

# **JUSTICE 2 COMMITTEE**

Tuesday 14 September 2004

Session 2

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## **JUSTICE 2 COMMITTEE**

**25<sup>th</sup> Meeting 2004, Session 2**

### **CONVENER**

\*Miss Annabel Goldie (West of Scotland) (Con)

### **DEPUTY CONVENER**

\*Karen Whitefield (Airdrie and Shotts) (Lab)

### **COMMITTEE MEMBERS**

\*Jackie Baillie (Dumbarton) (Lab)

\*Colin Fox (Lothians) (SSP)

\*Maureen Macmillan (Highlands and Islands) (Lab)

\*Mike Pringle (Edinburgh South) (LD)

Nicola Sturgeon (Glasgow) (SNP)

### **COMMITTEE SUBSTITUTES**

Ms Rosemary Byrne (South of Scotland) (SSP)

Cathie Craigie (Cumbernauld and Kilsyth) (Lab)

Michael Matheson (Central Scotland) (SNP)

Margaret Mitchell (Central Scotland) (Con)

Margaret Smith (Edinburgh West) (LD)

\*attended

### **THE FOLLOWING GAVE EVIDENCE:**

Brian Allaway (Chief Fire Officers Association Scotland)

Derek Chadbon (Retained Firefighters Union)

Glyn Evans

John McDonald (Fire Brigades Union Scotland)

Frank Maguire (Fire Brigades Union Scotland)

David Millar (Chief Fire Officers Association Scotland)

Brian Murray (Chief Fire Officers Association Scotland)

Ken Ross (Fire Brigades Union Scotland)

Jim Smith (Retained Firefighters Union)

Walter Stewart (Retained Firefighters Union)

John Williams (Chief Fire Officers Association Scotland)

David Wynne (Chief Fire Officers Association Scotland)

### **CLERK TO THE COMMITTEE**

Gillian Baxendine

Lynn Tullis

### **SENIOR ASSISTANT CLERK**

Anne Peat

### **ASSISTANT CLERK**

Richard Hough

### **LOCATION**

Committee Room 1



# Scottish Parliament

## Justice 2 Committee

*Tuesday 14 September 2004*

[THE CONVENER *opened the meeting at 14:07*]

### Fire (Scotland) Bill: Stage 1

**The Convener (Miss Annabel Goldie):** Good afternoon. I welcome everyone to the 25<sup>th</sup> meeting of the Justice 2 Committee in 2004. Our purpose this afternoon is to continue our scrutiny of the Fire (Scotland) Bill and I am very pleased to welcome the witnesses from the Chief Fire Officers Association: Brian Murray, from the Highlands and Islands fire brigade; John Williams, from Grampian fire and rescue service; David Wynne, from Dumfries and Galloway fire brigade; and Brian Allaway and David Millar from the Lothian and Borders fire brigade.

Do any of the witnesses want to make an introductory statement?

**John Williams (Chief Fire Officers Association Scotland):** Yes, convener.

Good afternoon, ladies and gentlemen. First, I thank the committee for giving the Chief Fire Officers Association the opportunity to deliver an oral submission. We welcome the publication of the Fire (Scotland) Bill as a positive piece of legislation that will deliver better fire and rescue services in Scotland and provide a greater focus on the safety of Scotland's community. We particularly welcome the bill's provisions on fire safety and fire investigation. However, in our formal submission, we highlight a number of questions and issues that we wish to raise and that we have categorised as strategic comment, operational dimension and detailed observations. Today, CFOA Scotland would like to take this opportunity to amplify the issues that we have already identified as being of strategic concern to us.

As far as ministerial powers are concerned, we acknowledge that it is correct and proper for ministers to have appropriate powers in certain areas for the overall governance of the Scottish fire and rescue service. However, we remain concerned about the range of additional powers that ministers are proposing to take in the bill. Part of the previous debate on introducing new legislative proposals related to replacing ministerial power with increased accountability and responsibilities for fire authorities.

The bill does not appear to support that principle. There are some 27 areas in the proposed legislation in which Scottish ministers intend to take powers to direct the way in which local authority-governed fire and rescue services will be managed. It is considered that those proposals will have significant implications for the management of the fire and rescue authorities. Areas in which ministers propose to take powers are shown in appendix 1 of our submission.

As regards the governance and management of the fire and rescue service, CFOA Scotland supports the need for a clear and unambiguous understanding of the responsibilities and accountabilities of ministers, fire authorities and fire and rescue service managers. Otherwise, a diminution of standards could occur and confusion in areas of governance could arise. In particular, at present, the Fire Services Act 1947 provides for a firemaster to have direct responsibility to the fire authority for the efficient management of the service. Specifically, section 19(2) says:

"the chief officer of the fire brigade ... shall be directly responsible to the fire authority".

CFOA Scotland contends that the same provision should be contained in the Fire (Scotland) Bill to ensure that appropriate professional advice is provided directly to fire and rescue authorities. We would consider that to be consistent with, and supportive of, the Executive-sponsored principles of integrated risk management planning.

CFOA Scotland is committed to the development of more effective and efficient fire and rescue service provision in Scotland in accordance with the principles of best value. However, we are of the opinion that there needs to be greater clarity regarding the future structure of the Scottish fire and rescue service—in particular, regarding the size and numbers of fire and rescue services as they relate to the minister's proposals on the number of fire and rescue service command and control centres and to the bill's proposals on the development of a common fire service agency. Those topical areas are critical to the efficient operation and governance of the service.

Our view of the development of a common fire service agency is that it will be an overly bureaucratic forum that will add very little benefit to the service. CFOA Scotland maintains its view that further development of present arrangements of governance of the service, and the practical implementation of joint working arrangements between brigades, would allow the policy objectives of ministers to be met without the need to create an additional layer of bureaucracy for the service. Such an additional layer, together with an unnecessary financial consequence, is what a common agency would provide. CFOA Scotland

believes that its members can, by maintaining existing governance arrangements with fire authorities, support the delivery of the efficiencies, economies and effectiveness that the Executive seeks. CFOA Scotland has developed a strategic model to support its contention and would be pleased to discuss the details further with the Executive.

Finally, on the issue of fire service command and control rooms, we have submitted—under separate cover to the Executive—a detailed commentary on the Executive's consultant's report on the future of fire service control rooms in Scotland. Of the small number of possible options presented, we consider that the option of having three fire service command and control rooms, with a west, east and north distribution, would best meet the resilience and operational requirements of the service.

As with most issues of this kind, some clarity is required on the financial data identified in the consultant's report, on which the consultant's recommendations are very much based. CFOA Scotland has difficulty in reconciling the financial information to the human resource needs identified. We are firmly of the view that the projected savings are very much overstated. Detailed comments on the specifics of those matters have been made to the Finance Committee in response to its invitation to provide comment on the financial implications of the bill.

Once again, many thanks for the audience. We now invite the committee to ask any further questions as necessary.

**The Convener:** Thank you, Mr Williams. Incidentally, I should have passed on to the committee an apology from Nicola Sturgeon. I am sorry that I forgot to mention it.

One of the broad concerns of your organisation is the delicate issue of the balance between local operational flexibility and ministerial control. You mention the 27 instances where the association has identified the potential for ministerial intervention. I presume that the areas of most powerful intervention are under sections 2 and 34, which concern the ministerial power to constitute joint fire and rescue boards, and under section 35, which concerns ministers' power to issue directions in pursuance of the arrangements mentioned in section 34. Do you have a broad concern that the bill has not got the balance right, or, if individual concerns were addressed, would your association be more relaxed?

14:15

**Brian Allaway (Chief Fire Officers Association Scotland):** It is a combination of both those things. From the way in which the bill is

drafted, it appears that the minister will reserve powers to manage just about anything with regard to the service. You have brought to our attention two sections that will grant fairly broad powers. We are reasonably relaxed about section 2. However, I bring to your attention section 11, which gives the minister powers with regard to specific incidents. We are not sure how that would work in practice with regard to the command and control responsibilities that are currently vested with the firemaster.

**The Convener:** Might you be happier if that section were more precisely defined? Is there a situation in which you would not mind ministerial intervention as envisaged in section 11?

**Brian Allaway:** Yes. We would not mind the ministerial intervention that is granted in section 2—we think that that is proper. We may want it to be expanded somewhat to allow fire authorities to carry out the actions that are set out without the requirement for ministerial intervention. However, we have more specific concerns about section 11. We would prefer the firemaster's responsibilities to be more clearly defined with regard to the management of the operational resource on behalf of the fire authority. We would like that section to be redrafted.

**The Convener:** The issue strikes at the whole question of governance—who is in charge at any one time—which, judging by the introductory remarks of Mr Williams, is a concern. What do you think should be done to clarify the relationship in respect of governance?

**Brian Allaway:** We believe that the framework document that the Executive signals in the bill is the way forward on that. The Executive has indicated that it will consult on that. The framework would give the Executive the opportunity to give the appropriate level of direction to the fire service. We believe that the governance of the service should rest with the fire authorities and that the management of the service should be delegated to the firemaster.

**The Convener:** When questioned on the fact that the provision in the 1947 act for the firemaster to have a direct responsibility to the fire authority is not replicated in the bill, the Executive witnesses seemed to be of the view that that would be best left to employment terms and conditions. Is that acceptable to you?

**Brian Allaway:** No. That will start to take away the responsibility of the firemaster to the fire authority for the effective and efficient delivery of the fire service and it will start to blur the lines and make much less clear where the lines of accountability lie.

**The Convener:** From what you have said about the balance of power and accountability, it seems

that some of it could be tweaked by more specific drafting in the relevant section and that some of it can perhaps be revealed by the national framework document. Is there any part of the bill that you think is simply irrelevant to the provision of a modern, efficient fire service?

**Brian Allaway:** It is not about being relevant; it is about being much more specific and making clear the lines of responsibility and accountability between the three levels of governance of the fire service. Currently we have a bill that would provide three levels of governance—an Executive level, a local government level through joint fire boards and a managerial level. We do not believe that the bill makes those lines of responsibility clear enough to enable us to ensure that things do not get clouded and that confusion does not arise as to the specific responsibilities of those three groupings.

**Karen Whitefield (Airdrie and Shotts) (Lab):** I draw to your attention part 1 of the bill and specifically section 1, which is on fire and rescue authorities. Many of the submissions to the committees have suggested that there needs to be a clear legal definition of the extent of each authority. How do you feel about that? Do you think that part 1 and section 1 have got it right?

**Brian Allaway:** An opportunity could have been taken to clarify current concerns. At the moment, the fire authorities' area of responsibility in relation to inshore and offshore incidents is not clear in the legal definition, which we would like to be tightened up so that fire authorities are aware of their areas of responsibility.

**Karen Whitefield:** Do you believe that the amalgamation scheme arrangements set out in section 2 will provide for joint fire and rescue boards where appropriate?

**Brian Murray (Chief Fire Officers Association Scotland):** We do not have a great problem with the way in which section 2 is drafted to allow powers to be taken. However, given the fact that this legislation could last for a long time, authorities might see a benefit in combining and they should have the power to do so, if they so wish, in pursuance of best value and meeting the needs of the community.

**Maureen Macmillan (Highlands and Islands) (Lab):** Sections 7 to 10 outline and define the main fire and rescue functions. Those are promoting fire safety, which is to do with providing information on preventing fires and death or injury by fire and providing advice on how to prevent fires and to restrict their spread in buildings and other property; firefighting, which is to do with extinguishing fires and protecting life and property; and acting in road traffic accidents and other

emergencies. Do you think that any other duties or functions ought to be added to that?

**David Wynne (Chief Fire Officers Association Scotland):** One of the areas that we believe could be improved is the fire service's role in prevention and protection beyond fires. For example, the fire service could play a proactive role in supporting communities in preventing floods and mitigating the effects of floods before they occur.

**Maureen Macmillan:** Thank you. Does anybody wish to add to that? Perhaps I could share my thoughts and see whether you want to comment.

**The Convener:** Could you put that in the form of questions for the witnesses?

**Maureen Macmillan:** Yes. Do you think that the provision to restrict the spread of fires in buildings and other property and to protect life and property will cover forest fires, heathland fires and grass fires? In the area where I live, which is covered by Brian Murray's brigade, we have a considerable number of such fires. Should those types of fire be mentioned specifically and should we perhaps address the environmental issue of destruction of flora and fauna? Is that covered in the duties? If not, should it be?

**Brian Murray:** The bill states:

"each relevant authority shall make provision for ... extinguishing fires in its area".

However, on some occasions we need to control fires before we finally extinguish them, in the interests of the environment. That is one of the finer points. The duty to extinguish fires covers forest areas as well—we see that as an important area of work and we have an important role in protecting the environment.

**Maureen Macmillan:** Would you like that to be included in the bill?

**John Williams:** We have always assumed that property is taken in its widest possible definition and includes the areas that you referred to, such as heathlands and forests, and that the definition is not strictly confined to buildings, but perhaps that was remiss of us. If the bill was far more focused and defined property in its widest possible sense, we would support that. To support what Brian Murray said, I think that the environmental impact is an important aspect and that we need to consider the way in which other legislation is being taken forward, particularly in relation to the environment. Extinguishing fire can be the last thing that we want to do, as opposed to controlling fire, so we would generally support those provisions if you could get them put in the bill.

**Maureen Macmillan:** Perhaps we should ask the Executive to define the words "property" and "life".

**Brian Allaway:** I will pick up the point about areas that are not well defined, or even not included, in the bill. Part of our work that is very topical is our response to what we call new dimensions incidents, which might be caused by terrorists. The service is working up its ability to carry out search and rescue operations, not only in urban areas but in rural areas, and we had a fairly major example of that at Maryhill in Glasgow recently. Since then we have carried out two rescue operations in my area, one at a collapsed trench in West Lothian only last Saturday and one at a collapsed building in Leith a couple of weeks ago. We think that that area of work should be specifically included in the bill, to give the fire service a duty or responsibility to carry out the wider search and rescue role that we are asked to fulfil. *[Interruption.]*

**The Convener:** I am sorry, Mr Allaway. We have some interference, part of which is electronic and is being attended to but part of which is quite outwith my control. One of the clerks will go and investigate. I am sorry about that interruption.

Did I hear the phrase “new dimensions incidents” correctly? Will you clarify that?

**Brian Allaway:** Yes. Since the horrific incident in New York on September 11 three years ago, the emergency services throughout the entire country have been working up their ability to respond to such incidents. I am sorry for using fire brigade jargon. We refer to new dimensions incidents, which are major explosive, radiological or nuclear hazards that involve a commitment to search and rescue, normally in urban areas but also in rural areas.

**The Convener:** Would you like that to be included in the bill?

**Brian Allaway:** Yes, indeed.

**Jackie Baillie (Dumbarton) (Lab):** That is one of the points that I was going to raise, but I will raise another minor one. We are aware of the United Kingdom sea of change project and I wonder whether you have any views on whether offshore firefighting should be included in the bill, with your boundaries being specified to accommodate that.

**Brian Allaway:** Part of my response earlier was designed to indicate that we need some clarity so that we can respond to such incidents. Brigades in Scotland are involved in the sea of change project and we believe that the bill should be designed in such a way that that offshore firefighting is not precluded. Whether or not it would become a specific responsibility in the bill is something that I would leave to the draftspeople who are building it up, but we certainly would not want to be restricted in our ability to fight fires offshore.

14:30

**Karen Whitefield:** You will be aware that, prior to the publication of the bill, the Executive consulted at length. One of the aspects that was consulted on was the creation of a common fire services agency. We heard from Executive officials last week that they had chosen not to include those proposals in the bill, and I would be interested to hear whether you agree that there are ways in which you can allow for greater partnership working by authorities without the creation of an agency.

**Brian Allaway:** Yes, we would be very much in agreement with that. We believe that a common fire services agency could result in nothing but additional bureaucracy and likely additional cost. We have done quite a lot of work on developing a model that we believe could enable fire authorities to move forward with much more collaboration. It may be that the bill could include a section giving fire authorities a duty to collaborate, which would provide the necessary statutory framework for that to happen.

I have a document that puts our proposals into diagrammatic format. There is obviously a lot more detail behind it, but it is basically about joint project boards reporting to a strategic overview committee, with performance reporting to the Scottish Executive—to keep the Executive involved—and final reporting back to the existing fire authorities. We believe that that model could be put in place within existing resources in the main, and it would avoid the need for the additional bureaucracy and costs.

I am not sure whether you would like me to pass the diagrams round at this point, convener, or whether you would like them sent to the committee afterwards.

**The Convener:** If they are available, the clerk will pick them up. That would be helpful.

**Karen Whitefield:** Would I be right in thinking, based on your response to the previous question, that you would prefer the bill not to be silent but to have some reference that would allow for your model, to guarantee that there would be co-operation where that would benefit the sharing of resources across authorities in Scotland?

**Brian Allaway:** We feel that that would be very helpful. Indeed, there is a current legislative model that could be considered as a way of doing that: the Local Government in Scotland Act 2003.

**Karen Whitefield:** Is the Convention of Scottish Local Authorities discussing those suggestions with Scottish Executive officials on your behalf?

**Brian Allaway:** We have been discussing them with COSLA and we have also discussed them with Scottish Executive officials. I am not sure, to



be honest, whether COSLA has had any discussions with the Scottish Executive officials on that issue.

**Karen Whitefield:** Perhaps that is an issue that we can raise with COSLA representatives when they come to the committee.

**Maureen Macmillan:** I have some questions about fire control rooms, which you mentioned in your introduction. We have seen the separate submission that you made to the Executive, and we have also seen the one from the Highlands and Islands joint fire board. There has been a suggestion that Mott MacDonald's report did not properly address the functions of a control room. When you say that you are content to move to three centres, I wonder whether that is just making the best of a bad job or whether you feel that there could be benefits from having fewer centres. *[Interruption.]*

**The Convener:** I apologise for the noise. We are trying to get it stopped for the duration of the committee meeting, but apparently we cannot get to where it is happening, so there is a physical impasse at the moment.

**Maureen Macmillan:** Call the fire brigade.

**John Williams:** We will try to speak above the noise.

**The Convener:** Our clerks are trying to see what they can do. I am sorry.

**John Williams:** A move to three control rooms is making the best of the options that were presented to us in the consultants' recommendations. All along CFA Scotland has been consistent in saying that each brigade should maintain its own control room for several operational reasons.

CFA Scotland was also consistent in saying that the Mott MacDonald report was fundamentally flawed because it was developed round the number of incidents that a brigade attends as opposed to the number of calls to incidents that a brigade receives. For example, we could get as many as 40 calls to one incident. Each of those calls has to be dealt with and processed in exactly the same way as they would be if they were 40 different incidents. We have to do that to confirm to ourselves that it is the same incident that is being spoken about. Very little of that work was acknowledged in the original Mott MacDonald report.

The Executive asked Mott MacDonald to do another review and sleight of hand was used in the move from calls to incidents and raising the threshold from 20,000 incidents to 30,000 for no apparent reason. The second report does not say why that was done. I think that it was to maintain

some kind of threshold so that the options of one, two or three control rooms could be provided.

**Maureen Macmillan:** You obviously have concerns about what would happen if the number of control rooms was reduced. What are those concerns?

**John Williams:** We are concerned about the loss of local knowledge. Perhaps a Welshman is not the right person to speak about this, but, in my area, Grampian, people speak in the local Doric accent and that has an influence with our control room operators. We are considering proposals that calls from Tayside, Grampian and the Highlands and Islands would be received in Aberdeen. We could say that the issues of local dialect and knowledge are covered in my area, but how do we deal with the Gaelic calls that will come from the Highlands and Islands? The same issues exist throughout the rest of the country and must be reflected. The consistent way in which to do so comes back to my original point that each brigade should maintain its own control room.

**David Wynne:** I have another point to add about what is technically termed resilience, or the ability of the fire service to deliver its services in larger-scale incidents. One of our concerns is that currently the eight fire brigades are coterminous with eight police force control rooms. Fire control makes a significant contribution to the local joint emergency management arrangements that have been developed under the Civil Contingencies Bill. By going to a different model, we would finish up with a different structure for police, fire and ambulance control rooms. We are concerned that that would make a difference to our ability to deliver our services in terms of resilience.

**Maureen Macmillan:** The ambulance service control rooms were rationalised not so long ago and we have an ambulance control room in Inverness that also covers Grampian. Is there a difference between what ambulance control rooms and fire service control rooms have to do?

**John Williams:** There is a fundamental difference in that a fire service control room operator provides a different kind of advice from that provided by an ambulance control room operator. An ambulance control operator would tend to give advice on immediate first aid and how to respond to the needs of a patient or casualty. The fire service would give advice on the safety of an individual who might be trapped in the building. We are able to produce tapes of a number of such calls. There is a fundamental distinction between the two. If you are asking me whether one operator could do both functions, I would have to say no.

**Maureen Macmillan:** No, I was thinking more of the geographical area that is covered by the

control rooms. There is no problem with the ambulance control room covering Grampian and the Highlands and Islands, although there were concerns when it was first set up in that way.

**John Williams:** It does not make any difference whether the control room is located in Inverness, Aberdeen or Dundee. In our part of the country, the recommendation was made that the control room would probably be located in Aberdeen, but it makes no difference from my perspective if it is in Inverness or Dundee. We need to come back to the basic point that we made at the outset of this discussion, which is that each brigade should maintain its own control room.

**Maureen Macmillan:** But if that is not possible, what should be the criteria for reaching a decision?

**John Williams:** The obvious conclusion is to rationalise the number of brigades to the number of control rooms.

**Colin Fox (Lothians) (SSP):** I am sorry to prolong this discussion, but I have a supplementary question on control rooms. Your submission seems to express scepticism about the savings that the Mott MacDonald report concludes would be available. It seems that going from eight to three control rooms would save us the costs of five control rooms. What savings do you think would be made?

**John Williams:** I will hand that over to someone who has a far better handle on the financial aspects than I do.

**David Millar (Lothian and Borders Fire Brigade):** The bill identifies potential savings of £3 million from reducing the number of control rooms to three, but reconciling the figures is difficult. Our view is that they have probably been overstated by about 30 per cent. It is proposed that staff will be redeployed from control rooms to brigade activity, but brigades have no budgets for those staff, therefore that money has got to be found. So there are savings, but they have probably been overstated.

**Brian Murray:** Control room staff do more than just respond to emergency calls and turn out the fire engines; they perform a range of other duties. The Mott MacDonald report focuses purely on mobilising fire engines—I understand that the costs that it lists for control room duty apply purely to mobilising. The other functions that are performed by control room staff have been left out of the financial calculations, but that work would have to continue.

**Brian Allaway:** We also believe that the report underestimates the transition costs. If any change is decided upon, costs will be attached to it.

**The Convener:** I ask members to keep their questions fairly crisp. There is still a lot of material to get through.

**Mike Pringle (Edinburgh South) (LD):** Section 15 is on charging, which appears in your list as something over which ministers can take ministerial powers. First, are you content with those provisions? Secondly, what should charging orders cover? The answer might be different for each of your areas, so you might all want to respond. Thirdly, subsection 4 of section 15 refers to authorities charging for things. Will it not cause considerable confusion if each authority charges for some things and not others, and authorities charge different amounts for different things?

**David Millar:** The provisions on charging, while broadly welcome, are restrictive. It is proposed that an order will be made to specify the extent of charges and who can be charged for particular activities. That does not necessarily reflect what happens on the ground at the moment, where brigades have fairly well-developed arrangements for income generation through charging mechanisms, particularly in the realm of industrial training. The bill's provisions seem to prevent us from carrying on with those activities, which is a downside. We wish to maintain our ability to generate income.

**Mike Pringle:** I do not know whether anybody else wants to respond. Does anybody else have a view on what you should and should not charge for?

14:45

**John Williams:** Yes. David Millar made points on the general provisions on charging, and part of our response spoke about the lack of a requirement on the minister to consult on developing a charging order in the first instance. We would like consultation on that for the reasons that Mike Pringle has identified. Not being able to apply certain charges will have significant implications for brigades' revenue budgets, because charges are a major element of them. We would like to extend the charging provisions to include charging for attendance at calls that transpire to be false alarms.

A judgment in England and Wales from some years ago precludes brigades there from charging for attending false alarms; that judgment was based on the framing of the 1947 act in respect of brigades attending a fire—it is not known that a call is a false alarm until after it has been attended. Clearly, we would like that aspect to be considered in detail during the bill's development to avoid a similar decision being made in the future. All brigades in Scotland are making efforts to reduce the impact on them of attending false

alarm calls, but what we have is very much a toothless tiger. We can write to and discuss matters with individual occupiers of premises until the cows come home, but only a financial penalty would have the desired effect on them. For example, a business might have to provide a fire authority with, say, £50,000 a year for attending false alarms at its premises.

In Grampian, we spend close on £500,000 a year on attending false alarms. Clearly, when that is replicated across the eight services, it is a huge waste of resources.

**Mike Pringle:** David Millar referred to the question of the income that his service gets from training—industrial training, I think he said. That is clearly a revenue stream for all the brigades. You mentioned the loss of other revenues. What other areas are you fearful of not being able to continue to charge for if the bill goes through as drafted?

**John Williams:** The loss of revenue from charging would not happen purely because of the bill, because there is also the impact of the Freedom of Information (Scotland) Act 2002. Currently, insurance company loss adjusters ask brigades to provide information on incidents that we have attended and we charge for that to cover administration costs that, in the worst cases, can be between £40 and £50. However, because the administration cost is less than £100, the 2002 act precludes us from applying a charge at all. We get 300 to 500 such information requests a year and not being able to charge for them has a significant effect on our bottom line. If we cannot generate income to cover the cost of dealing with such requests, the only other place that it can come from is the council tax.

**Mike Pringle:** Have you thought of just charging more than £100?

**John Williams:** Yes, but because of how the 2002 act was drafted we might be faced with a challenge to such a charge that could result in our being able to charge only 10 per cent of that. We are between a rock and a hard place on this issue. The bottom line is that our opportunities for income generation are much reduced because of a range of legislation and the bill will not help that situation. I do not know whether the bill can include a provision to disable elements of the 2002 act. Members are shaking their heads, so obviously that is not possible.

**Brian Allaway:** By the very nature of these things, we tend to give evidence about matters that we are not particularly comfortable with. We are comfortable with many things in the bill, which we think will help us to modernise the service and move forward. One of the charging aspects that we are comfortable with is that fire authorities will be specifically precluded from charging for

emergency work and we think that that provision should be supported. I thought that I would try to get something positive in this afternoon.

**The Convener:** Oh, we are not for one moment inferring that you are not positive. However, it is our business to try to push you on the slightly more contentious areas.

**Jackie Baillie:** It falls to me to ask you about the thorny subject of water hydrants, on which it appears that there is no agreement. The bill suggests that they should be your responsibility and you suggest that they should be the responsibility of Scottish Water or its successor body. Why do you think that?

**John Williams:** We currently operate under the provisions of the Fire Services Act 1947 and schedule 3 to the Water Act 1945, which says that the cost shall be defrayed to the fire authority. The service that was provided in 1947 was very different from that which is provided today. Fire hydrants are used for far more mundane purposes than those for which the fire service uses them. I would go so far as to say that there are few occasions on which the fire service uses fire hydrants. Even though they are used by councils and private contractors, if they are damaged, the cost for their repair is defrayed to the fire authority. The water undertaker utilises that clause to ensure that we pay the bill. We do not think that that is right, particularly when the water undertaker has a licensing arrangement whereby it authorises a contractor to use the hydrants. I think that, in that case, the bill should be picked up by the water undertaker.

We have extended our comments to include new developments, whose water mains should be provided by the developer or the water undertaker. In itself, that seems fairly obvious. However, the water main in a new residential area would simply be a 1in-capacity pipeline, which would not provide the volume of water that we require to extinguish a fire. We want there to be a minimum specification of water pipes so that we are able to access the volume of water that we need if we are to extinguish a fire. The minimum that we would be looking for would be about 75mm or, in old money, 3in.

**Colin Fox:** Earlier, you said that you thought that the national framework document was sufficient for ministers to give direction to authorities. Am I to infer from that that, in principle, you support the introduction of a framework document?

**Brian Allaway:** We support that in principle but we have not yet seen the detail that lies behind it. We would want to be involved in the consultation process as it is developed.

**Colin Fox:** Are there any specific aspects that you would want to be covered in detail in the bill?

**Brian Allaway:** I am not sure that the primary legislation would be the place for detail. It would be better if the framework document contained the detail. We are particularly pleased that the framework document will be reported to the Parliament as it is implemented. We are also pleased that the Executive has signalled that it will consult prior to preparing it.

**Colin Fox:** Would the details relate to the establishment of clear lines of responsibility and a balance between ministers' centralised powers and local decision making?

**Brian Allaway:** No, I think that those issues should be dealt with in the bill. The framework document should deal with the responsibilities of fire authorities and their fire brigades, the standards to which they are expected to perform and the audit and public reporting of performance in relation to those standards.

**Jackie Baillie:** The bill seeks to abolish the Scottish Central Fire Brigades Advisory Council. I gather that you are supportive of that proposal. What negotiating arrangements would you expect to have in place of that body?

**Brian Allaway:** We have worked up what we have called a three-level approach to the governance of the Scottish fire service. Convener, I am sorry, but I have another diagram—I am a terrible person for diagrams but I think that, sometimes, they can say a lot more than words. Perhaps the clerk could pass it around.

**The Convener:** I am very happy for the clerk to do that.

**Jackie Baillie:** I think that we have the diagrams in our original papers.

**Brian Allaway:** This is a different one.

We believe that there should be a three-level approach to the governance of the Scottish fire service. We describe the first level as a practitioner level, which we believe would take into account the representative bodies and the management areas of brigades. We believe that the outcomes from that level could be consultation and consensus, which should feed into what we have described as an employers' level, which would consist of representatives of the fire authorities—probably advised by firemasters—and representatives of the work force. We believe that the outcome from that level could be negotiation and, wherever possible, agreement. The third level would be a ministerial level, at which we believe the minister may wish to set up a ministerial advisory group. The outcomes from that level would be advice to the ministers, including advice on requirements for primary or secondary

legislation. We believe that that would be an effective governance model that would take into account all the needs of the various stakeholders and should enable us to move forward with some confidence into the brave new future, if I can describe it as that.

**Jackie Baillie:** Your literary aspirations are evident.

Although that is one suggestion, I think that there are legitimate concerns about the duties imposed on ministers to consult, because although, in a practical sense, your model could work, there is a genuine fear that, unless there is a specific duty on the minister to consult with fire service bodies and trade unions, the consultation might not be adequate. I wonder whether you accept that, in your brave new world and brave new model, a duty to consult could also be incorporated and would not run contradictory to your proposal.

**Brian Allaway:** We believe that that could and should happen. I understand that, under the current legislation, when the Executive intends to make regulations or introduce new primary legislation there is a duty on it to consult. We suggest that the Fire (Scotland) Bill does not require a specific requirement to make that happen.

**Jackie Baillie:** Sure, but rather than have a generic duty on ministers to consult over everything, there would be no harm in focusing on the fire service.

**Brian Allaway:** Yes. Parts of the bill already do that, which indicates that the minister would consult when he or she is planning major changes—specifically, changes to primary or secondary legislation. We believe that that should be a duty on ministers.

**Brian Murray:** On consultation, I refer back to the framework document. We would like to see the consultation being widened beyond that stipulated in section 36(6) and therefore beyond the authorities and the persons who represent employees. We feel that there could be a role for wider stakeholders.

**Jackie Baillie:** Such as?

**Brian Murray:** Bear in mind the fact that the framework document will lay out directions for the fire service, businesses and the Fire Protection Association. There are other interested parties—communities themselves may wish to have a say in the direction in which their fire service is going.

**Brian Allaway:** The framework will be a governance model that looks at brigades' integrated risk management plans. The Executive has already given guidance to fire authorities and brigades about how and whom they could consult.

That model could perhaps also be applied to the framework document.

**The Convener:** The questioning has surrounded section 45, which is about the statutory negotiation arrangements. The desire of the committee is to ascertain who you think, in the exercise of that function, the Scottish ministers should include as statutory consultees. That is distinct from what might be seen as the more fluid environment of the national framework document. Can we clarify who you think the statutory consultees, under section 45, should be, or would you like to reflect on that matter and drop a note to the committee about it?

**Brian Murray:** I would prefer to have some time before I commented on that question.

15:00

**Mike Pringle:** A number of people who have submitted evidence have expressed concerns about section 47, on the prohibition on the employment of police. Section 47 says:

"No member of a police force may be employed by a relevant authority".

The Executive has already suggested that the role of the retained or voluntary fire officer would conflict with the duties of a police officer. Do you agree, or do you think that section 47 should not be included in the bill? Moreover—

**The Convener:** Let us keep things simple. How would the witnesses respond to that first question?

**Brian Murray:** I would certainly welcome the removal of section 47, because it is difficult enough to recruit people in some areas. Those people want to serve the community and might have a number of different roles. Although the provision might not prove a huge barrier at the moment, I do not think that we should have any barriers whatever.

**John Williams:** Section 47 begins with the phrase

"No member of a police force".

I think that Brian Murray was specifically referring to special constables, who want to provide a service within the community and could well undertake the role of a retained firefighter. It would help if the phrase "No member" could be clarified or if certain exclusions were specified. We understand why full-time constables cannot become firefighters, and feel that section 47 simply replicates in many ways what is already set out in the 1947 legislation.

**Mike Pringle:** Is there a conflict between the duties and roles of a police officer and those of a fire officer?

**John Williams:** There is a conflict between the role of a professional police person and that of a special constable. Allowing special constables to be utilised as firefighters would help matters, because it would mean that people in communities would be available to serve on either force or on both.

**Mike Pringle:** As the representatives of four fire authorities, do you have any idea of the number of policemen on your force—either special constables or full-time policemen—that this problem affects? You might not be able to answer the question now, but it would be interesting to get the facts on the matter.

**John Williams:** I can say that Grampian fire and rescue service employs no special or professional constables, simply because the 1947 act precluded us from doing so. Obviously, Brian Murray and David Wynne can speak for themselves on the matter.

By and large, the service that we are able to provide and the equipment that is available to communities, particularly more rural communities, can be described as sporadic. Aberdeen draws so much employment from more rural communities that they become dormitory towns, which means that people are no longer available to provide the service. That takes us back to the point that if some community-spirited person wishes to become a special constable, we see no reason why they should not also be able to become a retained firefighter. However, the fact that section 47 refers to

"No member of a police force"

would preclude that person from undertaking that role.

**Mike Pringle:** Did I understand you correctly? Did you say that the 1947 act currently does not allow you to employ police? Is that what you said?

**John Williams:** Yes, that is what I am saying.

**The Convener:** The provision just repeats the prohibition in the 1947 act.

**Colin Fox:** Part 3 of the bill deals with fire safety duties. A number of concerns have been raised with us about whether the powers under that part of the bill will allow people to carry out those duties effectively. Do you have any concerns or remarks to make about that?

**David Wynne:** I am not aware of any concerns about those powers. In fact, we welcome the duties that the bill will place. Our comments are more about enforcement and the fire service's performance over a number of years, since a series of tragic incidents and the introduction of legislation. The proposed legislation is an enabling bill and further discussions on the detail will take

place, but we support the fire service undertaking a risk assessment and inspection role, which would maintain public safety standards.

**Colin Fox:** So it is largely a matter of enforcement.

**The Convener:** You wanted to ask about the co-ordination of fire authorities and other authorities.

**Colin Fox:** Do the witnesses have any concerns about co-ordination between fire authorities, about the powers that are being conferred on employers and employees and about how the different parties would liaise? Is there a danger that the proposed arrangements might lead to a duplication of effort?

**David Wynne:** If I understand your question, I would say that we do not so much have concerns, but we believe that small businesses require particular support, which might be a combination of support from the Scottish Executive, the fire authorities and other parties. Small businesses will find it particularly burdensome to have new duties placed on them if they do not have the capacity to deal with risk assessment or adequate risk assessment expertise. I am not sure whether that has answered your question.

**Colin Fox:** That is fine.

**Jackie Baillie:** I will highlight a specific example, which we tried to discuss with the bill team last week: the whole question of the licensing of houses in multiple occupation—HMOs. I understand that, in areas where local authorities have dedicated teams, they have, by and large, seconded fire officers to be part of them and to carry out risk assessments. Our concern, which you have started to develop, would be one of duplication. Do you envisage that risk assessment role as properly belonging to yourselves, or do the current arrangements work? At a practical level, why are we messing with them?

**David Wynne:** That was a number of questions in one. I am not sure that I will be able to give you an adequate response to all of them today. There is certainly evidence that houses in multiple occupation account for a higher proportion of fire deaths than does the private sector or even other public sector housing. One might argue that the current arrangements are not performing as well as they could, and I would like to take more time to consider how we might improve those arrangements. I believe that the fire service should play an important, pivotal role in contributing to that aspect of risk.

**John Williams:** The bill goes a long way towards rationalising the issues that you are speaking about. Various agencies are involved in fire safety, and all of the issues are now

encapsulated in the framework of the bill. We very much support that approach. For houses in multiple occupation, the duty is placed on the local authority. In other businesses, the duty is placed on the occupier of the premises. If the duty is with a body, that body must be seen to be enforcing the legislation. Our point is that, the smaller the business, the more undertaking risk assessments becomes an onerous burden. The brigades and fire and rescue services are there to support people in doing that.

The concept of risk assessment has been with us for some eight to 10 years now. It is fair to say that we are beginning to see a degradation of general fire safety standards. To be honest, I have no evidence to support that, but that is my intuition. I simply do not want people to have to sit in a forum like this in 10 to 15 years' time to consider how to develop new fire safety standards as a consequence of a major disaster. That is the last thing that we would want.

We need to make the current regulations work. Those who have a duty under those regulations must enforce that duty. I can assure the committee that we will enforce the provisions of the legislation for which the fire service has a responsibility.

**Jackie Baillie:** Sorry, but the issue is becoming less clear. At the moment, the duty for HMOs is placed on local authorities and the fire service is a statutory consultee. The system works, not just from the point of view of fire risk assessments but from a whole host of other angles. If our intent is to avoid duplication so that the fire service does not show up one day and someone else shows up the next to inspect the same establishment, why should that duty be transferred to the fire service when the current set of arrangements appears to work?

**David Wynne:** There are two aspects: people need to be aware of their duties and responsibilities and they need to comply with them. Perhaps I did not make this clear enough, but the fire service can manage a risk-based inspection regime by ensuring not only that people are aware of the duties that must be discharged but that they comply with those duties regularly. For premises that have a poor performance record, such as houses in multiples occupation, we would seek to apply that inspection regime more rigorously to ensure compliance.

**Jackie Baillie:** Are you suggesting that fire officers that are currently seconded are less rigorous than they would be if the fire service had that duty?

**David Wynne:** No, not at all. I am suggesting that, through our integrated risk management programmes, we could increase our attention on

poor-performing categories, such as houses in multiple occupation.

**Jackie Baillie:** I look forward to the written response.

**The Convener:** Jackie Baillie makes an important point. I seek clarification from Mr Wynne or one of his colleagues on one issue. We recognise that the bill will do a great deal to modernise the provision of the fire service in Scotland. By its very nature, the bill will shift certain relationships so that certain things that were once in broad emphasis will be in less obvious relief. What Jackie Baillie is trying to discover is whether the bill will prejudice in any way the continued operation of the sensible arrangements that exist on the ground for co-ordination among authorities. At the moment, the local authority is the body that is legally liable for the licensing of houses in multiple occupation. Is the bill likely to interfere with the existing arrangements? That is the first question.

**John Williams:** The short answer is that I do not think that it will.

15:15

**The Convener:** That is reassuring; thank you. If members have no other questions, on their behalf I thank Mr Williams and his colleagues for their helpful evidence this afternoon, which has assisted us in understanding how the bill's provisions will operate. We appreciate their presence with us this afternoon.

I welcome representatives from the Fire Brigades Union Scotland: John McDonald, the executive council member for Scotland; Ken Ross, the Scottish regional secretary; and Frank Maguire, a solicitor for the FBU. Many thanks for attending. *[Interruption.]* I had hoped that the spectre of the phantom drill operator had been successfully transported to some far-flung spot, but apparently not, as we can still hear the noise of drilling. The clerks will do what they can to get it stopped.

Would the witnesses like to make an introductory statement?

**John McDonald (Fire Brigades Union Scotland):** The Fire Brigades Union represents 95 per cent of the uniformed work force in the fire service. I will begin by making a request to the committee that I think might be helpful, although I am conscious of the time. We have a fire prevention adviser who has 30 years' experience in fire prevention departments and who is now an independent consultant. After some of the responses that the committee has heard from previous occupants of these seats, I feel that a bit of expertise might be required. I do not wish to

lengthen proceedings, but we have issued members with a list of questions that we would want to be explored with the Fire (Scotland) Bill team. If members have any questions, or if they want a short overview, I will request that Mr Evans be allowed to respond on our behalf. We have been told that we can have only three speakers, but doing that would not lengthen proceedings, I do not think, and it would provide greater clarity.

**The Convener:** There is no intrinsic objection to your colleague sitting at the table and speaking. For the benefit of the committee, we shall introduce him and explain who he is. However, we have allocated time on the basis of the three of you being present, so all I would say is that, in the interest of keeping things moving, if Mr Evans is to contribute, it might be unnecessary for one of the others to contribute. Perhaps you could introduce him.

**John McDonald:** Mr Glyn Evans worked in the fire service for more than 30 years as a fire prevention officer. He now works as an independent consultant on fire safety issues. If there are any questions on fire safety, I assure the committee that I will have no hesitation in passing them over to Mr Evans.

**The Convener:** Could you clarify his relationship with the FBU? Is he a member of the FBU?

**John McDonald:** He is a former member of the FBU. He was a fire officer for more than 30 years and, as I said, the FBU represents 95 per cent of the work force.

**The Convener:** But he is not currently a member.

**John McDonald:** No.

**The Convener:** For the purposes of evidence taking, we need to be clear about who is giving evidence and in what capacity so, although he is here with you today, will he give his comments in an individual capacity?

**John McDonald:** Yes. We employ consultants on different areas to gain their expertise.

**The Convener:** And he is here as your consultant.

**John McDonald:** Yes.

**The Convener:** Right. The first area, which you probably heard sketched out in the questioning of the Chief Fire Officers Association, is the broad issue of power and responsibility. One of the intentions behind the bill was to try to create, if not to preserve, local flexibility. I would like your response. You have suggested that the bill centralises and that it does not support local decision making and accountability. May I clarify which parts of the bill worry you?

**John McDonald:** It would be better if I gave a short introduction to where we are coming from, because we have the same difficulty as the committee, which also does not have the framework document. Would that be helpful?

**The Convener:** Certainly.

**John McDonald:** The bill, possibly like the Parliament, is a work in progress. We do not have the framework document, but it is our contention that the framework document will be the driving force for ministerial responsibility. We believe that the framework should be up for debate as the bill progresses through the Parliament, because it will give ministers overall powers of direction. Questions have been asked about which areas the framework document will cover. If we look at the UK framework under the Fire and Rescue Services Act 2004, we see that approximately eight areas are covered, including fire prevention, risk management, working together, effective response, resilience and so on. The problem is that we do not have sight of the Scottish framework document, and there is no doubt that it will give ministers powers of direction for the fire service.

The alleged ethos of the bill is to devolve power to the local authorities. In its previous discussions with the bill team, the committee has identified a problem about where accountability moves back to. As it seems to be a day for graphics, I refer members to one of our documents, in which we present a forum in which ministerial accountability can be considered and all stakeholders can express their concerns, if I can use that terminology. Members will note some of the committees in the forum—the Scottish Central Fire Brigades Advisory Council, the fire safety advisory board that we recently set up and the wilful fire raising forum that has just been formed. Members will see from the graphic that the various committees feed into a strategic advisory group, into which the Scottish ministers also feed.

I say that because, in areas of resilience, we do not have any difficulty with there being overall direction—we are well aware of the difficulties of terrorism, for example—but it is unfair, from the public's and the fire authorities' point of view, to describe the old SCFBAC as cumbersome. We have provided the committee with the agenda for the most recent meeting of the SCFBAC and members will see that the agenda items concerned the core functions of the fire service. If we are to advance the bill, we must do so on the basis of consultation with all stakeholders. Most important among them are the fire service employees who carry out the work and will have to implement the bill.

I am afraid that the English practitioners forum has excluded the Fire Brigades Union from all but

the first tier of the consultation process. I was disappointed that Ian Snedden of the bill team stated that respondents to the consultation had provided no meaningful grouping to replace the SCFBAC because that is not the case. Indeed, the CFA and the FBU have proposed a model that I ask the committee to consider seriously. That would be helpful for the future of the fire service.

I should have started by saying that we welcome the bill, although we have many areas of concern. I do not wish to knock the bill throughout today's proceedings, but it is seriously flawed in certain aspects. We have grave concerns about health and safety, as members will see from our submission. Perhaps Mr Maguire will be available for questions about that. We believe that it is the bill's intent to take the fire service out of the Health and Safety at Work etc Act 1974, yet it is so important for our employees to be covered by that act as well as by European directives.

The bill is silent on the involvement of trade unions in consultation processes, and the bill team did not give an adequate response to questions about that. I believe that its final response was that that was a policy decision. I would like to explore that further. Within any organisation, it is fundamental that trade unions and employees have a statutory right of consultation. The Scottish Central Fire Brigades Advisory Council provided that and an adequate replacement is needed.

There are contentious areas, such as the amalgamation of controls, which I was pleased to hear the committee explore. Members will find from Her Majesty's fire service inspectorate for Scotland that when the options for amalgamating controls are three, two or one controls, the most likely option is three controls. If there are three controls, the logic is that there will be three brigades. If we have a combination of controls, that will obviously impinge on accountability and reporting-back procedures for fire authorities.

The present legislation is explicit on reporting back, the functions of the chief officers and the element of democratic control. We believe that that should be replicated in the bill. The bill team said that it could foresee a point when the chief officer would not have overall responsibility for the fire service. I find that rather unusual. To use simplistic examples, the chief constable is in charge of the police and the general is in charge of the army. I would hate it if someone were put in place and then a quango was set up and there was no direct accountability.

The fire service is the premier emergency rescue service. Audit Commission reports have shown that we meet response time targets more than 94 per cent of the time. The commission determines that we are the highest-functioning public service, so if someone wants to tinker with



such an important service, they had better be careful about what they do. That is why we express concern that ministerial accountability must exist, because the minister is taking direct powers that will impinge on local authorities.

The chief officers said that the controls provide a first-class service. Less than a minute after they receive a call, an appliance is dispatched and sent on its way to an incident. I will not bore you with the details, as the previous occupants of these seats covered this, but the work that the emergency control operators do is not like running a taxi service; they co-ordinate health and safety, deal with chemical information, record statistics and provide advice in the case of fire. Theirs is a detailed and onerous task. The stress levels at our controls are high, because the staff work long hours and face the difficulty of dealing with horrendous incidents. The eight controls are working magnificently and I would hate to see the element of local accountability taken away.

We have seen recently in Lothian and Borders the problems with the police control, and the ambulance service was referred to earlier. The fire service is one of the only organisations that meets the current statutory times for attendance.

The Fire Brigades Union has supported integrated risk management from the beginning. Integrated risk management was adopted from what was known as the pathfinder report. A trial went on for more than four and a half years, cost £3.5 million and identified areas to move away from the present standards of fire cover, which of course are based on buildings rather than life, and had the full support of the Fire Brigades Union. Unfortunately, the report never came back to the Scottish Central Fire Brigades Advisory Council. It recommended a vast increase in resources and I am afraid that its recommendations have been cherry picked, taking away from what was originally intended. That is partly because of the dispute, which we cannot fail to mention. In my opinion, the current legislation in England and Wales is the child of the dispute and much of what is happening there ignores the evidence from the pathfinder trials.

The important point to remember about the pathfinder trials, which were the precursor of the integrated risk management system, is that when 50-year-old standards of fire cover are replaced, despite all the research, the new system must be piloted, tested and validated prior to implementation. That is perfectly clear, but I am afraid that it was not the case with the integrated risk management system.

15:30

**The Convener:** From the committee's point of view, you have already covered a number of areas and that will probably shorten the questioning to some extent, but if we are to have the opportunity of full questioning, perhaps you could mention the principal points that concern you.

**John McDonald:** Questioning would be the best way to explore the matter. We have provided a lot of evidence that I think might be helpful. The particular areas that we are concerned about are integrated risk management and the democratic control and accountability of the service. We have real fears about the future of that control and about the outsourcing or privatisation of certain areas of the fire service, such as community fire safety. We believe that there is a real threat of that in the bill—I think that there were some vague references to that from the bill team. The fundamental position of the Fire Brigades Union is that the fire service must remain under local democratic control.

**The Convener:** You eloquently covered the area that I am interested in, which is the balance between local independence and flexibility and ministerial control. I hear clearly what you say about that in relation to the bill and I do not think that I need to explore that further as you have been very specific about your concerns.

**Karen Whitefield:** My question is on the principal fire and rescue functions as determined in the bill. In your written submission, you rightly welcome the fact that the fire brigade is, at long last, being recognised for the job that it has been doing for some time in relation to road traffic accidents and fire safety duties. However, you express concerns about the conferral of functions in relation to other emergencies. Why do you have those concerns?

**John McDonald:** I will ask Mr Maguire to answer that but, briefly, we have concerns because that seems to be a catch-all for the minister. However, areas such as training and personnel need to be addressed. The bill is rather wide-reaching and we would rather have a more defined role. The fire service has a can-do attitude, but there are limits to what we can do; we talked earlier about firefighting at sea. I ask Mr Maguire to respond.

**Frank Maguire (Fire Brigades Union Scotland):** Our concern is that if one is to have an additional function it is useful to know well in advance what that function will be, so that proper risk assessments and training can be put in place and operational needs taken into account. That is especially true given that additional functions are being carried out now. Earlier, the firemasters talked about our duties in relation to terrorism.

That work is taking place now. Why cannot it be designated in the bill as an additional function?

Other areas are missing. Recently, we have had landslides; the fire brigade has been involved in work after those. We now recognise that that is an additional function that should be prepared for. We also had the disaster at Stockline Plastics Ltd, which was not a fire but an explosion. The fire brigade played a major role in that incident—another example of an incident that was not a road traffic accident or a fire, but in which the fire brigade was involved.

There are other specific examples. In our country, we dealt with the case of firefighter Nicholson, who went into a silo to rescue some employees who were trapped. No risk assessment was done, there was no preparation and he was killed. That was not a fire or a road traffic accident. There was also a case involving retrieval from water, in which a firefighter was killed because a rope that was holding him got caught under the water—another example of a case in which preparation should have been done.

The fire service's problem is that it is now undertaking such tasks over and above road traffic incidents and fires and it urgently needs those tasks to be properly identified and given a statutory underpinning so that it can have the argument and so that resources can be put in place for firefighters to be trained in such areas. Firefighters' big concern is that it is fast becoming the case that they are there to do everything and anything. They are willing to do that, but they need to be trained and they need the proper equipment and resources. They believe that they can get those only through underpinning by statute or by additional functions being designated now so that they can be prepared for.

**Karen Whitefield:** We cannot, because of their nature, plan for emergencies, but there may be occasions when we can anticipate the types of skills that will be required. It may be that not all firefighters will, in the course of their normal duties, have to attend an offshore fire and will perhaps never have to attend an incident such as the tragic occurrence in Maryhill or the Rose Park nursing home fire, which was attended by some firefighters from North Lanarkshire. However, the fire service would, as an emergency service, want to respond to incidents such as those because it sees such responses as being its duty, and most firefighters would want to do their job. How do you get the balance right and allow for proper training to enable firefighters to develop their skills without confining them so that they cannot respond to emergencies that we might not be able to plan for?

**Frank Maguire:** Maureen Macmillan highlighted some problems in the Highlands and Islands. There are also problems pertaining to Glasgow

whereby risk can occur. There is a geographical dimension—whether specifically geological, industrial or whatever—to the categories of cases, and the emphasis in, for example, the Highlands and Islands might be different from the emphasis in Glasgow.

We can now categorise incidents: terrorism is a category, landslides are a category and explosions are a category. Such incidents generally carry the same risks no matter where they occur. Therefore, in terms of geography, area and category we can begin to anticipate types of emergencies. Firefighters are concerned about everything being an emergency and about their having to take an ad hoc approach to every emergency. We appreciate Karen Whitefield's point that emergencies and unforeseen things will happen, but they will not be totally unforeseen. Firefighters want to foresee and prepare for as much as possible—that is what they need training and resources for. They do not want matters to be left open so that they must run to anything and try to cope with anything.

**Karen Whitefield:** Are the categories that you would like to be included in the bill terrorism, explosions, offshore incidents and landslides?

**Frank Maguire:** I am a lawyer. I am saying only where those might fit in. It is for the fire brigades, in consultation with ministers or whoever, to identify the specific areas. The chief fire officers earlier identified terrorism. You might ask the fire brigade about landslides. There are categories that can be identified.

**The Convener:** The chief fire officers used the phrase "new dimensions". Are you talking the same language in describing incidents that have not previously been in the working environment of the fire service?

**John McDonald:** The Fire Brigades Union Scotland is supportive of the new dimensions work, with the caveat that we need training and personnel. Unfortunately, no additional personnel have come in, which is a concern of ours. In fact, every brigade in Scotland has reduced its number of firefighters following the dispute.

Firefighting is not quite as simple as it sounds, and the union has great concerns about that. For example, if a ship at sea is on fire, there are problems in identifying the owner, what chemicals are on board and what is being transported in the ship. A number of years ago, Professor Black wrote a report on firefighting at sea. Even from the point of view of safety and insurance, we have grave concerns about it. That is not to say that we do not consider all the issues and aspects of the work that we can take on; however, there seems to be a presumption among employers that we will automatically take on whatever work can be

identified. That cannot be the case in any work force. It is not the case that supermen and superwomen do the job.

**The Convener:** Is your concern that the bill is restrictive in that respect?

**John McDonald:** Yes.

**Mike Pringle:** You have suggested that charging under section 15 will be contrary to the European convention on human rights. Can you explain your concerns to the committee?

**Frank Maguire:** Section 15(2) says that a charge can

"be imposed on, or recovered from, a person other than the person in respect of whom action is taken by the authority."

If we do not specify that further, anyone could be charged. Protocol 1 of the Convention for the Protection of Human Rights and Fundamental Freedoms says that, when someone's property or possessions are interfered with—which is what is envisaged in the bill—a provision must be formulated with sufficient clarity to enable a person who might be affected to understand and so to regulate their conduct accordingly. It could be that someone will find, out of the blue, that a charge is to be fixed on them—I am talking about another person whom the authority thinks it can fix a charge on. In such circumstances, unless it is further specified whom the other persons might be, we will not be giving notice to the public or to the people who might be concerned that that might happen to them. We would not be giving them the chance to regulate their conduct accordingly. That is missing from the bill.

Other issues arise. Is the charge a penalty, is it recompense or is it reparation? What is it? It does not seem to be reparation because it is not tied to the value of services rendered. For that reason, there is a problem in respect of the Human Rights Act 1998. If a person is to be charged with something, or penalised for it, he or she must know that they are, or might be, in the frame so that they can regulate their conduct accordingly. Who are the "other" people of section 15(2)? We can speculate, but we need them to be specified.

**Mike Pringle:** We heard earlier from the chief fire officers that they charge for certain things—a good example being training—and that that gives them considerable income. Will you oppose any sort of charging at all?

**Frank Maguire:** No—but the point is that it must be specified who might be charged. For example, it may be the insurer, the employer or—

**The Convener:** So it is not the principle of charging to which you object, but the imprecision of the bill.

**Frank Maguire:** I object to the bill's vagueness and lack of clarity.

**John McDonald:** I would like to make another point on charging. We are concerned about automatic fire alarms. All brigades are trying to drive down the number of calls that we receive from automatic fire alarms but, because of the nature of automatic fire alarms, there is the danger of mistakes. They can go off by accident or because of wilful action. If a business or factory is charged every time the brigade comes out, there is a real danger that the easiest option will be just to turn off a problematic fire alarm. That concerns us, because of public safety issues.

Charges have always been in place in the fire service, under the existing legislation. As Mr Maguire has said, we are not necessarily against charging per se.

**Mike Pringle:** I take your point about fire alarms; I once had a factory where a strong wind would set off the fire alarm.

Section 47 of the bill talks about employment of police officers. Do you think that section 47 should be removed, and do you know how many policemen or special constables are employed in fire brigades in Scotland?

**John McDonald:** I would have to check, but I understand that special constables are not employed by the fire service because of their other duties. However, they might be employed as retained or volunteer firefighters. The likelihood of police officers making any significant impact on recruitment is negligible. It is not an area of great concern for us, but I think that police constables have a specific role outwith the fire service that should preclude them from being employed as firefighters. If you are talking about rural communities, there is a small—

**The Convener:** So you support the continuing prohibition of employing police officers?

**John McDonald:** Yes, we do.

**Colin Fox:** I was going to ask about the national framework document, but you said earlier that you thought that that would be very much the driving force for ministerial decision and dialogue, and that you had hoped that it would be ready by now.

With the convener's permission I will ask a question related to your presentation. You listed the integrated risk management system, democratic accountability, control room reductions, privatisation and local authority control as your primary concerns. Are we to infer that you feel that those issues have been thrown into sharp relief as a consequence of the dispute? You mentioned the pathfinder report. Were they the principal drivers behind that report?

15:45

**John McDonald:** I ask the committee to remember that in April 2002 "The Scottish Fire Service of The Future" was published by the then Minister for Justice, and had the support of all parties, from the Convention of Scottish Local Authorities to the Fire Brigades Union to chief officers. That has now been dumped.

I hate to be cynical, but I am afraid that much of the bill has been thistle stamped and taken from the English Fire and Rescue Services Act 2004, which is seriously flawed on issues such as fire prevention. I am suspicious that the framework document will accurately reflect what is contained within that act.

The bill will have to be seriously amended. This committee and the Parliament have the opportunity to drive forward a real modernisation agenda. However, we are concerned that we are discussing a bill on the future of the fire service when we have not seen the framework document, which is one of the pillars of the bill. I heard that it should be ready in three months. All the work that was done prior to 2002 has been got rid of and a 10-week report by Bain during the strike has invalidated four and a half years and millions of pounds worth of validated research that was carried out by the pathfinder group, which is a great concern of ours.

**Jackie Baillie:** You touched substantially on the points that I wanted to raise about negotiation arrangements, but in so doing you have caused me to be slightly confused—which is easily done. I understood that the FBU wanted to retain the existing advisory council, yet you are providing a model for replacement. Which is it? Do you accept that it needs to go, and therefore you are hanging your hat on your suggested replacement model, or do you not accept that it should be abolished?

**John McDonald:** The answer is similar to that which you received on control rooms from the chief officers. There was only one answer to the question of whether there should be three, two or one. The fact is that the SCFBAC is dead in the water—it has been shot like a duck—therefore we are looking for a positive alternative. An example of what can happen is the three-tier structure in England, which excludes us from all but the lowest tier. If that goes ahead it will not be positive in terms of openness, democracy or transparency, or in terms of the future of the service. There needs to be a proper structure that can debate all the issues that affect the work force and the general public.

**Jackie Baillie:** I got the strong feeling that the bill team was open to that, because they did not produce a model from their back pocket and say, "This is the way things would happen." Given that

models will change over time and that, by your own admission, the wilful fire raising forum that you see as being part of this issue is quite a new creature, is it right to prescribe a structure in legislation? Would it be more effective to place a duty on ministers to consult, and specify who they should consult, rather than to prescribe the exact form of your replacement body in the legislation?

**John McDonald:** The body has to be statutory. It is all very well to say that ministers will consult on certain issues, but there must be an on-going body in which there exists the ability to put items on the agenda and discuss them; for example, fairness and diversity, on which the fire service has had a shocking record over the years. The FBU has been the driving force that has pushed those issues forward. One of the forums at which they were addressed was the SCFBAC, where we got people to take notice of those important issues, but that must be done on a statutory basis. The old SCFBAC was meant to meet every quarter, but when we were in dispute it did not—it was ignored. I would hate to see anything as flimsy as, "Oh, we may have a duty to consult on certain issues." That duty must be contained in the legislation.

**Jackie Baillie:** I think the duty can be made robust without specifying the structure, but that is a debating point for another day. The Scottish Trades Union Congress made the point—which you picked up on in your opening submission—about the apparent intention to disapply the Health and Safety at Work etc Act 1974, yet the bill team was absolutely clear that that was not their intention. I assume that one of you will enlighten me as to why that team is wrong and you are right.

**John McDonald:** As one of the bill team said when the committee asked about consulting trade unions, I will now consult my solicitor.

**The Convener:** Let us hear from your solicitor, then.

**Frank Maguire:** Is that me?

**The Convener:** Indeed.

**Frank Maguire:** I will give a brief background to the legal framework that we are dealing with. We have European directives that the European Commission issues, as the committee knows. The UK authority is obliged to implement those directives to comply with Community law.

In health and safety legislation, we had a framework directive from the European Commission and a raft of other directives about the use of equipment, the workplace and other matters. The UK authority chose to implement the directives via the Health and Safety at Work etc Act 1974, because part I of that act contains a section that allows the minister to make

regulations. The minister made regulations that implemented the directives. Those regulations are now the cornerstone of our health and safety framework. They started with the Management of Health and Safety at Work Regulations 1992 and went on to regulations that dealt with personal use of equipment and with the workplace and other matters. The directive on fire precautions in the workplace was implemented under the Fire Precautions Act 1971 and instituted by the Fire Precautions (Workplace) Regulations 1997.

To repeal part I of the 1974 act would impliedly repeal all those regulations, which would wipe away all the implementation of the directives from the European Commission. That would be contrary to Community law and Parliament cannot act contrary to Community law. In my view, Parliament does not have the power to disapply part I of the 1974 act in so far as that part implements regulations that were designed to follow European directives.

**The Convener:** I see why you brought your lawyer, Mr McDonald.

**Jackie Baillie:** Given what I have heard, it strikes me—perhaps somebody will contradict me—that there was no policy intention to disapply the 1974 act and that the matter might be a debating point between lawyers.

**Frank Maguire:** It may be a debating point for the courts. If Parliament proceeded to disapply the 1974 act, scope would exist for judicial review of any decision by the Presiding Officer or anyone else to the effect that the legislation is compliant. The matter may end up in that position. If the decision was a mistake, it could be rectified—we would just ensure that part I of the 1974 act was not disapplied. The process has scope for ensuring that that mistake does not occur, however inadvertently.

One answer that the committee heard was that the situation was okay, because the 1974 act will still apply to reserved powers. That misses the point entirely; the point being that the act is being disapplied from devolved functions. That is where whoever made that comment went wrong.

**The Convener:** Are there no supplementary questions?

**Jackie Baillie:** I thought that I was doing quite well.

**Maureen Macmillan:** Mr McDonald spoke at length in his introduction about concerns about part 3 of the bill, which deals with fire safety. One complaint was that many provisions will be included in secondary legislation in Scotland, rather than in primary legislation, which will be used in England. Would you like to elaborate on those concerns?

**John McDonald:** Mr Evans can elaborate more than I can.

**Glyn Evans:** If you thought that the last subject was convoluted, this will be worse. Because of devolution and the effect of reserved powers, part 3 of the bill in Scotland can go only so far.

In England and Wales, the draft Regulatory Reform (Fire Safety) Order 2004 is designed to be one-shot legislation that will repeal a substantial number of pieces of legislation and will, in effect, become the premier legislation on fire safety matters.

A report by the House of Commons Regulatory Reform Committee outlines the effect of the reserved powers, which relate primarily to the way in which the Health and Safety at Work etc Act 1974 works. The problem is twofold. The Fire Precautions Act 1971 is a relevant statutory provision for the purpose of the Health and Safety at Work etc Act 1974, as are the Fire Precautions (Workplace) Regulations 1997 (SI 1997/2051), which were the UK's version of the fire safety elements of the workplace directives that Frank Maguire referred to earlier. The problem is therefore that you cannot repeal all of the Fire Precautions Act 1971 or the Fire Precautions (Workplace) Regulations 1997 (SI 1997/1040) because they contain reserved powers that are based on health and safety law, which is not a devolved matter.

**The Convener:** Just for clarification, what does the bill purport to repeal?

**Glyn Evans:** If your bill were of the same nature as the proposal in England and Wales, it would be a reforming bill—the purpose of part 3 of the bill would be to reform fire safety law in Scotland. However, it cannot do so. The problem, therefore, is that your legal draftsmen—for whom I have the greatest sympathy—are trying to balance three sets of legislation to produce a new fire safety framework for Scotland.

Many of the duties that are contained in the draft Regulatory Reform (Fire Safety) Order 2004 cannot be put into your bill because they are, in effect, fire safety duties and underpin the Fire Precautions (Workplace) Regulations 1997, which you will have to keep in force alongside what is proposed in part 3. It is going to be incredibly difficult for the people whom part 3 of the bill is designed to protect to understand their responsibilities. They will have to deal with part 3 of the bill, elements of the 1971 act and elements of the Fire Precautions (Workplace) Regulations 1997, which will all be in force in Scotland at the same time.

The only way in which your legal draftsmen can deal with that is to put into part 3 of the bill those duties that are not reserved duties, and to deal

with the remainder through secondary legislation. That means that, unless your draftsmen introduce the regulations that they intend to put into force to support part 3 of the bill at the same time as the bill comes into force, part 3 of the bill will have effect only in relation to the powers that relate to prohibition and the duties under sections 49 and 51. I would genuinely not relish the thought of trying to translate all of that.

**Maureen Macmillan:** I understand what you are trying to say—we have had the problem before. Often, when consultation on a bill starts, the subordinate legislation that will accompany the bill has not yet been produced. By the time we get to stage 3, however, it has been produced and we can press the Executive to take action. By stage 3 of this bill, we will know what will be dealt with by regulation in part 3. The problem that arises has to do with of the characteristics of the bill. We have to discuss that with the Executive.

**Glyn Evans:** I think that is right, because the regulatory process will give teeth to part 3 and we do not know what it will say.

**Maureen Macmillan:** I appreciate that and we will raise the point with the Executive.

**The Convener:** I have listened with considerable interest to what you have said, and it is clear that there are hugely technical issues that the bill team will pick up on after this evidence session. I am grateful to you for drawing our attention to those complex issues.

16:00

**Glyn Evans:** The Regulatory Reform Committee report suggests options—I put it no more strongly than that—about how the Executive might address those issues. Although more legislation would be required, it might be better if you asked the Executive for a report on how that legislation might be produced. You will end up with one piece of legislation once the Fire (Scotland) Bill has been enacted, but it will be supported by two other pieces of legislation and at least one piece of health and safety at work legislation under the Management of Health and Safety at Work Regulations 1999, which underpin the workplace regulations that you have to retain.

**The Convener:** Did you suggest that it might be helpful to the Executive to consider the report to which you referred?

**Glyn Evans:** Yes. I have a copy here if your clerk would like to make a note of it.

**The Convener:** That would be helpful.

**Maureen Macmillan:** My next question, which is probably for the lawyers, is about the lack of clarity over which persons will have responsibility for fire

safety given the increasing variety of business and contractual arrangements. The bill mentions employers and employees, and says

“Where a person has control to any extent”

and

“If a person falls within subsection (1)”.

In other bills, however, there is a catch-all provision, or a description into which everyone will fit. If we go down the road of making a long list of the people who could have that responsibility, someone is bound to be left out and that would create a loophole. Legislation generally tries to provide definitions into which everyone can fit rather than making a list of all the possible permutations.

**Frank Maguire:** The two very important duties, as highlighted by the previous witnesses—and the Fire Brigades Union Scotland agrees—are set out in sections 49 and 52, which deal with the duties of employers to employees and the specific duties of employees. No one questions that those duties should be in the bill; they must be there.

Leaving aside premises for the moment, the suggestion seems to be that those sections describe our working environment and capture our working relationships. However, more and more in the working environment, the employer-employee paradigm is becoming less and less. Casual labour is used, and there are ad hoc arrangements and contracts for services with contractors rather than employees. Such arrangements are in use in a great many premises in Scotland and many processes are carried out under them; the emphasis might vary from industry to industry. If we rest on the employer-employee relationship, there is increasing potential that many other current working relationships will be omitted. If we do not attempt to describe those other working relationships, or to include a catch-all phrase to capture them, we are saying that those people—who do the same things as employees and employers—are not under any duty regarding fire safety.

For example, the financial sector seldom has employer-employee relationships. Instead, there is a contractual relationship between a franchisee and an independent financial adviser. There could be 40 such people on the one floor. They will all occupy desks and have a deal that allows them to work there. They will be just like employees on a floor but none of them will have a fire safety duty for anyone else. The working environment has been considered in a way that is a bit too simplistic. An attempt should, and can, be made to describe other working relationships in our society.

**Maureen Macmillan:** Are such relationships not covered by sections 50 and 51? Section 50 starts:

“Where a person has control to any extent of relevant premises”.

**Frank Maguire:** We need to ask who has control of the premises in the example that I have just given.

Another point is that someone seems to think that there is a landlord-tenant relationship. Such a relationship may exist, but the people involved can be very distant from each other. There might be a lot of intermediaries between, say, the holding company in London and the tenant who, in turn, might have a licensee, who might have someone else on the premises. Such individuals will have a problem in identifying on whom the duty falls and who is the person who is in control of the premises.

We should not leave it to the parties themselves to think, “Maybe I am the one who is under this duty”; they will not know. Do not forget that the high turnover of people can mean that the individuals involved may change as soon as some action has been taken. We need to think of some mechanism whereby responsibility for fire safety can be fixed. We should not be confined to the mechanism of the legal relationships between employer and employee and between landlord and tenant.

**Maureen Macmillan:** Do we need a catch-all phrase to encompass every kind of permutation?

**Frank Maguire:** We have the problem in health and safety legislation anyway. The employer-employee relationship does not capture workers. The term “workers” and other descriptive phrases tend to be used much more.

The virtue of the old licensing system was that the duty was fixed on someone who then knew that they were responsible. Perhaps we need a provision whereby, if the person who has control of the premises cannot be found, the duty is fixed on someone who would be told, “We do not care what your relationships are or what your contract says, but we will hold you responsible.” That could be done by a specific order or identification once someone had investigated the situation. Perhaps if the enforcement officers are unable to find out who has control of the premises—if they are being passed from pillar to post, in a ping-pong situation—they should have the power to say that a particular individual is responsible in terms of sections 49 and 52.

**Maureen Macmillan:** That brings us to your concerns about whether the duties and powers that are given to enforcement officers are sufficient.

**Frank Maguire:** There is a problem for enforcement officers too. As well as those in other working relationships not realising that they are under a duty, when enforcement officers come along, they might not be able to find out who is under the fire safety duty.

**Maureen Macmillan:** I will move on to something—

**The Convener:** Watch your time and keep it crisp.

**Maureen Macmillan:** I will do. My question, which is about control centres, has been answered. I was pleased that John McDonald, in his opening statement, spent a lot of time speaking about the need not to amalgamate control centres. Is there anything that you want to add briefly on that?

**John McDonald:** I do not want to repeat myself, but as I said in my statement, the control centres are under grave threat. Over the past few years, attempts have been made to amalgamate police, fire and ambulance control centres, but that approach has been proved to be nonsense. The Executive has now moved to trying to reduce the number of fire control centres without any evidence to back up the proposal and on the basis of the seriously flawed Mott MacDonald report, which took cognisance only of the number of incidents and calls with which the control rooms deal, not their actual work load.

The control centres provide an excellent response. I do not think that it can be bettered by reducing their number, and I will not go into all the potential difficulties, such as accents and the geography of the east, the west or the north coast. The control centres are such an excellent facility that I believe that it is impossible to improve upon the service that they provide. If the system is not broke, the Executive should not go trying to fix it, because it will make a mess of the control centres if the reduction goes ahead. That is the clear view of every control centre worker and FBU member in Scotland. It is not the case that we are simply opposed to change; the reduction would reduce the control centres’ effectiveness. We will soon no longer have set standards of fire cover, but integrated risk management plans, in which there are no set response times or validation process. Closing the control centres is a frightful proposition, because it will lead to further deaths.

**Ken Ross (Fire Brigades Union Scotland):** The simple issue is that fewer people will be dealing with more calls, so something has to give. We have seen an admission of that recently, and it is outlined in the documents that we circulated today. A facsimile was sent today to all control rooms in the United Kingdom by London fire brigade, which seems to be taking the lead on this.

It suggested wording for a recorded message for 999 calls. If fewer people are dealing with a greater volume of calls, and if they are unable to respond to that call and have to use a recorded message, that is ludicrous. Someone who was trapped in a house fire and who was phoning up and seeking assistance might get put on hold. If that is the way forward and if that is modernisation for the fire service, we do not want to play any part in it. The simple arithmetic tells us that the present arrangements are the best arrangements.

**Colin Fox:** I am anxious to focus on the question of local training centres, which you mentioned in your submission. What are your concerns about local training centres? Section 44 covers

“the provision of education or training to persons who are not employees of relevant authorities”.

Are you concerned about the particulars of local training centres under the bill?

**John McDonald:** We have local training centres at present. The Scottish Fire Services College at Gullane, which is funded by the Executive, is the central point for that.

**Ken Ross:** Could I ask you to say again which section of the bill you are referring to, Colin?

**Colin Fox:** Section 44(2)(e) is about the provision of local training centres. It says:

“the provision of education or training to persons who are not employees of relevant authorities in matters in relation to which relevant authorities have functions”.

**Ken Ross:** We are not aware of any concerns about that. Could you refer us to the relevant part of our submission?

**Colin Fox:** I read in your submission that you had anxieties about the use of local training centres. As I understand it, it is proposed to have local training centres in the different fire brigade areas. Is that correct? As I understand it, it is not just about the college at Gullane, where all Scotland's firefighters are trained, but about moving towards more local training centres.

**The Convener:** Do you have a view on that?

**John McDonald:** I was not aware that we had responded in such a manner on that. We could look into it and get back to you on the issue.

**Colin Fox:** That would be fine.

**The Convener:** You could give us a note about that. That would be helpful.

If there are no other questions from committee members, I invite Mr McDonald and his colleagues to make any further points that they might have.

**John McDonald:** We have a couple of points to make. Indeed, Mr Maguire has a number of

matters to raise. The one issue that I wish to raise would certainly attract the public's attention. We should all be aware that Scotland accounts for the highest relative number of fire deaths in the UK. Indeed, it has the worst fire record in Europe. That is something that we wish to address. Our union is making a very strong case for zero tolerance of fire deaths. That has the opposition of the Executive.

Given the dreadful situation that exists in Scotland, we need to look towards such an aim. We had zero tolerance of violence against women. The incidence of fire deaths in Scotland is increasing, and it is at a shocking level. It should be a fundamental aim of the bill to drive down fire deaths, to set a target of zero and to adopt zero tolerance. I am aware from my involvement in discussions and negotiations at a national level, certainly in England and Wales, that there is a perception and a clear objective—

**The Convener:** When you use the phrase “zero tolerance”, what specifically are you talking about?

**John McDonald:** A zero tolerance of fire deaths. One of the clear objectives in England and Wales—but hopefully not here—is to have an increase in the response time of fire engines, with fewer firefighters attending incidents. That is of great concern to the Scottish public, given the horrendous record of fire deaths in Scotland. In Edinburgh and Glasgow, it is not just about fire deaths—

16:15

**The Convener:** In fairness to the Executive, it is clear from the policy memorandum that the Executive is only too aware of the statistics on fire deaths in Scotland and of how those statistics relate to those of other countries. The Executive's intention in introducing the bill is to address such issues.

Do you want to raise other specific issues in relation to the bill?

**Frank Maguire:** I want to make a couple of brief but important points that have not been touched on. The Fire Brigades Union Scotland is concerned about the creation of an offence under section 67(2), which says:

“If—

(a) an employee fails to carry out a duty to which the employee is subject by virtue of

section 52; and

(b) the failure to carry out the duty in question puts a relevant person at risk of death,

or serious injury, in the event of fire,

the employee shall be guilty of an offence.”



Under section 240 of the Trade Union and Labour Relations (Consolidation) Act 1992, an offence is committed if a person breaches a contract of service or hiring and in so doing might

“endanger human life or cause serious bodily injury”.

However, section 240 of the 1992 act includes two important qualifications: an offence is committed only, first, if the person breaks the contract “wilfully and maliciously” and secondly, if the person knows that the “probable consequences” of their actions will be to endanger life or cause serious injury. The Fire Brigades Union Scotland considers that section 240 of the 1992 act is sufficient to cover the situation that is envisaged in the bill and, in any event, is concerned that section 67(2) of the bill does not include the accepted qualifications that are set out in section 240 of the 1992 act.

There is an important psychological aspect to the matter. We know that employees often take on fire safety duties willingly and voluntarily. Section 67(2) could be interpreted as being very strict and could act as a disincentive to any employee who was considering taking on responsibilities for fire safety, or encourage them to avoid that responsibility by passing it up the line to a superior. The inclusion in section 67(2) of the qualifications in section 240 of the 1992 act would maintain the status quo—that would be okay.

**The Convener:** You are referring to the words “wilfully and maliciously”.

**Frank Maguire:** Yes, and the requirement that the person would have to know that the probable consequence of his action would be serious injury or loss of life. Of course it is an offence for an employee to do something that they know might cause serious injury or endanger life, but section 67(2) is far too wide and is not needed, because section 240 of the 1992 act covers the situation. If section 67(2) is thought to be necessary, it should be redrafted to repeat the qualifications that are set out in section 240 of the 1992 act.

The Fire Brigades Union Scotland is concerned that if a firefighter—I am not talking about all employees—or someone who is charged with fire safety duties were to take industrial action, they could be prosecuted under section 67(2). If such a person were to withdraw their labour from incidents or fire safety cover, the section could be used to prosecute them for taking that industrial action. There would be no immunity under the Trade Union and Labour Relations (Consolidation) Act 1992, which provides only civil, not criminal, immunity. That is a serious concern. Section 67(2) potentially contravenes trade union rights and the right to withdraw labour.

I will not go into detail about the term “reasonably practicable”, because it is quite a

technical point and we have already been through some similar technical stuff. The interpretation of the term “reasonably practicable” to which the Scottish Executive adheres was set out in *Edwards v NCB*, but there is a challenge to United Kingdom authority in relation to that interpretation, on the grounds that it is not proper and is contrary to European Community law—that is all that I will say about the matter.

**The Convener:** Thank you for making those additional points.

**Frank Maguire:** Finally, it is worth mentioning a matter that touches on the point that was made about centralisation. It is clear that the bill would give the Scottish Executive considerable powers in relation to fire safety. Sections 36, 37, 41, 43, 31 and 11 have been mentioned and would specifically enable the Executive to tell a relevant authority what to do with its property and equipment and the instructions and guidance that it issued. The bill would give strong powers to the Scottish Executive to

“cause an inquiry to be held”

if a relevant authority were in contravention of a framework document or reinforcement scheme, or in various other circumstances. What seems to be missing from the bill is some kind of accountability on the part of the Scottish Executive. What would happen if the fault lay in part with the actions of the Scottish Executive through its framework document, instructions or guidance—or anything else? The bill contains no mechanism for holding the Scottish Executive to account.

**The Convener:** I think that the mechanism is called democracy—or such civil rights as may exist under law.

**Frank Maguire:** That might have an effect some years later, but there should be a mechanism for holding the Scottish Executive to account as it carries out the operational duties that it would give itself in the bill. If there is to be no such mechanism, a very good structure will be needed to ensure that the Scottish Executive is properly advised about what it does.

**The Convener:** I am sure that your comments are being noted with considerable interest.

**John McDonald:** Could I say—

**The Convener:** Mr McDonald, I am worried about time. We have tried to be generous to you, but we have overrun badly.

**John McDonald:** We want to make one small, brief point about fire prevention, which is important for the committee to hear.

**Glyn Evans:** I ask the committee to consider carefully the effect of section 34, which would in effect allow a fire and rescue authority to appoint

any person to carry out its fire safety enforcement functions under part 3, were it so minded. That is completely outwith the proposals for England and Wales.

**The Convener:** I thank Mr McDonald, Mr Maguire, Mr Ross and Mr Evans for an extremely useful session. Much of the technical contribution has—if we are honest—baffled us, but we will certainly read the *Official Report* with considerable interest.

**John McDonald:** Thank you.

**The Convener:** I hear pleas of desperation from committee members who need to attend to intimate functions, so I declare a comfort break of five minutes.

16:23

*Meeting suspended.*

16:53

*On resuming—*

**The Convener:** Ladies and gentlemen, I welcome you back to the meeting and apologise for the longer-than-intended interval, which was for reasons outwith our control. I apologise to our three witnesses from the Retained Firefighters Union.

The schedule has been considerably dislocated. The meeting is quorate and I and my colleagues who are present are happy to continue, but what is the witnesses' position?

**Derek Chadbon (Retained Firefighters Union):** We are happy to continue.

**The Convener:** Fine.

**Derek Chadbon:** You have had a fire warning and I gather that you have also had a flood—we just hope that you do not get any pestilence.

**The Convener:** You speak for us all when you express those sentiments.

I formally welcome to the committee Mr Walter Stewart, Mr Derek Chadbon and Mr Jim Smith from the Retained Firefighters Union. As I have said to previous witnesses, we appreciate your appearing. We are just sorry that unexpected events have distracted us.

We have your submission. If you want to make a brief statement, by all means feel free to do so. You will have detected from the previous witness sessions how we operate. I know that there are areas of questioning that committee members wish to explore, but if you would like to make a brief statement that is fine.

**Derek Chadbon:** I will make a brief statement. We come to this gathering with a slightly different viewpoint from that of most of the other people from whom the committee will take evidence. My colleagues and I represent a bunch of people who have a foot in a number of different camps. They do not earn their primary living as members of the fire service, but work for the fire service makes up a significant part of their activities.

Walter Stewart was the officer in charge at Larkhall and retired two years ago. Just before he retired, he was awarded a Queen's fire service medal. He is well-respected and is a member of the Scottish Central Fire Brigades Advisory Council. Jim Smith was the station officer at Cumnock, a two-pump retained station. He is also here as an employer of retained personnel. The views of employers of retained personnel ought to receive some prominence.

The RFU is the second-largest trade union in the fire service. As members probably know, we have a no-strike constitution. Two thirds of retained firefighters continued to work during the recent industrial disputes. We did so not because we disagreed with some of the aims of our whole-time colleagues, but principally because our members have a focus on their local communities and find it very difficult to withdraw their labour.

We welcome the bill. We believe that it offers an opportunity to provide an improved service to our local community, something that retained volunteers and auxiliaries have found difficult to do in the past. We have explained some of those issues in our submission and are happy to answer any questions that members have.

**The Convener:** Thank you. I know that there are a number of areas of interest to committee members. Maureen Macmillan comes from an area where members of the Retained Firefighters Union are very important.

**Maureen Macmillan:** I represent the Highlands and Islands, where the vast majority of firefighters are retained or volunteer, so I welcome your input. How will the bill improve the position of retained and volunteer firefighters?

**Derek Chadbon:** It will improve their position under the new institutions by giving them some means of inputting into policy and some advocacy, which in the past has been missing. The institutions that have existed for the past 50 years have tended to focus on the whole-time part of the service. The volunteer element—including retained firefighters, the paid volunteers—has been left out in many areas. Let us not forget that retained firefighters are also volunteers—the only difference is that they are paid. A number of people, including Sir George Bain, have picked up the fact that volunteer firefighters have been

second-class citizens in the fire service. They have been restricted in how they can support their local communities. We believe that under the new institutions proposed in the bill they could take on a wider, more flexible role, especially in the primary responsibility of community safety.

**Maureen Macmillan:** I am aware that in the area that I represent the retained and volunteer firefighters are often the first responders to fires in rural areas. Will the bill do anything to support that role?

**Derek Chadbon:** We hope that it will. As we understand it, the bill includes provisions for wider consultation within the new structures that will operate. We hope that, for the first time, retained and volunteer firefighters will have an opportunity to put forward their views. We welcome the opportunity for retained and volunteer firefighters to become more widely involved in protecting their communities and expect that to happen.

**Maureen Macmillan:** Would you like anything more to be specified in the bill? You mentioned the role of employers. Should the bill give more support to the employers of retained firefighters?

17:00

**Derek Chadbon:** We have considered that over the years and looked hard at it. One point of view is that it would be helpful to have a legislative basis for employers to release personnel to undertake volunteer fire service duties. The converse opinion is that that might inhibit employers from employing people who might be retained or volunteer firefighters. We believe that rather than placing a legislative responsibility on employers, they should be brought in as part of the process. Under the bill, where we will have new bodies advising ministers, employer groups ought to be part of the process, so that they are encouraged. The public sector should take a lead in that. I was a retained firefighter, and my employer gave me all sorts of grief when I was late coming to work or was in some way delayed—and my employer was a chief fire officer.

**The Convener:** Mr Smith, as an employer, do you have a view?

**Jim Smith (Retained Firefighters Union):** I have been in the fire service for nearly 30 years. I am self-employed, and employ two firefighters in my station and another two firefighters attached to other stations. My ambition is to retain retained firefighters and drive forward the standards of fire cover that we provide. An important part of that is communication with the employer. At the initial stages of employment of a retained firefighter the authorities have little contact with the employer, but contact should be encouraged, because it would help to retain the retained firefighters. A lot

of pressure is placed on employers when there are many fire calls. It would be appreciated if the authority contacted employers after such periods to acknowledge the release of employees to attend incidents.

**The Convener:** That is interesting.

**Derek Chadbon:** The public recognition of employers is important. At the moment it is sporadic. An employer can sponsor a local football team, which will wear football jerseys with "Acme Window Company" emblazoned across them, but there is nothing similar for the fire service. I am sure that if the firemasters were still here they would be mightily upset at such a prospect, but we see the opportunity to acknowledge outside fire stations the support of local employers. That could even be done on the side of fire tenders, and maybe even on some equipment. It needs to be recognised that there is a partnership between the community, the fire service and the volunteers, including paid volunteers. At the moment, the employers tend to get left out.

**The Convener:** As you know, we pursued with the other witnesses the issue of balance between local operational flexibility and potential ministerial intervention under the bill. What do you feel about that balance?

**Derek Chadbon:** There is a need to modernise the fire service, but left to its own devices we do not think that that will happen. There needs to be a balance between a legislative framework that provides new structures and reserved powers for ministers, which they can use if the fire service and the constituent parts of the service do not provide the modernisation that the fire service needs. The balance is about right—the bill takes a carrot-and-stick approach. We assume that the ministerial powers will not be used unless there is a real need for them and that, in many cases, they will be used as a last resort. The fact that the powers exist will be sufficient to push people in a direction in which they might not otherwise go of their own accord.

**Colin Fox:** As you will have heard, earlier this afternoon we explored the national framework. I realise that the details have yet to be produced, but what is your view of the approach of a national framework document?

**Derek Chadbon:** The national framework will be a good thing because it will allow the Government to lay down its priorities. The details of the framework should not be included in the bill otherwise it will not be a dynamic document. The framework will have to be updated periodically, although there must be proper consultation with all the stakeholders. One feature of the fire service for the past 50 years—and one of the reasons why we have got in the mess that we are in—has been

the lack of any central direction or Government announcements about how it would like the fire service to evolve. Again, a balance must be struck. A national framework with legislative backing, based on proper consultation, is the right way to drive the evolving situation, rather than have the details of the framework in primary legislation.

**Colin Fox:** Do you welcome the move towards risk assessment and more local flexibility?

**Derek Chadbon:** We welcome the process of risk assessment. The old standards of fire cover were too prescriptive and did not really meet needs because, in effect, they were based on protecting us from the Luftwaffe, which I hope is not a threat at present. The standards have led to all sorts of anomalies, which is why the risk assessment approach is the right way forward.

**The Convener:** I was struck by the FBU's evidence on the new dimension image. The FBU mentioned a need for more specific roles to be recognised in the bill, such as—from memory—retrieval from water and dealing with acts of terrorism, flooding and landslides. An incident in a silo was also mentioned. My colleague who asked questions on the issue made the fair point that we know that emergencies can happen and we want people to be as well prepared and trained as possible. How do you see the new dimension image, given what your members do? Do your members operate on the basis that they will try to deal with anything that comes up?

**Derek Chadbon:** That probably encapsulates our members' feeling. They feel that they are there to protect our communities from whatever comes along. In many parts of the United Kingdom that are away from the main centres of population, particularly in Scotland, any new dimension threat will be dealt with by retained and volunteer firefighters. Even in the major conurbations, it is likely that such firefighters will also be involved. We do not see a problem because we do not think that it is necessary to prescribe a firefighter's role in legislation. In fact, one could argue that we should not even be called firefighters anymore because firefighting is only 10 per cent of our work load. We have always dealt with anything that comes along and we believe that we can continue to do that under the bill.

**Maureen Macmillan:** I will explore one or two issues that are contentious in the Highlands and Islands, where there has been a perception that there are too many retained and voluntary units and there is going to have to be a rationalisation—driven partly by financial and partly by health and safety considerations—so not all the volunteer and retained units will have the necessary equipment or training to deal with fires or road accidents. That has caused a lot of ill feeling. People are waiting

for the transitional funding announcement to find out how many of the retained and voluntary firefighters can be kept on. The rest see themselves being demoted from firefighter to something else. What is your position on that?

**Derek Chadbon:** This is a difficult area and we understand the problems. As you say, the matter is financially driven, which brings in a big question about how the fire service is funded.

The effect of modernisation will be felt differently in different areas. We take the view that risk assessment should be the basis of whatever is done, but if that means that in some areas where there is a high dependence on retained firefighters and volunteers there is insufficient funding to provide for the risk that they deal with, we believe that the funding must come from somewhere else, not necessarily from that area. That funding may be something that can come from the Government or from savings in other areas. It is very difficult for us to pin down exactly where that funding should come from, but the same thing applies south of the border. Some of the smaller rural brigades that are predominantly retained are suffering the effect of the recent pay increase and the changes, but have very little scope for making efficiency savings. We think that there must be a reconciliation of finances to account for that sort of position.

**Maureen Macmillan:** Where the risk assessment says that a retained brigade ought to be kept, would your position be that that has to happen and that the funding has to come from somewhere?

**Derek Chadbon:** Yes.

**Jackie Baillie:** I will ask about negotiation arrangements—I have also asked others about this. I gather that the RFU's position is to support the abolition of the SCFBAC. Do you see the need for a replacement?

**Derek Chadbon:** We see the need for a replacement and we believe that this is an opportunity for whatever body comes out of this—which involves the stakeholders—to take more cognisance of the opportunities that exist for making better use of retained firefighters, volunteers and auxiliaries. I do not think that anyone could argue but that retained firefighters have been underused, second-class citizens in the past. Any advances for retained firefighters that have been made in recent years have come from European legislation, not because of the consultation and negotiation arrangements within the United Kingdom or Scotland. For example, the Part-time Workers (Prevention of Less Favourable Treatment) Regulations 2000 (SI 2000/1551) have at long last put retained firefighters on the same footing—not quite, but mainly—as their whole-time colleagues. If it were not for the fact that the

working time regulations five years ago brought in paid annual leave for all so-called part-time workers, retained firefighters would not have had paid annual leave, which they now get. Those omissions are all due to the lack of advocacy within the current arrangements.

**Jackie Baillie:** Do you have a particular form in mind, or are you waiting for that to emerge following consultation?

**Derek Chadbon:** There are two issues. One is consultation and the other is negotiation. We feel that good industrial relations have been lacking in the fire service in the past two or three years. The evidence shows that the industrial relations environment does not work: it is adversarial and combative and is not designed to settle disputes.

We are in an appalling situation of a lack of trust and understanding. The recent dispute has been settled, but we do not believe that that is the end of the matter. We argue for a complete overhaul of industrial relations in the British fire service. That is long overdue. Just changing the name of a committee and shuffling a few chairs around will not provide the industrial relations environment that we need to develop modernisation of the fire service. That environment will be difficult to achieve voluntarily, so we feel that that unfinished business ought to be picked up by a quick means of establishing what the industrial relations environment in the fire service should be.

17:15

**Jackie Baillie:** Would a statutory duty on ministers preclude such an approach?

**Derek Chadbon:** That depends on whether reserved powers are involved or whether ministers will implement something immediately. The minds of all stakeholders will be concentrated by the fact that they know that if they do not get their act together voluntarily, ministers may well intervene and impose measures.

**Karen Whitefield:** We have asked previous witnesses about the prohibition on serving police officers becoming volunteer or retained firefighters. Your submission to the committee says that section 47 of the bill is unnecessary and that you would like it to be removed. Why do you take a different view from the other witnesses from whom we have heard?

**Derek Chadbon:** There are two aspects to that. One is the number of serving police officers who have asked us over the years why they cannot be retained, volunteer or auxiliary firefighters. We explain that that is because of the 1947 act. We ask them whether they think that they could perform the role and they say yes. The second aspect is that that is especially true of remoter

areas, where a small pool of people can undertake lifeboat, coastguard, retained firefighter and auxiliary ambulance duties. In many of those areas, the pivotal person is often available at the police station. I guess that such people probably do more than their contracted hours in the police, but they have other time available in which they could easily participate in other duties. We and the people whom we have talked to in the police force who want to undertake the role see no clash of responsibility or any reason for the prohibition by statute.

**Karen Whitefield:** It is obvious that you see no conflict of interest, but the FBU's evidence to us today was that it saw a conflict. What is your understanding of the FBU's view? Why would it think that there was an impediment to prevent a serving police officer from being a retained firefighter, unlike the many people around the country who are retained firefighters and do not work for the police service?

**Derek Chadbon:** I am not sure whether I have ever heard what the FBU believes the conflict of interest is. For us, there is no conflict. The FBU has said that a conflict of interest exists, but I am not aware that it has articulated what the conflict is. The public would recognise a clear dividing line—they might recognise somebody as a member of the police force, but that man or woman would be wearing the fire service uniform and would fall under the bill's provisions. A clear duty and responsibility to comply with fire service legislation would exist. We see no conflict at all. We fail to understand where there would be a problem.

**Jim Smith:** Among the recent proposals for modernisation of the fire brigade is one to allow whole-time firefighters also to have a retained or auxiliary fire service role. I see no difference, in a controlled environment, between that and a police officer performing the role of an auxiliary or retained firefighter.

**Maureen Macmillan:** It occurs to me that quite a lot of policemen in our area are also members of the mountain rescue team. Although members of mountain rescue are not subject to regulations like retained firefighters are, there is a parallel.

**Derek Chadbon:** We agree entirely. In the end, people cannot be forced, but fortunately there are people out there who have a strong community spirit and who want to serve their community in whatever capacity they can. We feel that it is unnecessary to preclude certain people, such as the police, from doing that. As you said, the police can do mountain rescue work and I believe that some police officers get involved in lifeboat and auxiliary coastguard work. It seems sensible that they should be able to serve their communities in a fire and rescue capacity, too.

**Jim Smith:** I have a point of clarification: police officers would not be expected to provide fire cover while they were on duty as policemen.

**Karen Whitefield:** Will you explain how the retained service operates? Is there a restriction on how close you must work to the fire station at which you are retained? That information would help committee members to understand the situation. Perhaps it is the reason why the FBU and others are saying that police officers could not do the job, because if they are patrolling their beat or are on police duties they could not just drop everything to respond to a fire.

**Jim Smith:** Thank you for raising that point. I had made a note that there is a distinct lack of awareness in the community. Although those of us in this room today understand how the fire service operates in the UK, there is a distinct lack of awareness in the public domain of how it operates. The retained fire service in my area—as, in the main, throughout the UK—operates on the basis that all personnel have a full-time job of some description, or perhaps more than one. They each carry a modern pager.

When a fire call is received at the command and control centre, the station is alerted. All the personnel in that station respond to the station to discover what the fire call is. Usually, the first five respondents to the station will ride the appliance to attend the fire. There is always a good safety margin. In a one-pump station, as a rule of thumb, there are 10 personnel. In a two-pump station, such as mine, there are 20 personnel. That is not standard throughout the UK. The complement can be increased to 12 and 24, sometimes more, depending on availability. All personnel are paged and they provide 24/7 cover. There is a safety factor, because there are 50 per cent more people.

Usually the station manager—in my case, that is me—controls local arrangements that determine who is allowed time off and when they are allowed time off. How much time off is allowed and how it is controlled is determined by how busy the station is. As was mentioned earlier, awkward situations arise with dormitory towns—on islands, for example—where there is no work during the day. It can be difficult to provide cover for one-pump stations and, to a lesser extent, for two-pump stations.

In very rural areas, such as that represented by Maureen Macmillan, volunteer and retained firefighters come from all walks of life. The amount of information and skill that is contained in a retained station is high, because it usually includes an electrician, a plumber and a motor mechanic. All those different skills are provided free of charge, because the firefighters have already been trained in the private sector. Why should the

same opportunity not be extended to ambulancemen and policemen?

**Walter Stewart (Retained Firefighters Union):** Karen Whitefield asked a precise question. In Strathclyde, retained firefighters used to be required to work within a mile of the station. In Abington, which is a small village on the way up to Moffat, the time was extended and people from villages further away, such as Crawfordjohn, were employed, purely because of the lack of response in the Abington area. There was a mean distance of a mile within station areas, because fire pumps generally leave within three or four minutes. If someone is staying more than a mile away, it is difficult for them to make it to the pumps before they leave. Some brigades have relaxed the limit and set it at 1.5 to 2 miles, because they could not get crew members who were able to respond within the previous timescale.

Firefighters were employed in two ways. They were either employed 24/7, as Jim Smith said, providing permanent cover and working in the village, or they were taken on board on a 75 per cent retainer, which meant that they worked outside the village for part of the day. Shift workers were bona fide members of the unit because of their shift patterns. They provided cover either during the day or at night, in order to get the balance right and to ensure that the pump was kept manned.

**Karen Whitefield:** A conflict may arise for serving police officers. There may be occasions when they are on duty and unable to respond. However, as long as the station is not staffed entirely by retained officers who are serving police officers, there should not be a problem. It should be possible to manage numbers to ensure that there are always sufficient firefighters to respond.

**Derek Chadbon:** It is no different from whole-time firefighters undertaking retained duties when they are off duty from full-time employment. The majority of full-time firefighters in larger towns and cities tend to live outside those towns, often in an area that is covered by a retained fire appliance. They come home, often at 9 o'clock in the morning, having done a shift in the city. Some of them undertake retained duties and they are ideal for that purpose, as they are trained firefighters. There were restrictions in the past, but we believe that those are being removed. Many prison officers are retained firefighters. They, too, work a shift system and are useful members of retained teams. However, one would not expect all 10 retained personnel at a fire station to be police officers, just as one would not expect them all to be postmen or prison officers.

**The Convener:** I heard a whisper from my right of "10 MSPs". However, we will spare the Retained Firefighters Union the prospect of that.

**Derek Chadbon:** We would really like to see that happen. We are willing to help anyone who wishes to serve as a retained firefighter.

**Karen Whitefield:** I would not stand a chance of getting into Shotts. They are too fast.

**The Convener:** It is an interesting prospect, and one with which we shall jockey in the future.

In your submission, you indicate that you are content with the proposals in the bill regarding fire safety. Having listened to some of the technical evidence from the FBU, do you have further comments or thoughts on that issue?

17:30

**Derek Chadbon:** No. We try to confine ourselves to the issues that we believe are relevant to retained, volunteer and auxiliary firefighters. This is a specialist area. Leaving aside technical issues, all I will say is that there is a great opportunity for retained and volunteer firefighters to undertake more community safety work than they do now. Some of them have been doing such work voluntarily for donkey's years, but fire brigades in Scotland have not picked up on that work as being part of those people's main duties.

A particular conflict of interest causes our members a great deal of concern, which is that, if they are paid volunteers, they are largely paid according to the number of fires that they go to. That is a perverse incentive for getting involved in community safety work. That is not to say that people do not get involved and that the money side prevents them from doing so. Many of them do community safety work regularly—people at Jim Smith's station have been doing it for many years. There is a great deal of opportunity for—and a great willingness among—those people to do a lot more. I do not know whether Jim Smith wants to explain what they do now.

**Jim Smith:** The retained stations' community fire safety work—the member from the Highlands and Islands will relate to this—mainly involves them in going to schools. The local school looks for the fire appliance to come along and it is great for the kids to get scooting the hose. That is a huge opportunity to get the fire safety message across and we take that opportunity. Our kids go to those schools and we went to them. We live in the community and we love to go along to the local school in our own time. It is easy to arrange that, because people in the station work different shifts. We take fire safety leaflets along with us and distribute them.

Two years ago, my station entered into a community fire safety smoke-alarm project in which we raised money voluntarily through car

washes in the station and provided a smoke alarm for all primary 1 and 2 children in our local school. We have continued to do that and to give the children personal smoke alarms for their bedrooms. That has worked well and it has got the local station well recognised. Three retained stations surround my station and they are my immediate support stations, so it is all very much retained personnel in the area. I know that they also get involved in community safety work. For example, they go to gala days regularly and to any sort of community event.

We invite people along to the fire station to show them around, show them the engine and get them involved. The work is very much community driven and we would like there to be more of it. We want to work with our colleagues in the full-time operation much more on that aspect. If the funds were available, we would like some remuneration for the work. However, that is something for long-term discussion.

**The Convener:** Thank you for that. Have members any other questions or have the witnesses any concluding points that they would like to make?

**Derek Chadbon:** No, but thank you for giving us the opportunity to talk to you. We have relished coming along to give you a bit more insight into this strange group of people who are essential for the fire service in Scotland. Given all the problems that we have, the big question that you should probably ask is, "Why the heck do they do it?" The simple answer is that they love doing it and they want to support their communities. They are a bunch of men and women who have great potential for further use in the future.

**The Convener:** On behalf of the committee, I thank you very much indeed. I am sorry that the afternoon has been longer than any of us anticipated. However, I think that we have all found your evidence extremely helpful. It has brought yet another insight to what we are considering. Thank you for attending this afternoon.

**Derek Chadbon:** Thank you very much.

## Justice and Home Affairs in Europe

17:34

**The Convener:** We have one final item on the agenda, but if the committee is agreeable I am happy to defer it to another meeting. Would the committee be minded to agree to that?

**Maureen Macmillan:** Sorry, but what is it?

**The Convener:** It is item 2, which is on a paper that the clerks have prepared on justice and home affairs in Europe. If the committee is agreeable, I will defer the item to another meeting.

**Members** *indicated agreement.*

*Meeting closed at 17:34.*



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