HEALTH AND COMMUNITY CARE COMMITTEE

Wednesday 19 September 2001
(*Morning*)

Session 1

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HEALTH AND COMMUNITY CARE COMMITTEE
20th Meeting 2001, Session 1

CONVENER

*Mrs Margaret Smith (Edinburgh West) (LD)

DEPUTY CONVENER

*Margaret Jamieson (Kilmarnock and Loudoun) (Lab)

COMMITTEE MEMBERS

*Dorothy-Grace Elder (Glasgow) (SNP)
*Janis Hughes (Glasgow Rutherglen) (Lab)
*Mr John McAllion (Dundee East) (Lab)
*Shona Robison (North-East Scotland) (SNP)
*Mary Scanlon (Highlands and Islands) (Con)
*Dr Richard Simpson (Ochil) (Lab)
*Nicola Sturgeon (Glasgow) (SNP)

*attended

THE FOLLOWING ALSO ATTENDED:

Malcolm Chisholm (Deputy Minister for Health and Community Care)

WITNESSES

Colin Forsyth (Food Standards Agency Scotland)
Liz Lewis (Scottish Executive Health Department)

CLERK TO THE COMMITTEE

Jennifer Smart

SENIOR ASSISTANT CLERK

Peter McGrath

ASSISTANT CLERK

Joanna Hardy

LOCATION

Committee Room 2

Scottish Parliament

Health and Community Care Committee

Wednesday 19 September 2001

(*Morning*)

[THE CONVENER *opened the meeting at 09:33*]

Items in Private

The Convener (Mrs Margaret Smith): Good morning and welcome to the Health and Community Care Committee. Under agenda item 1, the committee is asked to discuss items 5, 6, 7, 8 and 9 in private for the following reasons. Item 5 is consideration of our draft annual report. Item 6 is a draft report on haemophilia and hepatitis C. Item 7 is a draft report on the World Development Movement Scotland petition, although we probably will not discuss the petition today and it will be moved to a future meeting. Item 8 is a draft report on the warm homes campaign petition. Item 9 is the forward work plan and will include discussion of the proposed legislative programme, including discussion about witnesses, which is why that item is in private. Are members happy for those items to be taken in private for those reasons?

Members *indicated agreement.*

The Convener: If those items are carried over to future meetings, does the committee agree that they will be considered in private?

Members *indicated agreement.*

Debates (Time Limits)

The Convener: Members were asked to indicate whether they wished to limit debate on the affirmative instrument in item 3 to 15 minutes. No comments have been made, so it is suggested that the affirmative instrument be debated for no more than 15 minutes. Is that agreed?

Members *indicated agreement.*

Subordinate Legislation

The Convener: Under item 3 we have an emergency affirmative instrument to debate. The Deputy Minister for Health and Community Care is with us this morning. The Subordinate Legislation Committee has nothing to report on the Food Protection (Emergency Prohibitions) (Amnesic Shellfish Poisoning) (West Coast) (No 5) (Scotland) Order 2001 (SSI 2001/295). I ask the minister to speak to the motion, if he wishes, and move it.

The Deputy Minister for Health and Community Care (Malcolm Chisholm): The Food Protection (Emergency Prohibitions) (Amnesic Shellfish Poisoning) (West Coast) (No 5) (Scotland) Order 2001 (SSI 2001/295) bans the catching of king scallops in waters off the west coast, because of the presence of amnesic shellfish poisoning at levels above those that have been set by Europe. As members know, this is a consumer safety measure, as scallops containing high levels of the toxin can cause illness in humans, ranging from dizziness and nausea to extremes of amnesia, coma and death where a large amount of toxin is ingested.

I move,

That the Parliament's Health and Community Care Committee, in consideration of the Food Protection (Emergency Prohibitions) (Amnesic Shellfish Poisoning) (West Coast) (No 5) (Scotland) Order 2001 (SSI 2001/295), recommends that this order be approved.

Motion agreed to.

The Convener: We move now to negative instruments. The first is the Specified Risk Material Amendment (No 3) (Scotland) Regulations 2001 (SSI 2001/288). We have some people from the Food Standards Agency Scotland with us to answer questions. Mary Scanlon raised concerns about the regulations. Mary made her questions available and they have been responded to. Do the representatives from the FSA wish to speak to the regulations or just to take questions from the committee?

Colin Forsyth (Food Standards Agency Scotland): I will briefly introduce myself and my colleague. My colleague Carolyn Ferguson and I are from the Food Standards Agency in Aberdeen. We are part of the team that deals with meat hygiene regulations, specifically the BSE-related controls, which is why we are here to discuss the statutory instrument. We sent a written reply to Mary Scanlon's questions and we are happy to address any further points that she has.

Mary Scanlon (Highlands and Islands) (Con): I have brief supplementaries to my original questions. My first question was to ask for an

assurance that specified risk material—SRM—is no longer being imported into Britain and Scotland from the rest of the European Union and other countries. I am told by colleagues in the farming industry that already this year there have been nine cases of specified risk material coming into the country and charges being brought. I seek your reassurance on that. Today's *Daily Mail* states:

"a Government BSE expert said he would not eat meat products from France, Germany, Spain, Italy and Greece."

Is there cause for concern, or is the importation of SRM strictly under control? Can you reassure people in Scotland that they are no longer likely to pick up CJD?

Colin Forsyth: The SRM controls are now applied Europe-wide under EU legislation, which has significantly improved the enforcement of protection for consumers in the UK. Mary Scanlon referred to the detection of SRM by the Meat Hygiene Service.

Since the beginning of the year, there have been stringent checks on all imported carcases. There have been 19 checks, including one in Scotland. Those checks are having an effect at European level. They have resulted in business in plants in some member states being suspended to allow for staff retraining and new operational procedures that will ensure that the plants follow the rules correctly. As a result of the checks, only four cases of SRM have been detected since 1 May, whereas nine cases were detected in March. The Food Standards Agency continues to monitor for SRM and other problems from imported meat from all sources, but the agency's view remains that, on balance, the risk from imported meat is not significantly different from the risk from home-produced meat.

An additional problem, which has been addressed for meat products, is that it is more difficult to ensure that we are not importing material from animals that are older than 30 months. However, that situation is also now greatly improved, because of European Union rules that require all animals over 30 months old that go into the food chain in Europe to be tested for BSE. The most risky cases are being removed from that chain. The agency's view is that the risk from imported meat products is similar to those from home-produced meat of three or four years ago, after the application of the feed ban in 1996.

Mary Scanlon: I know that we have a huge agenda today, but I am concerned about the fact that France has already had 160 cases of BSE this year. I have sought your assurance and I hope that we can move on from there. However, it is important from a public health viewpoint that consumers are reassured.

My second question was to ask the minister when beef imported from the EU will be properly labelled as such, so that consumers who are aware of the health hazards of imported meat can make an informed choice. I understand that such labelling will begin in January next year. I notice that there is to be a label for member states. Will we have a Scottish label as well as a British label?

Colin Forsyth: As I understand it, the agriculture departments, rather than the FSA, cover that legislation. However, I believe that the labels will have on them the member state, because the legislation is European. Arrangements that are separate from that legislation will establish local labels, including Scottish labels, and various ways of registering local-brand labelling.

Mary Scanlon: My third question is about the higher level of CJD in Scotland and the north of England. You said that you are trying to trace where that CJD originated and what products were involved. You say that you are talking to such organisations as the Scottish Meat Trades Federation. Are you also talking to the British Meat Trades Federation, the food processors and the supermarkets? Will you eventually be able to trace where the meat that led to the increased incidence of CJD in Scotland and the north of England came from?

Colin Forsyth: The agency is talking with all the trade federations throughout the UK that are involved in the matter. It is difficult to say whether we will discover the full story, because we are talking about events that happened 10 to 15 years ago. The agency is in the process of appointing researchers who will talk to people in the industry and people who have retired from it who might know how it operated at the time in question. We hope that that will provide much more data for use by the scientists who are investigating the incidence of variant CJD. However, it would be wrong to suggest that a full answer will be possible. The industry has said that it will co-operate fully and the FSA will follow that up.

Mary Scanlon: My final question is that, given the higher incidence of CJD in Scotland and the north of England and the difficulties in tracing where it came from, is it still safe to eat processed meat such as sausages and pâté?

Colin Forsyth: Nothing—as the Food Standards Agency says—is absolutely safe, but there is no reason to believe that there is a significant risk from the products you mention. Enormous changes have occurred in BSE-related controls since the 1980s. Since 1996, the over-30-months scheme has removed the vast majority of risky animals from the food chain and specified risk controls have been improved since then. There is no reason to believe that inquiries into

what was happening 10 or 15 years ago have changed the view that meat is as safe to eat as it was before this issue arose.

The Convener: I have a question on a technical point. The Subordinate Legislation Committee commented that the regulations were defectively drafted because a relevant enabling power had been omitted. Can you comment on that?

09:45

Colin Forsyth: We take our advice on the detailed drafting of legislation from the office of the solicitor to the Scottish Executive. I am not prepared to go further into the argument between the lawyers as to what should or should not appear on the front of the instrument.

The Convener: Thank you for your time.

As I said, the Subordinate Legislation Committee commented that it believes that the negative instrument was defectively drafted. The Rural Development Committee looked at the matter yesterday and had no comment. No motion to annul has been lodged and so we cannot take further action on the instrument. The recommendation is that the committee does not wish to make any recommendation in relation to the instrument. However, we duly note the points that were raised by Mary Scanlon in the discussion. Is that agreed?

Members *indicated agreement*.

The Convener: We move on to the Nursing Homes Registration (Scotland) Amendment Regulations 2001 (SSI 2001/215). Liz Lewis will answer some points that Mary Scanlon wants to raise on the regulations, which were originally circulated to members on 16 August.

Mary Scanlon: I have a brief point, which I notified to the clerk. Under the heading "Financial Effects"—I do not know whether I am reading this in context—it says:

"Local authorities do not pay registration fees for their own residential care homes."

I want clarification of that.

Liz Lewis (Scottish Executive Health Department): That is what happens under the present system. There is no statutory requirement for local authority care homes to be registered or inspected. Most local authorities inspect their homes, but they do not pay themselves fees for that process. As the committee will know, under the Regulation of Care (Scotland) Act 2001—which we looked at earlier in the year—all local authority care homes will be regulated by the new Scottish commission for the regulation of care on the same basis as the care homes that are provided by other providers. At that point, there will be a level playing field for all providers.

The Convener: I presume that that answer also deals with the Subordinate Legislation Committee's comments that

"providing for the charging of a fee on first registration for "annual continuation" of a registration, in addition to a registration fee, represents at best an unusual or unexpected use of the power."

Liz Lewis: Yes. That refers to the fees for nursing homes, which are collected by health boards at the moment. There is separate legislation for the nursing homes and the residential care homes and the two systems have operated differently in recent years. However, once the new system comes in on 1 April there will be one system for all care homes and services.

Dr Richard Simpson (Ochil) (Lab): I want to ask about the variation in conditions of registration, but I should declare an interest before I start. I am still director of a nursing home company that operates in England. The regulations do not apply there. Nevertheless, I have an interest.

Regarding the variation in condition of registration, is the registration fee charged when a nursing home applies for the number of registered beds to be altered?

Liz Lewis: Yes. The fee is also charged for any other changes that homes want in their registration certificate. The homes would apply to the health board to have the certificate changed or varied.

Dr Simpson: Has the Executive issued instructions for establishing a national basis for the process? I communicated with the minister some months ago about the fact that some registering authorities are employing variation in the number of beds as a way of managing staff ratios, and others are not. Perhaps they have not explained that clearly.

In some areas if the number of beds that are occupied drops, the number of staff that are required to man the beds drops by a ratio—there is a step-like reduction when occupancy levels drop significantly. In some areas, the health board authority will not allow that, but will require the registration to be changed every time that there is a change in occupancy and a change in staff numbers. That does not apply in the health service. If a health authority closes a ward and leaves it empty for some time, it is not required to maintain the staff levels. It is a ludicrous imposition upon private nursing homes and the voluntary and charitable sector.

The fee is going up again. Is it intended the fee increase will be accompanied with an instruction to the boards that the process should be identical everywhere?

Liz Lewis: The answer to that is no. An instruction is not going out, but the system introduced by the Regulation of Care (Scotland) Act 2001 was designed to ensure that there will be a consistent national system from 1 April. Those anomalies should not exist after that date.

Dr Simpson: Have you received representations about the increase in fees from any of those who are currently registered?

Liz Lewis: Yes. A consultation exercise has taken place; the letter asking for responses went out in February. We received more than 100 representations from a variety of responders.

Dr Simpson: Are they satisfied, after the negotiations that have taken place—chaired by Malcolm Chisholm—with the Convention of Scottish Local Authorities, care homes and the voluntary and charitable sector, that the increase in funding that is being provided will allow the increase in fees to be met?

Liz Lewis: As the committee knows, the increase in fees is a very small proportion of the total cost of providing a care home bed. The responses to the consultation came in much earlier in the year, before this became such a public issue and before the negotiations that Dr Simpson described had started. I would not like to speak for the care home owners as to whether they feel that what they receive is adequate to meet the increase.

We have not received any specific comments over the summer on this point. The discussion has moved on to other issues.

Dr Simpson: The fee for the revised certificate of registration, for example, is increasing from £18 to £60 for care homes. That is not an insignificant increase. The fee will not apply often, but such increases are not insignificant given the considerable concern in the voluntary, charitable and independent sectors about the adequacy of the funds that are being provided. Any increase, however marginal, adds to the burden.

Liz Lewis: That fee was increased to produce more consistency across the piece between nursing homes and residential care homes, so that an even bigger increase would not be needed from 1 April to bring together the two systems. That was partly a smoothing increase, if I may put it that way.

Shona Robison (North-East Scotland) (SNP): Would you welcome comments from care home owners now? I have had representations from some of the voluntary homes in Dundee, where a 70p increase in funding was given. When the fees are taken into account, and even with that increase in funding, those homes are now £40 a year worse off. There is concern, especially in the voluntary and charitable sector. Would you welcome feedback on the impact of the fee increase?

Liz Lewis: As Shona Robison knows, ministers indicated when the bill was under consideration that they would want to consider the impact of fee increases in deciding what was to happen for 2004-05. The level of fees had not been set. We are about to start consulting on what the fees should be from 1 April. There will be another opportunity this autumn for all organisations to respond on what the fees should be once the Scottish commission for the regulation of care is established. That will give voluntary and private organisations an opportunity to submit their latest views to us.

Mary Scanlon: I would like some clarification. I understood that the fees were pretty well what was set out in the financial memorandum. Is Liz Lewis saying that those fees could be greater or smaller?

Liz Lewis: I am sorry—I am misleading the committee. The fees that we are consulting on this autumn will be as set out in the financial memorandum: a 10 per cent increase and a £10 per bed increase for care homes. That is what we will consult on. We always consult on what the fees should be before we make the regulations or orders.

Mary Scanlon: But does the fact that you are consulting mean that you are willing to reduce the fees, or might you even increase them?

Liz Lewis: Ministers will not want to increase the fees above the level that, when the bill went through, they indicated they would set for 1 April. Once a consultation exercise is complete, they will always consider what people have said.

The Convener: No motion to annul has been lodged, so the recommendation is that the committee does not wish to make any recommendation in relation to the instrument. Is that agreed?

Members *indicated agreement*.

The Convener: We move to the Nurse Agencies (Increase of Licence Fees) (Scotland) Regulations 2001 (SSI 2001/216), which was originally circulated to members on 4 May. No comments have been received from members on the regulations. However, we have Liz Lewis with us, if anyone has any queries on them.

The Subordinate Legislation Committee commented that

"fee levels are a matter for the lead committee"

but drew the attention of the Health and Community Care Committee to

"the increases of fee levels provided for in this instrument,

after such a long period without any staging".

The Subordinate Legislation Committee thought that that constituted

"an unusual or unexpected use of the enabling power."

Do you wish to comment on that?

Liz Lewis: As we indicated in the financial memorandum, it is right that the fees have not gone up since the relevant regulations were introduced. We were conscious that moving to full cost recovery for nurse agencies would mean an even greater percentage increase if we waited until 1 April and put it all up in one go. The intention was to try to alert and properly consult nurse agencies about what was on the cards, and to stage the fee increase that would be required. We could have left the increase until 1 April and the new system, but it seemed fairer to let people know. We were conscious that agencies are often unaware of what is coming until they have to pay an increased fee.

The Convener: No motion to annul has been lodged, so the recommendation is that the committee does not wish to make any recommendation in relation to the regulations. Is that agreed?

Members *indicated agreement*.

The Convener: We move to agenda item—

Dr Simpson: Sorry to interrupt, convener. I want to be clear about the Child Minding and Day Care (Registration and Inspection Fees) Regulations 2001.

Jennifer Smart (Clerk): Those regulations were sent to the committee in error—they are not for our consideration.

Petitions

The Convener: Agenda item 4 is our regular update on petitions. Members should all have a copy of the petitions report. PE370 is from Lydia Reid, on behalf of Scottish Parents for a Public Enquiry into Organ Retention, and calls for the Scottish Parliament to take the necessary steps to ensure that a full public inquiry is carried out into organ retention. No comments have been received from members. The Public Petitions Committee referred the petition to us, with the recommendation that it be considered in conjunction with PE283. Our attention is drawn to the request for an examination of the role of the procurator fiscal in relation to organ removal and retention following post mortems. The petition has been copied to the Justice 2 Committee for information only. We have previously considered PE283 and taken the view that we would await the outcome of the second part of Sheila McLean's investigation into the matter.

I hope that members have had a chance to read the relevant extract from the *Official Report* of the meeting of the Public Petitions Committee on 19 June. I suggest that we appoint a reporter to pull together the strands of what is happening in the background to both petitions. That would put us in a position to respond to the second report of the McLean commission when it is published. For the time being, we should treat the new petition, PE370, in the same way as PE283 and wait until we have received the second report from the McLean commission before taking further action. That is one possibility.

Mary Scanlon: I suggest another possibility. Sheila McLean's report is likely to be published in the autumn. I do not see the sense in appointing a reporter who may duplicate some of the work that is being done for that report. Can you give us an indication of when the McLean commission report will appear?

10:00

The Convener: I will explain why I think it would be useful for us to appoint a reporter. If members have read the *Official Report* of the meeting of the Public Petitions Committee at which PE370 was considered, they will know that claims and counter-claims are being made. Appointing a reporter would enable us to acquaint a member of the committee with some of the background issues, rather than with the work of the McLean commission. We have agreed that we will await the publication of the commission's report. We also need to consider the role of procurators fiscal in the removal and retention of organs. We could appoint a reporter to ask questions about their role, we could ask written questions, or we could

decide to do nothing for the time being, as we did in the case of PE283.

Janis Hughes (Glasgow Rutherglen) (Lab): I support Mary Scanlon's comments. Given the fact that the publication of Sheila McLean's report is imminent—it would be helpful if we could obtain information on when the report is likely to appear—it would be foolish for us to appoint a reporter, especially when PE370 relates specifically to the role of procurators fiscal. Any action that we take should be taken in the context of Sheila McLean's report, once we know what it says. If we started to consider steps that are not in line with what she recommends, we could get into difficulties.

Margaret Jamieson (Kilmarnock and Loudoun) (Lab): I support the points that Janis Hughes and Mary Scanlon have made. Sheila McLean's report will provide a way forward for everyone. From the comments that have been made to the Public Petitions Committee, it is clear that there has been a parting of the ways on this issue. It is not this committee's function to establish which side is right and which is wrong, even if that were possible.

The Justice 2 Committee is carrying out an inquiry into the procurator fiscal service. If we believe that there is a problem relating to the role of procurators fiscal in the removal and retention of organs, we can ask the Justice 2 Committee to deal with that in its report. However, it would not be in anyone's interest for the Health and Community Care Committee to appoint a reporter at this stage.

Mr John McAllion (Dundee East) (Lab): I disagree. The submission of PE370 and the evidence that was given by Lydia Reid to the Public Petitions Committee led to correspondence with the previous petitioners that was quite controversial. It would be in this committee's interests for someone to investigate the matter, so that when Sheila McLean's report is published we are able to take an informed view on the petitions. We are expected to deal with the petitions, irrespective of what Sheila McLean says in her report. I would prefer us to appoint a member of the committee to examine the dispute between the two groups involved and to report back to us on that. Their task would be not to resolve the dispute, but to inform the committee of the substantial differences between the two groups and of what is at issue.

Dorothy-Grace Elder (Glasgow) (SNP): I see a clear separation between Sheila McLean's inquiry and what we are being asked to do. As usual, our problem is shortage of numbers.

Dr Simpson: I join Mary Scanlon, Janis Hughes and Margaret Jamieson on the matter. We should not become involved, because a third group exists that is not vocal—the group that has not wanted any investigation at any time. Is that group right? It is a question not of right and wrong, but of strongly held opinions about how we should proceed. It is clear that that has led to a split in the Scottish Organisation Relating to the Retention of Organs, or SORRO.

It would be wrong for the committee to become involved in a debate between organisations about who is right and who is wrong. We should wait for the McLean group's report. We should then hear all the parent groups' comments on that report. If problems arise from the report, the committee should then take up the concerns of all groups.

Nicola Sturgeon (Glasgow) (SNP): I am not unsympathetic to that view. I agree whole-heartedly with Richard Simpson that it would be wrong for the committee to become involved in any disputes that arose in SORRO. However, John McAllion is right—we have two petitions that we must deal with, however we deal with them. We will want to take a keen interest in the McLean report, so I would be a bit worried if we prematurely drew the line under the issue today. We may want to keep the matter on our agenda until the McLean report is issued, when we can return to it. The committee cannot simply sweep some of the issues under the carpet. I want the committee to keep the matter open.

The Convener: I will clarify my reasons for saying what I said. I do not want the committee to arbitrate between the groups. We have two distinct petitions on the issues. PE370 asks us to develop further lines of inquiry regarding the procurator fiscal and other matters. Given the time constraints on the committee, we cannot investigate those matters as a committee, so it might be useful for at least one committee member to be identified as the person who is keeping an open book on further developments. Meanwhile, we can wait for the response from Sheila McLean's group. When the McLean report is issued, we will take any further action.

I want to keep a sense of openness on the petition in a way that does not require the involvement of the full committee. On balance, the committee's view is that we should take the line that Nicola Sturgeon proposed: keeping the matter open and on the books. Most members who spoke said that we should take further action on the basis of the McLean group's report. Is that an acceptable position for the committee?

Dr Simpson: Will we write to the McLean group and find out when its report will be published? We should also advise the group of PE370. I may be wrong, but I assume that the McLean group is considering the matters that that petition raises. Nevertheless, we must advise it that the petition

has been lodged. If that group is not dealing with those issues, we will have to deal with them.

The Convener: Is the proposal agreed?

Members *indicated agreement*.

The Convener: PE374 is from Dr Steve Gilbert. The petition calls for the Scottish Parliament to act urgently to redress the underfunding of chronic pain management services, to debate the matter in Parliament and to urge the Minister for Health and Community Care and health boards to move chronic pain up the health agenda.

The petition was forwarded to us by the Public Petitions Committee for information only. That committee considered the petition on 11 September and agreed to refer it to us for our consideration, drawing attention to the lack of pain services provision in the Highlands. The Public Petitions Committee agreed to seek the Executive's views. Members should have the Executive's response attached to the petition.

Dorothy-Grace Elder: The Public Petitions Committee agreed unanimously last week that, unfortunately, the Executive had not responded to the nub of the issue. We all thought that the Executive had made a mistake and responded about palliative care and cancer care, which are quite well served, whereas PE374 almost entirely concerns patients in the community who suffer from chronic pain, such as arthritis patients and back injury patients.

The Executive had gone off skew-whiff, so the Public Petitions Committee agreed to write to it again to point out that it had taken up the doctor's points wrongly and to ask for a fuller reply about what could be done to alleviate the pain of the huge number—270,000 to 500,000—in the community who do not receive much or any help. It was pointed out that Highland region has no specialist pain clinic. That is the stage we are at.

The Convener: So, as things stand, the Public Petitions Committee has asked for clarification and further information from the Executive.

Dorothy-Grace Elder: Yes.

The Convener: The best thing for the committee to do is probably to await the Executive's further response to the Public Petitions Committee. Is that acceptable to members?

Dorothy-Grace Elder: I am sure that John McAllion will agree that the Executive took a long time to reply the first time, which showed that it had missed the point. I am concerned that more months will drag on and that we will then receive a reply that is not very strong and that there will be no proper investigation of the issue. I move that we have a reporter on this.

Dr Simpson: I disagree that we should have a reporter on this. However, in addition to the questions that the Public Petitions Committee is asking the Executive, we should ask the Executive what investigations it proposes to undertake to assess the needs of patients and the current chronic pain management programmes in Scotland. Those investigations should be carried out by SNAP—the Scottish needs assessment programme—or CRAG, which is the clinical research and audit group. There are serious problems about prolonged delays in people getting to chronic pain clinics. I hope that this is an area in which the Executive, as part of its new programme of waiting times, will indicate that it will set some targets. To do so, however, it needs to undertake the initial investigations.

The Convener: Is it acceptable to members that I write to the Executive, making the points that Richard Simpson has just made and stressing the need for a quick response from the Executive to the Public Petitions Committee's second letter? We can come back to the petition at a further meeting, when we have received a response.

Dorothy-Grace Elder: A few months ago, the minister refused to conduct an audit of services.

The Convener: We will ask her whether she will undertake an audit and assessment of what is going on at a local level throughout the country. We are all aware that services are patchy in certain areas and that some people have access to better services than others. Generally speaking, we have all been impressed by different organisations that deal with a number of different conditions. This appears to be an area in which the Executive should undertake further audit and assessment work. We can take up Richard Simpson's points, which were echoed by Dorothy-Grace Elder, and ask the Executive to respond as quickly as possible to the Public Petitions Committee's request for further information. We will return to the issue again. Is that acceptable to members?

Members *indicated agreement*.

The Convener: The next petition is PE381, from Thomas Campbell, on behalf of the Transport and General Workers Union and Unison, calling for the Scottish Parliament to examine the Scottish Ambulance Service's proposals to close five of its eight Scottish operations rooms. The petition was forwarded to us by the Public Petitions Committee, with the recommendation that it be for information only. On 11 September, the Public Petitions Committee considered responses to the petition from the Scottish Ambulance Service and the Minister for Health and Community Care. That committee agreed formally to refer the petition to the Health and Community Care Committee for further consideration. The responses are attached.

All members should have received a copy of a letter that was sent to me by Susan Deacon, relating to the Ambulance Service and making it clear that what is being asked for at this point is further development of proposals, leading to an outline business case on how response times and the effectiveness of the service can be improved. Do members have any comments?

Margaret Jamieson: I declare an interest as a member of Unison.

The Audit Committee considered the difficulties that were experienced throughout Scotland because of varying response times, and undertook an investigation into the matter. It is in response to that investigation that the Ambulance Service has examined the way in which it is organised and whether triage is undertaken. A business case is currently being prepared. The petitioners are focusing specifically on one area of Scotland and are not considering on an equal basis the delivery of the service that will be provided to everybody in Scotland. I suggest that we simply note the comments and await the discussions between the Scottish Executive and the Scottish Ambulance Service, as the Audit Committee is also keeping an eye on the matter.

10:15

The Convener: Has the Audit Committee agreed that it will consider the matter again at a specific time, or when the business case is proved?

Margaret Jamieson: When the business case is before the minister, the Audit Committee will take a further look at the matter.

Mr McAllion: The Public Petitions Committee tried to do as much work on the petition as possible before referring it another committee. The responses from the Scottish Ambulance Service and the minister clearly said that the petitioners have no real concerns. However, that is not the petitioners' view, so it is not for the Public Petitions Committee to make a decision about whether the petitioners are right or the Executive and the Scottish Ambulance Service are right. It is therefore for the Health and Community Care Committee to decide whether to note the petition and take no further action or whether there is a case for some kind of investigation.

Nicola Sturgeon: I understand that there are two issues before the minister at the moment. The first is the number of operations centres and the second is the prioritisation of 999 calls. The petition is concerned with only one of those issues. I am not sure what the Audit Committee is considering.

Margaret Jamieson: It is considering priority dispatch.

Nicola Sturgeon: That is not what the petition is about. It is about the reduction from eight to three of the number of operations centres.

Margaret Jamieson: That is the same thing.

Nicola Sturgeon: No it is not. The two issues do not necessarily go hand in hand. I am concerned that what the Audit Committee is doing and what the petition is asking us to do are perhaps not exactly the same thing. However, I am not sure, because I am not a member of the Audit Committee.

Margaret Jamieson: Let me explain. The Audit Committee visited several of the operations rooms. There was a difficulty in the way in which they were managed locally without the bigger picture being looked at. There was also a problem with experience. The Scottish Ambulance Service is now considering a reduction in the number of control rooms, which would have a link to NHS 24. That is virtually a total reorganisation, and there will be local facilities for patient transport, so it does incorporate what the petitioners are concerned with. However, the petitioners are highlighting a difficulty—the subject of a number of petitions—that relates to human resources issues not being tackled by some elements in the NHS and, in this case, in the Scottish Ambulance Service in relation to effective communication with the work force.

Nicola Sturgeon: I do not disagree. I do not really want to get into the substance of the petition; I want merely to clarify whether the Audit Committee's investigation of the issue covers the points that are raised in the petition. Discussions that I have had with the Scottish Ambulance Service suggest that it sees the reduction in the number of operations centres and the prioritisation of calls as a package. One could happen without the other, so I do not want us to be at cross purposes with the Audit Committee. If somebody who knows what the Audit Committee is doing is able to assure us that that is not the case, I am quite happy to leave the petition as it is just now.

Mary Scanlon: I read Elaine Thomson and Richard Lochhead's comments. As a member for the Highlands and Islands, I understand the comments that the petitioners are making, because Inverness is recommended as the location for one of the new centres. However, I think that we should wait until the full business case and the final decisions that will be based on the proposals are made. We should be concerned about the priority dispatch system.

I understand that training is to be improved and that equipment is to be upgraded. If better response times are achieved—regardless of where the call centres are located—we should endorse the proposed change. A glaring point

emerges from the Public Petitions Committee's consideration of PE381, which is that consultation has been poor. I hope that consultation will be included in the business case and in the proposals that are to be introduced.

Mr McAllion: As I said, the Public Petitions Committee's view is that we did not want to go further down the road with PE381. That is because we were beginning to become involved in the substance of the petition. The Health and Community Care Committee might wish to note the petition and write to the petitioners asking for their response to the views that were expressed by the Scottish Ambulance Service and the Executive. That would move things on.

The Convener: We can seek clarification as to what the Audit Committee will do when PE381 returns to that committee. I understand that the proposal is for a package that includes the operation centres and priority dispatch. We will look at PE381 again when we have sight of the full business case.

I do not know about other members, but I have so many bits of paper this morning that I do not know where I am going next. Annexe B shows the status of ongoing petitions. I understand that John McAllion will report on PE320 at our meeting next week. Is that the case?

Mr McAllion: Yes.

The Convener: In that case, are we agreed that we consider PE320 next week?

Members *indicated agreement*.

The Convener: We move on to PE283, which we have discussed previously. However, one issue has to be brought to the committee's attention. As some members are aware, Richard Simpson has been doing background work on issues around organ donation. A question has arisen as to whether, at various times, the Health and Community Care Committee asked Richard to undertake some of the work. That would make a difference to, for example, whether certain expenses can be claimed. Is the committee happy to agree that Richard's work and his meetings to look into the wider issue of organ donation were done on behalf of the committee?

Margaret Jamieson: I thought that that was the case. More than a year ago, I remember a discussion between Kay Ullrich and Richard Simpson on the subject.

The Convener: Yes. That is the basis on which we have all have gone forward with the matter. However, looking back, there seems to be some doubt about whether a formal committee decision was made. I ask the committee to agree retrospectively that the decision was a committee decision. That would cover instances when Richard travelled to meet somebody, because he would have travelled on behalf of the committee, rather than on his own behalf.

Nicola Sturgeon: I have no concerns about that. As I was not a committee member when Richard's work begun, I do not know the basis on which he was sent to do that work. I have no concerns about giving my retrospective agreement. My one concern, however, is that the issue is highly sensitive. When the committee begins to discuss organ donation more openly, it will attract a lot of attention.

I saw a good "Newsnight Scotland" piece in which Richard Simpson took part. He was described as a committee reporter, but it is fair to say that he was putting forward a firm outline of his views on the subject. If Richard is a committee reporter, he should be open-minded on the subject. With the greatest of respect to Richard, I am not sure that that is the case. That gives me cause for serious concern.

The Convener: That is a fair point. If we accept that Richard is a committee reporter, anything that he works on has the same status as any other draft report in which any committee member is involved. That means that the report is private until it is presented to the committee. As Nicola Sturgeon said, reporters should keep an open mind so that they can pull together different strands of opinion. We then come together as a committee to make a decision on a draft report.

Nicola Sturgeon: I mean no disrespect to Richard Simpson, but I think that he is perceived as not being an objective reporter on the issue. For the record, I do not disagree with Richard's view. Would it be feasible to appoint another committee member—whose views are not as fixed as Richard's—to join him on the investigation and try to provide some objectivity? The issue is incredibly sensitive and can polarise opinion. If any report that the committee produces is considered to have been driven by somebody who has a fixed view, that might detract from the committee's comments. Can we balance the investigation?

The Convener: It would be fair to allow Richard Simpson to respond.

Dr Simpson: I understand that the committee discussed in private whether Kay Ullrich or I would act as reporter. I remember clearly that I was appointed reporter.

The report is nearly complete. Contrary to the impression that has been given, I do not have a fixed view. My only fixed view is that we cannot continue with the way in which organ donation is dealt with. On the central issue of consent—about which it is assumed that I have a fixed view—I have suggested that the advice and evidence that

we have received point to a fairly consensual view, which is different from my having a fixed view. If the impression that I have a fixed view has been created, I want to remove it.

My report will present the options and their implications to the committee. Presumed consent is not the only issue; the report makes 60-odd recommendations about organ donation, so it is wide-ranging, although I accept that the central issue is sensitive. It will be up to the committee to decide whether to make a recommendation on the central issue of consent.

Margaret Jamieson: I have a point about people who act as reporters for the committee. We saw what happened when Mary Scanlon was involved in the measles, mumps and rubella report. Recently, I have written to Jennifer Smart about the single general practitioner issue on which I was reporter and on which I produced a report that became a report of the committee.

The reporter system identifies individuals as targets and places pressure on reporters. We must support reporters. It is wrong that members are identified as targets. It is okay that we do a piece of work, which then becomes the committee's property, so we need to get a message out. I will not offer to be a reporter again. I think that Mary Scanlon has said that too. The way in which members are treated is outrageous. We should be cautious and we should consider appointing two members as reporters. Much time and effort is put into preparing a report. The public do not realise that.

The Convener: It might be worth while for me to pick up on the general point and take it to the conveners liaison group for discussion, to find out what feedback other conveners have had from reporters. Standing orders allow only one reporter per subject to be appointed, so I will take the matter as an agenda item to the conveners liaison group for open discussion with other conveners about what is happening with reporters in other committees.

If a problem exists that amounts to nothing less than intimidation, there might be a case for changing the standing orders or doing something else. The Presiding Officer or somebody else could say that the media must be aware of the difficulties that a reporter experiences and that, in the end, the report will be the committee's property.

Mr McAllion: I agree. A reporter can produce a draft report only, which remains private until the committee considers it. The report then becomes the committee's property and goes into the public domain.

It is one thing for the committee to want reporters to have support and assistance, but I would never want one of the committee's members not to be trusted as a reporter because of his or her views. There must be balance in the reporting mechanism. If we cannot trust each other to come forward with objective draft reports it is a sad day for every member of the committee.

10:30

Dorothy-Grace Elder: From the start, committee reporters have shown tremendous integrity. When they have had a fixed view of their own when they started out, they have often striven all the more to present the opposite view. I am sure that Richard Simpson will, as usual, produce a well balanced report. However, I do not see how we can protect the names of individual reporters—that is just impractical. All we need to do, as individual reporters, is say absolutely nothing when people get on to us.

Margaret Jamieson: You should see the letters, Dorothy.

Dorothy-Grace Elder: I know, but we must just keep stumm.

Shona Robison: It is not an issue about trust and integrity—it is rather unfortunate that that was said. I had no idea that Richard Simpson had been appointed by the committee, because it happened before my time. This is the first time that I have heard that Richard Simpson is a reporter to the committee. When I heard him talking about the issue, I assumed that it was something that Richard was running with as an individual. That is how it came across to me. If that was my perception, it could be the perception of anybody else who is listening. Human nature being what it is, people will have their own views, and those views will come across. The suggestion about the conveners liaison group is the right way to go. We can have a review not only of how the role of reporters is to be carried out, but about protection for reporters. I would be happy to progress in that way.

The Convener: We will progress in that way on the general point. On the specific point, are members happy retrospectively to agree that Richard Simpson is the reporter? Those of us who have been here longer assumed that that was what we had done, only to find that we had not done so on the record. How close is the report to completion?

Dr Simpson: Subject to some legal discussions, it will be available just before or just after the October recess.

The Convener: In view of the fact that the report is close to completion, I will liaise closely with Richard Simpson over the next few weeks on the matter, prior to the draft report coming before the committee. We are on another learning curve. In

future, we will be a little more aware of the role of reporters when it comes to commenting on what are in effect draft reports. We are almost at the end of Richard Simpson's reporting phase and the report is about to come back to the committee, which will have ownership of it. I will work closely with Richard Simpson until the report gets to that point, and I will take members' general points to the CLG on their behalf. Is that acceptable to members?

Members *indicated agreement*.

The Convener: The petition from the west of Scotland group of the Haemophilia Society and Thomas McKissock is an agenda item for later this morning. The next petition is from Bill Welsh on measles, mumps and rubella vaccinations. The Executive's response—

Mary Scanlon: Can I have a quick word on that?

The Convener: On which petition?

Mary Scanlon: Bill Welsh's.

The Convener: I am giving you an update—haud yer horses.

The Executive's response of 29 June 2001 is attached. Do members wish to comment?

Mary Scanlon: I have read the Executive's response. The Health and Community Care Committee agreed on and set out eight questions as a remit for the expert group. Can we be assured that those eight questions are addressed in paragraphs (a), (b), (c) and (d) on page 5 of the Executive's response? It is not entirely clear. I presume that the headings are being addressed.

The Convener: The clerks will clarify the matter for us.

Mary Scanlon: I want to be sure that the eight headings that were set out by the committee as a remit for the expert group are dealt with, whether by the expert group, the Medical Research Council or the Joint Committee on Vaccination and Immunisation.

The Convener: The clerks will clarify those points. Generally speaking, the committee's recommendations—based on a not inconsiderable amount of work by Mary Scanlon, who has been under great pressure as reporter on the matter—have been accepted by the Executive. That is good news for the committee.

More important, it is good news because of the work that will be done by the expert group in the coming six months. That group will try to get to the bottom of some issues and adopt a fresh approach to some single vaccination issues and to the work that might be required. To some extent, that came out of the report that Mary Scanlon and the committee put together. We shall receive clarification on those points.

Mary Scanlon: I wish to make a final point. Can the committee examine the matter again after the expert group has dealt with it?

The Convener: We shall return to the matter to see whether the expert group has covered all the issues that we identified. Are we agreed that we should proceed in that manner?

Members *indicated agreement*.

The Convener: We move on to PE123 on the warm homes campaign. The draft report by Dorothy-Grace Elder and Malcolm Chisholm will be discussed later in our proceedings.

PE247 is in respect of the Epilepsy Association of Scotland. The committee agreed on 12 December to await the acute services review. In the light of the Executive's performance assessment framework, after its meeting on 27 June the committee wrote to the Executive to ask what minimum standards it intends to set for the provision of services to epilepsy sufferers. A letter from the Epilepsy Association of Scotland has been circulated to members of the committee by e-mail. Does anybody have any comments?

Margaret Jamieson: The letter from the Epilepsy Association of Scotland does not change my view that we should wait to see what happens to the acute services. When we discussed the matter previously, people in the public gallery said that they were frustrated. Epilepsy might be subject to an acute services review. Everything in the acute sector is currently under review. We hope that the health plans for each health board area include epilepsy, as they do diabetes and so on. Until we have such information, I do not think that we can proceed.

The Convener: We are waiting for further information from the Executive. I shall note the letter that we have received. Is that agreed?

Members *indicated agreement*.

The Convener: As for PE223 from Mr and Mrs Mrs McQuire, we agreed to await the report from the National Institute for Clinical Excellence. We also agreed to seek information from the Executive.

Dr Simpson: I warn members that the NICE report is now out for consultation. I presume that the Health Technology Board for Scotland is now examining the draft report. It has set itself a target of six or eight weeks in which to make observations on the report. We are close to receiving an answer about the timetable for the publication.

The Convener: The report will be returned to us in a matter of weeks.

Dr Simpson: Can you ask for a copy of the NICE consultation document to be sent to us? I know that it is on the web, but it would be helpful if it could also be sent to us.

The Convener: Yes. We will seek confirmation about the timetable and the clerks can timetable it into the forward work plan.

Members *indicated agreement*.

The Convener: I come now to PE354 in respect of Stobhill general hospital. We agreed on 27 June to ask the Public Petitions Committee to keep the Health and Community Care Committee informed of progress. At its meeting on 11 September, the Public Petitions Committee noted the attached letter from Greater Glasgow Health Board. Will the committee note that letter?

Members *indicated agreement*.

The Convener: Petition PE367, from Eric Drummond, calls on the Scottish Parliament to ensure that there are adequate and equal services for the diagnosis and treatment of people who suffer from sleep apnoea. It was agreed on 27 June that we should note the petition and pass Mr Drummond's concerns about the present system for the funding of small disease groups to the Public Petitions Committee. The Public Petitions Committee has gathered further information, and papers are attached to the members' briefing. At its meeting on 11 September, that committee considered responses from the Scottish Executive, Lothian Health and Greater Glasgow Health Board in relation to the petition. It agreed to request the results of Lothian Health's review of its sleep service, when they are available, and to reconsider the petition on receipt of that information.

I suggest that we simply note the petition. Is that agreed?

Dr Simpson: What is happening on the central question of how small illness groups are being managed?

The Convener: Do you have any further information on the responses to the petition?

Mr McAllion: Off the top of my head, no, but I shall check that with the clerk to the Public Petitions Committee.

Dr Simpson: Under the internal market system, any individual health board or fund-holding general practitioner could purchase those treatments from any service that was being offered anywhere. It was left to the market to sort things out. However, the situation was further complicated in the mid 1990s, prior to 1997, by the national health service in Scotland's decision to split up the purchasing arrangements between all the boards. Previously, there was often top-slicing of those services, and then they were funded directly.

After that, we found ourselves in a new situation in which, for example, North Glasgow University Hospitals NHS Trust had to negotiate with seven or eight different health boards to maintain a service, and had to do so annually. That strikes me as grossly inefficient.

I am concerned that, for many conditions that I have experience of, including severe allergies, Rett syndrome and cystic fibrosis, there is not yet a clear steer from the Executive as to the method that it proposes to use to deal with those issues. Some are dealt with under the national services division; a list of conditions is dealt with in that way.

However, if such treatments are funded by individual health boards, which have the right to buy into or not buy into those services, that leads to postcode treatments and prescribing. If members need any evidence of that, they can see it in the fact that almost all referrals to Lothian Health's sleep apnoea centre are from the Lothian area. This is an area of major concern, and we should press the Executive for a clear view of how ministers propose to deal with the matter.

The Convener: Is that point included in the request for further information that the Public Petitions Committee has made to the Executive?

Mr McAllion: I am sure that it is, but I will check with the clerk.

The Convener: If that point has not been included, will you ensure that it is added?

Mr McAllion: Yes.

The Convener: Do members agree simply to note the petition at this stage?

Members *indicated agreement.*

10:42

Meeting adjourned until 10:52 and continued in private until 12:20.

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