

HEALTH AND COMMUNITY CARE COMMITTEE

Tuesday 7 September 1999
(Afternoon)

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HEALTH AND COMMUNITY CARE COMMITTEE

2nd Meeting

CONVENER :

*Mrs Margaret Smith (Edinburgh West) (LD)

COMMITTEE MEMBERS :

*Malcolm Chisholm (Edinburgh North and Leith) (Lab)

*Dorothy-Grace Elder (Glasgow) (SNP)

*Mr Duncan Hamilton (Highlands and Islands) (SNP)

*Hugh Henry (Paisley South) (Lab)

*Margaret Jamieson (Kilmarnock and Loudoun) (Lab)

Ms Irene Oldfather (Cunninghame South) (Lab)

*Mary Scanlon (Highlands and Islands) (Con)

*Dr Richard Simpson (Ochil) (Lab)

*Kay Ullrich (West of Scotland) (SNP)

Ben Wallace (North-East Scotland) (Con)

*attended

THE FOLLOWING MEMBER ALSO ATTENDED :

Susan Deacon (Minister for Health and Community Care)

WITNESS:

Godfrey Howard (Head of Shellfish Hygiene Team, Marine Laboratory, Aberdeen)

COMMITTEE CLERK:

Jennifer Smart

ASSISTANT CLERK:

Irene Fleming

Scottish Parliament
Health and Community Care
Committee

Tuesday 7 September 1999

(Afternoon)

[THE CONVENER *opened the meeting at 14:01*]

Food Protection (Emergency Prohibitions) (Amnesic Shellfish Poisoning) (West Coast) (Scotland) Order 1999 (SSI 1999/26)

Food Protection (Emergency Prohibitions) (Amnesic Shellfish Poisoning) (Orkney) (Scotland) Order 1999 (SSI 1999/27)

The Convener (Mrs Margaret Smith): Welcome to the Health and Community Care Committee. We are to consider food protection orders on amnesic shellfish poisoning.

Two Scottish statutory instruments were laid before Parliament on 20 August under part 1 of the Food and Environment Protection Act 1985. The orders relate to the problem of amnesic shellfish poisoning and its impact on fishing grounds off the coast of Orkney and the west coast of Scotland. They prevent fishing for scallops and queen scallops in those areas and prevent contaminated foodstuffs from being taken from the designated areas. Another SSI relating to Aberdeenshire has been lifted. The SSIs will lapse on 13 September if Parliament does not approve them by that date.

Most members will have received background papers, but I shall give a general introduction. Amnesic shellfish poisoning is caused by a marine biotoxin, which is caused by naturally occurring algal blooms that move with tidal currents across wide areas. The toxin accumulates in certain shellfish and human consumption of them can lead to severe health problems. The condition takes its name from the fact that loss of short-term memory can be one of the symptoms.

Since 1997 there has been periodic monitoring for the presence of ASP toxins in molluscs. In accordance with the 1985 act, ministers may make emergency orders by statutory instrument that designate affected areas and last for 28 days. It is possible for SSIs to be wholly or partially revoked at any time, as was the case with the Aberdeen area, and I am sure that the Minister for Health

and Community Care will give us more details about the situation in Orkney. The orders can also be extended, as has been the case on the west coast.

Primarily, we are viewing the problem as a public health concern, but there is an on-going impact on the fishing and shellfish processing industries. No doubt we will touch on that aspect in our discussions today and at our meeting tomorrow. The health minister is with us to speak to her motion that the orders be approved.

Members should have a note on the due process of considering the statutory instruments in committee. In total, we have 90 minutes for our proceedings. I am not sure whether we will make full use of that time.

I welcome Susan and her officials to the meeting. Obviously on this occasion we are considering amnesic shellfish poisoning, but no doubt this will be the first of many visits—possibly not all pleasant—by the minister.

The meeting will begin with the minister moving the motion on the two instruments; she will outline the background to and reasons for the instruments. The minister will take questions from the committee and clarify some of her points.

The Minister for Health and Community Care (Susan Deacon): I am pleased to be here on my first visit to the Health and Community Care Committee. I am sure that the convener is right to say that this will be the first of many visits, many of which I hope will be pleasant and all of which I hope will be searching.

We are here for a specific purpose. I should like to outline some of the reasons why the orders are before members today, to set out briefly some of the key considerations that the Executive has had in mind in laying the orders and to explain why it has been necessary to take this action to protect public health.

As the convener outlined, the emergency orders ban fishing for scallops and queen scallops in waters around Scotland. The orders have been made as the result of the build-up of a naturally occurring toxin, amnesic shellfish poisoning toxin, which is better known as ASP. The toxins accumulate in the tissues of shellfish, which feed on plankton, and traditionally have been associated with naturally occurring algal blooms in late spring and summer. ASP toxin is a potential health hazard and the essential purpose of the orders is, as the convener said, to protect public health. The symptoms of ASP in humans include nausea, vomiting, confusion and short-term memory loss. The toxin interferes with neurotransmission in the brain and can be fatal.

Under the EC shellfish hygiene directive,

member states are required to put in place monitoring programmes for algal toxins in the commercial production areas. In the UK, that requirement is met by monitoring the water for potentially toxic algal species and by testing samples of shellfish flesh for the presence of toxins.

The routine monitoring system is carried out by the Marine Laboratory, Aberdeen and is currently based on testing at 36 fixed sites around the Scottish coast. I am pleased that Godfrey Howard from the Marine Laboratory is with me today—and if the committee wishes, he will be pleased to give further details of the testing programme.

The programme is supplemented by additional test locations when rising levels of toxin require more data to establish the extent of an outbreak. Samples are tested in accordance with EU required methodologies. The tests are complex and require specialist laboratory expertise and facilities.

The decision to make the orders has been taken on test results from that programme. The EC shellfish hygiene directive specifies that the level of ASP in edible parts of molluscs must not exceed 20 µg of domoic acid per gram of tissue. Crucially, the directive also requires production areas to be closed when a member state's monitoring programme reveals that those requirements are not being met.

I thought that it would be useful to take members through some of the background to the orders before they are laid. By early July, ASP toxins were detected in samples of scallops taken by the Marine Laboratory from waters on the west coast of Scotland. The samples found that ASP toxin levels exceeded the EU action limit over a wide area of water, with some levels more than 10 times greater than the action limit.

Over such a large area, we could not be sure whether the toxin was spread evenly or—possibly more likely—whether it occurred at random hot spots. The scale of the results was too high to ignore. It would have made no sense to close small areas around the highly affected locations that had been detected because algal blooms are not static.

We concluded that a piecemeal approach would be inadequate to ensure public safety. As a consequence, the area prohibited under the west coast order extends over a considerable stretch of water around the west coast of Scotland. The monitoring programme also identified high toxin levels in an area of water on the eastern side of the Orkney islands. That area was closed under the Orkney order on 17 August and was partially reopened on 1 September. As soon as the orders were made, the local authorities, fishermen's and

trade organisations and the Scottish Fisheries Protection Agency were alerted.

The closed areas must be monitored. The SFPA monitors compliance with the bans through marine surveillance operations and at ports of landing. Local authority environmental health officers ensure that the effect of the order is understood locally and that, where appropriate, warning notices advising the public not to gather shellfish to eat are posted in affected areas. In addition, when areas of open sea are closed to fishing, the Scottish Executive must authorise vessels to go out to the banned areas to take samples of the prohibited species for testing.

That monitoring programme is on-going. Samples from the closed areas continue to be monitored, so that we will know as soon as it is safe to reopen the fisheries. However, it must be remembered that the toxin, while harmful to humans, does not kill the shellfish, which remain available for fishing when the order is lifted.

To put the decisions in a wider context, I will close by giving the committee some of the historical background. Closures due to high algal toxin levels are not new. They have been an annual occurrence around Scotland since 1990. The shellfish organisations are kept informed of developments through their respective trade associations and via the Scottish Executive telephone hotline, which was introduced in 1995 to give fishermen up-to-date information on marine biotoxins.

The toxins occur worldwide—this is not a distinctively Scottish problem. The international scientific community is researching the causes of the blooms and the occurrence of the toxins. The Marine Laboratory in Aberdeen is actively involved in that research and receives funding from the Scottish Executive, the EU and the Ministry of Agriculture, Fisheries and Food.

I appreciate the effects that the closure orders will have on the shellfish industry. However, because of the high ASP levels, the measures had to be taken to safeguard public health and to comply with EC requirements. The results received to date still show high levels of ASP toxins in scallops in the waters in question.

I emphasise that our aim in taking this action is to ensure that the public are effectively protected from toxins and to protect the good name of the Scottish shellfish industry. I give an assurance that the orders will be revoked as soon as the results of continued sampling and medical and scientific advice indicate that it is safe to do so.

I hope that that helps the committee understand the background to the laying of the orders. As I said earlier, I will be pleased to answer any questions that members of the committee have.

The officials with me can provide further technical details on the monitoring and testing programmes, as well as on the toxins, if that is of interest to committee members.

I move,

That the Parliament Health and Community Care Committee in consideration of the Food Protection (Emergency Prohibitions) (Amnesic Shellfish Poisoning) (West Coast) (Scotland) Order 1999 (SSI 1999/26) recommends that the order be approved.

The Convener: Before you take questions from members of the committee, I want to pick up on your comment that there is on-going monitoring in the closed areas. How often does that take place—is it on a daily basis, for example?

Susan Deacon: Typically, the monitoring is carried out fortnightly.

The Convener: You mentioned a couple of issues that I wanted to raise. Is testing in certain areas less frequent than in others? The Orkney Fisheries Association, for example, felt that its area was subject to less frequent testing than others, which means that there would be a longer time lag before the ban could be lifted there. I—and, no doubt, the association—welcome the fact that there has been a partial lifting of the ban, but could you indicate whether testing around Orkney is less frequent than it is elsewhere?

14:15

Susan Deacon: The testing programme has been developed and has evolved over time. It is based very much on the scientific advice that is available. A balance has to be struck between conducting testing often enough to detect any changes and too frequently for changes to have been able to take place. Those involved in the testing programme know from experience how long it generally takes for levels in a given area to decline. That broad principle underpins how testing is carried out. There are some variations in specific areas, and I am sure that Godfrey Howard from the Marine Laboratory would be glad to provide further details on that now, if appropriate, or later.

The Convener: I should be happy to hear from him.

Godfrey Howard (Head of Shellfish Hygiene Team, Marine Laboratory, Aberdeen): In answer to the convener's question, there is not less frequent sampling in Orkney. A boat was sampling in the area yesterday and samples will be sent to the Marine Laboratory today. We have fishing boats on charter sampling in the north Minch, the south Minch and the Sound of Jura, and in Orkney.

Dorothy-Grace Elder (Glasgow) (SNP):

Obviously, the first imperative is to protect the public, but this is a disaster for the fishing industry. What steps is the minister prepared to take to compensate our fishermen?

Susan Deacon: The member raises two important issues, and it is appropriate that I deal with them separately. One is public health; the other is compensation. The orders contain no provision for compensation; that is not within their scope. In making a decision on the matter, the Executive and I had to be governed by what was in the interests of public health. It should be noted that the fishermen's associations in the areas affected by the bans recognise the fact that we have to implement the measures and support our actions. They understand that, from a public health point of view, the bans are necessary

There is the parallel issue of the implications for the industry and of what, if any, compensation provisions should be made. It forms part of much wider discussions conducted on a regular basis by my colleagues in the rural affairs department with representatives of the industry. Clearly, it is an important area, but I hope that the member will appreciate that, from my perspective as Minister for Health and Community Care and from the perspective of the committee, the stress has to be on acting in the interests of public health. That is our primary concern.

The Convener: I echo the minister's point: compensation is not really within the remit of this committee, even though we realise the human impact of the orders on the economy of rural Scotland, fishermen's livelihoods and so on. The fishing industry has acted responsibly on the issue; it is on record as saying that it accepts the bans and that public health is paramount. As the minister said, we need to protect the good name of the fishing industry, particularly the shellfish industry, in Scotland; the industry does not want to take chances with that any more than we do. However, compensation is for others to deal with.

On a point of clarification, at tomorrow's meeting of the committee I intend to mention that at the beginning of October the chief medical officer will be speaking to the Rural Affairs Committee on amnesic shellfish poisoning. I will suggest that representatives of this committee go along to that meeting to talk to the chief medical officer about the issue, as it is an on-going problem. I will put that to the committee tomorrow; it is for members to decide whether they wish to take up the suggestion. The beef-on-the-bone ban is another public health matter in which the Rural Affairs Committee is interested.

Mr Duncan Hamilton (Highlands and Islands) (SNP): I have just returned from a weekend of surgeries on the island of Mull, which, as the minister will know, is greatly affected by the

problem. If my questions seem rather specific, that is why.

The minister said that ASP levels changed quickly and that tests were carried out fortnightly. Why do you think that that is sufficient? Some of the fishermen to whom I have spoken are worried that it might not be.

The convener raised a point about consistency that has also been raised with me, although this time from a southerly perspective. Can the minister confirm that, although tests had been carried out over 10 days in the area around Stonehaven, other areas had been waiting much longer for tests? It might be useful to put it on record that there was a stipulation to apply uniformity across the board.

My third question concerns the date when the tests begin. An examination of the annual frequency of the tests shows that they start in July. I understand that there might be a simple scientific reason, but should not testing take place earlier, to detect the problem earlier?

Furthermore, can the minister comment on a piecemeal lifting of the ban? Some people in the industry—as well as the minister today—have said that they are against such a policy, but that view is not shared by many of the affected fishermen. Can the minister outline why a piecemeal lifting of the ban is to be ruled out? Fishermen feel that having to wait for a wholesale lifting of the ban is not responsive enough to their needs.

Susan Deacon: Mr Hamilton has raised a range of questions that I will endeavour to address as freely as possible.

It is worth restating an important point that underpins my answer to Mr Hamilton's questions. The implementation of the monitoring and testing programme is not a political decision, or a decision that has been taken arbitrarily. The decision has been made on the basis of scientific evidence and the experience of the people who are most closely involved with the situation and who have views on the most effective and appropriate way of implementing such a programme. It is worth noting that, given that the legislative context within which we operate is derived from the EU, many of the methodologies that have been developed extend beyond Scottish practices.

I think that Mr Hamilton said that I had indicated that the level of toxin changes very quickly. I actually said that the people involved in the testing programme know from experience how long it takes for levels in different areas to shift.

Mr Hamilton: That point was emphasised in the briefing note and by people in the industry. There may be some confusion about the issue, but the evidence in the briefing document suggests that

levels of toxin change very quickly.

Susan Deacon: I am bound to reiterate what I have already said. The important point is that our judgments on this matter have not been arbitrary—they are based on sound scientific evidence. The people who are most closely involved in the testing programme know how frequently the tests should be carried out. I am conscious of repeating myself, but it is important to restate that we need to strike a balance between taking precautions to protect public health and not keeping waters closed for any longer than necessary if levels of toxin have dropped. As I have said, we have reopened certain areas where testing has shown that levels have shifted.

I am sure that we—and the scientific community—could have a long debate about some of the detailed aspects of the testing programme. Again, I am more than happy to ask Godfrey Howard from the Marine Laboratory to explain the technical basis of the programme. However, as the minister laying these orders before the committee, I have to say that we must use scientific evidence to make the best judgment about the right action to take.

Mr Hamilton asked whether a piecemeal approach to lifting the ban was satisfactory. We cannot take risks with public health. As I have said, we know that toxins can be concentrated in certain areas and that the limits of the boxes that have been identified for closure may extend beyond such hot spots. However, we also know that, because the toxins move, we have to close those wider areas to protect public health. We have proceeded on that basis throughout the problem and, having examined the matter closely for several months, I believe that we are taking the right action in the interests of the health of the people we represent.

Dr Richard Simpson (Ochil) (Lab): I have no problem with the minister's view that the protection of public safety is paramount in this situation. However, I would like to get some background to the problem. First, does the presence of the bloom always indicate the presence of toxin?

The minister said that the condition is relatively new, having been around only since 1990, but does that refer to the bloom, or to the bloom and toxin together?

Finally, we have heard that the bloom becomes more manifest in early spring and summer. Has there been a rising cyclical pattern over the years? I ask that question because I am concerned that the situation will not be a one-off, but will result either in the permanent closure of our scallop fields or in scallop fishing being restricted to certain periods of the year. Both outcomes could affect communities significantly.

Susan Deacon: It is important to clarify that we are testing not for the existence of algal blooms, but for the presence of toxins in the shellfish.

On the subject of trends, there has been significant research into this worldwide problem. The scientific community cannot say with any certainty what gives rise to the naturally occurring toxins and there are many theories about what may have led to the incidents. The trend suggests that such incidents are increasing. It is a matter of debate whether there has been an improvement in testing for the toxins or a real increase in toxin levels.

Dr Simpson mentioned the time of year for testing, as did Mr Hamilton in a part of his question that I forgot to answer. The testing programme begins in April, not in late summer, as has been suggested. It is obvious that the standard of monitoring and testing constantly improves and we know that certain patterns have been detected in the summer months.

I know that Godfrey is keen to add to the details about the monitoring programme.

Godfrey Howard: With the convener's permission?

The Convener: Yes, absolutely.

Godfrey Howard: A couple of technical points need to be addressed. Dr Simpson referred to algal blooms. The word "bloom" is a misnomer, because the toxins are sometimes produced by low densities of different species of phytoplankton. Phytoplankton are ubiquitous. Sometimes they produce toxins; sometimes they do not. There are many different strains of phytoplankton, some of which produce toxins. We do not know what triggers toxin production. By monitoring phytoplankton, we have a theoretical indication of potential toxicity problems, but the theory is not always borne out in practice. The real test comes when we test particular shellfish for the presence of toxins. Such monitoring occurs throughout the year. Can I go on?

The Convener: Please do.

Godfrey Howard: The problem with scallops is that their metabolism retains toxins for longer than do those of most other species of bivalve shellfish. If most shellfish species, such as mussels and oysters, take in toxins, they get rid of them very rapidly once the causative organism has disappeared. However, due to their metabolic function, scallops retain the toxins and can do so for an extensive period. Despite a general decline in toxin levels, the levels can remain above the statutory maximum for some period.

14:30

Dr Simpson: Does that mean that if a small scallop starts to absorb the toxins, because the toxin levels are high, that whole generation of scallops is inedible and poisonous?

Godfrey Howard: No. Once the causative organism has gone and the toxin is no longer being taken in, the scallops start to depurate themselves, but the depuration process can take a long time.

Dr Simpson: Have you any idea how long?

Godfrey Howard: We have tested scallops for six months after the toxin-producing organisms have disappeared. However, I should emphasise that that was in the case of PSP—paralytic shellfish poisoning—not ASP, which we are dealing with now, although I believe that retention times are similar. Scallops, certainly, can retain toxins at detectable levels for at least six months and possibly longer.

Mr Hamilton: I would like to come back to some specific questions, in particular the question of uniformity of treatment, which Godfrey may be the person to answer. Will you put on the record a commitment to uniformity of treatment in testing?

Godfrey Howard: Do you mean the testing of incoming samples?

Mr Hamilton: That is correct.

Godfrey Howard: As is obvious, at the moment we are receiving a large number of samples from Scotland, but we are also responsible for toxin monitoring throughout the United Kingdom. We cannot ignore that simply because we have an extensive problem in Scotland. All the samples that we receive are logged and analysed in rotation.

Mr Hamilton: Is there a commitment to uniformity of treatment or not? I understand the circumstances in which you work, but do they result in samples from some areas being treated more quickly than others?

Godfrey Howard: No. The samples that we receive from the monitoring programme in Scotland are dealt with in rotation. For example, the samples that we receive today from the vessels that we have chartered will be logged this evening and worked on tomorrow and on Thursday. As soon as the samples come in they are all dealt with in rotation. We do not discriminate between areas.

Mr Hamilton: It is the collecting of the samples that concerns me. The other aspect that concerns me is the scientific evidence on which you base the tests. It would be exceptionally useful if that evidence were disseminated more freely. There is distrust about the source of that evidence. It is

undeniable that a lot of that distrust may be based on misconception, but I do not think that people in the industry are particularly aware of the basis on which you proceed. Will the minister give a commitment to ensuring that that information is disseminated more freely?

Susan Deacon: The scientific evidence to which Mr Hamilton refers is published annually, so it is widely available, but I will gladly ensure that it is widely disseminated. I encourage members whose constituents are interested in the matter to obtain a copy of the report on marine biotoxin monitoring and surveillance, published by the Marine Laboratory in Aberdeen and to make it available to people by all means. It can only ever be in the wider interest of us all for people to have as wide an understanding as possible of the reasons we must take public health decisions of this nature. I am conscious that a lot of these issues are highly technical, but I agree entirely with the principle that those who are affected should understand the reasoning behind our decisions.

I must stress that strenuous efforts have been made to communicate with fishermen's representatives, local authorities and other local representatives when closure decisions have been taken to ensure that, as far as possible, information is disseminated, and I am always considering ways in which that process can be improved—now or in the future.

One point that has not been covered relates to Richard Simpson's question about whether fishing waters will now be closed every summer from here on in. It is worth noting that last year large areas around Orkney, for example, were closed but have not been this year. It therefore does not follow that the same problem will apply in an area year on year.

The Convener: If this is a continuing problem—and it does seem to be getting worse—can Mr Howard give us some background on the kind of research that is being done and tell us what is happening with the research budget? Are we spending more money on research?

Godfrey Howard: Various areas are being researched, many of which deal with environmental matters—if I can term them as such—such as the causes of plankton blooms. Not only toxic blooms, but plankton blooms in general, are being examined. Research is also being done into nutrient inputs—whether anthropogenic or from natural sources—into coastal waters, and into alternative methods for the analysis of such toxins.

It is difficult to say that research is being done into the causes of toxins, because the problems involved are so enormous that one particular area cannot be pinpointed, rather there is an all-

embracing research programme that examines several aspects of the same problem.

The Convener: Is research going on elsewhere, as well as at the Marine Laboratory?

Godfrey Howard: Yes. Research is being done in Europe and worldwide.

The Convener: Is the Scottish research budget increasing?

Susan Deacon: I will answer this. The politicians always have to pick up the money questions.

I believe that I am correct in saying that, this year, the Scottish Executive is spending £600,000 on monitoring and research. I have discussed this issue with my colleague, Sarah Boyack, the Minister for Transport and the Environment. There are research questions that we may want to consider separately, depending on our experience of the problem in this and future years.

The Convener: Will the minister break down the £600,000 into monitoring and research?

Susan Deacon: It is about 50:50, but I would be happy to give exact figures to the committee.

Kay Ullrich (West of Scotland) (SNP): I have one or two questions that pick up on what Duncan said. First, what is the level of dialogue between ministers and fishermen, growers and processors, who are obviously extremely anxious about their livelihood and the future of their industry?

Secondly, given that large areas of water have, in effect, been closed, is not there a danger of over-fishing in adjacent waters? Is there evidence of that and, if so, what is being done about it?

Finally, public confidence in Scottish shellfish has been severely dented. Are any steps being taken to improve consumer confidence in Scottish seafood? According to the draft research note produced by the information centre, Isle of Skye Seafood has suggested:

"Publicity has left people asking whether the whitefish we sell is affected."

We all know what happens in such situations—public confidence plummets and can remain low for a long time.

Susan Deacon: I will deal first with the question about meetings. It is necessary to distinguish between meetings on the health side and those on the industry side. As far as health is concerned, the rural affairs officials who are involved in the public health issues that this matter raises have had two meetings with relevant fishermen's representatives. Jim Wallace, a local member and I will have a meeting with the Orkney fishermen next week. It is not, however, my role as health minister to engage in wider discussions with the

industry about its future. I am mindful of the wider issues and I can give an assurance that my colleagues Ross Finnie and John Home Robertson are having wider discussions. The Rural Affairs Committee will want to look at that.

Mr Hamilton: That is one my concerns. Ross Finnie refused to meet the fishermen when he visited Mull last week on the ground that it was “not his responsibility”. In this era of joined-up government, can we ensure that someone meets the fishermen?

Susan Deacon: I repeat that we are always pleased to have dialogue with representative bodies—and there is always room for improvement. I am confident that in this instance a lot of effort has been made to have dialogue. If any particular organisation feels that that is not the case, I would be prepared to take that up. As far as my responsibilities and the remit of this committee are concerned, I stress that our primary focus here must be the matter of public health. Any discussions with the industry ought to focus on that.

As I said in the chamber when we debated food standards, there is of course a connection between how we deal with public health issues and industry confidence. It is important for us to remember the link between the two. Kay Ullrich mentioned consumer confidence. One of the reasons fishermen’s representatives have supported us in taking this action on public health grounds is that they recognise that, in the longer term, the best way to restore confidence in their industry is to ensure that the public is not harmed by consuming the products for which they fish. I hope that that has adequately struck the balance between health and industry issues for members who asked about it. I will note the points that have been made.

The Convener: On behalf of the committee, I will write to the Minister for Rural Affairs to ask that he meets the fishermen to answer any of the questions that they want to raise with him.

Kay Ullrich: Susan, we were throwing questions at you and you probably forgot to answer. I do not know how good your shorthand is—probably as good as mine—but I did ask whether, to your knowledge, there has been any evidence of over-fishing in adjacent waters?

Susan Deacon: I do not think that I am in a position to answer that question, but I am happy for it to be referred to relevant colleagues, or for it be raised and addressed in other ways.

Hugh Henry (Paisley South) (Lab): On a point of order. This is the Health and Community Care Committee, which is looking at a specific problem from a health perspective. If we are concerned about other matters, we have the right as

individual MSPs to raise issues with other committees. There is a danger that we will stray from our remit. I am not sure, convener, that your suggestion that you should write to Ross Finnie on behalf of this committee is within our remit. We are beginning to mix up the issues that are properly to be considered by this committee.

The Convener: I will pick up on the minister’s point about the difficult line between what is primarily a public health issue and its impact on people’s livelihoods. Being aware of that is not the primary function of this committee, but I would not expect the Minister for Rural Affairs to be averse to taking a comment from us in the manner in which it was intended.

Hugh Henry: I am sorry, but although it would be competent for this committee to refer concerns with health implications to that minister, it is not for us to talk about a whole range of issues. That will happen with other things, as well as with shellfish. We must be clear about what we are meant to be addressing. If there is a matter to do with the livelihood of people involved in the industry, other avenues are open to us, individually and collectively, to deal with it.

14:45

Dorothy-Grace Elder: The health committee must be concerned with public well-being. I like the tone of this committee and the fact that it is concerned. The more information that is exchanged, the safer the public is.

The Convener: I will write to the minister in an individual capacity saying that I hope that he will listen to the fishermen.

Kay Ullrich: The whole idea about joined-up government is that we cannot look at issues in isolation. As Dorothy said, the health and well-being of Scotland’s shellfish fishermen is at stake. All sorts of things come into this. I think that the minister appreciates that. A meeting on this issue would be fairly sterile if we kept to a very narrow agenda.

Hugh Henry: We have a specific remit, whether we like it or not

The Convener: We must engage in a commonsense debate about this issue, which keeps overlapping into wider issues, and it would be artificial for us not to allow that. The minister has given us some very interesting information. The fishermen have raised the issue of communication from a public health point of view and from that of their livelihood. It is difficult to find an absolute line that cannot be crossed. I will take advisement on the question after the meeting, but in this case we accept that there is a fine line over which the issue goes.

Dorothy-Grace Elder: Will the minister be extra careful about publicity? She and others have referred to the fact that only scallops and queen scallops are affected and that mussels and other forms of shellfish are in the clear. The emergency prohibitions have to use the correct term—including the word shellfish—but we do not want the public to panic away from all shellfish.

It must be made terribly clear that mussels and other forms of shellfish are quite safe. I do not know how the public is being made aware—whether you are using posters or what—but all references must be clear so that the fishing industry is not worse hit and the public knows what is safe to eat. Perhaps the Scottish Executive can make that very clear in its handouts.

No one knows what triggers this problem, but the minister states that it has recurred over the last nine years, so it seems to be on the increase. It is an international problem, which global research shows. Is it possible that pollution or global warming are involved here?

Susan Deacon: We have to be careful not to speculate about the reasons why the toxins occur. That is not to negate the importance of asking the question. However, I think that it would be inappropriate—verging on irresponsible—for us to guess why the toxins should occur. As we discussed earlier, the important fact is that there is worldwide research into the problem, including a great deal of research in Scotland. As and when that research produces substantive findings, information will be shared and its implications will be considered.

On the question of publicity about the issue, I agree that it is important to be clear about which kinds of shellfish are affected. We have been very clear in our public statements and we communicate test results on a weekly basis to the affected fishermen. Occasionally, press reports appear that are not so specific about which shellfish are affected, but we work as much as possible to avoid that happening.

We have talked about the Scottish fishing industry, and, for the avoidance of any doubt, it is important to note that the toxins do not affect whitefish—they specifically affect shellfish. It is also worth noting that scallops have been the subject of widespread water closures in previous years, not for ASP—the subject we are discussing today—but for paralytic shellfish poisoning. There is a history of taking action in this way. One reassuring point is that the evidence shows that where that has happened and where waters have been reopened, there is no evidence of any reduction in demand for the product when it is made available once again.

Having said all that, and having restated my

obvious concern for the industry, I must stress—this is a strong message from the Executive—that we take such decisions on the basis of what is right in order to safeguard public health. As I indicated earlier, I believe that there are good reasons for the decision in terms of maintaining industry confidence and confidence in the product. There must always be a clear and guiding principle, and the guiding principle for the Executive must be the interests of public health. That is the basis of the orders that the committee is considering today.

Mary Scanlon (Highlands and Islands) (Con):

I agree with the minister about the views of the fishermen. The feedback that I have had suggests that they are very supportive of the ban because it substantiates and supports their excellent product, which they have marketed very well over some time. On the west coast of Scotland, fishing is not just an industry or a few jobs, it is part of the culture, and is the backbone of the whole economy.

A few of the questions that I wanted to ask have already been raised, but I am interested to know what changed in 1990. Both the convener and the minister have said that the toxins were a totally natural occurrence. Can Mr Howard confirm that and explain what happened in 1990 to cause them to occur?

Godfrey Howard: It is a totally naturally occurring phenomenon. There are several algal toxins. Today, we are dealing with a toxin called ASP; we deal regularly in Scotland with two other toxins: PSP, paralytic shellfish poisoning and DSP, diuretic shellfish poisoning. Paralytic shellfish poisons have been known as a problem in shellfish for several hundred years—they are very well documented. The other toxins that we are dealing with are newly discovered, in the sense that they are newly identified toxins. In the past, problems caused by those toxins may well have been ignored because the symptoms that they would have produced in humans would have been put down to something else. It is only now, with the help of more sophisticated technology, that we are able to analyse and identify them. As I explained earlier, the toxins are produced by phytoplankton. Something switches on the toxin-producing mechanism; we are not sure what that is, but the toxins occur naturally and have been known about for a long time.

Mary Scanlon: Have you ruled out those toxins being brought about by any other type of fishing off the west coast?

Godfrey Howard: There is no evidence to support that.

Mary Scanlon: So why did it not happen before 1990?

Godfrey Howard: It did; PSP has been known in the UK, and there have been recorded fatalities from PSP intoxication in humans since the mid-1800s. Those fatalities have been recorded. In 1968, 76 people were hospitalised in a major outbreak of PSP intoxication in the Newcastle area, caused by eating affected mussels originating from off the coast of Northumberland.

As a result of that occurrence, the Ministry of Agriculture, Fisheries and Food set up a relatively small-scale monitoring programme, which extended to Scotland and remained in place until 1990. In the period between 1968 and 1990, the monitoring programme picked up small, localised toxicity events, mainly on the east coast of Scotland and the north-east coast of England.

To a degree, the monitoring programme also covered sites on the west coast of Scotland, but nothing was found. In 1990, we began finding levels of PSP toxin over a wide area of the west coast of Scotland. As a result, we formulated the monitoring programme that is in place today. I cannot say what caused the occurrence in 1990.

Mary Scanlon: If you are not sure what caused the occurrence in 1990, that might point towards a repeat, or even an annual, occurrence, which is the last thing that we want. I take Mr Henry's point about financial resources, but does Mr Howard feel that adequate scientific resources are being put into researching this topic, in order to ensure that we can get to the bottom of it and deal with it once and for all?

Godfrey Howard: The level of research into the topic will be unable to prevent outbreaks, although further research could identify the causes more adequately than we are able to at present. I should say—and this refers to Dr Simpson's questions about the annual recurrence—that in previous years we have had severe problems with PSP in different places. As Susan Deacon said, there have been widespread closures of scallop grounds in the past. This year, we have had very little PSP, although we have an ASP problem. I said earlier that there was a big outbreak, and recurring outbreaks, of PSP on the east coast of England. Those outbreaks have ceased or have been reduced almost to zero over the past five or six years. However, we are picking it up in other places; for example, in other areas of England.

Mary Scanlon: Does it concern you that you do not know its cause?

Godfrey Howard: No, because—as I said—toxins are produced quite naturally by phytoplankton. I do not know the reasons for that; people are looking for reasons, but they have not found any answers yet. At the moment, our job, and our primary concern, is to prevent toxic shellfish from reaching the market.

15:00

Mary Scanlon: My final point concerns the lifting of the ban. As you are monitoring over such an extensive area, is there likely to be a partial lifting of the ban or will the ban remain in place over the full area that is covered by the statutory instruments?

Susan Deacon: We have not only indicated that we are willing to consider a partial lifting of the ban, but we have already done so. In the case of the Orkney order, for example, part of the affected area was reopened at the beginning of September. Through the monitoring and testing processes that have been described, we monitor the situation continuously and we will be willing to lift the ban partially when we can be confident that it is safe to do so.

Dr Simpson: I have one question to ask on these ubiquitous phytoplankton, as I believe you called them: are these blooms of them, which I gather are just a sort of splurge, occurring more frequently? Are we dealing with some climatic change here? Mary was trying to address that question. Is this simply a phenomenon on a long cycle, which may have occurred previously but was not identified, or could it be associated with changes that we should be concerned about?

Godfrey Howard: It could be part of a long cycle. It could—and I stress the word “could”—be part of a wider environmental change.

Dr Simpson: We just do not know?

Godfrey Howard: We just do not know.

Dr Simpson: We are at least considering that?

Godfrey Howard: Yes.

Dr Simpson: The minister may be glad that I now return to the subject of health. First, have there been any fatalities from ASP rather than PSP, about which I know a little? Secondly, are there specific centres that are dealing with the problem, or is it not serious enough to have to be dealt with in specific health units?

Thirdly, are general practitioners in the affected areas aware of the symptoms and signs of this condition? Have they received any information that would allow them to identify it? I ask that because I am aware that an awful lot of food poisoning is not identified specifically. This type, with its neurotoxins, sounds rather nasty and is probably easier to identify. Nevertheless, have practitioners in those areas been briefed?

Susan Deacon: In reply to Dr Simpson's first question, no cases of ASP have been recorded in Scotland. However, we know the impact that ASP can have in other countries. As recently as 1997 there was an outbreak in Canada, involving 107 cases and four fatalities. That is evidence of the

impact that the poisoning can have.

The treatment of ASP is not at issue, as it has not occurred in Scotland. However, the effects of the various forms of food poisoning, as I understand them, are fairly severe and we can expect people to have to report to accident and emergency departments to be treated.

We are moving forward towards the creation of the food standards agency, which will have a broad remit to undertake research and to develop recommendations for the Government on food safety and issues relating to both the monitoring and treatment of food poisoning. The present issue is part of a much bigger jigsaw. Once that agency is in place, I am sure that this matter will be part of what it will consider.

Margaret Jamieson (Kilmarnock and Loudoun) (Lab): Are such cases determined as a reportable incidence, as there are many cases of food poisoning and this type would not necessarily be plucked out of the figures?

Susan Deacon: I am told that such cases are reportable as food poisoning.

Margaret Jamieson: They come under the broad brush, then.

Hugh Henry: You said, Godfrey, that ASP is caused by naturally occurring algal blooms. These blooms disappear, but toxin can remain. Is that correct? At what point is the prohibition lifted? Is it when it is clear not only that the blooms have disappeared, but that all traces of the toxin have disappeared? Secondly, do shellfish dispose of the toxin—I cannot remember the technical word that you used for that—in a consistent manner. In other words, if it is identified in a sampling process that the shellfish are clear of the toxin, could remnants of the shellfish congregation or grouping retain traces of the toxin?

Susan Deacon: With the committee's agreement, I would be happy for Godfrey Howard to deal with the detailed scientific points raised. I have here a detailed map of the toxin levels in the different areas affected, which some of you will have seen. As I indicated earlier, decisions on the ban and on the order relate to the maximum level of 20 µg of domoic acid per gram of tissue; that is the level stipulated by the European Union, above which we would be required to take action.

To lift the ban, we would need two consecutive negative tests far enough below that level to feel confident that the risk to public health had fallen sufficiently. That is the basis on which we take the decision. The science is rather more complex.

Godfrey Howard: Hugh mentioned the shellfish getting rid of the toxins by what we call depuration. Unfortunately, the depuration of the toxins from the tissues of scallops is not a linear curve—it

does not occur on a straight-line declination. The scallops can change the toxin from one component to a more potent one, although that takes a long time.

Hugh Henry: That begs the question: how can you be confident about lifting the ban in certain areas if the process is such a long one and if, as part of that process, the scallops can change the nature of the toxin? How can you be absolutely certain that, in the areas in which the ban is lifted, there is no further risk to public health?

Godfrey Howard: Because there has never been evidence that the toxin increases again once it has declined below a particular level. We have a lot of data on this, going back many years, and have never yet been proved wrong. There could always be a first time, but we are fairly confident that, when we give scientific advice that an area is safe, it is safe.

The Convener: I call Duncan Hamilton to speak, and then, unless anyone has any further comment or question, I am minded to move on.

Mr Hamilton: I just have three quick—and, I promise, final—questions.

The first is on the sampling methods. Are the samples taken at different depths? Secondly, I would like to confirm that the ASP toxin is found in the roe of scallop. Is that correct? If so, is one way out of this situation through the market for roe-less scallops?

Thirdly, I am a wee bit confused about the tests for lifting the ban. You said that the basis for lifting the ban in any area would be two consecutive tests, but earlier we were told that, as the algae could move, there would be a buffer zone—adjacent boxes on the grid that is in front of you—around an affected area. Is there a policy on the number of—if you like—buffer boxes surrounding an affected area before the ban would be lifted after two consecutive clean tests?

Susan Deacon: Mr Howard will answer the first two questions and I will answer the third.

Godfrey Howard: Mr Hamilton talked about the toxins in the different tissues of the scallop. The toxins are fat-soluble; they tend to concentrate in the fatty tissues of animals. In the case of scallops, the toxins concentrate in the digestive gland—the hepatopancreas—which is a non-edible part of the animal. The toxins also tend to concentrate in the gonad—the roe—which is one of the edible parts. As we are required to test the edible part, or any portion thereof, and the gonad is an edible portion that concentrates the toxin, our test is conducted on the gonad.

Mr Hamilton also mentioned spatial variation and depth. We have sampled over wide areas of the west coast, from relatively shallow waters,

which are accessible by divers, to deeper waters in the middle of the north Minch, in which scallop-fishing vessels dredge. The spatial spread of the toxin is fairly uniform across the whole area.

Susan Deacon: On the third question about lifting the ban, it is fair to say that we are using a combination of absolute measures and an element of judgment. The level that is laid down in the EU directive is the absolute measure. The element of judgment relates to the level that is found within a particular box, and—as you rightly say, Mr Hamilton—within adjacent areas; judgments are made on a case-by-case basis. Clearly, in reaching a decision to lift a ban, I am guided by scientific advice because, as I said, there is a great deal of experience about what levels are safe, and that knowledge allows us to reach a reasonable conclusion.

Mr Hamilton: So the decision is reached case by case?

Susan Deacon: Decisions are reached ultimately on a case-by-case basis, within the stricter framework that is laid down in the directive.

The Convener: I now ask the minister to sum up and to put her motion to the committee. We shall then move to the vote.

Susan Deacon: I will sum up very briefly. I hope that the committee has found it useful to have an opportunity to go into the background to these orders and the science that underpins the testing and monitoring. My primary concern, which I hope will be shared by the committee, is to ensure that we, as the Government, act responsibly and take suitable precautions to protect public health and the public interest. Clearly, in doing that, we are mindful that such decisions can have implications for the industries concerned. We want to ensure that consumer confidence is protected so that, when people go into shops anywhere in the country, they can be confident about the food that they buy and know that we have taken all available steps to ensure that they can have that confidence. That is the basis on which we have taken action and on which I commend the motion.

The Convener: Thank you, minister.

The question is, that the motion in the name of Susan Deacon be agreed to.

Motion agreed to.

That the Parliament Health and Community Care Committee in consideration of the Food Protection (Emergency Prohibitions) (Amnesic Shellfish Poisoning) (West Coast) (Scotland) Order 1999 (SSI 1999/26) recommends that the order be approved.

Motion moved,

That the Parliament Health and Community Care Committee in consideration of the Food Protection (Emergency Prohibitions) (Amnesic Shellfish Poisoning)

(Orkney) (Scotland) Order 1999 (SSI 1999/27) recommends that the order be approved.—[*Susan Deacon.*]

The Convener: The question is, that the motion be agreed to.

Motion agreed to.

The Convener: I thank, first, the minister for giving us her time; I know that she is very busy and that this issue is only one of many on her desk. I also thank the officials who came with the minister, particularly Mr Howard, who has answered our questions thoughtfully and at length. It is clear from the interest shown and the comments and questions that the committee takes this issue seriously—as a public health issue and in terms of public confidence in the shellfish industry and the fishing industry generally. We appreciate the depth of the answers that we have had from the minister and the officials.

Meeting closed at 15:15.

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