HEALTH AND SPORT COMMITTEE

Wednesday 26 November 2008

Session 3

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CONTENTS

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HEALTH AND SPORT COMMITTEE
29th Meeting 2008, Session 3

CONVENER

*Christine Grahame (South of Scotland) (SNP)

DEPUTY CONVENER

*Ross Finnie (West of Scotland) (LD)

COMMITTEE MEMBERS

Jackie Baillie (Dumbarton) (Lab)
*Helen Eadie (Dunfermline East) (Lab)
*Michael Matheson (Falkirk West) (SNP)
*Ian McKee (Lothians) (SNP)
*Mary Scanlon (Highlands and Islands) (Con)
*Dr Richard Simpson (Mid Scotland and Fife) (Lab)

COMMITTEE SUBSTITUTES

Joe FitzPatrick (Dundee West) (SNP)
Mr Frank McAveety (Glasgow Shettleston) (Lab)
Jamie McGrigor (Highlands and Islands) (Con)
Jamie Stone (Caithness, Sutherland and Easter Ross) (LD)

*attended

THE FOLLOWING GAVE EVIDENCE:

Kenneth Hogg (Scottish Government Health Delivery Directorate)
Robert Kirkwood (Scottish Government Health Delivery Directorate)
Kathleen Preston (Scottish Government Legal Directorate)
Nicola Sturgeon (Deputy First Minister and Cabinet Secretary for Health and Wellbeing)

CLERK TO THE COMMITTEE

Callum Thomson

SENIOR ASSISTANT CLERK

Douglas Thornton

ASSISTANT CLERK

David Slater

LOCATION

Committee Room 1

Scottish Parliament

Health and Sport Committee

Wednesday 26 November 2008

[THE CONVENER *opened the meeting at 10:01*]

Decision on Taking Business in Private

The Convener (Christine Grahame): Good morning, and welcome to the 29th meeting in 2008 of the Health and Sport Committee. I remind all those present to ensure that their mobile phones and BlackBerrys are switched off. I am sorry—I must switch mine off.

Ross Finnie (West of Scotland) (LD): There will now be a short intermission while the convener lectures herself.

The Convener: Jackie Baillie has tendered her apologies.

Agenda item 1 is a decision on whether to take items 3 and 4 in private, in line with our usual practice. Under item 3, the committee will consider options for a draft stage 1 report on the Health Boards (Membership and Elections) (Scotland) Bill, and under item 4, it will consider its approach to the mental health services inquiry. Do members agree to take items 3 and 4 in private?

Members *indicated agreement*.

Health Boards (Membership and Elections) (Scotland) Bill: Stage 1

10:02

The Convener: Agenda item 2 is oral evidence at stage 1 of the Health Boards (Membership and Elections) (Scotland) Bill. I welcome from the Scottish Government the Cabinet Secretary for Health and Wellbeing, Nicola Sturgeon MSP; Kenneth Hogg, who is deputy director of health delivery; Robert Kirkwood, who is a policy officer in the health delivery directorate; and Kathleen Preston, who is a solicitor. I invite the cabinet secretary to make some brief opening remarks.

The Deputy First Minister and Cabinet Secretary for Health and Wellbeing (Nicola Sturgeon): Thank you very much, convener.

Good morning, everybody. I welcome the opportunity to discuss the principle behind and the detailed provisions of the Health Boards (Membership and Elections) (Scotland) Bill. Members are aware that the commitment to democratise health boards through direct elections was a key Scottish National Party manifesto commitment.

I am aware from the committee's previous evidence sessions that some groups have expressed the view that a preferable way forward would be the Government investing further in existing public engagement and involvement programmes. I make it clear at the outset that I do not see the situation as an either/or situation. As we made clear in our consultation process that preceded the bill's introduction, the Government is committed to improving public engagement and involvement with health boards through further work with existing bodies, including community health partnerships, and initiatives such as the development of a participation standard. However, direct elections represent a significant step in addition to strengthening engagement and involvement in ensuring that the public voice is heard and listened to at the heart of local national health service decision making. I have never believed that having people directly elected to health boards would take away the need for difficult decisions to be made, but I believe that boards with a majority of locally elected members will be able to confront issues and decisions with additional credibility and will help to re-establish public confidence in the decision-making process.

The committee is aware that the principle of direct elections to health boards was considered during the passage of Bill Butler's Health Board Elections (Scotland) Bill. We listened to the comments on and criticisms of that bill that were made during evidence sessions, and in drafting

the Health Boards (Membership and Elections) (Scotland) Bill, we tried to take on board many of those comments and criticisms.

As members are aware, the bill provides for extending the voting franchise to include 16 and 17-year-olds in the elections. That is the right thing to do—we want direct elections to health boards to include as many users of the NHS as possible. That is an important way to introduce young people to the democratic process as they reach adulthood, as it concerns a public service of which they already have considerable experience.

I acknowledge, as I have always done, that the proposals that the bill contains will have a radical effect on the composition and workings of health boards—that is the intention. A significant number of people who responded to our consultation and who have given evidence to the committee suggested that, because of that radical impact, we should take a cautious and a careful approach. I agree with that view, and we have responded by proposing pilot elections to health boards in the first instance to allow some of the issues to be tested in practice.

Although there is strong support for the principle of direct elections to health boards, it is fair to say that there is no absolute consensus for or against them at this stage. However, there is general consensus for the idea that testing the policy through pilots is a sound and reasonable way forward. We propose that pilot elections will take place in two board areas, preferably in spring 2010. I am sure that members will, during questioning, want me to go into more detail about the criteria that will be used in selecting the pilot areas.

Following discussion with the Subordinate Legislation Committee, we have undertaken to lodge a number of amendments at stage 2, which are intended to reinforce the Parliament's ability to scrutinise any changes to what is proposed in the regulations that underpin the bill. In addition, I assure the committee that we have listened and are listening carefully to the views that have been expressed during the consultation and the committee evidence sessions. I look forward to continuing discussion and dialogue with the committee and others as the bill progresses through Parliament.

I am more than happy to take questions.

The Convener: That was helpful. I appreciate the undertaking to lodge amendments that the cabinet secretary mentioned. Will it be possible for the committee to see the thrust of those amendments before we conclude our stage 1 report? That might resolve some issues.

Nicola Sturgeon: I am happy to provide that, convener. The amendments will be technical, but they will have a substantive effect with regard to parliamentary procedure. For example, we have agreed to amend the bill to ensure that if any of the Scottish statutory instruments—a pilot order and an order for the roll-out of the elections—would lead to substantive changes in the text of the bill, affirmative procedure would be used in the Parliament.

The Convener: I see that Ross Finnie, Mary Scanlon and Michael Matheson have questions. Do I also see an indication from Ian McKee?

Ian McKee (Lothians) (SNP): I am smiling encouragingly, convener.

The Convener: The smile meant yes.

Ross Finnie: We have heard a wide range of evidence, and the cabinet secretary was right to say in her opening statement that a lot of people have expressed concerns—of which we are all aware—about the way in which health boards have conducted themselves. During our evidence taking, it has become clear that there is a great deal of disquiet about the way in which health board executives—and, equally, non-executives—have discharged their functions. That is the only conclusion that we can safely reach.

However, it has not been as clear that there has been "strong support"—to use your phrase, cabinet secretary—for the method that you have selected to deal with that problem: direct elections. A substantial number of people have appeared before the committee and, although they have seen some merit in the idea, to suggest that their evidence points to "strong support" is, with respect, to err a little with regard to what they have actually said.

I seek your comments on two issues. First, people who strongly supported the concept of elections went on, under questioning, to advocate a completely different way of running health boards. They went as far as to suggest that we ought to move towards a local government model in which almost everybody who would have a vote on decisions would be elected and therefore that those who are NHS officials would not vote. That raises a question about a different governance structure, which does not seem to be covered by the bill.

Secondly, although people have supported the idea of a pilot, they have not necessarily supported the view that the pilot should be only on whether direct elections are the only method of improving the capacity of a board to engage with the local population.

Would you care to comment on those two issues?

Nicola Sturgeon: I would be delighted to. I have read the *Official Report* of all the evidence that you

have taken, and I have read all the submissions to our consultation and to the committee. I will not try to speak for anybody, on either side of the debate, who has submitted evidence. They can present their own views; I am here to present my view and explain my thinking.

You are right to suggest that a fairly broad consensus exists that the status quo is not acceptable and that change is necessary. That is an important starting point. However, it is fair to say that even people who strongly support the principle of direct elections—and, obviously, I include myself in that group—would not argue that directly electing people to health boards is the only way in which we could, or should, address what I will for shorthand purposes describe as the democratic deficit in the NHS.

We may develop these points further during committee members' questioning, but the bill is explicit about retaining the existing accountability structure for health boards. I believe that the health service should be national, so I believe that the lines of accountability must be maintained. Having directly elected members on health boards is about making the boards more representative. At the moment, health boards take decisions on local issues and on how best to implement national policies to suit local circumstances. The question for me is how we can ensure that the people who take such decisions reflect—as closely as any group of individuals can reflect—the broad spectrum of opinions in the areas that they represent. At a previous meeting, Ross Finnie pursued the distinction between accountability and representation. My firm view is that the bill is about representation.

Ross Finnie wondered why we were proposing pilots only of direct elections. Well, the bill is about direct elections. It is right to test the concept of direct elections properly. Pilots should take place in more than one health board area, and my view is that two areas should be selected. I am happy to go into detail on some of the criteria that might underlie the selection of the areas. The principle should be tested in health board areas that encompass a broad and representative sample of the Scottish population and which take in a broad geographical spread.

What I have suggested does not exclude testing other approaches to achieving better engagement and involvement in health boards. The ideas may not have been very well defined in the evidence that I have read in the *Official Report*, but some of them may not require legislation. I am not hostile to the idea of testing different approaches in parallel with piloting direct elections. However, this bill is about ensuring an adequate and robust pilot of direct elections. The bill relates to direct elections, so it is right that it should focus on pilots for direct elections.

10:15

Ross Finnie: That is helpful.

On the issue of corporate governance and democratic and democratically elected institutions, the evidence that we have received has been particularly interesting in the way that it has tested the relationship between the directly elected Scottish Parliament, which deals with national issues—the reason, of course, why you as cabinet secretary are directly accountable to Parliament for the provision of a national health service—and local government, which, as a separate tier of government, deals with the delivery of certain local elements within our constitution. With respect, however, the evidence does not make it clear how a body that is not a tier of government and yet has direct elections will interpose itself on our current constitutional arrangements. If you as cabinet secretary are concerned about local delivery and accountability—as I believe you are—why have you not sought to make better use of, or indeed to find a different use for, existing democratic structures of government? Why have you chosen some hybrid direct elections system instead? The case for such a move has not been particularly well made—not, I should add, by you, but in all the evidence that we have received.

Nicola Sturgeon: Let me try, then, to make that case.

As members know, one improvement that is introduced in the bill is that, for the first time, local authority membership on health boards will have statutory underpinning. Although that practice has developed, it has never before been set out in statute.

Leaving local government slightly to one side for the moment, I point out that health boards deal with slightly different issues from those that are dealt with by local government. That said, there is increasing overlap between and integration of health boards' work and the work of local authorities. That is only right and is something that I am sure we all want to continue.

With regard to health, you are absolutely right in your narration of the current democratic and accountability structures. However, although I am accountable to Parliament for the workings of the NHS, under the current arrangements we have devolved to health boards responsibilities for taking decisions in local areas. That side of things has already been established.

As far as the bill is concerned, the question is how we put together the boards of people who are already making those decisions. Do we retain the

current appointments-based system or do we seek to democratise things to ensure that in future the people who take the decisions have democratic credibility and are representative of those who are affected by them? I think that it is right to make the system more democratic and representative, which is why I have introduced the bill.

Do I understand by your reference to hybrid systems that you want to know why we do not simply elect health boards?

Ross Finnie: I am sorry—I left the issue open. I was simply pointing out that that is how some of those who have given evidence have seen the proposal.

That said, the proposed system seems to be something of a hybrid sitting between a directly elected Scottish Parliament and local government. Of course, I accept the point about local health delivery—contrary to a great misconception, 80 per cent of the care under your control is delivered in the community, not in hospitals—and that there is a need to regularise things. However, if you intend to give statutory underpinning to local authority membership, would it not be better to involve more councillors in the system?

Nicola Sturgeon: But your so-called hybrid already exists in health boards, which, after all, comprise both executive and appointed directors. Even though they have no statutory underpinning, there are local authority, area clinical forum and area partnership forum representatives on health boards. The bill is simply about democratising that structure.

It is right that we retain a mix of members on health boards. Executive directors, for example, bring the necessary managerial, financial and clinical expertise to the boards' workings. Because of the increasing integration and overlap between health and local authority functions, it is right to have local authority board membership. Health boards take decisions on how vast amounts of taxpayers' money are spent, which impacts on the most cherished and cared-about services in the country, so it is right that the population at large have a say over who sits on those boards, to make them more representative and more democratically credible.

Mary Scanlon (Highlands and Islands) (Con): You used the word "democratise", and rightly so. We are all democratically elected members of the Parliament. Of the 54 responses to the committee's call for evidence, 15 were in favour of the proposals, including four out of 32 local authorities. Of the total, 27 per cent of respondents to our call for evidence were in favour. Being in a democracy, I am less than enthusiastic about the bill.

My problem is that the bill that we will be asked to pass is not just for pilot schemes; we would be passing a bill for health board elections. In all the 15 years for which I have been standing for election or serving in the Highlands and Islands, I have not heard anyone say that they would like a directly elected health board—for Shetland, Orkney, the Western Isles or Highland. I have been to some feisty, fiery public meetings about the Belford hospital in Fort William and about Caithness general hospital. On one occasion, 22 per cent of the local population turned up and spoke out; the health board listened to them and did not go ahead with its plans. To me, that is democracy in action.

When we have heard all the evidence, I will have to discuss my views with other members of my group. I might be minded to vote for pilot schemes but I am worried that, in doing so, I will be helping to introduce health board elections, which I am less than enthusiastic about.

I am looking at sections 5 and 6 of the bill. The pilot schemes are to be introduced in 2010. The reports will be made no later than five years after that—in 2015. The termination of the pilot could be seven years from now. My memory is not too bad just now, but if I am fortunate enough still to be here in seven years' time, I might not be able to remember all the evidence that I have heard in order to make a decision then. What will happen in that regard? I want to get this on the record, because it is not entirely clear. If we vote for the pilot schemes, how can I be assured that that will not lead to an automatic shoo-in for direct elections? Considering the matter democratically, there is not a majority in favour of that.

Nicola Sturgeon: That is an important point, on which I hope that the bill provides assurance. The bill gives authority for pilot elections, and there would have to be a pilot order to bring those into being. After the pilots have been run, and after the evaluation has been performed, any roll-out of elections to other health board areas would have to go through further parliamentary procedure. The bill provides for negative procedure, unless substantive changes are made to the bill, in which case affirmative procedure might be used. In either case, it would be open to the Parliament to kick it out—not to go ahead with the roll-out—because further parliamentary procedure would be required. Whether the decision is made by Mary Scanlon, me and current members, or whether it is taken in a future session, it is entirely in the hands of the Parliament.

Mary Scanlon suggested that decisions will be taken a few years down the line, and that our memories might be rusty about the evidence that has been taken. It is up to every individual member what they base their decisions on, but

decisions would presumably not be taken on the basis of the evidence that we are discussing now; they would be taken on the basis of the evaluation report from the pilot schemes, which would in effect offer an opinion on whether the pilots had been successful. Parliament would be able to make a reasoned and considered judgment whether to approve the roll-out of elections. I stress the point that there will be further parliamentary procedure between pilot elections and their evaluation, and any roll-out. At every stage, it is in the hands of Parliament.

Mary Scanlon: I mentioned those who are not in favour of direct elections to health boards. Given that the proposal was an SNP manifesto commitment, who would be tasked with carrying out the evaluation? Who would you appoint to do it?

Nicola Sturgeon: As you know, we have set aside in the financial memorandum the cost of carrying out the evaluation, which would require to be done independently. You are absolutely right that it would be for the Government to appoint people to carry out the evaluation, but it would be open to full parliamentary scrutiny. That is no different a procedure from that which is carried out in the evaluation of all sorts of things.

Your question is important, but the crucial point is that if the bill is passed in its current form, it will not give authority for health board elections to be held throughout the country; it will give authority for a pilot order. In order to move to roll-out, a roll-out order would have to be passed and that would require further parliamentary procedure.

Mary Scanlon: You will understand that, if the Government appoints someone to conduct an independent evaluation and the Government of the day—whether it is you or some other party—has a manifesto commitment in favour of such elections, I would be sceptical about the evaluation. We can probably park—

Nicola Sturgeon: The evaluation report will be laid formally before Parliament. If we have a pilot election in 2010, the board will have to run for at least two years, although the bill provides that it could run for as long as five years. I hope sincerely that the party that is in government now will still be in government at the time of the evaluation, but in theory it could be any one of the parties around the table. We have processes for evaluating things that will be undertaken in the case of the health board elections pilot, but the report will be laid before Parliament and open to the full scrutiny of the Parliament of the day. Parliament will have to give authority for any further roll-out on the basis of that evaluation. There can be no roll-out through the back door; the process will be up front and will require parliamentary procedure.

Mary Scanlon: It is the evaluation that concerns me, just as we have been concerned about consultation in certain parts of the country. I am entitled to be concerned about it.

Nicola Sturgeon: May I respond to your first point about support for the proposal? I have not done the numbers with regard to the responses to the committee's call for evidence and I will not quote numbers from the Government consultation because I do not remember them exactly. Although I speak highly of all the health boards in the country, it is not surprising that they are more sceptical than others about their composition being changed radically. When the boards' responses are stripped out from our consultation results, the percentages for and against change radically. I have spoken to many people, in the Highlands as well as in other parts of the country, who are strongly in favour of having a democratic element in health boards because they feel that their voice is not always heard. Unlike NHS Highland in the case of Belford hospital, some health boards do not listen when it comes to major hospital changes—I simply cite NHS Ayrshire and Arran and NHS Lanarkshire.

Mary Scanlon: The figures that I saw were in response to our call for evidence—

Nicola Sturgeon: I am not contradicting your figures; I am just making a point—

Mary Scanlon:—and came from the Scottish Parliament information centre—

The Convener: For the sake of the *Official Report*, I ask you not to speak over each other.

Mary Scanlon: I will move on to address points that have been raised in response to our call for evidence. The only real examples that we have are from New Zealand and Canada. In New Zealand, candidate numbers halved between the first and second elections and voter turnout went down by 7 per cent, which hardly displays ringing enthusiasm.

Let us return to Highland and consider a person in Badenoch and Strathspey, who votes in elections for the community council, the Crofters Commission, the national park board, the local authority and for the Scottish, Westminster and European Parliaments. That person currently faces seven elections and will now face elections for health boards. Given that enthusiasm has waned considerably since the elections started in New Zealand, do you have in mind something that would sustain enthusiasm in Scotland and avoid repeating the experience in New Zealand?

The Scottish Consumer Council's submission states:

"There is a danger that having elections would be considered to be a substitute for an NHS board's statutory

duty to consult and involve members of their local communities".

Have you addressed that issue?

10:30

Nicola Sturgeon: I will take those points in order. Notwithstanding the serious point that Mary Scanlon makes about voter fatigue and there being too many elections—which no doubt concerns us all from time to time—I take the view that we cannot have too much democracy, although I would be happy to relieve voters in Scotland of the need to vote in Westminster elections, if that would help. When we are dealing with bodies that take such important decisions, we should not be hostile to the notion of democratising them.

We have obviously considered examples such as New Zealand and we have tried to learn lessons from them but, more important, we have tried to devise a system that is right for Scotland. We can learn a certain amount from international examples, but we should not try to pretend that we should or could emulate those countries, because different countries have different circumstances.

I challenge the notion that enthusiasm has waned in New Zealand as Mary Scanlon suggests it has. Turnout has certainly reduced but, by the standards of some of our elections, turnout for health board elections in New Zealand remains quite high, and the reduction in turnout has been in line with the national trend for elections overall in New Zealand. It has not been peculiar to elections to health boards.

Many of the concerns that we are now hearing in Scotland were expressed before elections were introduced in New Zealand and have turned out not to be merited. There is now a strong consensus in New Zealand that their system works well and that people are happy for it to continue. The New Zealand experience can be read in different ways. It is important that we devise a system that is right for Scotland.

On whether there will be enough candidates, enough voters and whether there will be enough enthusiasm, I think that there will because I know—other members have the same experience—that people in Scotland are incredibly passionate about their national health service, so my view is that people will stand, people will vote and people will be enthusiastic. However, the fact that there is uncertainty in some people's minds about all that is one reason why it is right to have a pilot that will allow those issues and others to be tested in practice. If it turns out—heaven forfend—that Mary Scanlon is right and I am wrong, Parliament will take that into account when it makes its decision about roll-out. That is why having pilots is the right approach.

The Convener: You said that the pilots must run for at least two years. I cannot find that anywhere in the legislation or draft regulations.

Nicola Sturgeon: I am double-checking, but I do not think that it is in the bill; we intend to include it in the regulations. The provision in the bill is that the evaluation report would require to be concluded no later than five years after the first election.

The Convener: I see that; it is in the bill. However, when you mentioned two years, I searched in vain for the figure.

Nicola Sturgeon: "Two years" is not in the bill. It would be open to the committee to suggest that we put it in the bill. My view is that we would have to run a pilot for at least two years to assess properly whether it was working.

The Convener: Section 6(1) of the bill states that

"The pilot order is revoked"

automatically after a specified period,

"but this does not affect Ministers' power to revoke the order on an earlier date".

First, that power would be affected if the pilot had to run for at least two years—there would be an embargo, as it were, and it could not be revoked for two years. Secondly, how would whoever is in power revoke the order earlier? What is the mechanism through which that would happen?

Nicola Sturgeon: The Subordinate Legislation Committee drew attention to that. In the bill as it stands, a revocation order would be without procedure. We are thinking further about the procedure that the Government—of any party—would require to go through to revoke the pilot order and thereby have the relevant sections of the bill fall. Perhaps we can come back to that in more detail later.

The Convener: And we now have the two years.

Nicola Sturgeon: It would be in the regulations that the pilot has to run for two years.

The Convener: Thank you for that clarification.

Mary Scanlon: I am sorry, convener, but one question has not been answered. The Scottish Consumer Council thought that the elections could be a substitute for consultation.

Nicola Sturgeon: My apologies; I did have that question down to answer.

The elections would not be a substitute for consultation. Nothing in the bill changes the

existing obligation—statutory or otherwise—on health boards to consult the public, so the elections would definitely not be a substitute. The consultation that preceded the bill's introduction made it clear that we do not see direct elections as a substitute for means of engaging with the public that exist now or that might exist in the future.

Michael Matheson (Falkirk West) (SNP): I listened with interest to Mary Scanlon's picture of health boards making proposals, consulting local communities and amending their proposals as a result of the communities' views. That is not my experience, particularly in Lanarkshire, where the local community was overwhelmingly opposed to changes that were suggested by the health board and the health board decided to forge ahead with them anyway. Thankfully, the cabinet secretary eventually overturned the proposed changes.

I am sure that it will come as no surprise to the cabinet secretary that the majority of, if not all, the evidence that we have received from the health boards opposes the idea of directly elected health board members. I suspect it is a case of turkeys not voting for Christmas. However, in his evidence, the chair of Lothian NHS Board made a serious allegation that the policy proposal would destabilise health boards and the way in which they operate. When I asked why he believes that, he was unable to cite any evidence other than his opinion. What is your view? Do you believe that the policy will destabilise health boards?

Nicola Sturgeon: I would not propose or pursue any policy that I thought would have a destabilising effect on our health boards, so I fundamentally disagree with that point of view.

I have read, heard, and held discussions around the central question of whether having directly elected members on health boards would create or increase the potential for some health board members to be pitted against others, or for some health boards to be pitted against national Government. In theory, as soon as we create a local board to take decisions based on local circumstances, we create the possibility of tension with the national Government. You have already cited situations in which two health boards were directly in conflict with national policy on their accident and emergency departments.

Having directly elected members does not create that potential for tension. Such tension is rare because health boards do not tend to challenge Government policy; they decide how best to implement it to suit local circumstances. I contend that, in such a scenario, it is better to have making decisions on health boards people who are more likely to understand, and to be in tune with, local needs and circumstances. I believe that elected members are more likely to be that way.

Michael Matheson: You referred to the criteria that will be used to identify the health board areas that will be used as pilots. When I discussed that with a couple of health board members from my constituency, they did not share my enthusiasm that our board should be one of the pilot areas, for obvious reasons.

Nicola Sturgeon: Did you say that they do or do not share your enthusiasm?

Michael Matheson: They do not.

I am interested to know what criteria are being used to identify the health boards that will be selected and used as the pilots.

Nicola Sturgeon: I probably should not say this—I will go no further than what I am about to say, no matter how hard I am pressed. Despite some evidence from health boards, one or two board chairs have said privately to me that they would not be averse to theirs being a pilot board. There is a lot of enthusiasm among MSPs, councillors and members of the public in many areas to have their boards among the pilots.

When officials appeared at the committee previously, they said that we would publish the criteria for selecting the pilots. I will give a bit of insight into my thinking on that process; it is not rocket science. My view is that we should have two pilots. One should test elections in a predominantly urban part of Scotland and the other should do so in a predominantly rural part of the country, in order to get the spread of population and geography.

There is also a more practical and basic issue of continuity for health boards. We will consider which boards have currently appointed members whose term of office is closest to expiring, so that we do not have to terminate health board members' terms of office early and so that we can try to have a smooth run-through.

Those are the key criteria that I will bring to bear on deciding on the pilot boards. So that people can understand the basis of my decisions, I will ensure that the criteria for making them are properly published for scrutiny before they are made. They will have to be made before we lay the regulations before Parliament.

Michael Matheson: What is the timeframe for your announcement of which boards will be selected for pilots?

Nicola Sturgeon: Assuming that everything goes smoothly with the bill, I reckon that the decision would be made in the spring or early summer next year.

Ian McKee: We have heard concern that people could be elected to health boards on single issues or on a section of their responsibilities but would

have to make decisions about the total responsibilities of the health board. Some sort of training would be required but, at present—as far as I can see—the non-executive members of a health board are trained by its executive members, which creates dependency. Should there be some sort of central training body for newly elected members of health boards?

Nicola Sturgeon: That is a good point. Local induction training takes place already. It is led by health boards themselves, as you say, and it is already augmented by specific training that the Chartered Institute of Public Finance and Accountancy provides. We have plans in progress to launch a national induction course early next year. It will provide specific courses that are designed to support the various roles that non-executive members of health boards play. That training function is important.

Ian McKee raised a broader issue about single-issue candidates. The bill has been drafted so as to minimise the chances of such candidates dominating elections. That is why we have gone for the single transferable vote and single-ward health board areas rather than multiward areas. Those provisions will significantly reduce the chances of single-issue candidates dominating elections. Beyond that, democracy prevails. Single-issue candidates have been elected to Parliament and are elected to councils: as well as pursuing their single issues, they manage to take part in the other decisions that those bodies make.

If voters want to elect a candidate because of a particular issue, democracy says that they have the right to do so. My experience is that, although some people get involved in existing public engagement mechanisms, such as public partnership forums, because they are passionate about a particular issue—there is nothing wrong with that—they tend to adapt well to the body's broader work once they become immersed in and understand it. They take those wider responsibilities seriously, so I have little doubt but that the same would be the case with people who were directly elected on to health boards.

Ian McKee: Some concern has been expressed about how people would be appointed if not enough candidates stood. However, I will suggest the opposite: we may get a situation in which an immense number of candidates stand, perhaps on single issues or because of geographical factors. Do you intend to introduce some form of hurdle, such as a requirement that a certain number of people must support a nomination before the person can be added to the list of candidates? If you do not do that, we might end up with 500 names on a voting paper.

10:45

Nicola Sturgeon: There is no such hurdle in the bill and I have no intention of lodging an amendment that would have that effect. People should be allowed to stand without having to overcome a particular hurdle. However, if the committee wants to pursue the matter, I am sure that we can consider it. My instinctive view is that we should not introduce a hurdle and we should allow people the freedom to stand for election. Let us hope that you are right and many people come forward because they want to make a contribution. That would be positive.

Ian McKee: Finally, on the franchise, the committee heard the valid point from people who run elections that health board elections should be as authentic as elections to councils or Parliament. The witnesses think that the amount of money that has been allowed for the pilot elections and for the roll-out will not be sufficient to allow for, for example, voter identification, which is needed if we are to guarantee the elections' integrity. Will you comment on that?

Nicola Sturgeon: Are you talking about the election expenses limit? You went on to mention security.

Ian McKee: I gather that the election will involve a postal vote. If a postal vote is to be secure, we need signatures and other details, which it appears are available for only about 20 per cent of the electorate.

Nicola Sturgeon: You are talking about personal identifiers.

Ian McKee: Yes.

Nicola Sturgeon: We took a judgment on the issue, certainly for the purposes of the pilots. A requirement for personal identifiers would have two effects. First, it would significantly increase the cost of the pilots. You will know from the financial memorandum that the cost per vote will be about £2.60; the cost would increase to about £3.60 per vote if personal identifiers were required. Secondly, it would significantly jeopardise the timescale for the pilots, given the significant amount of work that will have to be done, not just after voting to check identifiers, but at the front end of the process to establish the personal identifiers for every person in the population.

Currently, as you know, if you apply for a postal vote you must give your personal identifiers, which currently applies to about 15 to 20 per cent of the population: in an all-postal-vote election we would be talking about 100 per cent of the population. There is recent evidence that in the current system, people tend not to follow through on applications for a postal vote, because they do not want to give the identifiers. A requirement for

personal identifiers might have the effect of disenfranchising members of the public. Therefore, we took the judgment that, certainly in the pilots, the elections should go ahead without personal identifiers. I think that that is the right judgment, but when the pilots are evaluated and Parliament must decide whether to roll out the elections, Parliament might well want to revisit the issue.

Dr Richard Simpson (Mid Scotland and Fife) (Lab): Have you estimated the additional costs that would be incurred if personal identifiers were required? I think that the original estimate for roll-out was £13 million, but after the Finance Committee published its report a revised estimate of £16.8 million was given. Does the estimate include an element for personal identifiers, which would add significantly to the cost, as you said?

Nicola Sturgeon: The estimate in the financial memorandum does not include the cost of identifiers, either for the pilots or for the roll-out. As I said, the cost per vote would go up from £2.60 to £3.60 if personal identifiers were included. You can calculate the total cost from that—I hope that you will not force me to do the arithmetic.

It will be for Parliament to judge whether we made the right decision in relation to the pilots. When it comes to roll-out, Parliament might want to revisit the issue.

Dr Simpson: Is the cost of using personal identifiers included in the revised estimate of £16.8 million?

Nicola Sturgeon: No.

Dr Simpson: Right—so the cost would be even higher.

Nicola Sturgeon: The cost would be higher if personal identifiers were required.

Dr Simpson: I understand that.

I find the bill particularly difficult and I feel ambivalent about it. I have absolutely no doubts that every parliamentarian is convinced that health boards' accountability to their local population is still inadequate, notwithstanding the report that I produced in 2000 or 1999 for the Health and Community Care Committee on Stobhill hospital and the consultation on it, and notwithstanding health boards' movement on consulting the public and the huge variety of improvements in that respect. We are all agreed on the starting point, but there is not so much agreement on the proposed solution.

I do not, however, object to direct elections on the ground that they will increase tensions in the system. We have elected councillors, elected MSPs in Parliament and an elected Government. Although directly elected health board members will create yet another point of tension in the system, I do not have a problem with that because tensions can be positive and can produce dynamic solutions. My concern is that although it is true that it will be in two geographic areas, we will test only one type of pilot. Have you considered altering any proposals: for example, the proposal that there will be a majority of councillors and directly elected members? Could we have one pilot with a substantial proportion of councillors and only a few directly elected members, and another one with a minimum amount of councillor representation and a significant number of directly elected members? In other words, will we test more than one system, or will we simply test a single approach?

Nicola Sturgeon: I will try to answer that as constructively as I can. The bill proposes one system: direct elections, with health boards having a majority of directly elected and local-authority elected members. It is right that we should test that system adequately and properly, and the pilots that are proposed in the bill are designed to do that, on the basis that I spoke about earlier.

In considering the evidence, I have been struck that although the bill is designed to test one system, we might want to test other approaches in parallel. I do not have fully formed views on whether we should do that and, if so, what approaches we might want to test. We would not necessarily need legislation to do that. We already have councillor members of health boards without there being any statutory underpinning for that. While we test the system in the bill, we might want to trial other approaches. I am considering that and will be more than happy to discuss the issue further with the committee in due course. However, it is important that we are clear that the bill proposes one system and will give us the ability to test it properly through the pilots.

Dr Simpson: Have you considered appointing MSPs to boards, or allowing their appointment by the Government?

Nicola Sturgeon: Would I get to pick who they are? That might colour my view.

Dr Simpson: Either the Government or Parliament would do that. Since Parliament was created, there is huge interaction between MSPs and boards. There are regular meetings between health boards and groups of or individual MSPs, and MSPs have a keen appetite to be involved in the process. Have you considered putting that relationship on a different footing?

Nicola Sturgeon: I have not considered that formally, although, as with many things, it has passed through my mind in considering how to improve the working of health boards. I am not in favour of having MSPs on health boards—I will tell you why. We have local authority members on

health boards because local authorities and health boards are increasingly jointly responsible for decisions that impact on local services. Health boards are not accountable to local authorities; they are accountable to Parliament. To have members of Parliament on health boards would seriously confuse the lines of accountability. All health boards should have a well-developed and constructive relationship with the MSPs in their areas—I certainly hope they do—but to have MSPs on health boards would confuse and undermine the important line of accountability from boards to Parliament via Government.

Dr Simpson: It is helpful to have that on the record, as it has been put to me that that would be a less expensive way of proceeding.

The Convener: A buy-one-get-one-free sort of thing.

Mary Scanlon: Given that there is only one system for the pilot projects, is there an option to change the system at the end of the pilots, if we decide that we are in favour of health board elections but not exactly the system that was piloted?

Nicola Sturgeon: Yes—on the basis that Parliament always has the option to do what it likes. I cannot bind a future Parliament any more than this committee can. At the moment, however, the option is for the roll-out of elections on the basis that is set out in the bill. Parliament is, however, free to introduce any system it wants: it would be for the Parliament of the day to make that judgment.

Kathleen Preston (Scottish Government Legal Directorate): Section 7(4) of the bill allows for a roll-out order to make a provision to modify statute, including the act itself. If, as a result of the evaluation report following the pilots, it is decided that the Government wants to introduce direct elections in a form that is not precisely the same as the terms of the bill, it would be possible for the roll-out order to make the appropriate amendments.

Nicola Sturgeon: That relates to your first question, convener, which was about the amendments that we had agreed with the Subordinate Legislation Committee. Assuming that our amendments are accepted, if Parliament decides to roll out the proposals but with a slightly different proportion of elected members, for example, that would require an instrument to be agreed to under the affirmative procedure rather than under the negative procedure.

Ross Finnie: That is one of the matters that are exercising people. To what extent can one fundamentally change an act? I read section 4 with some concern. The minister is clear, and so is the bill, that we are talking about one system.

Nicola Sturgeon: Section 4 deals with the pilots; we are talking about the roll-out.

Ross Finnie: Yes. Section 7(4) is about the roll-out and enactment of the legislation. The clear principles of the bill are set out in section 1. I am not clear about the extent to which it is legally competent to make a serious change to what is set out in section 1 without compromising the short title.

Nicola Sturgeon: I have said what I have said about that requiring change using the affirmative procedure. However, it is a long time since my legal days, so I will allow the Government lawyer to answer that question.

Kathleen Preston: In passing the bill, Parliament will have agreed to the provision in section 7(4)—the bill itself would be the expression of Parliament's consent to allowing that to happen. My view would be, therefore, that it would be both competent and legal to do that. Section 7(4) provides for the roll-out order to modify any statute, including the act itself. If Parliament passes the bill, Parliament will have agreed to that provision. That would be the legal power that would have been granted.

Nicola Sturgeon: The important point of principle is that nothing can happen beyond the pilots that would not require further parliamentary procedure—nothing in the bill will allow anything to happen without the agreement of Parliament. If the Government wanted to change sections 1 to 3, which deal with the composition of health boards, the change would be through an instrument under the affirmative procedure. Parliament is in the driving seat every step of the way.

11:00

Ross Finnie: The point is an important one. I will pursue it if I may, convener.

The Convener: You may.

Ross Finnie: I wholly accept what you say on the matter, cabinet secretary. That leads me to accept the proposition that the Parliament is wholly in control. However, the matter goes further than the points that the Subordinate Legislation Committee has brought to our attention. We are talking about a new principle that will see the Parliament both pass the principles of the bill that are enunciated in the short title and take unto itself powers under which it can completely change those principles. That is new parliamentary procedure that—

Nicola Sturgeon: I am doing what—

The Convener: One at a time, please.

Ross Finnie: The Parliament is being given the power to override the principles of the bill.

Nicola Sturgeon: The constraint on the Parliament remains, which is the short title of the bill. The Parliament cannot change the bill from being a health board elections bill into something else. That constraint applies to any amendment to any bill. The constraint keeps the Parliament within the general parameters of the bill.

Ross Finnie: I am grateful to you for putting that on the record, cabinet secretary. With respect, in response to an earlier question, you gave the impression that Parliament could use section 7(4) to effect fundamental change. What you have just said confirms that section 7(4) applies only if amendments stay within the parameters of the principles and short title of the bill.

The Convener: Am I therefore correct in understanding that, given that the short title says

"to provide for the election of certain members of Health Boards",

the number of members that are put in place can be varied?

Nicola Sturgeon: If the Parliament agrees.

The Convener: We understand that Parliament must agree, but does it have to be kept within the terms of the short title?

Nicola Sturgeon: Yes. If Parliament agrees—

The Convener: The clerk has just pointed out that I quoted from the long title. That shows how long I, too, have been out of practice.

I will now bring in Helen Eadie, who has waited patiently to put her questions.

Helen Eadie (Dunfermline East) (Lab): Cabinet secretary, you said earlier that nothing would go forward under the bill that did not have recourse to the Parliament. That is not true. In its report, the Subordinate Legislation Committee said:

"This revocation order would be subject to **no** Parliamentary procedure."

Nicola Sturgeon: I indicated that earlier.

Helen Eadie: As Ross Finnie rightly pointed out, we are concerned that the Subordinate Legislation Committee has said:

"This power is considered to be novel and unusual."

The Subordinate Legislation Committee felt very strongly on the matter. We are talking about a measure that does not just tidy up the statute book—which was the evidence that the Subordinate Legislation Committee heard—but is something much more fundamental in nature. Can you assure the committee that you plan to lodge an amendment to address the issue? We seek to have that on the record.

Nicola Sturgeon: I think that the *Official Report* of the meeting will show that I deliberately highlighted the Subordinate Legislation Committee's comment in an earlier response. I also said that we are reflecting further on the matter. I am not going to give the committee an absolute assurance today that we will lodge an amendment; I can say only that we are considering the matter. If it is helpful to the committee, I am happy to provide a further communication before you conclude your report.

Helen Eadie: Yes. No matter what Administration is in power, the Parliament as a whole will be concerned that legislation can simply be abandoned on the basis of a revocation order. As Ross Finnie and the Subordinate Legislation Committee have said, the situation is unique.

I turn to an issue of concern to some of the witnesses from whom we took evidence: the power to remove elected members. Section 1(6) amends the National Health Service (Scotland) Act 1978 to provide for

"appointed members and councillor members (including provision specifying circumstances in which the Scottish Ministers may determine that such a member is to vacate office)".

The Subordinate Legislation Committee said:

"the decision to allow Ministerial discretion to require early vacation from office in yet-to-be-prescribed circumstances applying to publicly elected members is a significant issue, which has the potential to be controversial".

As you will appreciate, people right across Scotland may or may not share the enthusiasm for direct elections to health boards. However, those who are enthusiastic will be angry that you could prescribe any circumstances under which ministers may determine that board members should vacate office early. I strongly agree with Unison and the other witnesses who said clearly that they did not feel that that provision was appropriate. In the Government response, you said that the test of whatever is in the best interests of the national health service will be applied for all types of member but, as drafted, the bill will allow future regulations to change the criteria. That will allow virtually anything to happen. A cabinet secretary—not you, but any cabinet secretary—might simply not like the colour of the politics of an individual, and a spurious reason could be thought up to remove them from a board. Can you justify that power?

Nicola Sturgeon: I can, although I do not for a minute diminish the importance of the issue that Helen Eadie referred to. It must be seen in the context of both the practical debate and the philosophical debate, which Ross Finnie characteristically sparked off in the previous meeting, on the difference between accountability

and representation. We have taken great care in the bill to maintain the lines of accountability and the current situation that, regardless of how health board members end up on a board, the same corporate governance and accountability arrangements and responsibilities apply to all of them.

The provision exists for a minister to remove any member of a health board. There may be a case that I have been unable to uncover but, to the best of my knowledge, that power has never been used. I find it difficult to believe that it would be used with directly elected members—in fact, it would probably be even less likely to be used—but we have to take a policy judgment. If we believe that health boards should retain the line of accountability and that all board members, regardless of how they end up on a board, should be treated equally, it is an important provision.

Helen Eadie: You mentioned accountability and representation. What weight will ministers give to each factor? I would have thought that representation is an important aspect of the bill. We are looking at having a minimum of 50 per cent of each board made up of elected members and councillors, so the question is of some concern. What weight would you give to representation versus accountability to ministers?

Nicola Sturgeon: We are not talking about an academic scenario. Right now, I have—and any successor in my job will have—the power to remove any member of a health board. I have certainly never used it, and I have not been able to unearth any occasion on which my predecessors have used it. However, the power exists to protect the NHS from a board member acting in a way that undermines the working of the health board to an extent that the delivery of services is disrupted. It is an in extremis power just now, and it would remain so in future.

Helen Eadie: There is another concern. Under the bill as drafted, future regulations could set out different criteria for different types of member. What do you say about that?

Nicola Sturgeon: Could you repeat that? I am not sure that I follow the question.

Helen Eadie: The point is that,

"as the Bill is drafted, future Regulations could set out different criteria for different types of member".

The Convener: Could you tell us where you are reading that from, Helen?

Helen Eadie: From page 3 of the Subordinate Legislation Committee report. Paragraph 16(a) says:

"the evidence from the Scottish Government officials indicated an intention to apply the same criteria in relation to elected members, as may be applied to appointed and councillor members. However, as the Bill is drafted, future Regulations could set out different criteria for different types of member".

Nicola Sturgeon: That is the current position. The regulations as drafted—and they are draft regulations that we have made available to the committee—simply reflect the criteria that already exist in other legislation.

The Subordinate Legislation Committee is pointing to a theoretical possibility, but regulations that are produced by any future Government will have to be scrutinised and passed by Parliament. However, let me make clear that I have no policy intention of prescribing different criteria for different groups of members. All members of health boards should have the same responsibilities and accountabilities.

Helen Eadie: The Subordinate Legislation Committee raised another concern, with which I agree. The committee noted

"that the scope and extent of these delegated powers in the Bill is wider than permitting removal of members where that is in the interests of the national health service. It permits a very wide discretion to put in future regulations *any circumstances*".

Would you be minded to narrow that scope?

Nicola Sturgeon: In the spirit of being open to all ideas, I will be quite happy to consider that. However, I stress that the power exists at present but has never, as far as I know, been used. Although it is important to discuss the issue, we should not lose perspective on what has happened in the past.

Helen Eadie: I think that you will agree that the issue could be very controversial. It is virtually unheard of for an elected member of any organisation—be it a local authority or any other body—to be removed from office. However, it can happen.

Nicola Sturgeon: In a sense—oh, I am sorry. I am getting into trouble with the convener.

The Convener: I just wanted to make a point to Helen Eadie. If you intend to refer to the Subordinate Legislation Committee report, would you tell us which page you are on? You are very familiar with the report, but we are not so familiar with it.

Helen Eadie: Yes, of course.

Nicola Sturgeon: If Helen Eadie played back in her head the question that she asked me, she herself would provide the reassurance that she is asking me for. It would be very controversial for any health minister, now or in future, to remove a member from a health board. It would put the minister under great scrutiny, requiring him or her to justify the decision. That in itself would operate as a discipline in the exercising of the power—it

might be one reason why the power has never been used.

The Convener: But I think that Helen Eadie is making the point that trying to remove somebody who has been elected would be very different from trying to remove somebody who had been appointed.

Helen Eadie: That is right.

Nicola Sturgeon: But that underlines my point; it would make the removal even more controversial. Any health minister who chose to exercise the power would have to have the most compelling of reasons, to withstand the scrutiny that he or she would come under.

Helen Eadie: I accept that, but I think that you can see how controversy could arise. I am not the only one who has highlighted the point.

In conclusion, and at the risk of getting my throat cut by all my other colleagues, I would offer Fife for one of your pilots. It is coterminous with local government and police authority boundaries, so it would be a wonderful example.

Nicola Sturgeon: You will have to pass the bill first.

The Convener: Yes, Ms Eadie—that is you tied into supporting the principles of the bill. I would like to go to the next Labour group meeting to hear what is said.

I would like to raise a point in case it is not raised by others. Nobody has referred to Inclusion Scotland's evidence to the committee, and it has struck me that many people who use the health service are people with disabilities of all kinds or with long-term conditions. However, we have been told that only 6.2 per cent of applicants to public bodies described themselves as disabled. Only 2 per cent of those appointed were disabled.

Two issues arise from that evidence and from supplementary evidence. I am not always in favour of positive discrimination, but is there some way in which the balance can be redressed? If we are talking about democratisation, boards should contain more people with such conditions.

Secondly, what about the impact on benefits? We have received supplementary evidence, which should be in the public domain, on benefits as a barrier to public appointment. Could people's benefit payments be affected? If so, it might prevent people from offering themselves in the first place.

Nicola Sturgeon: I have read Inclusion Scotland's evidence, which is compellingly in favour of direct elections. The convener alluded to the fact that the bill does not propose any element of positive discrimination, and we do not propose to include any such element. It could be strongly argued that the single transferable vote system helps to promote the broader representation of different groups in society. An equality and diversity element would be built into the evaluation of the pilots, so we would, at that stage, be able to assess whether the process of direct elections had led to the creation of boards that were more representative of a range of different interests than they had been previously.

Your point about benefits is valid. That is one of many areas in which devolved and reserved responsibilities run into each other—we do not have responsibility for or power over benefits. I am more than happy to examine the matter in detail and come back to the committee with more considered views.

11:15

Dr Simpson: My question is on the reduced age of voting. In principle, I do not have a problem with it, but we heard in evidence that problems might arise from the verification of 16 and 17-year-olds' entitlement to vote and from placing their names on any sort of register when they are still below the age of 16. For example, there could be issues with regard to the publication of children's names. Have you had any further thoughts on that? I think that the Subordinate Legislation Committee refers to it on page 6 of its report.

Nicola Sturgeon: I will ask Kenneth Hogg to say something about that in a moment.

As I said in my opening statement, and as I think Dr Simpson agreed, it is right in principle to include 16 and 17-year-olds in the franchise for health board elections. We made some changes to the financial memorandum in relation to that issue—we originally thought that it would require expensive software changes in different areas but, following discussions, we have concluded that it can be done more informally. Health boards, rather than electoral registration authorities, can maintain young persons registers with the names of the 16 and 17-year-olds who are already appearing on the electoral register as attainers.

Kenneth Hogg will say some more about how those discussions have progressed.

Kenneth Hogg (Scottish Government Health Delivery Directorate): We have moved towards a much simpler administrative system, which involves building on existing practice and the systems that are run by local authorities, rather than trying to tag the 16 and 17-year-olds on to the wider process that is used for general elections. That should build in security as, from the discussions that we have had, it appears to be a much more secure and stable process for achieving our goal.

Dr Simpson: Just to be clear, are you suggesting that all local authorities have a register of all 16 and 17-year-olds in some form?

Kenneth Hogg: Yes.

Nicola Sturgeon: We are all familiar with the electoral registers. As the member will know, people appear on the electoral register with their date of birth beside their name.

Dr Simpson: I accept that, but we heard from the Association of Electoral Administrators that 15-year-olds could appear on the register with their date of birth. At the moment, 16 and 17-year-olds are on the list in preparation for voting at 18—we could have 14 and 15-year-olds on the register who will vote at 16. Are you saying that there is a register of 14-year-olds from which that can be drawn? Is there a simple method?

Nicola Sturgeon: Rather than creating a register for 14 and 15-year-olds, as you suggest might happen, we will draw on the existing information that local authorities and electoral registration authorities have for 16 and 17-year-olds. It is much simpler than we originally envisaged.

Dr Simpson: I am still slightly lost. Are you saying that the Association of Electoral Administrators is wrong and that there is no question of publishing—and you will not need to do so—the name of any 15-year-old with their date of birth, in a similar way to the way in which we publish the names of 16 and 17-year-olds with their dates of birth at present?

The Convener: Robert Kirkwood gets to speak at last.

Dr Simpson: That was the purpose of my question.

Robert Kirkwood (Scottish Government Health Delivery Directorate): We have discussed a simple approach with electoral registration officers: we will have a young persons register within the pilot area, but it will be up to the individual electoral registration officer to decide on the best way to keep that. The young persons register, which will contain 15-year-old attainers in the pilot areas, will not be made public. However, the names of the people on that register who will be 16 on the date of the election can be combined with those on the local government register.

Dr Simpson: I am sorry to pursue the matter, but if we have direct elections and a group wants to elect a particular candidate and therefore wants to circulate election material, it will be precluded from forwarding that material to anyone whose age is not beyond 16, because it will not have access to them. At the moment, we can send stuff out to 16 and 17-year-olds to encourage them to vote when they get to 18.

Nicola Sturgeon: The answer to your question is yes. We have discussed the arrangement with the electoral registration officers, as Robert Kirkwood said, and they will maintain the register that includes 15-year-old attainers, but that will not necessarily be public. Therefore, the answer to your question is yes.

The Convener: That concludes today's evidence session, nearly on time. I thank the witnesses for their evidence, including those who had to wait a long time to say a few good words.

As agreed, we will now move into private session for items 3 and 4.

11:21

Meeting continued in private until 12:24.

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