

TRANSPORT AND THE ENVIRONMENT COMMITTEE

Monday 18 June 2001
(*Afternoon*)

Session 1

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TRANSPORT AND THE ENVIRONMENT COMMITTEE **18th Meeting 2001, Session 1**

CONVENER

*Mr Andy Kerr (East Kilbride) (Lab)

DEPUTY CONVENER

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

COMMITTEE MEMBERS

*Bruce Crawford (Mid Scotland and Fife) (SNP)
*Robin Harper (Lothians) (Green)
Maureen Macmillan (Highlands and Islands) (Lab)
*Fiona McLeod (West of Scotland) (SNP)
*Des McNulty (Clydebank and Milngavie) (Lab)
*Bristow Muldoon (Livingston) (Lab)
*Mr Murray Tosh (South of Scotland) (Con)

*attended

WITNESSES

Dave Duthie (Argyll and Bute Council)
Cameron Kemp (Highland Council)
Tom Kennedy (Transport Salaried Staff Association)
Councillor Charles King (Highlands and Islands Strategic Transport Partnership)
Norman MacDonald (Comhairle nan Eilean Siar)
Norman Martin (National Union of Marine, Aviation and Shipping Transport Officers)
Dr Harold Mills (Caledonian MacBrayne)
Murdo Murray (Comhairle nan Eilean Siar)
Dan Sharpe (Transport and General Workers Union)
Lawrie Sinclair (Caledonian MacBrayne)
Bill Speirs (Scottish Trades Union Congress)

CLERK TO THE COMMITTEE

Shelagh McKinlay

SENIOR ASSISTANT CLERK

Tracey Hawe

ASSISTANT CLERKS

Alastair Macfie
Neil Stewart

LOCATION

The Signet Library

Scottish Parliament

Transport and the Environment Committee

Monday 18 June 2001

(Afternoon)

[THE CONVENER opened the meeting at 13:34]

The Convener (Mr Andy Kerr): I welcome everyone to the 18th meeting in 2001 of the Transport and the Environment Committee. We have received apologies from Maureen Macmillan, who is sorry that she cannot attend; she has a long-standing constituency engagement that she felt she could not cancel. I expect that other members will join us fairly soon.

Items in Private

The Convener: For the first item on the agenda, I seek the committee's agreement to take other items in private. On item 2, we will need to consider lines of questioning for witnesses as part of our consideration of the Scottish Executive's proposal for the future of the Highlands and Islands ferry service network. Do we agree to take the matter in private, as is usual practice for such items?

Members indicated agreement.

The Convener: I also seek the committee's agreement to take in private consideration of lines of questioning for the ministers Sarah Boyack and Rhona Brankin at next week's meeting. Do we agree to take that item in private?

Members indicated agreement.

The Convener: For item 5 today, we will consider a draft response to the Procedures Committee inquiry into the application of the consultative steering group principles in the Scottish Parliament, which we discussed last week. As is usual practice with discussions of draft reports and responses, I seek the committee's agreement to take that item in private. Do we agree to take that item in private?

Members indicated agreement.

13:35

Meeting continued in private.

13:41

Meeting continued in public.

Petitions

The Convener: Agenda item 3 relates to public petitions. Petition PE96 deals with the environmental implications of sea cage fish farming. Members will recall that, at the committee meeting on 9 May, we agreed that, before deciding what further action we would take, we would hear evidence from ministers on initiatives that the Executive is undertaking. It has been confirmed that Rhona Brankin will appear before the committee on Tuesday 26 June. Members of the Rural Development Committee have been invited to attend that meeting.

After our previous discussion, Robin Harper contacted me with a proposal to advance the issue in a different manner. I agreed to put that to the committee last week but, as Robin Harper could not make that meeting, I put the issue on the agenda for this week's meeting.

Robin Harper (Lothians) (Green): In light of the publication today of the Friends of the Earth Scotland report "The One That Got Away—Marine Salmon Farming in Scotland", which highlights the continued concerns about the effects of sea cage fish farming in general, it is important that we are seen to have an open inquiry.

Despite the relative breadth of what the Executive says it is engaged in, what is being done will not satisfy all concerned parties. It is important that the Transport and the Environment Committee and the Rural Development Committee between them pursue a committee inquiry. Although we must listen to what the Deputy Minister for Environment and Rural Development says, it will be too late to set an inquiry in train after 26 June if we do not make plans before then. We should have plan A and plan B in advance, and plan A should be how we will take forward a committee inquiry, either on our own or in alliance with the Rural Development Committee.

The Convener: At a previous meeting, we agreed that we had to base what we did on the response from Ross Finnie about a number of Executive initiatives. We want to establish what meets with our satisfaction and what does not. What areas do we need to do some work on and what areas are being covered by the Executive? I am of the view that the minister should be subjected to some investigation on these matters. Today we received an e-mail from Rhona Brankin containing a sizeable batch of information, which will be circulated to members. Once we have chatted with the minister, we can determine how best to proceed.

Bruce Crawford (Mid Scotland and Fife) (SNP): I understand what Robin Harper is trying to achieve—I have a lot of sympathy with what he

says—but we must not let the minister off the hook. Although the committee could undertake the inquiry, the Executive, with all its resources, has the responsibility to hold a properly constituted inquiry. The last thing that we should do is put our hands up and say, “Okay, minister. We accept that you’re not going to do this work, so we’ll do it.” It should be the Executive that does the work. We should not let the minister wriggle off the hook. We need to understand the rationale behind the minister’s decision not to proceed with an Executive inquiry. We should flush out that information and test the arguments. If we put our hands up and say that we will do the inquiry, we will do the industry a disservice and we will let the Executive wriggle away.

13:45

Robin Harper: My concern is that if the Executive says—as it has done very clearly—that it has absolutely no intention of instituting a full-scale public inquiry, how will we persuade it to do so? If someone could tell me how we could do that, I would not be considering what is, in effect, plan B.

Des McNulty (Clydebank and Milngavie) (Lab): The initial stimulus for this discussion was petition PE96 from Mr Allan Berry, asking the Parliament to hold an inquiry into the adverse environmental effects of sea cage fish farming. We have to come at the issue from the perspective of that petition. It would be appropriate for us to question the minister specifically on those adverse environmental effects.

I heard on the radio this morning that Friends of the Earth had produced a document on this issue but I have not yet had the chance to read it. I presume that other information will be produced as well. The appropriate thing would be to question the minister next Tuesday on the basis of the petition and of other information that we receive. By then, we will be in a position to decide how to deal with the issues raised in the petition.

Bruce Crawford: I understand what Robin Harper is trying to achieve. Rhona Brankin will, I presume, speak to us on this issue when she comes to the committee next week. If she is not prepared to budge, we can reconsider how to proceed at that point.

The Convener: As I recollect from our discussions at previous meetings, the purpose of our inviting Rhona Brankin to the committee is so that she can tell us what the Executive is doing. We can then consider what effect that will have on the scope of an inquiry, if one is to be held. Her e-mail suggested that the Executive would be doing some things but not others. We will be able to press the minister further and ask how far any

Executive inquiry would go, what financial resources would be put behind it, who would carry it out and whether it would be internal or external. We will be able to explore all those issues. If we are not satisfied with the answers that we receive, we can have further discussions. I would be happy to have those discussions immediately after the minister’s departure, unless members were otherwise minded. However, at the moment, let us not commit ourselves to such a course of action, because we may feel differently once we have heard the minister. Let us not paint ourselves into a corner.

I have received an e-mail on the Friends of the Earth report. I have also received an e-mail from Scottish Quality Salmon—or the like—challenging much of the content of that report. We will have to read what the different sides are saying and we will have to hear what the minister is saying. If there are gaps to be filled or work to be done, the committee can agree on what to do.

Des McNulty: This is a point of protocol, convener, that you may wish to take up with the convener of the Rural Development Committee. Members of the Rural Development Committee will be invited here to listen to the minister. Ultimately, however, this committee will be the one that takes a view on how to proceed. You may wish to draw that, and this committee’s remit, to the attention of the convener of the Rural Development Committee.

The Convener: Indeed.

Robin Harper: Everything I say springs from a perception that this issue could drift very badly. The petition was sent in about six months ago. We have already drifted on the issue and things could drift for another four or five months. On the understanding that, following our discussion with the Deputy Minister for Environment and Rural Development, we hold a substantial session to discuss what she has said and that we are furnished in advance with copies of what the salmon farmers and Friends of the Earth Scotland are saying—in order to have a properly informed discussion on 26 June and to be able to make up our minds that day—I would be content to leave any further decisions until then and not to press for a decision at this stage. I hope that the committee might view that as the best way forward in order to prevent any further drift.

We should devote a substantial amount of time to the debate, so that we can come to at least a reasonably informed decision on 26 June. We could encourage the Rural Development Committee also to reach a decision on that day—if it feels that it wants to become involved—after we have questioned the minister.

The Convener: What other committees do is

their business.

Robin Harper: I acknowledge that.

The Convener: I will be corresponding with the convener of the Rural Development Committee and having a chat with him before our meeting so that we all know what is going on.

I am advised by Shelagh McKinlay that the Friends of the Earth Scotland report is on its way to us in the post. I understand that Scottish Quality Salmon has sent us all an e-mail response.

On the issue drifting, I think that we were all unhappy about how long it took to get the minister to come to the table, although that was a matter of matching her diary with the dates of our meetings. That was unfortunate and unwelcome. I would much rather that the minister had come sooner. We are now to meet on the last committee day available to us before the summer recess. We will have the discussion at that meeting.

John Farquhar Munro (Ross, Skye and Inverness West) (LD): It is surprising that we are discussing this issue again, as this committee and the Rural Development Committee came to a strong conclusion on the matter, suggesting an inquiry by the Parliament or the Executive. The sea cage fish farming industry was more than happy to agree to an inquiry, because that would once and for all clarify the position. The industry has been getting a lot of flak, not only from the environmentalists, but from others who are involved in different sea fisheries, particularly the shellfish people. It is significant that the shellfish people have been fairly silent on the issue since they heard that there was to be an inquiry.

I am not too concerned about the Friends of the Earth report, because we came to our decision before it made its pronouncement—or at least its latest one. Whatever is suggested, I would be of the opinion that the committee should suggest again to the Executive that it revisit its decision, so that we can get some clarity on the matter.

I do not think that this committee or its members have the resources or the time to undertake the in-depth inquiry that would be required. I am sure that the Rural Development Committee is in much the same position. I remain of the view that we return to the suggestion that was originally made to the Executive.

The Convener: The minister will have seen a copy of the *Official Report* of today's meeting before she appears before us next week, so she will know members' feelings on the issue.

Robin Harper: I want to float an idea. If there is such a thing as a committee motion, could we lodge such a motion for debate in the Parliament to call for a public inquiry? We could ask, in the terms of the petition, for the Parliament to vote on

whether there is to be an inquiry.

The Convener: Party motions can be put to the Parliament, but there is no such thing as a committee motion.

We will proceed on the basis that the minister is to come before the committee at next week's meeting. People have expressed their views about the urgency of the matter. I confirm our original position that, because of the resources and time involved, we believe that the Executive should undertake the inquiry. At next week's meeting, we will ask the minister what work the Executive is doing and will do. We can then decide whether we are satisfied with the scope and content of that work or whether we want to take alternative action.

Members have a paper before them about petition PE327, which was lodged by Mr Duncan Hope. As I was appointed reporter on the issue, I have prepared a paper, of which members have received a copy. As members do not seem to have any comments to make, I take it that the committee is content with the paper.

Members indicated agreement.

The Convener: I thank members for that vote of confidence in my drafting skills.

We move on to the substantive element of our business today—

Des McNulty: I note that one of your recommendations is that we should have a formal evidence-taking session.

The Convener: Yes.

Des McNulty: I am content to have a written call for evidence, rather than a formal evidence-taking session. We should take a view on how members wish to proceed on that question.

The Convener: That is a fair point.

Bruce Crawford: I assumed that we would be holding a formal evidence-taking session.

The Convener: As with the process that we are about to undertake with the other petition, we generally do that. However, on the basis of the written evidence that I may receive and the meetings that I may have in the interim, I would like to come back to members on that question. If it is appropriate, I will propose a public evidence-taking session on the matter.

I take Des McNulty's point, but we must consider the pressure of time and our work load. A public evidence-taking session would be recommended only if it would produce something fruitful.

Fiona McLeod (West of Scotland) (SNP): Do you want our views on whether we should have a site visit?

The Convener: I planned to offer committee members the opportunity to go on a site visit based on the site visits that I will undertake.

Fiona McLeod: Will you undertake site visits?

The Convener: Yes. I will do that in an individual capacity as the committee's reporter and I will keep everyone aware of what I am doing. Committee members will get a copy of the dates and times of my visits, once they are agreed. Members are welcome to join me on any of those visits.

Fiona McLeod: Will any formal evidence-taking sessions be combined with a site visit or will they be held in the Parliament?

The Convener: The formal taking of evidence will be done in the Parliament at committee meetings. If we do otherwise, we need to take the whole kit and caboodle—to use a technical phrase—out with us.

Fiona McLeod: Does that mean that we would not consider holding a formal evidence-taking session on site?

The Convener: It is unlikely. However, the report will be a preparatory one based on what I expect to find. If things change and it seems that what you are suggesting would be worth while, we will do it. A number of different areas and organisations are involved and a formal committee meeting in Edinburgh is the best way of taking evidence.

Bruce Crawford: I am a wee bit concerned about managing expectations. In the past, I was quite closely linked with the Blairingone and Saline action group, as it is based near my former council ward. The group has the feeling that a session will take place in the area—it has contacted me to that effect. I am aware that no decision has been made in that respect, but that expectation is beginning to grow in the Blairingone and Saline community. I am not suggesting that we hold a full evidence-taking session there, but it would be useful for the committee to hold a site visit, so that as many members as possible can see the evidence on the ground. That would mean that the Transport and the Environment Committee would have a presence in the community.

The Convener: We will undertake site visits. If it is determined that we can do something in the locality, I will come back to the committee, as that suggestion would involve everyone.

The question is how we balance the need to move at a due pace to identify the issues with the need to resolve them—a balance must be struck in that scrutiny process. In my report, I have tried to lay out the work that could be done in the short term.

Des McNulty: It would be helpful if, in your capacity as the committee's reporter, you took evidence in the locality.

The Convener: Okay. Thank you.

Ferry Services (Highlands and Islands)

14:00

The Convener: Agenda item 4 is consideration of the Scottish Executive's proposals for the future of the Highlands and Islands ferry service network. We will take evidence today from the Highlands and Islands strategic transport partnership, the Scottish Trades Union Congress and Caledonian MacBrayne ferries.

I welcome Councillor Charles King from the Highlands and Islands strategic transport partnership; Murdo Murray and Norman MacDonald, from Western Isles Council; Dave Duthie, head of transportation services at Argyll and Bute Council; and Cameron Kemp, principal transport officer at Highland Council.

I invite Councillor King, who is a fairly frequent visitor to the committee, to say a few words.

Councillor Charles King (Highlands and Islands Strategic Transport Partnership): Frequent, but I hope not too unwelcome.

The Convener: Absolutely not.

Councillor King: We feel strongly that the tendering process for the Caledonian MacBrayne network should go out in one block. Most of us represent areas where ferries are lifeline services and we are frightened of the consequences of the service being broken up.

A group of us visited Brussels about four weeks ago to put our case to the marine people. We came away thinking that we had just about tipped the scales; we can tip them a bit further today. We are not against putting the service out to tender, but we are against the tender going out in anything other than a single block. Too many vulnerable services could be exposed and lost if we do not get it right.

I will bring my opening remarks to a close at that point and let the committee ask questions on the issues that we raised in our submission. You will get better responses that way.

The Convener: Thank you. There is a common purpose, which you expressed, in relation to the eventual result.

Bristow Muldoon (Livingston) (Lab): One of the issues that several people have raised with the committee is whether the Executive could, or should, seek some form of derogation from the state-aid requirements. Should more work be done to explore whether that would be possible?

Murdo Murray (Comhairle nan Eilean Siar): We were initially concerned about that and

examined the matter in significant depth. We are now of the view that there is no alternative. It became clear during our representations in Brussels that there was no alternative, as European law had to be complied with. It was made clear to us that the derogation issue could have applied a number of years ago, but it would have been of limited value, because even those who have had derogation must now comply.

Bristow Muldoon: If a tendering process is to be put in place, should Parliament establish a legislative or regulatory framework prior to that process? Parallels have been drawn with many other organisations that have gone through a tendering process. In those cases, a legislative framework was put in place to ensure that the public interest was defended.

Murdo Murray: The regulative aspect must be considered in depth. We recognise that the Executive is examining that aspect.

The important point is to move the agenda forward quickly to get the answers that are required. Representations have been made to Europe and the Scottish Executive is answering detailed questions. It will then be for Europe to make a decision on the public service obligation and the single bundle. Our understanding is that Europe is looking for a reasonable and robust defence of that mechanism. We hope that a decision can be made fairly quickly.

The regulative aspect must be examined, but our primary concern is to get the process under way, so that the services to the islands can be provided in a way that benefits the islands.

In particular, there are issues concerning economies of scale and relief vessels. We are concerned about cherry-picking if there were to be a move away from the single bundle. If a particular route were identified with a separate PSO, some areas would have relief vessel difficulties. In the network as a whole, it is easier to provide one vessel for relief. That vessel is used not necessarily on a specific route that is having difficulties, but on a cascade principle. If, for example, a vessel such as the Isle of Arran is used as a relief vessel for a specific problem on the Stornoway to Ullapool route, the next largest vessel will come into play and the relief vessel will fit in in the proper location. If different sections of the network come under different PSOs, relief becomes a problem and that is clearly an issue.

Cherry-picking is significant. Currently, attempts are made to cherry-pick on the commercial aspects of certain routes and we are seeing some detrimental effects even with the existing cherry-picking operation. Recently, shops in Stornoway have not received fruit and vegetables that they expected on a particular day because the vessel

did not perform. If vessels or companies do not perform and are not up to the standard that is required, that will result in significant problems down the line.

We hope that the committee will take that matter seriously and support the efforts that are being made by the Executive and the Minister for Transport and Planning, which are the same in principle as those proposed by the local authorities and the strategic transport partnership. Those efforts are being made with Europe.

Bristow Muldoon: I am interested in some other issues, but I believe that other members will ask about them.

Bruce Crawford: I understand what you have said about the future and whether CalMac should be split into two. I am not saying that I accept the minister's proposals, but let us assume that there will be a vessel-owning company. That company started off with the role of securing essential and lifeline services and as a provider of last resort. Recently, however, the language has changed and the company has been described as a procurer of last resort. What are your views on the vesco being the procurer? How could essential and lifeline services be maintained while the procurement process was gone through?

Norman MacDonald (Comhairle nan Eilean Siar): A situation that required an operator of last resort is far less likely under a single network bundle. Such a situation is likely to happen only where there is fragmentation of the network and a number of different operators; it would result only from a breakdown in the agreed contract between the operator and the Executive. If, for example, a vessel were to break down on a short-term basis, the operator of last resort would not be an issue and would not have to be dealt with by the operator—whoever that may be.

We support the single network bid because such a situation is far less likely to happen under those circumstances.

Bruce Crawford: The committee has received a fair amount of written evidence from a number of people who have views on that. If a private sector company won one of the bundles or one of the routes and the contract were to break down, how would the difficulty of procuring the operator of last resort through the vesco be overcome?

A number of alternative methods have been put to us, but it has been suggested that those methods will not work, particularly by the Office of Gas and Electricity Markets—Ofgem—in its guidelines, "Supplier of Last Resort—Guidance on current arrangements". If you have yet to consider that issue deeply, that is fair enough—I understand. However, we must start to tackle how to procure—I keep coming back to that word—the

operator of last resort in circumstances where a private sector company has failed to continue the contract.

Norman MacDonald: First and foremost, the Executive has responsibility for providing those lifeline services.

Bruce Crawford: I understand that.

Norman MacDonald: Whether through the vesco or through some other arrangement with another private company, the Executive would have to have a mechanism in place to safeguard the services. I am not sure whether building in that mechanism and designating the vesco as an operator of last resort is the best way of approaching those circumstances. There is no doubt that, when the tender specification is produced, we will want to ensure that a mechanism is put in place whereby the Executive provides those lifeline ferry services if the contract between the private operator and the Executive breaks down.

Bruce Crawford: I understand that the Executive is responsible, but recently it said that the vesco will not be the provider and that it will procure the services of the provider. That concerns me, and I seek your views on the procurement process for essential and lifeline services. We have a period in which to try to bring in a particular organisation to perform the services, but the services may fail. What is your reaction to that?

Murdo Murray: In such a scenario, our clear view is that there should be one bundle of services. There are specific and justifiable reasons for that approach and we believe—we hope—that the European Commission will accept those reasons.

Let us consider what would happen if an area were to be identified as separate. In normal procurement procedures, it is not uncommon to identify a bond that would effect some form of continuity in the event of a failure to comply. Such a bond might be like an insurance premium, and its cost would have to be built into the procurement process. For example, a bond is usually built into procurement processes in construction activities. The bond has a cost, but in circumstances such as bankruptcy or in other serious situations, it would kick in and allow a period in which alternative mechanisms could be developed. Having said that, we are working on the premise that there will be a single bundle or network.

Bruce Crawford: My suggestion makes that argument anyway. The shops want their goods, and there is no point in a bond sitting ready to be used if no one is able to provide the service. I realise that I am giving my view, convener, rather

than asking questions, but we must consider such matters carefully if we are to understand their implications.

Norman MacDonald: If a vessel-owning company were established, the Executive would ensure that a service was put in place. I have no doubt that the quickest solution to the problem would be a state-owned, vessel-owning company that had the capacity to provide the service in the short term until the contractual arrangements were sorted out.

The Convener: The committee has discussed the fact that many of those arrangements will have to be subjected to scrutiny to ensure that the scenarios have been played out and that there is confidence in the complicated arrangements that we hope will arise out of the European settlement. We are aware that that agenda involves big issues.

Bruce Crawford: What will happen if CalMac becomes the vesco but cannot secure a licence from the Maritime and Coastguard Agency because, as it is a vesco, it is not an operator?

The Convener: Any takers?

Norman MacDonald: That could be quite a difficult situation. The question is probably best answered by the CalMac representatives, who I understand will give evidence later.

14:15

The Convener: That is fair warning to the CalMac representatives.

Fiona McLeod: As you know, most public industries have official independent regulators, such as the Office of Water Services and Ofgem. Is there a need for such an independent regulatory body in the new circumstances that we are looking towards, and should that body encompass not just customer service in terms of fares and service frequency, but the safety aspects of service delivery?

Councillor King: We are not sure that we need a regulator. If the tender is tight enough and specific enough, the service should run itself. It has run itself as a single block for years. If the tender were written tightly enough, we would be happy that that was controlled.

Norman MacDonald: The MCA has responsibility for safety for all our ferry services, and its track record has proved that it is the best body to deal with that. I do not think that it is necessary to have a regulator for that specific aspect of the service.

Fiona McLeod: If safety is taken care of by the MCA, service delivery in terms of fares and frequency could be covered by the tender

specification.

Murdo Murray said that regulation was important but that it must not hold up the process that we are going through at the moment. Given that the regulations will be in the tender process, how do we square the two and ensure that the specification is tight enough, but brought in soon enough?

Councillor King: If the Highlands and Islands strategic transport partnership and the local authorities are involved with the contract specification, that will make the tender tighter. Whatever happens, we want a better service on our island routes at the end of the tendering process, because those routes are lifelines.

If the consultative committee structure is tightened up in future and has more say and more bite, rather than being just an advisory committee, that will help to control fares. We often present ideas at advisory committee meetings that we would like to be put into practice. However, because we do not have much power or much say, those ideas are not realised a year or a year and a half later. If the consultative committee had had a few more teeth, a lot of the problems that we have had on the routes would have been sorted out sooner. If that can be tightened up, fares, structures and timetables can also be tightened up.

Murdo Murray: One of the things that I was trying to touch on was the requirement for a degree of flexibility. If a tender is accepted on the basis that there is to be no change to it, that could have significant knock-on effects for the development of transport and transport infrastructure for the next five to 10 years.

We want to have some built-in flexibility so that the process moves quickly. For example, if there were changes to the infrastructure that had been promoted through the Highlands and Islands strategic transport partnership and which were five or 10 years away in terms of visionary thinking, we would want some mechanism that would build them in. If vessels could be provided early on, that would imply that there could be infrastructure changes at the end of the first tender, and we would want that mechanism to be on-going through the tender. A bit of thinking has to be done about flexibility. I hope that the committee will take that on board in its discussions with ministers.

Fiona McLeod: Councillor King suggested that the Highlands and Islands strategic transport partnership should have more teeth, rather than being simply an advisory body, and that it should have an almost statutory position. How could that be secured?

Councillor King: If the Highlands and Islands strategic transport partnership is to carry on, we

would like it to have a far greater role in deciding matters that relate to CalMac. We made that point to the minister when we met in Inverness.

At the moment, there are two consultative committees: one in the south, which deals with routes that run into Oban, and one in the north, which deals with routes that run into Stornoway and Ullapool. That structure is unwieldy, because certain routes operate in both areas. The members of the two consultative groups meet only once a year, which makes it hard to get things worked out. There should be one body and the comments of that body should be taken heed of and worked on. A mechanism would have to be found to ensure that that happened. The change that I propose would ensure that the communities, through their advisory group, had more say on how fares, routes and timetables were laid out.

Des McNulty: Bearing in mind the fact that local authorities already run services in geographically isolated areas, would the authorities wish to see the routes that they presently run incorporated in the tendering process?

Murdo Murray: To an extent, that comes back to the flexibility that we talked about earlier. An example of what you are talking about is a route in the Sound of Barra. We are developing infrastructure in relation to that and, although it is not currently within the undertaking, we would like it to be built into the tender specification. That would allow it to be considered at a later date.

The short answer to your question, in relation to the Western Isles Council, is that we would want the services in geographically isolated areas to be incorporated in the tendering process. Dave Duthie can answer in relation to Argyll and Bute Council.

Dave Duthie (Argyll and Bute Council): We run four services, two of which are vehicle services. When we are refitting those boats, we have to hire a vehicle ferry from CalMac on a one-off basis for two or three weeks as we do not have a standby vessel. The new arrangements might make that harder.

To an extent, there is joint working. We run a passenger ferry to Lismore and CalMac has a vehicle ferry that runs direct from Oban. Re-jigging of that route might deliver a better service, which is why we would want it to be included in the overall package, although the council would want to ensure that it has an input to the provision of those services.

Des McNulty: You have made it clear that you are in favour of putting the routes out to tender as a bundle for reasons of security and continuity of the service. Supposed benefits of competition include reductions in prices, increased customer focus and increased flexibility of the services. Are

you arguing against those supposed benefits, or are you arguing that they should arrive in a different way?

Councillor King: We are not arguing against those benefits. We hope that putting the routes out to tender as a bundle will bring the prices down. If the routes are bundled, promotion and marketing will be easier. Through-ticketing and the island hopscotch system would also be easier. It would be hard for separate companies to promote such a system and market the routes. We hope that the tendering process will sharpen people's pencils.

Des McNulty: The comments I have heard from service users centre on issues such as pricing and the lack of service flexibility and customer focus. Are not those issues important enough? What mechanisms in a single tendering process will be used to generate improvements?

Cameron Kemp (Highland Council): The desired improvements, including growing the routes, could be built in when the tender specification is initially developed. That would fix the pricing and the five-year delivery period.

Norman MacDonald: The consultation process prior to the letting of tenders—which has not involved local authorities to any extent before—will be critical. Local authorities could play a vital role in that process. If the tenders are allocated for five years, we will barely be halfway through the period before we have to consider retendering for the next five-year period. Although the tenders are for a single network, the fact that the network is going out to tender will make it more competitive and will make the operator—or aspiring operator—more responsive to the wishes and needs of the communities served by those lifeline services.

Des McNulty: So you are saying that the consultation process and the development of the specification are two mechanisms that will deliver improvements.

Norman MacDonald: The consultation that will be carried out prior to the tendering process and the consultative arrangements mentioned by Councillor King, which will be introduced as the services are rolled out, are two vital aspects.

Des McNulty: Both aspects sound as if they will involve more public subsidy. In the consultation, people will say that they want more services and they will choose a higher-level specification over a lower-level one. What kind of value-for-money mechanisms will be introduced to stop that happening and to substitute for competition? I have not really received an answer to that question.

Norman MacDonald: Better services does not necessarily mean more services. It might mean that services are run at a more appropriate time

for service users, but it does not necessarily follow that people will demand more services all the time. They will certainly ask for more appropriate services—and quite rightly so. The single network system provides a better opportunity for economies of scale and to build in the consultative process without it costing a great deal of money. That is a fundamental part of the process on which we are embarking; even if costs more money, it will ensure that the services provided are the services that people need to continue living in the communities concerned.

Des McNulty: Are you saying that, although you cannot specify it exactly, the single tendering process will provide a mechanism that could harmonise people's aspirations for an improved service and for the management of that service?

Norman MacDonald: The consultation process and the representations that are made to local authorities as the tenders are rolled out will go a long way towards achieving that aim.

The Convener: Councillor King and Norman MacDonald in particular have mentioned efficiency in relation to reducing customer prices. It would be useful if you could provide examples of how that would be done in the tendering process. Although we have a fair idea, we would like you to tell us how costs would be brought down as a result of the bundling strategy.

Murdo Murray: If I may, I will make a point that goes back to a point that was raised earlier. We are talking about public service obligations. If the bundles are put out on individual routes, a public service obligation will be imposed on them. If that is the case, we will be stuck with whatever comes out of that. The smaller the route bundling, the higher the total cost, because a lot of the economies of scale and the cascade mechanism with the vessels will be lost. Higher costs could be associated with smaller bundling, in particular individual route bundling.

14:30

The Convener: I want to examine through-ticketing, because it is about working as a network as opposed to having individual routes and about the cascade of vessels required to keep services running.

Murdo Murray: Highlands and Islands strategic transport partnership hopes to promote the integration of transport services and enhance the ability of people to travel intermodally on a single ticket. Those are the sorts of things that eventually will deliver growth to services. The more the network can be kept together as a single network, the better the chances of promoting single ticket and intermodal concepts. For example the Barra connection, which is also available from London,

consists of an aircraft, shipping vessel and train ticket. It is encouraging growth in the number of people who go to the Western Isles, but it requires significant marketing input, which is difficult with a multiplicity of operators.

The Convener: Once savings have been made, what should they be spent on?

Murdo Murray: They should be spent on service improvements.

The Convener: I could have predicted that answer.

Councillor King: To take one small example, four islands were served by a boat, which has been replaced with a new boat. That boat now does two islands one day and another two islands the next day, so the people there have a greater service that does not cost the company any more, because the boat was going out every day anyway. The service is much more reliable and the figures on the route have gone up, because people have easier access to the mainland. A small rejigging of the timetable brought savings to the company.

The Convener: That is good to hear. You talked to Des McNulty about consultation. What is the depth and scope of the consultation you want to undertake on routes, pricing, strategy, through-ticketing and special offers?

Councillor King: We would like to play a positive role, which we have been promised and which we would be willing to do. Then we should go to the local authorities and let the local authorities go out to their communities.

Cameron Kemp: I go along with that. It is important that there is consultation when devising specifications, but as was mentioned, it is also important to consult throughout the duration of the contracts. To a lesser extent, consultation will be required for modifications, because inevitably things change throughout the life of a contract. It is important to have input from Highlands and Islands strategic transport partnership and local authorities.

The Convener: I presume that the work done by the Highlands and Islands strategic transport partnership and the local authorities is transparent and that the organisations are accountable to the public.

Mr Murray Tosh (South of Scotland) (Con): The paper from the local authorities did not address what Sandy Ferguson's evidence referred to as the loss of experience if CalMac loses the tender. He is concerned about the loss of "vastly experienced people" and of the knowledge of the current work force and about the potential social and cultural impacts on the island communities. I invite you to take a couple of minutes to tell us

what the impact will be if CalMac is unsuccessful. What losses to the Highlands and Islands would result?

Murdo Murray: The important thing to recognise is that we have no alternative. The public service obligation will have to be imposed. At the moment, it is a question of what the shape of that obligation will be. Our view is clear: it ought to be in the form of a single bundle. As long as the specification and pre-tender qualifications are done properly, so that the appropriate companies are put on the tender list, there should not be a significant issue around the existing work force. The people are there, they have the experience and they will be required.

We would be particularly concerned if there was a diminution in the quality of the work force—if people with the wrong amount of marine and navigation experience, and language experience, came into the network. If the pre-qualification package is right, the quality of the companies should be of a standard to enable proper seafaring experience to be retained.

Mr Tosh: From the work that you have done, are you happy that the Transfer of Undertakings (Protection of Employment) Regulations—TUPE—will apply fully, that the existing work force will be protected and that all the local knowledge and skills will be in place, whoever wins the tender?

Murdo Murray: We have not gone into the minutiae, but we hope that the Executive will do some work on that prior to the contract going to tender.

Mr Tosh: That is why I was asking about local knowledge and experience. I would have thought you would want to take the opportunity to underscore this point as heavily as you could: that, whatever happens—apart from the economic impact on the islands and the social effect if people lose their jobs—there is a considerable body of knowledge and experience that must be preserved at all costs. I feel that I am giving the answer rather than asking the question.

Councillor King: We would take all those things into consideration; we agree with them.

We are nervous about TUPE after the most recent fiasco, given what it did to our local authority. We were one of the biggest authorities involved. We would be terrified about losing a lot of the good people who operate in the company. We need only look at what is happening at the moment with the person who is trying to cherry-pick boats. The boat in question is never on time and is crewed by foreigners—Poles, to be exact. It creates problems. We would be terrified if we were to lose the service of all the good seamen and people who currently operate CalMac to somebody else, who came in and operated with

crews not of this country.

Norman MacDonald: There is no doubt in our minds that CalMac is best placed, in terms of the management of the company and of the experience that its employees have built up over many years serving the west coast communities, to provide our ferry service—it is the prime operative. We would certainly support it, but we cannot come out and say that it should get the tender; it has to embark on the tendering process, the same as any other operator that is deemed fit to do so has to.

CalMac has a great deal of experience, which I do not think we can afford to lose, whether it is kept in CalMac as it is now or is kept in a different CalMac or even in the private sector. I share Councillor King's concern about other operators operating under a flag of convenience and bringing in crews who are not familiar with the conditions off the west coast. They are not typical waters for Europe; they are waters where experience is at a premium.

Dave Duthie: I agree entirely with Norman MacDonald's view. Given the type of waters in which we work, it is terribly important that local knowledge be continued wherever possible. TUPE has to be applied, not only in theory but in practice. Conceptually, TUPE has been said to apply to previous contracts but when it comes to the crunch, it is not applied. However the Scottish Executive writes TUPE into the contract, cast-iron conditions have to be built in.

Mr Tosh: I think we would agree with that. The Scottish Executive has control of the contract and the specifications, so we would want it to take a robust attitude on the extent to which existing employment and conditions can be preserved. How do you see your role in that area? Will you consult staff and unions? Will you get involved with the trade union movement in employment-related issues? We would like that to emerge as a big part of the whole campaign. I suspect that we would be interested in being closely involved in that through our committee investigation.

The Convener: I see lots of nods.

Norman MacDonald: I do not think that there is any doubt about our role in that area. We have been in dialogue with the unions on the whole issue of the tendering process and whether it was necessary in the first place. We have now moved on from there. Engaging with employees and their representatives is in the interests of local authorities as much as it is in the interests of the wider community in our islands. That goes without saying, but it needs to be repeated.

Mr Tosh: We are not TUPE experts by any manner of means, but we are in a position to ask questions, make points and apply leverage. If

people want bullets to be fired, they should shape them.

Murdo Murray: The big issue is the pre-tender qualifications, in terms of the capabilities of the companies and in terms of technical ability, which is a separate but related aspect. We would want fairly stringent hurdles to be built in to ensure that human resources issues are well covered in the pre-tender qualification stages.

The Convener: Social dumping is a big issue for seafarers. The regulations that exist in European law are not quite black and white. We see a lot of replacement seafarers—not, obviously, on all the routes that you are talking about, but in the North sea, for example. Will the tendering process be robust enough to avoid such problems? Will a change in legislation be required?

Murdo Murray: We would certainly look to the committee to do what it could to reinforce the concerns in our communities. Many people have merchant seaman capabilities but now have to compete with people who are very much inferior.

The Convener: We will pursue the matter later with the trade unions.

John Farquhar Munro: Good afternoon, gentlemen. In our discussions today and previously it has been obvious that we are trying to achieve an efficient and cost-effective ferry service for the whole of the network. I was pleased to hear the suggestion that the partnership would prefer the network to be tendered as a single entity. From my own previous discussions—and even from a visit to Brussels—I know that it has been pretty well accepted that that would be the most efficient method, but it has yet to be agreed.

Getting an agreement on the establishment of the vessel-owning company means that one of the major hurdles is out of the way, but the witnesses will appreciate that much of the infrastructure that the vessels ply to and from is not owned by a single entity. Some piers and jetties are owned by local authorities, some are owned by Caledonian MacBrayne and some are owned by harbour trusts. If we want to have an efficient and cost-effective service, is there an opportunity for considering the costs that attach to piers and harbours?

Murdo Murray: Over the years, many representations have been made on infrastructure, some of which is currently owned by CalMac. Clearly, the Executive, the vesco and the operators could be held over a barrel by virtue of a trust port increasing its dues out of line with the rest of the ports, for example.

The view that we have put forward is that the Executive should consider the matter more widely.

Ceilings should be set on any increases that are applied. The Western Isles have suffered over a number of years because of an increase at Uig pier, where a 10 per surcharge was applied. I know that that is an internal issue, but it demonstrates the type of thing that happens. We feel that the Executive should be involved and should consider setting ceilings on increases that are introduced by trust ports.

Facilities and infrastructure should be dealt with by the vesco. Given that the vesco also deals with the investment portfolio for the vessels, it would be in the best position to make arrangements for capital investment in infrastructure. Flexibility is needed in the overall tendering mechanism to allow for the development of future requirements, even within the five-year tender time scale.

14:45

John Farquhar Munro: If that sort of arrangement or negotiation took place, there would be an opportunity to have a level playing field. I imagine that there would be an economy of scale.

Murdo Murray: Yes.

John Farquhar Munro: In your discussions with the Executive and with your colleagues in Brussels, were you made aware of any impediment to a single block tender for the service?

Murdo Murray: The view we gleaned from Brussels is that there is sympathy for the single block tender. There was understanding of the potential difficulties that arise from cherry-picking and having a multiplicity of individual PSOs, which eventually would have to be accepted on the basis of the lowest tender but which, as an aggregation, could result in higher cost. It was indicated to us that, from the Brussels perspective, opting for a single block tender would have to be a clearly defensible position.

The Convener: My instinct on this is that the less detail there is in discussions in Europe and elsewhere, the better it is for everybody involved. The case has been well made through negotiations, visits and representations. It is in the system and we should wait to find out what comes out of it.

I thank the witnesses, who are frequent visitors to the committee, for another good session. I hope that those who were here for the first time enjoyed the session—we will perhaps see them again in future.

I welcome our next witnesses, who are from the trade unions: Bill Speirs, the general secretary of the Scottish Trades Union Congress; Tom Kennedy from the Transport Salaried Staff

Association; Dan Sharpe from the Transport and General Workers Union; and Norman Martin from the National Union of Marine, Aviation and Shipping Transport Officers.

I see that you have passed the first test: you know your own names and have sorted out your name-plates. The line of questioning that we will follow will be similar to that used with the previous witnesses so, to allow us to examine areas that are more closely related to your interests, if you have views that are similar to those that have been expressed, let us not rehearse them.

Bill Speirs (Scottish Trades Union Congress): Briefly, bearing it in mind that we want to maximise the time available for questioning, I will say just that the STUC has an interest in how any issue affects the workers who are involved. My colleagues will speak specifically to that. We have another interest, in that we represent nearly 750,000 trade union members throughout Scotland who use public services, including those under discussion. We have been involved since the issue first arose. We have had meetings in Brussels—I am happy to speak about them—and we have been involved in other areas, including gathering a 10,000-signature petition of concern and support for CalMac.

We would like members to consider how they should approach their final deliberations, although our proposed approach may not be possible. We find ourselves getting involved in all manner of detail about PSOs, bundling and so on. Sometimes it is worth taking three steps back to acknowledge that consumers want to keep the CalMac service and the providers want to keep supplying that service. The doubts that people might have about CalMac must be confronted—we are happy to talk about those doubts and about fares. CalMac has the best safety record of any ferry company that provides similar services, not just in Europe but in the world. It is worth coming back to those points.

How can we improve an already good service? The best way of doing that is enhancing and involving the work force that is delivering that vital service in a service industry. I know that my colleagues who work in that industry are committed to working with CalMac to improve its service, but improving it will be difficult, if not impossible, if CalMac ceases to be the provider.

Bristow Muldoon: I declare a registered interest: I am a member of the TSSA, which has a constituency agreement with Livingston constituency Labour party.

I want to ask about the guidelines on state aid and the degree to which Europe is the driver behind the changes that are being made. I know that, in the past, the trade unions have taken a

different view from that of the Executive on the degree to which Europe is the driver. In your written submission, you suggest that the Executive should examine further whether state-aid exemptions can be made. Would you expand on your views and on your discussions with the European Union?

Bill Speirs: I will give a quick answer to that point—my colleagues can supplement my answer if necessary.

It is as well to get to the point. When the STUC met the directorate general responsible for this area, the message that we were given was that exemptions were theoretically possible, but that there was another road we could go down. We could demonstrate, through a transparent mechanism, that it was not necessary to go to tender to show that it was valid to provide state aid. However, that approach would open up the great possibility of a complaint of inadequate transparency. Those are matters of judgment—there is an alternative, but there is also a real chance of a complaint being made. Whether that would have been the case or whether it would still be the case is a matter of judgment. There are many grey areas.

The Executive is going down the tendering road. Our position is absolutely clear: we would much prefer not to go down that road. The point was made earlier that derogation may be out the window, but a review of the guidelines that govern the operation of the service is coming up in 2002. Much of the detail that we referred to in all our bits and pieces are specific to CalMac and the Highlands and Islands ferry services. It is legitimate to ask whether we should be battering ahead to drive through the process before the guidelines are reviewed and, perhaps, altered.

As trade union representatives, we must take a realistic position. We could have opted to have a battle by saying that we should have gone down an alternative route, but there is a judgment to be made about whether that would have made the situation better or worse. We must rely on that judgment.

The Convener: Would our other witnesses like to add anything to that? Is that a fair reflection of the position?

Tom Kennedy (Transport Salaried Staff Association): When the TSSA was preparing its response to the Government's consultation, it examined with great care the submission that was made by Caledonian MacBrayne. We argue that the Scottish Executive gets good value from CalMac, which has the expertise, resources and commitment that are necessary to provide a first-class service. I believe that my colleagues hold the same position. It is worth recalling the high level of

punctuality that was reported in CalMac's submission. We do not support any review of the regulation that could lead to CalMac's being thrown out through a tendering process and to an unpredictable future for these lifeline services.

Bristow Muldoon: If, as seems likely, the Executive proceeds with tendering, should it back that up with appropriate legislation and regulation, rather than leaving everything to the contract?

Bill Speirs: We have not taken a definitive view on that issue. Whatever approach is taken should guarantee the continued delivery of the service and protect the interests of the work force. I say that not just as a trade union official whose job it is to look out for the interests of the work force. The service is important to its users who are resident in the islands and it is vital to the tourist industry and to perceptions of Scotland and its efficiency. The work force is absolutely central to that. We are currently considering the role that a regulatory mechanism could play. We need to examine the impact that the absence in the UK of route licensing might have.

Norman Martin (National Union of Marine, Aviation and Shipping Transport Officers): It has been suggested that the Maritime and Coastguard Agency could serve as a regulatory body, but that is to misunderstand the purpose of the MCA. The equivalent body in the railway industry is the Health and Safety Executive. We know what problems are associated with that.

Guidelines were mentioned. We are hung up on the question of the state-aid subsidy, but guidelines also relate to training. Social dumping has been mentioned. Directives are being prepared on the rates of pay and conditions of European, as opposed to worldwide, seafarers, but they are not making much progress in Europe. Under those directives, European seafarers would receive rates equivalent to those paid in the countries where they sail—in this case, the UK. However, there is no standard UK agreement on rates of pay. Perhaps we need a European agreement on conditions for seafarers. The guidelines focus entirely on state aid, but a series of other issues relating to the industry have not been progressed or nailed down. We are being crucified on one point, but we are getting no protection on all the others.

The Convener: That is a fair comment. I am not sure what we can do about that at this stage, except take cognisance of what you have just said.

Bristow Muldoon: Perhaps our witnesses could expand on that. Do you think that protection of employment standards could be written into tender conditions or regulations? I am talking about protection in addition to the Transfer of

Undertakings (Protection of Employment) Regulations.

Dan Sharpe (Transport and General Workers Union): Our organisation does not see TUPE as a panacea, as it does not protect conditions of employment in the longer term. I would be extremely concerned if it were part of any deal or contractual arrangements that are made in the context of what one could argue is the commercial sale of the service. I do not view TUPE as a remedy. I am prepared to expand on that in response to questions on industrial matters. I have serious reservations about TUPE.

The Convener: The committee has covered this issue before, and certainly understands that TUPE is a fairly slim form of first defence. For economic, technical and organisational reasons, the company can change things fairly dramatically.

15:00

Bill Speirs: I suppose the issue comes back to the complexities of what we are getting into. We keep trying to anticipate what the European Commission might or might not accept in the tendering documents. It is not the Executive's job to tie itself in knots looking for the worst-case scenario from the Commission. The highest-possible specification for the protection and quality of the work force should be written into any tendering document and we should deal with any difficulty with the Commission as it arises.

The Convener: We have all been convinced that that is the best route forward. As far as this process is concerned, the devil will be in the detail and the more transparency there is and the more input that the committee and the unions have, the better the safeguards will be for the whole network.

Tom Kennedy: If CalMac were unsuccessful in its bid for the contract, workers would have to rely on the TUPE regulations to transfer into the new company or companies. Advice that we have received about the applicability of TUPE leaves the question open. If CalMac does not win the contract, our members will not know whether they will have employment. Furthermore, I understand that that issue is in doubt for the seafarers. The entire work force might be put in a position where it has no clear entitlement to transfer under the TUPE regulations. The Executive must be aware of that at the outset.

The Convener: You are absolutely right.

Bruce Crawford: I thank Bill Speirs for bringing us back to some first principles by reminding us that CalMac has provided a very good service. Its remarkable record of continuity of lifeline service provision over such a long time is obviously a

prerequisite. I am concerned about what will happen to that continuity. Furthermore, I am concerned about what will happen if CalMac is split and about the vessel-owning company's position and the potential for a private company to win some or all of the available contracts. What thought have the trade unions given to the whole issue of the vesco being the procurer of last resort and to the way in which services can be maintained without any future interruption? That is what the community wants from its service.

Norman Martin: There has been a certain amount of ministerial wiggling over nomenclature—for example, the use of terms such as “procurer” and “supplier”. Will the vesco carry staff over or will it merely bring in consultants if what you suggest happens? This is really just a get-out situation. The MCA says that there is no way that it will relax its safety regime as far as compliance documents are concerned. I know some of the individuals involved and they are very able men, but what resources will they have to perform that function? The only counterbalance is that, as the ships—which are publicly owned—and crews will still be there, it will not be enormously difficult to tide things over in the short term. However, it is farcical to suggest that the vesco could be a procurer of last resort; it will not have the necessary resources and the situation will be unworkable. The company would have to be given access to experts. If it is going out into the marketplace, it will have to use the public purse to buy services. What instructions will it receive in that respect? That device simply removes the Executive from performing such a function, in the same way that the present corporate structure of CalMac insulates the Executive from the public.

Bruce Crawford: If the Executive or CalMac procured a provider and a private sector company failed in its contractual obligations and was no longer running the route, what impact would that have on the negotiating perspective of any potential new provider coming in? What sort of levels of—I am trying to find a word other than “blackmail”—leverage do you think—

The Convener: Leverage is a word like blackmail.

Bruce Crawford: What level of leverage could be used by the private sector in those circumstances, given that the Executive or CalMac, the vessel-owning company, would then be in a bit of a quandary in trying to procure a new provider?

Norman Martin: Ship owners talk to one another and, in such a situation, they would have us over a barrel. For example, when we fought the gulf war, we bought foreign ships at vast expense. That is a matter of record, and that is exactly the situation that we would be in.

Bill Speirs: Of course, the Chancellor of the Exchequer will ensure that the ship owners go to jail if there is any price fixing. Seriously though, that is a central question and some of my colleagues may want to comment on it. Whatever mechanism we come up with for the provider of last resort, there are people in this room who know better than I do—although I use the service from time to time—that we cannot hang about for two days, never mind two weeks, to get things sorted out. If something goes wrong with CalMac at present, somebody will get on the phone to the minister and action will be taken to ensure that things are done. If a big company decides to walk away or if a small company goes bankrupt and we have to scrabble about to find a way out of the situation, that is not an academic question for the communities that the ferries serve.

Fiona McLeod: I would like to take that point a little further and talk about independent regulation of the new set-up, however it comes about. I was interested in something that Norman Martin said and would like to pursue it, but I shall start with a general question. At the moment, there is no talk of having an independent regulator in the new set-up, but all other former nationalised organisations that have become companies have regulators, such as Ofwat and Ofgem. When do you think we need an independent regulator? You said that you have started to go down that route. Can you tell us more about where that is taking you?

I like to think of a regulator as having two aspects—not just for fares and frequency of services, but for safety. Norman Martin mentioned the MCA. I take it as a given that the MCA will regulate for safety and that it is capable of doing so. Norman seemed to imply that it perhaps does not have the resources to ensure the highest levels of safety.

Norman Martin: Safety is the reason for the existence of the MCA; that is its job. The term “regulator” has been used to encompass all sorts of things in addition to safety, but you have to remember that the MCA is a very small organisation, as is the marine accident investigation branch. They have small budgets and a limited number of surveyors, so there is only so much checking that they can do. They have to deal with all the small craft, fishing boats, visiting foreign vessels and ordinary commercial traffic. I do not think that anybody has said to the MCA, “By the way, you’re going to have to utilise your entire resources up in Scotland just to check up on the Western Isles ferry services.” If they had, the MCA would have told them to get lost.

Dan Sharpe: I have no complaints about the MCA, which provides and insists on minimum standards. We have not discussed a regulator in great depth, but that has certainly formed part of

our discussions. I hope that you will allow me to express a personal point of view. With regard to tendering, we have all experienced problems recently with Railtrack. I have concerns about CalMac tendering every five years. The commercial pressure to reduce standards would be immense and would affect security of employment and the standard of employment for our members.

If a regulator were to bring about some checks and balances, and provide a form of independence, I would be inclined towards accepting a regulator. My real concern is that to accept only minimum health and safety standards is not the way in which to broaden the service to make it more user-friendly and flexible. I am all for that type of discussion and negotiation.

The Convener: Do you have direct experience or evidence that a similar scenario has been played out elsewhere in British waters?

Dan Sharpe: In respect of what?

The Convener: I cannot remember your exact words, but you talked about safety coming down to the lowest common denominator and the fact that commercial pressure is reducing the level of safety on boats and ships.

Dan Sharpe: It would be inappropriate for me to mention other companies in the course of this meeting, because they are not here to defend themselves. I do not say this as a complaint, but it is a measure of the situation that we have had to debate manning levels. If I say "tug companies" that is near enough to telling members who the companies are—the tug company on the Clyde has, believe it or not, just been bought over again.

Manning levels were the subject of serious discussion between us—the trade union—and the employer. The commercial realities that were highlighted by the employer related to the minimum manning levels that were provided by the Marine Safety Agency or by the Maritime and Coastguard Agency—the provider of those levels sometimes changes. However, those levels did not relate to the commercial realities of working on the Clyde, with the need for additional manning and for the necessary engine room coverage. There are examples to illustrate that.

I do not scaremonger—I am not suggesting for a minute that the company to which I am alluding is a bad company, but I emphasise the pressures. That company was competing against other companies on the river. That is a brief, real example.

Fiona McLeod: On independent regulation, I think that it is important that you separate the functions of safety, fares and frequency of services. Safety should never be compromised by

anything else—that is my personal view. Could you say more about the need for an independent regulator to monitor levels of the services' frequency and fares? Given the fact that the Government will have an element of ownership of the new company, can it set the regulations on fares and frequency of services? As was implied in evidence, can that be left to the contract tendering process that we set out to determine, which would mean that the regulations were subject to commercial pressures, and to the adherence of the company that won the contract to the conditions of the tendering process?

Norman Martin: Fiona McLeod mentioned fares and frequency of service: those are the easy things to specify. The unquantifiable things are more difficult. There are all sorts of ways of cutting corners on ships, which will not be terribly obvious in advance. That is why we need a regulator to check that nothing untoward is being done.

On services, I have worked for the company for 25 years, and have been in command of major ships for 17 years. No manager has ever sought to influence what I do with regard to the safety of equipment, maintenance, repairs or on decisions on whether to sail in bad weather. Those decisions are made solely by me and with regard only to the safety of passengers. That is the sort of thing that cannot be quantified. In the commercial world, it is a different ball game.

One of the things in which I take great delight is taking seafarers from other companies aboard the ships and showing them round. They are always immensely impressed and amazed at our standards, at the state of the ships, and at the way in which the crews work at the equipment and at cleanliness. Those standards simply do not exist in the commercial world. That is why we have the safety record that we have in an area that is notorious for bad conditions. That is what we risk losing.

The Convener: That is a point very well made.

Fiona McLeod: I will finish off on what Norman Martin said, and ask the others about this. Would we risk losing that safety record? Would an independent regulator give us hope that we would not lose that?

Norman Martin: As soon as the profit motive is brought in, that changes the culture. At the moment—this might be the wrong thing to say—we do not operate commercially. We do not think, "How much is this going to cost?" We just do it—if something is necessary, it is done. That is possibly why the subsidy arrangement is as it is. People get what they pay for. If they want a cheaper service—

Dan Sharpe: Committees have been set up in the company and on the small ferries with trade

union representatives, which deal with timetabling. They will not necessarily deal with the price of tickets, but they will take into consideration the commercial realities of each of the ferry ports. One of the strong points of that is that, not only are the union people representative of the work force, but each representative on the committee comes from the community. The committees have expert and detailed knowledge and they tell us about the need to be more flexible. I have used the phrase customer-friendly. I do not wish to use that phrase, but I cannot think of a better one. The committees allow us to respond in relation to the small ferries.

In a broader sense, we are dealing with bringing in core conditions of employment so that everybody knows that those conditions apply to them irrespective of the ferry on which they work or the ferry port from which they work. Flexibility is needed. Things in Oban are different from things in Colintrave. We are working towards real flexibility. That will bring about cost savings that will, I hope, reduce ticket prices. I am in favour of reducing ticket prices because that will bring more business and secure employment for our members. That sounds rather grandiose, but it is a serious aim.

15:15

Bill Speirs: We have certainly not turned our face against an independent regulator. The question is how to provide regulation for safety and beyond into quality of service, regularity and delivery. That is not just a debating point.

As I said, we are talking about CalMac, the Western Isles and the Clyde. Do we need to go through a nightmare mechanism to improve a service with which we should be able to deal in a country as small as Scotland? Bearing in mind the points that Norman Martin made, the culture of the organisation is central and matters very much. There has been a rail regulator for years, but that has not stopped nightmares from happening. It would be a disaster if we had to rely only on a regulator to deliver an effective service to the islands.

The Convener: I caution members that the committee has a fair work load today. We need to make some progress.

Fiona McLeod: Can Bill Speirs keep us informed about his deliberations?

Bruce Crawford: There is a difference between Railtrack and CalMac. The Health and Safety Executive was responsible for safety issues in relation to Railtrack, but the regulator was responsible for prices and service. The Strategic Rail Authority is now also involved.

We would like to find out a bit more. If a private

sector company was to win one of the routes, should an independent regulator be involved in the process? Perhaps the witnesses can think about that. I do not necessarily want a response now, because time is short.

Bill Speirs: Perhaps we could reply in writing.

Bruce Crawford: That would be useful.

Des McNulty: Is the way forward to tender as a single bundle within the framework? That is implied in all that you have said. Dan Sharpe and others made points about addressing issues of flexibility, customer focus and pricing, which are common concerns. How should the process be taken forward? What space is there to go forward on tendering as a single bundle and to address those issues constructively?

Bill Speirs: If there is a tendering process, we are certainly in favour of single bundling. I will leave my colleagues to explain how the rest will work.

Tom Kennedy: In the past year or so, a positive industrial relations framework has emerged in the company. That gives us an opportunity to talk to CalMac about how innovative means to make the company competitive can be introduced. Certain recent developments in Stornoway have prompted the trade unions to express concern to the company and to ask what can we do to help. Our employees want to be competitive and successful in the operational sense. We represent the people and we are able to bring out their knowledge and experience and to deliver commitment to CalMac through a good, positive relationship with the company.

One of our concerns about the implications of the tendering process is that people's terms and conditions of employment—never mind their jobs—will be under threat. The committee will understand our natural concern with protecting people's terms and conditions. Our view is that Caledonian MacBrayne gives the Executive a good service with the level of subsidy that it receives. I do not know whether anybody has conducted a study into the ultimate cost of the tendering process but, given the excessive costs and the lack of value that has come out of that process in the railway industry, the Executive should be wary not to create its own tartan problem in this privatisation.

Bill Speirs: This might sound like an unfashionable thing to say, but we have held the view for a long time that it would be helpful—in the spirit of partnership—to engage the work force more in the company. It would be helpful if a nominee of the work force was a director of CalMac.

Norman Martin: Des McNulty asked about the

implications of fragmentation from the work force's point of view. It would be much more difficult to operate several smaller companies. I can currently go and master anywhere on the network. If that network were broken down into three or four bundles, it would become much more unwieldy to manage when people were sick or at college.

Savings are currently made in the offices. When it is quiet in Ullapool, the phone lines are routed through there. When somebody phones in with a query, although they dial a central number they could be speaking to someone on Barra or Islay. Those economies are being made and will increase with new technology. Those advantages would be lost if there were several companies.

Des McNulty: Would it be valuable for the trade unions to be engaged actively in the tendering process, rather than their having to wait for the tender to be agreed before working out the industrial relations implications?

Tom Kennedy: One could take a pragmatic approach to the likelihood of tendering taking place. That is why we have great fears about the tendering process. The implication of the tendering process is that if Caledonian MacBrayne was competing with—possibly hostile—outside bidders, it would have to do one of two things to be competitive: it would have either to cut back its work force or alter its terms and conditions of employment.

My union, TSSA, has a large number of shore-based members who work selling tickets and in port managers' roles in the Western Isles. None of those jobs is safe and there are a considerable number of them: we believe that 100 are under threat in the Western Isles. If we relate the job threats to the steps that CalMac might feel compelled to take to make itself competitive, we are facing a difficult period in talking to the company and in trying to support and maintain it. We cannot rule out the possibility that the company might come forward with unpalatable proposals, which the committee must acknowledge would reduce the earnings—remove them in some cases—of people who live and work in those communities. That is one of the main threats from the tendering process.

Dan Sharpe: If I was being asked whether I would rather wait until after the tendering and rely on TUPE, I would grasp the nettle and say that I would like to influence the tendering wherever possible.

The Convener: We all share that view.

We discussed fares, service levels and frequencies with our previous witnesses. What level of consultation on those issues do you believe is necessary to ensure that the process is meaningful and transparent?

Bill Speirs: Do you mean consultation with the community and the work force?

The Convener: I was interested earlier, when the Highlands and Islands strategic transport partnership and the local authorities said, "Yes, consult with us". Should there be additional consultation?

Dan Sharpe: The point that I express might be the wrong one, or I might express it in the wrong way, but I understand that consultants are involved and are being paid for by the company or by the Executive. I would like the opportunity to meet those consultants and to hear the company's comments on the appropriate steps that are being taken in relation to tendering. I would like to influence those areas of the tender in which we have a legitimate right to do so—I am speaking about security of employment, conditions of employment and safety, in particular. I would like to meet those representatives of the company and to have the opportunity to come back to speak to the committee about those meetings.

The Convener: We will follow up in writing the issue of efficiency gains. It is a large issue to which we might not be able to do justice today, particularly given the points that you might wish to make.

Norman Martin: It is for the communities to lead the specification debate. We will assist in any way that we can—we would like to take part in the debate. I am sure that the councillors who are present are heavily involved, but I must tell members that the islands are not on fire over the debate—the amount of apathy out there is amazing. People have heard it all before and nothing happened and they think that, again, nothing will happen. However, we know that a radical change of course is taking place.

Bill Speirs: The question is probably less complex than I understood it to be. The STUC takes the view that there should be the widest possible consultation, although I know that that is a cliché. We are engaged in discussions with the Scottish Executive on how the model of social partnership should operate in Scotland. It seems to us that this is a classic example of a situation in which we should seek the involvement of the community, the employer and the employees in finding the best way forward. It should be a win-win situation for us all, not least because so many of those who work for CalMac live in the communities that are served by the company and because wider Scottish society is looking for the best possible quality of service in order to develop the economy and the image of Scotland.

Bristow Muldoon: I notice that the final point of your written submission is that the STUC, along with the relevant unions,

"would welcome the opportunity of an early meeting with the Minister for Transport and the Environment".

Are there moves afoot for such a meeting to discuss the future of CalMac?

Bill Speirs: We have met the minister before and have an outstanding request for another meeting with her. We have received a response from her that indicates that she thinks that it would be better to wait until the Executive has finished its discussions with Europe, because, if we had such a meeting now, she might merely repeat what we have heard previously. In our view, it would still be useful to have a meeting, not least because we reckon that we have some ideas to bring to the table that might help to inform the discussions with Europe.

Mr Tosh: I will pick up the point that is made in your written submission about the experience of CalMac crews and employees in dealing with difficult local sea and weather conditions. How important is it for that local knowledge and experience to be carried forward into the new arrangements?

Dan Sharpe expressed reservations about TUPE and the point was made about influencing the tender before it is written. What would you like the committee to put to the Executive in order to try to protect employment, experience and knowledge in a way that builds those things into the tender process, so that we are not dependent upon people subsequently establishing that they may or may not have rights under TUPE and that may or may not last for a given period? How can we ensure that—whatever management changes are made—the ability, experience and knowledge of the officers and crews are carried forward?

Bill Speirs: Norman Martin will deal with the safety issues.

Norman Martin: Mr Tosh is right: all seafarers are qualified to operate anywhere in the world, but the waters that we are discussing are extraordinarily difficult. One can be about a place for years before experiencing a certain set of circumstances that might occur only once in a while. It takes literally a lifetime to acquire that knowledge. I do not want to suggest that we are cleverer than anybody else is, but we have been exposed to those conditions more than others have.

On the second point about protecting TUPE, I do not think that we should rely on TUPE at all. I appeal to the Scottish Executive, when it writes the tender, to build in sufficient clauses and phrases to protect the work force that has given such loyal service since CalMac was formed 30 years ago.

15:30

Mr Tosh: We have been through such a process already with the trunk roads contracts; we found out afterwards that the people who were transferred had had their pension rights diminished. If we move a bit faster than the Executive does, this time we can ensure that all such issues are addressed beforehand. We want to build specifics into the process.

The Convener: I am sure that some of those issues will come out in our discussion with the minister next week.

Tom Kennedy: I want to make two points about TUPE in response to the question. The first one concerns what safeguards the Executive can build into the tendering process. As I understand the legal position, it is not possible for the tendering process to enforce a bidder to accept a TUPE transfer of any employees. A successful bidder could challenge that in the courts if that company thought that it did not fit with the TUPE regulations. The Executive can express a view that there should be a TUPE transfer, but it can do no more than that.

The second point is on pensions. The TUPE regulations do not protect pension rights. It is important for the committee to bear it in mind that TUPE regulations, even where they are applicable, make no provision whatever for pension rights. In fact, I believe that they are excluded from the regulations. The Executive would need to make express provisions to protect pension entitlements.

Bill Speirs: I am conscious of the time, but I have an important point to make, which I am sure we can follow up with some detail. Essentially, we want a document that will protect the provision of service that is needed including, for example, the quality of the work force that is required. Reference has been made to questions of language—something that we have raised—length of service, quality of training and knowledge. We should take into account the importance of those services for the wider tourism industry. There is an economic impact in having people who are adequately trained and who know the area. When such people first meet an incomer, they are able to do more than simply tell them where to go on the boat; they can provide a wider range of information. Those are the kind of matters that it would be useful to pick up, but we can follow them up in writing.

The Convener: We all agree that that would be useful. Do you want to add anything, Murray?

Mr Tosh: I do not want to pursue any matters, other than to ask that we get that information reasonably quickly so that it can inform our meeting with the minister.

Bruce Crawford: Will the witnesses throw into that letter, if possible, the issue of the Treasury rules on pensions, to ensure not only that it is brought to our attention, but that it is germane to our thoughts when we talk to the minister?

The Convener: As there are no further questions I thank the witnesses for coming to the committee.

15:33

Meeting adjourned.

15:42

On resuming—

The Convener: After that short break, I welcome Dr Harold Mills, the chairman of CalMac, and Lawrie Sinclair, its managing director. You have seen the manner in which we have conducted our business so far. I offer you the opportunity to make a short opening statement.

Dr Harold Mills (Caledonian MacBrayne): First, I will introduce Lawrie Sinclair, who is—as the convener said—our managing director. He became our acting managing director last November and his post was confirmed in April, so he has been with us for a comparatively short time. His background is in ship repairing and shipbuilding.

Secondly, as the committee knows, we responded to the consultation paper last June and set out the company's views on the minister's proposals. We proposed a single network, the vesco, which would bind the ships to the operators and, most important, allow Caledonian MacBrayne to bid for the services as the operator. There is a lot of support for that. We were delighted when we heard that the minister had put those proposals to Brussels. Like the other witnesses, we are keen that they should be followed through.

The Convener: I congratulate Lawrie Sinclair on his confirmation in his new role.

Bristow Muldoon: I note that you believe that, if the tendering process is to proceed, the routes should be taken as a single entity. Should the Executive seek derogation from state-aid rules?

Dr Mills: I have nothing to add to what was said earlier. When the directive was first agreed, there was probably an opportunity to secure derogations, as other states did. As I understand it, the last derogation—that of Greece—is about to expire. I am not sure that that route is open to us at this stage.

Bristow Muldoon: We should probably pursue that point when the minister gives evidence. Before a tendering process is introduced, should a

regulatory framework be put in place by statute?

15:45

Dr Mills: I do not think that that would be necessary, although we would comment on it if the Government decided to follow that route. My view is coloured by the fact that I was involved in the later stages of the bid by the company and the Royal Bank of Scotland for the services to Orkney and Shetland and I have had a chance to consider the various stages of that process. I believe that that process provides a model for the exercise that we are discussing today.

Bristow Muldoon: Do you believe that the tendering process can protect the public interest?

Dr Mills: Yes.

Bruce Crawford: I will not go through the matters that I have discussed with the previous witnesses, as you have listened to our discussions during the meeting. How does CalMac go about procuring a provider of a service to ensure continuity of the essential and lifeline services?

Dr Mills: Caledonian MacBrayne has provided continuity of service for 150 years. The Scottish Executive is about to set in place the tendering process and I hope that everyone agrees that mechanisms must be in place to ensure that that continuity of service continues. I have heard the earlier discussion about that and I am aware of the problems. It might be useful if Lawrie Sinclair went through what is involved in bringing a new operator on to the scene, as that has not been discussed so far.

Lawrie Sinclair (Caledonian MacBrayne): The question of the need for an independent regulator was raised. There are two aspects to that issue: fares and safety. We believe that the MCA gives us the regulations that are required in relation to safety. At the moment, CalMac has to get a document of compliance, which means that the company has to have in place a management system—some companies call it a quality or safety management system—which is audited against the international safety management code. To obtain that, we must open our books and records to the MCA and allow it to audit the company. In addition, each ship must get a safety management certificate, which is issued by the MCA after the satisfactory completion of an audit of the vessel.

You asked whether the vesco could carry that out. We think that it could, given that, if the successful company said that it was not going to operate the service, a receiver would probably be brought in for the interim period. That would allow the vesco to apply to the MCA to get an interim document of compliance based on the company management system that was already in place.

The ships would remain in use and the safety management certificate for each ship would remain in place. The document of compliance would come back to the company.

Bruce Crawford: I would like to tease this out some more. A receiver is not always brought in when a company is going to the wall. A company may find itself no longer able to carry out a contract and may decide to walk away. That can happen very quickly. On the two routes where it has happened—Ballycastle to Campbeltown and Orkney to Invergordon—the company walked away and left no services. There was no time to bring in another provider. I would like more reassurance about the actual process by which the vessel-owning company would procure another provider in circumstances in which a service is discontinued at short notice.

Mr Sinclair says that he thinks that the vessel-owning company would be able to get a document of compliance and therefore comply with the ISM code and audit. What evidence do you have to back up that assertion? To whom have you spoken? Who, in the MCA, advised you about the vessel-owning company, which is not an operating company and therefore does not have a track record of running a service? Where did the evidence come from to back up your assertion?

Dr Mills: I will answer the first question. The Ballycastle to Campbeltown service did not have a subsidy. There was therefore no direct link of the kind that I expect to exist between the Executive and the successful tenderer. A comprehensive contract will set out the terms and conditions of the subsidy. We will come back to what the document will say about fares and quality of service in a moment. However, in that contract one would include the terms required to safeguard the continuity of the service.

Another witness mentioned a bond. An important feature of the NorthLink Orkney and Shetland Ferries Ltd tender is the procedure for the Scottish Executive to monitor the performance of the company. I would expect that process to give early warning should NorthLink or a successful tenderer for the Caledonian MacBrayne routes get into difficulties.

My final point has also been made by other witnesses. I expect that—on the NorthLink model—a technical specification will be used to identify companies that are possible bidders for services. In the NorthLink case, I am told that many companies expressed an interest and moved on to the next stage, but that only three companies got to the final stage of being asked for a financial bid. I expect that that hurdle will ensure that only reputable companies go forward. The terms of the contract would give an early warning of any difficulties. As Lawrie Sinclair suggested,

procedures are in place to ensure that a company will get the necessary documents from the MCA and can do so at reasonably short notice.

Mr Crawford asked about our experience. Our experience is NorthLink, which is currently going through the process of getting the documents for the service that will operate next year.

Bruce Crawford: NorthLink will be an operator, however. The vessel-owning company will no longer be an operator—it will be a holding company for vessels—so over time it will no longer have the background in or experience of operating the vessels in the way that the front-line provider would have. There is an issue with documents of compliance and ISM codes and NorthLink and any future vessel-owning company. How will you ensure that the vessel-owning company will be capable of getting the documents of compliance and ISM certification, given that it will not be an operator?

Dr Mills: I cannot answer that definitively, but it must be covered in the arrangements for the tenders. The point was made that the vesco might be involved in procuring the services of an appropriate ship owner other than the one that is given the tender, but I stress that there are problems. Solutions must be found, and they can be found through the MCA procedures.

Bruce Crawford: I will not go further on that issue. Perhaps specific questions should be addressed to the Minister for Transport and Planning, but I am glad that you accept that there are areas that require further thought.

In the event that the vesco is the company that is procuring a new service—whether it could fill the gap is a point of contention—we would face a semi-emergency. What leverage would that give to a new operator to fulfil the obligations left behind by somebody else? What impact would that have on the price that would have to be paid through the procurement company to secure the new service?

Dr Mills: Again, you should ask that of the minister, but my view is that the Executive would put in place some kind of temporary arrangement, making use of the MCA's procedures, to get an operator to provide continuity of service. I suspect that the services would go out to tender again in the longer term. That would achieve two things: continuity of service and value for money from a new, successful tenderer.

Fiona McLeod: Mr Sinclair has already touched on the need, or otherwise, for an independent regulatory body. Can we concentrate on fares and service frequency, rather than on safety, as the previous witnesses made it clear that that is a matter for the MCA, on which you have given evidence? In addition, you have an excellent

safety record, which means that we do not have to question you on it.

An independent review of the company's fares and the frequency of services was recently carried out by an agency appointed by the Executive. Given the new situation that you will be in, do you think that there should be an independent regulatory body? If not, why should you be different from the Post Office or the water authorities, for example, and set and police your own standards?

Dr Mills: There has to be some oversight of fares and services. As described by other witnesses, there will be a procedure to go through. There will be an exercise to specify the services and the levels of fares. Until that is carried out, the Executive will not be in a position to seek tenders. On the NorthLink model, I expect that the invitation to tender will have a minimum level of service and will cap fares at a particular level. How one gets to that point is what you have discussed with other witnesses.

I note that the minister has said that there will be extensive consultation on the issue. Assuming that we get to the point of tendering, Caledonian MacBrayne will do what it did with NorthLink, which was to put together the best tender for the network as a whole. If we are successful and we become the preferred bidder, an extensive process of agreeing a contract will follow. The contract will set out the specified services that we are contracting to provide. The process does not stop the company providing a level of service beyond that, but it sets out the minimum standard that is to be provided.

16:00

As with the NorthLink model, the contract will set out the procedures that the Executive will follow to monitor the service that is provided. It will also set out the penalties if the tenderer is unsuccessful in completing the service to the specified standard. If the NorthLink model is followed, well-defined regulation will run through the contract document.

I expect that, as discussed by the other witnesses, the consultative machinery will stay in place in one way or another. Although we have talked about the shipping services advisory committee, we have not talked about the Caledonian MacBrayne users consultative committee, which is a statutory body. I would expect those bodies to stay in place. They monitor closely the quality of the service that is provided.

The difference between ourselves and the other bodies that Fiona McLeod mentioned—the Post Office and the water authorities—is, primarily that what is taking place is a competition for our services, not a classic privatisation. Secondly,

legislation would be needed and we have touched on the point of legislation to provide the regulator. Thirdly, at the moment we are subject to competition. Anyone can come along and compete against the services that we provide. A regulator would not have a role in that process unless there was legislation of some kind.

In the first instance, it is possible to go forward in a way that ensures that the services are properly overseen without resorting to an independent regulator.

The Convener: We have to plan and take views for the worst possible scenario. In the first instance, would you want an independent regulator if CalMac did not exist?

Dr Mills: No. In the first instance, provided that the kind of documents that I have sketched out were in place, I would not press for an independent regulator. Those documents provide safeguards for the Executive. There is also the consultative machinery that can influence the operator.

The Convener: So, it is for the procurement process to ensure that specification and tendering documents are tight enough?

Dr Mills: Yes.

Fiona McLeod: I do not have a question, but I will comment on what Dr Mills said.

The water authorities are publicly owned companies, yet they have a regulator. As the convener said earlier, if the service did not go out in a single unit but was bundled and more than one company was involved, would Dr Mills think that there was need for an independent regulator?

Dr Mills: To be completely honest, I have not thought that question through. I have not thought through in depth the implications of bundling the routes. I hope that what we have said and what has been said in Europe will result in the service remaining as a network. If Europe said that the routes had to be split in some way, I accept that one would need to think about that issue.

The Convener: We are all going down the same line with regard to what we want Europe to do. However, we are trying to think of other scenarios.

Robin Harper: To have the consultative committees, the Executive and so on overseeing the service should provide a reasonably good degree of regulation, but do you agree that having a regulator would produce results much more swiftly and efficiently than going through those other routes?

Dr Mills: I am not clear that it would. I do not say that there is no case for a regulator, but the necessary mechanisms can be put in place to achieve what we all agree we want to achieve,

without having a regulator.

Mr Tosh: To continue the analogy with the water industry that was raised earlier, is there benchmarking that would allow you to compare your operating costs under the new set-up with those of comparable companies that provide ferry services in other parts of the British Isles or the European Community?

Dr Mills: I am not aware of the company undertaking work of that kind.

Des McNulty: Should some of the services that are run by local authorities in geographically isolated areas be incorporated into the tendering exercise?

Dr Mills: As a company, we do not have a view on that. We will respond once the Executive determines the scope of the specification. It is a matter of six and half a dozen to us. We must consider what will happen to the ownership of the vessels that currently undertake the services for the local authorities. Will they go to the vesco? Many other issues are raised but, as far as CalMac's bid is concerned, such services would just be another part of the network.

Des McNulty: If we assume that the Executive will agree to let the routes go as a single bundle, what mechanisms are appropriate to ensure that the supposed effects of competition such as flexibility, pricing and customer focus are delivered? Could that be achieved through the specification or through some regulatory mechanism? If there is no competition, how can you ensure that there is a benefit?

Dr Mills: I am assuming that we will receive the specification from the Scottish Executive. We will have to focus more on our customers and the services they want. We hope to build a bid for the specified services from the bottom up, and we will then find out whether our bid is the best one. Although we currently aspire to achieving efficiencies and effectiveness, the final decider will be how we compete with others.

Des McNulty: Do you envisage developing a more constructive relationship with the trade unions to involve people in looking at the provision of services?

Lawrie Sinclair: That is what we are doing. We have already had meetings with the STUC and the other trade unions and propose to continue such contact right up to the point that EU maritime state-aid rules come into force. We believe that we should listen to what the unions have to say and try to build their comments into our tender.

Des McNulty: So that dialogue will form the preparatory work for the construction of your tender.

Lawrie Sinclair: Yes.

Des McNulty: Would such a mechanism prevent cherry-picking or the isolation of individual routes?

Dr Mills: I am not sure how such a mechanism would impact on that. The appearance—almost from nowhere—of a competitor on the Stornoway to Ullapool route has made us think a great deal about those issues and we are still working our way through them. What we have had to do—and Lawrie Sinclair can say more about this if the committee wishes and if there is time—is consult our customers, the local authorities, our staff and our port managers to get a clear focus on how someone could come in and cream off our commercial traffic in such a way.

We have analysed the responses to that consultation and learned the lessons. We are starting to look at our other services, because the lesson that we have been taught is that our routes are open to anyone who cares to come along and run a vessel on them. They can get access to the piers, start a service and cream off some sections of our traffic. When we talked about cherry-picking, we were thinking about a single route. Now we are seeing cherry-picking or creaming-off in relation to Stornoway. There are other possible routes, but I will not mention them here.

The Convener: Lawrie Sinclair may wish to give us further details, but he will be restrained in the level of detail that he gives us, because Caledonian MacBrayne's internal strategies are central to profit-making for the business. Is there anything you can share with us about the lessons that were learned?

Lawrie Sinclair: One of the points that has emerged is that we must listen to our customers, to local authorities and to our people. It is clear that we did not listen enough. That has now been reversed and we are listening to what people have to say. Sometimes we can do something about what they say and other times we cannot, but we have to be more customer-focused.

The Convener: That leads me on to consultation, which we discussed with previous witnesses. What level of consultation on services, fares and frequencies is necessary in the near future?

Lawrie Sinclair: We have shipping services advisory committee meetings for the north, the south and the Clyde. We meet twice a year and discuss our timetables. Any alterations to timetables can be addressed then. We also have one meeting a year with the combined SSAC. In addition, we have meetings with the CMUCC, the members of which do not just have meetings; they go out round the network and make recommendations when they see issues that

should be addressed in ports and on ships. We will consult them on the tendering process.

The Convener: I have a broad question. We all assume that there are efficiency savings to be made from bundling. Can you be more specific? What savings will you make? Is it about increased passenger numbers, through-ticketing or the better integration of services?

Lawrie Sinclair: One thing that has been highlighted is the cascade effect, which means that we can move ships around within the network. Some of our ships are too large to go into certain ports, but we can move the best ship to the best area to give the best service and move spare ships into other areas. We can also reduce costs for vessel maintenance. Savings could be made in ticketing, marketing the fares that we offer—for example through-fares—piers and harbours. We can also make savings with the movement of staff, which Norman Martin referred to. In the event of sickness and leave, moving staff round the organisation would allow somebody from the Stornoway route to be used on the Islay route, for example.

Mr Tosh: I am sure that you expect and want to win the tender when it comes, whatever the shape of the competition, but I want you to think about the worst-case scenario and to imagine that you are unsuccessful. If someone else were to win some or all of the tenders—assuming that they are not all in one contract—what impact would that have on the services, on communities and on the passengers who use your ships? I am thinking particularly about the arguments that we heard earlier with regard to local knowledge and experience.

16:15

Dr Mills: I have nothing to add to what was said. We believe that local knowledge and experience are features—probably the most important features—of our service and that they enable us to have the record that we have talked about. We want that to continue.

If we do not win, we will need to consider putting in place arrangements that ensure the transfer of staff to the new operator. That brings us back to TUPE. I can say no more about TUPE—like everyone else, I find it a difficult issue. Another party could make a complaint and open up infraction proceedings in the European Court of Justice, which might create problems. I hope that anyone who bids for a contract will see the sense of drawing on the expertise of the officers and crew of Caledonian MacBrayne and will want that expertise to be part of their service. The company would do what it could to facilitate that.

Mr Tosh: I want to press you on that. What

would you do? It is all very well to say that you would want the work force to be kept on, but given the complexities and uncertainties that exist, what work are you doing with the work force and its representatives on their case? What should the Executive include in the conditions for tender to ensure that the aspects of employment that may not be covered by TUPE—such as pension rights, which were mentioned earlier—are taken care of?

Dr Mills: We would like the Executive to make provision for such matters in the tender conditions. Only the Executive can judge whether it is able to do that. I refer again to the possibility of a complaint being made to Europe and an inquiry being launched. We would like employment issues that are not covered by TUPE to be addressed in the tender documents. The matter will be discussed in the exchanges with staff to which Lawrie Sinclair referred.

The Convener: As there are no further questions, I thank the witnesses for attending. This has been a most useful session. I also thank our earlier witnesses, who stayed on to hear what you had to say.

We support many of the principles that the witnesses have outlined today. I congratulate all of them on the evidence that they have given. I also compliment members on the scope and direction of their questions, which were very well targeted.

We now move into private session to discuss our draft response to the Procedures Committee on the application of the consultative steering group principles in the work of the Parliament and our draft report on water and the water industry. I thank the official report, the public and the press for their attendance.

16:18

Meeting continued in private until 18:00.

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