HEALTH COMMITTEE

Tuesday 28 March 2006

Session 2

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HEALTH COMMITTEE
8th Meeting 2006, Session 2

CONVENER

*Roseanna Cunningham (Perth) (SNP)

DEPUTY CONVENER

*Janis Hughes (Glasgow Rutherglen) (Lab)

COMMITTEE MEMBERS

*Helen Eadie (Dunfermline East) (Lab)
*Kate Maclean (Dundee West) (Lab)
*Mr Duncan McNeil (Greenock and Inverclyde) (Lab)
*Mrs Nanette Milne (North East Scotland) (Con)
*Shona Robison (Dundee East) (SNP)
*Mike Rumbles (West Aberdeenshire and Kincardine) (LD)
*Dr Jean Turner (Strathkelvin and Bearsden) (Ind)

COMMITTEE SUBSTITUTES

Mr Kenneth Macintosh (Eastwood) (Lab)
Mr Stewart Maxwell (West of Scotland) (SNP)
Euan Robson (Roxburgh and Berwickshire) (LD)
Mary Scanlon (Highlands and Islands) (Con)

*attended

THE FOLLOWING GAVE EVIDENCE:

Eric Gray (Scottish Executive Health Department)
Paul Gray (Scottish Executive Health Department)
Lewis Macdonald (Deputy Minister for Health and Community Care)
Jonathan Pryce (Scottish Executive Health Department)

CLERKS TO THE COMMITTEE

Lynn Tullis
Simon Watkins

ASSISTANT CLERK

David Simpson

LOCATION

Committee Room 1

Scottish Parliament

Health Committee

Tuesday 28 March 2006

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

Care Inquiry

The Convener (Roseanna Cunningham): Good afternoon. I welcome everyone to this meeting of the Health Committee. We continue to take evidence on free personal care as part of our care inquiry. The Deputy Minister for Health and Community Care, Lewis Macdonald, is with us and is accompanied by officials from the Scottish Executive: Adam Rennie, Donald Carmichael, Jean MacLellan and Paul Gray. I invite the minister to make a brief statement before we go to members' questions. I have allocated roughly an hour for this part of the meeting.

The Deputy Minister for Health and Community Care (Lewis Macdonald): I welcome the committee's post-legislative inquiry and am grateful for the opportunity to give evidence to the committee. I will make brief remarks on the three main areas on which the inquiry has focused.

First, on the Scottish Commission for the Regulation of Care, the committee is considering the policy of full-cost recovery and the impact of that policy on fee levels. The policy is based on the principle that the cost of regulation is a legitimate business expense and as such should be met by the provider. I was interested to note that when Lord Sutherland gave evidence to the committee he described full-cost recovery as

"the natural way to go"—[*Official Report, Health Committee*, 21 February 2006; c 2598.]

The policy that operators should meet the cost of regulation was set out in the financial memorandum to the Regulation of Care (Scotland) Bill and remains our general approach. The financial memorandum also indicated that we would not recover the full costs of regulation of childminders and children's day care services. For sound reasons of policy, we chose, and still choose, to meet most of those costs from public subsidy, in order to stimulate the market in child care and to enable more parents to enter or return to the labour market. Fees for such services, which account for around half the care commission's regulatory costs, continue to be subsidised.

For other services, the policy is to move to fees that cover the full cost of regulation. The policy will be in place for the care home sector in the coming financial year. The care home sector accounts for about a quarter of the care commission's regulatory costs.

Services that account for the final quarter of the care commission's costs include housing support, care at home and day care support services. About 60 per cent of the cost of regulation of such services is currently recovered through fees, and our intention remains to move towards full-cost recovery. The Smoking, Health and Social Care (Scotland) Act 2005 allows the Scottish ministers, subject to parliamentary approval, to vary the minimum frequency of care commission inspections for specified services, which potentially gives us an opportunity to reduce regulatory costs and hence set lower fees. We do not want to press ahead too quickly and cause difficulties for providers through increased costs. Given that in due course we might be able to reduce the overall cost of some inspection activities, we have not increased the fees for those services in the coming year. We will continue to phase in the move to full cost recovery.

Secondly, we are evaluating the policy on free personal and nursing care and it will be helpful to hear the committee's conclusions when it completes its inquiry. Our research will conclude towards the end of the year, at which point we will come to a view on how best to develop the policy. Our general view is that the policy has largely succeeded in meeting the objectives that were set for it. The numbers tell their own story: nearly 50,000 people have benefited from free personal or nursing care.

I am sure that members are aware of the recent independent report for the Joseph Rowntree Foundation, which was very positive. It found that the policy was sensitive to individuals, improved access to services and particularly benefited informal carers, those with modest means and those with particularly heavy personal care burdens, such as those with Alzheimer's. It also found the policy to be fair and affordable.

There are, of course, certain issues—some of them difficult—on which the committee has taken evidence. We will consider them as part of our evaluation of the overall policy. In the meantime, my officials are working with councils that are not providing services in the way in which we would expect them to. I met the president of the Convention of Scottish Local Authorities only last week as part of our effort to resolve some of the uncertainties about the scope of what should be provided free of charge.

Over the course of this year, our evaluation will cover how the policy is being implemented, how local authorities are operating it, the range and quality of the services that are provided, the costs

and the perceived human impacts, whether on carers, care providers or older people themselves. With that evaluation and with the benefit of the committee's work and the evidence that it has received, we will be well placed towards the end of the year to ensure that the policy is delivered to a uniformly high standard in the longer term.

Thirdly, on direct payments, the Community Care and Health (Scotland) Act 2002 has been instrumental in making direct payments work more effectively by allowing parents to access them to purchase services for their disabled children. The Adults with Incapacity (Scotland) Act 2000 also allows representatives of users to consent to direct payments and to manage them on a user's behalf. Uptake has significantly increased since the 2002 act introduced a duty to provide direct payments to all eligible people.

I hope that those introductory remarks, brief as they were, are helpful.

The Convener: You will be aware that we have commissioned external research on direct payments and have therefore not taken evidence on them thus far, although we might come back to you to ask about specific issues.

Today's questions will focus on free personal care and the care commission. I propose that we deal with those in turn. The questions on free personal care will probably run until roughly 2.40 and then, from about 2.40 to 3.00, we will deal with the care commission. I give that as a rough guide, just so that we know where we are.

A number of members wish to raise issues of funding and rationing.

Mike Rumbles (West Aberdeenshire and Kincardine) (LD): As far as I can see, the big issue is the implementation of free personal care throughout Scotland. The committee has been given clear evidence that councils are implementing the policy differently. Some have even instituted waiting lists for elderly people who have already been assessed as being in need of personal care.

I know that the minister is aware that, at First Minister's question time on 18 September 2003, I asked the First Minister:

"Will the First Minister confirm that the legislation that has been passed by this Parliament makes it clear that, once an individual has been assessed by the local authority as needing free personal care, that individual is entitled to free personal care from the local authority from the date of assessment?"

The point that entitlement is from the date of assessment is most important. The First Minister's answer was:

"Yes, I will confirm that."—[*Official Report*, 18 September 2003; c 1876.]

We took evidence from Dundee City Council that a waiting list is in operation in Dundee. I am not singling that council out—it is just that it gave us oral evidence—because there is evidence from other councils throughout the country of waiting lists. Is the minister aware of such evidence and, if so, what is he doing about it? Was the First Minister's answer to me at First Minister's question time on 18 September 2003 as exact as it seemed then?

Lewis Macdonald: You put that point to me in the Parliament last week, and heard my answer then. The requirement on the local authority is to make an assessment of a person's need for services and, if it assesses those services as being required, to deliver them and to deliver without charge the services that are free of charge. That is an absolute description.

Mike Rumbles: So there should be no waiting lists.

Lewis Macdonald: That is one of the areas on which confusion arises. People may be required to wait for different reasons. For example, when somebody is coming up for discharge from a hospital, and the local authority, the national health service and the other partners are looking to put in place a package of care to allow that person to leave hospital and go into a home—

Mike Rumbles: I understand that.

Lewis Macdonald: Let me finish the point. The good practice that we look to partnerships to achieve for a delayed discharge involves putting the services in place within six weeks.

Mike Rumbles: I understand that, but that did not answer my question. My question is clear and specific, as was my question to the First Minister on 18 September 2003. The individual who is assessed by a council as being in need of free personal care is entitled, from the date of that assessment, to that money. The First Minister made it clear on 18 September 2003 that that was the case. My question to you is simple. It has been made clear that any individual is entitled to that money from the date of their assessment. We understand the point about the circumstances of those who are in hospital, but that cannot be used by a council to say that an individual is not entitled to support from the date of their assessment.

Lewis Macdonald: What the person is assessed for is not a cash payment.

Mike Rumbles: Indeed not. It is for services.

Lewis Macdonald: Yes, it is for a service, and they are entitled to that service—

Mike Rumbles: From that date.

Lewis Macdonald: From that point. Clearly, however, putting the service in place will not be

possible overnight in some cases. I gave an example of somebody who is just leaving a hospital. The service required might be complex. It is the same for somebody who leaves their own home to go into a care home or who requires to receive services in their own home. A complex package could be required to be put in place before the person can receive the service. The council should proceed accordingly. The way in which the council delivers the service is a matter for it. We do not try to micromanage that. Once the council has assessed somebody as being in need of a service, it should put its best efforts behind putting the service in place as quickly as it can.

Mike Rumbles: Forgive me, but that is quite different from what the First Minister said to me on 18 September 2003. This is the nub of the whole issue. An individual elderly person is assessed as being in need of care. The law says that they should get that care. What you seem to be saying is that it is up to the councils to decide when they deliver the care.

Lewis Macdonald: It is not up to them to decide when they deliver the care; it is up to them to provide the service as quickly as they can. That is a slightly different—

Mike Rumbles: So going on to a waiting list is okay, is it?

Lewis Macdonald: It depends what you mean by a waiting list. There are a number of reasons why a person might wait. For example, a person might wait for admission to a care home. A council might assess a person as being in need of certain community care services that are best delivered in the context of a care home.

Mike Rumbles: But that is not the issue.

Lewis Macdonald: Let me finish the point. The council should then endeavour to provide those services. It might be that, for reasons outwith the council's control, it is not able to provide a care home place straight away. In that case, it should deliver to the person the services that can meet their needs in their own home.

Mike Rumbles: I understand what you are saying entirely and I agree with it, but that is not the issue. A council, following an assessment, may write to the individual concerned and, while confirming that they have been assessed as being in need of certain services, may say to them that they must go on a waiting list. In one case, a person had to go on a list for 90 days. I have no idea where the council got the 90 days from, but it issued a letter to an individual, putting them on a waiting list not because it had to repackage their care or sort out their individual arrangements, but simply because it did not have the money to pay for the service. That is the point that I am getting at. I am trying to get you to acknowledge that surely that is not the right interpretation of what the Executive is asking councils to do.

Lewis Macdonald: Once a local authority has made an assessment, it should deliver the service that is assessed as being required.

Mike Rumbles: So people should not have to wait for a service for—

Lewis Macdonald: The 90 days to which you referred is certainly not something that we have given councils guidance on.

Shona Robison (Dundee East) (SNP): The problem exists because of your lack of clarity and the lack of clarity in the consolidated guidance, which says that

"payments towards personal care should commence when the authority is in a position to arrange or provide the required services."

That has been quoted to me as a reason for having a waiting list. Surely your department must clarify that that is not what the guidance means.

I will give you an example of what that problem means on the ground. A representative of Dundee City Council has said:

"In order to work within its budget allocation, this department is now having to prioritise the allocation of the two allowances which means that it is no longer immediately payable from the date that a self funding individual moves into a care home."

The representative also points out that

"only so many free personal care allowances can be allocated per month",

and that

"Following recent discussion within the Council … I can confirm that for the current financial year Free Personal and Nursing Care allowances will now be paid after an individual has been a resident for ninety days."

Are you saying that the consolidated guidance that you have issued does not cover the policy that Dundee City Council is pursuing?

14:15

Lewis Macdonald: The consolidated guidance is, as it says, guidance; it indicates how councils should proceed in carrying out the law. However, the Social Work (Scotland) Act 1968 and the Community Care and Health (Scotland) Act 2002 make it quite clear that councils should assess and then meet a person's care needs.

Shona Robison: Can you make it absolutely clear that Dundee City Council is breaching its statutory duties in the example that I gave? Although the person has been assessed, the council has said that it will not backdate the payment to the date of admission and that the person will not receive any payment for 90 days.

Lewis Macdonald: In some cases, councils might well have misunderstood their obligations or have prioritised their resources inappropriately. We acknowledge that councils, like everyone else, operate in the real world and must put in place what they have assessed is required. However, in order to meet their statutory obligations, they should make services available as promptly as they can.

Shona Robison: But that is not good enough. You have said very clearly that services should be provided once assessment has been carried out and that, although getting those services in place might take a while in some complex cases, that is not a matter of funding or lack of money. However, the issue that I have highlighted is driven purely by funding. Dundee City Council has told us that it does not have the money to implement free personal care as per your guidance. You have not made it clear how you will resolve that situation.

Lewis Macdonald: As I said in my opening remarks, my officials are working with councils that appear to have introduced waiting lists for reasons other than practical ones and are drawing their attention to the circumstances under which they must operate.

Shona Robison: But Dundee City Council has said:

"this department has now established that the amount of funding it has been allocated is less than required to meet the level of admissions to care of individuals who are otherwise self funding in meeting the costs of their care."

Basically, it is saying that it does not have the money. As far as I can see, either your officials tell Dundee City Council to find the money and cease operating a waiting list or you will have to make more funding available. Unless you can think of anything else, those are the only two options that are open. Will you guarantee that either of those options will be taken forward?

Lewis Macdonald: I will not comment on the specific circumstances of the Dundee case, because I do not have the documentation.

Shona Robison: Well, I will give it to you.

Lewis Macdonald: That is very kind of you. As for my officials, they will endeavour to ensure that all councils are aware of their obligations and prioritise their resources in line with the current legal requirements.

The Convener: If we leave aside specific examples—and I believe that we have heard clear evidence of such cases today—do you have any general powers to deal with waiting lists for care without having to revisit the legislation?

Lewis Macdonald: Government always has powers to direct local authorities, but, for good and obvious reasons, we do not make a habit of using them. Instead, we expect to continue our work with individual councils—and, indeed, with COSLA as the representative of the majority of councils—to address those points and ensure that we have the consistent practice throughout Scotland that we all want.

Mrs Nanette Milne (North East Scotland) (Con): During our evidence taking, it became clear that the practice of operating waiting lists must be dealt with, as it is becoming widespread among councils. Are you or your officials aware of how many councils are in this situation?

Lewis Macdonald: After raising the point recently with councils, we believe that 15 councils operate waiting lists of one form or another. In addition, a couple of councils operate some form of waiting list for assessment.

Mrs Milne: What is the scale of the problem? How many people are waiting for their care packages?

Lewis Macdonald: We are seeking to bottom out such matters. Some 1,690 people are waiting for assessment in two authorities—the City of Edinburgh Council and Scottish Borders Council. Those figures are pretty clear. However, the situation varies among councils that operate other forms of waiting, and part of the difficulty is that we are not simply dealing with one variant. My officials are currently exploring such matters with councils.

Mrs Milne: When you talk about "other forms of waiting", I assume that the people who are on such waiting lists have already been assessed as needing free personal care.

Lewis Macdonald: Yes.

Mrs Milne: The committee heard that councils are delaying assessments because they know that care packages are unlikely to be available. According to witnesses, the delay can be considerable. Are you aware of the problem?

Lewis Macdonald: As I said, we are aware that the problem has arisen in two local authority areas. We are continuing to explore a range of issues with councils as part of our evaluation of the overall policy. There are provisional figures from councils on the number of people who are waiting for services, but we are in the process of compiling that information.

Dr Jean Turner (Strathkelvin and Bearsden) (Ind): Moneys come from various sources, but the most important matter is that people should be well looked after at home. Until the committee's inquiry began, I had not particularly considered the people who entered sheltered housing—perhaps around 1985—and have grown old in that environment. Such people might need a care package, for example if they have just come out of

hospital, but the package might be delayed. Funding from the supporting people programme could help in such situations. Sheltered housing complexes that provide care used to have managers who provided 24-hour cover, which helped other services to go in—primary care services, such as general practitioners, or ambulance services—to look after people who were waiting for care packages to be put in place. Most people who enter sheltered housing want to live independent lives—that is what it is all about. Are you aware that the loss of the supporting people grant is being blamed for problems? For example, organisations cannot afford to employ managers overnight or full time during the day. In addition, sheltered housing services are paying increased fees to the care commission. You might not think that such issues matter or relate to the policy on free personal care, but they are all related.

Lewis Macdonald: All the issues that you raise matter, and I am aware of them principally from a constituency perspective. Arrangements for the supporting people programme come under the portfolio of Malcolm Chisholm, the Minister for Communities. I understand the importance of joining up different aspects of policy. When a person is assessed as being in need of care, the assessment should be acted on, so that the person can move to the place where they will receive the best care or at least receive services in situ as an interim measure.

Dr Turner: A doctor might decide that someone needs care, but then there is a delay because a social worker must make an assessment. Another, hidden delay arises between the decision being made that someone needs an assessment for a care package and the assessment being carried out. Not only might some local authorities be stalling, to avoid paying the money, but there is a shortage of social workers to carry out assessments.

Lewis Macdonald: I have ministerial responsibility for the joint future agenda, which seeks to encourage and enable health and social care staff to work together on matters such as single shared assessments, to ensure that there is the minimum delay in situations such as you describe. The approach ensures better sharing of the criteria for assessment as well as the assessment process itself. I acknowledge the importance of the issues that you describe, but the work that is being done to encourage closer working between health and social services is beginning to deliver benefits.

Mike Rumbles: The convener invited the Minister for Finance and Public Service Reform to come before the committee to answer questions on the financing of free personal care, but we were assured that you would be able to handle such questions. I am sure that you are able to do so.

The Executive says that free personal care is fully funded and COSLA told us that free personal care is fully funded. However, councils have told us in oral and written evidence that the policy is not fully funded. For example, representatives of Dundee City Council told us that the council operates a waiting list for care because it does not have the money to do otherwise. Aberdeenshire Council did not go down the road of operating a waiting list, but indicated in written evidence to the committee that it was allocated £7.2 million to implement free personal care but has spent £8.7 million. What criteria were used to decide that Aberdeenshire Council should be allocated £7.2 million?

Lewis Macdonald: On community care services in general and free personal care costs in particular, the short answer is that we responded to the COSLA bid. Local government estimated the costs and we funded the estimate in full.

Mike Rumbles: That brings us to the nub of the issue. The Scottish Executive asked COSLA for an estimate of the cost and funded that estimate. The Scottish Executive and COSLA were happy with the agreement, but people throughout Scotland are being affected because some councils, such as Dundee City Council and Aberdeenshire Council, are not happy with the agreement and say that the Scottish Executive's money is not reaching them. Waiting lists for care are operating in Dundee and other services have had to be cut to fund free personal care in Aberdeenshire. Did the Executive accept COSLA's general estimate without considering the need in each local authority area?

Lewis Macdonald: Since the agreement was reached with COSLA, we have monitored how the money that we provided has been spent, to ascertain whether it has been used as it was intended to be used. I do not think that there is a question of the money not reaching councils, but perhaps not all councils are choosing to spend all the money that is allocated for older people's services on such services. The 2004-05 figures, which are a matter of public record, show that the grant-aided expenditure for older people's services and other community care services amounted to some £1.5 billion, but spend in the same period was £1.4 billion—so there is a difference. In global terms, the allocation under GAE is not inadequate and falling short of the spend; the spend is falling short of the allocation.

The Convener: Which local authorities are choosing not to spend the amount on personal care that they should be spending and are diverting money to other areas? The committee

would be grateful if you could give an indication of that.

Lewis Macdonald: I am not sure of the status of individual councils, but Paul Gray might advise us.

Paul Gray (Scottish Executive Health Department): The minister referred to the research that we are undertaking, which we hope will help us to get a better handle on the matter. It is clearly the case—I say this neutrally and not critically—that local authorities record their expenditure against services in different ways, so it is difficult to make a like-for-like assessment of the situation across local authorities. We are doing all that we can do to secure a common basis of understanding among local authorities of what is encapsulated in the services that we are talking about and how authorities account for such services.

14:30

Mike Rumbles: The councils that responded to our call for evidence made the situation clear. Aberdeenshire Council states that its allocation is £7.2 million but it has spent £8.76 million. The figures are down in black and white. That information must be given to the Scottish Executive. The matter is straightforward. The Executive has allocated funding for the implementation of the new policy. Surely you should be able to tell us how much money the 32 local authorities have been allocated and what their spend is.

Lewis Macdonald: You will be aware of the usual rules that apply to local authority spend. Those rules apply also to implementation of this policy.

The Convener: Can you provide us with information on the specific allocation to each local authority in the past financial year? The committee could pursue with each local authority how much they have spent in comparison with the allocation. That would help us to clarify the situation.

Lewis Macdonald: I am happy to do that.

Mr Rumbles has raised some valid points, but it is important to understand that one of the reasons why there is a little bit of difficulty in assessing the figures is that local authorities do not all account for their spend and for their budgets for free personal care in the same way. If they did so, our job and your job would be a good deal easier. We are keen to encourage local authorities to have a consistent approach.

It is important to recall that many people received free personal care before the Community Care and Health (Scotland) Act 2002 came in. People whose incomes and assets were such that they were assessed as not being able to contribute to their own costs were already receiving free care. A difficulty with the judgment that was made at the time of the agreement with COSLA on funding—it is still a difficulty—is that no separate account was held by local authorities of the amount that was allocated to free personal care for those who qualified before the act came in. We do not know, because the money is accounted for in different ways, but we suspect that some councils treat that spend, which was incurred previously, as part of the spend incurred as a consequence of the act and others do not. There is a degree of inconsistency in how councils account for the spending. That partly explains why the figures that the committee has received and that we receive when we ask councils about the matter do not always appear to make immediate sense.

The Convener: On the point about the original assessment, there has been no increase in the level of assistance for free personal care since it was introduced. Obviously the numbers go up every year, as do costs. Will the minister comment on the fact that the one thing that has not gone up is the amount allocated to each individual? Does he have any intention of reconsidering that allocation?

Lewis Macdonald: A specific sum was allocated. The payment of £210 is meant to cover a specific part of the service, although a degree of estimation was involved at the time. Essentially, the figure reflects a judgment about what the market rate would be. In England, the equivalent payments range considerably, from £80 to £190 a week, and equivalent payments in Wales are at a different level from those in Scotland.

The Convener: I believe that the fancy term is "fiscal drag". An absolute figure is put in and is not shifted. As each year goes by, in effect the Government saves money by not increasing the figure. Is not that what has happened? The allocation will have to be reconsidered; otherwise, it will increasingly become an issue.

Lewis Macdonald: That is one of the matters that we expect to examine as part of the evaluation.

Mr Duncan McNeil (Greenock and Inverclyde) (Lab): My question follows on from Mike Rumbles's points. When you reconsider the financing for either councils or individuals, do you intend to calculate the allocations based on whether communities, such as Dundee and Greenock, have a greater need because there is a declining population and a higher percentage of elderly people in the population? Is it necessary to take into account the greater need in some areas?

Lewis Macdonald: There is no doubt that overall demographic trends are among the issues

that will inform the next stage in the development of the policy. Relating funding to geographical variation is a more difficult proposition. I am not sure whether you are suggesting that.

Mr McNeil: Mike Rumbles made the point that, in some respects, there is greater demand in places such as Dundee. There is a fixed allocation per head of population, as is the case for much local authority funding.

Lewis Macdonald: Yes. Allocations in local government are based on a range of different formulas. It is important to bear it in mind that the payments that we are discussing are for old people who receive services in care homes, which account for only a proportion of total funding, which includes services to people in their homes and in sheltered housing.

Mr McNeil: I was thinking about services across the board and the proportion of elderly people who would be in need of them. You have indicated that the money is not ring fenced and that local authorities can use it for other purposes. It should be spent on meeting the needs of elderly people in other areas.

The Convener: One of the criteria for allocation ought to be the percentage of people in each local authority area who are elderly. We know that the percentage is higher in some areas than in others.

Lewis Macdonald: Yes.

Mr McNeil: We also know the areas that have a higher proportion of elderly people.

Lewis Macdonald: We will want to see the evidence on the matter and to take it into account.

The Convener: We move on to the vexed question of meal preparation, although I hope that we will not have to spend terribly long on it.

Shona Robison: Have the Executive and COSLA reached an agreement on the issue yet?

Lewis Macdonald: Not quite, I am afraid.

Shona Robison: Can you assure the committee that any agreement will not involve a dilution of the clear position that was finally reached in the Executive guidance, which stated that meal preparation should be included? That point was clear in the public information that was issued.

Lewis Macdonald: I cannot give a blanket assurance. I am not familiar with the detail of what is provided in every local authority, which is important, but we are seeking to reach a commonsense understanding of what the guidance means, what it ought to mean and what the policy intention was. Clearly, the policy intention was that people should receive assistance with the preparation of food free of charge, where that is one of their assessed needs. However, we recognise that there is not an open-ended requirement for local authorities to provide assistance with any preparation of any food that comes into the user's imagination. The commonsense objective that we are seeking to agree is to enable people to receive the services that they require.

Shona Robison: I want to be absolutely clear about what you are saying. Your interpretation of the policy intention is that, where meal preparation is an assessed need, the service should be included in free personal care. That is my understanding of what the guidance said.

Lewis Macdonald: The law refers to

"assisting with the preparation of food".

Shona Robison: So the point is to ensure that all local authorities understand that.

Lewis Macdonald: It is important that all local authorities should have a common understanding of the law. The law does not say—and our guidance does not require—that the preparation of food should always be a free service. It says that there should be assistance with the preparation of food where that is an assessed need. Cooking the meal and providing the food for it are not explicitly covered by the provision, which covers assistance with the preparation of food, where that is assessed as something with which a person requires assistance.

Mrs Milne: You have answered the question that I was about to ask, which concerned something that was raised with me just before I came into the meeting. The issue relates to people who have not yet had an assessment for free personal care but whose home support worker has perceived that there is a need for help with the preparation of food and whether that is chargeable.

Lewis Macdonald: I am sorry, do you mean—

Mrs Milne: Given what you have just said, I presume that if a person has not had a formal assessment for free personal care but needs help in relation to the preparation of food and the home carer has realised that the person needs help and gives that help, that is chargeable.

Lewis Macdonald: That would be chargeable. Any service that is provided prior to an assessment is provided at the discretion of the local authority and whether it charges or not will be at its discretion. The law does not require the local authority to provide for free any service for which a need has not yet been assessed.

Mrs Milne: Clearly, there is a great deal of misunderstanding about this issue. It is an area that badly needs to be clarified.

Lewis Macdonald: I completely agree. Local authorities first flagged up the issue towards the end of last year. Since September last year, we have been actively working with them to reach a commonsense understanding that reflects the intention of the law. The difficulty arises from the fact that the legislation does not define in detail

"assisting with the preparation of food".

In saying that, I acknowledge that most of us were legislators when the bill was passed. On one level, one would not expect the law to talk about cooking mince, making toast or any other activity related to making food in that kind of detail. However, if it had done so, we would not have these different interpretations on the part of different local authorities.

The Convener: We were all struck by Stewart Sutherland's evidence. In his view, what was important was what was required by an individual at the time of their assessment. Basically, any aspect of food preparation with which they needed assistance could come into free personal care if they were assessed as needing assistance with that particular part of the food preparation. His view was that it should be dealt with on that individual basis rather than under an umbrella policy that was applied by a council. Do you broadly agree with that?

Lewis Macdonald: Broadly. However, it is important to emphasise the word "required". In other words, any required need should be covered.

The Convener: Right. I think that that is clear.

During the past few weeks, local authorities have told us that care homes increase charges for those who receive free personal care. Is that something that has come across your desk? If so, is it something that you are considering in the context of the review?

Lewis Macdonald: It has not come across my desk particularly. I see that none of the officials around the table is conscious of those points either.

The Convener: Will you consider the evidence that has been placed before us, which suggests that that practice is taking place? Will you consider what action you can take to ensure that it does not continue?

Lewis Macdonald: I would be happy to consider the evidence and act accordingly.

Kate Maclean (Dundee West) (Lab): You are aware that free personal care applies to people in residential care and people in their own homes. There is a ceiling on the amount that people in residential care can receive for care but there is no such limit for people in their own homes. Someone who remains in their own home could have a complex package of care that is far more expensive than that which is received by someone who is in residential care. I am not suggesting for a minute that that should not be funded but I would like to know what the reasons are for having a ceiling on the amount that people in residential care can receive but not on the amount that people in their own homes can receive.

Lewis Macdonald: The difference is a practical one. Where services are provided in a care home, we simply set a tariff that says that level of funding will be provided. That comes back to the point that was raised earlier about why the amount is the same now as it was a couple of years ago. We have made a best estimate—which we think is pretty accurate—of what the market rate for those services would be. Clearly, people in their own homes do not have such ready access to the level of service that might reasonably be provided.

Officials might want to add something. Others might have a longer memory than I do about the original reasoning.

Paul Gray: At the risk of sounding trite, I would say that the question is a fair one and we are examining it in the context of the review, which will be finished at the end of this year. It will take us a year to carry out the review because the issue is complex. We will have to be clear about the underpinning rationale for the various forms of payment that are made. I do not have anything to say on facts in addition to what the minister said, save to point out that we are considering the matter actively.

14:45

Kate Maclean: Anybody can be cared for in their home, if the level of care that they need can be provided. As no ceiling has been set, who decides whether a person is allowed to have a care package at home? Is the decision made by the local authority? Does the Scottish Executive set no cut-off point at all?

Lewis Macdonald: The local authority makes that judgment, exercising the autonomy and discretion that we think local authorities should exercise in delivering the policy.

Kate Maclean: But work is being done on the matter, so there will be a response on it.

Lewis Macdonald: We are considering the policy in the round. We will consider all the aspects and ensure that the funding that we put in is used equitably and to deliver the objectives that we have set.

Kate Maclean: I move on to affordability and sustainability. We have heard evidence that the policy is discriminatory, in that under-65s who

require care packages are not entitled to free personal care. Does the Executive have proposals to extend free personal care to other groups such as under-65s with Alzheimer's disease? I come to the $1 million question. Research by David Bell and others at the University of Stirling indicates that the cost of free personal care, as the policy stands and without bringing in any other groups, is likely to treble. What are your comments on the sustainability of the policy?

Lewis Macdonald: As members will be aware, David Bell's work looked many years ahead. The conclusions were that the policy is affordable, although costs will increase. We concur with that, although our evaluation is partly to allow us to make our assessment of that. We will certainly take David Bell's evidence into account. Likewise, as a consequence of the review and evaluation of the policy, we will consider whether to extend it to other groups and, if so, how to do so. We have commissioned work on younger disabled people that may be relevant.

Kate Maclean: I am particularly interested in the extension of the policy to include younger disabled people, on which we heard evidence. I suspect that younger disabled people would want to stay at home with care packages that are suited to their needs, which are different from those of the elderly. When do you expect to report on that?

Paul Gray: We will not attempt to report in pieces in advance of the full report, which we hope to produce by the end of this year. We have research in hand on younger disabled people but, to put the matter simply, I do not want to commit the minister to take a particular course of action at this stage.

Lewis Macdonald: That is my job.

Paul Gray: Yes. All I can say is that the issue will be included in the review and the report.

Kate Maclean: Minister, are you confident that, in the medium to long term, the policy is sustainable, given the costs?

Lewis Macdonald: Absolutely.

The Convener: We now move to questions on the care commission. I have a two-part question on inspections. The first part is on duplication of inspections. It must be said that even local authorities report obvious duplication between their inspections and the care commission's. As we understand it, only eight of the 32 local authorities have agreed memorandums of understanding with the care commission. Do you agree that duplication of effort ought to be reduced, for example by sharing inspection information and results with local authorities and pursuing memorandums where possible?

The second part of the question is about a slightly different issue. A voluntary sector hospice requires five separate care commission registrations to cover the services that it provides, which means five separate fees. Is there not scope to streamline the registration system in such circumstances?

Lewis Macdonald: I agree that every effort should be made to reduce duplication and to avoid it where possible. However, a local authority's role in relation to a care home is clearly different from that of the care commission. The care commission is a regulator and it sometimes shares an interest in a service provider with a range of other regulators—such as the Social Work Inspection Agency, Communities Scotland, NHS Quality Improvement Scotland for some health services and Her Majesty's Inspectorate of Education for education—with whom sharing inspections and asking a common body of questions makes sense. A local authority's interest in a care home is often as a customer.

The Convener: Well, he who pays the piper calls the tune. However, there is still an enormous crossover of required information, which is presumably why we have eight memorandums. I am surprised that there are not 32. Is there anything that we can do to push that along?

Lewis Macdonald: We would certainly like there to be 32 memorandums and the care commission is working actively towards that end. The commission's relationship with local authorities is slightly different from its relationship with other regulators, but I agree that it makes good sense for the local authority and the care commission to have a memorandum as far as possible.

The Convener: Can you do anything to make the commission achieve 32 memorandums a little faster?

Lewis Macdonald: I can simply encourage it and the local authorities to move in that direction. We are doing that.

The Convener: What about streamlining, on which I gave the example of the hospice?

Lewis Macdonald: To address that would require some legislative changes, as you are perhaps aware. We would be interested to hear the committee's views on that on completion of its inquiry.

The Convener: Streamlining would require legislation, whereas addressing duplication of effort would not.

Lewis Macdonald: It would. However, on the duplication of effort, under the Regulation of Care (Scotland) Act 2001, I meet the chair and chief executive of the care commission twice annually.

One of those meetings with the chair will take place next month and I will make to her the points that you have raised with me about duplication and the fact that eight memorandums are good, but 32 would be better.

Kate Maclean: On a number of occasions, care providers raised with us the issue of fees. In your opening remarks, you said that there is a difference between early years services and services for the elderly, in that fees do not have to be paid for the former. You said that there was a sound policy reason for that, which was to stimulate the market in child care. Why do you not want to stimulate the market in care for the elderly? That would ensure wider choice for those who use the services.

I think that you also said that paying fees to the care commission was a legitimate business expense. Why should fees be a legitimate business expense for businesses that are regulated by the care commission but not for businesses that are regulated by, for instance, the Food Standards Agency? The point was raised with us that providers or businesses do not have to pay fees to some regulators and it was felt to be unfair that those who provide services to the elderly have to pay fees. In particular, smaller providers felt that they had to reduce the care or services that they could provide because of having to pay fees.

There was a general feeling that the Executive should reconsider the requirement for the care commission to be self-financing. We all voted for that in the Parliament, but this is a post-legislative inquiry, so we are examining everything for which we voted way back then and deciding whether we should have voted for it. The people who raise those issues seem to have a point.

Lewis Macdonald: That question raises several different angles. First, on what the relationship between the regulator, Government policy and the market should be, care homes operate in quite an active market. By the coming financial year, we will have reached full cost recovery for care homes. There is no evidence that that is inhibiting the market or the provision of services. New entrants are coming into the sector with new services and there are signs—through Scottish Care, for example—that care home providers are working on raising quality and achieving consistency of service. Scottish Care welcomed the announcement on fees this year, because it recognised that it could readily live with those fees.

In contrast, the child care sector often involves very small providers, and a full cost recovery approach might have a significant impact on their ability to do business. We recognise that the market is different and that we should deal with it differently. I will use ballpark figures rather than precise figures. In the coming year, in the order of £17 million of the care commission's budget will come from us and in the order of £11 million will come from fees that providers have paid. We do not envisage a situation in which all the funding comes from providers and none of it comes from the Executive. As we have set aside child care and children's day services, we envisage that the split will end up being closer to half and half, although that is not a precise allocation. If no policy change takes place, about half the future regulatory cost of the care commission will be met by care providers and the other half will be met by the Government.

Kate Maclean: Why does the elderly care sector have to pay for its regulator, whereas other sectors, such as that which the Food Standards Agency regulates, do not?

Lewis Macdonald: That could be a general question, but I will answer it as far as I can without going into detail about other agencies. The situation reflects market sensitivity. The regulatory burden of some aspects of food standards might be significant for business outcomes, whereas we do not believe that that is the case in the sectors in which we seek full cost recovery for the care commission.

Kate Maclean: That was not a very satisfactory answer, but perhaps it is a general question for the Executive rather than a question for the minister. We may pursue the general policy.

You said that the elderly care sector has reached full cost recovery. Will it be expected to subsidise other work by the care commission? Did you say that the Scottish Executive will meet the costs of regulating other sectors?

Lewis Macdonald: That is correct.

I will respond to your more general question. You are right that there is variety. The care commission's equivalent in England operates on full cost recovery but its equivalent in Wales does not. The Scottish Environment Protection Agency operates on full cost recovery, but other agencies might not. I recognise that I cannot give a complete answer, but if there is a general answer, it relates to the differences in the sectors that the Government must deal with.

Mrs Milne: You largely dealt with what I will ask about in your introduction, but anything that you can add would be welcome. The Executive meets the costs of registration and inspection in the early-years sector but not in the elderly care sector. What is the rationale for the disparity?

Lewis Macdonald: The principle is that the Government may make a policy choice to subsidise. However, even when it does that—as

we have with child care services—a degree of transparency would not exist if we did not have a general policy of full cost recovery, because the care commission publishes the costs of inspecting services. I hope that that makes sense. In other words, we have a policy of full cost recovery that means that all the charges for all the sectors are made public, but in some cases we make a policy choice to subsidise those costs.

15:00

Shona Robison: Care commission staff and others raised concerns that that skews their priorities in some way because care homes expect a certain level of inspection for their money. That relationship exists because of the fee structure. If the fees did not exist, the care commission would be able to focus on those homes or services that need extra levels of inspection, but that cannot be done because of the fee structure. Do you not accept that that is a major downside of the self-funding policy?

Lewis Macdonald: No, I do not. I recognise the situation that you describe, but the care commission is not obliged to carry out two inspections of every care home each year—one of which has to be unannounced—because of the fee structure; it does so because the law says that it should. We took the power to vary that in the Smoking, Health and Social Care (Scotland) Act 2005, and I fully expect that we will use it. We will therefore be able to offer the care commission greater discretion in relation to care homes, for example, and allow it, as Shona Robison suggests, to focus on those providers or sectors that cause it the greatest concern, irrespective of the fees regime.

The Convener: Following on from a statutory instrument that we agreed previously, are you doing anything to reduce the regularity of care commission inspections?

Lewis Macdonald: We have taken the power to do so, and we are considering what to do about it. I am consulting colleagues across the Executive, because this is not just a Health Department issue; the Education Department has an interest, for instance, in child services and the Development Department has an interest in housing support. We are considering the possibilities.

The Convener: But the issue is under active consideration.

Lewis Macdonald: It is.

The Convener: We still have to deal with the issue of complaints to the care commission, and we are running a little over time. Janis Hughes wants to raise that issue. This will be the end of our session with you, minister.

Janis Hughes (Glasgow Rutherglen) (Lab): We received a large amount of written and oral evidence about the complaints system. Anonymity and the protection of those who want to complain but who fear recriminations was raised fairly frequently. Is the current system for registering complaints satisfactory?

Lewis Macdonald: It is important to recognise that once a complaint is made about a service it will be acted upon, and should the care commission uphold the complaint it will continue to monitor the provision of that service. If a complainant finds that their situation does not improve or becomes worse following the complaint, the monitoring should pick it up.

Janis Hughes: Anecdotal evidence suggests that people are reticent about complaining because they fear recriminations, so what about the anonymity factor?

Lewis Macdonald: Complaints can currently be made anonymously. It does not often happen, but when it does the care commission prioritises them, because it assumes that there is a reason for such complaints and it acts accordingly. Investigating a complaint can sometimes be easier when the person identifies themselves, because they can give direct evidence. However, when a person wants to complain anonymously they can do so, and their complaint will be given priority and treated as important.

Janis Hughes: On the reporting mechanism for complaints, one issue that was raised was that when complaints are made or a problem is identified during an inspection, the care home or provider can take action to remedy the situation but it is not always documented, for example online. That could lead to the wrong impression being given to people who are looking for information about an establishment. COSLA raised the issue of the mechanism for communicating complaints to service providers, such as local authorities. Is the mechanism effective or does it need to be changed?

Lewis Macdonald: When the care commission believes that a complaint or an allegation of abuse or other action is serious and significant, it has discretion to inform other agencies about it. We expect it to do so where necessary to protect the interests of the general public. However, that decision is left to the discretion of the care commission. There would be no great merit in our instructing the commission to pass on the details of every complaint, because some are not of major significance to users. That is why the care commission has been given discretion to share significant information that people ought to know

about. We do not want to create unnecessary bureaucracy by having the commission report relatively minor complaints, which might get in the way of its communicating the important ones.

Janis Hughes: I take your point, but I am sure that you understand where local authorities are coming from when they say that they are concerned about not being notified of incidents that are reported to the care commission that reflect on service providers, because that means they cannot take appropriate action.

Lewis Macdonald: That certainly should not happen. If the care commission finds out about something that impacts directly on the interests of a local authority, we expect it to use its discretion to pass on that information. As I said, I will soon start meeting the convener of the care commission regularly. If the committee wishes to provide any examples that I ought to draw to her attention, I would be happy to do so.

Shona Robison: You said that the care commission has discretion to share information with other agencies. Do you agree that it should also share information with residents? Surely if a complaint about a care home has been upheld, the other residents have a right to know what has been going on in their home. Would you be prepared to raise that issue with the convener of the care commission at your next meeting?

Lewis Macdonald: I am happy to seek her views on whether there have been problems in that regard. There are some upheld complaints about which it would be disproportionate to tell every resident, because it might cause undue concern. However, where complaints about a serious situation have been upheld and residents ought to know about them, I expect a procedure to be followed. We have to bear in mind the fact that there might be data protection issues, which can limit the degree to which information can be shared.

Shona Robison: I am sure that information could be provided in a way that does not breach confidentiality. The care commission's view was that it was the care provider's duty to provide information. However, the evidence that we heard from concerned relatives was that it might not be in the provider's interests to share such information, therefore the care commission should ensure that relatives are aware that a complaint has been made, although they need not necessarily be told about the circumstances in great detail. I would appreciate it if you could raise that matter.

Lewis Macdonald: I am happy to do that. It would be helpful if either Shona Robison or the rest of the committee shared details of cases that I could raise.

The Convener: I thank the minister and his officials for coming along. I will suspend the meeting for a minute while we swap over witness name plates. I do not want everybody to run away, because the suspension will not be long.

15:08

Meeting suspended.

15:10

On resuming—

Subordinate Legislation

National Health Service (Dental Charges) (Scotland) Amendment Regulations 2006 (SSI 2006/131)

National Health Service (General Ophthalmic Services) (Scotland) Regulations 2006 (SSI 2006/135)

National Health Service (General Dental Services) (Scotland) Amendment Regulations 2006 (SSI 2006/137)

National Health Service (Optical Charges and Payments) (Scotland) Amendment Regulations 2006 (SSI 2006/138)

National Health Service (Charges to Overseas Visitors) (Scotland) Amendment Regulations 2006 (SSI 2006/141)

The Convener: Item 2 is subordinate legislation. We have been asked to consider five instruments under the negative procedure, on the charging regime for eye and dental services. The instruments are interrelated and follow on from legislation that the committee considered. I invited Executive officials to the meeting to give a brief explanation of the purpose of the instruments, after which members might have questions. The item affords officials an opportunity to comment on how we are where we are. I ask them to be as brief as possible.

Jonathan Pryce (Scottish Executive Health Department): Thank you for inviting us. It is good to have the opportunity to talk to you about the regulations. Briefly, they are about the introduction of free NHS eye and dental checks in Scotland. They also provide for a number of minor things, such as the uprating of optical voucher values. They extend from 16 months to three years the dental registration period for patients who are registered under the NHS. They also prevent dentists from charging patients a fee—over and above any NHS charges—in exchange for NHS treatment. As well as introducing free eye and dental examinations, the regulations provide for the introduction of new and extended oral health and eye health examinations. My colleague Eric Gray will give you more detail on that.

Eric Gray (Scottish Executive Health Department): The present system allows patients to claim a basic dental examination every six months. Excluding children's examinations, which are included in dentists' capitation payments, a basic examination and two more detailed examinations are available if suggested by individual need. In addition, those who access occasional treatment at a dentist will also be entitled to a free assessment.

In parallel, we have been piloting a more extensive oral health assessment for those aged 60 or over. The pilot has been evaluated, but further work needs to be done before we can take it forward. However, we have the regulations in place if we wish to do so.

On eye examinations, under the current NHS system a sight test is used to determine whether a patient requires glasses or contact lenses. The new, extended system will move away from the current sight test to take into account broader health aspects. The new examination will be tailored to the symptoms and needs of the patient. That is the difference between the current system and the new one.

The Convener: Will all dentists be required to provide the free dental check to all patients, regardless of whether they receive NHS treatment or are on an NHS list, and regardless of whether the dentist provides NHS treatment? We all know that many dentists no longer do so. Will all dentists have to provide the free dental check for all patients?

Eric Gray: The provision applies to dentists who are registered on an NHS list.

The Convener: So only NHS dentists?

Eric Gray: Yes.

The Convener: Does that mean that in many parts of the country free dental checks might be difficult to access?

Eric Gray: That is right.

Jonathan Pryce: Obviously, we recognise that there will be access difficulties in certain parts of the country, which is why the Executive is putting in £295 million over three years to expand NHS dentistry provision.

The Convener: So adults who are currently unable to access NHS dentistry within a reasonable distance will not get a free dental check unless they are prepared to travel to somewhere where there is an NHS dentist?

15:15

Jonathan Pryce: Such people will be able to access NHS dentistry either through one of the five existing dental access centres—several more are being funded through the primary care modernisation fund—or through a dentist who is prepared to register them as an NHS patient.

Kate Maclean: If people are unable to register with an NHS dentist but are able to get their dental examination at a facility such as the dental school in Dundee, will they be able to claim travelling expenses for that, or will they need to meet their own travelling costs?

Jonathan Pryce: I believe that they will need to meet their own travelling costs.

Shona Robison: Jonathan Pryce mentioned that there are five dental access centres. I seem to recollect that the announcement suggested that such centres would focus on carrying out fairly complex treatment. If the dental access centres' time is taken up with free dental checks because no one else will provide those, will that not cause a problem?

Eric Gray: Quite a number of centres were provided with money through the primary and community care premises modernisation programme. The centres that we have mentioned have been proposed as dental access centres rather than as additional surgeries in an existing health centre.

Shona Robison: How will patients access the dental access centres? Will they need to be on an access centre's list?

Eric Gray: No. For example, Chalmers dental centre in Edinburgh is really for unregistered patients. If people have a problem with their teeth, they can go to the Chalmers Street centre where they will be triaged by the reception people and then treated by a dentist.

Shona Robison: If the access centres are to provide free dental checks, is there not a danger that people will queue outside their doors trying to get a free dental check? The publicity around the dental access centres suggested that they would be for patients who were having problems.

Eric Gray: That is right. Normally, people who are experiencing dental pain would go to an access centre.

Shona Robison: So the role of the access centres is not to give people free dental checks.

Eric Gray: No. As part of the examination, people would get an assessment before they received treatment.

Jonathan Pryce: The dental access centres are not primarily for providing free dental checks. They exist for a range of reasons but their primary role is to provide treatment to patients who are not registered with an NHS dentist.

Shona Robison: If people turn up for a free dental check at a dental access centre, will they be seen?

Jonathan Pryce: It is likely that they will be seen, but that will depend on the demands that are placed on the centre at the time. The centres will prioritise patients who are in extreme pain over people who turn up in perfectly good health. I expect that most centres will be able to deal with people who turn up in the hope of receiving a free dental examination.

The Convener: Should we anticipate that dental access centres will have waiting lists? If people who turn up for a free dental check cannot be seen until considerably later, will we end up with waiting lists at such centres?

Jonathan Pryce: That will depend on the level of demand that is experienced by each centre.

The Convener: How many access centres are there?

Jonathan Pryce: There are five designated access centres.

The Convener: Is that for the whole of Scotland?

Jonathan Pryce: There are five for the whole of Scotland at present. We have provided funding for another six. The important thing to recognise is that a lot of additional resource is being put into expanding NHS dentistry. The minister's objective throughout the process is to make more NHS dentistry available throughout Scotland.

The Convener: Several members now want to ask questions. Before I allow them to do so, can Jonathan Pryce name the current five access centres and tell us where the other five are likely to be situated?

Jonathan Pryce: There are access centres in Kirkcaldy; Dunfermline; Stirling; the Glasgow dental school; the Chalmers dental centre in Lothian; and, I think, the Dundee dental school. We have committed funding to Kilbirnie in NHS Ayrshire and Arran; Cowdenbeath, Cupar and Glenrothes in NHS Fife; Bonnyrigg in NHS Lothian and a further centre in Dundee.

Mike Rumbles: As is clear from some of the questions that have been asked, having regulations for free dental checks means having access to NHS dentists. Can you confirm that it is the Scottish Executive's intention to reach an agreement with the British Dental Association for NHS high street dentists to be able to provide checks, and that there will be salaried dentists in each health board area by the due date? Other members of the committee have expressed concern that the Scottish Executive may not be able to meet the commitment that it has made. We must ensure that everyone understands that the checks will be provided by high street dentists, salaried dentists and so on.

Jonathan Pryce: You are absolutely right that there will be access to checks through the salaried dentist service and the community dental service

for patients who have difficulty accessing an NHS list.

Mike Rumbles: Throughout Scotland?

Jonathan Pryce: As I am sure the committee is aware, the Executive is recruiting 40 Polish dentists to enhance the capacity of the salaried service.

The Convener: I am looking at the dates on which the instruments come into force. Do I detect a sense that members would like to consider them further? The 40-day deadline is 5 May. We have an agreement to deal with the instruments by 30 March, but we could come back to them straight after the recess, if members would like a longer period of consideration.

Members: No.

Dr Turner: My question was about the national waiting times centre, but I am shocked by what I have heard. If free dental checks have been introduced to prevent dental disease, people must be able to access such checks. I am also astonished that people will not be helped with their travel expenses for getting to centres, given that large areas of the country do not have dentists.

I am intrigued that the Executive note states with regard to the costs of travel and overnight accommodation that the instrument

"will have no financial implications for the Scottish Executive or NHSScotland as the overall cost of patient reimbursement will not change."

Having to travel to the treatment centre in Clydebank is similar to having to travel distances to access dental treatment. I cannot understand why the costs will not change, because people may have to travel long distances to Clydebank and stay overnight. Why will travel expenses not increase? Perhaps I am losing the plot here.

The Convener: Which instrument are you asking about?

Dr Turner: I wanted to ask about the waiting times centre, but when I heard that people would not be helped with travelling expenses—

The Convener: You have gone on to SSI/2006/142, which is a separate item on the agenda. In any case, the instrument has been withdrawn. Can we park that for the moment?

Dr Turner: There are implications for people who have to travel to access cardiothoracic and dental treatment. If we introduce free dental inspections, people must be able to access them.

The Convener: Access is an issue that is in all our heads.

Mrs Milne: Can we assess the scale of the problem of accessibility? None of the centres that you mentioned is north of Dundee. There are no dentists in much of Scotland north of Dundee. Do we know how many people are not registered with a dentist and where they are? Is there any means of finding out that information?

Eric Gray: Approximately 50 per cent of adults are registered with a dentist.

Mrs Milne: But where? There will be a big disparity as to where they are.

Eric Gray: We can certainly provide you with a note on that.

Mrs Milne: I would appreciate that.

The Convener: Nobody else wishes to contribute at this point. The Subordinate Legislation Committee has not raised any issues from its perspective. Prior to the meeting, no comments had been received from members—although there have certainly been some now. No motions to annul have been lodged. Are we agreed that the committee does not wish to make any recommendation in relation to SSIs 2006/131, 2006/135, 2006/137, 2006/138 and 2006/141?

Members *indicated agreement.*

The Convener: We may wish to make some comments, however. I think that we ought to do so, given that we have discussed the issues.

Mike Rumbles: Judging from what I have heard of the questions and answers, there has been a misunderstanding. It is as though free dental checks will be available only at the five centres that have been mentioned. That is patently not the case, however. I do not know why members are getting exercised about the matter.

Helen Eadie (Dunfermline East) (Lab): I agree with Mike Rumbles. There are other issues that we will wish to examine. If we wanted to, I am sure that we could resurrect the dental inquiry that we began. For the moment, the proposals are those that are before us. I second the suggestion that we approve the instruments. We have had time to submit our concerns and recommendations, and—

The Convener: My expectation was not that there would be such limited access to the centres. There are areas of the country where there is no access to NHS dentistry at present. Without an access centre, there will effectively be no free dental treatment for some people.

Mike Rumbles: My constituents in Aberdeenshire have the lowest level of access to NHS dentists of anywhere in Scotland. I am not under the impression that people must go to one of the five dental access centres to access the free dental checks. In the Grampian NHS Board area, salaried dentists are being recruited. The second prong of the Scottish Executive's approach is to reach agreement with the British Dental

Association on high street dentists. We are being unnecessarily exercised about the issue at the moment. There might come a time further down the line when no agreement exists between the BDA and the Scottish Executive, in which case we will have a real issue. That does not apply now, however.

Kate Maclean: My understanding is that access to a dentist who provides NHS treatment is required. Rather than holding up the SSIs at this stage, we should agree to them. There are issues, however. There are areas of the country where people do not have as easy access to dentists providing NHS treatment as elsewhere. Perhaps we would like the Executive to monitor the situation and let us know how the services are rolling out. It will be impossible to gauge how much of a problem there might be until we find out whether people do have difficulties with access. The Executive is trying to increase the coverage of dentists providing NHS treatment. I hope that there is not too much of a problem there. We would not wish to hold up the SSIs but, now that the issues have been highlighted, we will want to keep a close eye on them.

Shona Robison: I do not think that anyone is suggesting that we hold up the instruments before us. While approving them, we should not, however, have a problem with sending out a comment that reflects the discussion that we have had about them. The committee is concerned about the fact that those people who are not registered with an NHS dentist will not be able to access free dental checks. It would be remiss of us not to mention that, although we approve the SSIs, we are concerned about the situation and, come 1 April, when people will be entitled to free dental checks, many will not be able to exercise that entitlement because they are not registered with an NHS dentist. That is a fact. We should at least reflect to the Executive the comments that we have made today.

The Convener: The clear answer to the question is that we are agreed that we are not going to make a recommendation on the instruments. However, we can draw the attention of the minister to our comments during this short discussion. We will make sure that that forms part of what we say.

15:30

Helen Eadie: I see that the officials are shaking their heads. Could we hear a little bit more from them?

The Convener: I think that we have probably asked enough of the officials. I do not want to extend this item much further. We have now agreed—

Helen Eadie: If they are going to provide—

The Convener: Helen, I am sorry, but the time for questions has now passed. I have asked the question and we have agreed.

Helen Eadie: We have not asked a question; we are just asking if the information—

The Convener: I have asked the committee the question in respect of the instruments. We have moved past that.

Helen Eadie: So you do not want information from the officials when they are here to give it to us.

The Convener: The point for that has passed. The committee has agreed to the SSIs. There will obviously be some follow-up, and the officials can expect some follow-up questions from members in respect of this matter—and not just committee members, I suspect. However the committee has agreed not to make any recommendations on the SSIs. I think that that now stands. I wish now to move on to item 3 on the agenda.

National Health Service (Travelling Expenses and Remission of Charges) (Scotland) Amendment Regulations 2006 (SSI 2006/142)

National Waiting Times Centre Board (Scotland) Amendment Order 2006 (SSI 2006/144)

The Convener: We have two negative instruments before us. The Executive indicated this morning that it is withdrawing the National Health Service (Travelling Expenses and Remission of Charges) (Scotland) Amendment Regulations 2006 (SSI 2006/142), and that it will be re-laying them. I draw that to Jean Turner's attention in particular. We will therefore not be dealing with that set of regulations this afternoon.

There are no issues with respect to the National Waiting Times Centre Board (Scotland) Amendment Order 2006 (SSI 2006/144). No comments from members have been received and no motions to annul have been lodged. Are we therefore agreed that the committee does not wish to make any recommendation in relation to SSI 2006/144?

Members *indicated agreement*.

15:31

Meeting suspended until 15:35 and thereafter continued in private until 16:05.

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