



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

ECONOMY, ENERGY AND TOURISM COMMITTEE

Wednesday 3 March 2010

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ECONOMY, ENERGY AND TOURISM COMMITTEE

8th Meeting 2010, Session 3

CONVENER

*Iain Smith (North East Fife) (LD)

DEPUTY CONVENER

*Rob Gibson (Highlands and Islands) (SNP)

COMMITTEE MEMBERS

*Ms Wendy Alexander (Paisley North) (Lab)

*Gavin Brown (Lothians) (Con)

*Christopher Harvie (Mid Scotland and Fife) (SNP)

*Marilyn Livingstone (Kirkcaldy) (Lab)

*Lewis Macdonald (Aberdeen Central) (Lab)

*Stuart McMillan (West of Scotland) (SNP)

COMMITTEE SUBSTITUTES

Nigel Don (North East Scotland) (SNP)

Alex Johnstone (North East Scotland) (Con)

Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD)

David Whitton (Strathkelvin and Bearsden) (Lab)

*attended

CLERK TO THE COMMITTEE

Stephen Imrie

LOCATION

Committee Room 5

Scottish Parliament

Economy, Energy and Tourism Committee

Wednesday 3 March 2010

[The Convener opened the meeting at 09:35]

Homecoming Scotland 2009 (Evaluation)

The Convener (Iain Smith): I welcome everyone to the eighth meeting of the Economy, Energy and Tourism Committee in 2010. We have three items on today's agenda, the first of which is the evaluation of homecoming Scotland 2009. The committee has agreed to consider the impact of homecoming. My feeling is that it would be a good idea to get some independent analysis of the research that is being produced to evaluate homecoming. Members have the note from the clerk on this. If we agree to ask for an independent analysis, the question is whether we want the Scottish Parliament information centre to do it, or whether we want to commission external research. I throw it open to members to discuss whether they want to commission independent research.

Rob Gibson (Highlands and Islands) (SNP): I wonder whether we have a similar problem to the one that we identified when we were doing the tourism inquiry. We need to have before and after data to do a proper assessment. The difficulty with having an assessment done by a paid source is that I doubt that it will have that information. I am floating the idea that we should use SPICe to do the assessment just now, with a view to being able to do a more detailed analysis once we see what the carryover is in the year following homecoming. The adviser for our previous inquiry showed that having consultants conduct such analysis has limited force.

Lewis Macdonald (Aberdeen Central) (Lab): I would rather look to John Lennon to provide that kind of evaluation. It would be right to get an external assessment. It is important to have an independent assessment of the work that has been done, but I would prefer it to be done by someone who has the expertise to know the limitations of the data.

I take Rob Gibson's point and agree that we discovered limitations to the pre-existing data. However, we know what the big picture is and how it has developed in recent years because tourist numbers and spend are pretty well quantified now. Also, I do not think it would be beyond the wit of man to establish which events adopted the homecoming logo and put themselves within the

homecoming programme last year, and it would not be terribly difficult for someone who knows the sector to establish the numbers for 2008 and 2009 and make the assessment.

Gavin Brown (Lothians) (Con): I feel quite strongly that we should go for external analysis, so I agree with Lewis Macdonald. Anything that SPICe could produce would be helpful, but I would like something external, and it would be great if it was from someone such as the committee's former adviser. I feel strongly about this because the Government has already tried to paint an untrue picture of homecoming, as an exchange of letters with the minister made pretty clear. About a month ago, many Sunday papers reported that there had been a boom in tourism in Scotland last summer and that the number of tourists was way up. When I looked at the Office of National Statistics report from which those figures had been taken, I saw that the numbers were not way up. The number of tourists from American and Oceania was up, but the number from Europe was way down, and the overall number was down. When I asked the minister why he had not painted the whole picture, his answer in effect was that that was not a good-news story. Therefore, I feel quite strongly that we should go for independent, external advice.

Christopher Harvie (Mid Scotland and Fife) (SNP): My line would be to stick with SPICe. I take Gavin Brown's point, but we must remember that the stress of homecoming was on America and the diaspora areas, which do not include Europe. When it comes to tweaking what criteria we use, if we stay in-house and get material from SPICe, which is independent, we can then ask supplementary questions about it. Homecoming was a one-off, so we should be careful about measuring it against previous patterns.

Marilyn Livingstone (Kirkcaldy) (Lab): I agree with Gavin Brown and Lewis Macdonald that we should go for independent advice. That is the road that we are going to have to go down anyway to satisfy the committee, so it should be our first port of call. I agree with Lewis Macdonald that we should get someone who has the right background and who can give us good information. That is what we need in order to clear up any outstanding issues that we have.

Stuart McMillan (West of Scotland) (SNP): Would it be feasible for the committee to commission both independent research and research by SPICe? They might consider the issue from different angles.

The Convener: I would imagine that we can always ask SPICe for information even if we commission external research. It is not either/or. If we want external research, we have to go through

a process to commission that. We can ask SPICe to supplement it at any time.

Stuart McMillan: In the debate this morning, some have quite strongly favoured external research and others have quite strongly favoured SPICe. Could we take a two-pronged approach? Hopefully, that would satisfy everyone on the committee.

The Convener: From my point of view as convener, Lewis Macdonald's point about the efficacy of the data is the key one. Although I have deep respect for SPICe and its abilities, an external adviser with expertise in tourism would be in a better position to advise the committee about whether the data that they receive is valid for making an evaluation. That is a concern that was raised by the adviser in the tourism inquiry. It is important that we are sure that the information that we receive in the evaluation is valid information on which to make a judgment. That is why I would be inclined to opt for an external adviser.

Rob Gibson: I am concerned that we should not make disparaging remarks about SPICe.

The Convener: We are not making disparaging remarks about SPICe. The reason why we go to external advisers is that they have external expertise. We cannot expect SPICe to be experts in everything. It is not the abilities of SPICe that we are questioning; it is simply that external expertise can provide something extra.

Rob Gibson: I would be interested to know what the terms of reference would be. That is essential.

The Convener: If we agree to commission external research, the terms of reference will come back to the committee for agreement.

Lewis Macdonald: Indeed. I was interested to note in the background paper that we received for today's discussion that the Scottish Government's extensive evaluation of homecoming is being assessed against the four core aims of the project. I have asked my staff and SPICe to try to establish whence the four core aims emerged and at what stage in the development of the homecoming project, which as we know has its origins a number of years ago. The core aim of promoting pride in Scots at home and abroad is not one that I recognise from the launch of the homecoming year. I was curious to know how that had emerged as a core aim rather than perhaps an incidental by-product. It has not proved easy to get to that information. We could look to an external adviser to probe a little further into that kind of question about what homecoming was for.

The Convener: I move therefore that we commission external research. Is there any amendment to that?

09:45

Rob Gibson: I support Stuart McMillan, if he is prepared to move an amendment that we look at the remit and see whether there is also a role for SPICe.

Stuart McMillan: I put that forward.

Rob Gibson: I am happy to second it.

The Convener: I am not entirely clear what difference that makes. The only question that we have to answer is whether we agree to commission external research. That does not exclude us from asking SPICe to do other things. I am not clear that what you propose is an amendment as such.

Rob Gibson: Why not?

The Convener: In order to get external research, the committee has to agree to commission it. That is the decision that I am asking the committee to make. I am not asking it to finalise the remit of the research or to limit the role of SPICe in it. I am simply asking whether the committee wishes to commission external research. I am not clear what the purpose of the amendment is, because I do not think that we are excluding SPICe.

Stuart McMillan: When would we have to decide on the terms of reference for any external research?

Stephen Imrie (Clerk): If the committee decides that it wants to commission external research or appoint an adviser, the next stage will be for me and Jim Dewar from SPICe to draw up draft terms of reference for that research, or the specification for an adviser, and bring that back for the committee to look over, probably in a week or two. I presume that some form of competitive process will be required and, if the committee chooses to make a research bid, it will be for me, working with SPICe, to conduct that process on the committee's behalf. If the committee chooses to appoint an adviser, who it appoints is a choice for committee members; working with SPICe, we will bring forward the CVs of some possible people to choose from.

In any case, once either an adviser or, for that matter, an external consultant is selected, there will be a support team in the Parliament working alongside the researcher or adviser, which will involve SPICe and me on an on-going basis. If we go down the route of a research bid, SPICe will be very much integrated and will work alongside the consultant to provide additional support. That is the usual procedure that is followed for external research.

Stuart McMillan: That being the case, SPICe will be involved from the outset in taking matters forward, in whichever shape or form.

Stephen Imrie: That is indeed the case. The issue that the committee has to decide is whether to go externally, either for an external research contract or to appoint an adviser. In any case, both SPICe and I will work alongside either the adviser or the research contractor on an on-going basis, both in their selection and during their work.

Stuart McMillan: The terms of reference would therefore come before the committee at some point in the next few weeks.

Stephen Imrie: Yes. That is a matter for the committee to agree to.

Stuart McMillan: Could we make a final decision at that point on whether we want the work to be done solely by an external person or company or jointly with SPICe?

The Convener: It would never be solely an external researcher. We would always have the opportunity to work with SPICe. As Stephen Imrie said, SPICe is always involved in working with the external researcher. We are not making an either/or decision. We are deciding whether to include an external researcher, not whether to exclude SPICe. That is why I am slightly confused about why what you propose would be an amendment, because you are just asking for what happens in practice to happen.

Stuart McMillan: Okay.

The Convener: On that basis, are we happy to ask the clerk to draft a remit for external research?

Members *indicated agreement.*

Christopher Harvie: Could we ask for that remit to be fairly flexible and not to concentrate only on tourism experts? It may well be that people from operational research or something like that could give an original insight into the economics of this thing.

The Convener: We will consider the remit for the research; it will then be a matter for SPICe and the clerk to commission the research.

Subordinate Legislation

Census (Scotland) Order 2010 (Draft)

09:50

The Convener: Item 2 is to highlight a rather unusual procedure for the draft Census (Scotland) Order 2010, which the committee should be dealing with next week. I invite Stephen Imrie to outline the process that we may have to go through next week, so that members are aware of it.

Stephen Imrie: I thought that it would be helpful to try to give you some advice. Members asked for some procedural advice on the draft order, which I circulated to you by e-mail last night. I apologise for the late delivery of it, but only by that stage were we able to clear it internally. There is a hard copy in front of you—again, I apologise if this is the first time that you have seen it.

I will give you a synopsis of the advice. Essentially, the draft Census (Scotland) Order 2010 is unprecedented; it is a very unusual statutory instrument for the Parliament to consider. Elements of the order are subject to the negative procedure and elements are subject to the affirmative procedure. In addition—this is very unusual for a statutory instrument—parts of the order can be amended. Normally, when we consider a statutory instrument, it is a case of Parliament having to take it or leave it.

It is worth answering a question that was raised with me. The Government is able to proceed with an order that is amended only to the effect that has been agreed by the Parliament—the Government is required to take the Parliament's amendments on board. Ultimately, it is for the Parliament as a whole to decide what amendments are made. It is for the lead committee to consider and recommend but, unlike with primary legislation at stage 2, the committee is not the final decision maker at that point. The committee recommends to the Parliament whether various amendments can be made.

You should have a copy of the draft order itself. If not, we have extra copies. The thing to point out is the text that is in italics and the text that is not in italics. The text that is in italics is subject to the affirmative procedure and can be amended. The text that is not in italics cannot be amended during the passage of the order.

As a committee, you have two decisions to make on 10 March, when the order is considered. The first is whether you wish the order to proceed in its entirety. If a member or the committee does not wish the order as a whole to proceed, or wishes to amend the text that is not in italics, they

have to lodge a motion to annul—they would recommend that the order does not proceed. The guidance sets out the procedure for how to do that. I am happy to speak to any member about that separately, if that would help.

The second thing that you have to decide is whether you are content with the text in italics or whether you wish to amend it. If you want to amend that text, you should not agree to the minister's motion that you will consider next week. As a committee, you should decide what changes to the text you want to make and set them out precisely. The guidance provides more detail on that from paragraph 15 onwards.

Should you decide to recommend to Parliament that the order as a whole should not proceed, the Parliamentary Bureau will lodge a motion that will allow for a debate in the chamber on that.

Alternatively, or additionally, if the committee decides that it wants to make changes to the text in italics, it will be for the Government to decide what course of action to take. Paragraph 16 of the guidance sets out what options are available to the Government. The Government could decide to withdraw the order; to accommodate the changes that the committee wants to make on the basis of a revised motion to be debated in the chamber; or to disagree to the committee's recommendations and the changes that it wants to see. In the event of the last of those, it would be open to the convener, on behalf of the committee, to lodge an appropriate amendment to the motion for debate in the chamber when it gets to that stage.

I appreciate that the process that I have set out is not exactly straightforward. The situation is unprecedented. I would be happy to speak to any member between now and next Wednesday, if that would help. I will also try to answer any questions that members may have this morning.

The Convener: I stress that, this morning, we are looking just at the procedural issues, not at any detail of the order. If there are any issues on which members think that it would be helpful to get clarification from the Government, they can highlight those and we can ask the Government to ensure that it provides that clarification before next Wednesday.

Lewis Macdonald: Members will recall that the registrar general offered to discuss some of this at the end of last year. I took that opportunity and have had detailed discussions with the registrar general since then. The critical area relates to paragraph 15 of the clerk's note and schedule 2 to the order. Most, but not all, of the issues of interest are encompassed by the sections in italics—in other words, the parts of the order that are new and were not included in the previous census. How we handle the parts of the order that are in

italics, which we can amend, will be important. As Stephen Imrie said, it is unique for a committee to be in the position of being able to make amendments to a Government order, and there are some clear choices that the committee will want to make.

The clerk's note suggests a procedure whereby, subject to the agreement of the committee, these matters might be discussed in private. However, I understand that, as we are talking about the amendment of legislation, the standing orders permit the taking of such matters in public, in debate with the minister. From such conversation that I have had with the minister about this, I believe that he would be entirely happy to be involved in addressing the issues in that kind of formal debate. Therefore, in relation to paragraph 15 of the clerk's note, I would like the committee to debate formally any proposed amendments to the parts of schedule 2 that are of interest to committee members and to the wider public. One or two areas of contention have already been identified. As you say, convener, we do not want to go into the detail of that today, but it seems right for the committee to arrive at its decisions in a fairly formal way, through public debate.

Rob Gibson: I am concerned that there should be some guidance from the Standards, Procedures and Public Appointments Committee about the process regarding this particular order. I do not know whether there is a precedent in how such issues were handled in the first session. Stephen Imrie says that the situation is unprecedented, so perhaps we ought to take guidance on the matter. The process rightly allows members—uniquely—to make decisions about aspects of the order, but I do not know whether we would want to set a precedent in doing so. We are talking about 10 years' work by the registrar general. It may be our duty to take the matter to a debate in the chamber. Nevertheless, that debate would be less informed than it could be, especially if issues were raised in amendments with a minimum amount of notice and without the kind of information that would be required to consider the issues properly.

When we are making decisions about most things, we consult on them ourselves. Members having the ability to lodge amendments at this stage seems to me to be a precedent too far. I am prepared to be guided, but the Standards, Procedures and Public Appointments Committee ought to have had a say on the matter. I am concerned about that.

10:00

The Convener: I will ask Stephen Imrie to talk about the technical point.

I echo part of what has been said. The process has not been satisfactory, and it needs to be seriously considered in the next 10 years. It should have included a pre-legislative scrutiny element for the Parliament so that evidence could have been taken on issues that have arisen. The Government should have dealt with that issue and allowed the committee an opportunity to do that, but it chose to proceed by way of the formal process.

My understanding is that the primary legislation that governs the census allows the Parliament to amend the order in the way that has been proposed. The procedure is unique; we have never used it before. Previously, the whole Parliament rather than a committee dealt with the census order. I am not clear whether any amendment or suspension of the standing orders is required to allow us to handle the matter. That is essentially for the Parliamentary Bureau to determine, but I think that how the process operates has been discussed with the Standards, Procedures and Public Appointments Committee clerks and lawyers. Perhaps Stephen Imrie can give us more details about that.

Stephen Imrie: Yes. I would not want to comment on whether it would have been beneficial for the committee to have been able to collect evidence, as that is not a matter for me.

The guidance has been discussed in the committee office and with the Parliament's solicitors. In addition, the Minister for Parliamentary Business's office and Government solicitors have been informed of the matter and have proposed no changes of substance to the guidance that is in front of members. The guidance has been openly discussed with those parties.

As the convener said, the process is unprecedented. Members may recall that the Parliament decided to refer the order to a lead committee. As the deputy convener rightly said, the Parliament as a whole considered a similar draft order in 2000. It is unprecedented for such an order to have gone to a lead committee. That said, the guidance in front of members is consistent with the standing orders that relate to statutory instruments and with an interpretation of what to do where the standing orders are silent.

For clarification, I stress again that it is not for the committee to agree changes to the order; rather, it can make recommendations to the Parliament as whole, which will ultimately agree what changes it wishes to make. Unlike stage 2 amendments, which are considered and disposed of in committees by division or otherwise, in this case members can, perhaps by division, recommend amendments to the order, which the Parliament as a whole would ultimately make decisions on. The Parliament's ability to take that

unprecedented approach is a consequence of the Census Act 1920.

The Convener: Do members have any other comments on procedural matters?

Lewis Macdonald: Stephen Imrie has clarified the matter.

Rob Gibson made fair points about how the Government has chosen to progress the matter, but we are where we are, and my understanding is that if we do not deal with it timeously, the Government will not be able to meet its schedule for the production of the census in a year's time.

I take the point that pre-legislative consultation would have been valuable, but I know that efforts have been made to consult some of those who have expressed interest in the issue in previous consultation stages.

The best and clearest way forward is to lodge and come to a view on a formal proposition in relation to the recommendations that the committee may choose to make to the Parliament. That is the approach most easily understood by others. For example, if the committee decided to recommend that one of the questions that are new and in italics be removed, it would be clear what was intended. Such clarity and certainty are what we should most seek to achieve in removing some of the vagueness and uncertainty that might surround the process.

The Convener: I agree with that point.

I have asked the Government for a note on autistic spectrum disorder, on which a number of members will have received representations in relation to paragraph 18 of schedule 2. I have also asked for a note to outline any changes from the previous order and where the Scottish order differs from that proposed for the rest of the United Kingdom so that members are clear what those points are. I hope that we will have those before next week and that they will ease some of the discussion.

Lewis Macdonald: If the committee agrees that a formal process is helpful, it would be useful to have your guidance as to how and when any amendments should be lodged.

The Convener: Leave it to me to discuss that with the clerk and I will advise members on it as soon as possible.

Ms Wendy Alexander (Paisley North) (Lab): I understand the desire for everyone to have notice, but this is the first time that most of the ordinary committee members such as me have seen the draft order and I would like time to consult other organisations. I have had a series of approaches whose validity I could not really judge until I had the chance to see the order. Notwithstanding the

pressures that we are all under, a few days to consult and formulate amendments would be really helpful.

The Convener: We will advise you on timetables and suchlike as soon as possible. We do not have to come to a decision next week if there are outstanding issues that we feel need notice of amendments for consideration the following week.

Stephen Imrie: I will provide a little bit of clarity on the timetable. If you seek to amend parts of the draft order that are in italics—

Ms Alexander: I appreciate that those are subject to affirmative procedure. As you say in your guidance, for those parts that are subject to negative procedure, a motion would have to be lodged by Friday.

Stephen Imrie: Subject to the convener's discussions, it would be beneficial for the clerks to have the amendments in advance of the meeting, but you could just provide them at the meeting.

However, if you want to make changes to the parts of the order that are not in italics—which are subject to negative procedure—it would be advantageous to have notice of that in the form of, in effect, a motion to annul by Friday. Standing orders permit you to lodge such a motion at the meeting itself, but it would be beneficial to have notice by Friday that you wanted to lodge a motion that the order not be made. That requires you to lodge the relevant motion at the chamber desk. I am happy to speak to members offline about precisely how they do that.

Ms Alexander: To follow up Rob Gibson's and Lewis Macdonald's points, notwithstanding the fact that it is helpful to have until the meeting to lodge any amendments, it is not satisfactory to amend an instrument of such magnitude at a meeting. We may all choose to behave responsibly, but it would be helpful if the powers that be on all sides found a more satisfactory procedure for the next time.

The Convener: That will be in 10 years' time, so perhaps some of us will not be here then—who knows? I am sure that the lessons will be learned for the future. I suggest to members that they try to treat the matter as much like a stage 2 debate as is practicable. That means that, just as they could at a stage 2 debate, they can lodge probing amendments but not necessarily press them. That may be the way that you wish to highlight any issues that require to be clarified.

Ms Alexander: I recall Donald Dewar's fastidious interest in 1999 and 2000 in the question on religious affiliation in Scotland. It may be only once every 10 years, but we can do better.

Rob Gibson: I presume that the process has been changed from the one that was adopted in 1999. We are trying to improve on that.

How soon would we have notice of any amendments by members, even though they are allowed to lodge amendments up to the day of the meeting? It would be important to have notice.

Ms Alexander: I agree.

The Convener: If members allow me to discuss the matter with the clerks, we will send an e-mail out later today with a suggested timetable for the lodging of amendments so that we can all have notice of them. That includes the minister; I am sure that it would be useful for him to know what will happen as well.

I thank members. I am sorry the process is rather complex, but I hope that we will get through it next week.

That concludes the public part of the meeting.

10:10

Meeting continued in private until 12:35.

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