The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

HEALTH AND SPORT COMMITTEE

Wednesday 24 February 2010

Session 3

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CONTENTS

	Col.
SUBORDINATE LEGISLATION	2727
Official Feed and Food Controls (Scotland) Amendment Regulations 2010 (SSI 2010/5)	2727
ALCOHOL ETC (SCOTLAND) BILL: STAGE 1	2728

HEALTH AND SPORT COMMITTEE
6th Meeting 2010, Session 3

CONVENER

*Christine Grahame (South of Scotland) (SNP)

DEPUTY CONVENER

*Ross Finnie (West of Scotland) (LD)

COMMITTEE MEMBERS

*Helen Eadie (Dunfermline East) (Lab)
*Rhoda Grant (Highlands and Islands) (Lab)
*Michael Matheson (Falkirk West) (SNP)
*Ian McKee (Lothians) (SNP)
*Mary Scanlon (Highlands and Islands) (Con)
*Dr Richard Simpson (Mid Scotland and Fife) (Lab)

COMMITTEE SUBSTITUTES

Joe FitzPatrick (Dundee West) (SNP)
Mr Frank McAveety (Glasgow Shettleston) (Lab)
Jamie McGrigor (Highlands and Islands) (Con)
Jamie Stone (Caithness, Sutherland and Easter Ross) (LD)

*attended

THE FOLLOWING GAVE EVIDENCE:

Professor John Beath (Royal Society of Edinburgh)
Gary Cox (Scottish Government Justice Directorate)
Professor Anna Dominiczak (Royal Society of Edinburgh)
Alison Douglas (Scottish Government Chief Medical Officer and Public Health Directorate)
Dr Lesley Graham (Scottish Government Chief Medical Officer and Public Health Directorate)
Marjorie Marshall (Scottish Government Health Finance Directorate)
Mike Palmer (Scottish Government Chief Medical Officer and Public Health Directorate)
Rachel Rayner (Scottish Government Legal Directorate)
Ben Read (Centre for Economics and Business Research)

CLERK TO THE COMMITTEE

Douglas Thornton

LOCATION

Committee Room 1

Scottish Parliament

Health and Sport Committee

Wednesday 24 February 2010

[The Convener *opened the meeting at 10:02*]

Subordinate Legislation

Official Feed and Food Controls (Scotland) Amendment Regulations 2010 (SSI 2010/5)

The Convener: I welcome everyone to the sixth meeting this year of the Health and Sport Committee. I remind everyone present to switch off their mobile phones and other electronic equipment. No apologies have been received.

Item 1 on the agenda is consideration of a negative instrument that makes minor amendments to existing regulations on feed and food controls to correct errors in those regulations. The Subordinate Legislation Committee had no comments to make on the instrument. As members have no comments, are we content to make no recommendations on the instrument?

Members *indicated agreement.*

Alcohol etc (Scotland) Bill: Stage 1

10:03

The Convener: Item 2 is oral evidence on the Alcohol etc (Scotland) Bill. The committee held an introductory evidence session on 10 February with Dr Petra Meier of the University of Sheffield. During that meeting, the committee agreed to write to Dr Peter Anderson about international evidence on the connection between pricing and consumption. Dr Anderson had been scheduled to attend the meeting, but was unable to do so on the day. The committee's letter to Dr Anderson, as well as his response, will be published on our website.

We have two panels of witnesses this morning. Our first panel consists of members of the Scottish Government bill team. I welcome Gary Cox, head of the alcohol licensing team; Alison Douglas, head of the alcohol policy team; Mike Palmer, deputy director for public health; Marjorie Marshall, economic adviser; Rachel Rayner, senior principal legal officer; and Dr Lesley Graham, associate specialist in the public health division.

I invite members to question the witnesses on technical matters and procedures in the bill, rather than on policy, which is for ministers.

Mary Scanlon (Highlands and Islands) (Con): I appreciate that a few of the members of this committee are also members of the Subordinate Legislation Committee. I want to ask about what I consider to be quite a damning report on the bill by the Subordinate Legislation Committee. On page 24 of our Scottish Parliament information centre briefing it says that the Government has received legal advice on whether the bill breaches European Union or domestic law, but it will not divulge that advice. Given that eight members of the Health and Sport Committee are going to spend hours, days and weeks looking at the bill, will you courteously and respectfully consider divulging that advice to us? Personally, I think that we are entitled to it.

The Convener: I am sure that the officials can deal with that question, but I think that it is a question for ministers to answer. To the best of my knowledge—I may be corrected—ministers have never given Parliament the benefit of any legal advice that they have received. I am not sure about that. I cannot think of any instance in which that has happened. Ross, you were a minister.

Ross Finnie (West of Scotland) (LD): There might be one exception to that.

The Convener: It would be very exceptional.

Mary Scanlon: The Subordinate Legislation Committee is very concerned about that, so if I do not get an answer this way, I will try another way.

The Convener: I have made my view plain and no one wishes to answer that question. What is the next question?

Mary Scanlon: Right. We are not getting any help on whether the bill is competent.

The Convener: That was not the question. The question was about the legal advice.

Mary Scanlon: I want to know the legal advice. As the Parliament's Health and Sport Committee, which is scrutinising the bill, we are not receiving legal advice from the bill team or the Government.

Ross Finnie: I have a supplementary question. There are two separate issues. Mary Scanlon is referring quite properly to the Subordinate Legislation Committee, which to my mind has raised a different but wholly related issue as to the competence of the bill. Can we clarify that my reading of the Subordinate Legislation Committee's report is correct? You almost do not need to be a lawyer to work this out. According to the report, the matter at issue, which is whether minimum pricing is competent within European jurisdiction, does not arise in the bill, because the bill as drafted does not set a minimum price. Therefore, that matter will not arise until we receive the statutory instrument that will set a minimum price.

Is that a policy matter or a procedural matter? I find it difficult to be invited to approve the principles of a bill, the implementation of which is legally doubtful, although that might be resolvable. There is a cross-over between policy and procedure. I would like someone to clarify that for me precisely.

Many members of the Parliament objected to the use of provisions in the Licensing (Scotland) Act 2005 to try to introduce minimum pricing by way of statutory instrument. We did so because we wished to be able to scrutinise the principles and effects of that. It is disappointing that the fundamental issue has now been relegated to a statutory instrument, which deprives this committee of the opportunity to interrogate that matter to the fullest extent at this stage.

The Convener: That is a fair question. The primary legislation might be competent, but the secondary legislation might not be competent. What issues arise?

Gary Cox (Scottish Government Justice Directorate): If it would help, I will outline some matters of process that Mr Finnie touched on and then Rachel Rayner will comment on the wider issue of the legality of the policy.

We have taken the view that it would be sensible to invite the Parliament to consider the principle of minimum pricing. As you know, the bill sets out the formula for determining what the minimum price should be. Once that principle was accepted and the mechanics of minimum pricing—that it should be applied to a unit of alcohol, that there should be licence conditions and that they should be enforced by licensing standards officers—were agreed, we would come back to the Parliament with draft affirmative regulations that proposed a specific price. Part of the reason that we are not doing that at the moment is that, when we were finalising the bill, members expressed concern that the Sheffield report was not based on the most up-to-date available information. When the University of Sheffield was finalising its report, more recent Scottish health survey data and crime data became available. In correspondence with various members, we took the view that it would be sensible for us to ask the University of Sheffield to rerun its model, using the most up-to-date data. That process is live and will feed into consideration of the price that ministers want to propose to the Parliament.

Rachel Rayner may want to touch on some of the legal issues.

Rachel Rayner (Scottish Government Legal Directorate): We consider that minimum pricing is capable of complying with European law, which does not prohibit minimum pricing as such. Ministers will ensure that any order setting the draft price that is brought to the Parliament is within competence and complies with European law.

Ross Finnie: You have given an explanation from an official point of view—leaving aside the ministerial decision. I am bound to say that I do not find that explanation wholly persuasive. If all the relevant information is not available or you properly concluded that the debate and discussion to determine minimum pricing would be improved by having available to you and to the Parliament the most up-to-date information, I am puzzled as to why you introduced the bill. It was within competence for you to wait so that we would all have the benefit of that information contemporaneously and thus be able to give full consideration to the principle involved and to better understand the issue.

If you are not able to tell us now what the price will be, are you able to tell us that any price within the range that is produced by the Sheffield study will be legal, or are there other issues that will have to be considered? If you are telling us now that we as parliamentarians can be content that any range of price, as adjusted in the light of the updated Sheffield report, will be competent, that is a different matter. I am not sure that you said that.

Rachel Rayner: As has been said, we are in the process of considering the minimum price. We will ensure that the price that is proposed is within competence. The draft order will include a regulatory impact assessment that will provide more information on the evidence supporting the proposed price.

The Convener: I want to hear first from panel members on this important point. Let me park the evidence for a bit and indicate what we are trying to get at; Ross Finnie can correct me if I am wrong. The primary legislation, as drafted, may be competent, but the key question is, will the subordinate legislation that will introduce a minimum price be competent? I think that Ms Rayner replied that it is capable of being competent, under European Union legislation.

Rachel Rayner: Yes, and ministers will ensure that the price that is proposed is within competence.

The Convener: I was not asking a question but summarising what I thought had been said. I will take Ms Douglas before bringing in other members.

Dr Richard Simpson (Mid Scotland and Fife) (Lab): I do not think that Rachel Rayner said quite what the convener suggested. I would like clarification. The convener is right—

The Convener: I used the words "capable of".

Dr Simpson: The issue is crucial. Are you saying that there may be minimum prices that will not be competent and that there are others that may be? That was Ross Finnie's point. Saying that the principle of minimum pricing is competent across the whole range of minimum prices is quite different from saying that it may be competent at 35p or 45p, doubtful at 50p and impossible at 60p.

Ross Finnie: Or the other way round.

Dr Simpson: Yes.

The Convener: Can we have an answer to that?

I will call everybody whose name is on my list if their question is on that point. I will ask you that when I come to your name.

Michael Matheson (Falkirk West) (SNP): If you keep letting folk ask supplementaries on the back of things, it is difficult for other members to wait.

The Convener: I do not like challenges to the chair, Mr Matheson.

Michael Matheson: But it is difficult, convener.

The Convener: I am trying to let the discussion be free flowing.

Ross Finnie: I was seeking clarification.

Michael Matheson: I am seeking that as well.

The Convener: Bear with me. We are still on competence. Michael Matheson is next on my list, actually, then Helen Eadie, then Rhoda Grant, then Richard Simpson, who has already been in. However, I will ask people whether their question is on competence. I think that you wanted to say something, Ms Douglas.

10:15

Alison Douglas (Scottish Government Chief Medical Officer and Public Health Directorate): It is important to understand that competence is not a black-and-white issue. We are talking about two competing demands. One is the requirement to conform with international law on free markets. There are both European and global requirements on that. The other is the requirement to intervene in the market if doing so will produce a demonstrable benefit in protecting public health or reducing crime. The policy is designed to improve public health and reduce crime.

The Sheffield study shows us that, at the lowest level that was modelled, which was 20p, there was not a significant benefit in improving public health and reducing crime. It is therefore reasonable to conclude that, at such a level, one would not show that the benefit outweighed the requirement not to interfere with the market. It is not possible to say that, in all cases, a specific minimum price such as £1 or 5p would be within competence. There will—

The Convener: I think that we heard some evidence on the same issue in Helsinki. The public health issue can perhaps—"override" might be the wrong word—change the balance of the requirement not to be anticompetitive and so on. My colleague who was in Helsinki is agreeing with me.

Michael, is your question on the same point?

Michael Matheson: Yes.

The Convener: Right.

Michael Matheson: I want to be clear. You helpfully mentioned the two benefits that must exist if the measure is to be competent. In international law, including European law, the principle of minimum pricing is not necessarily illegal. The question is whether the level at which it is set has a significant or—what was the term that you used?—a demonstrable benefit to public health. If it was set at too low a level and a public health benefit could not be demonstrated, it would be classed as not competent. Is that correct?

Rachel Rayner: There is a step before that. European law does not ban minimum pricing as such. The first stage is that it will comply with

European law if it does not affect trade between member states and it does not discriminate against imported products. If it does those things, it can still comply with European law if it can be justified as achieving a legitimate aim, such as the protection of health or the reduction of crime, and it is proportionate. On proportionality, we look at whether the benefits of the minimum price outweigh any interference with the market. European law does set out a means of justifying measures that protect health or reduce crime provided that, on balance, those benefits outweigh any interference with the market.

Michael Matheson: So the further modelling work that you are doing is trying to address the second point. The aim is to demonstrate, using up-to-date Scottish data, exactly what the level would have to be in order to ensure that it has the necessary public health benefit.

Rachel Rayner: Yes—that it would protect health and reduce crime, and that those benefits would outweigh any interference with the market.

Michael Matheson: Right.

Alison Douglas: I will just add that we do not expect the Sheffield modelling with the new data to differ substantially from the report that the committee has already seen.

The Convener: That is helpful and has provided a lot of clarity for me.

Ross Finnie: I have one final question, convener.

The Convener: Is it on the same point?

Ross Finnie: Absolutely.

The Convener: Before you come in, to keep the troops happy, I will let Ian McKee in, if his question is on competence.

Ian McKee (Lothians) (SNP): It is indeed. It strikes me that, whenever a decision is made, it will be difficult, because it involves comparing things that are totally unlike—one is competition and the other is public health benefit. The higher we set the minimum price, the greater the health benefit and the greater the interference with trade. It is a very difficult balance. Do you have examples from other fields where a similar decision has been made to help inform us on how to make a judgment on the matter?

Rachel Rayner: There have been cases in which the European Court of Justice has considered article 30 of the Treaty Establishing the European Community and concluded that the legitimate objective being sought outweighed any interference with the market. It is not something that has never been used before, but I cannot think of any examples offhand.

Ian McKee: So, ultimately, it would be a matter for a court, rather than an official in Europe.

Rachel Rayner: There have been court cases in which the European court has said that there is no breach of article 30 because the legitimate objective that was being pursued outweighed any interference with the market.

Ian McKee: Have there been cases in which the opposite has happened?

Rachel Rayner: Yes. Each case comes back to the facts and evidence. That is why the modelling, research and other evidence need to be put together. The decisions are based on the robustness of the evidence in the individual case.

Ian McKee: Ultimately, it would be a matter for someone challenging what had happened and a decision in the court, rather than an official in Europe. Is that right?

Rachel Rayner: The measure will be capable of being challenged and, ultimately, the European court will take a view.

Ian McKee: So it would be a court rather than an official in Europe.

Rachel Rayner: The Commission could bring a challenge but, ultimately, the measure will be lawful until challenged successfully.

Ian McKee: In the courts.

Rachel Rayner: Yes—in the courts.

The Convener: I seek clarification on that. Are there different rules for different products? I understand the point that each case is considered on its merits and the point about balance, but are there products for which there is an absolute prohibition against pricing mechanisms between member states?

Rachel Rayner: The tobacco directive—of which members might be aware because of the recent opinion given by the advocate general—sets a structure for pricing. However, the equivalent legislation on alcohol does not prohibit a minimum or maximum price, which is why the case law on tobacco is different. The directive specifically provides that there cannot be a maximum price. That is where that line of authority comes from. However, in relation to alcohol, there is nothing to prevent a minimum price. The Commission has said that.

Ross Finnie: I apologise to members, but I want to be clear on one final technical point. Irrespective of whether the Government believes that the later study will be no different, your decision has been to await that evidence. You will then weigh that in the balance to determine the price that you might recommend. At that point, do you also have to recalibrate to find out whether it

might be open to the Government to achieve the health objective by different means?

Rachel Rayner: Yes, when we decide whether a measure is proportionate, we have to consider whether there is a less intrusive way of achieving the same objective. Some of that work has already been done, as can be seen in the policy memorandum.

Helen Eadie (Dunfermline East) (Lab): I will continue with questions on case law. I notice that the European Court of Justice has yet to issue its decision in the case of the Commission of the European Communities v the French Republic, Republic of Austria and Ireland. Our briefing says that

"much interest has been paid"

to that case. What the briefing says about the possibility of

"measures having an equivalent effect to quantitative restrictions on imports, contrary to Article 28 EC"

and about article 34 of the Treaty on the Functioning of the European Union, suggests that you could be in danger of misleading the Parliament and ministers into thinking that there could be complete freedom for ministers to introduce minimum pricing. It suggests that what you advise could be contrary to what the European Court of Justice may determine. It is previous of you to advise ministers and the Parliament to go down that route against that background as well as in light of our legal advice. I declare an interest in having gone through the matter with other colleagues on the Subordinate Legislation Committee.

The Convener: Let the witness answer on that case.

Rachel Rayner: First, you are referring to an advocate general's opinion. As you went on to say, the European court has yet to give a decision. The case is largely concerned with a directive on the taxation and pricing of tobacco and the opinion does not say that minimum pricing is necessarily unlawful in other cases. It is a decision on the facts particular to the case and does not mean that a particular minimum pricing measure for alcohol cannot comply with European law.

Helen Eadie: With respect, the third paragraph from the top of page 25 of the Scottish Parliament information centre briefing says:

"The Advocate General highlighted previous case law which had found that while the directive does not specifically prohibit a minimum price, the establishment of a minimum price inevitably has the effect of limiting the freedom of manufacturers in determining their maximum price."

The Convener: We have been over that and established that it is not permitted to have a maximum price for tobacco products, to which the pending decision and the opinion relate. Am I correct?

Rachel Rayner: Yes.

The Convener: As I understand it, it is a completely different argument from alcohol pricing, which is not under the same constraints.

Helen Eadie: It has to do with the freedom of the market, convener, which is about the freedom of goods and services to be transported across borders. The reality is that, whether we take alcohol or tobacco, the parallels will be drawn. The European Court of Justice has yet to issue its decision on the case—it will do so in the near future—so why did the Government not wait to introduce the measure until we had the decision, when the situation would have been much clearer to everyone?

Gary Cox: Each case will be determined on its facts and evidence. We are obviously aware of the tobacco case that is running with France and Austria. Rachel Rayner has explained it.

I will touch on a bit of the regulation-making process that lies ahead. Rachel Rayner described the process that we will go through to get to a price that we consider to be compatible with European law. When the regulations come to the Parliament, the Subordinate Legislation Committee's lawyers will give that committee a view, and your legal advisers will give you a view on the compatibility of a particular price. Ultimately, it will be for the Parliament to decide.

When the draft regulations proposing a price are laid, we will produce a revised impact assessment and a competition assessment. We will need to show our workings for why we arrived at a particular price and why we considered it to be the right price for protecting public health and in respect of the wider legal issues. That is the process that lies ahead.

10:30

The Convener: Do we have any idea of when the SSI will come before the Subordinate Legislation Committee?

Gary Cox: That is possibly a question for ministers. We are cracking on with building the case and building the evidence to allow ministers to take that decision.

The Convener: I will bear that in mind.

Helen Eadie: Sticking with the technical issues to do with the subordinate legislation processes, I note that the Subordinate Legislation Committee had a considerable amount of debate and discussion about this matter, which boils down to how much scrutiny Parliament will be able to have.

Some legislation that comes through the Subordinate Legislation Committee attracts little or virtually no scrutiny. It is being suggested that the affirmative process is sufficient in this case. Do you agree with the Subordinate Legislation Committee's view that it would be more appropriate to enable Parliament to have full scrutiny and a full debate on such a controversial issue, and therefore to use super-affirmative rather than just affirmative procedure?

Gary Cox: We indeed touched on that at the Subordinate Legislation Committee, and we agreed to take the view that was expressed at its meeting back with us. A response to that committee is due before the end of stage 1, but I am not able to answer the question today.

Helen Eadie: But do you agree that it is desirable for the Parliament to have absolute, full parliamentary scrutiny, given—

The Convener: I think that you have had your answer, Helen. The official cannot give you the answer just now. The Government will tell the Subordinate Legislation Committee.

Helen Eadie: I have a further question. Regarding the debate involving officials and others, the suggestion has been made—various references have been made to this—that there has been much international experience of the issue, whereas the reality is that there has been no international experience other than a proposed form of the policy in Canada that is not the same as what is being proposed here, albeit that there are similarities. Could any of the officials give evidence other than on the modelling that we have seen, to return to the discussion that we had with our witness last week?

Gary Cox: If it helps, I will outline some of the other options that we considered, and my colleagues will no doubt wish to comment on some of the international evidence on the effect of price on consumption and harm. We considered the Canadian scheme as a possible option. It was suggested to us by a number of international brewers, who thought it the best approach. Our concern about the Canadian scheme was that it treats products in different ways, categorising them by type, rather than according to alcohol by volume. In that respect, we were concerned that the scheme treats products differently, whereas minimum unit pricing treats products in the same way, as determined by their alcohol content. We understand that the Canadian scheme is relatively unfair to the spirits industry and is advantageous to brewers, which creates another potential problem.

Another option is the proposal suggested by the Scotch Whisky Association, which is that we ban the sale of alcohol below tax. We considered that option carefully, but we ruled it out because the taxation arrangements are flawed, and the foundation that such a policy would be built on is based on the type of product, not its strength; it treats whisky unfairly in comparison with vodka, and cider more generously than beer of the equivalent strength. The fundamental problem with that sort of minimum pricing policy is that it would create a very low minimum price, so it would be difficult to argue that it has an impact on public health. It would be difficult to demonstrate that a ban on selling below tax would address the public health objective that we are trying to achieve.

I will pass over to my colleagues on the broader issues concerning other pricing interventions.

Alison Douglas: I will just touch on the international evidence base. Helen Eadie is correct that nobody else has yet tried to do minimum pricing in the way in which the Government proposes to do in the bill. There are probably two different evidence components to address. First, there is the link between price, consumption and harm: there is a very robust international evidence base on that. The World Health Organization has identified pricing as one of the key, effective and cost-effective interventions that Governments can make to tackle alcohol-related harm. That view is echoed by the European Council, which, in its report "Council Conclusions on Alcohol and Health" in December 2009, said:

"appropriately designed national alcohol pricing policies ... can impact on levels of harmful and hazardous alcohol consumption ... particularly among young people."

The Rand Corporation, which is an international independent think-tank—the original think-tank—looked at the evidence base and concluded that pricing is critically linked to consumption and harm. The National Institute for Health and Clinical Excellence, which will report next month on alcohol use, has looked at the evidence base and concluded that price, particularly minimum price, has a role.

The second component is to do with minimum price in particular. The Sheffield study has been talked about as if it is almost entirely unconnected to the evidence base, whereas it very much builds on the evidence base. The study has been peer reviewed and is published this month in *Addiction,* which is an international journal on substance misuse. Wagenaar, who is one of the critical people in the field and who has done much of the modelling around elasticities, said that the Sheffield study is

"exactly the type of translational science needed by policy makers, bridging basic research results to policy practice",

and that its theory is

"consistent with a very large body of empirical research, providing a strong indicator of validity of the models used."

Wagenaar also states that the study is

"creative, innovative and highly significant."

The Sheffield study very much builds on the international evidence base on price, consumption and harm, but it takes it a stage further. It is a much more sophisticated model than has hitherto been developed, and it is recognised internationally as being a very strong addition to our understanding and knowledge in the area.

Helen Eadie: On that point—

The Convener: I do not want to go on to the Sheffield study at the moment—we can come back to it. I want to let Helen Eadie's colleague Rhoda Grant in for a bit. You know that you will all get back in again, so there is no need to fret. Rhoda Grant is next, then I have in turn Mary Scanlon and Ian McKee, and then Ross Finnie on a completely new tack.

Dr Simpson: Sorry, convener—

The Convener: What do you want to speak on?

Dr Simpson: I had my name in to speak after Rhoda Grant.

The Convener: Is it on a new topic?

Dr Simpson: Yes.

The Convener: You are after Ross Finnie on my new list, then. I have a B list here.

Rhoda Grant (Highlands and Islands) (Lab): I would also like to be on your B list. I have a question on competence.

The Convener: I have Richard Simpson, Michael Matheson and Rhoda Grant on the B list.

Mary Scanlon: I am on the B list, too.

The Convener: You are on the B list, are you? I may have a C list at this rate. Mary Scanlon will be followed by Helen Eadie. On my A list, I have Rhoda Grant, Mary Scanlon and Ian McKee. I think that those speakers are still addressing the issue of competence. I want to move on from that for the next list, which has Ross Finnie, Richard Simpson, Michael Matheson, Mary Scanlon and Helen Eadie on it. There you are—you know where you are.

Rhoda Grant: It seems clear to me that primary legislation needs a certificate of competency but subordinate legislation does not. The issue for the Subordinate Legislation Committee seems to be that, if the minimum price was set through subordinate legislation, that would not be subject to a certificate of competence and could be passed by the Parliament without knowing whether it was competent. The way to resolve that is to place the minimum price in the bill. I can understand that you are delaying doing that until the updated Sheffield report is published. Will the minimum price be put in the bill when the Sheffield report update is issued? Will the Presiding Officer then be asked to review the certificate of competence? If that happened, it would allow the committee to report to Parliament conclusively.

Gary Cox: There are two points there. We will take back to the ministers the point about whether the minimum price should be put into the bill as part of the process. As far as the certificate of legislative competence is concerned, you are right that regulations do not receive one, but if the Subordinate Legislation Committee or the committee's legal advisers were to recommend that the relevant committees should say that they are unhappy with a price being proposed, I would be surprised if the relevant committees went against that legal advice. The fact that there is no certificate of legislative competence for regulations does not remove the legal scrutiny that your advisers will give to a particular price.

Alison Douglas: If the price were in the bill, it would require primary legislation to—

The Convener: I know that. We would have to keep amending the act.

Alison Douglas: Yes, and that is a practical reason for not putting the price in the bill. There is precedent for that in other legislation where adjustments are made using subordinate legislation. We are not trying to avoid parliamentary scrutiny; it is just a practical mechanism for setting and adjusting the price.

Rhoda Grant: Is it not the case that the price could be placed in the primary legislation, which could also state that the price could be amended or adjusted by subordinate legislation? That would not be incompetent.

Alison Douglas: That is an option, but it will have to be taken back to ministers.

The Convener: That is a fair point. Mary Scanlon is next; is your point still on competence?

Mary Scanlon: Yes; I am still working from the A list.

The Convener: You are always on my A list.

Mary Scanlon: Hopefully, we will get on to the health benefits and so on next, but I do not want to digress from where we are, given that I started this.

We will have to be honest here that the Subordinate Legislation Committee published a highly critical report on the bill. As the lead committee, we cannot ignore our colleagues on the Subordinate Legislation Committee. Although it might not be right, I appreciate what Ms Douglas

says about the minimum price constantly changing and how it is not practical to do that in primary legislation. However, it is important to put on record the conclusion and recommendation of the Subordinate Legislation Committee, which stated:

"The Committee draws to the attention of the lead committee that it is apparent, from evidence given by Scottish Government officials, that a careful and complex assessment of any particular minimum price and alternative options will be required in order to determine whether any exercise of the power will be compatible with Community law and therefore within devolved competence."

The point is that we do not have a minimum price, we do not have an assessment, and we are not allowed to get legal advice from the Government on competence. This committee of elected representatives from four parties across Scotland is being asked to spend time passing the principles of a bill without knowing whether it is competent to exercise the power to set a minimum price for which it provides. I find that to be quite incredible.

I seek your advice, convener. We cannot ignore the Subordinate Legislation Committee's report. It is highly critical. Is it for the Government ministers to respond to every part of the report, or can I ask the civil servants about paragraph 29?

The Convener: As this committee is taking evidence, it is for us to comment on it as we make our stage 1 report. However, it is my understanding that the Presiding Officer would not have signed off the bill if he did not deem it to be competent.

Helen Eadie: No, that is not what—

The Convener: I understand—

Helen Eadie: The report does not say that. The Subordinate Legislation Committee—

Mary Scanlon: The Subordinate Legislation Committee has voted it down. It has voted this down.

Helen Eadie: The Subordinate Legislation Committee was very clear on the point.

Mary Scanlon: Yes.

Helen Eadie: The point is that subordinate legislation does not require a competence certificate.

10:45

The Convener: I understand that, but I am talking about the primary legislation. Perhaps Mr Cox will clarify for me that when a bill is introduced—

Helen Eadie: However, we are talking about the subordinate legislation, not the primary legislation.

Mary Scanlon: I have read out exactly what the Subordinate Legislation Committee has asked of our committee. As a member of this committee, I think that it is incumbent on us to respond to the advice of the Subordinate Legislation Committee.

The Convener: That is not a problem. What I am trying to tease out separately—I ask Mr Cox to answer this—is what the Presiding Officer's duty is before the bill is allowed to be introduced. Can Mr Cox answer that for me?

Gary Cox: That is a question for the parliamentary authorities rather than for me.

The chunk of the Subordinate Legislation Committee report that Mary Scanlon read out is a statement of fact, so I do not think that we have any difficulty with it. We now have the opportunity, before the end of stage 1, to respond to the issues that the Subordinate Legislation Committee has raised. That is an action point for us to come back to this committee on. That section of the Subordinate Legislation Committee's report reflects the advice that Rachel Rayner and I gave and it is a statement of fact, so I do not think that we would argue with it.

The Convener: I think that we are going round in circles. We all understand that there is a big distinction between the bill as introduced, which is required to be competent, and the main contentious measures that will be introduced by subordinate legislation, for which a certificate of competence is not required. We have raised the prospect of setting a minimum price in the primary legislation. We have heard the issue about varying prices, but Rhoda Grant has raised the point about including a provision in the primary legislation to fix a price that could then be varied through subordinate legislation.

I think that that is where we are, or have I not exhausted where we are?

Alison Douglas: Convener, I think that that is correct, but it might be worth reiterating that the Scottish Government would not propose a price in secondary legislation that it did not believe was competent.

The Convener: Thank you for that additional clarification, but I think that we now know where we are in the process. Before we go round in a circle again, can we now leave the issue of competence?

Ian McKee: No—

The Convener: Oh, dearie me. We have a question from Ian McKee and then one from Richard Simpson. Perhaps Richard Simpson will not need to ask his question, but we will see.

Ian McKee: I have a fairly simple question. It was said earlier that, in judging competence, the

European Court of Justice would need to decide whether the end result could have been obtained by any other means. What is the status of Scotland in that respect? As far as I am aware, the state dealing with the European Union is the United Kingdom and, whereas the Scottish Parliament cannot offer other solutions such as changes in tax and so on, the UK Parliament could do so. Could Europe say that we could achieve a similar aim by increasing taxation by a certain percentage, which Scotland could not do but the member state could?

Rachel Rayner: In considering whether any other measures would be less intrusive, we need to consider taxation even though that is not within the powers of the Scottish Parliament. European law would require us to consider all measures that are available to the UK Parliament, as the UK is the member state. However, taxation has been considered. We have concerns about whether taxation would achieve the objective of protecting health, because we are concerned that increases in taxation might not be passed on in the form of increased prices.

Gary Cox: Let me just demonstrate that point. There is enough evidence to suggest that the bigger retailers absorb tax and duty increases to some extent or pass them on to other products or back to the producers. Increasing tax does not always result in increased prices and therefore reduced consumption. I can quote a couple of examples that were mentioned in press coverage following the most recent UK budget: one supermarket asked its suppliers to absorb the price increase; another supermarket confirmed that it would not apply the budget increases to existing promotions but would make other products more expensive; and some advertising basically said, "We're not passing on the latest increase in duty so that you can have a better Christmas." I think that the Competition Commission has highlighted the extent to which tax increases on alcohol are not always passed on.

Another point was covered in the UK Government's evidence to the Health Select Committee when it discussed the benefits of taxation versus pricing. In evidence to that committee, the UK Government official said:

> "if the Government were to adopt a minimum pricing strategy, the way to achieve that would have to be through regulation to oblige the supermarkets to impose that price. It could not be achieved, or it would be extremely difficult to achieve, through tax changes because even if you put the duty up to a particular level, you could not be sure that the full amount of that increase would be passed through by the supermarkets".

As Rachel Rayner has said, there are policy issues relating to why taxation is not necessarily a better approach, in addition to the fact that the Scottish Parliament cannot control alcohol duty.

Ian McKee: I appreciate that. The point that I am seeking to elucidate is that factors that are totally outwith our control could be taken into account in making a decision. In that respect, Scotland would lose out compared with member states of the European Union. Is that right?

Dr Simpson: That is a policy matter.

The Convener: The question probably strays into the area of policy.

Ian McKee: The question needs a yes or no answer. That is all.

The Convener: Yes, but nobody is answering it. Does any witness wish to answer it?

Gary Cox: No.

The Convener: Richard Simpson has a question.

Dr Simpson: It is about competence.

The Convener: I want to exhaust that matter shortly. There are people on the B list, which is becoming old.

Michael Matheson: I have a question for the convener about competence.

The Convener: Oh, crumbs.

Dr Simpson: We have established that the issue is complex. On the one hand, there is the public health interest; on the other, there is competition. In coming to conclusions about the competence of any future proposals, did the panel members take into account the competence and legality of abolishing discounting? If promotions and discounting are abolished, that would be another factor that would restrain competitiveness. That issue has not been mentioned. Were those things taken into account in considering the complexity of the arguments?

Rachel Rayner: We consider that the provisions on discounting in the bill comply with European law. They have also received a certificate of competence from the Presiding Officer.

Dr Simpson: They are much more specific provisions. They are not like the other proposal, which is just to take powers.

Rachel Rayner: Yes.

The Convener: I understand that the minister will respond to the Subordinate Legislation Committee's report. Can you give me an idea of when that will happen? You may not be able to tell me that, but it would be helpful if you could and if we received a copy of the minister's response. Only two members of the Health and Sport

Committee are members of the Subordinate Legislation Committee.

Gary Cox: The committee will certainly receive a copy of that response.

Mary Scanlon: Three members of this committee are members of the Subordinate Legislation Committee.

The Convener: Three? I am sorry; I did not know that.

Gary Cox: The deadline that the Parliament has given us for the response is before the completion of stage 1 but, obviously, we will see whether we can accelerate the process.

If I may, I would like to add to a point that Rachel Rayner made in response to Dr Simpson's question. The 2005 act already bans a whole range of promotions, particularly by the pub trade, but also by off-sales. Some of those bans are similar to the promotion bans that are proposed in the bill. Bits of the 2005 act have been subject to challenge, but nobody has challenged the promotion bans, and there seems to be a high level of compliance in the trade. A precedent therefore exists in the 2005 act. The bill would bring the off-sales set-up into line with the on-sales sector with respect to promotions.

Dr Simpson: The issue is responsible sales and the public health interest as we—

The Convener: Can we move on to that issue later? I fear that we are going into the B list of questions.

Dr Simpson: Yes. The competence of those bans has not been challenged.

The Convener: I do not know whether I will need my legal adviser for Michael Matheson's question; I will soon find out.

Michael Matheson: You may.

I am conscious that there is uncertainty for members about some competence issues and that we are dealing with a fairly complex piece of European law in trying to address the issues. We will not be able to get access to Government legal advice—that tends to be the norm—and there is no need for a certificate of competence for the regulations. As a committee member who does not have a legal background, with the exception of seven years on justice committees, I would find it helpful if the committee would consider appointing a legal adviser who could provide specific advice to us on our concerns about the legalities of the proposals, particularly at the point when the regulations may be published.

The Convener: Excuse me a second while I talk to the clerk. [*Interruption*.] There is no problem with the committee deciding to take its own legal advice, although it would be subject to the same constraint as advice to ministers—it would have to be private to us. If we were to decide to do that, it would be useful to do so after we had seen the minister's response to the Subordinate Legislation Committee, because then our legal advisers would have two sides of the argument. The issue is not on the agenda for today, but I am quite happy for members to chew it over and give it due consideration and we can talk about it next week.

That was a nice moment—the committee went awfully quiet. We now move on to the B list.

Ross Finnie: I want to move on from the legality of minimum pricing to discounting. In the policy memorandum—in paragraph 30, I think—you say that the report by the Sheffield school of health and related research estimates that linking a ban on drinks promotions to minimum pricing would be more effective than adopting the measure on its own. I do not want to get back into the competence issue—that is behind us. I am more interested in the bill team expanding on why, from a technical analysis rather than a policy point of view, it purports in the policy memorandum that there are issues to do with the enforceability of measures on discounting that mean that such measures would be more effective if regard was also paid to minimum pricing.

Alison Douglas: If I may, I would like to make an initial point on why the Government feels that it is essential to have a restriction on discounting and minimum pricing as two complementary components. At least one retailer said to us—the point is well taken, even if it was made in a somewhat flippant manner—that should the Government act to restrict discounting, retailers would simply adjust their marketing model to reduce the price of an individual bottle or can. It is very easy to anticipate that the market would respond in such a way, which is why the Government considers it essential to have minimum pricing in addition to measures on discounting.

Ross Finnie: Is it your analysis of the effectiveness of the measures that it is critical that they are interlinked?

Alison Douglas: Yes.

Ross Finnie: And on enforceability?

Gary Cox: The mechanisms for enforcing compliance with licence conditions are contained in the 2005 act. We are fortunate that the previous Administration chose to future proof that piece of legislation so that descriptions of irresponsible promotions could be updated to reflect changes in the market. We are now in a situation in which some retailers and publicans are, unfortunately, seeking to work round the 2005 act, which may mean that we have to come back to Parliament

with a new description of irresponsible promotions to put into schedule 3 to the act.

We have framed the discounting provisions in such a way that we will be able to use them in conjunction with the 2005 act to respond to anyone who seeks to break the law or to circumvent the spirit of what Parliament has decided. As I think I said in response to Dr Simpson, the quantity discount proposal is about bringing the supermarket sector into line with the pub trade. As Alison Douglas said, the two go together, and the modelling suggests that you get a bigger bang for your buck if you do minimum pricing and the discount ban. The latter on its own, according to the modelling, would have an effect on consumption and harm, but it would not be as significant as the two policies being pursued together.

11:00

Dr Simpson: Of course, the combined effect is less than the separate effects—the Sheffield study says quite clearly that there is a reduction when the effects are combined. The issue is complicated.

The Subordinate Legislation Committee said that we do not know any details about the social responsibility levy. I assume that you will come back to the Subordinate Legislation Committee with that detail. My understanding from the papers I have read is that the responsibility levy was intended to be on the on-trade and was for the enforcement of police action in relation to clubs and pubs in city centres, but it is proposed to extend it to off-sales. Can you give us details of how the levy would be applied, what the principles behind it are and what a responsibility levy is in that respect?

Gary Cox: You are right: when the Cabinet Secretary for Justice prompted the debate on the levy, the examples used were city centre pubs, superpubs and nightclubs and the question was whether they should be required to contribute to the additional policing costs involved in policing city centres. That was what sparked the debate—or, rather, reignited it; the issue was originally raised in the context of the Licensing (Scotland) Bill some time ago by another member. In discussions with the pub trade and other trade representatives, the argument was broadened out so that the question was: should the levy be applied beyond the pub trade to the off-sales sector as well?

We have sought to work with the licensed trade on different models and options for the social responsibility levy so that we can come back to Parliament with a draft regulation that the licensed trade has been involved in creating and to which it has signed up. Experience of working on licensing issues has taught us that we generally get a better result if we go through a careful process of engagement with the licensed trade. That is a live process that is happening at the moment. As you can imagine, involving supermarkets and the pub trade in the same discussions means that there are competing interests and a lively debate.

The licensed trade is working through a number of options with us at the moment. One involves a blanket approach in which a social responsibility levy may apply across the board. The question is whether there should be a mechanism that assesses how high the levy should be for particular premises. The other option, which the pub trade is particularly keen on, is that the levy should be linked to people who have done something wrong—that it should be applied as a punishment for breaching licence conditions. There are different discussions in which different models are being pursued. Our job is to try to boil all that down into something that is workable and issue for consultation a draft regulation that sets out a specific proposal. Ultimately, we will come back to Parliament with a draft order and a revised impact assessment, and seek Parliament's agreement to that. However, it is important that, rather than foist our ideas on the trade, we continue our engagement with it until we have a workable scheme.

Dr Simpson: I understand from what you have just said that the principle on which the levy is being predicated is, in fact, that it should be related to specific problems with specific premises. Is that still the basic principle on which it is proposed the levy should operate, or are we broadening it out? I ask that particularly in relation to the section on restricting sales to people aged between 18 and 21, which is related to social responsibility because it is about community safety and the effects that young people who buy from off-licenses for pre-loading have on their communities. I am at a loss to know where we are with this issue.

I would like to see considerably more detail on the first principles that underlie the potential effect of the social responsibility levy. How broad will the levy be? Do we take it to the extent of the public health interest? If supermarkets are adjusting prices—let us say that we have discounting arrangements but not minimum unit pricing—in such a way that sales are not curtailed and pre-loading increases, are we saying that it might fall within the social responsibility levy to drive forward a reasonable pricing structure in the supermarkets, even if they choose to ignore taxation?

Gary Cox: I will ask Alison Douglas to comment on the age 21 issues, but we have made it clear in

the 2005 act that the purpose of the levy is to provide local authorities with additional funds to enable them to further the licensing objectives. Protecting and improving public health is a licensing objective. If the local authority were able to demonstrate that the use of the social responsibility levy was having some positive effect in that area, it could demonstrate that to those who were paying the levy. It is clear that it has to be linked to the licensing objectives. We have undertaken to consult on a draft regulation and come back to Parliament once we have concluded discussions with the trade. Those discussions are at a fairly early stage—there is still a lot of work to do—but I return to the point that if we go through that process we hope that the end result will be more acceptable to everybody.

Dr Simpson: Even prior to having the detail of the regulations, which I understand has to develop from the discussions that you are having with the on-trade and the off-trade, it would be interesting to have a slightly broader redefinition of what is in the current policy memorandum in paragraphs 55 to 60. It would be useful to see how your thinking might feed into the public health interest, which is the most underdeveloped part of the Licensing (Scotland) Act 2005 and the part about which I have most concern. We are the only country in the world with a public health interest in its licensing act, as far as I know, and yet it is not being used effectively to drive forward the need to improve public health on this issue. I would very much welcome that redefinition, if possible.

Gary Cox: We take that point. The Subordinate Legislation Committee raised a similar point. It might be helpful if we expand on the policy memorandum in our response to the Subordinate Legislation Committee, which will obviously be copied to this committee.

Dr Simpson: That would be most helpful. My other question is simple—

The Convener: I have a supplementary to Richard Simpson's point. Referring to the levy, section 10(3) says:

"The purpose referred to in subsection (1) is to meet or contribute to expenditure incurred or to be incurred by any local authority—

(a) in furtherance of the licensing objectives, and

(b) which the authority considers necessary or desirable with a view to remedying or mitigating any adverse impact on those objectives attributable (directly or indirectly) to the operation of the businesses of relevant licence-holders in the authority's area."

Will you give me an example of that?

Gary Cox: An example might be several nightclubs with many hundreds of people in a city centre location. Should they pay an additional contribution to additional policing costs, taxi marshalling, drunk tanks and the various other services local authorities provide in city centres to cater to the volume of people who come out of licensed premises at the same time?

The Convener: So it is to do with public order, not public health?

Gary Cox: Protecting public safety is one of the licensing objectives, but there are others.

The Convener: Coming back to Richard Simpson's point, could that apply to public health?

Gary Cox: It could apply to public health in that protecting and improving public health is a licensing objective that is the responsibility of the licensing board. As Dr Simpson said, that is perhaps the licensing objective with which people have most difficulty. The licensing objectives relating to public safety, crime and disorder are easier to work with, but work is being done by Alcohol Focus Scotland and licensing standards officers to help boards think about how they can better work with the protecting and improving public health objective.

The Convener: Cue Mr Palmer for comment on that point.

Mike Palmer (Scottish Government Chief Medical Officer and Public Health Directorate): I will add something about the public health implications of circumstances in a city centre such as Gary Cox described. There are circumstances in which quite a significant number of drunk and incapable individuals are coming out of licensed premises, which is a public health issue, given the care and treatment that is given to them. We have been doing a lot of work recently with alcohol and drug partnerships to develop strategies on a multi-agency basis that would help cater and care for those individuals. That is exactly the kind of significant investment that is sometimes required across agencies to pursue a public health purpose, which is directly related to the implications of people coming out of licensed premises after drinking large amounts of alcohol.

Dr Simpson: My problem with this is that pre-loading is significant. The most significant thing over the past 40 years has been the change from on-trade to off-trade. Scotland is different from England in that we have a higher level of off-trade sales. People might pre-load from cheap sales from a supermarket and then go into a pub. It seems completely unfair to punish the pub for that with a social responsibility levy. That is why I think the issue has to be addressed more widely. I would very much welcome your coming back to us on that.

The Convener: That is a very fair point with which we all concur.

Dr Simpson: My other question is very brief. Given that there has been a significant reduction in alcohol consumption—I know that there has been variation up and down—since 2003, why have you not asked the University of Sheffield to do a retrospective application of its model to the effects of a reduction in consumption on crime, admissions to accident and emergency units and other acute factors, as opposed to the longer-term issues, which we understand could take up to 10 years to emerge? It seems fundamental to me that if its model works, it should work when it is applied to the retrospective data as well as to the prospective data.

Alison Douglas: I will address first how consumption has changed. We have seen from the Scottish health survey that there is a statistically significant reduction in male drinking, of just over 3 per cent. The reduction in women's drinking is not statistically significant. The difficulty is that survey data are notoriously unreliable at capturing what people drink. That is why the alcohol industry partnership was keen for us to work together to procure the industry sales data. You will be aware that Health Scotland, which is now procuring those data, has procured data over the past four or five years that show a rate of consumption that is very much higher than the rate suggested by the Scottish health survey. We are aware that there are inherent difficulties with the survey data. We tend to try to triangulate from the health survey, HM Revenue and Customs data and sales data to get a complete picture. It is a bit early to conclude that consumption is reducing. It is more likely that it is plateauing.

Dr Simpson: That is helpful. Even so, if you applied the model to those data, you would expect there to be no increase in the various acute consequences of alcohol. Why have you not applied the model? Are you asking the University of Sheffield to apply it retrospectively to the data to show whether there has been a change? If there has been an increase in crime and health consequences without an increase in consumption, we have a problem with the model.

Alison Douglas: The national indicator, which is hospital discharges, was published yesterday by the Information Services Division. It suggests that the number of discharges is plateauing; there is a slight reduction from the previous year's figures. On balance, it looks as though we have reached a peak and that consumption and harm are probably plateauing. We have asked Sheffield to take into account the latest health survey in the remodelling that it is doing at the moment.

11:15

The Convener: I found your answer about responses from the supermarket sales interesting. I am aware that when products go through the computer, supermarkets probably know who we are, what we have done and so on, but they are also immediately restocking their shelves. There are also the loyalty cards. To what extent is the information that you are able to get about the sales of alcohol through supermarkets broken down into geographical areas? How small an area are you able to get down to without breaching data protection?

Alison Douglas: I think that it is just Scotland.

The Convener: It is not broken down into towns and so on?

Marjorie Marshall (Scottish Government Health Finance Directorate): We have recently published data from 2005 to 2009—data that have been purchased by Health Scotland—but they are for Scotland and for England and Wales. We have comparisons, but the data are not broken down regionally.

The Convener: So the data come from the major supermarkets, which will have an automatic reordering process?

Marjorie Marshall: The data come not just from supermarkets but from smaller shops. They come from till receipts—that is how the information is analysed.

The Convener: That will be interesting when we get the supermarkets in front of us.

Gary Cox: I suspect that the level of detail that you are looking for is held only by the supermarkets. I would imagine that they have it broken down on a store-by-store basis.

The Convener: I bet they do.

Gary Cox: That is something that you may want to pursue with them directly.

The Convener: We will have the Scottish Retail Consortium in front of us, as well as individual supermarkets. That will be of interest to us. I suspect that, if we are asked, we understate our consumption of many things. I know I do; I have had only one bacon roll so far this week, not two.

Michael Matheson: It is clear from what you have said today and from the policy memorandum that much of the work that has been done to develop the policy has depended on the modelling work undertaken by the University of Sheffield. It is also clear that the justifications for the policy are based largely on the outcomes of that modelling process and the analysis of the impact that the policy would have. You clearly have confidence in the quality of research produced by Sheffield, but you will be aware that not everyone shares that confidence. SABMiller asked the Centre for Economics and Business Research to analyse the first piece of work on the issue by Sheffield, which

was undertaken on behalf of the Department of Health in England and has been important to the development of this policy. What consideration have you given to the concerns that the CEBR raised about the modelling process that you have been using to develop the policy? In your view, is the critique of the Sheffield process justified?

Marjorie Marshall: The original CEBR report came out in June 2009. As you say, it criticised the Sheffield modelling and the RAND study. Sheffield provided a response and made a public statement. We have been reassured by the fact that the English model has been available for more than a year. The Scottish model has been available for quite a number of months. The models have been peer reviewed by well-respected experts in health economics, who have supported the Sheffield findings rather than the CEBR perspective. They have agreed with the Sheffield response, which was that the CEBR picked particular values for considering the sensitivity to price of different drinker groups but used them wrongly, as it were. Sheffield provides what is called an aggregate value for overall responsiveness to alcohol pricing, which is something the CEBR used, but in the Sheffield report it is used purely for reference. It is not used in the model—it is not used to generate the results that Sheffield presents. In fact, the Sheffield study, the rebuttal and the papers that were published subsequently point out that alcohol and the alcohol market are complex. We have different types of alcohol, different types of drinker and different locations such as the on-trade and the off-trade. The Sheffield model, in comparison with the work that the CEBR did, is the only one that takes account of all those multiple layers of difference.

We are reassured by the fact that other academics have not criticised the Sheffield study in the way that the CEBR did. Other academics have supported the Sheffield study. As Ms Douglas said, one of the first publications from the Sheffield work is in a current edition of *Addiction*, which is a well-respected journal. There are also commentary pieces in that journal by a number of academics who are referenced in your SPICe briefing, such as Alexander Wagenaar and Frank Chaloupka. They support the Sheffield work and welcome it as an addition to the research on different types of drinker. As has been said, it is exactly the type of work that we need because alcohol is such a complex issue and because different groups of drinkers respond differently. That has not been widely researched before. It was certainly not widely modelled until the University of Sheffield developed the econometrics to model it.

I am sorry if that was a rather long answer to your question.

Michael Matheson: It was a helpful answer—

The Convener: We like useful long answers, but we like short questions.

Michael Matheson: Here is a long question for you. No, it is a short question. Are you saying that the CEBR report used reference data from the Sheffield report to produce a critique of that report, rather than the actual data that Sheffield ran through its modelling?

Marjorie Marshall: No. The Sheffield researchers used the data to produce a raft of what are called elasticity matrices. If you have looked at the Sheffield report you will know that it contains complex tables with a set of some 256 sensitivities in each, but it is possible—it has been done in previous research—to produce just one figure; if you want to know how responsive a moderate drinker is, you can produce one figure for alcohol, but it will not take account of different types of alcohol or different places where people drink. The University of Sheffield did that as part of the study, but it did not use the result for the modelling. It argues that the figure cannot be used to make predictions because it is overly simplistic. Does that help?

Michael Matheson: Yes. I am with you.

Marjorie Marshall: In the English report there is a table with figures that can be compared with the other literature, but the University of Sheffield does not use them because, as I said, it argues that they represent an overly simplistic way in which to look at responses to changes in the price of alcohol.

Michael Matheson: And that simplistic approach is the one that the CEBR used in its analysis?

Marjorie Marshall: Primarily, yes. It is an aggregate number.

Michael Matheson: That is helpful. Thank you.

Rhoda Grant: Why were the researchers not asked to look at the impact of minimum pricing on different income groups? I imagine that income is a huge factor; someone on a low income will surely be more responsive to a minimum price than someone on a high income.

Marjorie Marshall: The initial modelling that we commissioned was to replicate what the University of Sheffield had done for England. We were most interested in looking at the impact on different types of drinking, such as heavy drinking, regardless of whether the heavy drinker is in a high-income group or a low-income group. The aim was to look at different types of drinker. The work on income has not been done yet. We might go back and consider that, but it would be another fairly extensive piece of work and building it into

the model would involve another layer of complexity.

Rhoda Grant: It almost goes without saying that if—as you say—price is a lever, the availability of that price to a person must also be a lever. It seems that you are examining one lever without considering the other. My understanding is that the University of Sheffield could have done some work on that quite quickly and not at huge cost. I am concerned that it has not been done.

Mike Palmer: We inquired last year about the possibility of doing that extra work, but the Sheffield researchers indicated that it would be difficult as there were neither the data nor the sensitivity in the data that are available to allow them to produce answers for us. However, we note that Dr Petra Meier explained to the committee last week that she thought that the data may be available. On that basis, we would be happy to pursue the matter with Dr Meier and make further inquiries of the Sheffield team.

Rhoda Grant: Do you concede that income has an effect on minimum pricing? If you say that pricing is important, you must also discuss the availability of income to spend on that price. By raising the price, you are reducing the amount of free income that people have to spend. If a person has less free income to start with, the policy will have a bigger impact on them.

Mike Palmer: We would need to carry out some work on that, if possible, with the University of Sheffield, to examine the evidence around how the policy will differentially affect people in different income bands. If the data are available, we will seek to do that work because it will provide us with useful information. We do not want to jump to conclusions about how a minimum unit price would affect people in different income bands, so it is important that we do that work. We understand that one might make an a priori assumption that those with less disposable income might be differentially impacted by a minimum price.

The Convener: It might be interesting to hear from the supermarkets about the type of products that they sell in particular areas, because they change their products, as you will know, in different areas. If I may put it crudely, the posh areas and the non-posh areas have different things on their shelves. We might find that a particular supermarket uses price alone as its big selling point, while another views itself as a posh supermarket and says that its prices are higher but its products are of higher quality. It might be interesting to get some data from supermarkets about whether their sales are going up, and to hear their comments on price and economics in certain areas, because they will be well aware of what their customers buy and do not buy from among the products that they stock.

Rhoda Grant: Page 15 of our SPICe briefing contains data on weekly expenditure on alcohol, which varies from £2.40 a week to £11.40 a week, depending on income.

The Convener: Yes, but it would be interesting to get some more information on that. Supermarkets might be able to tell us more about how the policy would impact on their customers' purchasing habits, as I think it is fair to say that they are well aware of price sensitivity in different areas.

Alison Douglas: It is worth mentioning—this figure is possibly in the SPICe briefing—that less than 3 per cent of the total spend by low-income households goes on alcohol. It is worth considering, when we examine the impact on low-income households, that since supermarkets have clearly stated that they use alcohol as a loss-leader, they must charge more for other items in the basket of shopping in order to accrue profits. In reality, moderate drinkers already subsidise those who drink at harmful and hazardous levels, and the impact of that will be greater on those on low incomes.

The Convener: There are plenty of issues that we can raise with the supermarkets; I have no doubt that Rhoda Grant will follow them through.

11:30

Mary Scanlon: I have been listening to what is being said. Page 25 of the SPICe briefing contains data from the UK family spending survey, so we are not without information here. There are also data for the distribution of alcohol consumption across social groups in the 2008 Scottish health survey. I am quite surprised that so little information is coming forward.

Also, Asda has said:

"Minimum pricing is essentially a regressive policy as it will add to the costs of the lowest income households yet make little difference to middle and high income households. Responsible drinkers on a budget will be hit more than irresponsible drinkers with higher incomes."

The Convener: That is for the supermarkets to deal with.

Mary Scanlon: The point is that the information is there and it is not going to take months to get it.

Can I ask my question?

The Convener: Ms Marshall wants to comment on what you have said.

Marjorie Marshall: I just want to make a technical point on the modelling. Data are available from the family expenditure survey, but there might be a technical issue about whether there are enough data points for us to model the impact within Scotland itself. You are absolutely

correct that data are available on family spending and income, but for the technicalities of running an econometric model, there might not be enough data points.

The Convener: You are speaking to another economist; I am sure that she followed that.

Mary Scanlon: Yes; I lectured economics for 20 years.

I have a supplementary question on the point that Richard Simpson made. There was a 6 per cent fall in consumption of alcohol between 2004 and 2008. That is a fact, and it is a trend.

It is also a fact that, during that period, there was a 17 per cent increase in hospital discharges related to alcohol. Given that—I am going to use the C word again—the competence of the bill is based on health benefits, what we see as an historical fact is a 6 per cent fall in consumption in alcohol correlated with a 17 per cent increase in hospital discharges. How can we believe the Sheffield study when it says that a 2.7 per cent reduction in consumption as a result of a 40p minimum price will lead to more than 1,000 fewer hospital admissions in the first year?

On Ms Douglas's word, as an economist I should say that one figure does not make a trend; there might be many blips. One set of figures showing reduced consumption in the depths of a recession is not a trend. We are looking at the fact that the 6 per cent fall in alcohol consumption led to a 17 per cent increase in hospital discharges. How can we prove what the Sheffield study is saying about the health benefits of a minimum price when we have facts that do not stack up?

Dr Lesley Graham (Scottish Government Chief Medical Officer and Public Health Directorate): The international evidence, of which there is a broad base, links consumption with harm. That is a matter of fact. We can see that across time and in many different countries.

Consumption in the UK has risen by about 20 per cent since the 1980s, and levels of harm have gone up in the UK, particularly in Scotland. An internationally recognised indicator for alcohol-related harm is chronic liver disease, figures for which were published yesterday by the Information Services Division. Curiously enough, those figures respond quickly to changes in consumption. Even though it can take an individual many years to develop cirrhosis, at population level, we can see drops in liver cirrhosis within two to three years. The premise that consumption and harm are linked is well established.

In Scotland we have recently seen different measures of consumption. The sales data from 2005 to 2009 show a plateau, which we can correlate with hospital admissions that are now beginning to level off. In addition, the alcohol-related death data that the registrar general has recently started publishing every year show that the number of alcohol-related deaths has plateaued over the past two or three years. The same is true of deaths from chronic liver disease, the data on which were published for the first time yesterday. There is a link, although it might not be immediate. When consumption goes down, the effect might not be seen the very next day or week or month. However, we have seen in Scotland that the same relationship between consumption and health holds as can be seen in many other countries across time.

Mary Scanlon: I am sorry, but you have not answered my question.

I have looked only at the evidence that the Parliament's researchers provided to us, not at the international evidence—

Helen Eadie: There is no international evidence—

Mary Scanlon: Helen Eadie says that there is no international evidence, but I do not know that as I do not have any.

The Convener: Let us not have a discussion among ourselves.

Mary Scanlon: While saying nothing about the effect on binge drinking—I appreciate also that there is a difference between the instant effect and the effect on chronic diseases—the University of Sheffield study predicts that, within the first year of the minimum pricing policy, there will be more than 1,000 fewer hospital admissions. I think that the figure was 1,400. However, over a recent four-year period, a 6 per cent reduction in alcohol consumption has been accompanied by an almost threefold increase in the number of hospital discharges in terms of alcohol-related conditions. The University of Sheffield study suggests that a reduction in consumption will lead to a reduction in such discharges, but we have recently had a 6 per cent reduction in consumption and an increase in hospital discharges.

Dr Graham: Can I just clarify which source of consumption information is being cited?

Mary Scanlon: I have quoted from the Parliament's own researchers. The SPICe paper quotes the British Beer and Pub Association and other industry data.

The Convener: Can you give us the relevant page on the briefing?

Mary Scanlon: I am referring to the top paragraph on page 15 of the SPICe briefing.

Dr Graham: My understanding is that the alcohol sales data have remained fairly constant over the past five years. Sales data are one

source that can be used as a proxy for consumption. Sales have been fairly static over the past five years. The Scottish health survey, which was quoted earlier on, shows a slight fall—but not a 6 per cent fall—in consumption among men and a slight, but not significant, fall in consumption among women.

Mary Scanlon: The SPICe paper also states:

"According to the Scottish Health Survey 2008 there was a 17% increase in discharges related to alcohol from general hospitals in Scotland between 2003/4 and 2007/8".

That is the reference source on hospital discharges.

Dr Graham: The Scottish health survey is not a reference source for hospital discharges. Those come from the Scottish morbidity record SMR01 data. I am sorry, but I am finding it difficult to answer the question without the paper in front of me, although I think that those figures come from a different data source.

The point that I am trying to make is that, at a time when sales data in Scotland suggest that consumption has remained fairly constant, we have seen a matching levelling off in the data on alcohol-related hospital discharges and on alcohol-related deaths, no matter whether we include all alcohol-related deaths or just those that are due to chronic liver disease. Other people might be able to expand on how those data are used in the model, but I understand that the evidence on that relationship and on those assumptions has been included in the Sheffield model.

The Convener: It would be useful if Dr Graham could look at page 15 of the SPICe briefing. If she has not previously seen the briefing, it is perhaps unfair to ask her about it on the spot but she could perhaps respond to the point in writing. Alternatively, she can respond now if she wishes.

Dr Graham: I have found the relevant paragraph in the briefing. It appears that the consumption data are UK-level data rather than Scottish data. I am not sure how the 6 per cent fall in consumption between 2004 and 2008 has been calculated. We will look into the issue further, but the main point is that the figure relates to UK-level data.

The Convener: We can clarify that with the British Beer and Pub Association, which apparently provided the original figure.

I think that Mr Cox wants to add something, as does Mr Palmer. I have a choice.

Gary Cox: I observe that the figure comes from the British Beer and Pub Association. That suggests that the figure may be for the UK, because there is also a Scottish Beer and Pub Association, which is not quoted in the paper. Perhaps that point could be clarified.

The Convener: We will find out about that later rather than try to settle the point just now.

Mike Palmer: To reiterate something that Lesley Graham said before, we have found that it is essential to triangulate sources when dealing with consumption data. One can quickly get into a quagmire of various statistical sources, so we have tried to triangulate a number of data sets, which has led us to the conclusions that Lesley Graham outlined.

The Convener: I will allow one more question from Mary Scanlon, before we move on to the next panel of witnesses.

Mary Scanlon: My question is brief, but important. The Sheffield study found that

"hazardous and harmful drinkers were more sensitive to changes in price than moderate drinkers",

yet the Scottish Government's regulatory impact assessment says that

"Generally, heavier drinkers can be expected to have relatively more inelastic elasticities of demand for alcohol than moderate drinkers, meaning that an overall change in the price of alcohol will cause heavier drinkers to change their consumption behaviour by less than moderate drinkers."

Perhaps you have other sources of information or statistics—that seems to have been what we have been hearing all morning—or perhaps I have read the papers wrongly, but those two quotations seem to contradict each other. I am sure that someone has been misquoted.

Helen Eadie: Could I come in on that point, too, convener? It relates to my question, as well.

The Convener: Let us first find out what our witnesses have to say about the apparent contradiction, in factual terms, between the Sheffield report and the Government's position.

Marjorie Marshall: I would need the page reference to be able to answer that in factual terms, as I would have to view the statement in context. My initial response would be that, although some previous research has shown that, we are confident—

The Convener: If you cannot clarify the position on the spot, you can read the *Official Report* when it is published and get back to us. Mary Scanlon will get her question answered in due course.

Helen Eadie: My question is similar. The modelling exercise, which is part of the Sheffield report, says one thing, but the systematic review of the literature says something different. There is a conflict between them.

On pages 12 and 13 of the SPICe document, we read:

"the systematic review undertaken by the research team acknowledged evidence that heavier drinkers are less responsive to price increases. For example, Manning et al (1995) found that moderate drinkers are the most price elastic while the top 5% of heaviest drinkers have 'an elasticity not significantly different from zero'".

We are all troubled by the most hazardous, harmful and heavy drinkers. Those are the people on whom I would hope that the Government's policies are targeted.

In a previous life, before I became a member of the Scottish Parliament, I had a lot to do with transport policy, which was based on modelling. Last week and the week before, this committee has heard a lot of modelling information and opinions—which some people have called weather reports—but we have heard nothing about the experiences of other countries, other than Canada, whose policy is similar to what is being proposed by the Scottish Government, but not the same. It is worrying that the policy that you are generating does not seem to recognise the conflict that we have discussed.

Mary Scanlon: That is right. Well done, Helen.

Mike Palmer: I will say one or two general things, and Marjorie Marshall can talk about the more technical aspects.

I want to talk about the purpose of the legislation and the impact of minimum pricing across the population. The legislation takes a whole-population approach to what the Government considers to be a serious and significant public health challenge. The approach impacts on the heaviest drinkers—you are right to say that the Government wants to do as much as it can to address that issue—but it also impacts on hazardous drinkers who are drinking above the weekly limits but are not at the extreme. We are keen to focus also on those drinkers and not to lose sight of them. The Government would make the observation that there is clearly a debate about the degree of elasticity that might be affecting the very heaviest drinkers. As you point out, different elasticities are indicated in the Sheffield report compared to previous reports. A general point that the Government will wish to make is that, although there may be a debate about the degree, a very strong body of international evidence shows that the principle that drinkers in general, at whole-population level, will be affected in their response to alcohol consumption by price, is very well evidenced. There is a distinction between the principle and the degree.

11:45

We are the first country in the world that is seeking to introduce a minimum price so, unfortunately, other countries cannot give us ready-made evidence to show us the impact on different levels of consumption, specifically on the heaviest drinkers and the less-heavy drinkers. That is something that we would want keenly to evaluate and monitor, having brought in the measures, but my point is that a response is clearly demonstrated. The degree of that response is a matter of debate and the measures would need to be implemented in a country before you could demonstrate who is right, although the principle is well accepted.

Helen Eadie: My last point is that the University of Sheffield report, in its entirety, fails to mention that, from the SPICe report, the substantial evidence is that, overall, heavier drinkers are least responsive to price changes. Why—although there is in that report a substantial body of evidence that, overall, heavier drinkers are least responsive to price changes—are they the focus of the policy objective?

The Convener: With respect, I do not want to put words in Mike Palmer's mouth, but I think that he is saying that they are not the focus of the policy, which is the general consumption of alcohol from the hazardous drinkers—perhaps even the moderate drinkers who do not know that they are hazardous drinkers—through to the excessive drinkers.

Mike Palmer: We would say that they are not the sole focus; our focus is the whole population. There is a clear issue around the heaviest drinkers, but there is also a very significant focus on those who are not drinking right at the very heavy end of the scale, but are drinking too much.

Helen Eadie: Why, then, is it that the Scottish Government's executive summary fails to mention the substantial evidence that, overall, heavier drinkers are least responsive to price changes?

The Convener: I will take one last answer. I do not want to stop you in your tracks, but you can give us a further detailed answer to the question, if Helen Eadie is not satisfied. I must move on to the next panel of witnesses or we will be here into the afternoon, and I know that none of you likes that.

Marjorie Marshall: Can I make a quick response? The systematic review reveals that there are very few studies that specifically look at heavy drinkers. I am happy to refer the committee to comments that were made by someone who has already been quoted today. Wagenaar said that

"relatively few previous studies have examined price elasticity specifically among heavy drinkers".

That emphasises that there is not a lot of evidence—

Helen Eadie: Manning contradicts that.

The Convener: We can have the Government's response in writing. Helen Eadie's and Mary Scanlon's comments are in the *Official Report*. Please write to us and that information will be put before us.

Marjorie Marshall: I add that the methodology that the Sheffield report uses is new and takes the techniques much further than previous studies.

The Convener: Right. On that note, I close the evidence session. I thank you all very much for your evidence; it has been extremely interesting and in-depth. I will suspend the meeting for five minutes before the next panel comes before the committee.

11:49

Meeting suspended.

11:58

On resuming—

The Convener: I apologise to the witnesses for the delay. Welcome to the Health and Sport Committee. Ben Read is a managing economist at the Centre for Economics and Business Research; he has been flown in and managed to get here in time, which is excellent. Professor Anna Dominiczak, of the British Heart Foundation, is professor of cardiovascular medicine at the University of Glasgow. Professor John Beath is a professor of economics at the University of St Andrews. I understand that both Professor Dominiczak and Professor Beath are appearing in their capacity as fellows of the Royal Society of Edinburgh.

Professor John Beath (Royal Society of Edinburgh): That is correct.

The Convener: I know that the witnesses were present for the previous evidence session, which is helpful. So far I have only an A-list for questions. If members have supplementaries, they should make that clear, as only substantive questions are on my list.

Dr Simpson: All the evidence that we have heard, written or otherwise, demonstrates the extent of the problem and the fact that it has grown over the past 20 or 30 years. That is not a matter for debate. The debate is about how we tackle harmful and hazardous drinking without adversely affecting moderate drinking. In that respect, it is quite different from the tobacco debate, as there is no health benefit from smoking but there are possible health benefits from moderate drinking. My first question is about the evidence for such benefits. After the witnesses have responded, I will ask a brief second question.

12:00

Professor Anna Dominiczak (Royal Society of Edinburgh): This is a medical issue, so I will start. In my opinion, the evidence that has come and gone over the years to suggest that moderate drinking is protective of cardiovascular health is dubious. If there is such a benefit, it is associated with a very moderate way of drinking. That is not the culture that we see here and about which we worry.

I have never seen such a unified front as when a group of multidisciplinary fellows of the Royal Society of Edinburgh came together to discuss the issue; everyone agreed that the time has come to do something. I heard the evidence that was given in the previous session. As a practising physician, I feel strongly that we need to look across the board. I appreciate what Richard Simpson says, but allow me to make a strange comparison. If we as physicians had treated only people with cholesterol of 10 millimoles per litre—those at the very top of the scale—we would not have helped people or prevented hundreds of thousands of heart attacks worldwide, as we have done. The same applies here. If a few moderate drinkers are harmed a bit by drinking one glass of wine fewer, we need to take that alongside the benefits that are proposed.

Dr Simpson: You are saying that it is okay if moderate drinkers suffer to some extent and that they must pay a price for the fact that others abuse alcohol.

Professor Dominiczak: I am not sure that they must pay a price. If we weigh up the benefits for the whole population, we find that they outweigh the tiny inconvenience—it is not suffering—that will be caused.

Dr Simpson: One debate that we have had and not resolved concerns the effect of minimum pricing on low-income groups. The Sheffield report contains no evidence—and the committee has received no evidence from elsewhere—on that point. We may want to come back to that.

I have a more general second question to get the discussion started. I invite Professor Beath to tell us about econometrics. We are being asked to impose a social engineering experiment on Scotland, because we have established that no one else has tried a minimum unit pricing system. There is no evidence from across the world of the benefits of such a system—it is purely an econometric model. The model is complex and difficult for us to follow, and many variables and formulae are involved. How robust is the science of econometrics? I am not asking for an hour-long

lecture on the subject, but is it relatively recent? Can you give us examples, either now or in writing, of econometric models that have proven to be highly successful, given the number of variables with which we are dealing?

Professor Beath: The science of econometrics has been around since economic data were available, in the early 1930s. It is an old science and has some eminent practitioners. It is a science that has grown out of statistics and involves the application of statistical methods to economic data. In that sense, it has a robust, strong and long lineage; the Sheffield modellers are part of a long tradition of applied econometricians.

The problem with econometrics is that it relies on having a sufficient number of data points and sufficient richness in the data set. That point emerged in response to an earlier question. I am not an expert on the Sheffield study, but I assume that the researchers have enough data points to identify all the relevant parameters, otherwise they would not be reporting them. The approach is certainly robust in that sense.

Econometric models have been extraordinarily useful. For example, the minimum wage legislation relied on and, in fact, required econometric work to assess its impact on labour supply and the overall level of employment, and discussions on the right level of income tax to set also require models of demand and supply.

Dr Simpson: That is very helpful.

In response to a question about applying the model to existing data, Dr Meier likened the whole approach to weather forecasting. It seems to me that if the model is going to work, it should be able to be applied to data sets from different countries and come up with something that looks reasonably similar, but I have seen no evidence that this model has been applied retrospectively to data to demonstrate its effect. Do you think that that is an appropriate use of such a model?

Professor Beath: Yes. In fact, the right methodology in econometrics is to leave some observations aside. You estimate your model on a subset of the data, which are often taken from the middle of the sample if you are looking across time, and see whether it explains the data at the start and at the end. That kind of backcasting and forecasting test your model's robustness.

As I say, I do not know the extent to which those involved in the Sheffield study left observations to one side or how, indeed, they tested the robustness of the model. You will have to ask Dr Meier that question; I cannot answer it.

Ben Read (Centre for Economics and Business Research): Professor Beath is absolutely right to say that the important thing in econometrics is to have enough quality data to ensure that a model fits well. That can give rise to certain difficulties. For example, in the University of Sheffield work, the researchers had to aggregate the hazardous and harmful elasticity matrices. We know that hazardous and harmful drinkers have quite different characteristics: harmful drinkers drink an average of about 60 units a week whereas hazardous drinkers drink 28 units a week. They are very different animals, and one would expect them to respond differently to price. However, the researchers found it difficult to make the different models for hazardous and harmful drinkers work so, as I said, they had to aggregate them. Although that is not a criticism of the model itself—after all, they were doing the best they could with the information that they had—it opens up a whole debate about whether the methodology was appropriate and whether, in the event, they could actually formulate a robust economic model.

Ross Finnie: I want ever so gently to test a couple of points that Professor Beath and Ben Read have just raised about the Sheffield study, which we are all just getting to grips with. As Professor Beath indicated, the basic principles of such econometric modelling are well established and, although there might be differences of opinion over the conclusions that have been drawn, the fact is that the Sheffield model has been subject to peer review.

First of all, though, I wonder whether Mr Read will confirm whether the Centre for Business and Economic Research is an academic research unit.

Ben Read: No. The CEBR is a commercial economics consultancy that has been trading since 1993.

Ross Finnie: Indeed. So the reports that you produce are not subject to peer review.

Ben Read: You are right that our reports are never peer reviewed. However, although the situation is slightly different, I can make a comparison. We have been trading since 1993, providing professional advice to businesses, and sometimes to businesses that face difficult decisions. If our advice was always rubbish, businesses would not come to us and we certainly would not have been trading profitably since 1993—we would have gone out of business some time ago. The type of review that we undergo is more to do with business decisions and whether the calls that we make and the advice that we give are robust.

Ross Finnie: That is of a slightly different qualitative and quantitative nature. Despite your coming from a different background and having different expertise—I have no problem with that—you are a fairly major critic of the Sheffield study.

That is critical to the committee. Your critique of the study was also considered by the House of Commons Health Committee. One of that committee's advisers, Professor Christine Godfrey of the University of York, who is an acknowledged expert in the field, produced a response to your critique.

The point is important, so I will quote from the House of Commons Health Committee report on alcohol. At page 108, paragraph 298 states:

"We asked our adviser, Professor Godfrey, to analyse the CEBR study, which had not been peer reviewed. She found that the CEBR claim about the elasticity estimates of the Sheffield study was based on a fundamental misunderstanding of the Sheffield study.

The CEBR critique fails to recognise that the Sheffield model takes account of all the price effects across different types of consumers and is not artificially averaged as in the CEBR study. The models take account for each group not only of all the cross price effects of other alcoholic drinks but also the impact of a change in alcohol prices on the consumption of other non alcohol goods."

That is a critical issue. You made a criticism and that was a response by Professor Christine Godfrey. Who is right?

Ben Read: I have two or three points on that. First, it was a little odd that Christine Godfrey made those criticisms of our report without picking up the telephone and talking to us about how we had done the research or asking us about anything that we had done and how we had approached it. We spent six to eight months on the work. She did not even bother to speak to us about it. We would have been perfectly happy to speak to her about it and to put her right on some of the issues.

Secondly, if she had actually read our report, she would have found that we refer over and over again to the fact that the Sheffield model takes account of those complexities and that we understand that. You are perfectly free to read our report, which mentions that point over and over again.

Thirdly, I am happy to acknowledge that the way in which we carry out our research is different from the way in which an academic institution might approach it. We are a commercial economics consultancy and we have to try to understand whether results of models fundamentally make sense. The most complex model in the world that takes everything into account might ultimately produce results that are not intuitive. That is the issue that we had.

We looked at the results of the University of Sheffield study and particularly one of the model tests, which was a very simple one. That model test showed that the model predicted a much greater demand response to a given price change among hazardous and harmful drinkers than among moderate drinkers. That immediately set alarm bells ringing and made us wonder whether the model was producing results that we would expect. Intuitively, most people would agree that, at an overall level, heavier drinkers are less likely to respond to price changes than moderate drinkers, because of dependency issues and social factors. All those factors intuitively suggest that we would expect heavier drinkers to be less responsive to price changes.

In addition, the only research that we could find from respected academic institutions into the difference in price response between heavy and moderate drinkers—there is not much research on the subject—suggested that heavier drinkers are indeed less responsive to price change than moderate drinkers. That flies in the face of the results of the Sheffield model, even the simplest tests that the Sheffield model attempted.

12:15

Ross Finnie: I respect where you are coming from, but I have a difficulty with that. The Sheffield study, if I understood Professor Beath's response, is based on a fairly accepted form of modelling. Indeed, it seeks not to arrive at simply intuitive responses but to apply econometric and epidemiological modelling to the reading of established data—and there is the issue of how many points there are.

You are applying a different methodology, and therefore almost inevitably we are not comparing apples with apples. The results of using aggregate estimates of the price effects, as in the CEBR report, are bound to be different from the results of using disaggregated estimates, as in the Sheffield report. To use—

Ben Read: We did not actually use—

The Convener: Please let the questioner finish.

Ross Finnie: Comparing those results does not actually deal with the problem or the issue.

That does not make Sheffield right. I am not trying to defend it; I am trying to establish how you can apply a different methodology, which inevitably comes to a different conclusion, as a critique for the committee. I could understand it if you were telling us that the approach that the professor described earlier is the wrong way to produce an econometric model, but I find it difficult to understand your taking an econometric model produced by Sheffield and criticising it by applying different techniques.

Ben Read: There is a little misunderstanding of what we have actually done. We have not used a fundamentally different approach. We have taken the results of the Sheffield modelling and applied some pretty rigorous sense checks to them.

Fundamentally, the results that we have produced do not use a different methodology from the Sheffield modelling. We have taken into account the fact that the Sheffield modelling has a great deal of complexity, and we have applied that in our own modelling. As I said before, the people who made the criticism did not phone to ask us what we had done. We did not just use an aggregate approach; we used the detailed approach that the University of Sheffield used, but, as I said, our sense checks suggested that its results are not robust.

Professor Beath: There is a relatively straightforward answer to the question—at least I hope it is.

The Convener: So do I.

Professor Beath: We need to bring in some psychology.

Like Ben Read, when I read the Sheffield report and looked in particular at the two huge matrices—I am used to looking at matrices, so I can read them fairly quickly—I was struck by the fact that the numbers for hazardous and harmful drinkers showed rather more responsiveness than those for moderate drinkers. One's intuition is, "That does not look right," so the question is why the numbers might come about.

Let us consider whether the model was estimated in a period when alcohol prices were falling and let us compare moderate and harmful drinkers. The response of a moderate drinker to a fall in price will be to have an extra glass, but the response of a harmful drinker to the sudden bonanza of a lower price might be to splurge, so we would expect to see a larger response. If we then put the price change into reverse and push up prices, the harmful drinkers will have become more addicted to the drug and will find it—for medical reasons—particularly difficult to cut back on consumption.

There is something in the research. We are talking about price increases—minimum pricing is all about higher prices. It is much more realistic to expect the second scenario—which, if my interpretation is correct, is not estimated in the model—and an inelastic response to a rise in price. The Sheffield work could be perfectly consistent with the data, but in thinking about a price increase one must be careful about whether the model has been based on a period of price fall. I think that that is the resolution.

Ross Finnie: Where does that leave us, or me as an individual? I will not talk for my colleagues.

The Convener: I am with Ross Finnie on this.

Ross Finnie: I am trying hard. With all due respect, I am not questioning your professionalism, but it appears that there are different methodologies in the papers in front of us. I understand exactly what you are saying, but if I am looking at a number of bases on which I might or might not decide that the policy is sound, what reliance should I place on the conclusions of the Sheffield study?

Professor Beath: I suggest that the question that I posed is a question that you have to ask the Sheffield people. Was their study based on a period in which prices were falling or rising? If it was the former, we could have resolved the apparent dispute between the two parties; if it was the latter, there is still a dispute.

Ross Finnie: I would like to flip that question back at you. It appears that the Royal Society of Edinburgh, which you are representing, approves of minimum pricing. Is that approval based on the Sheffield study or did the society arrive at that conclusion without reference to the Sheffield study?

Professor Beath: On whether the price elasticity is large or small, the important point is that it is between zero and minus one for all groups. If prices are put up, consumption will reduce, but if there is a target for reducing consumption, prices may have to be made very high in order to achieve it, because the responsiveness is low.

Ben Read: I would like to make another point about the policy judgment. Members may believe our results, those of the University of Sheffield, something in between or something completely different, but my reading is that the economic case for minimum pricing is not particularly strong in any case, even if one takes the University of Sheffield results into account. The financial costs to consumers that its modelling work suggests outweigh the economic benefits that it has calculated. The case for the Government is pretty much neutral. A bit of tax revenue would be lost, but a bit of money would be saved in the health service and on crime. Companies, which are the third party, would benefit. It appears that the only thing that would be done would be to increase the profitability of companies. That is the only reason why the economic case might stack up, but that does not seem to me to be the objective of the policy.

The Convener: I remind you that there is no tax revenue in Scotland.

Ben Read: I understand that, but there is an issue if you take that into account.

Michael Matheson: I want to stick with the CEBR report, which was published in response to the Sheffield study. What Scottish data did the CEBR use in undertaking its work and pulling together its paper? It would be helpful to know that.

Ben Read: I will be honest with you: the results that we produced were firmly based on what was in the University of Sheffield work. We took into account the Scottish data that were available in that work; we did not add any additional Scottish data over and above what is in the University of Sheffield report.

Michael Matheson: You based your report on the Sheffield report, which went to the Department of Health in England.

Ben Read: The first report that we did, yes. We also did a subsequent report, which we called the special report for Scotland.

Michael Matheson: You called it a special report for Scotland.

Ben Read: Yes: it updates our—

Michael Matheson: Sorry, but to be clear, that special report for Scotland is all based on data from England.

Ben Read: No, it is all based on data from the University of Sheffield report for Scotland, so—

Michael Matheson: So there are no Scottish data in your report at all.

Ben Read: As I have said, to the extent to which the University of Sheffield took Scottish data into account, we have taken Scottish data into account. I believe that the university updated some of its modelling to take Scottish data into account; we have done the same.

Michael Matheson: Do you have any plans to do a subsequent report on the basis of the further modelling exercise that is being undertaken by the University of Sheffield using a greater amount of Scottish data?

Ben Read: It depends on whether a client will pay for us to do that, to be honest.

Michael Matheson: So it depends on SABMiller deciding to finance that.

Ben Read: Absolutely. We are a professional consultancy and we need to earn our money somewhere. That is how we would proceed with that.

Rhoda Grant: I wish to discuss the effect of the proposed policy on various income groups. A chart in the review of the regulatory impact assessment shows various income groups and prices per unit. It clearly shows that the first two income groups—the 0-10 and 10-20 deciles—would be the only groups to be affected by a minimum price of 40p.

Ben Read: That is almost true. That chart represents the average price per unit that is paid by each of those income groups. Within each income group, some people will pay less and some will pay more. However, the lowest-income groups will be the most fundamentally affected.

Rhoda Grant: Is the information available? We asked the University of Sheffield about that, and its researchers had not factored in the impact on different income groups. We also spoke to Government people this morning, and they are perhaps considering the matter. It is an important issue from my point of view. It is intuitive that someone with a lower income will have less to spend on something if its price goes up compared with someone on a higher income. If hazardous and dangerous drinkers will not be affected by the price increase, we will be punishing the few lower-income people for the sins of the folk on whom the price will not have an impact. I understand the argument that if we are to have an impact on public health, a balance might be required, whereby some people will bear some pain for the greater public good. However, if there is not going to be a greater public good, it seems unfair to put additional pressure on another income group.

Ben Read: You will notice that under that graph, among the sources for the information—

Dr Simpson: It says “University of Sheffield”.

Ben Read: It is actually from a combination of sources. We put the graph together having aggregated different data to come up with a view. The “Living in Britain” survey is from 2001, admittedly, but it is probably still pertinent today. It showed that lower-income households consume broadly the same as middle and higher-income households. I think that they consume slightly less, in fact, but not a lot less in terms of units.

We know that lower-income households, naturally, spend a hell of a lot less money on alcohol, in absolute terms, than middle and upper-income households, because they cannot afford to buy champagne, for instance, and they buy what is available within their budget. If lower-income households are consuming about the same in terms of units but are spending a lot less, they must be spending less per unit. The conclusion that I have drawn from that is represented in the graph that you are referring to.

This area warrants further research, but we have been trying to illustrate the point. There is an intuitive appeal to it: as I have said, people in lower-income households will buy not champagne but what they can afford—relatively cheap alcohol—if they want to drink at all.

Rhoda Grant: So those who spend less per unit for the alcohol that they drink would bear the brunt of a cost increase.

Ben Read: That is a reasonable conclusion.

The Convener: Does anyone else want to respond? I thought that you were looking at me as though you wanted to, Professor Beath.

Professor Beath: No.

The Convener: You do not have to. We will move on.

12:30

Helen Eadie: In considering reports that come before us, it is sometimes helpful to have other people highlight in different reports things that are not in the original reports. I found that of the greatest value in the CEBR report, which contains some interesting headlines. For example, the impact of cross-border—

The Convener: On which page? Can you take us to the page?

Helen Eadie: It is on page 29, in section 4.2: "Impact of cross border / internet purchases".

Ben Read: Sorry—which report is that?

Helen Eadie: It is the one from December 2009.

You highlight the very limited remit of the Sheffield report, telling us all the things that are not in it. It would be good if you expanded on such things as the unintended consequences of the impacts of cross-border and internet purchases on Scottish retailers; the net effect on consumption and, therefore, harms; the impact on the black market; the impact on consumer welfare, and so on. Could you please expand on some of those? It is important for us as policy makers to look not just at what is before us in the Sheffield report, but at what is not before us.

Ben Read: I will try my best to answer that. If anything is not clear, you can come back to me on it.

We have not done a fundamental analysis of the cross-border issue, but intuitively I think that a relatively high minimum price will lead to people shopping in England. If a relatively low minimum price is set, the impact will be relatively small. If the minimum price is only 30p or 40p, I would not expect people to go to the length of shopping in Carlisle or wherever. However, if you are talking about a minimum unit price of 50p or more, a certain cohort of people may be prepared to buy their alcohol in England instead of Scotland, and I would expect that to have some impact on Scottish retailers—potentially with an impact on jobs. The issue should be examined further before any decision is made.

The net effect on consumption and, therefore, harms will be less than has been forecast. We talked about that earlier in discussing whether the University of Sheffield's modelling was accurate.

There is already a black market in alcohol. People buy alcohol on which no duty has been paid from various sources and, if prices in the legitimate market rise, the size of the black market will increase as a natural response. The black market also funds other criminal activity, so the impact will not just be on alcohol consumption.

The consumer welfare issue is quite difficult to explain. I do not know whether you want me to try to do that.

Helen Eadie: There is some information about that in our briefing papers. It relates to some of the issues that Rhoda Grant has raised this morning. The only study that is mentioned in the SPICe briefing papers is a study on the impact on poor families of the pricing of tobacco in India. Some of the issues are covered in that study.

I have a question for Professor Beath. I am a Labour politician and it is contra my values and my whole belief system to put money into the pockets of retailers who are going to profit massively. I do not mind giving them a reasonable amount of money, but we are talking about vast profits—tens of millions of pounds—going into the pockets of retailers as a consequence of the policy. My concern is with issues such as the minimum wage and low pay. How can you justify my voting for the policy if that is what the evidence tells us?

Professor Beath: You are quite right that the welfare analysis that Ben Read mentioned, if properly done, shows that putting a floor on prices that is well above the market price would have a significant impact in transferring money—quite substantial amounts of it, conceivably—from consumers to producers or suppliers. That is just a result of the economic forces at work; it is a cost of the policy.

To decide whether a policy is worth while, one must work out whether the health and public safety benefits in the long run are sufficient to offset the increase in the profits of suppliers—unless, of course, one has a way of getting at those profits. The Westminster Government has tax powers, so perhaps it could use special taxes to claw them back. With that added tax revenue, a range of measures could be taken that might involve spending on public health, financing campaigns to reduce alcohol consumption and so on. You are right that the initial effect looks bad, but it is what one does with the resulting increase in profits that matters.

Helen Eadie: At the bottom of page 35, under the heading "Cost to Government", our SPICe briefing says:

"In terms of VAT and duty, there is an estimated net effect reduction of £12m per annum in receipts to the Exchequer in relation to a minimum price of 40p and a discount ban. This is due to the estimated reduction in duty,

which is applied to the volume of sales, which are expected to reduce overall. Limiting off-license sales to over 21s will have an estimated net effect reduction of £33m. Under the terms of the Statement of Funding between Scottish Ministers and the UK Government, any reduction in VAT and duty will be a cost to the Scottish Administration."

That is the important point, as far as the cost to the Scottish Government is concerned—the proposals will cost the Administration money. In my view, the right way to proceed would be for the Chancellor of the Exchequer to put up duty rather than for us to go down the route of putting money into the retailers' pockets, thereby giving no benefit to all those families that I represent in areas of great poverty and disadvantage.

I come from Fife and you come from the University of St Andrews, so we have a great affinity.

Professor Beath: I come from Fife, too.

Helen Eadie: It is a real problem for me to vote for a policy that will put money into the pockets of the retailers.

Professor Beath: You are quite right. An issue that has not been taken account of is the one that Rhoda Grant raised about the distribution of income as a result of the policy. Earlier, I suggested a question that the committee might usefully ask the Sheffield group. Another question that you might usefully ask it is whether it could conduct a proper welfare analysis that took account of not just what we economists would call efficiency but equity issues as well.

Helen Eadie: Even the Scottish Government's own regulatory impact assessment did not take account of that issue, nor did it ask for it to be included in the remit for the Sheffield study. That is also a big problem for us.

Professor Beath: Had I written the brief, I would have asked for that to be done.

Helen Eadie: Could I ask—

The Convener: Professor Dominiczak is indicating that she wants to come in on those points.

Helen Eadie: I have one more question.

Professor Dominiczak: We have not yet discussed the idea of the social responsibility levy, which could easily help with the extremely important points that Helen Eadie has brought to our attention. Given the huge benefits that the policy will bring for supermarkets and other retailers, why could the levy not be used to get some of that money to put into public health issues, evaluation and so on? I understood that that would be possible from an admittedly rather vague description of what the social responsibility levy will be.

Helen Eadie: That comment is welcome. My only concern is that the levy was introduced almost as an afterthought to the documentation that we were given, so the committee has not had much opportunity to explore the issue in depth.

My final question is to Professor Beath. Acknowledging that there is a problem and that everyone around the table understands the issues, would you be so kind as to submit a paper to the committee outlining an alternative approach to how we might tackle the problem?

The Convener: I do not think that—well, I will let Professor Beath answer that.

Helen Eadie: I asked a fair question.

The Convener: We have already heard Professor Beath's evidence, but I will let him answer your question.

Professor Beath: I would find it difficult to produce a paper quickly, given my other commitments.

The Convener: Indeed.

Helen Eadie: It does not have to be done quickly.

The Convener: I will take the opportunity to say that the helpful questions that you suggested that we ask the Sheffield group would be more appropriately addressed to ministers. After all, the Government instructed the Sheffield study.

Helen Eadie: Convener, is that a no to my request? Or would you be prepared to give Professor Beath time to produce a paper?

The Convener: Well, it is not—

Professor Beath: I cannot promise to deliver you something. I will see whether I can find the time to write up my thoughts.

Helen Eadie: Thank you.

Professor Beath: I would submit a paper as an individual.

The Convener: That is correct, because you are giving evidence today on behalf of the Royal Society of Edinburgh. You were brought here as a witness on that basis. Frankly, I do not know—bear with me a second as I consult the clerk. [*Interruption*.] As I said, Professor Beath, you can make a further written submission, but you are under no obligation to do so.

Professor Beath: I will see whether I can be of some service.

The Convener: Thank you.

Ian McKee: I have a supplementary question, convener.

The Convener: I had not forgotten you. I am going to get a wee headache again, ladies and gentlemen, so just bear with me. Ian McKee will ask a supplementary question on the points that have been raised. In order to get through business more quickly, Ian can ask his next question after his supplementary, then I will take Mary Scanlon.

Ian McKee: My supplementary is about Ben Read's earlier evidence on cross-border trading. He said that, if there was a substantial difference in the price of alcohol between Scotland and England, people who live near the border in Scotland would go across to Carlisle to buy alcohol. Do you think that such people would do their grocery shopping in Carlisle as well?

Ben Read: That is a matter of opinion; it would depend on the level of difference in pricing. If the difference was substantial, people would go across the border; if they did that, they might do their grocery shopping there as well. To be honest, though, that is just my opinion—an intuitive feel for what might happen rather than something with an evidence base.

The Convener: It takes a long time to travel on the roads in the borders, because you are behind cattle trucks, horses and everything else, and the nearest shop is half a mile over the border and it is Morrisons—so the choice is Morrisons Scotland or Morrisons England.

Ben Read: There is the internet as well, I would have thought.

The Convener: We are not talking about that yet.

Ian McKee: I will move on to my next question. I do not think that I am alone in the committee in finding it difficult to assess the rather technical evidence, which was presented at fairly short notice, about the difference between the Sheffield study and Ben Read's study. I did research in my previous existence as a GP and I know that there are pressures that are difficult to resist, such as wanting to reach a positive conclusion. There is nothing worse than spending years doing research and finding no answer at the end. There are all sorts of other pressures, too.

The Sheffield study was accepted in the peer-reviewed journal *Addiction*. The Sheffield researchers therefore exposed their methods to peer review. Ben Read's statement, which was honest and reasonable, was that companies would not employ his company if it did not give them satisfactory results. That is possibly true when a company generally wants to find something out. It is probably just a coincidence, but the results of your study seem to fit exactly with the preconceived ideas of the person who commissioned it. Given the possible criticism, would you consider submitting your results for some form of peer review?

12:45

Ben Read: You make a number of small different points that are worth addressing. First, as I said before, I have had no previous experience of peer review so, before committing to anything on that front, I would like to investigate how you get something peer reviewed, who you can ask to do it and so on. To be perfectly honest, my understanding is that it is not necessarily a gold standard. An awful lot of academic work out there that has been peer reviewed has since proved to be unfounded. I am not really sure that you will get anything out of having our work peer reviewed, but I will investigate the possibility.

With regard to what you described as preconceived ideas, something that we say up front in our proposals to all our clients is that we will never tell them just what they want to hear. All our advice is based on sound research and on what we think is right. As an independent consultancy that works across the board for a wide variety of clients, we do not go in for agendas. If you look at the long list of clients for whom we have worked—something that I would be perfectly happy to provide to the committee—you will find that its range and depth is such that we cannot possibly have any agendas. We certainly do not go into projects with preconceived ideas.

Professor Dominiczak: I feel that I must defend peer review. The Royal Society of Edinburgh—and I as an academic—think that researchers have invented nothing better than peer review, which involves other researchers who might disagree with you looking at your data and deciding whether they are robust enough to be published. You simply send your research to the editor of an appropriate journal and he sends it out for peer review. I do not want the committee to leave the meeting thinking that peer review is not the gold standard in any academic endeavour. It is research with a capital R.

Ben Read: I accept that. All that I am saying is that just because something has been peer reviewed, that does not necessarily mean that it is 100 per cent right.

Professor Dominiczak: Yes, but it is the best that we have got.

The Convener: Okay. We have solved that one. I do not hold jackets for witnesses, although I have been known to hold them for committee members from time to time.

You are about to tell me that you have another question, Dr McKee.

Ian McKee: Indeed. You are being very patient, convener.

At our previous evidence session, Dr Meier told us that there are about 1,240,000 hazardous and harmful drinkers in Scotland. Of that very large number, 273,000 or so are harmful drinkers, and we have had a lot of discussion about that group and the elasticity of price versus how much they will drink. First, could you explain for my benefit how minimum pricing is likely to affect the purchasing habits of the almost 1 million hazardous drinkers, who obviously are not alcoholics or addicted in quite the same way as harmful drinkers? Secondly, I imagine that many hazardous drinkers are a hazard more to themselves than to society. Instead of going out and getting caught up in the criminal justice side of things, many of them are simply damaging their livers. Of course, they might be doing both. Can you explain in a bit more depth the health hazards to hazardous drinkers and how the policy relates to them?

Professor Dominiczak: I will start, but I will ask my colleague to talk about pricing. You are absolutely right: we see an increase in liver cirrhosis and liver damage year in, year out. As you know, the chief medical officer for Scotland added liver disease and cirrhosis to the list of major killers in Scotland—equal to cardiovascular disease and cancer. That is new—it has happened within the past few years. Without any doubt, millions of people who drink to excess for years damage their health. Liver disease is only one of many effects, such as stroke, stomach cancer and other cancers that we are seeing more of than before. Clearly, even a small reduction in drinking for that large group, by whatever measure we wish to implement, will mean that thousands are saved from a poor quality of life, premature death and the inability to work—there will be economic gains.

In our wards at Christmas, 50 per cent of beds are taken by people who are there because of alcohol. The conditions could be acute or chronic, but we are seeing more and more people with jaundice, liver disease and haemorrhaging because of excessive alcohol consumption.

When the multidisciplinary group in the Royal Society of Edinburgh met, there was no question in my mind that the benefits for health from even a small reduction in alcohol intake would be immense. My colleague is an expert on how the manipulation of price will affect that.

Professor Beath: The short answer is that I cannot give you an answer, simply because the number that I would need is compounded in the Sheffield results, because they combine hazardous and harmful drinkers. If you had been able to separate those two categories, there would have been a set of numbers. I could have said, "These data appear to say that an X per cent rise in price will mean a Y per cent reduction in their consumption of alcohol." However, given the data in front of me, I cannot answer the question.

Professor Dominiczak: We know that over the past 10 years the standard public health measures have been tried and have not worked. If anything, we see more hazardous drinkers than we have ever seen before. Something has to be done. I am not an economist, so I do not know what that is, but if we do nothing, we will see things getting worse and more people suffering.

Ian McKee: You all agree that increasing the price of alcohol as a principle decreases consumption.

Professor Dominiczak: Oh yes—without any doubt.

Professor Beath: That is a truth.

Mary Scanlon: I am conscious of the time, so I will try to be brief. My question is to Professor Beath. Do you think that the estimates in the Sheffield study of lower consumption as a result of the imposition of a minimum price are in any way accurate, given that you said that economic modelling depends on the richness of the data set?

Some things are troubling me. It would appear that nothing has been done about the income elasticity of demand or the utility gained from a unit of alcohol in relation to marginal propensity to consume. Nothing has been done about the black market and the illicit trade. Nothing has been done to look at cross-border trade. The fastest-growing retailing of alcohol is on the internet. Nothing has been done about that. Nothing has been done on the cross-elasticity of demand. It has been suggested to me as an MSP for the Highlands and Islands that people in some of the smaller islands and villages where there is an alcohol problem are worried that if the price of alcohol increases, the substitute for young people will be illegal drugs, which will be relatively cheaper than alcohol at the minimum price. For all those reasons, I am struggling to justify the accuracy of the Sheffield data. Am I right or wrong?

The Convener: I am listening to an economist talking to an economist.

Professor Beath: That is a pretty huge question.

Mary Scanlon: Do you share my concerns?

Professor Beath: Yes. You and I both have degrees in economics from the University of Dundee, so there must be some common ground between us.

Mary Scanlon: You have done your homework. I will give you a gold star for that.

Professor Beath: It is certainly the case that raising the price of a particular good reduces the consumption of that good but, of course, there might be impacts as a result of substituting other goods. That is exactly why we must take account of cross-price elasticities—we need to work out the overall effects. The other thing that happens if the price of any one good, or of many goods, is raised is that, for a given money income, real income falls. There is an income effect that needs to be taken into account. The income elasticity of demand would do that.

The size of the income effect will depend on the importance of the good that has its price raised in the individual's overall budget. We heard earlier that, for alcohol, that is relatively small—a figure of 1 or 2 per cent of income was mentioned in answer to an earlier question. That is certainly right. However, as Ben Read made amply clear, substantially increasing the price of a particular good encourages people to consider other ways in which to get that good, such as through the internet or cross-border shopping. What happens in Northern Ireland and the Republic of Ireland is an excellent example—there are even rural routes across the border and a lot of cross-border trade. So I accept that point.

Mary Scanlon: Given all those question marks—I think that you agree that they introduce a level of doubt—and given that none of them has been examined, I find it difficult to believe that an accurate prediction has been given of a reduction in overall consumption.

Professor Beath: Again, you would need to ask Dr Meier about that, but I have no doubt that, given that own-price elasticities, cross-price elasticities and income elasticities have all been estimated, all those will be factored in when running the system with the price of a particular good raised. However, what is not factored in are the impact on non-model issues such as cross-border purchasing and the black market. Those must be extraordinarily difficult to model. We can believe that they go on, but talking about their scale is hard.

Mary Scanlon: I have two points about your paper. You might want to respond to them in your wee note to Helen Eadie.

The Convener: Helen Eadie will share that with the rest of us if the professor produces it, which he would do in an individual capacity.

Mary Scanlon: Paragraph 24 of the society's written submission states:

"The minimum legal age for most restricted activities is either 16 or 18 and the approach suggested would be out of step with much of Europe."

You raise concerns about "increased confusion" and "the lack of a consistent approach".

Will you expand on that?

Paragraph 16 states that we should know what the minimum price would be now. You continue:

"If ... bold legislation is to be introduced, it must be associated with a price level".

You sat through our session with the previous panel of witnesses. Are you saying that, to examine the effect of a minimum price, the committee needs to know what the minimum price would be?

Professor Beath: I ask Professor Dominiczak to deal with the point about paragraph 24.

Professor Dominiczak: Paragraph 24 was simply a comment that, if there is different practice in different areas of the country, the system might become difficult to implement, unpopular and confusing. That was all—there was no subtext. It was simply a response to the suggestion that the minimum age could be handled differently in different regions.

13:00

Mary Scanlon: What I take from that is that the moderate drinkers, or whatever we call them, are likely to be most affected by such measures because, even if they are not contributing to the detrimental impact on a locality, they might be punished as a result of the minimum age being 21.

Professor Dominiczak: You might be right, but that was not what our group thought through when we put the paper together.

Professor Beath: I will comment on the point about paragraph 16, which I guess also relates to paragraph 17. They relate to graphs in the Sheffield report that show the range of prices at which the categories of alcohol sell in the categories of outlet. For example, the lowest price for beer and cider in the off-trade is 16p per unit of alcohol, but the highest price is 60p. The issue of where a minimum price will actually have bite depends on where in the price distribution most of the consumption occurs. If very few people buy alcohol at 16p per unit, setting a minimum price of 25p will impact on a small number of people, but not a large number. It would be nice if the University of Sheffield was asked to consider that interesting issue about where the mass of consumption is in the distribution of prices. If the mass of consumption is up at 60p per unit, to have any impact at all on the consumption of beer and cider from the off-trade, the price will have to be set at at least 60p a unit. That is the point that we were making in paragraphs 16 and 17.

The Convener: We will ask the minister about that.

I am sorry to have to bring the evidence session to an end, but we have had a long morning and we are going to have to alter our agenda. I thank our witnesses for their evidence.

13:02

Meeting continued in private until 13:07.

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