That would mean getting it right in the first place and that we would not have to introduce such strong regulations early on, which risks damaging the industry at a nascent stage.

Gordon MacDonald: I return to an earlier discussion on consent. To date, a significant number of heat networks have been led by local authorities. Was there a danger that, if they had been left to local authorities, that could have presented a risk of self-regulation? With the involvement of the Scottish ministers, is there enough of a safeguard in the bill to prevent that?

Charlotte Owen: The heat networks regulation working group, which the Scottish Government

convened when introducing the bill, considered the question of self-regulation in some detail. That is partly where the role for ministers has come in. It was the view of many members of the group, including me, that having that role for ministers has helped to overcome the concern about self-regulation.

It is important to recognise that, ultimately, local authorities are still trying to drive the best outcomes for their areas. They are the bodies that are most aware of the opportunities in a particular area—they are aware of the priorities for alleviating fuel poverty and addressing air quality considerations. For instance, they will be aware of where waste heat opportunities could be utilised, and they will have relationships with industry and consumers, helping to drive successful heat networks. That has been seen across the UK and particularly in Scotland, where local authorities have been driving successful heat networks that have harnessed low-carbon opportunities and have offered consumers a really good outcome.

For us, the proposals strike the right balance between placing powers in the hands of those who are well placed to identify where heat networks could develop and ensuring an adequate level of oversight. It is important to recognise that the private sector has a key role in driving successful heat networks. In general, the process will help to support that, and we can see that the process is generally fine.

Dr Moseley: I echo what Charlotte Owen said—she has dealt very well with the point about the potential for self-regulation. I would add only that there are some really good examples of heat networks in Scotland and in the rest of the UK in which the local authority has taken the lead, has developed and funded a scheme and now owns and operates it successfully. Aberdeen City Council and Fife Council provide great examples of that. However, that is not the only approach, and the sector will not achieve its full potential unless we lever in significant private sector investment. Midlothian Council is currently tendering out a project and is bringing on board a joint venture partner, which will provide significant expertise and finance.

If the sector is to achieve its potential, it is important to allow such networks to be opened up to the market, to have partners that can bring in expertise and significant finance, and to find a way to do that that keeps the cost of capital down.

Dr Baker: I laughed slightly when I heard the question. I would refer the committee to the response issued by the Convention of Scottish Local Authorities to the consultations on the local heat and energy efficiency strategies 1 and 2, and to our response. The bill seems to be the latest in a tradition of legislation in which an awful lot of

responsibility is placed on local authorities, but with very little in the way of enforcement powers or resourcing to enable authorities to use those powers. As Paul Moseley said, local authorities have led some of the best district heating schemes in the UK, and they should be critical to the process, but we are not giving them the resources that they need to engage in those processes and to move on their responsibilities.

Gordon MacDonald: How could the designating and permitting process be improved to align with development planning and wider strategic objectives?

Dr Baker: That is a classic opportunity for me to plug the proposals for a Scottish energy development agency. We absolutely have to make the development of district heating part of our wider objectives of tackling social deprivation, tackling fuel poverty and creating jobs. A short answer would be, “Please see our proposals.” A much higher level of strategic planning is involved than we see in the bill.

Dr Moseley: The parallel piece of legislation introducing a duty on local authorities to create local heat and energy efficiency strategies will be key to the wider strategic planning process, ensuring that the right decarbonisation solution is put in place in the right part of the local authority area and that, within the zones that are identified for district heating, we do what we can to ensure that there is enough demand to be attractive to investors.

Everything that the bill does in that regard is helpful, although I wonder whether some of the provisions on mitigating demand risk for investors could be strengthened. Regarding the role of public sector buildings within a zone that has been designated a heat network zone, could we do more to encourage or require building owners to connect to networks when it is the right thing for them to do that—and similarly for private building owners?

I leave aside domestic consumers, because of the concern about consumer protection being a reserved matter, but we should be doing all that we can, first, to encourage investments involving public sector buildings and showing leadership in that regard; and, secondly, to encourage the owners of large private sector buildings to connect to networks as much as possible. That would help the wider strategic aspect to play out.

Charlotte Owen: I echo what Paul Moseley said. There are opportunities to strengthen the bill to help it to deliver the Scottish Government's wider strategic outcomes. Introducing a requirement for public sector and some non-domestic buildings—particularly anchor-load buildings—as well as new developments to

connect to heat networks and heat network zones would be one way that we could strengthen the bill. We would like such provisions to be included at this stage but, even if they were included at a later stage in the discussions, the bill would result in positive impacts for the heat network sector in Scotland.

In particular, when you are considering waste heat opportunities in Scotland, having some of those greater powers—for example, to require that those with waste heat connect to the heat network and supply heat to it—would be one way to encourage a circular economy in Scotland, and it would help to provide lower costs for consumers, because waste heat is often relatively cheap.

Andy Wightman: I have one final question, which relates to the previous conversation on the building assessments.

The bill contains an obligation on public authority owners of buildings to conduct assessments and consider the potential for connection, and it leaves it open to ministers to extend that. Is there an argument for having more prescriptive provisions in the bill in relation to private non-domestic buildings? I am thinking, for example, of places such as universities, colleges and quite large complexes that might be associated with retail.

Dr Moseley: There is a strong case for doing exactly that. It makes sense to start with public sector building owners, because the public sector is usually able to plan its estate on a fairly long-term basis compared with the private sector. Larger buildings in the public sector, in particular, make good anchor loads for heat networks, whereas there can be increased uncertainty around private sector buildings. However, owners of large private sector buildings with significant heat demands should certainly be encouraged to do what you suggest.

There is also scope for tightening the building assessment report so that it does not just tell us whether a building could connect but goes further and says whether it should connect. It should look at the low-carbon alternatives for that building, such as removing fossil fuel. For example, replacing a gas boiler with another gas boiler locks in carbon emissions for another 10 to 15 years, and that should be removed as an option as soon as possible, with low-carbon alternatives being considered. When the building assessment report says what the right solution is for the building, the choices for the building owner should become constrained by that. We have to get to that position.

Dr Baker: The important thing is that, when we make such decisions, we make sure that we use real data. Obviously, that should be relatively easy

in relation to public sector buildings. Access to energy data should be one of the public's rights. I am aware that some organisations treat such information as commercially confidential, and we need to have a discussion about whether we can use legislation to force them to release that data.

With regard to the homes that we are connecting to, when we design heat networks, we need to be sure that we have estimated the level of demand correctly. That involves using real measured data and not—for want of a better phrase—getting the Energy Saving Trust to go round and deliver home energy checks. The errors in EPCs can be orders of magnitude out. We cannot afford to do that when we plan district heating, because of the costs that could be passed on to consumers through additional standing charges or through not meeting the demand in the first place.

The critical message that I would send is that we need to make all our decisions on the basis of real, measured data.

11:15

Charlotte Owen: I very much echo the points that Paul Moseley and Keith Baker have made. We must remember that the ability of the building assessment report to drive connections to heat networks is partially decided by measures that will fall outside the bill as drafted, such as new regulations that would prevent existing buildings from retrofitting heating solutions that are not consistent with our net zero pathways. Having a better understanding of the opportunity to install heat networks is a good thing—these are known as trigger points.

We welcome the extension of the requirement for building assessment reports to be undertaken by all non-domestic buildings within a heat network zone. Ideally, we would like that to go further so that, ultimately, we can overcome the demand-risk question that we have discussed. We welcome the emphasis that the Scottish Government has placed on addressing demand risk in its explorations around the bill. We welcome the fact that the bill recognises that, by addressing demand risk, we help to drive the good outcomes of high levels of decarbonisation and lower costs for consumers.

As far as possible, we should seek to drive those outcomes through the powers and competences of the Scottish Government. We would like the building assessment reports to be extended to include non-domestic buildings because, as Keith Baker notes, that would give us a wealth of data that could aid our understanding of why people do not connect to heat networks. Ideally, we would like the bill to be strengthened to

include an obligation to connect to a heat network, particularly for anchor-load buildings.

The Convener: Members have further questions, but we have run out of time, so we will write to you on a number of other points. If you feel that you have not had enough time to make the points that you wanted to, you can write to us to supplement the answers that you have given. Thank you for speaking to us.

Before I suspend the meeting, I inform members that the deputy convener, Willie Coffey, will chair the meeting for agenda item 5.

11:17

Meeting suspended.

11:23

On resuming—

Tied Pubs (Scotland) Bill: Stage 1

The Deputy Convener (Willie Coffey): I am pleased to welcome our panel of witnesses to discuss the Tied Pubs (Scotland) Bill. With us are Jamie Hepburn, the Minister for Business, Fair Work and Skills; Aileen Bearhop, the head of industry development in the food and drink division at the Scottish Government; and Dr George Burgess, the deputy director for food and drink at the Scottish Government.

I invite the minister to make a short opening statement.

The Minister for Business, Fair Work and Skills (Jamie Hepburn): Thank you for inviting me to join you. I hope that, unlike last week, our internet connection remains secure, so that we can successfully begin and conclude our conversation.

The Scottish Government supports Mr Bibby's broad intention of fair and equitable treatment within commercial agreements. We are keen to have a successful hospitality sector in Scotland, and tenant pubs are an important part of that.

The Scottish Government's position on Mr Bibby's bill at this juncture is a neutral one: we have not determined what our position on the bill at stage 1 will be. We will carefully consider the committee's report, which will be based on the evidence that you gather, before we determine what our position will be.

Having said that, we would be interested to see some more evidence behind the detail of the bill. Tenure in the Scottish pub sector is quite different from that in England and Wales. More than 60 per cent of pubs in Scotland are independently owned and managed, and the proportion of pubs under tied arrangements in the rented sector is much lower. The policy memorandum confirms that the number of arbitration cases and market-rent-only requests as a result of the bill is likely to be very low.

As we say in the written submission that we provided to the committee in July, we think that more evidence may be required on the nature and scale of the perceived problem. It is also important to better understand the consequences of a bill that goes further than the legislation in England and Wales in a number of respects. The Government has been provided with only a little evidence of any significant challenges, and I have had little contact from stakeholders on the matter, except in relation to the bill itself.

I very much look forward to seeing the committee's report and giving it the Government's full consideration. We will then debate the bill at stage 1.

The Deputy Convener: The Scottish Government's written submission suggests that the voluntary code might offer tenants enough protection and that the bill might not be needed. We have heard from various tenants during our work, and they did not seem to be particularly aware of that code. How can we address that and ensure that everybody knows what the code provides?

Jamie Hepburn: Before I was cut off last week, I saw the evidence that was provided. Paul Waterson commented that his organisation was purportedly meant to be involved in it, but it was not aware of that. There is clearly an issue there.

We have not been provided with any particular evidence to suggest that there is a lack of awareness of the code. I observe that it is primarily an issue for the industry to determine, but we would stand ready and willing to offer any assistance that we could provide in that regard.

This goes back to the fundamental issue. You will doubtless ask some questions about the research that we undertook back in 2016, which identified that there was not a particular issue that needed to be grappled with. This is only speculative on my part, but I wonder whether that is also reflected in people not needing to acquaint themselves with the terms of the code. However, if evidence is presented that we require to do some work to assist the industry in making the code better known among those who operate in the sector, we will, of course, be happy to consider that.

The Deputy Convener: There were also a few comments about people being unwilling to come forward to raise issues that are coming up in the sector. Have you picked up on that aspect?

Jamie Hepburn: I have been told that that is an issue. Again, however, I have not been presented with any evidence to suggest that that might be the case. I go back to the evidence that you heard last week. You will need to forgive me, as I cannot remember who made this point, but a witness who was pressed on the question said that the evidence on that is anecdotal. In that sense, it is hard to quantify.

As a Government, we are capable and we operate on the basis of respecting the confidentiality of people who come forward to express any concern. I know that the committee takes the same approach and that, when any parliamentarian is representing individual constituents, we do that on the basis of respecting the confidentiality of those who bring forward

concerns. I am not, however, being inundated with correspondence from concerned parliamentarians who are expressing the concern of their constituents. It is hard to quantify, but I am not aware of any particular evidence to suggest that people are fearful of coming forward.

11:30

From the research that we undertook, I can say that there was a challenge in getting people to engage with the process. I heard somewhere that the committee had a similar experience—it was perhaps Gordon MacDonald who made that point when asking a question, but forgive me if I have recalled that incorrectly. I do not know whether that reflects people being afraid to come forward or whether, as seems to be borne out by the research that we carried out, there is not a substantial problem here and that is why people are not coming forward.

Dr George Burgess (Scottish Government): It might be worth while for the committee to look back at the research that we published at the end of 2016. In their report, the researchers identified some of the difficulties that they encountered in their work. They really struggled to get companies, pubs and tenants to engage with the research, and they cited a number of possible reasons for that. One of those, which the minister mentioned, was unwillingness to provide sensitive personal, business and financial information. There might be some mistrust of the Government. Another reason that was cited was a general lack of interest and a failure to see or understand the need for legislation. A number of factors limited the research that was able to be undertaken in 2016.

Richard Lyle: Minister, you mentioned research. I am led to believe that the Scottish Government commissioned a study on the pub sector in Scotland last December, which was phase 1. Has any further research been undertaken since then?

Jamie Hepburn: The only substantial research that we have undertaken is that which was published in December 2016. I will bring in George Burgess or Aileen Bearhop to supplement my answer, in case they are aware of anything else, but that is the only research of which I am aware. We have drawn many of our assumptions about where we are from that research, although I make the point, as George Burgess has just done, that there were challenges in getting engagement during that research.

We have not undertaken any further formal research since then. We have continued to engage with representatives of the industry, who have different perspectives on the necessity for the bill as a legislative vehicle, as the committee

heard last week. Even there, however, engagement has been fairly limited. I am not getting lots of publicans or even their representative organisations knocking at my door regularly. The engagement has been largely through the prism of the bill.

The only significant research has been the research that we published at the end of 2016. I do not know whether George or Aileen knows of anything else.

Aileen Bearhop (Scottish Government): There has been nothing since then.

The Deputy Convener: One of the recommendations from that study was that more dialogue should take place between trade bodies, the Government and interested parties about the development of a bill on the subject. Have you been able to do that satisfactorily, or would you wish to carry on with that should the bill progress?

Jamie Hepburn: It is both. We are in regular contact with the representative organisations of the industry on these matters. In the fairly recent period, I have had dialogue with the Scottish Licensed Trade Association, the Scottish Beer & Pub Association and Greg Mulholland, the name of whose organisation does not quite come immediately to mind—it is the British Pub Confederation. We discussed some of these matters, although of course we also discussed a wide range of other matters including the current Covid-19 context and a variety of other issues that impact on the industry.

We have had on-going dialogue, and we will of course continue it. That includes me and Fergus Ewing, as the cabinet secretary with primary responsibility for food and drink policy for the Government. That dialogue happens, and it will happen on an on-going basis.

Rhoda Grant: The Scottish Government's submission talks about "potential unknown consequences" of the bill. Have you explored those and come to a conclusion on them? How does the economic impact of those consequences compare with the £31 million that is currently extracted from the Scottish economy by tied pubs?

Jamie Hepburn: I will be candid: we are not advancing the bill, and ultimately it is for Mr Bibby, who is advancing the proposition, to set out the wider evidence base. However, there are issues with the bill going a bit further than the UK Government legislation on the issue has done. For example, the bill could encompass a wider range of pubs. A threshold is set in the English and Welsh legislation that the company has to own 500 or more pubs under the arrangement before the mechanism is triggered. I appreciate that it may not be sensible to have a threshold of 500 pubs in Scotland, where we have a very different

profile, but why is there no threshold at all? What are the consequences of that? What might be the consequences for investment?

It has certainly been put to me by representatives of the industry—I heard some evidence on this being provided to the committee last week, while my connection remained and enabled me to hear it—that investment might not happen if the bill is advanced. Another issue is the proposed arbitration, which could be applied retrospectively after a person's lease has concluded. What is the efficacy of that move, and what would be the outcome thereof if the person was no longer a tenant?

Another issue that we need to understand relates to what is clearly a sound principle that has been laid out in Mr Bibby's bill that any commercial agreement

"should fairly share the risks and rewards amongst the parties."

I do not think that anyone would demur from that, but we are talking about legislation and, if we are creating that as a point of law, what does it mean in practical terms?

If you are asking me whether we have undertaken any substantial analysis of that, the answer is that we have not, not least because, as you can imagine, other things have been prevailing on us and occupying us in the past months. Those questions should be put to the person who is proposing the bill. That is not me and it is not the Scottish Government.

The Deputy Convener: Dr Burgess, do you want to comment?

Dr Burgess: My request to speak was in relation to the previous question. My finger was a little slow on the button.

Rhoda Grant: In my question, I talked about the £31 million loss to the Scottish economy because of tied pubs. Surely no other consequence could be as crucial as the current loss of that investment in our pub sector. Has the Scottish Government looked at that? If so, what plans does it have to try to take that £31 million back and keep it in the Scottish economy?

Jamie Hepburn: I think that we would need to understand the evidence base better to suggest that that is actually the case. We need to consider the flipside as well. Last week, I heard some people say, in respect of the beer companies saying that they are holding off on investment propositions, "Well, they would say that." I can only take that at face value. I do not know whether these things can be drilled into further, but that has also been posited. These things need to be balanced.

We have not undertaken any research thus far, although I would not narrow down the option of our doing that. If the committee feels that it would be helpful, we will of course consider it.

Maurice Golden: What does the minister think about the contribution from Heineken, which is the pub company that is responsible for the largest number of tied pubs in Scotland? The company's headquarters here in Edinburgh supports hundreds of jobs. How can the idea of an extraction from the Scottish economy be squared with the undoubted contribution made by those jobs to the Edinburgh and Scottish economies?

Jamie Hepburn: We need to consider that in the round. Those jobs make a substantial contribution. That said, I have seen no suggestion that those jobs or that headquarters would be in peril as a consequence of the bill. We should be fair and reasonable and make that point.

Nonetheless, some of those companies have suggested that, as a consequence of the bill, some investment propositions are being held off at the moment and might not happen. That could be followed up with those companies, but they have put that on the record.

Last week, the Scottish Beer & Pub Association told the committee that, at the moment, more investment is coming into Scotland because we do not have the legislation and there is legislation in England. I take that point at face value, but it may need to be further drilled into.

Maurice Golden: I have a question about guest beers, on which we heard polarised evidence from last week's panels. The pub companies suggested that local guest beers could be offered. What evidence does the Scottish Government have to suggest that tied pubs mean a lack of choice and a lack of support being offered for local beers?

11:45

Jamie Hepburn: That is a reasonable question. I have no evidence to suggest that tied arrangements significantly inhibit guest beers, nor any evidence to the contrary. By its very nature, a tied agreement means that there is the issue of getting a supply from a certain brewery. You could also posit that that means security of supply, although I guess that the counter argument to that is that it comes at a certain cost.

I heard with interest the point made by the Society of Independent Brewers that there is some distribution through the Beerflex scheme although, admittedly, it is limited. However, there is also evidence that, outwith that scheme, there are wider supplies of guest beers.

We want to ensure that the burgeoning brewery sector in Scotland is supported. Last year, I was

on Harris opening a new brewery. I was delighted to be able to do that and to sample a modest amount of its new product. We want to support that sector, and if there is more that we can do in that regard we will be happy to do it. We do that through our food and drink policy, on which Fergus Ewing leads.

Right now, the bigger challenge for Scotland's breweries is a proposition to reduce small breweries relief. The Society of Independent Brewers has a particular concern about that, and it is wider than the concern about some of the issues that were discussed last week. Therefore, we are actively exploring that with the society and stand ready and willing to give support in that regard.

Colin Beattie: You have spoken about the potential impact on investment, and other members have touched on that issue. Personally, I was surprised by the income amounts that have been indicated for 50 or 60 per cent of tenants in tied leases. They get very low salaries; some receive under £10,000, and many receive between £10,000 and £15,000 per year, which is quite a low income.

If the bill goes through, there is concern about how it might impact on investment because, at that level of income—even with the possibility of renegotiating rent and so on—it will be difficult to generate a business case that will allow tenants to invest in the business. What is the Scottish Government's understanding of the sources of investment in the pub sector in Scotland, and how does it compare to the situation in the rest of the UK?

Jamie Hepburn: There are a multitude of issues in there. I will try to take them all on, but if I omit anything, please come back to me.

The first issue was about incomes for those who operate on a tied lease. If anyone is earning that amount, it is unacceptably low and we would have significant concern about it. I saw Edith Monfries, who was a witness at last week's committee meeting, and she said that her company guarantees a level of income so that no one earns below that. She can only speak for herself, but that is welcome and it is what I would expect all landlords to do. It is in their inherent self-interest to ensure that their tenants can earn a decent living, because otherwise why would they want to remain as such?

Nonetheless, the point has been made. If evidence can be provided that tenants receive that amount, we would certainly want to hear about it and explore it further. I have no evidence to suggest that it has happened, other than what has been told to me anecdotally.

That brings me back to the research that was undertaken and published in December 2016, which showed that the three cohorts across the different tenures—owned, managed and pubs that operate on a tied or different type of lease—made similar levels of profit. That was in the round; it did not relate specifically to beer. Of course, much of the proposed bill relates to the relationship between the tenant and the brewer in relation to the products that are supplied directly by the brewery. However, in the round, across the entirety of the business, the analysis showed that broadly similar levels of profit were made. I hope that that is instructive, but I caveat that with the recognition that the analysis came on the back of research based on limited engagement. As the committee is aware, we have not had huge engagement on such matters with those who operate in the sector.

I do not have any evidence to suggest the scale of investment in Scotland or in other parts of the UK. The industry would need to provide that evidence. Do not quote me directly on this—I will need to refer to the evidence that was provided to the committee last week—but I think that Star Pubs & Bars said that it invested something like £5 million last year. That is just one operator, but it is a good starting place to understand the scale of investment that there has been.

Colin Beattie: One of the significant things that we have noted throughout the evidence that we have been taking is the desire from different parties to compare the situation in Scotland with the situation in England. Sometimes, we have not been comparing apples with apples, but the changes to the legislation down in England certainly seem to have had an impact. You have already said that you have not gone deeply into that issue, but has the Scottish Government drawn any conclusions from what is happening south of the border?

Jamie Hepburn: We have not drawn conclusions from what has happened in England. On the basis of our experience and research, we have concluded that, on balance, there is not a significant problem in Scotland. That might reflect the different nature of tenure, which I mentioned at the outset. In England, about 39 per cent of pubs operate on a tied basis, whereas the figure in Scotland is 17 per cent. Even within that, there are differences. In England, it is far more common for people's domestic property to be attached to the pub that they rent on a tied basis. Examples of that in Scotland are negligible; we do not see that in the market in Scotland. The forms of tenure in Scotland and south of the border are very different.

We have not drawn conclusions from the English experience. I contend that it is still fairly

early days following the changes in England. I have heard concerns about the manner in which the adjudicator that has been established in England has been operating. I will not comment on that, because I have not engaged with the office-holder directly or with the sector in England that widely. Our research indicates that there have not been any substantial problems in Scotland.

That does not mean that there will not be instances in which individual publicans who operate with a tied lease are upset about the arrangements with their landlords—far from it. I recognise that that can happen, but I cannot say that I have evidence to lead me to conclude that there is a systemic problem in Scotland that needs to be tackled.

Colin Beattie: I have one last question. Given the evidence that has been submitted that highlights the allegedly very poor income levels of a substantial number of tied tenants, regardless of the bill, is there a case for the Government carrying out further investigations into that, just to look at what income levels and so forth should be?

Jamie Hepburn: There could be. I would want to see an evidence base that suggests that there is an issue that we need to look at. When I met Mr Bibby to discuss the bill, he told me that it is a challenge. The Scottish Licensed Trade Association has suggested that it could be a concern, and I heard that reiterated to the committee. If we can get beyond the anecdotal and have an evidence base, of course we would be willing to prosecute and look into that. If it emerged that there was a challenge, we would take the action that we considered necessary.

Andy Wightman: I think that you said in your opening remarks that you are awaiting the committee's report before the Government takes a view on whether to support the bill. You also have your research that was published in 2016. In your written memorandum to the committee, you say that you believe that

"a more detailed analysis is needed on the issues highlighted in this submission before we are able to reach a view on the Bill."

Who do you anticipate will undertake that detailed analysis?

Jamie Hepburn: I go back to the point that, if I were sitting before you and proposing legislation, it would be eminently reasonable to ask me to provide the evidence base. However, I am not proposing the legislation.

That said, the committee—it is entirely for the committee to do, of course—can say in its report that, after having taken that evidence, it recommends that the Government look into X, Y or Z. We are accountable to Parliament, so if a recommendation came from Parliament, we would

have to take it seriously and look into it. However, speaking frankly and candidly, it is for the proponent of the bill to do that, which in this instance is Mr Bibby.

Andy Wightman: Are you saying that, in the absence of that detailed analysis, you would not be able to—[*Inaudible.*—]the bill?

Jamie Hepburn: I beg your pardon? You broke up a wee bit there, Mr Wightman.

Andy Wightman: In your written submission, you say that you

“believe a more detailed analysis is needed”

before you

“are able to reach a view on the Bill.”

The obvious logic of that is that, if there is no such detailed analysis, you will not be able to form a view.

Jamie Hepburn: That is probably the case, but, of course, the committee’s report will form part of the detailed analysis, so I want to see what it says.

Andy Wightman: In the same paragraph, you say:

“Any further consideration would also be subject to the Scottish Government’s assessment as to whether the Bill would be within the legislative competence of the Scottish Parliament.”

Neil Bibby has stated that, in his view, it is. The Presiding Officer has also said that, in his view, the legislation is within competence. What issues are you worried or concerned about in relation to competence?

Jamie Hepburn: I am not massively worried about competence; it is just a general observation that such an assessment would be needed. Clearly, some of the issues start to interact with the realm of commercial relationships.

There could be an issue—I am not saying that there definitively is—in that, under the terms of the Scotland Act 1998, the bill could start to impinge on some reserved areas. That is all there is. It would be incumbent on us to have a look at the issue and ensure that we were satisfied, as we would do with any legislation. If we introduce proposed legislation, we have to look at competence through our legal directorate and consider whether it is compatible with what is devolved and reserved.

I do not have anything specific to say to you in that regard. It was just a wider observation on what it would be incumbent on us to do.

Andy Wightman: I just want to be clear about the future process. The member in charge of the bill is satisfied that it is within legislative competence, as is the Presiding Officer. In the

light of those statements, I do not think that the committee will take specific evidence on the question of competence. Can we take it that, as you said that

“Any further consideration would ... be subject to the Scottish Government’s assessment”,

you will undertake that assessment, regardless of what the committee says?

12:00

Jamie Hepburn: If the bill goes past stage 1 and gets to the amendment stage, for example, we would need to consider it in that context. I guess that I was alluding to where the bill will proceed to.

Andy Wightman: That is an important point, because, although a bill is within legislative competence on introduction, amendments may change that.

The Deputy Convener: I think that Dr Burgess wants to come in.

Dr Burgess: Yes, very briefly. The exchange has covered most of the point already. As the minister said, we have not done a detailed analysis of legislative competence, which we would do with a Government bill. We do not at this stage see any particular showstoppers and, as Mr Wightman said, the Presiding Officer has given his certificate in relation to the bill. There could be changes at stage 2, so we will look at the bill in more detail. We have not identified any legislative competence issues at this stage.

The Deputy Convener: I invite Gordon MacDonald to ask the last questions in this evidence session.

Gordon MacDonald: Thanks, convener. The Business, Energy and Industrial Strategy Committee at Westminster carried out an inquiry into the pub code and found that, of 601 full responses, only 37 tenancies had decided to move over to market rent only, which was about 6 per cent of the total number of inquiries. Has the minister any thoughts on why the conversion rate was so small?

Jamie Hepburn: I will be candid: I do not have thoughts with regard to the conversion rate. I observe that the inquiry rate and the conversion rate represent a minuscule proportion of the overall number of properties that are eligible.

In my figures, in the first three and a half years, only 1 per cent of the total in-scope properties in England and Wales have moved to the market-rent-only model. If we look more widely at the dispute mechanism in the legislation, the numbers are still fairly low: roughly 3 per cent of the total

that are in scope have had issues that have moved to dispute adjudication and arbitration.

I do not know whether that reflects the point that I made at the outset about what the problem is that we are seeking to resolve. It is clear that there are instances, small in number, where some have sought to move to a different form of tenure, and some have sought to utilise a statutory mechanism to move concerns to arbitration. However, the number is very small. Does that suggest that there is not a systemic issue but a small number of issues that need to be ironed out case by case? That is potentially so.

We cannot make that extrapolation across the board entirely, because Scotland has a different market and a different form of tenure. However, if the pattern were to be repeated in Scotland, it could be that six tenants each year would move to a market-rent-only agreement. Does that require an entire legislative structure, setting up a statutory adjudicator and legislating for guest beers and so on? I am sceptical as to the necessity of such an arrangement, as you can probably discern from my responses. However, if the case can be made, of course we have to listen to it.

Gordon MacDonald: Tied pubs have always been an opportunity for low-cost entry for entrepreneurs to start up their business. There have been suggestions that, if the bill were to go through, we would see the growth of managed pubs by the pubco. Do you share the concerns that opportunities for young businesspeople might be taken away?

Jamie Hepburn: I concur that the model allows young people to enter the market and, once they are in business and are established and have experience, they move on to a different type of tenure. There is a good sound rationale for the model. To be fair, Mr Bibby's memorandum makes the point that the model works for most people, and I think that that is suggested by the evidence.

If we were to start to see a narrowing of such opportunities, as has been suggested—it is only a suggestion that has to be prosecuted further—that would be a cause for concern. Anyone would be concerned about a narrowing of opportunity.

Gordon MacDonald: Do you agree with the former Labour shadow business minister, Gill Furniss, who said to the licensed trade press:

“The code is not fit for purpose and the Government must urgently review it”?

Bearing in mind that the member's private bill is based on the English legislation, should we be wasting time processing legislation that is based on flawed legislation from south of the border?

Jamie Hepburn: Even proponents of the legislation have expressed concerns about what has been put in place south of the border. There are some tweaks and differences in the bill but, by and large, it replicates the model that was put in place south of the border. The concerns that have been expressed have to be heard and taken seriously.

With regard to whether we should use our time to consider the bill, Mr Bibby is perfectly within his rights, as is any elected member of Parliament, to bring forward proposed legislation. He is entitled to do so and has got to this stage. I guess that we have to use some of our time to do a little bit, at least.

The Deputy Convener: I have a final comment. Last week's evidence was pretty polarised: on the one hand, we heard that the bill is the best thing since sliced bread and, on the other, we heard that it is a disaster waiting to happen. Where do you sit? Do you lean to one or the other, or do you position yourself slap bang in the middle?

Jamie Hepburn: I wish the committee well in squaring that circle, convener. That is where we are. There are strong opinions, albeit I contend that a fairly small number of institutions and organisations are involved. I recognise that the bill is not likely to draw the attention of the wider public but, for the organisations that are involved, the views are pretty polarised. I can only go with what I said at the outset of my evidence: we are neutral on the issue. If I were to go further, I am probably sceptically neutral. If the proposition is for change, it has to be a good one. I am open to hearing if that might be so, and I look forward to seeing what the committee's stage 1 report says.

The Deputy Convener: There are no other questions from our members, so that concludes our evidence session. I thank the minister, Aileen Bearhop and Dr Burgess for taking part. As previously agreed, the meeting will now move into private session.

12:09

Meeting continued in private until 12:50.

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