HEALTH AND COMMUNITY CARE COMMITTEE

Tuesday 25 February 2003
(*Afternoon*)

Session 1

£5.00

Produced and published in Scotland on behalf of the Scottish Parliamentary Corporate Body by The Stationery Office Ltd.

Her Majesty's Stationery Office is independent of and separate from the company now trading as The Stationery Office Ltd, which is responsible for printing and publishing Scottish Parliamentary Corporate Body publications.

CONTENTS

Tuesday 25 February 2003

HEALTH AND COMMUNITY CARE COMMITTEE

10th Meeting 2003, Session 1

CONVENER
*Mrs Margaret Smith (Edinburgh West) (LD)

DEPUTY CONVENER
*Margaret Jamieson (Kilmarnock and Loudoun) (Lab)

COMMITTEE MEMBERS
*Bill Butler (Glasgow Anniesland) (Lab)
*Dorothy-Grace Elder (Glasgow) (Ind)
*Janis Hughes (Glasgow Rutherglen) (Lab)
*Mr John McAllion (Dundee East) (Lab)
*Shona Robison (North-East Scotland) (SNP)
*Mary Scanlon (Highlands and Islands) (Con)
Nicola Sturgeon (Glasgow) (SNP)

COMMITTEE SUBSTITUTES
Brian Adam (North-East Scotland) (SNP)
Ian Jenkins (Tweeddale, Ettrick and Lauderdale) (LD)
Mr Tom McCabe (Hamilton South) (Lab)
Ben Wallace (North-East Scotland) (Con)

*attended

THE FOLLOWING ALSO ATTENDED:
Mr David Davidson (North-East Scotland) (Con)
Mr Jamie Stone (Caithness, Sutherland and Easter Ross) (LD)

WITNESSES
Mr Frank McAveety (Deputy Minister for Health and Community Care)
Chris Naldrett (Scottish Executive Health Department)
Bill Scott (Scottish Executive Health Department)

CLERK TO THE COMMITTEE
Jennifer Smart

SENIOR ASSISTANT CLERK
Peter McGrath

ASSISTANT CLERK
Graeme Eliot

LOCATION
Committee Room 1

Scottish Parliament

Health and Community Care Committee

Tuesday 25 February 2003

(*Afternoon*)

[THE CONVENER *opened the meeting at 14:10*]

Item in private

The Convener (Mrs Margaret Smith): Good afternoon everybody and welcome to the Health and Community Care Committee's 10th meeting in 2003. We have received apologies from Nicola Sturgeon, and we welcome David Davidson and Jamie Stone.

I suggest to the committee that we consider item 6, on hepatitis C, in private to allow for a full exploration of possible options for discussion with our legal team. However, members should note that we will also discuss hepatitis C under agenda item 5, in relation to a letter and a written submission from the Scottish haemophilia groups forum. Do members agree to take agenda item 6 in private?

Members *indicated agreement*.

Subordinate Legislation

Animal By-Products (Identification) Amendment (Scotland) Regulations 2003 (SSI 2003/53)

The Convener: Agenda item 2 is subordinate legislation. We have three negative instruments to consider. The first is the Animal By-Products (Identification) Amendment (Scotland) Regulations 2003 (SSI 2003/53). The Subordinate Legislation Committee's comments were forwarded to all members of this committee. The Subordinate Legislation Committee has drawn the regulations to our attention because they have not been notified to the European Commission under the technical standards directive. The regulations might contravene European Community law and, if so, that would raise a devolution issue. However, we are a bit tight for time on this one. No members' comments have been received and no motion to annul has been lodged, so the recommendation is that the committee does not make any recommendation on the regulations. Is that agreed?

Members *indicated agreement*.

Community Care and Health (Scotland) Act 2002 (Transitional Provisions) Order 2003 (SSI 2003/63)

The Convener: The Subordinate Legislation Committee's comments on the order were forwarded to all members of this committee. The Subordinate Legislation Committee has drawn the order to our attention on the ground that the inconsistency in the drafting approach to the order is such that, in the view of that committee, it could be considered to be drafted defectively. The latest reporting date on the matter for the Health and Community Care Committee is 10 March. If members want to debate the order, we could do so on 4 March. However, no members' comments have been received and no motion to annul has been lodged, so the recommendation is that the committee make no recommendation on the order. Is that agreed?

Members *indicated agreement*.

National Health Service (General Medical Services Supplementary Lists) (Scotland) Regulations 2003 (SSI 2003/64)

The Convener: Again, the Subordinate Legislation Committee's comments were forwarded to all members of this committee. The Subordinate Legislation Committee, which raised 13 points of substance on the regulations with the Executive, felt that the regulations were defectively drafted and lacked clarity, and that it was unusual

to impose obligations without providing any sanctions for failure to comply with those obligations. That committee was also unclear about why convictions that were obtained in other countries for crimes such as murder should not be relevant.

In response to the Subordinate Legislation Committee's request for comments on those points, the Executive replied that it had carefully considered the extent to which convictions elsewhere in the United Kingdom should be covered by the provisions in the regulations and the analogous provisions in the National Health Service (General Medical Services) (Scotland) Regulations 1995. However, the 1995 regulations extend only to offences that are committed in the UK and the policy intent of the new regulations was to reflect that. The position is under review and the Executive will return to the new regulations in due course to consider a wider range of options. The Subordinate Legislation Committee draws that information to our attention.

The latest date for the Health and Community Care Committee to report on the regulations is 10 March. If members want to debate the regulations, we could so on 4 March. However, no members' comments have been received and no motion to annul has been lodged, so the recommendation is that the committee make no recommendation on the regulations. Is that agreed?

Members *indicated agreement*.

Retail Pharmacies

14:15

The Convener: We move on to agenda item 3, which is on the Office of Fair Trading's report, "The control of entry and retail pharmacy services in the UK". We are joined by the Deputy Minister for Health and Community Care, Mr Frank McAveety. I welcome him to what I believe is his first Health and Community Care Committee meeting as a minister. I am sure that, like his colleagues, he will enjoy the experience. He is just getting in under the wire before dissolution. I also welcome the minister's officials.

I make it clear that the OFT report generated more proactive responses to the committee than any other item that the committee has considered during the past four years. Certainly, an unprecedented number of MSPs have grabbed me for a quiet word in my ear. They represent constituencies throughout the country and are concerned about their local pharmacies. It is obvious that the issue is important to all MSPs and to the public. I ask the minister to make a short statement, following which committee members will ask him questions.

The Deputy Minister for Health and Community Care (Mr Frank McAveety): Thank you, convener. I introduce Bill Scott, who is the chief pharmacy officer in the Scottish Executive, and Chris Naldrett, who is the branch head of primary care infrastructure. Mr Naldrett is pulling together responses to and submissions on the OFT report. Having spent all morning signing off letters to MSPs, I can testify to the volume of correspondence to which the convener alluded.

I will sketch out the role of Executive ministers and the process in which we are involved with regard to the OFT report, on which I will be able to respond to questions. I trust that the committee received our written response to the points that it raised previously on the OFT report. I will make several key points that will emphasise and amplify what was said in our letter to the committee.

We are committed to securing a viable network of community pharmacies throughout Scotland and we want fully to utilise pharmacists' knowledge, skills and expertise in working with other members of the health team to deliver the broad health agenda to which the Executive is committed.

On the OFT report, it is important that the committee is aware of the process that we are engaged in. The Executive's health department, in line with other UK health departments, is handling the OFT report. I will explain the time scale within which we are operating. The OFT report, which

was published on 17 January, covers the entire UK. The report was sent to ministers in all four UK health departments and the Department of Trade and Industry. Those ministers are responsible for co-ordinating responses to the OFT report from relevant Government departments and for reporting the outcome to the Government's grandly named economic affairs, productivity and competitiveness committee—the EAPC—which is chaired by the Chancellor of the Exchequer. The DTI aims to submit a report and an accompanying action plan to the EAPC no later than 90 days from the report's publication date.

On the key points that were raised in written correspondence to me and to MSPs, I emphasise again that Scottish ministers will make the final decision on what action to take in response to the OFT report. That point was also emphasised in the First Minister's response to the convener's question during First Minister's question time last Thursday.

The OFT report deals with consumer-related issues, which are reserved issues. However, health is a devolved issue, so we can follow a different course of action from those that will be followed by other UK health departments. Within the 90-day time frame, not only must each department carefully consider the OFT report from its own policy perspective, but they must seek the views of the major stakeholders affected by the report's recommendations. Our policy perspective is represented by "The Right Medicine: A Strategy for Pharmaceutical Care in Scotland."

Officials and I have met stakeholders, such as the Scottish Pharmaceutical General Council and other representatives, over the past week or so. I understand that officials will meet with representatives of the supermarket chains tomorrow regarding their response to the OFT report. Folk have been afforded a range of opportunities to put in their submissions.

The convener referred earlier to my coming in under the wire—at present, we are in a limbo situation. We need to get those comments in before we make a final evaluation, although in the meantime we will try to respond to the points that members may raise. The comments will form part of our deliberations over the consultation period, and we hope to arrive at a conclusion in the near future.

We recognise that the OFT report is of substantial public interest and that it has a direct relationship with our commitments to community pharmacies and to "The Right Medicine" strategy. We want to get that balance right, and we are in listening mode to try to secure that and to ensure that we give a measured response when appropriate.

Mary Scanlon (Highlands and Islands) (Con): What input did the Scottish Executive have into the OFT report?

Bill Scott (Scottish Executive Health Department): The OFT visited officials in the department for a morning and we discussed some factual material about the operation of the system at that meeting. We also gave them a copy of our strategy for pharmacy.

Mary Scanlon: I see; it was a morning's consultation. Does the UK study adequately take account of the greater rural distribution of the Scottish population in its findings?

Mr McAveety: As regards that level of detail, the OFT should be asked about the range of the assessment that it made before it arrived at its final recommendations. That is a key issue, which many people have raised with me. We are examining whether Scotland's rurality has been taken into account. The OFT report contains an economic case, but it also comprises a lot of built-in assumptions that we are trying to examine robustly. We are trying to arrive at a much more accurate picture that we can compare with what is in the OFT report.

Mary Scanlon: As the convener said, we have been swamped by submissions from pharmacies. I was reading some from Dornoch, Nairn, Strathpeffer and Shetland earlier. They all say that they are pursuing "The Right Medicine" strategy, to which they have signed up, and they believe that the OFT report or any other challenge to the strategy would destabilise community pharmacies. Many of them are investing in consulting rooms so that they can dispense methadone, morning-after pills and so on. Does Scotland need the OFT report? Given that health is a devolved matter, could we bin the report and concentrate on the strategy?

Mr McAveety: I re-emphasise my opening comment, which was that the decision will be made by Scottish ministers, and we will make our determination in light of "The Right Medicine" strategy, the submissions that we are receiving in the consultation period and the robust analysis that I understand officials will make of the OFT report. That is as much as I can say at this stage. However, I recognise the issues that you raise, which are certainly among our concerns.

Mary Scanlon: The point that I am making is one that has been made to me and many others in submissions. Pharmacists are pursuing the strategy, but if the OFT report goes through, it will contradict the strategy. People are writing in to ask why they should invest in nicotine replacement therapy, staff training, additional staff, drug strategies or rooms that are to be set aside for consultations and the morning-after pill—in short,

all the things that you have expected them to do. The OFT report contradicts that work and destabilises the pharmacies.

The Convener: I certainly back up those comments. I spent part of Saturday morning in one of my local pharmacies, where the pharmacist said that her colleagues were already wondering why they should bother arranging private rooms, for example. They felt they might put things on hold until they see what happens. None of us want "The Right Medicine" strategy to be put on hold; we want it to advance.

Mr McAveety: Perhaps Bill Scott could expand on how the strategy has been evolving and whether anything within it is contradicted by the OFT report.

Bill Scott: We have been encouraged by the way in which pharmacists and the general public have warmed to the strategy. Members are right to recognise that pharmacists are implementing the strategy. We would be concerned if a community pharmacy did not make that investment. The ethos of the strategy is that there should be closer working between all health professionals in the team.

We are considering closely how the OFT report will affect our ability to deliver the strategy. That said, as we constructed the strategy and spoke to people, we did not have any specific control-of-entry system in mind. The strategy is about how the profession can help to deliver better health to the Scottish public.

Janis Hughes (Glasgow Rutherglen) (Lab): The convener has already alluded to the strength of feeling about the proposals—no member of the committee underestimates the strength of feeling that exists in our local areas. I note that the OFT consultation lasted half a day. Is the Executive carrying out its own research into the possible effects of the OFT report on pharmacy provision in Scotland? I understand that the report argues that a free market in pharmacy will lead to improved services, but I am finding it difficult to get my head round how that could be the case.

I have talked to people who run pharmacies in my area about the services that they provide, such as contraception advice, methadone dispensing, domiciliary oxygen and delivery of prescriptions following GP home visits. There is concern that those services would go if local pharmacies were no longer in place. Has the Executive done any research into the effects that there would be on local communities if the report's recommendations were implemented?

Mr McAveety: Chris Naldrett and others may be able to comment on the detail of the time scale, but we have had strong representation on those issues from the Scottish Pharmaceutical General Council. We spent a fair amount of time on that last week. The SPGC is also undertaking its own economic assessment, as well as an assessment of many of the key recommendations in the OFT report. I have asked the SPGC to complete those assessments as quickly as possible and to share the findings with the Health and Community Care Committee. I do not know whether that will happen, but that is the intention.

I assure Janis Hughes that we are starting from the principle of "The Right Medicine" strategy. We believe that a partnership approach will be of long-term value in Scotland, because it recognises the role that the work force, pharmacists and other health professionals play. We want to maintain that partnership approach. The debate is obviously about whether the apocalyptic picture that has been painted in many of the letters that we have received is really represented in the OFT report. We need to get behind that picture to see exactly how accurate it is.

Perhaps Chris Naldrett could touch on some of the processes involved in allowing us to arrive at a much more robust assessment of the OFT report.

Christ Naldrett (Scottish Executive Health Department): We have an array of economists who are studying the report now and are due to give us some information by the end of this week or the beginning of next week. As the minister said, we hope to get sight of the other assessments that are available, including the SPGC's version, and we are obviously looking around for anyone else who will give us copies of their own independent assessments and reports.

We have got the story from the public and from the pharmacists in the welter of mail that has been coming in over the past week. In fact, the volume of mail has been picking up and, even as I speak, the e-mails are coming in faster every hour.

Bill Scott and I are to meet representatives from the Company Chemists Association tomorrow, which will give us the other side of the picture—in some respects, at least. Of course, not all the multiple pharmacies and supermarkets come from the same position—there is a split in that camp, too. Tomorrow's meeting will give us an opportunity to discuss the matter. If we had held that meeting earlier, we could have given you a flavour of the chemists' arguments. We need to know what changes would take place if deregulation were to come into effect and how the services that we require from "The Right Medicine" strategy could be sustained.

Janis Hughes: You talked about the economic situation, about which you are obviously seeking further information. It is vital that the long-term economic situation is taken into consideration. In my opinion, cost savings that may be gleaned at

the outset of the exercise would be vastly outweighed by the long-term effects on people who would not be able to use local pharmacy services because they would no longer be in place. People might not be able to go to supermarket pharmacies or pharmacies that were further away, and they would not be able to get home delivery of medication. The long-term cost effects of that on the health budget would be quite horrendous. That must be taken into account in your deliberations on the economics of the situation.

Christ Naldrett: I fully accept that.

14:30

The Convener: One of the submissions to the committee suggested that the actual savings would be equivalent to about 60p per person in Scotland, but that the cost in extra reimbursement and remuneration to pharmacists would far outweigh that, never mind the point that Janis Hughes has just made. Will you take into account the likely impact of the reimbursement and remuneration of pharmacists and the extra impact of the increase in the NHS prescription bill? Is that one of the things that your economist will consider?

Chris Naldrett: Yes.

Dorothy-Grace Elder (Glasgow) (Ind): Is the Executive taking into consideration the fact that, over the past 20 years or so, supermarkets have already drained the local pharmacies of a large amount of their business—such as the easy, over-the-counter medicines, cosmetics and soaps?

Of the welter of evidence that we have had, one paragraph stands out. It is from Lindsay and Gilmour chemists:

"A switch of resources away from community pharmacies, towards supermarket pharmacies will benefit young, affluent, car owning ABC1's at the expense of C2, D & E's, the elderly, the disabled and mothers with young children, pedestrians and users of public transport."

As the minister, like me, represents an urban area, he knows about the urban dimension and the distance from supermarkets, which is large. Mary Scanlon referred to the problems in the Highlands. Are poorer people going to end up much worse off financially if they have to trek out to distant supermarkets?

Mr McAveety: We need to consider many of those submissions. Most of the submissions that I have seen so far are about recognising that some flexibility might be needed in how we operate access to pharmacies. However, there is a question about whether the OFT's recommendations will deliver what Janis Hughes mentioned regarding the longer-term economic and health consequences.

I do not want to argue against the flexibility of access to the provision of different services in supermarkets that those in a consumer society want. I also recognise the principle behind "The Right Medicine", which is essentially that the pharmacy is part of a health team that supports many of the particularly disadvantaged communities that we know of throughout Scotland. Those communities require access at the right time and place without any major expense.

That will be factored into our deliberations. Much of that argument is contained in the contributions that we have received so far. It will, I hope, be reflected in how we determine the outcome of our assessment. However it is important—I must stress that—to hear a variety of views to allow considered assessment to take place.

Shona Robison (North-East Scotland) (SNP): You talked a bit about the views that you heard at the open day on 6 February and at the meeting with the chairs of the Royal Pharmaceutical Society in Scotland and the Scottish Pharmaceutical General Council. I take it that the views that were expressed to you were much the same as those expressed to us, which were about those organisations' concerns.

I would have thought that, at this stage, you would be beginning to formulate your own views about what you have heard. You will be responding by 28 February, I think. Will you give us some indication of your early feelings on what you have heard so far?

Mr McAveety: I have done some Jesuit training in the past, but I do not know whether it will work here. The Executive said that it wanted to hear the views of the stakeholders. We are not at the end of that process, and it would be inappropriate that the Executive has firm views.

However, many of the representations say, I have said and the First Minister said on Thursday that "The Right Medicine" is one of the key components of our pharmacy strategy for Scotland. The decision will be made in Scotland, by the Scottish health ministers, rather than elsewhere. We are doing a robust assessment of the principles that underpin the OFT report.

That is as much as I can say to the committee today. However, members have an opportunity between now and the final closing date—I am not sure what that is—to give any subsequent views, which we would be happy to receive. I think that we would like to arrive at a decision earlier than was perhaps first thought when we initially encountered the issue in early January.

Shona Robison: The Scottish Pharmaceutical General Council raised with us some concerns, which I assume it also raised with the Executive. The council estimates that the average

pharmacy's sales of pharmacy-only medicines and over-the-counter medicines accounts for less than 5 per cent of activity. The thrust of the OFT report is that the current regulations should be dismantled in order to reduce the cost of medicines, but given the fact that those medicines account for less than 5 per cent of what pharmacies dispense, is not that a bit like taking a sledgehammer to crack a nut? Does the minister agree that that is an accurate reflection?

Mr McAveety: The percentage figures are accurate. They will be taken into account in the assessment that we make.

Shona Robison: The minister mentioned the importance of "The Right Medicine" and the impact that the OFT report could have on that. I am not sure whether I picked him up right—he can correct me if I am wrong—but did Bill Scott say that "The Right Medicine" did not view control of entry as a crucial issue?

Bill Scott: That is right.

Shona Robison: I want to ask some questions about that. In the evidence that we have received, the thrust of the argument has been that supermarkets have already indicated their intention to open pharmacies if they can do so. In addition, existing pharmacies might end up clustering around the surgeries of general practitioners in order to be the first port of call for people leaving the surgery to collect their prescription. Given that such developments would remove the stability of many existing community pharmacies, would there not be a direct impact on the Executive's strategy that was outlined in "The Right Medicine"?

Bill Scott: The strategy looked at the health needs of the Scottish population and how we can better use pharmacists and their skills to address some of those needs. One issue that we considered was repeat dispensing. About 70 per cent of prescriptions are repeat prescriptions for chronic illness. We are looking at a scheme to allow people to get prescriptions for six months or more from their pharmacy rather than requiring them to go back to the surgery. Obviously, that could change the way in which people use pharmacies.

Shona Robison: Surely the point is that, if the abolition of the control of entry regulations directly impacts on the survival of community pharmacies, the whole strategy will be jeopardised? Would not the OFT proposal have a direct impact on the whole thrust of what "The Right Medicine" is trying to do?

Bill Scott: We are in the process of looking at the issue. Our judgment on what impact the OFT proposal would have will be based on the evidence that is coming in and on our own work.

Mr Jamie Stone (Caithness, Sutherland and Easter Ross) (LD): I thank the convener and the committee members for letting me join the committee today. The OFT proposal is a seriously big issue out there, especially in my constituency in the far north. I echo Dorothy-Grace Elder's comments that it is fair to assume that the supermarkets would love the business. However, given the fact that chemists and pharmacy businesses in the Highlands are only just viable, it would not take much for them to go down. If this raw market proposal were to go through, pharmacies in town centres would be under threat.

As Dorothy-Grace Elder said, there is, unfortunately, a direct relationship between the poorest sector of society and those with the poorest health record. It is precisely those people—the elderly and the poor—who do not have cars or transport to take them to out-of-town supermarkets who would be the hardest hit if the proposal were to go through in its present form. My angle on that, as my party's equal opportunities spokesman, is that it would be absolutely deplorable from an equal opportunities point of view if that were to happen. I hope that the Parliament will in no way be associated with a change in policy that would impact directly on the most vulnerable sectors of society.

Mr McAveety: I do not know whether there was a question.

The Convener: I do not believe that there was.

Mr Stone: Do you agree with what I said, minister?

Mr McAveety: I will amplify and echo what I said earlier: the OFT report was strictly defined and considered the issue from the perspective of the consumer, whereas "The Right Medicine" is based on the health perspective and wider health needs. We support many of Jamie Stone's points, in relation both to rural Scotland and to disadvantaged parts of urban Scotland.

We must get the balance right. As I said earlier, we are carrying out a robust assessment of the economic case in the OFT report and, within that, we are considering how the report connects—or does not—with the strategy that we have been evolving.

As far as I understand the history, the controlled use of the list was introduced in 1987. I am not sure whether any of the officials know about the situation before that, because it was a substantial time ago. Knowledge of that might facilitate our achieving a more rounded perspective. We recognise Jamie Stone's intention and many of the themes that he raises and we will take them into account in our deliberations.

Mr Stone: My point is that fair trading could equal unfair health for society.

The Convener: David Davidson intimated to me some days ago that he wished to pick up on the point that Mr McAveety has just made about what happened before 1987. He was involved at that time in a professional capacity.

Mr David Davidson (North-East Scotland) (Con): Thank you, convener. I declare an interest: I am a non-practising pharmacist. I used to be a community pharmacist and I was the secretary of the Royal Pharmaceutical Society of Great Britain's department in Scotland, which involved the registration of pharmacy premises, not the NHS contract.

Pre-1987, there was what we called leapfrogging. People who had a bit of spare money and the opportunity were prepared to open pharmacies on a speculative basis. Sometimes they failed and, in doing so, they often destroyed the staffing levels and the experience and skill base of existing pharmacies that had developed over the years. I have little doubt that health authorities and health boards are capable of deciding whether someone delivers on a contract, but we do not want to go back to that situation. It ended up with cherry picking and conglomerations of pharmacies away from estates. There was no reason for people to go to pharmacies in rural or suburban areas or in newly built estates; they went to the point of delivery of prescriptions that was nearest to the local surgery.

There has been a period of stability since 1987 and prices have not shot through the roof, as was argued at the time of the changes. The price and value of a pharmacy is dependent on profit and, these days, pharmacy is not the most profitable profession in the world, because the Government looks for value for money.

I did not really come to the meeting as a witness.

The Convener: You raised this point with me the other day, when it was mentioned in the chamber.

Mr Davidson: I had a couple of questions for the minister.

The Convener: I will come back to you.

Margaret Jamieson (Kilmarnock and Loudoun) (Lab): The OFT report found that, geographically, the UK is well served by pharmacies. Will that change when the industry is deregulated, as the Scottish Pharmaceutical General Council has argued?

Mr McAveety: We are considering that submission, which might have some validity.

Margaret Jamieson: All members have a story from their constituency on the issue. David Davidson mentioned pharmacies in estates—all that I can say is, "I wish." I cannot even get general practitioners to set up satellite surgeries in some estates. There is a genuine concern about the matter in rural areas of my constituency. Those areas are served by family businesses that are part of the community and that provide a link and familiarity that would not be there if people had to travel to pharmacies. People have a good rapport with such pharmacists and can ask them questions; they do not need to look round to see who is in the queue before they decide whether to ask a question. There will be a huge impact on the health of the people of Scotland if we allow a free-for-all.

Mr McAveety: Those points are strongly put in the submissions that we have received. We have received more material in support of that argument than any other.

Bill Butler (Glasgow Anniesland) (Lab): The committee sympathises to a certain extent with the minister and understands that he does not want to say anything that will pre-empt a full and thorough assessment of the situation. However, I will have another go.

Margaret Jamieson: We will not give up easily.

Bill Butler: No, we will not.

One of the contentions in the OFT report is that localised problems with access can be tackled through specific schemes, rather than through universal regulation. What is the minister's view of that? Is there a danger that such an approach might lead to a situation similar to that which exists in some areas—particularly rural ones—with dentists, where difficulties are experienced in attracting appropriate professionals, which forces the NHS to compete with the private sector for skilled workers? Do you have any thoughts on that, minister?

14:45

Mr McAveety: I have lots of thoughts.

Bill Butler: Will you share them with us?

Mr McAveety: The submissions that we have received so far point in the direction that Bill Butler identified.

Bill Butler: Are you heading in that direction?

Mr McAveety: The volume of submissions on the issue is impressive and we must assess them. The uniform contributions that committee members have made will help us in arriving at an overall perspective.

We want to ensure that pharmacies are a central part of the health team and that the agenda is not solely about consumers. With that in mind, and in the context of what the Executive has already

published in the "The Right Medicine" and our commitment to ensuring that the decision on the matter will be taken in Scotland, we will take the submissions fully into account in the appropriate time scale, which, I hope, will be short rather than long.

Bill Butler: Those comments are helpful. The issue is contentious and has provoked many comments and petitions, including a 3,000-name petition in the north of my constituency and a 2,000-name petition in the south in the past two weeks. Can I take it from what you say that you are happy for the final decision to be the Scottish Executive's and that a swift decision is in order?

Mr McAveety: Yes.

Bill Butler: I think that I am happy with that.

Mr John McAllion (Dundee East) (Lab): I will try to make Bill Butler even happier by pushing the issue further.

The control of entry regulations were introduced in 1987 as a means of planning the provision of pharmaceutical services to make them match the needs of defined communities. The OFT report recommends scrapping that planned approach to the provision of pharmaceutical services and substituting it with a free market approach. From the submissions that we have received, we know who is on which side of the argument: Asda and Wal-Mart want the free market, while Davidsons Chemists in Dundee—I am sure that it is nothing to do with David Davidson—wants to stay with the planned approach, which it thinks serves communities throughout Scotland well. Which side of the argument is the Executive on?

Mr McAveety: That will be decided by what is in the interests of the health needs of the people of Scotland.

Mr McAllion: Is that the planned approach or the free market approach?

Mr McAveety: A third way might be suggested in the correspondence, although that might be terrifying for you, John.

Mr McAllion: If there is a third way, it would be worse than the free market approach.

Mr McAveety: I would edge towards the third way, which is to take a partnership approach and to recognise the role of pharmacies in addressing longer-term health needs. I am in a difficult position this afternoon because of the time scale involved and because we have given a commitment to listen to different views.

I point to "The Right Medicine", the investment in our primary care strategy and innovations such as the community pharmacy strategy in, I think, the Moss Pharmacy in Dundee, which allows access to primary care. We have a range of measures aimed at edging towards coherent longer-term support for pharmacies as part of the health team in Scotland. We want to use that as a template when we make our overall assessment of the OFT report.

If you are asking me whether, in principle, I have a view on whether the market meets those needs, I must say that I do not. If you are asking whether I believe that we have a role in supporting a strategy that considers where elements of the market can be socialised to meet the needs of communities, I have to say that I agree with that. That is what "The Right Medicine" has been about, and that is what we are edging towards. Within that there might be an opportunity for you and I to agree on something.

Mr McAllion: It has been a long time since that happened.

Mr McAveety: I know. It is more frightening for you than it is for me, John.

Margaret Jamieson: Can I take you back a wee bit? I think that Bill Scott said that there was a half-day consultation by officials. It was not about going out there and seeing a pharmacy in a rural area or a city and all the rest of it, but about looking at the broad range of services that are provided. I pick up what the minister said about the health care team approach and the link with the GP practice, which reviews regularly whether somebody who is on several scripts is using the medicines properly, and how that has an impact on the OFT decision. The submission from Lloyds Pharmacy indicates that the company believes that the report places a disproportionate emphasis on a small cost saving on over-the-counter drugs and that it does not refer to anything that is on NHS scripts. How, then, can we get the message over that we are committed to the health care team delivering for the patients of Scotland?

Mr McAveety: I ask Bill Scott to reply to the first part of your question, and I will come in after.

Bill Scott: I did not personally meet the OFT; colleagues of mine did. The OFT did not visit pharmacies in Scotland, as far as I am aware. I am also aware that the OFT said that it was not the NHS that it was interested in investigating, but purely whether the control of entry regulations distorted the free market for the sale of medicines and what effect that had on prices. The OFT has since reiterated that.

Mr McAveety: The OFT's report will need to be addressed by ministers of the UK Parliament and the devolved Administrations. We obviously have different powers in relation to that. The Northern Ireland Assembly would have similar powers to those that we have, but does not because of the suspension. The Welsh Assembly's powers are slightly different. We have specific powers, which I

have been emphasising this afternoon. Overall, we are committed to looking at pharmacies as part of a health team. That is the broad perspective that will underpin much of what we will say.

Margaret Jamieson: It seems as though the report has been skewed to the small amount of OTC sales rather than NHS scripts, which make up 97 per cent of the market for community pharmacies.

Mr McAveety: There is a very powerful submission by SPGC on those issues, concerning the scale and the balance of that. That is something that we are deliberating on and will make some judgments on.

Margaret Jamieson: Did the OFT speak to ministers about the report? Have you had dialogue with the OFT since the report was issued?

Mr McAveety: No. The OFT has not spoken to any Scottish ministers about the report, and I do not believe that there has been much discussion of it with other UK ministers, although I do not really know.

Margaret Jamieson: Nothing has been discussed with the health ministers.

Mr McAveety: There have been no discussions with the health ministers. There was contact with health department officials, but that was based on a face-to-face meeting rather than on any research. Part of our overall assessment will be to look behind some of the claims that were made on behalf of that investigation. We are getting into the real detail and we think that we are able to put together a reasonably coherent case that will question some of those claims.

Margaret Jamieson: It may be appropriate for us to ask the OFT to come and give us evidence on how it came to its determination relating to Scotland.

The Convener: We will return to the issue at the end of this part of the agenda. Generally speaking, I would go along with that. Bill Scott's comment that it was not the NHS that the OFT was interested in is being echoed by a number of people who have read the report.

Mary Scanlon: I want to come back to the point about patients getting the right medicine. At the end of "The Right Medicine", actions are outlined for 2003, 2004 and 2005, which have been signed up to by all community pharmacists in Scotland. Representations have to be submitted in Scotland this week, and representations have to be submitted in England within 90 days, which takes us up to the end of April. What is the time scale for the deliberations of the OFT and the DTI? I worry that people will simply put on hold any investment in their pharmacy, and no one could blame them for doing so. However, surely that is a threat to your strategy and the actions in the document, which I am signed up to as are all community pharmacists. Is that not likely to derail the strategy, especially the actions that you have outlined for achievement year on year?

Mr McAveety: Our principal commitment is to "The Right Medicine". We spent an awful lot of time creating a space where people felt comfortable in signing up to that kind of longer-term commitment rather than seeing themselves as commercial enterprises. Alongside that, as I mentioned, we have opened up our modernisation budget and some pharmacies, in partnership with other health professionals, are pulling together incredibly innovative strategies. I do not want to be over-enthusiastic, but the UK pharmacy strategy is a very good document, if not one of the most pioneering documents that has been produced on pharmacy. We want to maintain the momentum.

Even with this sidewinder of the OFT report, there is still a shared partnership agreement. Certainly, at the meeting that we had with it last week, the SPGC was emphatic about seeing that as a strategy for moving forward. The SPGC wanted to draw our attention to its immediate concerns about specific issues in the OFT report, suggesting that that has a relationship with what we want to deliver in terms of "The Right Medicine". Again, that is part of our deliberations.

Given the volume of interest and the nature of the discussions that we have had, I am minded to bring forward our views earlier than I originally thought was required. The First Minister's comments on Thursday suggested that, too. We want to arrive at a conclusion sooner rather than later, largely to address the issue of longer-term planning, so that people will feel reasonably clear about what the direction is in Scotland.

Mary Scanlon: So you recognise that pharmacists are facing uncertainty and that the community pharmacy infrastructure has been destabilised, as we have heard in many submissions.

Mr McAveety: I recognise that there is a need to ensure that the momentum that has been gathered for "The Right Medicine" is maintained. I want to ensure that it is delivered on.

The Convener: Will the Executive's submission to the OFT be made public?

Chris Naldrett: That is a good question.

The Convener: That is why I am here.

Chris Naldrett: I do not have a straight answer to that. Bill Scott and I are due to meet officials from the other departments on Thursday to map progress and developments in the four countries and the DTI's position on the matter, with a view to getting a greater degree of clarity from the DTI on

how it expects to play this in terms of timetabling. The different situation in Scotland and Wales is a factor, as has been alluded to. The 90 days run into that period. We have to look at the time frame and where we are.

By the end of this week, although we will probably still be receiving submissions, we will have received the bulk of them. As I said earlier, the economists are committed to giving us a report by the end of the week or by the beginning of next week. We will have had our meeting with officials in the other departments and we will have a pretty clear idea of what timetable we will need to allow the DTI to submit its report to the EAPC. It is then up to us to report back to ministers next week, at least with an initial response.

Mary Scanlon: If the economists' report—

The Convener: Part of the thinking behind my question was to pick up on the points that were made by Mary Scanlon and then the minister. What the minister and the First Minister have said is that the ultimate decision on whether to act on the OFT report lies with Scottish ministers.

If the Scottish ministers' submission to the DTI makes it clear that they will in no way accept the OFT report, that will allow the momentum of the Scottish strategy to continue and send a clear message to Scotland's pharmacists that Scotland will do its own thing. Obviously, it would be good if that could be made public.

Mr McAveety: Our views will be clear. I intend to make them public.

Mr Davidson: Do you agree that there are two major principles at stake? One principle is that the NHS pharmaceutical contract is not a retail commodity, so the OFT and the DTI have no interest in price fixing. The second is that Scottish ministers, although they have devolved powers down to health boards, have a responsibility to ensure that there is an accessible form of pharmaceutical service to deliver the NHS dispensing contract across the whole of Scotland. Do you agree with those principles?

15:00

Mr McAveety: Yes.

Mr Davidson: That is encouraging, and I thank the minister for that. If that is what the Executive believes, is there any reason why that has not been made public knowledge, or is that just the Executive's style in dealing with an OFT report?

Mr McAveety: Conscious that the report contained a series of recommendations that would impact on other UK health departments, I genuinely thought that it would be precipitate for me to make a direct view known until I received views from stakeholders. The process in which I have been involved over the past week has presented a fairly compelling series of points on which we will need to reflect before making our final submission.

I emphasise that, as I have said repeatedly this afternoon, "The Right Medicine" and the partnership approach will be a core element of our response. There will also be a recognition that the Executive makes the decision on the recommendation of access to the list. We hope that we will be able to pull all that together and arrive at something in the next 10 to 14 days that will be much clearer, so that we can reassure folk about the uncertainty that has been evidenced today.

Mr Davidson: Do you agree that, under the devolution settlement, apart from primary legislation on drug controls and so on that emanates from Westminster, the running of the health service is totally devolved to the Scottish Executive?

Mr McAveety: I have noticed that, yes.

Shona Robison: I want to ask a point of clarification. It sounds like the DTI report will be an amalgamation of the comments of the Scottish Executive, the National Assembly for Wales and so forth. Will the report simply be signed off by the people at the DTI, who will then submit it to the Department of Health? Will Scottish ministers give their view more as a matter of courtesy, given the fact that the decision on what we want to do is one that is reserved to Scotland? Will the DTI report to the Government be really little more than information about the respective views of the devolved Administrations?

Chris Naldrett: The DTI has made it quite clear that it could end up with a submission that contains four totally different opinions.

Mr McAveety: One of the remarkable features of the issue is that this has never occurred before in any policy area. Indeed, it might never occur again, given the fact that nobody could have predicted that one of the constituent parts—the Northern Ireland Assembly—is not even functioning because of what has happened there in recent months.

The Convener: Are you relaxed about the possibility that Scotland will take a different approach to the matter from that of other parts of the United Kingdom?

Mr McAveety: I have always been relaxed about that, as you know.

Dorothy-Grace Elder: What concerns me is the manner of that different approach. You referred earlier to a "third way".

Mr McAveety: I have converted you.

Dorothy-Grace Elder: Mr Blair has given up on the third way, just as he gave up on beacons for Britain. Would that third way mean that the supermarkets might be allowed to make further inroads into the community pharmacy business? Instead of a total free market, might the regulations be relaxed to some extent? That kind of weak compromise could lead to an entirely free market in the future. There does not seem to be much room for compromise if we are to protect these businesses. Will you spell out what your third way is?

Mr McAveety: The submissions that we have received have not only been from those who say that there should be no change or that there should be total deregulation. Already, a number of folk, including those who are involved in community pharmacies, have recognised that there might be ways in which a more efficient and flexible delivery could be provided in response to customers' demands.

I can give you two guaranteed assurances. First, any changes would have to go out to full public consultation. Secondly, as I have said already this afternoon, any change would need to be underpinned by the commitment that we gave in "The Right Medicine", which has a role to play in improving access to the health advice that is offered by pharmacies. That is a totally different context, so members need not worry that a Trojan horse is being introduced that might through time bring about the change envisaged by the OFT report, on which people have commented and which people do not support.

My remarks were much more about recognising that things need to adapt and respond to what is happening, in the same way as happened in 1987. There was much alarm when the 1987 regulations were introduced, but the fears that people had then were not realised. The situation may need to be modified to deal with today's changing patterns of public demand. We should be reasonably attuned to that. However, any change must be part of the broad strategy of ensuring that, as other members have said, people have access to pharmacy services wherever they are in Scotland. Access should not be determined by the fact that a person happens to live in a part of Scotland that is economically convenient and profitable for commercial interests.

The Convener: To pick up on your last point, in our discussions with pharmacist leaders, many of us have been impressed by their willingness to consider whether opening hours might be extended. We certainly welcome the forward-looking approach that is being taken.

I must now bring this item to a close. We have had a good discussion. Margaret Jamieson suggested that the committee might wish to ask the OFT to give evidence so that we can question it about its report. I am in favour of that. Are all other members in favour of that as well?

Members *indicated agreement*.

The Convener: That is agreed. Given the time that is available to us, I also ask members to agree that we keep the several written submissions already received from stakeholders—I am sure that they will be happy for their submissions to lie with us—and that we ask for any other submissions to be made in written form at this stage. We will take oral evidence from the OFT.

Members *indicated agreement*.

The Convener: At the end of that, we can input the committee's view to the DTI. Because of the timetable, we will miss the opportunity to input our views to the Scottish Executive, but the committee can send its submission loud and clear straight to the DTI. Is that agreed?

Members *indicated agreement*.

Mr McAveety: If I may, I suggest that it would be helpful if I could receive a copy of the committee's submission as soon as possible.

The Convener: Equally, it would be helpful if we could receive a copy of the Executive's submission.

Mr McAveety: Reciprocity. I love it.

The Convener: In partnership, we will be happy to provide the Executive with a copy of our submission.

We will now take a short five-minute break.

15:08

Meeting suspended.

15:14

On resuming—

Petitions

The Convener: We resume the meeting with consideration of agenda item 4, which is on petitions. If we require to consider any of the petitions further, we must do so by our meeting of 11 March. We must report back to the Public Petitions Committee by 17 March at the latest on any further required action. We should bear it in mind that we are coming to the last few weeks of the current Health and Community Care Committee's life.

Aphasia (PE475)

The Convener: We will begin with new petitions. The first is petition PE475 from Ms Cecilia Yardley on behalf of Speakability. The petition calls for the Scottish Parliament to take the necessary steps to acknowledge aphasia as a life-disabling condition. The Public Petitions Committee considered the petition and agreed to ask the Health and Community Care Committee to say whether we consider that the petition would merit further investigation by our successor committee in the next parliamentary session.

We cannot direct our successor committee, so I recommend that we let the petition lie. When the new committee comes in, it can decide what it wants to do about the petition. We can do no reasonable work on the petition, given that there are only four or five weeks left in which we could get information back from the Executive and deal with it. It is better to let the petition lie. Is that agreed?

Members *indicated agreement*.

Heavy Metal Poisoning (PE474)

The Convener: We move on to on-going petitions. Petition PE474, from Mr James Mackie, calls for the Scottish Parliament to acknowledge the seriousness of the threat to children that is posed by heavy metal poisoning. We have a copy of the Executive's response to the petition. The committee's view is sought on how we should proceed with the petition.

Mary Scanlon: Nicola Sturgeon's members' business debate on thimerosal raised awareness of the issue of mercury in child vaccines. I understand that the petition refers to that issue, but the letter to the Health and Community Care Committee from Trevor Lodge does not. He considered exposure to cadmium, on which his letter says:

"'the risk estimates that can be made at present are imprecise' and therefore recommend further research particularly on the relationship between exposure to cadmium and renal tubular dysfunction."

On exposure to lead, his letter says that exposure to lead has

"'negligible effects on intellectual developments.'"

I am not sure how negligible "negligible" is. I feel uncomfortable about those two points from the letter.

I am also concerned about another comment in Trevor Lodge's letter. He states:

"A report of lead in drinking water in new houses … by the Scottish Centre for Infection and Environmental Health attributed higher than expected concentrations of lead in tap water to the illegal practice of using solders containing lead on copper fittings for potable water."

I understood that lead was a problem in old houses, but this is the first time that I have heard that there is a serious problem of lead being in drinking water in new houses. I am not sure what to recommend, but I do not want to leave the petition because—

The Convener: You are assuming, Mary, that if you keep talking for long enough, I will come in and give you a recommendation.

Mary Scanlon: Yes, I hope that you will do so. I am concerned about several points in Trevor Lodge's letter: first, the letter does not deal with mercury; secondly, I am concerned about what the letter says about cadmium and lead; and thirdly, I am concerned about what the letter says about lead in drinking water in new houses.

Mr McAllion: Petitions are spread throughout parliamentary committees and they are in a similar position to petition PE474 because there is perhaps not enough time for individual committees to explore any petition's potential. The Public Petitions Committee recommends that, when a committee does not have time to deal with a petition, it should refer the petition back to the Public Petitions Committee and let it keep the petition open. It will be up to the successor committees to decide whether they want to take up any such petitions. If the Health and Community Care Committee closes down petition PE474, it will disappear. However, we can do as we did for the previous petition and refer petition PE474 back to the Public Petitions Committee and tell it to keep the petition open for the successor Health and Community Care Committee, which can decide whether to deal with the petition.

Mary Scanlon: I support John McAllion's suggestion. We should keep the petition open.

The Convener: I agree, but should we also write to the Executive and pick up on the points that Mary Scanlon has made? The Executive could deal with that letter in the interim. We can also refer the petition back to the Public Petitions Committee so that it can be held open.

Dorothy-Grace Elder: On a point of information, convener. There has been a problem in one or two parts of Glasgow with lead in new houses, although old Victorian piping has been our overarching and much-publicised problem. I believe that that problem in new houses is mainly the result of carelessness among builders.

MMR Vaccination (PE515)

The Convener: Petition PE515 concerns measles, mumps and rubella injections. The committee forwarded questions on MMR to the chief medical officer after the evidence session on 29 January. A response is expected by the beginning of March. The committee is invited to conclude consideration of the petition once a response from the CMO is available. Given that we have done a fair amount of work on the petition, I would rather wait until we receive that response from the CMO before we sign the petition off. Do members agree?

Members *indicated agreement*.

Epilepsy Services Provision (PE247)

The Convener: Petition PE247 concerns epilepsy services provision. The committee sought a response from the petitioners to the letter from the Minister for Health and Community Care. We now have a response from Epilepsy Scotland. What are colleagues' views on how to proceed with the petition?

Mary Scanlon: I read the documents last night and, at times, I thought that we had achieved what we had set out to achieve, but I also felt a bit uncomfortable. Page 2 of Epilepsy Scotland's letter mentions the setting up of a managed clinical network for epilepsy and Epilepsy Scotland's

"working in partnership with 7 Health Boards on devising two pilot projects",

which sounds good, but I understood that the idea behind a managed clinical network is that it should cover the whole of Scotland.

Epilepsy Scotland has raised many issues. It says that only four national health service trusts have fully implemented the findings of the clinical resource and audit group. There are still serious concerns that people with epilepsy are not being diagnosed within four weeks and that the Scottish intercollegiate guidelines network recommendations are not being adhered to.

Epilepsy Scotland says that it would like to check information from the national waiting times unit, but I am not sure whether that would give it much more information. It would be a start if the SIGN guidelines were implemented. However, when the committee took evidence in Inverness, the chairman of the local health care co-operative said that there was not a hope of diagnosis within four weeks. Despite all the work that we have done, and although some progress has been made, I still think that a lot more still has to be done to give people with epilepsy the services that they need.

Margaret Jamieson: I can see where Mary Scanlon is coming from, but significant moves are being made in my health board area. Perhaps the matter should be picked up in the performance assessment framework when ministers ask for specific action to be taken to manage disease. If there are SIGN guidelines, it is incumbent on clinicians to comply with them. There is also a quality issue, because they will not be rated very highly when they are visited.

Mr McAllion: The matter is difficult; Epilepsy Scotland says that it will champion the new managed clinical networks and is enthusiastic about them, but highlights the impotence of the SIGN guidelines. It says that although the guidelines are some of the best guidelines that can be found anywhere in the world for the treatment of epilepsy, they are not applied and are simply ignored. That is an issue for a future health committee. How can we make SIGN guidelines mandatory? They are widely ignored throughout Scotland.

The Convener: I agree with the point that has been made. To read that 77 per cent of the trusts that responded said that they had fully or partially implemented the guidelines might be reassuring, but when I read on, I found that only four trusts claimed to have implemented the guidelines in full. Four out of 39 is disappointing. The committee could write back to the Executive to say that we want trusts to make more progress.

We must acknowledge that the response is a mixed bag. Some movement is taking place; pilot studies are being undertaken and some trusts are taking the matter on board seriously. John McAllion touched on the wider issue about SIGN guidelines. We have always been told that SIGN guidelines are considered throughout the world to be groundbreaking, but they are no good if they sit on someone's shelf and are not put into practice.

We could continue our consideration of petition PE247 and write back to the Executive to pick up on those points. We are unlikely to put the petition to bed before the end of the parliamentary session, so do members want to refer the petition to the Public Petitions Committee with a note that we will take that final action?

Members *indicated agreement*.

Mary Scanlon: Page 3 of Epilepsy Scotland's letter says:

"we would remind Committee members that the NHS

Board Clinical Governance committees have not yet picked up the issue of SIGN implementation."

Clinical governance was the great white hope for consistent health care throughout Scotland. Perhaps we could pick up on that.

The Convener: Do we agree to pick up on that?

Members *indicated agreement*.

Digital Hearing Aids (PE502)

The Convener: I skipped a few petitions, so I ask members to return to page 3 of the petitions report, which deals with petition PE502, from Fiona Stewart. The petition calls on the Scottish Parliament to urge the Scottish Executive to show a firm commitment to digital hearing aids and to modernising audiology services.

We have a response from the Executive about the audiology services review. We asked the petitioners to comment on the work of that review, but we have not received their views yet, so I suggest that we return the petition to the Public Petitions Committee with the recommendation that it be reallocated to a subject committee in the next session. However, many of the petitioners' concerns might have been covered by the audiology services review. Is that proposal okay?

Members *indicated agreement*.

Fife NHS Board (Right for Fife Business Plan) (PE498 and PE499)

The Convener: We are now on page 5 of the paper—I am keeping members on their toes. Page 5 deals with petitions from Letitia Murphy, on behalf of Fife Health Service Action Group, and from Mr Tom Davison, on behalf of the *Dunfermline Press and West of Fife Advertiser*. The petitions are linked to petition PE453 from Father Stephen Dunn on the siting of the proposed secure unit in Greater Glasgow NHS Board's area. Members will remember that we took evidence on that. We have not yet received an Executive response, so we should make the petitions an agenda item at another meeting and refer them to the Public Petitions Committee after we have received the Executive's response. Do members agree to that?

Members *indicated agreement*.

Mary Scanlon: What is the time scale for that?

The Convener: The Executive's response is imminent. We will put pressure on the Executive to produce the response before dissolution.

Organ Retention (PE283, PE370 and PE406)

The Convener: Page 8 of our paper refers to petition PE283, which is from the Scottish Organisation Relating to the Retention of Organs. How do members want to proceed with that and with petition PE370, which is from Lydia Reid, on behalf of Scottish Parents for a Public Inquiry into Organ Retention? Petition PE406, which is from Miss Margaret Doig, takes a slightly different view and concerns post mortems.

Mr McAllion: I have received a letter from Margaret Doig, which has been circulated to other members of the committee. She complains that her petition, PE406, has been confused with PE283 and PE370 when, in fact, it deals with an issue other than organ retention. She is concerned that any new legislation should include an assurance that

"persons who have instructed executors while they were competent to do so may know that hospitals shall be obliged by law to ascertain from executors the wishes of those who die in hospital before proceeding to a post-mortem examination, and to respect these wishes."

PE406 does not quite deal with the same subject as the other petitions. In a sense, it is arguing for some sort of advance statement. It asks for the wishes of someone who has stated in their will and instructed executors that they do not want a post-mortem to be carried out to be respected when they die in hospital and for their executors to be consulted. I suspect that such a statement would bring about conflict with the procurator fiscal's office, if it felt that there had to be a post-mortem for some reason.

15:30

The Convener: We have referred the petition to one of the justice committees because, in cases such as one involving a suspicious death and the possibility of a criminal prosecution, the need for a post-mortem would have to be considered on the merits of the case.

Mr McAllion: Have we referred the petition formally to another committee or have we simply raised the matter?

The Convener: The clerks inform me that we have asked for the input of a justice committee. We will find out what the situation is in relation to the petition and deal with it as a separate agenda item before the end of the Parliament.

In relation to the other two petitions, we have received a letter from the Executive. It speaks about

"the development by the Clinical Standards Board for Scotland (now part of NHS Quality Improvement Scotland), with the strong involvement of family support groups, of clinical standards relating to the post-mortem process. These standards, which will be published shortly, will be mandatory on any NHS Trust carrying out a hospital post-mortem examination".

The letter also says:

"The Review Group on the Retention of Organs at Post-Mortem has been continued in existence for a further year, until October 2003, to undertake a third phase of work".

It seems that the intention is to legislate on the matter early in the next Parliament.

Petitions PE283 and PE370 are works in progress in that many of their concerns will be dealt with. I suggest that we refer them back to the Public Petitions Committee. Any concerns that remain will probably be taken up during the run-up to the introduction of any legislation. Family support groups are at the heart of work that is going on.

Mary Scanlon: Guidance has been issued to members of the Crown Office and Procurator Fiscal Service that the family must be advised. That seems to answer many of the points that Margaret Doig has raised. Would it be possible to send the petitioners a copy of the guidance to see whether they are satisfied with it?

The Convener: Do you want to send them a copy of the Executive's response?

Mary Scanlon: Yes, and a copy of the guidance that has been issued to members of the Crown Office and Procurator Fiscal Service. If they saw the guidance, they might be satisfied with the new regime.

The Convener: I will send a copy of the Executive's response to all three of the petitioners and refer all three of the petitions back to the Public Petitions Committee. We will write to the petitioners to point out that it is likely that there will be legislation on this subject sometime soon and ask them whether they wish their petitions still to stand or whether they simply want to make their comments known to the Executive as part of the legislative process.

I expect that we might get a different response from Miss Doig, whose concern is different to some extent—it is not only about post-mortems that are done after an offence has been committed, but about post-mortems that doctors carry out in general. The Public Petitions Committee might seek further clarification from the petitioner about what she wants. Meanwhile, because the petition covers areas of responsibility of the Procurator Fiscal Service, we will seek a response to it from one of the justice committees. The on-going work might allay the fears of some of the petitioners, but not of others.

Mary Scanlon: Is it the case that individuals are not allowed to access the guidance that is given to Crown Office and Procurator Fiscal staff on the retention of organs at post-mortem?

The Convener: I cannot answer that, but we will find out.

Given that the issue is sensitive and requires a certain amount of background reading, I confess that it was not acceptable for committee members to receive the letter from Miss Doig at the meeting. I am inclined to suggest that we should pass her letter to the Executive to seek clarification, check what the relevant justice committee suggests and pass the matter back to the Public Petitions Committee to proceed with the matter.

We should also ask all three petitioners whether they want their petitions to be continued in the new Parliament, given that the independent review group on retention of organs at post-mortem is carrying out a third phase of work, and that legislation on the matter is likely. At that point, I would expect all three petitioners to have their views expressed and acted on in the normal manner. Do members agree to my suggestions?

Members *indicated agreement*.

Chronic Pain Management (PE374)

The Convener: We come to the petition on chronic pain management services, which is on page 10 of the paper. The Executive's response of January is attached; it indicates that the Executive intends to commission a review of the current provision of chronic pain services and notes the work that the committee and the Scottish Parliament information centre have done in pulling together information on pain services throughout the country.

The letter states:

"It is plain from the Committee's questionnaire that chronic pain services are not provided evenly across Scotland. I will take this opportunity to thank the Committee and SPICe for carrying out this useful survey, which will help to expedite the review I referred to in the response".

That work will obviously be on-going.

The letter also states:

"The Executive does not produce good practice clinical guidelines directly. Among the options which might be considered is that of asking the Scottish Intercollegiate Guidelines Network or NHS Quality Improvement Scotland to undertake such work",

which would be to produce a set of guidelines or protocols to encourage health boards to adopt a consistent approach in chronic pain management and to roll out good practice. The letter continues:

"Much would depend on the quality of the research evidence base for chronic pain management."

There is a question as to whether the committee wants such work to be done by the SIGN network or by NHS Quality Improvement Scotland.

I see that Dorothy-Grace Elder wants to comment—that is a surprise.

Dorothy-Grace Elder: I welcome the Executive's intention to carry out a review. I was

aware that Mary Mulligan had taken on the task of considering possible options for the future—she did so about a year ago. By now, I expected to have something more positive than a review, although that is reasonably positive.

Unfortunately, as the convener may recall, when the minister replied last time vis-à-vis the budget, neither he nor the civil servants had read the returns of the questionnaire that we sent to all health boards last summer. The minister was appearing before us several months after the questionnaire returns had been received, but he had not read the returns. Although the Executive might prefer a wider review, those returns amounted to some kind of review and provided quite a lot of information. However, the minister could reply only from an obscure angle because he had not read the facts.

The minister has now obviously read the returns, but he does not home in on two areas that we mentioned to him both verbally and in writing: the Highlands, which still has no provision for chronic pain; and Lanarkshire, which has particular needs. There are some particularly innovative people in Lanarkshire, where the provision is nurse-led.

Members will note the minister's reference to patients who travel long distances. The minister admits that the health boards do not provide returns on how much it costs to send patients not only all over Scotland but down to Bath, Manchester and London for the treatment of pain. He mentions only that

"NHS Boards also have discretion to reimburse the travelling expenses of patients not eligible under the travel schemes".

However, we already knew that patients get travel expenses because there is no service available in the Highlands.

The minister also goes on to say:

"The Executive is keen to encourage the development of jointly planned and commissioned services which may operate in one NHS Board area and also benefit patients from further afield".

We do not want that. We have said repeatedly that we want NHS services for chronic pain in each area. The whole point is that people should not need to travel. Patients who suffer from many conditions might be able to travel, but if patients who are in pain are made to travel, their pain worsens. When they get to London, London might do a very good job, but the Scottish patient's journey back to Aberdeen or the Highlands can be enough to harm some of the good work that was done. We have an army of people who are in pain moving around this country. Sometimes, the smallest distance that they need to travel is from Dumfries up to Aberdeen or Dundee.

Our centres of excellence are overstrained. The Executive needs to speed up on the issue. Perhaps we should send the minister another letter.

The Convener: The committee has done a fair amount of work on the petition. All members have taken the issue seriously; certain members take it very seriously indeed, but we are getting to the point at which we have not much more time.

We can send a letter to the minister to note that we would like to take up his response to question 14, where he states that guidelines might be developed by SIGN. Our letter can also re-emphasise Dorothy-Grace Elder's points about the patchiness of the service. However, we probably need now to refer the petition back to the Public Petitions Committee. We can ask the PPC to keep the issue open until we see what proposals arise from the review of the provision of services. Our letter to the Executive can also ask for a likely timetable for when the review will be complete. Is that agreed?

Members *indicated agreement*.

Dorothy-Grace Elder: As you—

The Convener: Sorry, we have already agreed a course of action and must move on.

Scottish Parliament Health Policy (PE320)

The Convener: The next petition, which is detailed on page 11 of the paper, is the petition from Mr Watson on behalf of the World Development Movement. John McAllion was dealing with the petition.

Mr McAllion: As it says in the paper, Pascal Lamy, who is the European trade commissioner, announced at the beginning of February that the European Commission would not further commit Europe's health and education sectors to the free-market rules of the general agreement on trade in services. The announcement has been hailed as a partial victory by those who campaign against GATS. When I spoke to John Watson of the World Development Movement, he welcomed the announcement, although he stressed the need for vigilance over future rounds of GATS negotiations. He conceded that he did not think that the petition should go any further at this point and that he was quite happy with the outcome.

The Convener: Good. It might be worth our while to pass on to our successor committee Mr Watson's comment about the need to keep a watching brief on the matter. The issue highlights the fact that, although health is a devolved matter, a number of other layers of Government and bureaucracy can have a major impact. It will be worth keeping an eye on that issue for the future.

Dorothy-Grace Elder: As on the issue of chronic pain.

The Convener: We have already had a discussion about, and made a decision on, chronic pain. Is the suggested action on the petition from the World Development Movement agreed?

Members *indicated agreement*.

Myalgic Encephalomyelitis (PE398)

15:45

The Convener: The final petition is on ME. In December, the committee was informed that the short-life working group's report was in the final stages of drafting and would be sent to the minister before Christmas. The report has now been published and is attached to members' papers. The recommendation is that the petition should be returned to the PPC with the recommendation that it be reallocated to the appropriate subject committee in the next parliamentary session. Is that agreed?

Members *indicated agreement*.

Hepatitis C

The Convener: Agenda item 5 is the first of today's agenda items to look at hepatitis C. We have received a letter from Mr Philip Dolan of the Scottish Haemophilia Groups Forum. We have also received a separate sheet, which provides a résumé of the main points that Mr Dolan makes in his earlier letter.

I call people's attention to the fact that the Scottish Haemophilia Groups Forum intends to arrange for a freephone number to be published and displayed in centres where people who have been infected with hepatitis C as a result of blood products or transfusions are treated. The freephone number will allow people to register their interest should the Scottish Executive at some point agree to offer compensation. It seems that some individuals have been phoning the Scottish centre for infection and environmental health to say that they were interested in what was going on. Given the fact that this is a time of increasing uncertainty for haemophiliacs and those infected with hepatitis C, I just want to put on record the fact that the forum is setting up that freephone number to assist people in obtaining information at the present time.

We have two agenda items on hep C today. In the second item, we will decide what further action we want to take once we have received legal advice. If there are no comments or questions arising from Mr Dolan's letter, we will just note it at this point. I put on record again our thanks to Mr Dolan and his colleagues for the information that is contained in the letter.

I bring the public part of the meeting to a close. We will have a short break before we go into private session.

15:47

Meeting suspended until 15:51 and thereafter continued in private until 16:15.

Members who would like a printed copy of the *Official Report* to be forwarded to them should give notice at the Document Supply Centre.

No proofs of the *Official Report* can be supplied. Members who want to suggest corrections for the archive edition should mark them clearly in the daily edition, and send it to the Official Report, 375 High Street, Edinburgh EH99 1SP. Suggested corrections in any other form cannot be accepted.

The deadline for corrections to this edition is:

Friday 7 March 2003

Members who want reprints of their speeches (within one month of the date of publication) may obtain request forms and further details from the Central Distribution Office, the Document Supply Centre or the Official Report.

PRICES AND SUBSCRIPTION RATES

DAILY EDITIONS

Single copies: £5
Meetings of the Parliament annual subscriptions: £350.00

The archive edition of the *Official Report* of meetings of the Parliament, written answers and public meetings of committees will be published on CD-ROM.

WHAT'S HAPPENING IN THE SCOTTISH PARLIAMENT, compiled by the Scottish Parliament Information Centre, contains details of past and forthcoming business and of the work of committees and gives general information on legislation and other parliamentary activity.

Single copies: £3.75
Special issue price: £5
Annual subscriptions: £150.00

WRITTEN ANSWERS TO PARLIAMENTARY QUESTIONS weekly compilation

Single copies: £3.75
Annual subscriptions: £150.00

Standing orders will be accepted at the Document Supply Centre.

Published in Edinburgh by The Stationery Office Limited and available from:

The Stationery Office Bookshop
71 Lothian Road
Edinburgh EH3 9AZ
0131 228 4181 Fax 0131 622 7017

The Stationery Office Bookshops at:
123 Kingsway, London WC2B 6PQ
Tel 020 7242 6393 Fax 020 7242 6394
68-69 Bull Street, Birmingham B4 6AD
Tel 0121 236 9696 Fax 0121 236 9699
33 Wine Street, Bristol BS1 2BQ
Tel 01179 264306 Fax 01179 294515
9-21 Princess Street, Manchester M60 8AS
Tel 0161 834 7201 Fax 0161 833 0634
16 Arthur Street, Belfast BT1 4GD
Tel 028 9023 8451 Fax 028 9023 5401
The Stationery Office Oriel Bookshop,
18-19 High Street, Cardiff CF12BZ
Tel 029 2039 5548 Fax 029 2038 4347

The Stationery Office Scottish Parliament Documentation Helpline may be able to assist with additional information on publications of or about the Scottish Parliament, their availability and cost:

Telephone orders and inquiries
0870 606 5566

Fax orders
0870 606 5588

The Scottish Parliament Shop
George IV Bridge
EH99 1SP
Telephone orders 0131 348 5412

sp.info@scottish.parliament.uk

www.scottish.parliament.uk

Accredited Agents
(see Yellow Pages)

and through good booksellers

Printed in Scotland by The Stationery Office Limited

ISBN 0 338 000003 ISSN 1467-0178