

LOCAL GOVERNMENT AND TRANSPORT COMMITTEE

Tuesday 23 March 2004
(*Afternoon*)

Session 2

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LOCAL GOVERNMENT AND TRANSPORT COMMITTEE

9th Meeting 2004, Session 2

CONVENER

*Bristow Muldoon (Livingston) (Lab)

DEPUTY CONVENER

*Mr Andrew Welsh (Angus) (SNP)

COMMITTEE MEMBERS

Dr Sylvia Jackson (Stirling) (Lab)

Mr Bruce McFee (West of Scotland) (SNP)

*Michael McMahon (Hamilton North and Bellshill) (Lab)

*Paul Martin (Glasgow Springburn) (Lab)

David Mundell (South of Scotland) (Con)

*Tommy Sheridan (Glasgow) (SSP)

*Iain Smith (North East Fife) (LD)

COMMITTEE SUBSTITUTES

*Bill Butler (Glasgow Anniesland) (Lab)

Colin Fox (Lothians) (SSP)

Mr Kenny MacAskill (Lothians) (SNP)

*Mr Brian Monteith (Mid Scotland and Fife) (Con)

John Farquhar Munro (Ross, Skye and Inverness West) (LD)

*attended

THE FOLLOWING ALSO ATTENDED:

Margo MacDonald (Lothians) (Ind)

Tavish Scott (Deputy Minister for Finance and Public Services)

THE FOLLOWING GAVE EVIDENCE:

Ruth Morgan Thomas (SCOT-PEP)

George Lewis (SCOT-PEP)

CLERK TO THE COMMITTEE

Eugene Windsor

SENIOR ASSISTANT CLERK

Alastair Macfie

ASSISTANT CLERK

Euan Donald

LOCATION

Committee Room 2

Scottish Parliament

Local Government and Transport Committee

Tuesday 23 March 2004

(Afternoon)

[THE CONVENER *opened the meeting at 14:05*]

Subordinate Legislation

Non-Domestic Rate (Scotland) Order 2004 (SSI 2004/59)

The Convener (Bristow Muldoon): I formally open today's committee meeting. I remind members that it will be the last committee meeting before the Easter recess; the next meeting will be on 20 April 2004.

I note that two members are here as substitutes. I ask Bill Butler to confirm that he is present as a substitute for Sylvia Jackson.

Bill Butler (Glasgow Anniesland) (Lab): That is correct.

The Convener: I ask Brian Monteith to confirm that he is here as a substitute for David Mundell.

Mr Brian Monteith (Mid Scotland and Fife) (Con): That is correct.

The Convener: I welcome both members to the meeting.

The first item on the agenda is consideration of a piece of subordinate legislation. A motion to annul the Non-Domestic Rate (Scotland) Order 2004 (SSI 2004/59) has been lodged in the name of Brian Monteith. The motion reads:

"That the Local Government and Transport Committee recommends that nothing further be done under the Non-Domestic Rate (Scotland) Order 2004 (SSI 2004/59)."

I propose to give the minister an initial opportunity to introduce the order; at this stage, I ask him to restrict that to a technical explanation of what it is about. We will have a full opportunity to debate the merits of the order and the motion to annul it once we get into the open debate.

Once the minister has made his introductory remarks, I will give members an opportunity to ask questions. At this stage, I ask members to stick to specific questions rather than to have a political debate on the issue, as they will have that opportunity when we enter the debate. If members have any questions of a technical nature that will require the assistance of the Executive officials,

they will need to ask them during the initial stage. I invite the Deputy Minister for Finance and Public Services to make some introductory remarks.

The Deputy Minister for Finance and Public Services (Tavish Scott): I thank the committee for the opportunity to speak to the order. My remarks will be brief. I introduce Carol Sibbald and Ann Thomson.

The order prescribes a rate of 48.8p in the pound as the non-domestic rate to be levied throughout Scotland in respect of the financial year 2004-05. The non-domestic rate that Scottish ministers prescribed to be levied throughout Scotland for the financial year 2003-04 was 47.8p in the pound.

The only other important detail that members may wish to bear in mind is that the order has been subject to consultation with the business community. My colleague Andy Kerr met representatives of the Scottish business community late last year to discuss the proposed order. In relation to such matters, we are obviously subject to continuing representations from the business community. If that is enough, I will keep to the convener's instruction to be brief.

The Convener: Thank you. Do any members wish to ask questions of the minister or his officials at this stage?

Mr Andrew Welsh (Angus) (SNP): We are talking about uprating. Will you explain the level of uprating and why it was necessary?

Tavish Scott: If you are asking whether we have increased the business rate, the answer is that we have increased it, but the increase is below the rate of inflation. I am sure that we will wish to come on to that subject in the debate.

We have responded positively to the business community's representations in that regard. We are proceeding with matters very much in line with the partnership agreement. Those are the only compelling points that I want to make in response to that question.

Tommy Sheridan (Glasgow) (SSP): Do you have any plans to devolve the setting of the business rate to local authorities and to give them back the power that was removed from them? Are there any such plans afoot?

Tavish Scott: We have no such plans.

The Convener: As there are no further questions, we will move to the debate on motion S2M-1005, in the name of Brian Monteith.

Mr Monteith: Because I have not appeared at the committee as a substitute before—although I have attended a number of committee visits—I state that I have no interests to declare.

I place the motion before the committee because I wish to make the case for annulling the order that will increase the non-domestic rate by a penny in the pound. It may seem to some that that is not a great increase—indeed, the minister has pointed out that it is below inflation—but the poundage is multiplied by the property valuation, and it is my contention that the rise is unnecessary. I would prefer not only that there was no rise, but that the rate was reduced. However, that is not possible to achieve through the negative instrument to which we are limited, so I will stick to the case for taking no action.

My argument is that Scotland's economic performance is not good enough in comparison with that of the rest of the United Kingdom or other countries; that the level of poundage is an important issue to business domestically and in comparison with the rest of the UK and Europe; that there is no need for an increase, given that the revenue that was raised last year was greater than expected; and that the Executive has conceded those arguments by introducing a self-financing small business rate relief scheme and then freezing the business rate the following year.

Members might challenge the context into which I am putting the order so, before we move on to the arguments, I will present some factual context. Between 1995 and 2002, Scotland's economic growth was 13.4 per cent, whereas UK growth was 21.2 per cent. Not only is there a comparative difference in growth, which is historical, but Scotland is witnessing a business decline, with business start-up and survival rates behind those of the UK. Business birth rates have been of particular interest to Scottish Enterprise and previous Governments as well as to the Executive, and the business birth rate in Scotland is 28 businesses per 10,000 people, whereas in the UK it is 37.

Scotland's manufacturing is in something of a crisis. Some 71,000 jobs have been lost since 1997 from firms such as Motorola, NEC, BAE Systems, Boots and Hoover—I will come back to Hoover later. Scotland's manufacturing output for 2003 was down by 3.9 per cent, whereas the UK's output was down by only 0.7 per cent, and the three-year survival rates for businesses are less in Scotland than they are in every other part of the United Kingdom.

We also know from a number of members, not least the First Minister, that Scotland has a declining population, which is expected to fall below 5 million by 2009. Indeed, it is projected that, between 2002 and 2021, Scotland's population will decline by some 3.2 per cent, whereas the UK population will increase by 5.3 per cent. I mention that because many people would agree that Scotland's population is in some way

related to its economic performance. Without economic opportunities, we cannot expect economic migrants to come to Scotland. At the moment, only 4 per cent of migrants who are attracted to the UK come to Scotland, whereas some 41.5 per cent go to London. I contend that that is due to London's perceived economic opportunities. It certainly would not be for London's public services or housing, which are, by our standards, relatively scarce.

Members may think that I am painting a bleak landscape, a picture of Scotland that they do not recognise, but I humbly suggest that, in the Parliament, we tend to look at everything through public sector glasses, through which our vision is not so much rose tinted as infra red. We must acknowledge that, in an economy in which 55 per cent of activity is in the public sector and is financed by the wealth that is generated by the 45 per cent of activity in the private sector, marginal improvements or regressions in the private economy will have a significantly beneficial or damaging effect on our public services. In other words, the winners and the losers will be the poorest in our society.

14:15

In that context, I argue that business rates matter. An Ernst & Young survey of director-level personnel in Scottish firms was published in *Scotland on Sunday* on 14 March. People were asked what they thought the Chancellor of the Exchequer could do to improve their trading prospects. In first place, on 21 per cent, was the idea of cutting red tape but, in second place, on 17 per cent, was the idea of cutting business rates—even though the chancellor has no responsibility for that. The second question in the survey asked what else the chancellor should do as a priority. Top of the list of answers was the idea that he should reduce VAT, which he has responsibility for, but second again, on 14 per cent, was the idea that he should cut business rates. Those answers confirm that Scottish businesses believe that cutting their overheads, by cutting their business rates, would help their prospects.

The survey is not, of course, unique. Many people, whom the minister may have consulted, have commented. Dr Peter Hughes of Scottish Engineering has said:

"The manufacturing engineering industry is still in recession and dramatic increases in employers' liability insurance combined with high business rates and increasing water charges are not helping our sector."

The other comments that I could quote are legion. The point is that business feels strongly about business rates.

I return to the example of Hoover. If business rates are not important to businesses, why did the Minister for Enterprise and Lifelong Learning, in a parliamentary answer to me, confirm that part of the deal struck by the Scottish Executive to keep Hoover in Scotland was a promise to review its business rates? Mr Wallace said:

"The incentives offered to Hoover are as outlined in the answer to S2W-5032 on 12 February 2004 with the addition that South Lanarkshire Council has agreed to look into reviewing Hoover's rates".—[*Official Report, Written Answers*, 8 March 2004; S2W-6386.]

We also know that some companies, such as Harvey Nichols, choose to locate in Edinburgh because of favourable deals involving business rates. Business feels that business rates are important and should be tackled.

Why freeze or even cut business rates? We have limited powers in this Parliament. We have a limited number of economic or even regulatory levers, we control only one significant business tax—the non-domestic rate—and issues such as corporation tax and employment law are outside our jurisdiction. Whatever we might think of having greater economic powers in future, today we have to deal with the here and now. For the foreseeable future, business rates will be the most important economic lever available to us. The evidence shows that lower business taxes lead to higher growth. In many countries, lower taxes have made that difference, with more jobs and increased investment.

Another reason to freeze or cut business rates is that the Executive can afford it. In the past, the Executive has underestimated the amount that accrues in receipts from non-domestic rates—to the extent that last year some £140 million of additional funds accrued to the Executive. That amount, strangely enough, is exactly the same amount that it would take to return non-domestic rates in Scotland to the same level as those in England.

The Scottish Executive has argued that investment is needed to ensure a smart, successful Scotland, but I contend that businesses make the best investment decisions for themselves. The minister is no better able to predict the needs of businesses in this or that street than he or Scottish Enterprise is able to predict the aggregate needs of businesses across Scotland. That is why we have so many shortages at the moment. Economic planning is the cause of shortages and more economic planning will not cure the problems of business; it will only make matters worse. We should therefore return money to businesses for them to make their own decisions in their own interests and not in the sectional interests of quangos, politicians such as us, or well-meaning well-wishers.

The Executive talks about the economy being its number 1 priority, but in the same breath it talks about introducing a law to increase directors' liability for so-called "corporate murder", introducing ever more regulation compared with that in the rest of the United Kingdom, and now increasing business rates for the fourth time in five years.

My motion for annulment gives the Executive the chance to show that it means what it says by withdrawing the tax increase and giving our private sector some room to breathe again.

I move,

That the Local Government and Transport Committee recommends that nothing further be done under the Non-Domestic Rate (Scotland) Order 2004 (SSI 2004/59).

Tavish Scott: Mr Monteith's arguments are an important part of the debate about how Scotland values business and responds to the issues that business raises. However, I profoundly disagree with his analysis as I think that his thinking is a little mixed. It is not possible to completely disaggregate business rates and the arguments about them from what might loosely be termed the totality of tax, which we discussed last Thursday in the debate in the chamber on local government finance. I hope that I reasonably directly quote Mr Monteith when I say that, in that debate, he accepted the argument for considering taxation in its totality in relation to a citizen, a businessman or a business organisation.

It is important to say a few words about the overall business rates policy.

There are frequent claims that the higher poundage rate in Scotland—currently 47.8p as opposed to 44.4p in England—adversely affects the competitiveness of Scottish businesses. It is true that the poundage rate is higher in Scotland, but let us not forget that the poundage rate is only one element in the calculation of a rates bill. The second element is rateable value and, although I appreciate that it is complex, the lower increase in rateable values in Scotland than in England at the last revaluation in April 2000 means that an average non-domestic property in Scotland and England will receive a similar rates bill.

We have more than met our commitment to business on rates. We froze the current poundage rate at 2002-03 levels and the order before the committee today is seeking to set a poundage rate of 48.8p throughout Scotland for 2004-05. That is a below-inflation increase of 2.1 per cent—which is something that Andrew Welsh asked about earlier—and, combined with this year's rates freeze, represents a permanent reduction in non-domestic rates income of £39 million.

We are targeting rates reduction where the burden is highest: small businesses and rural communities. The introduction of a small business

rate relief scheme in April 2003 means that up to 70 per cent of Scottish ratepayers will have lower rates bills to pay.

In recognition of the continuing decline in services in rural areas we recently extended the scope of an existing rural rate relief scheme to small food shops, petrol filling stations, public houses and small hotels. To encourage farm diversification and rural entrepreneurship, we have introduced a new farm diversification rate relief scheme.

However, we need to strike a balance between minimising the burden of taxation on one hand and maximising the resources that are available for investment in the various elements that drive economic development—such as transport, innovation, research and development, and skills—on the other. Again, I say that we must consider the totality of taxation and the argument that it can and does benefit business.

Each 1p reduction in the poundage rate would cost around £38 million. Setting the Scottish poundage rate at the same level as in England for all businesses would therefore cost around £122 million for 2004-05 and would likely cost even more in future years. We simply believe that that money can be better spent in ways that will still benefit Scottish businesses. Time and again, Scottish businesses say that they want us to invest in transport, skills and the enterprise network.

Generally, business is taxed relatively moderately in the UK and Scotland compared with in most other developed countries—again, that relates to the argument about the totality of taxation. In 2000, the overall tax revenue—corporation tax, employers' social security contributions and business property tax—that was raised from businesses in Scotland and the UK was 9.2 per cent and 9.0 per cent of gross domestic product, respectively. That was lower than in all other countries for which there is comparable Organisation for Economic Co-operation and Development data, with the exception of Ireland and the United States of America. The highest level prevailed in Sweden, where the overall tax revenue is 16.5 per cent of GDP. France, Germany and the Netherlands raised business tax revenues of 15.1 per cent, 9.4 per cent and 9.5 per cent of GDP, respectively.

Within the total business tax burden, social security contributions in the UK as a percentage of GDP were significantly below the European Union average, while business property tax and corporation tax contributed relatively more to public revenue than in the rest of the EU. As far as competitiveness is concerned, we must consider not just business rates, which represent about 2 per cent of GDP, but all those costs. After all,

employment costs represent more than 60 per cent of GDP and are lower in Scotland than in England.

Non-domestic rates are a relatively small part of business taxation in Scotland. For example, it is estimated that the level of Scottish non-domestic rates in 2000 was equivalent to 2.1 per cent of GDP. That stands in contrast to other business taxes such as corporation tax and, indeed, employers' social security payments, which amount to 3.6 per cent of GDP. Non-domestic rates should also be considered in comparison with the other costs that affect business. For example, with regard to the total amount of wage and social security payments in 2000, employee costs to business amounted to 64 per cent of GDP during the same period.

In addition to those points, I am sure that Mr Monteith will acknowledge the conclusions of the comparative study by the Scottish manufacturing steering group, whose membership includes Peter Hughes, the very person he mentioned earlier. It is also important to consider other international business cost comparators such as the Heritage Foundation and *The Wall Street Journal's* economic freedom index, in which the UK is defined as being very much free: in other words, business in the UK is seen as lightly taxed and regulated. I believe that such important aspects must be taken into account when we consider the argument in the round.

As for Mr Monteith's point about higher than forecast income from rates, we must recognise that Government always has to make some estimate and put prudent planning at the core of its decision-making process. In the past, the income from rates has proved to be higher than forecast, but that has been due mainly to higher than forecast levels of buoyancy and lower losses on appeal. Opposition parties would howl at us if we got that equation wrong. If our income forecasts were not prudent, there would be a shortfall in income to support public services. As a result, it should be argued that additional rates income is good news as it reflects new business start-ups and not any additional costs for existing businesses.

Irrespective of Mr Monteith's arguments, we should acknowledge that a cut in non-domestic rates means a cut in public services. I accept that the Conservative position on this issue is clear and that our parties differ on the matter. However, it is not possible to argue that such cuts would have no impact on crucial areas such as transport and skills.

As far as I understand what Mr Monteith is doing, he is also wrong procedurally. By proposing to annul the motion, he cannot cut business rates by 1p or indeed by any amount. After all, if the

motion were annulled, no business rates income at all would be received, which would result in a £1.8 billion cut in local government budgets. Even with my poor grasp of maths, I can work out that that would probably mean a 100 per cent rise in council tax to pay for the measure. The committee is faced with a pretty clear choice and I ask members to reject his proposals.

Iain Smith (North East Fife) (LD): It is interesting to note that Brian Monteith's understanding of economics is about as good as his understanding of maths. I am afraid that, as we found out many years ago, it is not a simple matter of tax cuts leading to improvements in enterprise; as the minister pointed out, we must also invest in the public services such as transport and further and higher education that business needs and that were sorely starved of funding throughout the 1990s by the Conservative Government. Indeed, the Scottish economy is lagging behind other economies not because of the level of business rates but because of that failure to invest in our essential public services.

Mr Monteith's maths fail because he has not taken into account the simple fact that one's rates bill is not based either on the rateable value or on the penny poundage. Instead, it is a combination of the two; it is the rateable value multiplied by the poundage. The Conservatives and other parties refuse to acknowledge that, in Scotland, rateable values in 2000 did not rise by the same amount as they did in England. An average business, with an average increase in its rateable value in 2000, will now be paying 1.5 per cent less in total rates than a similar business in England will be paying.

14:30

If the Conservatives really want us to be paying the same national non-domestic rates as in England, that would mean that many of our businesses would have to pay more in order to equalise. Over the past two years, there have been real-terms cuts in rates and rate bills for Scottish businesses, while English businesses have not benefited from those real-terms cuts. Since the rateable values were changed in 2000, a Scottish business will have experienced a rise in its rates bill of around 14.75 per cent. In England, that increase will have been over 16.5 per cent. English businesses are less competitive than Scottish businesses in terms of their rates bills today. That is the message that we should be putting out.

The Conservatives want to pretend that our rates are putting businesses off, but we should instead be saying that it is better for businesses to come to Scotland, because their bills will be lower in Scotland than in England. Brian Monteith is scratching his head because he does not

understand the maths. He does not understand the maths for council tax increases either. In fact, the maths are simple. Take the rateable value and multiply it by the rate poundage, and that is the rates bill. It is rates bills that matter to businesses, not rates poundages, and the bills are going down in Scotland in relative terms compared with in England, and in real terms.

As the minister concluded, if we pass Mr Monteith's motion this morning, there will be no rates that can be levied in Scotland. That would be a disaster for Scotland and for council services. I think that Brian Monteith needs to go away and get some lessons in economics and maths.

Mr Welsh: The Scottish National Party has long supported a reduction in Scottish business rates in order to give our businesses a cutting, competitive edge through a reduced tax burden. That is especially true for Scotland's small and medium enterprises, which make up the largest sector of our economy. Scottish statutory instruments cannot be amended. We either accept them in total or reject them in total. As the minister pointed out, that would leave a gigantic hole, which somebody somewhere would have to fill. The Tory annulment would block a marginal, less-than-inflation change.

Brian Monteith has correctly pointed out the problems. Scotland has suffered from low economic growth, the number of small businesses has been in decline and our manufacturing is in trouble. However, that can hardly be cured by eliminating the marginal adjustment in business tax.

Having tholed Mrs Thatcher for many more years than I would have liked, I would say that the manoeuvre is somewhat hypocritical, given that the Tory financial and taxation record in government was a disaster for Scotland's business community. When it came to destroying manufacturing industry and closing small businesses, Mrs Thatcher probably holds the record. I lived through those years and opposed her tooth and nail during them. Far from lowering Scottish business tax burdens, during its 18 years in power between 1979 and 1997, the Tory Government imposed higher business rates in Scotland than in England. A Scottish Council for Development and Industry study showed that, during the five Tory years from 1990 to 1995, an extra £1.2 billion of business taxes was imposed on Scotland's business community.

This Tory manoeuvre should be treated with the contempt that it deserves. The Tories' record should be warning enough for Scotland's small business community. There should be a far more thoughtful, longer-term solution that gets to the heart of the needs of Scotland's economy. That is not just about business rates, as we need also to consider many of the things to which the minister

alluded, including the more general economic measures that any self-respecting Government would adopt to ensure that its economy thrived.

We have to be as competitive as possible in a very competitive world, and we should seek long-term stability, in particular by adopting as many measures as possible to suit our small and medium enterprises, which lie at the heartland of the Scottish economy, covering the length and breadth of this country. This piece of Tory nonsense should be seen for what it is: an inadequate and pathetic stunt. I know that Brian Monteith cares about business, but his motion is not good enough, and it is not good enough for this Parliament. If anything should be annulled, it is stunts such as this. Our business community is far too important to be treated in such a way.

The Convener: Does any other member want to speak in the general debate? I want to add a few comments, but I will not prolong proceedings too much.

I do not want to add much to what the minister said, which comprehensively demolished Brian Monteith's case. The minister's demonstration of the overall level of taxation on businesses was particularly telling, given that Brian Monteith lectured the leader of the SNP in the council tax debate only last week on considering the totality of taxation in relation to personal taxation. Brian Monteith does not seem to be willing to accept the minister's viewpoint on the totality of taxation on businesses, which obviously includes not only non-domestic rates but a range of taxes such as corporation tax, VAT and fuel excise duty. On that basis, as the minister has clearly demonstrated, it is not true that businesses in Scotland are at a competitive disadvantage in relation to their main competitors throughout the OECD; in fact, only two countries—the USA and Ireland—have a significantly lower level of taxation.

Brian Monteith used companies such as Motorola and NEC as examples of why business taxation should be cut, but that is a fundamental misunderstanding of why such companies have recently left Scotland or closed factories in Scotland. The Motorola factory in West Lothian that closed was more profitable than its German partner that stayed open and the decision that was taken involved far more complex factors than any level of taxation. As the minister said, business taxation levels in Germany are higher than those in Scotland. I am sure that Brian Monteith well knows that NEC decided to move because of the collapse in the price of semiconductors, which affected the semiconductor industry throughout the world. Even the abolition of business rates would not have touched on such an economic decision. Brian Monteith's suggestion was naive. I

have more regard for his intellect than to believe that he himself believes what he said.

Finally, it is not really a surprise that businesses sometimes call for lower taxation levels, but they also call for investment in skills and transport. The Government must balance calls about what people are prepared to pay in taxation with the public services or levels of investment in infrastructure that people want to be delivered. A complex set of decisions must be taken and I think that the Executive has got things right. I agree with members that we should disagree to Brian Monteith's motion.

I give the minister an opportunity to respond to any of the issues that have been raised in the debate.

Tavish Scott: I do not have anything to add, except for one slight observation. Mr Monteith used the example of Harvey Nichols, but spoke about it in the context of overall taxation levels. That is the most telling argument in relation to what he said and he knows that that is the case. On that basis, and particularly because of what Andrew Welsh said, I suggest that Brian Monteith should do no more with his proposal.

The Convener: I invite Brian Monteith to make some remarks—not extensive remarks—in response to what has been said. He should also say whether he wishes to pursue the motion.

Mr Monteith: I will pursue it, convener. However, a small number of points need to be addressed. First, I am well aware of today's procedures. I do not seek to amend the order—I am seeking to annul it. If I were to succeed, I would expect the Executive quickly to ensure that there would be a further vote on the order and that the so-called loss of £1.8 billion would not happen. The idea that has been put about that somehow one should not have the temerity to propose an annulment to a committee is anti-democratic. The whole point of having SSIs is to give us the opportunity to test ministers and the Executive on whether they are doing the right thing. Too few members take the opportunity to push matters.

In closing, I also contest a number of the economic issues that have been mentioned. The minister claimed that 70 per cent of businesses will have smaller bills, but those will be paid for by the 30 per cent of businesses that will receive larger bills. I could mention several other points, such as the reports that the Executive commissioned that, like the comparative studies on the totality of taxes, show that Scottish businesses are now in a worse position.

I will have to go back and read the *Official Report*, but I am sure that I will not be alone in having had difficulties in following Iain Smith's argument that Scottish businesses are doing

better because they face a higher rates poundage—which will be even higher after today.

Iain Smith: Will you take an intervention?

Mr Monteith: No. I need not accept interventions from those who choose to abuse members in debates, as you have done today by questioning whether I can add. Had the intervention come from Andrew Welsh, who was at least civil, I would have given way.

In conclusion, there is a clear divergence of view, but that is to be expected in politics. It is right and proper that subject committees take the opportunity to test ministers by debating motions to annul, even though, if my motion were to succeed today, we would no doubt have further debates to correct what would doubtless be a Pyrrhic victory.

The Convener: The question is, that motion S2M-1005, in the name of Brian Monteith, be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Monteith, Mr Brian (Mid Scotland and Fife) (Con)

AGAINST

Butler, Bill (Glasgow Anniesland) (Lab)

McMahon, Michael (Hamilton North and Bellshill) (Lab)

Muldoon, Bristow (Livingston) (Lab)

Sheridan, Tommy (Glasgow) (SSP)

Smith, Iain (North East Fife) (LD)

Welsh, Mr Andrew (Angus) (SNP)

The Convener: The result of the division is: For 1, Against 6, Abstentions 0.

Motion disagreed to.

The Convener: In circumstances where there has been a motion to annul, the committee usually produces a report of the debate and the outcome of the vote. Is it agreed that we produce such a report?

Members indicated agreement.

The Convener: I thank the minister for his attendance today.

Mr Monteith: I apologise to the convener, but I must also leave now. I had not expected to participate in today's proceedings as a substitute, although I took the opportunity to vote on the motion.

Prostitution Tolerance Zones (Scotland) Bill: Stage 1

14:42

The Convener: For agenda item 2, we will hear further evidence on the Prostitution Tolerance Zones (Scotland) Bill. I welcome back Margo MacDonald MSP, who is the member in charge of the bill. I also welcome our witnesses, who are: Ruth Morgan Thomas, who is the project manager of SCOT-PEP—the Scottish prostitutes education project—and George Lewis, who is its co-chair. I remind members that today is our second evidence-taking session on the bill. On 25 May, we will hear further evidence from the City of Edinburgh Council and Aberdeen City Council. I invite Ruth Morgan Thomas to make some introductory remarks.

Ruth Morgan Thomas (SCOT-PEP): I thank the committee for inviting us to give evidence again. Since we last gave evidence, the situation in Edinburgh has changed—I think that it has become critical.

For the past 15 years, I have been involved in SCOT-PEP and in developing services for sex workers within a human and civil rights framework. Our focus is on health promotion and the protection and empowerment of sex workers.

There are diverse feminist and ideological perspectives and political stances on sex work, but regardless of all the opinions, what remains undeniable is the vulnerability of sex workers in today's society and their social exclusion through discrimination, stigmatisation and inequality, given their lack of access to services, support and employment rights. The most vulnerable are undoubtedly those who are involved in street prostitution.

No Government or law enforcement strategy has managed to eradicate prostitution or the sex industry. The criminalisation of the selling of sex in Iraq resulted in sex workers being publicly executed, but individuals still sold sex there. The criminalisation of buying sex in Sweden has driven the sex industry underground and has made sex workers more vulnerable. Legalised brothels in Nevada in the USA have not eradicated street prostitution in that state.

The selling and buying of sex are not illegal in Scotland, but strategies that enable sex workers to work collectively and therefore more safely are illegal. That illegality excludes sex workers from the protection that is offered to other workers through employment and health and safety legislation.

14:45

Zero tolerance of the sex industry simply forces prostitution underground and disperses sex workers. It has no significant impact on the level of prostitution, but it has a significant impact on the health, safety and well-being of sex workers. It opens up opportunities for clients and organised crime to exploit and abuse sex workers. In every city that has implemented zero tolerance or had sporadic crackdowns on street prostitution, sex workers have reported that the level of attacks on them increased significantly while their ability to access support and services decreased.

When domestic abuse became widely recognised, we did not adopt a zero tolerance policy towards the institution of marriage or relationships. We sought to combat abuse and violence in that institution and to reduce individuals' vulnerability to such abuse by creating an environment in which our society would not tolerate abuse and violence and by providing support services that are appropriate to the self-identified needs and aspirations of those who are affected by vulnerability to abuse.

It is necessary to understand and address the contextual issues, the complexities of the concepts of vulnerability and abuse and the constraints on the real choices that sex workers and drug users can make in today's society. No moral or ideological perspectives should be allowed to increase further the vulnerability and social exclusion of sex workers.

The sex-worker community is not a single entity and street-based sex workers are not a homogeneous group. They come from diverse backgrounds and have differing interests and ideas, as well as different life experiences and current life circumstances. There are diverse reasons for entering and remaining in prostitution that cover a continuum that runs from coercion to choice within the constraints of the current economic and employment context of our society. In a social inclusion framework, one must respect the diversity of views that are expressed by sex workers, including those who assert their right to self-determine and who choose to engage in sex work, as well as those who wish to leave the sex industry.

A legislative framework is required to enable us to work to minimise the harmful effects, instead of our simply ignoring or condemning sex workers, their clients or the sex industry. That framework should tackle the real and tragic harm that street-based sex workers face daily. Such legislation should enable each area to implement—on a what-works, evidenced basis—policies and strategies that respond to local conditions in order to reduce sex workers' vulnerability, increase their access to support and services and combat involuntary sex work.

It is estimated that between 800 and 1,000 women work in the sex industry in Edinburgh each year and that between 10 per cent and 15 per cent engage in street prostitution. In 2003, SCOT-PEP had contact with 126 street-based sex workers. In the first nine months of the current financial year, contact was made with 117 street-based sex workers, of whom 44 were new to street prostitution.

The situation and vulnerability of street-based sex workers in Edinburgh have deteriorated further since last we gave evidence. We will highlight particular concerns that we believe relate directly to the loss of the designated area, in which women worked collectively to minimise criminality such as that which is currently encroaching on street prostitution in Leith.

Since we last gave evidence, a significant increase in violence has taken place. That is outlined in the supplementary written evidence that we submitted earlier this month. The ugly mug briefing paper shows a 1,000 per cent increase in attacks. That represents a 2,000 per cent increase in risk for each woman since we lost our designated area two years ago. SCOT-PEP was one of the first sex-work projects in the UK to promote an ugly mug scheme, in the early 1990s. The scheme was set up as an early warning system against potentially violent clients; it enabled sex workers to try to prevent further attacks from the same individuals.

SCOT-PEP's policy has always been to share information with the police and to encourage and support sex workers to report crimes against them. That policy has not changed in the 15 years during which we have operated. However, co-operation and trust between the women and the police have continued to deteriorate, as women are now regularly cautioned and charged by the police and regard the police as their persecutors, rather than their protectors.

Drug dependency among local street-based sex workers has increased from under 50 per cent to more than 95 per cent and the vast majority of users now inject. That has happened since the loss of the zone. That dramatic increase in drug dependency among street-based sex workers occurred well after the re-emergence of heroin use was being reported in Edinburgh, so I do not think that the two can necessarily be linked. Drug dealers have encroached—that problem had been minimised when the designated area was in operation. During the past year, drug pimping has emerged, by which I mean the coercion of women into street prostitution because of their drug dependency. Again, that was not happening when we had a designated area.

We have also witnessed the introduction of protection racketeers and the re-emergence of

pimping in Edinburgh's street prostitution scene, which—again—had been minimised during the operation of the designated area. During the past two years, we have received a significant number of reports of under-16s being involved in street prostitution, whereas during the last two years in which the zone operated, no under-16s were involved in street prostitution in the city.

Some people assert that the operation of a zone attracts criminality and minors to the area, but that is not substantiated by Edinburgh's 15 years of experience of operating a designated area. Such criminality and child sexual abuse through prostitution has re-emerged only since we lost the designated area. The continuing dispersal of street prostitution over a significant part of north Leith has removed the police's ability to manage and control the situation effectively, despite the ongoing high levels of police activity in the area. Women continue not to report the presence of undesirables or crimes against them, as the hostile relationships with the police continue. We have been unable to re-establish the relationship of confidence and trust that once existed.

The on-going dispersal and mobility of street-based workers has had a significant impact on women's ability to access services and support, and on SCOT-PEP's ability to provide the level and quality of support that we used to offer and to identify women when they enter street prostitution, when they are at their most vulnerable. The forthcoming introduction of antisocial behaviour orders against street-based sex workers in Edinburgh could further restrict street-based sex workers' access to the harm reduction and new futures services and support that the SCOT-PEP mobile unit provides. The use of antisocial behaviour orders might further disperse street prostitution across Leith and the rest of the city.

The existence of a zone in which soliciting and loitering were decriminalised would enable street-based sex workers to work collectively and to protect one another, and it would remove the need for the partners, minders and protection racketeers to be present. A zone would reintroduce the community barriers to the involvement of minors in street prostitution, drug dealing, pimping and other criminality. It would rebuild the trust and confidence that sex workers require if they are to report crimes against them and it would enable the police to re-establish control and tackle criminality. It would prevent children from being introduced into street prostitution. Finally, it would create real opportunities to target harm reduction and new futures services and support effectively.

The designation of a geographic area as a zone within which soliciting and loitering were decriminalised would not present a total solution to the problems around the social phenomenon of

prostitution, but it would create opportunities to engage with and protect street-based sex workers. Such opportunities cannot easily be found when street prostitution is dispersed and driven underground. The situation of street-based sex workers in Edinburgh is unacceptable in today's society.

The creation of a zone does not in itself represent a condoning of prostitution: rather, it represents acceptance—for better or worse—that prostitution is a part of our world today, and it represents a choice to work to minimise harmful effects on sex workers and the local community.

During the period of deterioration in the street-prostitution environment in Edinburgh, SCOT-PEP's services to street-based sex workers have had to be significantly reduced because of the loss over the past two years of new futures project funding, of funding for our work with young people who are involved in prostitution, and of funding for the volunteer development project.

We previously provided a service to street-based sex workers five nights a week. In 2002, that was reduced to four nights, in 2003 it was reduced to three nights and, as of 1 March, it has been reduced to two nights. We previously provided five days of office-based support to indoor and street-based sex workers, which was reduced to four days in 2002. As of 1 March this year, that has had to be reduced to two days. Previously, we provided four days provision of our establishment outreach service, which is for indoor sex workers. In 2002 we had to reduce that to three days. As of 1 March, it has been reduced to two days.

That is a stark picture for women as vulnerable as are the women in our city today. Each reduction in service provision has led to an outcry from street-based and indoor sex workers, and in a reduction in the level of support that SCOT-PEP is able to provide. With such limited resources, work has been reduced to an Elastoplast service for Edinburgh's sex workers, consisting of drug and sexual harm reduction and crisis intervention, which allows minimal personal development work to be undertaken with indoor or street-based sex workers to enable them to explore their options and routes out of prostitution.

It remains SCOT-PEP's belief that to tackle the social phenomenon of prostitution and to protect the health and safety of all sex workers, it is essential that three strands be pursued to combat the nuisance. They relate to the exploitation, the violence and criminality and the abuse that can be associated with the sex industry. The first strand is the prevention of involuntary sex work, rather than of prostitution itself. To remove involuntary sex work, it is essential that poverty, drug use, homelessness and childhood abuse and neglect

be tackled. While such phenomena remain within our society, individuals will become involved in prostitution either to address their needs or as a result of coercion.

In addition, holistic sex education that focuses on how young people perceive their bodies is essential in order to raise awareness and to prevent all forms of sexual exploitation that occur within and outwith the sex industry. However, such education programmes should recognise that children of sex workers will take part in those programmes. Such education should not seek to stigmatise further or to marginalise sex workers or their families. Instead, it should address the real and tragic harm and danger that is associated with sexual exploitation through prostitution, unwanted sexual relations and unsafe sexual health behaviours.

The second strand is harm reduction. Creating an environment in which sex workers can be empowered to work together, and within which self-worth, dignity and respect are nurtured, has a significant impact on violence against, and exploitation of, sex workers. The provision of support and services that reduce the vulnerability and marginalisation of sex workers, while they promote respect for self and others within a non-judgmental environment, has been shown in Edinburgh to reduce the violence, exploitation and exclusion that sex workers experience. That was achieved through a multi-agency approach, with partnership working being a fundamental component of the person-centred approach that was taken in Edinburgh.

The designated area was an essential component of the successful harm-reduction strategy that operated in Edinburgh, which succeeded in preventing HIV infections within the sex industry in our city at a time when Edinburgh was seen as being the AIDS capital of Europe, which is a fact that too often we forget. In Edinburgh it is now difficult to see how we can ensure that the harm that has come to those who are involved in the sex industry since the loss of the zone can be reduced without a clear legal framework that enables the city to re-establish a designated area.

The third strand is that we should provide support for people to move on from the sex industry. SCOT-PEP has always been committed to supporting those who wish to move on from the sex industry, and to the need to create multiple layers of opportunities and support that enable that. However, we recognise that not all sex workers wish, or are able, to move on immediately. The SCOT-PEP new futures project was accessed by 10 per cent of the sex workers who were in contact with the organisation each year. It provided support to 96 individuals, only 19

of whom remain in contact with SCOT-PEP for support in respect of on-going involvement in the sex industry today.

15:00

We believe that sex workers must be consulted on the development, implementation and evaluation of any and all strategies that are considered for dealing with the social phenomenon of prostitution. Sex workers should not be perceived as criminals, targets for public health interventions or victims to be assisted, but as citizens with the right to determine their own needs and aspirations.

Given that no Government or law-enforcement strategy has managed to eradicate prostitution, let us not abandon those who work in the sex industry today—and those who will work in it next week, next year and into the next decade—as the women of Edinburgh were abandoned in December 2001. We urge the committee to support Margo MacDonald's bill, to address the urgent needs of street-based sex workers in Edinburgh, and to send a message to society that we care about sex workers and about reducing their vulnerability.

The committee should note the motion that was moved by the International Union of Sex Workers and the London entertainment branch of the GMB and that was passed at last year's Trades Union Congress women's conference. The motion reads:

"The criminalization of many aspects of sex work is responsible for the lack of employment rights,"

casualisation,

"widespread violence, exploitation and abuse in the global and, for some, profitable sex industry. Legislation does not provide adequate protection for sex workers. Conference recognises that sex workers are a vulnerable group, who need the voice that only the trade union movement can provide. Conference believes that workers in the industry should have:

1. Full legal protection from harassment, violence, threats, intimidation and theft
2. The consideration of the decriminalization of prostitution with a view to full and proper regulation in the interests of the workforce and the communities in which the industry operates
3. The right to the full range of employment, health and safety and contractual rights
4. The right to pursue alternative employment with support and assistance provided
5. The right to full, voluntary access to all NHS services, including ... medical advice."

Iain Smith: Thank you for that full presentation. In asking this question, I am not disputing any of the information that you have given on what happened before or after the demise of the non-harassment zone. In considering the bill, we have

to think about whether legislation is needed and whether it would be practical. There was an effective non-harassment zone in Edinburgh, and it did not fall apart because of the legal framework but because of changes in the area in which it was operating. If it were possible to find another suitable area, would it be possible to return to that situation without legislation?

Ruth Morgan Thomas: I believe that the demise of the Edinburgh area was due partly to the lack of a legal framework. An area was identified and the women were relocated, but the legal framework did not provide a true chance to see whether that would work. Lothian and Borders police had relocated the street prostitution area—for soliciting and loitering only—to a new area, and they were faced with a legal challenge from local businesses and residents. Lothian and Borders police and the council sought an opinion from lawyers; that opinion was that if a judicial review was sought on their decision to aid and abet in the illegal activities that would have been happening in the area, Lothian and Borders police would have lost because of the current legal framework.

The problem in Edinburgh is that we do not have a red-light area; there is no longer any such defined area. Wherever we try to locate such an area, local businesses and residents go back to the law and accuse the council or the police of aiding and abetting in a currently illegal activity. In part, there was a legal reason why the zone failed; it was not just because of regeneration.

Iain Smith: Thank you for that explanation. I am not going to get into legal arguments about whether or not the zone would have been successful—I think that that is our position as a committee. However, the other side of the coin is that, in order to designate an area under Margo MacDonald's proposals, you would have to go through a fairly extensive process. Given what has happened in Edinburgh in relation to the unofficial non-harassment areas, is there any realistic prospect of any local authority anywhere in Scotland successfully implementing a designated zone as proposed in Margo's bill?

Ruth Morgan Thomas: I believe that there is. I am not saying that it would be easy or that people would welcome a zone in their back yards, but if there was a real commitment from both national and local politicians, policy makers and agencies, I think that it would be possible. In the short period that the Salamander Street area operated—three and a half months in total—local businesses certainly shifted from their perspective of alarm when they first heard that the zone was going to be in their area to a perspective from which one businesswoman told the previous committee that she had found clear benefits for her business, in terms of a reduction in vandalism, graffiti and break-ins, in the small industrial complex.

It is a question of how we sell the idea to people. If Margo MacDonald's bill is quite clear in saying that a moral objection to prostitution is not sufficient reason for there being no such zones, I believe that there are solutions to the problems that do occur in and around areas where street prostitution occurs. We all need to be committed to finding such solutions.

Tommy Sheridan: I would like to ask a couple of questions that come at the whole issue from the two major standpoints that have emerged so far. The first is on the practicalities of the here and now. Your evidence, and the evidence that we have heard before, is that there has been a significant increase in attacks, in drug abuse and in under-age prostitution. Are you confident that that evidence is reliable? How is such evidence gathered?

Ruth Morgan Thomas: I am very confident in the evidence's reliability because it comes from sex workers themselves. The reports of the attacks are collected during our night-time service provision. I talked a little bit about the ugly mug scheme that we have been running for nearly 15 years. That scheme was about sex workers protecting themselves at a time when they felt that nobody else would protect them. I have to say that I trust the workers when they tell me something; I have no reason to doubt them. In a significant number of cases, if you saw the women who were reporting the attacks, you would have no doubt that they had experienced genuine abuse and violence from clients, and sometimes from local residents. I suppose that it depends on whether or not you are prepared to accept what a sex worker says. In part, that comes down to attitudes towards sex workers and whether they can be trusted. I certainly believe that we should believe them when they report abuse.

On drug dependency, the evidence from our joint work with the harm-reduction team, which is part of Lothian Primary Care NHS Trust, provides a second corroboration of the evidence that we have given about the phenomenal increase in drug dependency and injecting. Chaotic lifestyles are becoming entrenched for these women. That evidence is very clear.

The reliability of evidence on under-age prostitution is more difficult to establish, because our organisation has had no contact with anybody under 16. The reports that we have received about minors being involved in street prostitution have come from Lothian and Borders police, who inform us and ask us to look out for particularly young people. We have had evidence from the community drug-problem service that is operated by NHS Lothian, which has had contact with a 14-year-old. We also had one report that came from the media, from a journalist who had run an article

on a young person. All the reports that we have of under-age people being involved in street prostitution come from external agencies. I have to say, however, that I do not disbelieve them.

Having found out where those young people were supposed to be working, we put in considerable time and effort to try to establish contact with them, but we failed to do so. It is particularly difficult to establish that contact because of dispersal; we have to go around an enormous area that has small, dark side streets. When we do our street outreach work, it takes us about an hour to drive around the area, so there are minimal chances that we will meet the young people. That is another reason why a tolerance zone, which enables women to congregate and to work collectively, is a tool for preventing abuse through prostitution of young people.

George Lewis (SCOT-PEP): Although we have faith in our recording system, it would not surprise us if the actual figures were much higher than the figures that we have recorded. As Ruth Morgan Thomas said, that is due to the dispersal of women, but it is also due to the breakdown in contact both between us and the women and between the police and the women. As Ruth mentioned, the trust that the women had in the police has broken down. We have no evidence of this, but there is every likelihood that there are many other attacks that we do not hear about. The figures are trustworthy, but the true figures might be much higher.

Tommy Sheridan: I wanted to hear your opinion for the record because, when I asked the minister and the head of the expert group about the figures, neither was able to challenge them. It appears that you, the City of Edinburgh Council and Lothian and Borders police are all clear that the increase in the number of attacks has a correlation with the removal of the zone. That is important evidence for us, from a practical point of view.

From a wider, ideological point of view, how do you deal with the suggestion that the bill would somehow send out the wrong message about prostitution, which many regard as a form of violence against women? As a socialist, I would like prostitution and the need for women to sell their bodies to be eradicated, as I am sure you would. Is the bill an advantage or a disadvantage in promoting the eradication of prostitution? Do you think that those who argue that it is a disadvantage are looking for perfection long before we can deliver it?

Ruth Morgan Thomas: In an ideal society, I would certainly want prostitution to be eradicated—I do not think that anyone could sit here and say that they would want prostitution to exist in an ideal society. We live in a capitalist

society and in a society that exploits workers. In our current economic environment, one of the ways in which women, globally, support themselves and their families is by selling sex. I struggle with the issue. Prostitution is something that I wish women did not have to do, but we need a reality check. Unless we address and eradicate from our society the issues that we outline in our evidence, such as poverty and drug use, prostitution will exist as a means for women, men and people of transgender to earn a living. For many people, prostitution is work—people refer to themselves as “working girls” or “working men”. They consider it to be work, yet we offer them no protection under employment rights.

We should send out clear messages about gender equality. I am a committed feminist and I believe in gender equality, but I also believe that it is my right as a woman to choose how I make my living and what I do with my body. Years ago, we had men telling us what we, as women, should do with our bodies. Women said, “It’s my body, it’s my business.” Now we have feminists telling us what we should or should not do with our bodies. It is our right as women to self-determine and to choose the best path that we have in our current environment. However, I regret that our current environment is such that prostitution is thriving, because of poverty, drug use, homelessness and child abuse.

15:15

Michael McMahon (Hamilton North and Bellshill) (Lab): It is fascinating to hear your arguments. My eyes have been opened to many issues through considering the bill. In the previous evidence-taking session, much reference was made to the model that was adopted in Sweden. The first thing that struck me was that the Swedish approach was part of a bigger package, called “Leave women alone”—the legislation did not even refer to prostitution in its title. We discussed whether the title of the Prostitution Tolerance Zones (Scotland) Bill was a good one at the previous evidence-taking session and I was struck by the title of the Swedish Government bill, which refers to violence against women. The Swedish Government believes:

“By prohibiting the purchase of sexual services, prostitution and its damaging effects can be counteracted more effectively than hitherto.”

It believes not only that

“Prostitution is not a desirable social phenomenon”

but that it is

“an obstacle to the ongoing development towards equality between women and men.”

I cannot disagree with that, so I am not convinced by your arguments about tolerance zones and

workers' rights, which do not tie in with that ideology. Will you comment on that?

Ruth Morgan Thomas: There is real violence and harm in prostitution as it currently operates in the United Kingdom legal framework as well as in the legal frameworks of many other countries. I do not believe that prostitution, in and of itself, is violence against women.

Women have faced incredible prejudice and discrimination through speaking out to say, "In today's society, this is what I choose to do." It is difficult for women to hear people say, "What you say doesn't matter and it doesn't count. You don't have the right to decide what you do with your body or how you make your living." Unless we criminalise the selling of sex, that is a problematic stance to take.

We need to focus on the fact that abuse is happening. We must look at the bigger picture. The social justice agenda of eradicating poverty and all the other issues of which I spoke will impact on reducing involvement in prostitution. We need to promote respect for sex workers and say to people in our society, "You do not have the right to rape that woman simply because she sells sex. She is a worthy human being and she deserves respect as she is today." Violence is committed against sex workers who are not prepared to conform to a moral perspective of prostitution. I have experienced that on a personal level.

It is important that we focus the limited resources that we have. Nobody likes putting money into services for sex workers—that is a difficulty that we have all faced. With such limited resources, we have to ask what we can achieve realistically in our society today. I have no problem saying that prostitution is harmful and that it involves genuine dangers that we need to tackle. We should aim for a society that is fair and equitable and that allows people to self-determine.

Michael McMahon: That brings me on to another point about self-determination. In considering this matter in some detail, I came across a 2003 report, "10 Reasons for Not Legalizing Prostitution", by Janice G Raymond. The author makes some powerful arguments, especially about the right to choose. She says:

"There is no doubt that a small number of women say they choose to be in prostitution, especially in public contexts orchestrated by the sex industry. In the same way, some people choose to take dangerous drugs such as heroin. However, even when some people choose to take dangerous drugs, we still recognize that this kind of drug use is harmful to them, and most people do not seek to legalize heroin. In this situation, it is harm to the person, not the consent of the person that is the governing standard."

If we go down the road of allowing the right to choose and then those who have been allowed to choose demand the right to be protected within the

law, are we not undermining the basis on which a legal establishment can be brought about?

Ruth Morgan Thomas: I do not believe that we would be. It interests me that people always claim that what sex workers say is orchestrated by the sex industry or by businessmen. What I say certainly is not. I have been quite clear about the fact that, when I was a sex worker, I made a decision to enter the sex industry to solve problems arising from my financial situation. I do not believe that I have been orchestrated by a brothel owner, pimp or anyone else involved in the sex industry to assert my right.

I was not breaking the law. Selling sex is not illegal. The fact that people who are not breaking the law are paying the penalties that sex workers are paying is bizarre. If you made the quantum leap that is required and considered the issue as an employment or labour issue, you would see clearly that sex workers should have protection in employment law. That, in itself, will reduce the abuse and the harm that occurs in prostitution, which you have talked about.

Michael McMahon: We are talking about exploitation and power relationships in society. Marianne Eriksson, of the European Parliament's Committee on Women's Rights and Equal Opportunities, produced a report—

Ruth Morgan Thomas: I have read it.

Michael McMahon: She said:

"EU Member States have capitulated and, instead of fighting against such exploitation of human beings, have accepted the prevailing situation and, through legalisation and regulation of prostitution, have helped to make what was previously a criminal activity part of the legal economic sector. The Member State then becomes part of the sex industry, yet another profiteer on the market."

She also said:

"The only thing achieved by legalisation and regulation is that, in society at large, acceptance of sexual exploitation has increased."

Surely we should not be doing anything that allows sexual exploitation to be increased. Any recognition of a zone in which prostitution is tolerated allows that exploitation to become widely accepted in society.

Ruth Morgan Thomas: The issue is complex. You refer constantly to legalisation. Neither I, personally, nor SCOT-PEP supports the legalisation of the sex industry. That is different from decriminalising prostitution in a way that will give that vulnerable group of women access to support and services and reduce their vulnerability. We should seriously consider that.

Michael McMahon: We are being asked to pass a bill that would regulate prostitution. I do not think that the two issues can be separated. The only

reason why we are discussing the issue is that we are considering a bill relating to prostitution.

Ruth Morgan Thomas: The issue of regulation is about decriminalising two offences, the existence of which phenomenally increases the vulnerability of street-based sex workers.

Michael McMahon: I am not convinced.

Mr Welsh: This has been a thoughtful and philosophical session.

Ruth Morgan Thomas: Much more so than the previous meeting was.

Mr Welsh: It is useful that it has been so, but I would like to ask about a more factual matter. As you will be aware, following the stage 1 debate on the previous bill during the first session of the Parliament, which might seem a long time ago, the Scottish Executive set up an expert group. Has your organisation been visited by or had any discussions with the expert group?

Ruth Morgan Thomas: Yes, we have facilitated members of that group to come out on our night-time service provision, because the first phase of its work involves looking solely at street prostitution. We have given evidence to the group and facilitated its research, which has included one-to-one interviews with women who are working on the streets in Edinburgh. We are also participating in research that Turning Point Scotland is leading on the experiences of street-based sex workers.

Mr Welsh: In your work in the unofficial tolerance zone, how successful were your efforts to support street prostitutes who wished to leave the sex industry and how do you measure success?

Ruth Morgan Thomas: We had funding from Scottish Enterprise for two and half years for our new futures project. As I said, 10 per cent of all the sex workers with whom we had contact chose to access that service and 77 of those sex workers are no longer in contact with SCOT-PEP. However, this is where the choice is between going for hard evidence or for soft indicators. We have no contact with those 77 women within the parts of the sex industry in which we operate, which cover internet advertising, licensed and unlicensed establishments, escort agencies and street prostitution. Our assumption is that the women have moved on from the sex industry in Edinburgh. Therefore, we believe that about 75 per cent of the women who engaged with us are no longer active in the sex industry, which is a high percentage.

Frankly, however, it is possible that those women just did not like SCOT-PEP and our services. They could have moved to another city and still be working in the sex industry. One of the

difficulties in working with people who are involved in the sex industry is that they do not want to disclose their involvement because of the stigma and society's perception. Therefore, they are not prepared to provide their names, addresses and phone numbers to allow us to ask them in a year's time whether they are still a prostitute. We need that reality check if we truly want to create opportunities to enable women to explore their options and to achieve their aspirations. We must get away from being fixated on wanting to track them.

George Lewis: One of our problems in gaining continuing funding for our new futures scheme was that we were unable to demonstrate that we had been successful. However, as Ruth Morgan Thomas said, the nature of the business means that anonymity was paramount for most of the women who accessed the services. We were unable to monitor where everybody had gone and to demonstrate, for example, that so-and-so was working for Safeway. That was frustrating and difficult.

Mr Welsh: You lay great store on trust and on the relationships that are built up and you are calling for more targeted support services, but such services are, in many ways, institutionalised. What can you do that more formal services cannot do?

Ruth Morgan Thomas: SCOT-PEP was set up by sex workers for sex workers, so a component of community development is involved. Our funding bids are based on the needs that the women identify as priorities. I believe that SCOT-PEP is unique in that respect.

I also believe that, as a voluntary organisation, we can respond rapidly to a rapidly changing environment. There have been a significant number of changes in the Edinburgh street prostitution scene and in the provision of services for sex workers, including the eviction of SCOT-PEP in 1996 by the City of Edinburgh Council from our drop-in premises in the Shore, for bringing prostitution to Leith. We had only two weeks' notice of that eviction, but there was not one night's break in service provision in those two weeks. Within that time, we purchased our first mobile unit and had it out there on the night that the service was due to be provided. Our ability to respond rapidly to situations has enabled us to maintain a much higher level of support to the women.

The other way in which SCOT-PEP differs from some of the statutory providers is that voluntary sector sex work projects tend to carry out street outreach. We do not rely on sitting in a drop-in centre and having sex workers come to find us; we go out to establish contact and make early interventions. If we can get in early enough, we

will reduce the risks that sex workers face and potentially enable them to move on from the sex industry before they become entrenched and entrapped. There are many things that voluntary organisations such as ours can do; I believe that statutory sector organisations can be far more restricted and slow moving in making changes when required.

15:30

George Lewis: An important factor for me is the extent to which SCOT-PEP is peer-support led. Many of our volunteers, staff members and board members are either current or former sex workers. There is an immediate element of trust in us, which might not be the case with a statutory organisation. As Ruth Morgan Thomas says, sex workers will respond to us much more readily.

Mr Welsh: So SCOT-PEP's mode of operation is distinct and unique. The issue is about getting help to where it is needed and in a form that will work. Are there any barriers to accessing the services that have been called for? Are there any barriers to making that contact and getting help to where it is needed?

Ruth Morgan Thomas: There certainly are barriers preventing us from providing the quality and level of services that women require. The loss of the zone has had a major impact. I sit here shaking my head in disbelief at the fact that all that is being provided is an Elastoplast service, which is not good enough.

There are barriers in addition to those caused by the dispersal of the women. When we meet a woman in crisis at night when she is out on the street—this came from members of the expert group that came out with the team one night—it is almost impossible to link her with another agency that can help in resolving the issues that she faces. SCOT-PEP does not see itself as the total solution; it is a gateway and we will signpost people to the appropriate specialist services.

As I said, when we meet somebody who is in crisis at 11.30 at night, few other agencies are out there. There are significant problems with the criteria that other agencies apply. A significant number of projects that deal with homelessness among young people have criteria that allow for no injecting drug use, no drug dependency, no mental health issues and no alcohol problems. The reality for the young people and many of the women with whom we work is that those factors are the issue, which can mean that they are prohibited from accessing support services. There are a significant number of barriers preventing sex workers from accessing generic services—that applies throughout the UK, not only in Edinburgh.

George Lewis: There is also the old chestnut of money. We are severely under-resourced in

comparison with many other sex work projects in Scotland, although I do not want to stir up the Edinburgh-Glasgow debate again. Like all voluntary groups, we feel that we are underfunded.

Ruth Morgan Thomas: The total funding for our new futures project was £166,000 for two and a half years.

Margo MacDonald (Lothians) (Ind): You have been amazingly modest about the achievements of SCOT-PEP. As you say, soft indicators are often all that can be produced, but you have produced more soft indicators than another group that we could mention.

I would like you to comment on the report "A Critical Examination of Responses to Prostitution in Four Countries", which I have seen quoted. Personally, I find it bizarre that a group should spend public money on having a report done on what happens in four other countries when all that we are thinking about is Aberdeen and Edinburgh, where there is a track record that could be examined to allow benchmarks to be teased out.

Ruth Morgan Thomas: The report did not surprise me—its authors are renowned for their abolitionist stance on prostitution and their opinions and beliefs come through in the report. As someone who has carried out epidemiological research in Edinburgh on HIV-related risks in prostitution, I question the research that the authors cite in their bibliography. They cite opinion and soft indicators as hard evidence. In some cases, the factuality of their statements is open to question. In my experience, the Dutch toleration zones and the Utrecht model in particular have been successful in reducing violence and have been accepted within the community. I could write a similar report that came up with the opposite conclusion, such is the divide between the different ideological perspectives on prostitution. I do not see the report as an objective piece of writing.

Margo MacDonald: To be honest, I am more impressed by the fact that the bill has been welcomed by Mark Turley, the City of Edinburgh Council's director of housing, who will probably have to deal with prostitution issues in general because of the current hiatus in the council's social work services. Lothian and Borders police have also welcomed the bill. However, since the publication of the four countries report, I have heard criticisms based on the fact that Amsterdam has discontinued its street tolerance zone. What is the difference between the experience in Scotland and that in Amsterdam that has made the local council here favour a tolerance zone whereas the local council there opposed the zone that it had?

Ruth Morgan Thomas: There is a phenomenal difference between European countries and the

UK or Scotland. The Amsterdam toleration zone was closed as a result of a number of swoops that the police organised to deal with the illegal migrants who worked there. The legalisation of the brothels and the indoor sex industry in the Netherlands had forced migrant sex workers out of those establishments and into the street prostitution zones. The issue is difficult because the Amsterdam zone failed not because it did not reduce nuisance and problems such as debris, graffiti or vandalism, but because of European policy on immigration and migrant workers. The Amsterdam scheme had achieved the aim of a toleration zone, which is to protect one of the most vulnerable groups in society.

George Lewis: The closure ties in with the recent Dutch decision forcibly to repatriate illegal aliens. I am sure that there is a link between the two.

Margo MacDonald: My final question, which arose at our previous evidence-taking session and was mentioned by Michael McMahon today, is about Sweden. Last time round, the latest word from Sweden was that there had been a reduction in street prostitution in the first year following the criminalisation of the selling of sex. At that time, everyone admitted that they did not know where the prostitutes had gone. To the best of our knowledge—we were informed of this by a local council official—numbers are now back up again. Can you add anything on that?

Ruth Morgan Thomas: That is certainly the information that we have from the international networking that we do. In the Swedish model, there was a short-term reduction in prostitution, but many of the women disappeared into an underground industry that is far more vulnerable to the international and internet traffickers that the Swedish Government is trying to combat. It is interesting to hear how Swedish sex worker rights activists perceived what happened. Before the legislation came into force, the women worked independently; since it came into force, the organised crime networks have exerted phenomenal pressure on women who were previously not abused by pimps or traffickers. Sex workers have again been made to pay the price for that moral statement.

My question to you as politicians is whether you are prepared to make sex workers pay the price for your ideological perspective. Nobody else pays the price. In Sweden, the clients are fined, but I am not aware of any reports of clients being sentenced to prison. The sex workers are always the ones who pay the price when politicians tinker with the laws. Often, they pay with their lives.

The Convener: As there are no further questions, I thank Ruth Morgan Thomas and George Lewis for their evidence.

That brings us to the end of today's meeting. I remind members that our next meeting will be on 20 April and that our next evidence-taking session on the Prostitution Tolerance Zones (Scotland) Bill will be on 25 May.

Meeting closed at 15:41.

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