

LOCAL GOVERNMENT AND TRANSPORT COMMITTEE

Tuesday 3 May 2005

Session 2

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LOCAL GOVERNMENT AND TRANSPORT COMMITTEE

15th Meeting 2005, Session 2

CONVENER

*Bristow Muldoon (Livingston) (Lab)

DEPUTY CONVENER

*Bruce Crawford (Mid Scotland and Fife) (SNP)

COMMITTEE MEMBERS

Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP)

*Dr Sylvia Jackson (Stirling) (Lab)

*Paul Martin (Glasgow Springburn) (Lab)

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

David Mundell (South of Scotland) (Con)

*Tommy Sheridan (Glasgow) (SSP)

*Margaret Smith (Edinburgh West) (LD)

COMMITTEE SUBSTITUTES

Bill Butler (Glasgow Anniesland) (Lab)

*Mr David Davidson (North East Scotland) (Con)

Colin Fox (Lothians) (SSP)

Mr Bruce McFee (West of Scotland) (SNP)

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

*attended

THE FOLLOWING GAVE EVIDENCE:

Dr Mac Armstrong (Chief Medical Officer for Scotland)

Professor Peter Donnelly (Deputy Chief Medical Officer for Scotland)

Geoff Earl (Royal College of Nursing Scotland)

Niall Stuart (Federation of Small Businesses)

Hazel Watson (Royal College of Nursing Scotland)

CLERK TO THE COMMITTEE

Eugene Windsor

SENIOR ASSISTANT CLERK

Alastair Macfie

ASSISTANT CLERK

Euan Donald

LOCATION

Committee Room 5

Scottish Parliament

Local Government and Transport Committee

Tuesday 3 May 2005

[THE CONVENER *opened the meeting at 14:04*]

The Convener (Bristow Muldoon): I open the 15th meeting in 2005 of the Local Government and Transport Committee. Before we discuss the first agenda item, I advise members that the Scottish Trades Union Congress was due to give evidence to the committee today on the Licensing (Scotland) Bill, but it declined the opportunity because it had quite a heavy workload with the recent congress and so was unable to prepare a detailed presentation. I have accepted an apology from the STUC, as I know that it is usually a willing participant in parliamentary committees. I am sure that STUC witnesses will be before us many times in future.

To help members who want to learn about the unions' views on the Licensing (Scotland) Bill, I have asked the clerks to get copies of the submissions made by the STUC and the Union of Shop, Distributive and Allied Workers to the Nicholson committee, so that we can get a general feel for where the unions are coming from. The clerks have hard copies of those submissions for members who want them.

Item in Private

14:05

The Convener: I suggest that we take in private item 4, which is consideration of our draft annual report. It is our normal practice to take such items in private. Is that agreed?

Tommy Sheridan (Glasgow) (SSP): I have read the report and, for the life of me, I cannot see anything that would justify taking it in private, so I oppose the suggestion.

The Convener: Do other members agree to take the item in private?

Members indicated agreement.

The Convener: We will take item 4 in private, but we note Tommy Sheridan's dissent.

Subordinate Legislation

Invergarry-Kyle of Lochalsh Trunk Road (A87) Extension (Skye Bridge Crossing) Toll Order (Revocation) Order 2005 (SSI 2005/167)

14:06

The Convener: No members have raised any points about the statutory instrument, no points have been raised by the Subordinate Legislation Committee and no motion for annulment has been lodged.

Tommy Sheridan: I seek guidance. I have a big problem with the instrument, but my difficulty is that I do not know how to express the problem. On the one hand, I do not want us to maintain Skye bridge tolls any longer than they have to be there. On the other hand, if we were to allow the instrument to pass without comment today, are we in effect consenting to the legality of the whole scheme? There are 130 people waiting to be prosecuted for not paying the fees, and there is a major issue over whether the original licensing scheme was legal or not. I worry that, if we pass on the instrument without one of the justice committees having had a look at it, we might be saying tacitly that we agree that the whole scheme was legal from the beginning.

The Convener: I do not think that that issue is connected with the instrument at all. Basically, the instrument is a technical measure that removes the power to charge tolls on the bridge. Ministers have not been charging tolls since 1 January this year, so tolls have not been charged for the past few months, but the instrument removes the power to charge tolls for the bridge. That does not imply any comment on the other issues that you raise. I suggest that there are probably other avenues that could be used if you want to raise those issues, but the order is merely a technical instrument that tidies up the position and backs up the policy decision not to charge tolls by removing the power to charge tolls.

Tommy Sheridan: Thank you for that clarification. Therefore, our supporting the revocation does not mean that we tacitly accept that the original power to charge tolls was legal. Will you confirm for the record that we are not making that statement?

The Convener: I would certainly not make that interpretation. I think that the instrument merely makes it absolutely clear that there is no power to charge tolls. As I said, I do not think that anybody could take the interpretation that you suggest from our approval of the order. It merely tidies up

legislation to back up the policy intention behind the Executive's decision.

Do members agree to note that we have nothing to report on the instrument?

Members *indicated agreement.*

Licensing (Scotland) Bill: Stage 1

14:09

The Convener: We move on to further consideration of the Licensing (Scotland) Bill. I welcome our first group of witnesses. Niall Stuart is the deputy parliamentary officer for the Federation of Small Businesses. Niall, please will you make some introductory remarks about the bill before we move on to questions and answers?

Niall Stuart (Federation of Small Businesses): Thank you, convener. I will not say anything about being described as the first group of witnesses. John Downie was meant to appear with me today, but he was unable to come, so I convey his apologies. My task is made easier, as I will not have to fight between the STUC and John Downie to get a word in edgeways in answering members' questions.

I will keep my opening remarks brief, as I have set out our concerns in my written evidence. The Federation of Small Businesses represents around 19,000 businesses in Scotland. Some 11 or 12 per cent of those are involved in the hospitality industry and so will be affected by the new licensing regime. As our written evidence states, we are happy with the principles of the bill. The licensing objectives seem eminently sensible, so we would be hard pushed to argue with them.

However, we have some specific concerns. As previous evidence sessions have highlighted, the bill will impose potential costs on business for training and licence fees and the licensing standards officers who will need to be employed could result in an increase in costs for small businesses. Businesses will also face increases in administration due to the requirement to obtain professional drawings of a building's layout for building control purposes when they submit their licence application.

On a more general point, because so much of the bill merely confers delegated powers on the Executive, it is quite difficult to comment on the proposals in detail. We hope that, down the line, the Executive will use common sense in ensuring that any further conditions that are introduced are always appropriate to the risk involved and are related to the five licensing objectives that are set out in the bill. Obviously, the conditions that should apply to a small licensed cafe with very little footfall should be different from those that apply to a large city-centre nightclub.

I want to clarify the suggestion in our written evidence that small businesses in which the premises manager holds a personal licence face a potential problem in finding a replacement if the manager leaves their employment. We have

suggested that a small premises could be prevented from trading in such circumstances. However, the Executive has clarified that the bill provides for a six-week transition period in which such businesses will be able to find someone else with a personal licence or seek to vary their premises licence.

The Convener: I thank Niall Stuart for those opening remarks.

Bruce Crawford (Mid Scotland and Fife) (SNP): In earlier evidence, the Scottish Licensed Trade Association expressed concern about the proposal to reduce the number of types of licence from seven to one. What is the FSB's reaction to that? In particular, do FSB members have concerns about the continuation of long-standing arrangements that ensure that pubs and nightclubs have differential permitted hours?

Niall Stuart: I have read over the evidence that has been given in previous evidence sessions. It is clear to us that licensing boards will be able to distinguish between different applicants. The bill requires the operating plan to state clearly what kind of trade will be carried out in the premises. It is clear that the operating plan for a nightclub will be very different from that for a small cafe. Whether the premises is involved in off-sales or on-sales will also be apparent in the operating plan. I guess that the reduction from seven types of licence down to one is not much of an issue for us. We welcome the simplification and the clarification that the bill provides in requiring businesses to set out in their operating plan how they intend to trade.

Bruce Crawford: Have you given any thought to how the over-provision issue might be affected if we have only one licence type? If a particular licensing board dealt with over-provision by allowing only so many licences for a particular area, the reduction in the number of types of licence could have an impact on various businesses. Do you have any concerns about that, or are you relaxed about it?

Niall Stuart: Again, we feel that the bill allows licensing boards sufficient discretion to distinguish between different kinds of operation. Whether licensing boards take into account both off-sales and on-sales when they assess over-provision might be an issue, but the bill is clear in allowing them to distinguish between different categories of licence holder in making assessments. We do not see any big problem with that issue.

Bruce Crawford: On costs, it is perhaps understandable that the business interest is opposed to the proposed fees. However, if we are to employ licensing standards officers and require people to undergo additional training, increased costs are inevitable. Licensing boards accept that

any increased costs will need to be recovered through a fee process. Your written evidence highlights how that could have an impact, which you might want to say more about today. If there is to be a recovery process, how best might such fees be set? Should they be based on the existing rating system, turnover, profit or square feet? Does the FSB have a view on the most equitable way of collecting such fees?

14:15

Niall Stuart: I would be failing in my duty as an employee of the Federation of Small Businesses if I did not highlight cost as a concern among many of our members in the licensed trade. It is logical: no business would be pleased to have to pay more to continue its current operation. Our written submission contains some simple arithmetic that I did on the financial liability per licence holder of employing licensing standards officers. It is obvious that the costs to a licensing board will increase significantly merely by employing licensing standards officers, and it is inevitable that, if a board's increased costs are passed on to businesses through the fee system, costs to businesses will increase. That is why we make a plea for licensing standards officers to be employed in the same way as local authorities employ trading standards officers.

There is no other option but to set fees centrally. However, that creates a slight contradiction because, as the financial memorandum states, the cost per licence of policing licences in a small local authority is greater than the cost in a large city, where there are economies of scale. Therefore, it is hard to set fees centrally and merely recover costs, because costs are greater in certain parts of the country.

The FSB does not have strong views on whether turnover or rateable value is the fairest way to determine what fees businesses should pay. For the licensed trade, rateable value already contains an element of footfall and turnover through the valuation process, so that is probably the most rounded measure of a business's ability to pay.

Mr David Davidson (North East Scotland) (Con): In your written evidence on premises licences—this relates to Bruce Crawford's first question—you placed great stress on the fact that, although licensees who opt to allow children to access their premises will have to offer baby changing facilities, that will not apply to other establishments that have to allow children access. You have expressed the difficulty that some of your members will have in making the change because of the structure of their premises. Do you see that provision as the thin end of the wedge and believe that the same will apply in other areas of the FSB's activity?

Niall Stuart: We had not thought of that. The point that we wanted to make is that we do not understand how that mandatory condition relates to the five licensing objectives, which are clearly outlined at the beginning of the bill. We would not be so upset if the recommendation was that baby changing facilities should be made available where possible, but it is a bit much for a small premises that does not have the space to provide such facilities to be denied a licence on that one side issue.

Mr Davidson: In the same section of your submission, you mention

“the Bill’s stated objective of ‘introducing a simpler, flexible and more modern licensing system’.”

Will you expand on your comments? You have not stated in your written evidence what the FSB would like.

Niall Stuart: The point that I was trying to make in the submission is that the provision on discretionary powers on late-opening premises does not sit easily with the stated objective of introducing a more modern, flexible system. On the whole, the bill moves towards such a system, as premises licences will not need to be renewed every three years, personal licences will run for 10 years and the current annual applications for extensions will no longer happen. Once the system is in place, it should result in businesses having to do less work on applications for licences, but the requirements for training and to submit operating and layout plans will create extra administration for some businesses.

Michael McMahon (Hamilton North and Bellshill) (Lab): I am sure that you have followed our discussions on who can and cannot object to licence applications. The bill’s provisions allow anyone from anywhere to object. Are they correct or would you like to argue for an alternative?

Niall Stuart: We do not have an alternative, but we hope that there will be explicit guidance from the Executive on what a licensing board can rule out as a vexatious or frivolous objection. I hope that licensing boards will be sensible in using the measure, so that they do not have to have unnecessarily long meetings at which frivolous objections—whether from religious groups or others who would simply oppose any licensing application—hold up the process.

Michael McMahon: Is it important to focus on what constitutes a proper objection, rather than where it comes from?

Niall Stuart: Possibly, yes.

Tommy Sheridan: I am interested in the evidence that we have received that there has been an inordinate increase in the number of licences in Scotland that is not commensurate with

the population. In other words, the number of licences has increased considerably, despite the fact that our population has declined. Does the Federation of Small Businesses have a view on the overall health aspect of the bill? Should you as an organisation aspire to help us to deal with over-provision and try to curtail the availability of liquor, in particular cheap liquor?

Niall Stuart: The bill sets about doing that in a number of ways, the most obvious being the ban on any variation in price within 48 hours. Over-provision reflects different drinking practices. Many cafes that would not have been licensed before are now licensed. I have followed the committee’s evidence sessions, and I know that there has been much debate about what constitutes over-provision and how it is defined. It cannot be dealt with by national limits or recommendations. Licensing boards must be trusted to consider each application on its merits and to take into account local problems raised by the police, so that applications are considered based on local evidence and the absence or existence of local problems.

Tommy Sheridan: Do you have any problems with the bill’s provisions on local community input when considering over-provision? Does the bill provide for enough local input?

Niall Stuart: If a licensing board considers over-provision to be a legitimate reason to object, I am sure that anyone who objects will have an opportunity to put their case.

Tommy Sheridan: Your comments on grandfather rights indicate that the FSB hopes that existing businesses will be able to continue operating. You also say that other businesses should not have a less level playing field, which indicates no restriction on future licences. There seems to be an inexorable rise in the number of premises that are able to sell drink. Does the FSB have no overriding social comment on that?

Niall Stuart: The increase in people’s alcohol consumption can be addressed in a number of ways. The licensing system must ensure that people who are in the privileged position of being able to sell alcohol—a restricted drug—are clear about their responsibilities and the rules, and know that they must be followed and enforced. There is only so much that can be done through the licensing system. At the end of the day, only a finite amount of business can be done in the licensed sector. If people continue to go out on Friday and Saturday night, there will be more licences, but if the demand does not exist, people will not apply.

Tommy Sheridan: In your evidence you make the point on behalf of small businesses that you do not want more red tape. Generally, you find that

regulations can be troublesome, particularly for smaller businesses, if overheads are attached. Do you accept that we are dealing with a unique substance here? We are not dealing with clothes or cars; we are dealing with a substance that is potentially lethal and, according to the evidence that we have received, causes huge health problems throughout society. Surely you accept that stricter regulation of the sale of that substance should be welcomed.

Niall Stuart: We accept—with some of the caveats in our written evidence—that licence holders' responsibilities should be clearly stated. We might quibble about whether the implementation of some of those responsibilities could be better, but we do not argue that people do not have responsibilities as a result of being in the privileged position of selling alcohol.

The Convener: You will have read in our debates that one issue that we have examined is the fact that the restrictions on so-called irresponsible promotions fall more heavily on the on-trade than on the off-trade. The unit cost of alcohol in the off-trade is considerably lower than it is in the on-trade. Many premises—whether they are small shops or supermarkets—appear to sell alcohol at well below its cost price. Given the discussion that we have just had about the special status of alcohol as a product, would it be appropriate to introduce measures to restrict the use of alcohol as a loss-leader, which might encourage footfall inappropriately compared with another product that does not have the same potential for harmful effects?

Niall Stuart: The FSB has long argued for all loss-leaders to be outlawed, because they give bigger businesses an inherent advantage over smaller businesses, which cannot afford to carry the extra overhead. I am not sure how that would be implemented in a way that does not become anti-competitive, which has been the stumbling block for a couple of licensing boards that have tried to limit promotions such as happy hours.

Paul Martin (Glasgow Springburn) (Lab): Your submission says:

"Those bars opting to allow access to children will be required by the Bill to have baby changing facilities in both male and female toilets, or in a unisex toilet."

You say that that is impractical and that we should not expect establishments to meet such basic requirements when catering for children. You do not want establishments to provide baby changing facilities, so what is the FSB's vision of what should be provided?

Niall Stuart: We can all think of examples of small licensed cafes or pubs, especially in rural areas, that have only one toilet cubicle for males and females. Our concern is that it could be

impractical for them to create baby changing facilities without expanding toilets or extending premises. It is unfair to require the provision of such facilities simply to obtain a licence as a means of encouraging children in such establishments. Implicit in the bill is the intention to liberalise the attitude towards children in bars, which we encourage. As I said, we have no problem with encouraging bars to put in place such facilities. My worry was that they would be impractical to create in some bars, and that such bars should not be barred from obtaining a licence as a result.

Paul Martin: You are saying that when a family with children use a bar in which it is structurally difficult to deliver the requirement, they would not have access to the service, whereas they would in other bars that have the facility or have the opportunity to expand and provide the service. In this ambitious Scotland with ambitious businesses, which the FSB promotes, why should we have a two-tier system? Why should Scottish companies not have ambitions to deliver 21st century establishments, taking into consideration some of the accompanying costs?

Niall Stuart: As I said, all that can be done is to encourage businesses to provide the facilities. At the moment, businesses that are open to children, such as cafes, are not required to provide such facilities. All I did was to query whether it is fair to require licensed premises to do what other premises are not obliged to do.

Paul Martin: An option is available. Establishments do not have to provide for children. Are you saying that if establishments want a licence that allows children access, they should be able to have that regardless of whether they provide baby changing facilities?

Niall Stuart: Yes.

Paul Martin: So we would have a two-tier system. You promote a two-tier system in which some establishments provide facilities and others do not.

Niall Stuart: From a practical point of view, a baby can be changed without the availability of baby changing facilities.

Paul Martin: I am the father of a 15-month-old child and I disagree.

The Convener: That brings us to the end of questions.

14:30

Mr Davidson: I want to ask a question that follows on from Tommy Sheridan's question about grandfather rights. It relates to the comment about transitional arrangements.

Niall Stuart stated that the FSB needs a fair transitional system. The federation assumes that anybody who holds a licence will continue to hold one under grandfather rights. The issue is the transition period and what changes must be made or new boxes ticked because of the bill. What minimum standards does the FSB believe there should be when the bill is introduced? For how long does it expect the transition period to continue to allow its members to make the necessary changes?

The FSB submission states that the federation does not want to see business activities unduly restricted. However, it has a slightly protectionist stance about those businesses with grandfather rights, regardless of whether they operate to the appropriate standard. In the FSB's view, where does the improvement in basic standards fit within the transition period?

Niall Stuart: Any timescale would be slightly arbitrary. Let us say that the bill is passed. For the first year of its operation, new applicants would have to use the new system while old applicants would have their licences renewed according to the existing regulations. I argue that that would give businesses that must renew their licences the following year a one-year period in which to get ready for the change—to get the necessary drawings in place and training completed, and to become familiar with the new legislation. When that year is up, all existing licence holders will have to renew their licences in accordance with the new regulations. Obviously, there will be a three-year period during which those who were previously licensed under the old system will have to renew their licences. They will have to meet the requirements of the new system at that stage.

Mr Davidson: Does the FSB believe that there is an opportunity to lift basic standards in all premises that currently have a licence, or is it being defensive on behalf of its members?

Niall Stuart: No; inevitably the extra requirements will lift standards. If there is a transitional phase of one year, and if everybody who renews a licence does so under the new system, that will give them time to get ready for the change. Given that the bill introduces such a radical change from a law that has been in place for many years, three years is not an unduly long time.

Mr Davidson: I have sympathy with that point, but I am trying to tease out whether the FSB wants currently licensed establishments to roll on as before, with no change apart from some measures that must be taken, or whether it sees this as an opportunity to move forward and to compete with the chain stores in the marketplace.

Niall Stuart: My point is that after the transition phase, anyone who renews a licence will have to renew it under the new regulations. Therefore, all establishments will be fully caught up within the confines of the bill.

Mr Davidson: Is the FSB happy that that should be the case, and that there will be a level playing field?

Niall Stuart: Yes.

The Convener: That definitely brings us to the end of our questions. I thank the FSB for its evidence.

I welcome our second panel, which comprises two representatives of the Royal College of Nursing Scotland: Hazel Watson, professor of nursing at Glasgow Caledonian University and chair of the nursing council on alcohol; and Geoff Earl, community psychiatric nurse with Lothian NHS Board and RCN Scotland board member for Lothians. The panel members may make an opening statement.

Hazel Watson (Royal College of Nursing Scotland): We welcome the bill as part of the strategy to reduce the level of alcohol-related harm in Scotland. We recognise that there have been escalating health and social problems associated with alcohol over the past 30 years or more and that there has been a fairly significant rise, over the past 20 years, in the levels of morbidity and mortality associated with alcohol use. We see the bill as a positive step towards a public health approach to reducing the toll of alcohol-related harm.

The Convener: Thank you. We will begin our questions.

Paul Martin: I would like to ask Hazel Watson and George—

Geoff Earl (Royal College of Nursing Scotland): My name is Geoff, as the convener said.

Paul Martin: I am sorry. Your name-plate says George.

One of the main aims of the bill is to deal with irresponsible drinks promotions. You probably welcome that. Are there any other ways that we could help to prevent the drinks industry from finding loopholes in the system?

Hazel Watson: I feel—and I think that our members also feel—that the proposal to have a 48-hour minimum pricing policy is a step in the right direction; however, we would like that to be extended, if possible, because it would not necessarily prevent the trade from having nights and days during the week on which alcohol is sold cheap to students, for instance. I also note that the provision does not extend to off-sales premises. It

would be helpful if that provision were to be extended.

Geoff Earl: The Royal College of Nursing does not want just to transfer the problems of alcohol abuse away from pubs and clubs to the home, given the statistics relating to domestic violence that is associated with alcohol abuse. Just moving the problem from one area to another would not help us. The issue needs to be considered in a wider context that includes off-sales.

Paul Martin: From a medical point of view, is it the consumption of large amounts of alcohol in a short period of time that causes a large number of the cases that you receive, or is it a mixture of both kinds of consumption?

Hazel Watson: Both, I think. Accident and emergency admissions show evidence of a sharp increase in the number of people who are admitted as victims of assault and the effects of intoxication. That is certainly part of it. There is also the impact on general health and well-being.

Geoff Earl: We have also seen an increase in the incidence of liver cirrhosis. Liver disease from alcohol is often associated with longer-term abuse, but it can result from binge drinking. If someone has a high intake of alcohol, their liver may have one or two days to recover but it does not have long enough to clear it out before they put large amounts of alcohol back in. Binge drinking when there is a gap of only a couple of days before the person does it again can lead to the same damage that results from long-term abuse with smaller amounts.

Paul Martin: I represent Glasgow Springburn, one of the constituencies, along with Shettleston, that contains a high incidence of liver disease. I do not see a large number of drinks promotions in the establishments there; most of the drinks promotions seem to take place in Glasgow city centre. Do you think that, when we look at the statistics five or 10 years after the bill is passed, we will see a massive difference in the liver disease statistics?

Geoff Earl: The Federation of Small Businesses mentioned earlier the increase in the number of licences. In the city centres, there are probably too many businesses chasing a decreasing number of people who have the money to spend on alcohol. It is probably true to say that binge drinking occurs more in city centres. However, binge drinking is a wider problem that affects areas outwith city centres, because in addition to the phenomenon of drinks promotion a culture is developing in which binge drinking is an acceptable norm in Scotland and the rest of the United Kingdom. Many of us learned to drink when we were younger by drinking with older people. We learned how to behave in certain establishments. Now there is a

culture of going out and binge drinking in a group, which is regarded as acceptable behaviour whether people are drinking in or outwith the city centre.

Hazel Watson: Perhaps there are fewer happy hours bars or student booze cruises in Springburn, but I imagine that off-sales promotions have an impact on drinking over a long period.

Michael McMahon: We touched on the patterns of drinking that are developing among young people. The bill is aimed at the problems of alcohol in general, but there is a focus on young people, especially through the no-proof, no-sale approach. Will the approach be as effective as the Scottish Executive hopes?

Hazel Watson: I certainly hope so—it is better than nothing. Proof-of-age cards have been used fraudulently in the past, but I hope that training for bar staff and people who are responsible for licensed premises will help. Alcohol Focus Scotland suggested that staff should ask people for proof of age if they suspect that they are under 21, which would provide a bit of leeway.

Geoff Earl: Enforcement is crucial. In the past, legislation has not been enforced in Scotland—that is demonstrated by statistics on the refusal to serve drunks at bars and other such matters. The RCN hopes that whatever legislation is passed is enforceable. There must be work with law officers to ensure that the measures are not only enforceable, but enforced.

Michael McMahon: It seems to be a good idea to promote identity cards. Has the RCN promoted other measures to deal with developing patterns of drinking—especially among young people—that are missing from the bill?

Hazel Watson: The bill should be part of a package. Young people should provide proof of age, but there is also a big health promotion role for school nurses, for example, who can promote sensible drinking. However, school nurses are under-resourced. A couple of years ago a big change was made to their role and they were given the opportunity to be involved in education, but we need more, better-educated school nurses with specialist knowledge about how to work with young people to get the message across. There is evidence that young people miss school at the start of the week because of alcohol-related problems, which is horrendous.

Michael McMahon: I think that everyone accepts that there is a big problem, which we want to take every opportunity to address in the bill.

Geoff Earl: We must also consider matters that are outwith the bill and put in place resources. For instance, by 2010, every child in England will have access to a school nurse, but that pledge does not

apply to Scotland. Without such access, how will it be possible to develop responsible behaviour in young children? That will not work. It is necessary to fill in the gaps in the public health agenda. Deprived areas have specific needs and unless they are tackled, it will be difficult for the bill to work.

14:45

Dr Sylvia Jackson (Stirling) (Lab): I want to follow up a few points. When you mentioned each child having access to a school nurse, what did you have in mind? Would that involve a nurse being in a school for half a day a week, a day a week or what?

Geoff Earl: Each school should have a school nurse assigned to it. The RCN feels that a nurse should be attached to all schools, depending on their size—that does not necessarily apply to some of the smaller rural schools. If a school has 1,500 pupils, it is not unrealistic to expect that it should have a school nurse to deal not just with alcohol issues, but with other health matters such as the sexual health strategy. Every school should have a school nurse; posh schools have them.

Dr Jackson: My other follow-up is about enforcement, which I agree is important. What is your view on the LSOs? Given the issue's significance, is it important that the Executive revisits the bill once it has been implemented to assess how its provisions are being enforced?

Geoff Earl: In most occupations, it is usual to have an audit after a measure has been taken to check that it is working, so I hope that the Parliament will audit how the bill is enforced. I do not understand the ins and outs of how changes would be made if the bill were not working, but an audit would be necessary to find that out.

The nitty-gritty of the role of the licensing authorities falls outside the remit of nursing. That is a legal issue. We just know that the bill should be enforced rigidly. Other people will know how best to do that.

Dr Jackson: Although the bill contains a presumption against 24-hour opening, you will have noticed that it will mean that, through the individual operating plans, different licensed premises will be able to have different hours of opening. Rather than imposing statutory hours across the board, the bill leaves things much more open. What is your view on that?

Hazel Watson: Licence applicants would need to give a clear rationale for why their licence should cover the hours that they wanted it to cover. It would be helpful if the licences of all the premises in a given area did not cover the same hours, as that could impact on the amount of

drunk and disorderly behaviour on the streets at closing time.

Geoff Earl: If we are guided by the principles that the bill sets out, which are about protecting public health and public safety and preventing public nuisance, the RCN tends to agree that 24-hour drinking is not a good thing because it can be abused. If there are people who want arrangements that fall outside that generally accepted principle, their case should be tested against the five principles that the bill establishes, which are to do with public health and public nuisance.

Nurses who have worked an all-night shift might like to go for a pint of beer before they go home to bed because that is their evening time. We acknowledge that right, but do you want to have people in a pub next door to your house as you are getting up to take the kids to school? Some people will lose out, but the guiding principles should reflect public health and other people's rights.

Alcohol is a toxic, dangerous substance. Although it can be okay if used sensibly, we are still talking about a licence for a dangerous substance. We are therefore working under slightly different rules.

The Convener: Hazel Watson mentioned the impact on accident and emergency units and on police resources of people being out drinking heavily on peak nights. If permitted hours are decided locally, are you concerned that there might be a drift towards later and later opening? At the moment, most pubs close earlier than night clubs, but pubs might push to remain open as long as the night clubs, thus creating an even greater strain on the emergency services.

Hazel Watson: The licensing boards would have to be very aware of that possibility. It is interesting that it is proposed to have local arrangements within a national policy framework.

The local licensing fora could play an important role, which should be strengthened. I would like the fora and the licensing standards officers to have teeth. Dr Jackson referred to the powers of the licensing standards officers. I feel that the powers of guidance, mediation and compliance are important, but that the officers should also have powers to deal with premises where there have been breaches.

Reviewing and auditing were mentioned and those roles will be very important indeed. In a city such as Glasgow there could be several boards, so it will be important to have an overview. Although within areas there might be different conditions, boards should ensure that the licensing hours on either side of the boundary between one board area and another are not the same.

The Convener: Would licensing fora provide an opportunity for health professionals to bring to the attention of the licensing board statistics about alcohol-related admissions to hospital and alcohol-related assaults? At the moment, the police draw attention to incidents that are associated with particular premises, but there might well be a more general picture of alcohol-related hospital admissions that are not necessarily identified with particular premises. That picture might show whether the pattern of licensing hours was a problem.

Hazel Watson: We feel strongly that nurses and others who can offer a health perspective should be members of the fora, so that they can highlight particular local health issues.

Bruce Crawford: It would be great if we could change Scotland's drinking culture through legislation but we would all acknowledge that that would be pretty difficult. However, one part of the bill begins to consider our drinking culture in our pubs and on our streets. I am talking about the part that deals with children and how they can be accommodated in licensed premises.

I know that all the witnesses on the panel were sitting behind when the chap from the FSB was talking about the problems that businesses might face in allowing children access to licensed establishments. What is your view on the bill's provisions in that regard? Do you support the bill's provisions, or would you prefer that we took a different approach?

Geoff Earl: I do not have the full provisions in front of me. The general principle is to turn what used to be drinking establishments into more family-friendly social gathering places. Abroad one is much more likely to find families in licensed premises—they can be places where people drink coffee, rather than just beer. More responsible behaviour goes with that. On the other hand, some of us have been to bars where there are children and where that is completely unacceptable. Earlier the point was made that, if an establishment is to have a licence that allows children to be present there, it should have facilities that indicate that it is a child-friendly or family establishment. That changes the culture.

It is not enough just to have children in a drinking establishment—that must fit into a wider pattern. If bad behaviour takes place in an establishment, the children will learn bad behaviour. However, having much stricter regulations that make clear what it means to have a family licence and requiring bar staff to undertake training so that they come down much more heavily on certain types of behaviour can make a difference. Generally, the RCN believes that turning drinking establishments into family-

friendly social gathering places would help to improve the situation.

Bruce Crawford: Do you think that establishments should be required to opt into or to opt out of having a children's licence?

Geoff Earl: They should probably have to opt out. It would not be possible to have a family-friendly nightclub, as hopefully most kids would be tucked up in bed when it was operating. I understand what you are saying, but pub culture is changing and is becoming increasingly family friendly. Encouraging that side of the trade may help. However, this is a difficult question and I do not know the answer to it.

Hazel Watson: I agree that establishments should have to opt out of having a children's licence, for the reasons that have been suggested. Promoting drinking as a sensible activity that can enhance one's pleasure in social interaction can only be positive, but we need to be careful about the environment in which that happens.

Bruce Crawford: As representatives of the Royal College of Nursing Scotland, you no doubt encounter in the places in which you work many youngsters who are the worse for wear because they have been drinking in local parks, as well as pubs. The bill is trying to address concerns about how supermarkets and off-licences operate their businesses. Geoff Earl said that he would prefer youngsters to be alongside adults, so that they can learn how to drink properly. I understand the optimism behind that sentiment. In Holland, 17-year-olds are allowed to drink beer, but not spirits, on licensed premises, which would seem to fit with the approach that you are suggesting. How do you feel about that idea?

Geoff Earl: It is already possible for youngsters to have low-alcohol drinks, such as shandies.

Bruce Crawford: As long as they are having a meal.

Geoff Earl: I would not like to put my hand up and say that we should do exactly what is done in Holland, because I do not have the relevant facts or statistics in front of me. This is a longer-term project—we are not seeking a short-term fix, but a long-term solution. We can make it possible for younger children to learn in a nice environment that drinking is one way in which people can enjoy themselves, or for youngsters to have a beer or two at a lower age, although I do not know how such a measure would be enforced. Those are ways of showing young people how to drink in a sociable way. The alternative is for them to find the nearest smoky Joe place when they reach 18 and to binge drink. If we offer younger people different options they will know what the possibilities are when they become legal drinkers and will not think that they have to behave in a

particular way. It is about optimism, but that is the point of the bill. We are saying that we can look to have a brighter, better Scotland that is no longer the sick man of Europe.

Tommy Sheridan: I note that neither Geoff Earl's nor Hazel Watson's name is on the written evidence that we have received. Are you fully aware of the evidence and, if so, can you speak to it?

Geoff Earl: I can speak to the RCN evidence.

15:00

Tommy Sheridan: In the second paragraph, you refer to the fact that the RCN has

"endorsed the Executive's broad approach and in particular the inclusion of protecting and improving public health as one of the five key licensing objectives set out in the Bill."

You follow that with a reference to the policy memorandum. Does the reference to the five key licensing objectives relate to the policy memorandum or were you referring to another document?

Geoff Earl: No—that refers to the policy memorandum. Although I did not write that paragraph, when I read it, I took it to refer to the five key points that have been laid down as the basis for the bill, the aim of which is to address public health and public safety issues.

Hazel Watson: The five principles are:

"preventing crime and disorder; securing public safety; preventing public nuisance; protecting and improving public health; and protecting children from harm."

Tommy Sheridan: Those issues are in paragraph 9 of the policy memorandum, but paragraph 5 states:

"There are four key issues that underline the approach the Executive has taken in proposing the new licensing system for Scotland. They are: reducing underage drinking, reducing binge drinking, providing a voice for communities, and modernisation."

Geoff Earl: That paragraph is not what we were referring to in our submission.

Tommy Sheridan: I am sorry to be pernickety, but I am pressing you on the question because of my enormous respect for the RCN and its work. I was hoping that you guys would come to committee today and say that you are disappointed with some of the overall thrust of the Executive's policy objectives. Nowhere in the policy memorandum does the Executive talk about reducing drinking in society as a whole.

I know that the Executive refers to under-age drinking and to binge drinking, but I can find no reference to the fact that society as a whole should seek to reduce its consumption of alcohol. The Executive talks about drinking only in terms of

responsible drinking and so on. Surely the Scottish Government can take a more optimistic role and promote the fact that drinking is not all that it is made out to be and that it can be very harmful?

Geoff Earl: You are right. The RCN is more than prepared to accept that we may not in our submission have said exactly what we mean about drinking. It is difficult to talk about wanting everyone to reduce their drinking, because that will mean different things to different people.

The RCN takes on board the point you make. We accept that drinking is a way in which people act socially and that, although there are alternatives, they are not always available or visible to people—particularly people in deprived areas. To go out and do sport or go swimming is not always seen as being the thing to do, whereas going out drinking is.

The RCN would welcome lowered levels of drinking, but you have got me there, Tommy—I do not want to say something to which I give more weight than does my organisation. Without discussing the issue with my colleagues, I should say no more, other than to repeat your general point, which was that drinking is not the only social activity and people can partake of many other social activities.

Nurses see the results of drinking. Apart from on Sunday mornings, we do not see many people with football or other sports injuries; we see people with sports injuries much less frequently than we see casualties of drinking.

Hazel Watson: It is implicit in the document, but perhaps it needs to be said explicitly. Certainly, in its "Plan for Action on alcohol problems", the Scottish Executive has made the point that it wants a reduction in alcohol consumption across the board.

Tommy Sheridan: That is the point on which I am disappointed. The remit of the Nicholson committee was to review all aspects of liquor licensing law in practice in Scotland, with particular reference to the implications for health and public disorder. That committee was also asked to recommend changes that should be made in the public interest. Its remit was not to consider health in relation to binge drinking or under-age drinking, but in relation to drinking.

I had hoped that the RCN, as an organisation that is concerned ostensibly with the nation's health, would come to the committee and discuss overall drinking levels, regardless of whether such an improvement is achievable. We are realists in that we know that it would take a long time, but if we do not start to say sometime that overall drinking levels—not only under-age drinking or binge drinking—play far too great a part in Scotland's culture, there will be no overall

improvement in health. I have a lot of respect for you, but I am disappointed in that I would have liked you to have been a bit more critical.

Geoff Earl: I will take that point back to my colleagues and raise it with them. When we consider the bill we are looking at wider issues, such as changing the culture of drinking and there being family-friendly public houses. We consider pricing of non-alcoholic drinks and provision of water and coffee, because in many pubs people still cannot get coffee and must instead have alcohol; the bill addresses that. It is possible that the RCN supports what you are saying but has not said so explicitly. Perhaps the RCN Scotland needs to consider that.

Tommy Sheridan: That is fine.

Geoff Earl: We see the bill as being an attempt to reduce levels of alcohol consumption.

Tommy Sheridan: All I am saying is that if you guys are not going to call for a reduction in overall drinking, we certainly will not get the licensed trade to call for it, because it makes money out of drinking. I hope that you can bend the stick a wee bit further in the direction of saying that walking, swimming, sport and so on are socially acceptable and should be promoted rather than going for a drink. Perhaps it is socially acceptable to go for a drink, but we should not promote it.

Geoff Earl: I very much take that on board.

The Convener: On the back of Tommy Sheridan's point, would you agree that we have to consider the Licensing (Scotland) Bill in conjunction with much of the other work that is being done by the Health Department to promote sensible drinking and to make people aware of a safe drinking limit? The bill is not stand-alone legislation that is trying on its own to achieve change in people's behaviour. A range of measures to encourage people to live healthier lifestyles are being implemented in schools, through general practitioners and through various health promotions.

Geoff Earl: That is exactly why the RCN supports what is being done. We acknowledge that that is the case, even if we have not said so as loudly as some people might like.

Hazel Watson: We said in our opening statement that we view the bill positively and as being one means by which to address the issue, but not the whole answer.

Bruce Crawford: Let me try to help with some of Tommy Sheridan's frustrations. We are scrutinising a bill and considering what it might do to improve Scotland's drinking culture. Obviously, we hope that the provisions will impact positively on public health in the future. There are measures in the bill that deal with children and with over-

provision. It would be useful for the committee if you would tell us whether you have thought of other legislative tools that could be used—I mean legislative tools, rather than awareness raising or support—to improve the level of drinking in Scotland. When I say “improve”, I obviously do not mean to increase drinking, but to improve public health as a result of addressing alcohol consumption in Scotland.

Geoff Earl: I will take that matter back to my colleagues and discuss it with them. A measure that we have mentioned already is access to school nurses, which should be legislated on. The other point that we have mentioned, and to which you referred, is that there need to be laws to enforce whatever is decided upon. One of the problems is that measures are sometimes not enforced. Violence against nurses in accident and emergency departments is often fuelled by drink. The Executive has taken that on board and has introduced measures to address the problem.

Bruce Crawford: We do not need legislation to put nurses into schools—the Executive could do that as a policy requirement. I am trying to find out what new provisions could be included in legislation to help reduce the amount of alcohol that is taken in Scotland. I cannot see that we can take such action, other than the few measures that have been mentioned, but there may be other matters that we could address through legislation.

Hazel Watson: There could be curtailment of, or stricter controls on, advertising of alcohol. Some advertisements make bottles of alcohol look like bottles of perfume, with all sorts of sexual connotations. To my mind, they clearly infringe the voluntary code on advertising, but still they appear, as do many advertisements that seem to me to promote alcohol use by young people.

There are also issues about pricing policy, which relates to the point that was made earlier about drinks promotions. It has been shown here and in other countries that consumption falls after increases in alcohol taxation. I agree that we are aiming for an overall reduction in alcohol consumption throughout the population. When per capita consumption falls, there is a corresponding reduction in the number of alcohol-related health problems.

Bruce Crawford: That is useful. We have not heard much evidence on advertising, so perhaps we need to hear more.

Hazel Watson: There are also issues about promotion of alcohol through sports sponsorship. Many football clubs sell their strips to youngsters, but those strips advertise alcohol. We see six-year-olds and seven-year-olds on the streets with advertisements for Whyte and Mackay or Tennents on their clothes, which is inappropriate.

Another pricing issue is the fact that soft drinks often cost more than alcoholic beverages. If we are trying to promote pubs as child-friendly environments, such pricing is inappropriate. Also, all people, irrespective of their age, should be able to have a glass of water without having to pay for it—our tap water is not that bad. Cheaper soft drinks would also encourage people to drink more sensibly.

Paul Martin: Following on from Tommy Sheridan's point, I do not think that the witnesses need to be rebellious—there must be a measured response, which I think has been the case. Geoff Earl made the point that he wants people to drink responsibly, so I take it that he wants some people to reduce their alcohol intake.

I will mention three aspects of the bill and ask whether you think they will contribute to achievement of those aims: first, the ban on drinks promotions through the 48-hour rule; secondly, the introduction of family-friendly environments; and, thirdly, the introduction of licensing standards officers to ensure that the regulations are enforced, including the regulations on drinks promotions. There are other measures in the bill, but will those three provisions reduce people's alcohol intake and ensure that they drink responsibly?

Geoff Earl: The Royal College of Nursing's view is that they will.

Paul Martin: To clarify, the bill is about regulating the industry, but at the same time it will improve health in Scotland.

Geoff Earl: Yes. When people look at legislation, they often think that their rights are being curtailed, but we think that you are trying to support responsible licensees and update our licensing laws so that they fit those responsible licensees. I would add one more provision to the three that you mentioned: training of staff who serve alcohol, because it is a dangerous substance. Good licensees already do the four things that the bill wants to achieve. The Parliament is just putting them in law and creating a level playing field for responsible licensees.

15:15

Paul Martin: Unlike the ban on smoking in public places, we are talking not about banning alcohol, but about regulating its sale while improving health.

Geoff Earl: The smoking proposals are not just about banning smoking; they are about responsible smoking and smokers not harming other people's lungs. The same applies to drinking activities. If one drinks responsibly, there is not necessarily a problem, although I take on board

Tommy Sheridan's point that there are alternatives.

Hazel Watson: Paul Martin asked whether the three measures that he mentioned would ensure that people drink less. No such measure could ensure that they drink less, but it might encourage them to do so.

Paul Martin: So a reduction in drinking cannot be guaranteed, but it can be encouraged.

Tommy Sheridan: I have one final point on the issue that was just raised. A comparison was made between smoking and drinking—

The Convener: I would prefer not to have a debate between committee members at this stage. Do you have a question?

Tommy Sheridan: Yes, I have a question for Hazel Watson and Geoff Earl. Surely the RCN would not countenance in any shape or form the Executive's promoting responsible smoking.

The Convener: We are drifting on to a completely different bill, and I would rather leave it—

Tommy Sheridan: My point is that there is a comparison with responsible drinking.

The Convener: The witnesses do not need to answer that. We are drifting on to a different bill altogether.

Geoff Earl: I understand the point that was made.

The Convener: That is the end of questions. I thank Geoff Earl and Hazel Watson for their evidence.

I welcome to the committee our third group of witnesses, which comprises Dr Mac Armstrong, the chief medical officer for Scotland, and Professor Peter Donnelly, who is the deputy chief medical officer. Thank you for hurrying along earlier than anticipated. That helps the committee, because we are making swifter progress than we anticipated. You may make opening remarks on the bill, after which there will be questions and answers.

Dr Mac Armstrong (Chief Medical Officer for Scotland): I will be brief. Members have a great deal of information before them already.

Alcohol over-consumption is a significant public health problem worldwide, particularly in developed countries, in which it ranks third in the World Health Organisation's ranking of risks to health, after tobacco and high blood pressure. Of course, alcohol consumption is not unrelated to high blood pressure.

Alcohol consumption is an issue in Scotland; I have flagged it up in each of my annual reports

since 2000. In Scotland we aspire to reduce the rates of problem drinking, but the trends are going in the wrong direction. For example, in "Towards a Healthier Scotland" the target was to reduce the percentage of women who exceed the weekly limit to 12 per cent by 2005. The simple fact is that according to the 2003 figures, the percentage of women who were drinking more than double the weekly limit was itself 10 per cent. According to the latest surveys, the majority of 13 to 15-year-olds in Scotland have drunk alcohol. The number of referrals to the children's reporter on the grounds of alcohol or drugs doubled in the five years to 2003.

The costs of such problems—in all, over £1.1 billion—for Scotland's health and social services have been set out extensively. For example, the number of deaths that are directly attributable to alcohol, which is currently one in 30, is increasing. We are very anxious to help the committee to get the bill right and we are prepared to do all that we can to achieve that.

Paul Martin: I know that large volumes of such health statistics are made available for Glasgow Springburn on annual, biannual, quarterly and monthly bases. The bill will introduce a ban on irresponsible drinks promotions and will prohibit variations in drinks prices within a 48-hour period. I appreciate that the bill also contains other measures, but can you provide a quantitative indication of the extent to which those two measures will improve liver disease statistics in my constituency?

Dr Armstrong: I cannot promise that the provisions will have a measurable impact on liver disease because the key determinant in causation of liver disease is overall weekly consumption above the safe limit, rather than binge drinking. The bill's measures on provision of alcohol in licensed premises are designed to reduce the possibility that binge drinking will take place.

I am in no doubt that deliberate targeting of available markets through drinks promotions has been a phenomenon in recent years and there is ample evidence to suggest that such targeting continues. For example, at the weekend I had a look at Datamonitor's website, which provides marketing information to companies. The website highlights a recent Datamonitor report "New Trends in Young Adults' Alcoholic Drinks Occasions", which can be obtained for \$5,695. Under the heading "Key reasons to read this report", it says:

"Identify key need states that drive Young Adults' consumption of alcohol and how to target the emerging occasions".

There are people out there who are very much working to target our young adults.

Paul Martin: The bill's provisions to curb binge drinking will not apply to off-licence trade. Should it be included in the bill?

Dr Armstrong: You are talking to the chief medical officer rather than to a law officer. I will expound at length on the law if you wish, but it would not do you much good.

You are absolutely correct to suggest that I am concerned about the other binge-drinking opportunities that exist. I draw your attention to another Datamonitor report entitled "New Opportunities in Drinking At-home", which is available from the same website for, again, \$5,695. A key reason that is given for reading the report is that it will help one to

"Understand the drivers behind the drinking at home trend and how to target emerging consumer behaviors".

Under no circumstances do I pretend that the bill on its own will provide a comprehensive set of levers to restrict the amount of alcohol that is consumed, but given that it has been designed following the Nicholson report principally to promote measures for the purposes of public order, public safety and protection of children, and to control irresponsible promotions and binge drinking, I believe that the bill is a public health measure that is worth supporting.

Paul Martin: The previous panel highlighted concerns about advertising of drinks promotions. Do you share those concerns? Do we need regulation to deal with that?

Dr Armstrong: Advertising is bound to have an effect on the emerging markets; evidence shows that that is the case. I am particularly concerned about the way in which advertising is used to promote drinking to emerging markets, especially women and young women. Peter Donnelly has looked into that issue.

Professor Peter Donnelly (Deputy Chief Medical Officer for Scotland): Drinking among young women in particular is a special area of concern. The percentage of women who drink more than the recommended limits, which—as members will know—for physiological reasons are somewhat less than the recommended limits for men, is increasing.

I find it particularly worrying not only that, increasingly, young people are drinking but that young people report being drunk on more than two occasions in the past. I refer the committee to international league tables on that: unfortunately, Scotland is at the wrong end of them. In other words, not only are our young people—by young, I mean 13-year-olds—regularly accessing alcohol, but their pattern of drinking is such that they are getting drunk. That is worrying because it

establishes a trend for the place of alcohol in society as those people begin to grow up.

The Convener: Some of the representatives of the RCN mentioned advertising. We have moved towards a ban on advertising smoking, but there is still extensive advertising of alcohol. My understanding is that that would have to be dealt with primarily at Westminster. In general, is that a direction that we should follow on alcohol?

Dr Armstrong: Yes. There is ample evidence that advertising affects markets and consumption, as does overall price. There is very good evidence for that on tobacco and I do not see why it should not be the same for alcohol.

The question of how we achieve our aim is difficult. One of the difficult messages to get across in positive alcohol advertising or other forms of advertising is the matter of the J-shaped curve in relation to alcohol. As I came in, I heard Mr Sheridan question the witnesses from the RCN about the difference between responsible smoking and responsible drinking. The fact is that there is—or, at least, there appears to be—a J-shaped curve for the general population in relation to consumption of alcohol. In other words, there is a level of alcohol consumption that is, overall, better for one than zero consumption. Total abstinence carries, to some extent, a small penalty compared with consumption within reasonable limits of a small amount of alcohol. The limits are, within the current level of evidence, well known and have been set out. No evidence says that of smoking, however, which is like radiation in that there is no minimum safe level and the harm from it is cumulative.

The Convener: I know that, as a retailer, the Co-op has started to state on bottles of wine a recommended daily intake or safe limit, along with how many units of alcohol are in the bottle. Many alcohol producers have started to go in that direction. Should we try to introduce a requirement on all sellers of alcohol—whether on-licence trade or off-licence trade—to place on the product prominent information about the units of alcohol in it and the daily recommended intake for a man or a woman?

Dr Armstrong: That is a good idea; it is in line with our taking any steps that we can to empower consumers. People should know about what they are buying, including the safe limit for its consumption, when there is a known safe limit. I think that there is some international evidence behind that. Some countries already label alcohol in that way. Is that right, Peter?

Professor Donnelly: Some countries are going down that route. Intuitively, it seems to make sense because the issue can be quite difficult. People talk about half a pint of beer being one

unit, so a pint of beer is two units, but that clearly depends on the strength of the beer. A small bottle of imported lager can contain 1.7 or 1.8 units of alcohol. If you drink a couple of those, you will have used up more than your daily limit. We should seek to label alcohol in a way that makes sense to people and which answers the question, “How many of these can I safely drink in a day or in a week?”

Bruce Crawford: The convener asked whether advertising and labelling are reserved matters or whether the Scottish Parliament can deal with them. I am sure that you were consulted on the issue by the people who drafted the bill. Are you aware of any powers that are available to the Scottish Parliament or local authorities that we could use to give direction on either labelling or advertising?

15:30

Dr Armstrong: I am not aware of any powers in that respect, but it would be wise to ask somebody who has a deeper insight into the legal side of things.

Michael McMahon: The no-proof, no-sale idea has existed for a while, but it will now be a requirement under the law. Do you believe that it will achieve its intended effect and change young people's patterns of drinking alcohol?

Dr Armstrong: Again, I do. Peter Donnelly might want to comment on the wider evidence from international experience, which is important in informing us whether we are moving in a sensible direction. Personally, I think that no proof, no sale is sensible. It is part of the range of measures that we need to introduce to change the culture. The Nicholson committee recommended a positive change to the culture, with the responsible use of alcohol as part of a more family-oriented approach in Scotland. The evidence from other countries is that such an approach will help. Where alcohol is consumed as part of a normal family approach to eating and drinking, and particularly where it is consumed responsibly with food, there is little evidence of harm.

On the culture that we are trying to attack in Scotland, the simple fact is that, as Peter Donnelly said, children well below the age at which they have legal access to alcohol are getting access to it. It is clear that people are not asking the right questions. The bill seeks to provide a simple route by which they can, within a proper framework, be trained to ask those questions.

Professor Donnelly: I agree with all of that, but I will briefly supplement it. As with so much of the bill, the proof will be in the detail of its application. What does no proof, no sale mean in practice? How hard will it be pushed? To give an extreme

example, when alcohol is served at some events in the United States, everyone has to prove that they are over 18—or, more often, over 21. That applies to everyone regardless of their age—even to people as ancient as me. Everyone wears a band around their wrist to show that they have been carded at the entrance and have proved their age. That might seem to be taking things to an extreme, but it is an effective way of preventing minors from purchasing alcohol at the event.

At the other extreme is the situation that the CMO describes, in which people have discretion over whether they card people and ask them for proof of age. Like so much of the bill, the provision depends on the detail of how it is implemented. Our plea is that the more you can do, as legislators, to push application and enforcement towards the harder end and make it meaningful, the better.

Michael McMahon: You mentioned studies from elsewhere. Have any of your investigations revealed examples of good practice beyond the no-proof, no-sale policy that you believe could be included in the bill? Is an opportunity to address patterns of behaviour being missed in the bill?

Professor Donnelly: I do not think that there is any other principle that could have been included in the bill. At issue is the detail of the bill's application. I suppose that one could debate whether the age limit should be 18 or 21, as it is in many places in North America. Pragmatically, it is probably more important to enforce the age limit of 18 than to seek an arbitrary change to it.

Dr Armstrong: Knowing what I do about the threat to the health of the public and having some experience of the international context, I would say that we must presume that people will try to find a way around the legislation. Suppliers will attempt to find excuses to support the argument that it was impossible for them not to supply in order to keep a customer who they justifiably thought was over the legal age. Young consumers will definitely try to find a way around the legislation.

We rely on MSPs' good sense to put the hardest possible edge on the bill. We are aware that you will be faced with arguments about the rights of the individual and curbs on civil liberties. That is in the nature of any debate about public health—there is nothing special about this situation. We are dealing with a potentially dangerous, lethal and addictive substance that causes harm in a cumulative way if taken to excess. We are trying to protect the public from that harm in a way that maximises their individual choice and civil liberties. Somewhere in the middle is a sensible set of proposals that will ensure that enough proof of age is required to satisfy the requirements for minimising under-age drinking.

Professor Donnelly: The bill proposes an important change to the relationship between minors and licensed premises. As members know, there is a presumption that licensed premises can apply to have minors on those premises. If they do so, they must make the case for why that is reasonable. I do not object to the provision. It is seeking to follow the model of what could be characterised as southern European patterns of alcohol behaviour—to normalise the presence of children when adults are drinking wine with a meal, for example. However, it is only fair for me to point out to the committee that not all countries are taking that approach.

Some countries, especially the Scandinavian countries, are seeking to do something quite different. They are trying almost to create an alcohol-free childhood by separating alcohol and children in every way, including at sporting events. Only time will tell which approach really works. That illustrates once again the desperate importance of the detail of the legislation. What will licensees really have to do to convince the licensing board that it is okay for kids to be allowed on to the premises? Will they only have to pay lip service to the requirements, or will the process be challenging and meaningful? Will they have to demonstrate that they have good staff training and practices, for example?

Dr Jackson: You mentioned the dangers of excessive alcohol consumption, especially by younger children. The policy memorandum cites a study of young people in Edinburgh, which indicated that the most common source of alcohol for those youngsters was small licensed grocers. Could the bill be an opportunity lost if we do not extend it to include off-sales?

Dr Armstrong: I have no doubt about the fact that we should look seriously at off-sales. As I said, I know that the drinks industry—rather than the licensed trade—is targeting at-home drinking, the younger market and women.

Clearly, the bill is about licensed premises. Following the Nicholson committee's examination of the problems of public order and public safety in connection with licensed premises, the bill sets out to give effect to the recommendations of that committee's report, which are all very sensible. However, the bill does not tackle the big issue that you have described, which is the availability of alcohol to younger people through off-licence sales.

If you could extend the scope of the bill through a set of sensible amendments to tackle that issue, you would have my personal commendation for confronting an issue that needs to be tackled. My one caveat would be that we should not lose the baby with the bath water, given that the bill has a very specific purpose. However, if you wish to

press the Executive to introduce further controls on the back of the bill, you will have my personal commendation for doing so.

Dr Jackson: Can Professor Donnelly perhaps share with us his expertise on what recommendations on off-sales have been adopted in Scandinavian countries?

Professor Donnelly: Those who have never tried it before will find that buying alcohol in Scandinavia is quite an interesting experience.

Dr Jackson: It is expensive.

Professor Donnelly: It is very expensive, apart from anything else. Broadly speaking, I would say that in Scandinavian countries low-alcohol beer is sold through supermarkets and other retail outlets, but full-strength beer, wines and spirits are generally available only from particular liquor outlets, which are separated from supermarkets and other retail institutes. The process is somewhat like picking up a prescription, in that you need to get a ticket from a machine and wait your turn until you are eventually served. The order is then fulfilled exactly; the alcohol is put in a brown bag and you leave. The qualitative experience is quite different from buying alcohol in this country, where whisky or whatever can just be picked off the shelf. I do not advocate that we go down that route, but it is fair to give the committee a rounded picture of the different ways in which, even within an area as small as Europe, different Administrations seek to separate children from alcohol.

Bruce Crawford: That is interesting, but it actually makes our job quite difficult. The flip side of the example that you have given is the practice in Spain and Portugal, where I understand there are almost no licensing laws other than those that prohibit the sale of alcohol to people who are under 21. As legislators, we are in the difficult situation of trying to strike the right balance, but the balance that is proposed in the bill might be the wrong option. We may need to be much tougher, like the Scandinavians, but Spain and Portugal seem to adopt a tougher attitude about the age at which people may start drinking with no licensing laws beyond that.

It would be interesting to see what the statistics say about how successful new licensing systems have been in different countries. Perhaps we need further information about the success of the different approaches that have been adopted elsewhere and the base from which those countries started. That might help us to come to a more logical conclusion about what direction we should follow.

15:45

Dr Armstrong: That is why I have been commending the bill as it is written and have been cautious about suggestions that it could be extended to cover the whole field. The issues that you touch on are deeply cultural. You are absolutely correct: the Scandinavians have had a no-tolerance approach to alcohol for many years, but they still have a huge problem with over-consumption, hidden consumption and consumption to spectacular excess. They have the same set of stringencies around drink driving. They have had a 0 per cent approach for many years but their figures on fatal road accidents that are caused by alcohol are worse than ours.

By comparison, in the south of Europe there is, as Peter Donnelly said, a different culture. Alcohol is more widely accepted and is used in a responsible way, particularly in family situations. There is no culture of consumption to excess—in fact, there is a culture of frowning on such consumption. Again, that is not new and I could not track it back to any particular piece of legislation. It is deeply cultural. With the bill, we are attempting to take the next step by providing public health safeguards that will attempt to steer Scotland towards a different culture.

Bruce Crawford: In those circumstances, do you agree with the Dutch idea that it is better for 17-year-olds to drink low-strength beer in pubs than to obtain high-strength cider from supermarkets? Perhaps we should consider that idea to try to change cultural attitudes.

Dr Armstrong: Personally, I would agree.

Professor Donnelly: Mr Crawford asks a fair question, but unfortunately it is unanswerable in some ways because there is another factor: price. For many years, the Scandinavians limited affordability and consumption through punitive taxation, but it has become easy for people to go elsewhere and come back with almost unlimited amounts of cheap beer, wine and spirits, particularly with the accession of the Baltic states to the European Union. The Scandinavian Governments are now having, against their will, to consider dropping prices to avoid undermining their manufacturers and retailers. They predict that there will be an adverse effect on total consumption. Price is undoubtedly an important factor.

Dr Armstrong: I supplement my response to the question with a note of caution. What matters is not the strength of alcohol in a drink, but the number of units that are consumed. I am aware that young people can attack anything with gusto if they are so inclined and alcohol is, of course, addictive. The idea that people of any given age should be allowed unlimited access to so-called

low-alcohol drinks must be treated with caution, but I appreciate the use of such drinks as part of an overall cultural approach to alcohol.

Dr Jackson: My question is on the opening hours of licensed premises. The bill has a presumption against 24-hour opening but, as you know, individual licensing boards will have great flexibility in considering the operational plans that are submitted to them. Are you concerned about the move towards more flexibility?

Dr Armstrong: Personally, I am not. The available evidence is that severely restricting opening hours increases the possibility that people will consume large amounts in a short time. I do not see the hours provision as being wrong. In fact, it is written in the right way. There is a general presumption against 24-hour opening, which will happen only in exceptional circumstances. To my mind, that provision belongs with those in schedule 3 about irresponsible promotions. A board will be required to consider the whole package for which a licensee is applying, including opening hours, irresponsible promotions and so-called happy hours—the price reductions to induce excessive consumption over a short period. The package of measures is designed to reduce binge drinking.

Professor Donnelly: I agree. Again, the devil is in the detail and the outcome will depend on how local licensing authorities respond. Another helpful provision in the bill is the concept that one can deny a licence on the basis of oversupply—in other words, if there are already enough or too many outlets. The reason why that is important is that in some of our city centres there is oversupply and price-based competition. The combination of the fact that a licence can be denied because of oversupply and the provision to tackle unhelpful happy-hour type promotions might prove useful.

Tommy Sheridan: I will ask a couple of specific questions, before we consider the more general thrust of the bill. The RCN mentioned some helpful additional measures that could be considered for the bill. One was imposing restrictions on advertising, which you have already referred to—obviously we will have to find out how much power we have to do that. In respect of our ability to regulate sporting events, do you agree that we should seek to remove all drinks sponsorship of football teams and sporting events?

Dr Armstrong: Personally, I think that all the advantage goes to the alcohol companies in associating their product with a successful team—in particular with the ideas that alcohol gives people access to a high level of adulation or to a high level of performance, neither of which is true. I would be right behind any effort that was made to remove direct sponsorship. I know that Peter Donnelly's predecessor, Dr Andrew Fraser, was in

direct discussion with the major football teams in Scotland with a view to seeking their voluntary compliance with such a measure. I guess that commercial pressures are such that that is not currently possible. The committee may care to think about the issue.

The Convener: Perhaps we could allow the companies to sponsor teams as long as they are teams such as East Stirling.

Dr Armstrong: Yes. We should appeal to their altruism.

Tommy Sheridan: Peter Donnelly referred to another issue. He might have answered this question, but I will give him a chance to think about it again. He referred to the attempt in Scandinavian countries to restrict access to alcohol to specific licensed outlets, whereas here we have a free-for-all. Do you support, on health grounds, the idea of supermarkets having separate tills and distinct areas where alcohol can be purchased rather than the current situation in which people buy alcohol along with their milk and bread? There is a normalisation of a product that is not as normal as all the other products.

Professor Donnelly: That is an interesting idea. I do not know of any evidence either way as to whether that would change people's purchasing behaviour, but I take your point. It is desperately easy for people to push their trolley round the supermarket and load alcohol into it in the same way as they load anything else into it. We do not allow people to do that with cigarettes, which are dealt with in a different way. The suggestion might be worth considering.

I return briefly to the point about sport. I appreciate how difficult and controversial this would be, but I share the CMO's view that there is a powerful argument for seeking to separate alcohol and sport. Many sports are dependent on alcohol sponsorship and that separation would need to be achieved in a sensitive and thoughtful way, but seeking to achieve it over time would be a good thing. Often when a football or rugby team or a sportsman wins an event the people who interview them on the radio or television make throwaway remarks such as, "There'll be a few sore heads around Celtic Park or Ibrox tomorrow." Generally, the manager or player agrees out of politeness, although many professional sportsmen do not drink at all and those who do drink very little. The few who drink to excess and end up in the newspapers as a result are far from typical. The trouble is that the message that gets through to our young people is that professional sportsmen and women drink a lot and celebrate every victory with a heavy drinking session. We need to change that false presumption.

Tommy Sheridan: I am glad that you made that point, because it ties in with the other point that I wanted to make, which is that the policy memorandum refers to the four key objectives of

“reducing underage drinking, reducing binge drinking, providing a voice for communities, and modernisation.”

My worry is that even if we reduce under-age drinking and binge drinking, we will still have a problem, because Scotland drinks too much. There is no distinct and overt policy objective to reduce alcohol consumption throughout Scotland. Do you agree that, regardless of whether it would be a forlorn hope—I know that it would be problematic—the Executive should at least promote reduced alcohol consumption as a whole, rather than homing in only on under-age and binge drinking? It is great if we reduce such drinking, but the health problems are broader.

Professor Donnelly: That is a good point. If the only effect of the bill was to target and penalise young people because they are perceived, rightly or wrongly, to be the people who are primarily involved in binge drinking, that would be a missed opportunity. The message that we want to get across is that the whole of Scottish society at all ages—men, women, kids and adults—would benefit from an overall reduction in alcohol consumption.

Dr Armstrong: The Executive is by no means unaware of that. The bill is just one element of the comprehensive “Plan for Action on alcohol problems”, which was published in 2002. The plan seeks to provide a comprehensive framework that strikes an appropriate balance between individual choice and public health protection in relation to access to alcohol; takes steps to reduce demand, principally through public education; provides an enhanced level of service for those who are addicted to this drug; and provides a backstop of legislative and fiscal controls, working with the United Kingdom Government wherever necessary, to put in place an appropriate set of checks, balances and levers. The bill on its own is not the answer; it is part of the answer. We have carried out a comprehensive review of progress over the past two years with the plan for action and will produce a revised set of proposals. I said in my report that they would be published in the spring, but I understand that publication is imminent; the proposals are being prepared for ministers and will be published in the next couple of months.

16:00

Tommy Sheridan: Could you ensure that we get a copy of the proposals? I take issue with you a wee bit. You are right that one piece of legislation cannot be the be-all and end-all, but if you remember, the Nicholson committee’s remit was to

“review all aspects of liquor licensing law and practice in Scotland, with particular”—

I emphasise that word—

“reference to the implications for health and public disorder”.

The health issues have to be broadened and we have to get as many of them into the bill as possible because there might not be another licensing bill for a wee while.

Dr Armstrong: I very much welcome your approach. As I say, the bill is designed for control of the on-licence trade. You are quite right to say that the bill does not seek to implement anything that Nicholson said in his 100 recommendations about the off-trade; it is principally about the on-trade.

Tommy Sheridan: Your office is obviously very busy but, given some of the comments that have been made today about advertising, price controls, the supermarkets and sport, it would be helpful to have the CMO’s endorsement of, or at least promotion of, add-ons to strengthen the health-related aspects of the bill. Although I support the general principles of the bill, my criticism is that we do not emphasise the health aspects enough.

Dr Armstrong: I totally take that on board and I am grateful to you for your support. In my annual report I said that the update on the 2002 strategy would be available in the spring, but when I checked this morning I learned that the spring is being extended. I will make sure that you get a copy of the update as soon as it is available.

Margaret Smith (Edinburgh West) (LD): I have a comment to make before I ask you a question. We heard from the RCN about the key role that school nurses play in talking to youngsters about these and other issues, so I hope that school nurses will figure in your review of the plan for action.

Professor Donnelly touched on the issue of pricing. Do you have any further information about how we could make use of pricing as a tool to control demand, bearing in mind the fact that there seems to be a lack of clarity about whether or not it is a tool that we can use? Some pilot schemes have encountered difficulty but, according to a Westminster committee report, the Office of Fair Trading has said that pricing is a legitimate tool in the box. Do you have any comments on pricing generally?

Dr Armstrong: As I understand it, the bill will give local committees control over irresponsible promotions. Schedule 3 defines a variety of conditions, many of which have to do with pricing in relation both to the 48-hour rule and to irresponsible drinks promotions. As I understand it, the element of pricing that is reserved is excise

duty. As Peter Donnelly said, some countries, particularly in Scandinavia, have adopted a deliberate strategy of increasing the excise duty to penal levels. Somewhere between where we are at the moment and where the Scandinavians or other countries and cultures are, there is something that is appropriate for this country's culture. The evidence on tobacco—and I have no reason to doubt that it exists for alcohol too—is that price is a significant lever in regulating overall consumption.

The Convener: Should we introduce regulations that proscribe the selling of alcohol at below cost price? There are certainly many examples in off-sales where alcohol is used as a loss-leader to get people in and to raise the footfall for the rest of the business. Should we do that? Do we have the devolved competence to do it or would we have to take it up at UK level?

Dr Armstrong: Again, I think that you need to take legal advice on that.

Professor Donnelly: My understanding is that there are two separate elements to that. One is taxation, which the CMO highlighted and which is reserved. The other, which is legally complicated, comes down to what constitutes fair trading and whether you would be suppressing competition artificially. You would need to take legal advice on that. However, there is no doubt that price is an important predictor of consumption. To put it bluntly, it has probably never been cheaper to get drunk, the consequences of which are there for all to see.

Margaret Smith: I wanted to get your thoughts on training, which is a significant part of the bill and brings with it a cost to the licensed trade. How important or useful do you think training might be in addressing the public health issues that we have been discussing?

Dr Armstrong: I broadly welcome the training, which does two things. First, having licence holders or the managers who are acting for them trained appropriately is bound to improve the service that is given to the public, because it will remove the defence that licence holders might use if they are hauled up by the local licensing standards officers that they did not know that their behaviour was inappropriate. They will be trained to a certain level and will therefore know what is and what is not appropriate. The leisure industry is not famous for high levels of pay, training or investment in any of its staff. I welcome the fact that the staff who are quite near the bottom of the food chain as far as income levels are concerned will have proper investment put into their futures. I hope that that will give them a better future as well as giving customers better service.

Margaret Smith: We have heard concerns about the fact that temporary staff and people involved in voluntary organisations, for example, are exempted from the need for training but, nevertheless, sell alcohol. Occasional licences might be granted in rural areas for events that are organised by the voluntary sector or community groups. Increasingly, those are the places where people are getting access to alcohol, certainly in social circumstances. Do you think that it would be valuable for us to provide that those staff should have to undertake some form of minimal training, or do the difficulties involved in that mean that we will just have to accept that we cannot do it?

Dr Armstrong: No. I do not accept that we cannot do that. I am well aware of the need to be sensitive and to acknowledge the special place in Scottish society of the voluntary sector and the way in which community groups need to come together to build stronger communities. I am not necessarily persuaded that the kind of venue to which you referred constitutes a significant threat of ready access to large volumes of alcohol consumed in excess. That is not a picture of voluntary groups and so on that I recognise.

Equally, as I understand it, we have not made huge exceptions in relation to food standards. All round the country churches and voluntary organisations have to ensure that where they provide tea, coffee and sandwiches, they comply with food standards. We can clearly provide training or certification for that kind of premises.

We have to consider carefully whether the exception is reasonable, given the level of threat that is posed by that kind of premises. From a public health point of view, I am not sure that I see the threat as significant, but you make a good point.

The Convener: That brings us to the end of questions. Thank you for your evidence, which has been helpful. That brings us to the end of consideration of the bill for today. We will now move into private session for agenda item 4.

16:11

Meeting continued in private until 16:13.

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