



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

EQUAL OPPORTUNITIES COMMITTEE

Tuesday 28 September 2010

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EQUAL OPPORTUNITIES COMMITTEE

16th Meeting 2010, Session 3

CONVENER

*Margaret Mitchell (Central Scotland) (Con)

DEPUTY CONVENER

*Marlyn Glen (North East Scotland) (Lab)

COMMITTEE MEMBERS

*Malcolm Chisholm (Edinburgh North and Leith) (Lab)

*Bill Kidd (Glasgow) (SNP)

*Christina McKelvie (Central Scotland) (SNP)

*Stuart McMillan (West of Scotland) (SNP)

*Hugh O'Donnell (Central Scotland) (LD)

*Elaine Smith (Coatbridge and Chryston) (Lab)

COMMITTEE SUBSTITUTES

Rhoda Grant (Highlands and Islands) (Lab)

Tricia Marwick (Central Fife) (SNP)

Mary Scanlon (Highlands and Islands) (Con)

Margaret Smith (Edinburgh West) (LD)

*attended

THE FOLLOWING GAVE EVIDENCE:

Mark Boyce (Scottish Government Culture, External Affairs and Tourism Directorate)

Bill Hepburn (Scottish Government Justice Directorate)

Kenny MacAskill (Cabinet Secretary for Justice)

Gery McLaughlin (Scottish Government Justice Directorate)

Alex Neil (Minister for Housing and Communities)

CLERK TO THE COMMITTEE

David McLaren

LOCATION

Committee Room 6

Scottish Parliament

Equal Opportunities Committee

Tuesday 28 September 2010

[The Convener *opened the meeting at 10:00*]

Decision on Taking Business in Private

The Convener (Margaret Mitchell): Good morning, everyone; welcome to the 16th meeting in 2010 of the Equal Opportunities Committee. I remind all present, including members, that mobile phones and BlackBerrys should be switched off completely, as they interfere with the sound system even when they are switched to silent.

The first item on the agenda is a decision on whether to take item 4 in private. Item 4 is consideration of an approach paper to the proposed forced marriage etc (protection and jurisdiction) (Scotland) bill. We expect the bill to be introduced tomorrow and that the committee will be designated the lead committee for it. Do members agree to take that item in private?

Members *indicated agreement.*

Migration and Trafficking Inquiry

10:01

The Convener: The second item on the agenda is the ninth and final evidence-taking session in our inquiry into migration and trafficking. We will hear evidence from the Scottish Government. Alex Neil will provide evidence on migration and Kenny MacAskill, who will join us later, will focus on human trafficking.

It is my pleasure to welcome to the meeting Alex Neil MSP, the Minister for Housing and Communities, and his officials: Mark Boyce, who is team leader of the fresh talent policy team, and Amanda Callaghan, who is a policy officer with the team.

I invite the minister to make an opening statement.

The Minister for Housing and Communities (Alex Neil): Thank you for the invitation to give evidence on migration. As you said, convener, my colleague Kenny MacAskill will be here later to talk about trafficking.

The committee has heard from many different individuals and organisations from throughout Scotland and has built up a picture of how migration is perceived in Scotland. Therefore, I will talk briefly about the Scottish Government's and the Scottish ministers' positive view of migration before I take questions.

We recognise the contribution that migration makes to Scotland. Through our fresh talent initiative, we welcome new Scots into our communities. We also seek to retain the Scots who are already here, because migration is as much about those who leave as those who come to Scotland.

Migrants make a positive contribution to our economy and society. As most of you know, Scotland's population is projected to age more rapidly than those of the other countries of the United Kingdom, while the growth of our working-age population is projected to be considerably lower over the next 25 years. As population growth is a key driver of sustainable economic growth, our Government's economic strategy has an explicit population growth target. Migration is pivotal to achieving that target.

However, migration benefits Scotland not only economically: migrants enrich our communities and add to our cultural diversity. We believe that integration begins from day 1—arrival in Scotland. That approach is essential not only for our new Scots but for our existing communities. That is why we support migrant integration through a number of initiatives, including advice and

guidance through our free relocation advisory service, the Scotland is the place information website and our Polish-language website and welcome guide.

In support of the co-ordination of services to migrants we grant fund a Highlands and Islands migrant worker co-ordinator, fund the Convention of Scottish Local Authorities strategic migration partnership to develop and implement a migration policy toolkit for local authorities and engage regularly with the Scottish migrants network, Positive Action in Housing and the Polish consul general.

We have also made available additional funding of £13.7 million for 2007 to 2011 to assist in implementing the adult English for speakers of other languages—ESOL—strategy and fund the creation of additional ESOL provision for all new Scots.

We are alive to the impacts that inward migration can have on community relations. In difficult economic times, we need to guard against xenophobia. That is not helped by the negative rhetoric about migrants that sometimes emanates from some sections of the media and some of the language around the new immigration targets that are being debated south of the border.

We in Scotland, now more than ever, need to continue to promote the positive benefits that migration can bring. Through our one Scotland campaign, first launched in 2002, we raise awareness of the negative impact of racism on individuals and societies and promote Scotland's multicultural society and the benefits that it brings. More recently, in July we created a Scottish connections section of the one Scotland website, which celebrates links between Scotland and the A8 countries and is aimed at tackling discriminatory attitudes towards eastern European communities in Scotland.

Scotland is a nation that has been forged by the inward and outward migration of people; it is "a mongrel nation", as Willie McIlvanney described it. We value the contribution that migrants have made and have benefited from it in the past and continue to do so in the present. Migration has determined the complexion of Scotland and her place in the world. We believe that we are one Scotland, which can embrace a diversity of cultures and be the richer for it. I have been encouraged, upon noting much of the evidence that you have received, that the general consensus is that migration is good for Scotland. Despite that, there are concerns about the impacts of migration. If we are to promote the positive benefits of migration, we must also recognise the concerns and tackle them. I recognise that more needs to be done and that the difficulties around the availability and collection of data on migration

does not make that an easy task. There are challenging times ahead and none of us is clear what the funding position will be from April next year, but I am confident that, given the excellent relationships that have been built up, by pulling together we can continue to be a Scotland that truly welcomes migrants and the contribution that they make to our country.

The Convener: Thank you very much for that comprehensive opening statement, minister. I will drill down a little into some of the issues you covered.

Running throughout the evidence is concern about the general lack of awareness about the whole migrant issue, let alone the positive contribution that migrants make. Can you comment a bit further on the reasons for that? You talked about the one Scotland campaign and the website, but it remains the case that there is often general misunderstanding about the term "migrant" to begin with and about the positive contributions that migrants make.

Alex Neil: Absolutely. I think that all of us, particularly as MSPs and political leaders, have a special responsibility always to make people aware of the positive benefits of migration. On those benefits, I will give you three facts that are a sample of the contribution that is made by migrants in our country—when I say "in our country" I am referring to the whole of the UK, because obviously migration is an issue that has to be viewed from both a Scottish and a UK perspective. Recent research by Christian Dustmann of University College London finds that immigrants from eastern European Union countries paid 37 per cent more in taxes than they received in benefits and public services in 2008-09. I think that that is a very interesting fact.

Secondly, the Low Pay Commission has done research that shows that, contrary to some popular belief, migrants do not depress local wages; indeed, other studies have also shown that. That is something that we should be getting across.

A third interesting fact is that those who have been in the UK for less than five years are twice as likely to start a business as those who have been born here. That is also a welcome fact. All of us, through the one Scotland campaign and through our everyday lives, have a duty to get across those positive facts about the benefits of migration, while addressing some of the genuine concerns about public services and other matters.

The Convener: I suppose that the key question is how best to do that. One key way would be if the media were prepared to publish those facts, because so often the stories in the media appear to be negative. Can you comment on that?

Alex Neil: Yes, that is the case in some sections of the media, but I would not tar all the media with the same brush. Undoubtedly, a very anti-immigration agenda is running in some parts of the media.

We must make a distinction between people's genuine concerns about some aspects of immigration and the issue of relationships with people here. It is important to ensure that people who have migrated to Scotland or the UK are treated properly and are given the same opportunities, rights and chances as people who are born here. There is no doubt that, in some parts of the media, there is a negative campaign almost to scare people sometimes about the impacts of migration. That is to be deplored. When I segment the media in terms of that, I do not want to make too much of a generalisation; however, it is fair to say that the broadcast media are much more balanced in their coverage of the subject than some parts of the print media. That is a fact of life. One of the lessons that we are learning is that we perhaps need to do more through broadcasting. Ministers—not just me and Kenny MacAskill, but all ministers—must feel a commitment to create opportunities and take them whenever they arise to ensure that we get the message across.

Elaine Smith (Coatbridge and Chryston) (Lab): Thanks for coming to give evidence this morning, minister. Your written evidence tells us:

“The research seems to indicate that more balanced media coverage of migrants in Scotland compared to other parts of the UK could be contributing to this more positive attitude.”

Can you say any more about that? I note what you have said about broadcasting, but is there a greater balance in the print media here? You have just talked about the importance of broadcasting and how you want to look into using that. Are there any plans for adverts? Government-run advertising campaigns can have a huge impact—there is currently one on organ donation, which is having a big impact. Are there any plans for something like that?

Alex Neil: As you know, we have run adverts to promote good relationships in Scotland. We certainly would not rule out, in principle, using the medium of television advertising if that were necessary and if we were sure that the adverts would have an impact; however, the issue will be around the budgets for all advertising right across the Government, both north and south of the border.

On the research into media coverage, the reference is primarily to indigenous—if I can call them that—Scottish national newspapers' coverage of the subject compared with the coverage of some of the UK national newspapers. *The*

Scotsman and *The Herald* are regarded as the two quality Scottish daily newspapers, but there are also *The Press and Journal*, which has a higher circulation than either of those, and *The Courier*. There are then more regional papers such as the *Paisley Daily Express*. If you compare the opinion columns in *The Herald* and *The Scotsman* on the subject, they tend to be more balanced, fair and accurate than some of the coverage in the UK national newspapers. I do not want to name anyone in particular.

Hugh O'Donnell (Central Scotland) (LD): Oh, go on. Help us out.

Alex Neil: I will let you do that, Hugh. *The Scotsman* and *The Herald*, in particular, are to be congratulated. Both in their own commentary pages and in their coverage of news stories relating to the subject, they always present a balanced point of view.

The Convener: During our evidence session at which we had members of the media present, we mentioned those two newspapers in particular. However, as the public authorities have a role in raising awareness of the issues, could more be done to include in the local newspapers stories of migrants' positive contribution? I feel that there is the potential for capturing a local angle on the subject, but the public authorities and local authorities seem not to be doing too much to publicise migrants' positive contribution in that way.

10:15

Alex Neil: I have been determined to address that issue. In fact, on my summer tour I deliberately built in a number of events in that very area including, in Stirling, a fantastic question and answer session organised by the black and ethnic minority infrastructure in Scotland working group. It was not a particularly public event—by which I mean we did not invite hordes of the media—but it was designed to give people a genuine opportunity to question us and to put their point of view on a range of issues. Although the event was highly successful, I made the point—and have done so repeatedly with our own communications staff—that the local press has to be informed of such events and, where appropriate, involved in them. That is what we have been trying to do.

Every local authority has a key role to play in this. Although the migrant community tends to orientate towards the larger cities, the preponderance of workers from Poland is in the Highlands. At one time, it was estimated that there were up to 35,000 Polish workers in the Highlands. I think that the figure is now lower because some of them have migrated back to Poland. Local authorities are partners in this and

some of the work that we are carrying out, particularly on trying to get a better handle on the statistics, is being taken forward through COSLA and its 32 local authority members. In that respect, we are funding to the tune of about £300,000 a project to help authorities to prepare their toolkit to deal with this issue.

I should of course also mention the fresh talent initiative, which the previous First Minister, Jack McConnell, introduced in 2002. The measure had all-party support; indeed, it led the way in the UK and has now been adopted UK-wide, which I think is something of a tribute to the way we in Scotland are prepared to promote such initiatives on a cross-party basis.

The Convener: This might be more of a question for the Cabinet Secretary for Justice. You mentioned in your opening remarks the need to address certain negative as well as positive aspects. Are you aware of any initiatives that have been introduced or measures taken to examine the criminal records of anyone who might be coming into this country and who might go on to offend, cause quite a lot of trouble and, by extension, give migrants a bad name?

Alex Neil: When migrants get into trouble with the law, some in the media sometimes blow what might be fairly minor offences out of all proportion into major transgressions. However, if you want more detail on the matter you would be better to ask the Cabinet Secretary for Justice for it. I am aware of some aspects of the issue but, for obvious reasons, we do not always want to go into too much detail about it.

Marlyn Glen (North East Scotland) (Lab): Your positive view of the Scottish Government's position provides a very helpful starting point. Before I continue with my questions, I should first say that it would be good if you could hold more events like the BEMIS question-and-answer session in Stirling, particularly in the north-east. I was in Aberdeen just a couple of weeks ago and think that there is a real need for such an event up there. I am sure that the people in Aberdeen and Aberdeenshire would welcome such a move.

You said that one of the challenges we face is the lack of statistics. In our inquiry, a range of stakeholders has identified as a key concern the lack of robust information on migrant trends and patterns. The lack of detail also presents problems for public service providers, who are unable to plan services appropriately. How do you respond to such criticisms? What is the Scottish Government doing to improve data collection on the number of migrants in Scotland and on general migration patterns and trends?

Alex Neil: This is not a get-out clause, because I am about to answer your question in some detail,

but we should never forget that immigration is a reserved matter and that in trying to get accurate statistics we rely heavily on what the United Kingdom Border Agency and UK ministers are prepared to arrange for us.

Marlyn Glen: It would be helpful if you could tell us about the Scottish Government's engagement with the UK Government on that issue.

Alex Neil: I am going to do that. The first thing to say is that there is no central database of people coming in or people going out. Without such a database, any information collection has to be done on a survey basis. Once people are here, there is no system of recording their movements within the United Kingdom. Somebody might come to Scotland and subsequently move down south, or vice versa, or they might move to Wales or whatever. That is the starting point in terms of collecting information.

The second point, however, is that we have commissioned work from the National Institute of Economic and Social Research on how we might improve the collation of information on migrants in Scotland. That is part of a much wider UK study that has been organised by the UK Government to improve the statistical information and intelligence that are available. I have to say that both studies concluded, first, that it is very difficult, particularly if we are looking for reliable data on every individual, and, secondly, that the cost of mapping out a totality of information on all immigrants who come in and all immigrants who leave would be prohibitive.

The registrar general for Scotland is involved in the exercise, as part of the United Kingdom Government's discussions on how we take this work forward. It is work in progress. The aim is to see how, working together between Scotland and the rest of the UK, albeit that the UK authorities are also looking at it from a UK perspective, we can improve the amount of reliable information that is available on migration patterns into and out of the UK and, indeed, within the UK.

The census gives us some information, but it is limited. Of course, the census is done only once every 10 years. What is under discussion is a more scientific approach that is organised in the way that opinion polls are organised, where we pick samples and try to ensure that they are statistically robust enough for us to be able to inform policy as a result of that work. As I have said, we are also funding local authorities—through COSLA—to help them develop their toolkits. That will also help to give us more information at the local level in relation to issues such as access to housing, health and education.

We are working with the UK Government on the issue, but I would not pretend for a minute that it is

easy or that there is a silver bullet that will give us the level and detail of reliable information on a regular basis that we would all ideally like. However, progress is being made. My understanding is that what was started under the previous UK Government in that respect is continuing with the coalition Government.

Marlyn Glen: Thank you.

Elaine Smith: Minister, the inquiry is partly about trying to bust some of the myths that exist. Some of those are around employment issues, such as the myth that people are coming here to take other people's jobs. That is one issue that causes problems. On that theme, your submission states:

"Without increasing labour participation among older people or attracting more people of working age to Scotland, adverse economic impacts are likely."

I am sure that you read the evidence that we took last week, when another issue was raised. The UKBA told us that there is a lack of engagement by Scottish employers with the Migration Advisory Committee, which has resulted in a lack of evidence about particular skills shortages in Scotland.

What action can the Scottish Government take on those two issues to remedy the situation? How can it ensure that skills shortages can be addressed effectively and get the message across that we do need migration in relation to employment issues?

Alex Neil: Elaine Smith has raised a number of issues; I will try to tackle them all. I have read the evidence that the committee took last week, especially that from Phil Taylor of the UKBA. He said that employers do not take the initiative sufficiently and cited recent discussions between him and the chief executive of the UKBA in relation to the oil and gas industry. I talked to Phil Taylor yesterday, on a visit to Dungavel; there is an outstanding invitation for the committee to visit Dungavel at some point. Having worked for a multinational company, I have experienced how important it is for such companies to be able to have people move around the world. Some people in a company may have particular skills that others in a particular geography lack.

The oil and gas industry has indicated to Phil Taylor that we in the UK are not yet up to speed on some of the new skill sets in the industry, which require new training. Often that involves bringing in people to train the trainers, so that we are brought up to speed. There is clear concern in the oil and gas sector that the proposed cap on immigration of fairly highly skilled people could be extremely detrimental to progress. The vast bulk of expertise in the sector—in fact, nearly all of it—is outwith the European Economic Area. That is

particularly true of expertise in working in and extracting oil and gas from international waters. Even Norway, which is part of the European Economic Area, is not part of the EU.

When Damian Green and the UK Government eventually agree a policy on the cap, we must all be conscious of the need not to throw the baby out with the bath water. By introducing a cap, we could strangle or put up barriers to growth in some sectors of our economy. We must be extremely careful not to do that.

Phil Taylor made a specific point about the interface between employers and the Migration Advisory Committee. I will make two comments in response to that. First, employers in Scotland, especially larger employers, tend to interface with UK Government agencies through their trade associations, which are organised on a UK basis. I have spoken to employers about the issue and suspect that much of the information that is fed into the MAC comes from Scottish employers but is not identified as such, because UK trade associations feed in intelligence from Scotland as part of a UK interface between the MAC and those associations, which represent Scottish employers. Secondly, we are encouraging much more interface between employers, bodies that are responsible for aspects of training in Scotland and the MAC. We have been encouraging the Alliance of Sector Skills Councils and other agencies in Scotland that are responsible for planning provision for skills to become much more active with the Migration Advisory Committee.

Elaine Smith: I mentioned the fact that, in your written submission, you say that there is a need to attract more people of working age to Scotland. Can you expand on that?

In your opening statement, you said that there is no evidence that wages are being depressed by migration. That is interesting, because there is a perception that wages are being depressed—that is one of the myths that we need to unpick in the inquiry. Can you say more about that?

Alex Neil: Before I do that, I will finish the point I was making in response to the previous question. We have facilitated a meeting between the Migration Advisory Committee and Scottish trade associations and employers. We will continue to facilitate such contacts, because we recognise their importance.

10:30

Sometimes, myth becomes reality. The impact of migration on wage levels is an example of that, especially in less skilled areas. In the Scottish care sector, for example, it is clear that we, like the rest of the UK, are pretty reliant on the migrant population to keep that sector functioning properly.

That applies to aspects of our agriculture sector, too. I make a distinction between migrants from the EU, including the A8 and the A2, and migrants from outwith the EU. Obviously, people would not be allowed into the UK now unless they were fairly highly skilled and on a shortage list that is compiled by the MAC.

In terms of unskilled jobs, the people who are coming to Scotland or other parts of the UK as migrants will generally be from other parts of the EU. People look at it purely in terms of who is coming to Scotland, but we have to remember that there are loads of people from Scotland in other EU countries. If we applied stricter rules—which we could not anyway, under EU law—it would have to work both ways, and many people who are earning a living in the EU, some of whom still have an address and a vote in Scotland, would be forced back to Scotland and their opportunities would be ruined. The idea that there is one-way traffic is nonsense. All the research by the Low Pay Commission, a highly respected organisation that sets the minimum wage in the UK, has demonstrated that there is not a depressive effect generally on wages from the immigrant population.

Marlyn Glen: I return to Elaine Smith's earlier question about Phil Taylor's evidence. I am still concerned about that evidence because Phil Taylor said that, even after he had taken part in the national conversation about the need for migration, it was unclear to him what the specific needs were. I appreciate that you say that you are encouraging engagement, but he seemed to be saying that we need not only general engagement but people being specific about their skills needs and skills shortages. Are you sure that that message is getting across to the people who are engaging?

Alex Neil: The shortage list that I was referring to in my earlier answer was the tier 2 shortage list.

The answer is that there is on-going education of employers north and south of the border about what is required. If we leave aside the issue of migration, particularly in the current economic climate, part of the problem is that it is difficult for employers to predict, with any degree of accuracy, what skills they will require next year, the following year or the year after that. I have been involved in labour economics for 30 or 40 years, going way back to the time when the Manpower Services Commission was formed in the early 1970s; one lesson that we have all learned is that accurate manpower planning at the company level or the macro level is extremely difficult because it depends on so many other factors. The requirement for migrant employees is even more difficult, simply because the UK has an extremely depressed labour market compared with two or three years ago, and people who were previously

not available for employment are now available, perhaps with the skills that previously would have been supplied by a migrant.

To be fair to the employers, I say that the skills issue is a dynamic situation. Nevertheless, we still need much more interface between the MAC and Scottish employers; indeed, the MAC should perhaps consider setting up a special committee that is dedicated specifically to considering Scotland. That would help. It is a two-way process. Phil Taylor implied that the fault all lies with the employers, but there is an obligation on the MAC to be proactive with employers in Scotland so that they are made aware of their role in determining these matters.

Marlyn Glen: That is fair enough. The questions could be asked and the answers could be provided in a better way. Phil Taylor gave the example of decommissioning old oil rigs, and we might think of that as a specific, definite point for discussion.

Alex Neil: To be fair, I think that the whole process is still fairly young, taking into account the role being played by the MAC. Everybody is learning as they go along about how to do things better. In general, I accept that there is not enough interface between employers in Scotland and the MAC, and we are trying to facilitate that. I hope that organisations such as the Confederation of British Industry will do likewise. It is important that the MAC, when making its decisions, is aware of the particular needs of the Scottish economy, as well as those of the rest of the UK.

The Convener: Let us hope that our thorough coverage of that question will raise awareness of the fact that, once the necessary skills are identified—and taking into account the forthcoming migration cap—there really must be an interface at various levels. We should not simply rely on the trade associations.

Alex Neil: Absolutely.

Stuart McMillan (West of Scotland) (SNP): Will the Scottish Government make a formal submission to the UK Government regarding the proposed cap?

Alex Neil: Yes.

Stuart McMillan: We have heard quite a bit regarding the oil and gas industry. I have received some correspondence from representatives and people I know who work in the industry. Genuine concerns have been raised with me.

I have also received correspondence from individuals working in the financial and information technology sectors who are concerned about the cap. They feel that it could hamper the economy in Scotland. They raised the issue of the potential use of intracompany transfer by multinational

employers; they feel that there is a loophole, whereby companies could bring in more people from elsewhere, including outwith the EU, to take jobs in Scotland and the UK, as opposed to those opportunities being offered to small, independent consultants or project managers. I will be writing to you further about that issue.

I will move on to my main area of questioning now. We have heard quite a lot about the bigger picture this morning, and we have received further evidence. In particular, we held a helpful and informative session in Glasgow at the beginning of our inquiry, at which we discussed awareness of migrants' rights and entitlements. It was clear that there was a shortage of information about what migrants are entitled to, and there were also issues concerning the practitioners who provide assistance to migrants. What more could be done by the Scottish Government—and by local government and the UK Government—to ensure that migrants are aware of their rights and that practitioners provide information to migrants?

Alex Neil: We already work closely with the Scottish migrants network and the Poverty Alliance to address the very issue that Stuart McMillan highlights. It is not enough simply to say that people have rights; they have to be aware of what those are. Part of the job of the Scottish Government is to ensure that migrants who are here are aware of their rights.

We have been doing a number of things in that regard, and I will mention some of them. I mentioned the Scottish migrants network and the Poverty Alliance. We have funded a poster campaign to increase migrants' awareness of their basic legal entitlements, particularly on the national minimum wage and aspects of health and safety. The posters were produced in several languages, including Polish, Lithuanian and Slovakian, and have been distributed to migrant organisations throughout Scotland. We have also funded the Scottish migrants network national conference in Dundee, which included a briefing by the Health and Safety Executive on safety in the workplace. We are working with the COSLA strategic migration partnership in exploring options to produce an overview of the existing guidance for local authorities and migrants on the complex issue of the rights of different groups of migrants to access publicly funded support.

I have mentioned the work of the relocation advisory service, which works with employers to help them to understand requirements in employing migrants and people with specific immigration needs. That work signposts employers to information about migrants' employment rights. We are cognisant of the issue. Through those various organisations—COSLA, the migrants network and the Poverty Alliance—

we are trying to ensure that we reach migrants as best we can to make them aware of their rights.

Stuart McMillan: Have the activities until now been successful, or are there still gaps in provision?

Alex Neil: There will always be some gaps, because we are talking about a goalpost that is moving all the time. Many migrants are here only for a short period, but they might not know that they will be here for a short period. They might change their plans and return earlier than planned. There is a constant flow of people coming in and going out or returning. Through the work with the migrants network, the Poverty Alliance and COSLA, we are trying to establish the infrastructure of support that is required. I hope that, through time, we will get better at identifying people who are new in Scotland and who need to be made aware of their rights.

Just in Govanhill in Glasgow, the number of languages spoken is of the order of 50—more than four dozen languages are spoken there. The process is not simple. We are dealing with a migrant community that is not homogeneous. People come from all sorts of countries and speak all sorts of languages. We therefore need to use every route possible to get to the members of the migrant community to make them aware of their rights.

Stuart McMillan: The point about Govanhill is interesting and leads me on to my final question. Much of the focus will obviously be on the main centres of population in Glasgow, Edinburgh, Aberdeen and Dundee. However, I sometimes get the feeling that, in smaller local authority areas or areas that are considered to be on the periphery of the main population centres, there might still be issues, but those are not noticed because the areas are smaller and the number of people who are involved does not come anywhere near the number in the larger towns and cities. Would it be possible to identify, say, three or four areas in Scotland to use for a pilot scheme to introduce additional measures or to enhance the existing infrastructure? That would allow us to find out whether those measures are successful and could be rolled out elsewhere in the country.

Alex Neil: I have visited several council areas where the number of migrants is not high but the council is doing a lot to provide services for those who are there—Scottish Borders Council, Dumfries and Galloway Council and Highland Council come to mind right away. The COSLA strategic partnership to which I referred is already considering how to spread best practice, based on what is going on or what could go on in various areas. Rather than try to supplant or replace that work by the COSLA strategic partnership—on which I know the committee has had evidence—it

would be better to consider it. It is doing what Stuart McMillan suggests.

10:45

Christina McKelvie (Central Scotland) (SNP): Good morning. I will follow on from some of the points that my colleague Stuart McMillan made. He mentioned that the committee had been given evidence by migrants about issues that they experience with public services, which include being given information that is inaccurate or inconsistent.

One of the main criticisms that we heard levelled against the UKBA was about its attitude and culture, which can be negative and can be a barrier to people engaging with it properly. Another issue was with the Department for Work and Pensions, which told people that they were not entitled to jobseekers allowance when it was clear that they were. There seems to be a marked difference between public authorities in Scotland and public authorities with reserved responsibilities.

Will you give us a wee insight into actions that the Scottish Government can take, or has already taken, to improve the level of understanding between bodies with reserved and bodies with devolved responsibilities?

Alex Neil: The Scottish Government meets the UK Border Agency regularly. As I mentioned earlier, I had such a meeting yesterday while I was in Dungavel, at which I raised the issue of MSPs writing to the UKBA on behalf of constituents who have come to them because they genuinely need help with a particular issue and the UKBA writing back to say that it is a reserved matter and telling them to go to their MP.

I was informed yesterday that the new UK ministers are reviewing the policy that MSPs should not be replied to in detail on such matters, which was a policy decision by John Reid when he was Secretary of State for the Home Department. Theresa May is reviewing that position, and I am hopeful about the outcome. That is a good example of how we are working with our colleagues in the UK Government to improve the service that we provide to our constituents. I think that there is a cross-party view that what is proposed would be a more sensible arrangement than the current one.

We are working with our UK counterparts to improve services for the migrant community in a host of areas. As you know, there is a family centre for asylum seekers in Glasgow, which is jointly funded by the UKBA and the Scottish Government. That is an extremely good example of us working together for the benefit of people who require some assistance.

Another good example is our encouragement of the sojourner project that is being run through Women's Aid, primarily. I think that 34 people in Scotland have been referred to that project, which is being managed on behalf of the Home Office by Eaves housing. I think that I am right in saying that, but let me just double-check the facts. Yes—34 women in Scotland have been supported by the pilot to stay in Women's Aid refuges. That is another good example of the interface between reserved and devolved Government. We are trying to put aside politics and bureaucratic considerations of who is responsible for reserved matters and who is responsible for devolved matters. The people in question need help and we should all work together at UK, Scottish and local government level to ensure that they are provided with the help that they need.

Christina McKelvie: You mentioned the Scottish migrants network. I had the pleasure of speaking at its conference this year on behalf of the committee, to give it an update on our work. I was also quizzed extensively on what the Scottish Government is doing to resolve some of the issues.

One of the main issues that has been brought up by the migrants network, the Scottish Refugee Council and the women's migration network, which I work with, is information sharing. I know that you said that you are working on that, but is the Scottish Government doing anything specific to improve the sharing of information?

Alex Neil: As part of the bigger project with our UK colleagues, we commissioned work from the National Institute of Economic and Social Research. Its report is specifically about how to gather information more effectively and make it more reliable. We have that report and I do not see any problem with circulating it to the committee. It is a good midnight read.

The Convener: We look forward to it.

Christina McKelvie: That would be extremely helpful in informing us, because one of the key themes in our inquiry has been the lack of information and research in this area.

You pre-empted my question, minister, as I was going to ask you about communication between the UKBA and MSPs. I made the point to Phil Taylor during last week's meeting that I get around 12 inquiries on benefits or child tax credits for every one inquiry on asylum or migration issues, but I do not get any letters back from the Benefits Agency that say, "Go away—this is a reserved matter." I am glad that you are working on that issue; it is important to us all because we should all represent our constituents appropriately.

Alex Neil: It works in just the same way in the other direction. As the minister with responsibility

for housing and the energy assistance package, I regularly get letters and inquiries from MPs from all parties on individual constituency cases, and I respond to them in the same way as I would respond to an MSP. Although the legislative framework for the housing and energy assistance programmes is at present covered by the devolved Administration, and the DWP and the UKBA are covered by the UK Administration, we all represent our constituents and we should do everything that we possibly can to assist them.

Christina McKelvie: Hear, hear.

Hugh O'Donnell: Good morning, minister. Before I come to the main thrust of my question, I will pick up on a couple of areas that you or my colleagues have previously mentioned.

On the fresh talent initiative, are there any areas of confusion between the expectations for the scheme and general UK-wide immigration policy? Is there anything that impacts negatively on exploring the potential of the fresh talent initiative or capitalising on it in a bigger way?

Because of its unique structural systems for bureaucracy, the law and so on, Scotland is a different environment for immigrants from the rest of the UK. Does the UK website on migration to the UK reflect that? Is there a subset that says, "In Scotland, this is slightly different and substantially better," or whatever the case may be?

Is COSLA considering the provision of migration information on local authority websites? Are you aware of how many local authorities do that as part of the strategy?

I suspect that very few migrants get up one morning and decide that they will go to Scotland to look for a job or a new home; one would hope that a degree of preparation would be involved. What are you doing to provide front-line information on migration that people can access in their own countries?

Finally, to get to the thrust of my question, you will be aware of the migration impacts fund and the consequentials that are devolved to the Scottish Government in that regard. In which specific areas that relate to migration has the money been used, which organisations have benefited from it and how has the £2.9 million-odd been spent overall?

Alex Neil: It is £2.3 million, actually. I will take those questions seriatim, as they used to say: in the order in which Hugh O'Donnell asked them.

The first question was on potential barriers to the fresh talent initiative. The immigration cap is a potential barrier to the scheme; Hugh O'Donnell's colleague Vince Cable is pretty well on public record as expressing his severe concerns about the impact of the cap on business and skills in the

UK, which would include the type of skills in which people in the fresh talent initiative would be trained. The immigration cap looms large as the only significant potential problem that we face at present in that regard. I am not saying that we cannot improve the scheme. Obviously, it has been rolled out to the rest of the United Kingdom, so our competitive advantage can be seen to have been eroded slightly. However, the immigration cap remains the biggest barrier.

The second question that Hugh O'Donnell asked was about the website. I can give more background on this issue at a later date, if it is needed, but, essentially, we have an agreement with the UKBA that there will be a Scottish section on its website. I do not know whether it is up and running yet.

Mark Boyce (Scottish Government Culture, External Affairs and Tourism Directorate): It is not. There was an agreement with the previous UK Administration, and we assume that that will still go ahead. We are currently discussing with officials in the UKBA how that section will look and what the content of that section will be.

Alex Neil: COSLA has a website that is being updated at present, and we have our Scotland is the place website, which people can access worldwide—and I am sure that they do, to watch a film about Scotland or hear about what we are doing.

I understand that the embassy services provide information on the UK—the information is not broken down into the constituent parts of the UK.

A number of local authorities have welcome packs for migrants. The COSLA strategic partnership is considering how more can be done through the pack and services generally to ensure that people feel more welcome and can get access to the information and services that they need. The work is still in progress, but a lot of progress has been made, particularly by the local authorities, and the city authorities have been leading the way in many areas.

I should also mention that the relocation advisory service has translators to help it to give advice to potential immigrants. Between us all, a lot of specifically Scottish information is being made available.

The consequential that is associated with the migration impacts fund is £2.3 million. That is treated in the same way that all the consequentials are treated. They all come to the Scottish Cabinet, which considers the total money that is available and the services that are required. We do not take the consequentials from each UK department and earmark those funds for each of those departmental activities. The money goes into the big pot, out of which the kind of services that I

have been referring to this morning are funded. We do not say, "We are going to spend only £2.3 million on migrant services in Scotland because that is the consequential amount from the migration impacts fund." The consequentials go into a big pot, and that money is distributed to reflect the economic strategy and other strategic objectives of the Scottish Government.

We are funding a range of activities. I have not mentioned the three Rs integration fund, which is another initiative in this area that is being given a substantial amount of money from the Scottish Government's pot. If you add up everything that we are doing, it is well in excess of £2.3 million.

Bill Kidd (Glasgow) (SNP): The Scottish migrants network has acknowledged that there has, through targeted project support, been a reasonable degree of alignment of public service provision in Scotland. However, at our evidence-taking session in Glasgow, we heard from a number of witnesses on provision of housing to migrant communities about poor quality accommodation being accessed by migrants, particularly in the private rented sector. Reported problems were high rents, high deposits, deposits being taken and not being returned, poor living conditions, overcrowding and breaches of houses in multiple occupation licensing. The real issue seems to be that people are being abused because of their lack of knowledge of the legal situation.

What is the Scottish Government doing to address the problems of poor-quality housing and overcrowding in migrant communities such as that in Govanhill, which was mentioned earlier? What enforcement measures can the Scottish Government take to tackle rogue landlords—to use a polite word—and their substandard accommodation? How can we ensure that landlords are delivering better-quality housing and that local authorities are ensuring that the landlords keep their part of the bargain?

11:00

Alex Neil: The answers to those questions lie in the Housing (Scotland) Bill and the proposed private rented housing bill, which will be published next week. The measures in the private rented housing bill relate not just to the migrant community, but to anybody who finds themselves living in substandard or overcrowded accommodation. The issue of enforcement will be addressed in the bill, and we are considering a review of the landlord registration scheme, specifically to improve enforcement. The Housing (Scotland) Bill includes a provision relating to HMO licences whereby, if an HMO applicant acts in defiance of planning law, the HMO licensing committee can turn down their application for an

HMO licence. The licensing committee does not have to do that—it will depend on the seriousness of the situation—but it can.

In the bill that will be published next week, we will also make additional provisions in relation to HMO licence breaches and matters of that kind. Unfortunately, because that bill is with the Presiding Officer, I cannot be definitive for protocol and legal reasons. I hope that the committee will be able to see the proposed bill before it drafts its report. It contains an extensive raft of new measures to deal with such matters generally, which will be of major benefit not only to migrant communities that live in poor conditions, but to other people who live in such conditions. I hope that the committee will welcome the bill.

Govanhill has a concentration of the Roma population, and there are particular issues in and around Govanhill. We recognise that and have been working closely with Glasgow City Council. A few weeks ago, the Cabinet Secretary for Health and Wellbeing announced £1.8 million of additional money for Govanhill on top of all the other things that we are doing for Govanhill. Of that, £300,000 is specifically to help to fund the enforcement, over a two-year period, of existing legislation controlling the kind of activities that Bill Kidd described. As members know, as a result of what has been happening in Govanhill, Glasgow City Council has completely reorganised its enforcement services in relation to landlord registration, environmental legislation and other housing legislation. We now have a much more effective mechanism in Glasgow for dealing with people who are milking the private rented sector system and giving the good landlords a bad name. Everybody gets tarred with the same brush, although the vast majority of private landlords are very good landlords, as the private rented sector survey that we undertook last year showed.

Malcolm Chisholm (Edinburgh North and Leith) (Lab): I would like to ask about ESOL provision. In your opening statement, you talked about additional funding of £13.7 million over the four-year period from 2007 to 2011. The figure that we had was £9 million over three years from 2008 to 2011. Is that the same money or are you talking about something different? I was intrigued by your use of the word "additional".

Alex Neil: We are talking about the same thing. Our figure is £13.7 million over four years, with £9 million of it being provided over a three-year period.

There was also some confusion over the figures on throughput. The figure of 7,000 that you had was actually the original target: I am glad to say that the money will fund 32,000 ESOL places, which is more than four times that.

Malcolm Chisholm: Why was the original target so far out in its projection?

Alex Neil: We were just being far too pessimistic, Malcolm.

Malcolm Chisholm: I still question the use of the word “additional”. What you are actually saying is that you continued the funding that was already in place.

Alex Neil: My briefing mentions additional funding of £3.7 million. That money was not in the budget for that period, so we have added it in.

Malcolm Chisholm: I am not entirely clear what you are saying—perhaps my colleagues are—so you might wish to clarify things in writing.

Alex Neil: No problem.

Malcolm Chisholm: You have answered my other question about the number of places, although I might ask a general question about the mechanism for spending and distributing that money.

Alex Neil: I have some information on that. Provision includes addressing needs that range from survival English courses to ESOL courses for use in the workplace, or undertaking academic qualifications including the current suite of ESOL qualifications. The main providers are colleges and community learning and development partnerships. Current ESOL developments include qualifications for teachers and learners, curriculum framework, initial assessment and screening tools, and the GROS census learning pack. I am happy to provide a more detailed response to your question.

Malcolm Chisholm: I was merely asking about how the mechanism works. Does the money go through local authorities or does it go straight to colleges?

Alex Neil: Obviously this is not my area of expertise—it is an issue for the Cabinet Secretary for Education and Lifelong Learning—but my understanding is that most of the money goes through the colleges and some of it through the local authorities. I think that it works on a project-by-project basis, which means that it can involve a range of delivery agencies.

Malcolm Chisholm: We do not know what is going to happen in the next spending period, but are you able to say anything in principle about proposals for future funding and whether any other measures are being taken to improve language skills among migrants, or whether everything is focused on the ESOL fund?

Alex Neil: Some colleges and universities top up their provision. I am happy to circulate any information about that to the committee.

Obviously we cannot make any commitments on provision beyond next April until we know about the budget, which as we know will be announced on 20 October. After that, the Cabinet Secretary for Finance and Sustainable Growth and the Cabinet will allocate funds for next year, at which point I hope to be in a position to answer your specific question. A general point that I would make, however, is that we are very committed to, and understand, the importance of providing such services.

Christina McKelvie: One real issue that emerged at our informal session in Glasgow city chambers—an event, I should add, that we felt really benefited the inquiry—was the recognition of qualifications. Although people in the room had advanced qualifications, they could not use them because there was a question around whether or not they were recognised. I wonder whether, as a precursor to my questions on this topic, you can give us a bit of insight into what the Scottish Government has done to widen access to training and academic qualifications—not only for migrants, but for people who are seeking sanctuary.

Alex Neil: A lot of that has been done through the Scottish qualifications and credit framework. We have funded an SQCF partnership-led feasibility study, which concluded in July, to identify models that will allow for a wide range of overseas qualifications to be recognised in Scotland, which could help many people to find higher-paid work. The SQCF partnership’s report, which presents a number of options for the future recognition of skills and qualifications in Scotland, is currently being considered and, although it has not yet been published, I will speak to my colleague the Cabinet Secretary for Education and Lifelong Learning and see whether he is happy to make an advance copy available to the committee.

Another example of what we have been doing to secure greater recognition of qualifications is the Scottish Qualifications Authority guide to Polish qualifications, which provides employers with a ready comparison of Polish qualifications with their Scottish counterparts.

Migrants are not the only people who are affected—there is a general issue of recognition of qualifications, not just across the European Union but worldwide. We are trying to make progress in that.

Christina McKelvie: In a previous life, I made the paradigm shift towards parity of esteem between vocational and academic qualifications, which is not easy. You have pre-empted my last question, which was about the progress of the scoping exercise. You said that it is currently being considered and will be concluded in July. I impress

on you that it would be extremely helpful if that evidence could be added to our inquiry.

Alex Neil: I will ask Michael Russell whether he can make an advance copy available to the committee, as it would inform the committee's work.

The Convener: That would be helpful. We have concluded our questioning. Thank you for attending today's meeting and for the evidence that you have given. We look forward to receiving the additional information that you have promised to provide to the committee.

I suspend the meeting to allow a change of witnesses.

11:11

Meeting suspended.

11:15

On resuming—

The Convener: We move to the second panel of witnesses. I am pleased to welcome to the meeting Kenny MacAskill MSP, the Cabinet Secretary for Justice; Bill Hepburn, head of branch in the criminal justice and parole division; and Gery McLaughlin, policy officer in the criminal law and licensing division. Would the cabinet secretary like to make an opening statement?

The Cabinet Secretary for Justice (Kenny MacAskill): No—I am happy just to take questions.

The Convener: Will you set out the Scottish Government's strategy in relation to human trafficking?

Kenny MacAskill: We view trafficking in human beings as an abhorrent and particularly evil practice that has no place in a civilised society. The Scottish Government is committed to working with others to ensure that it is eradicated from Scotland. Recently I met the Home Secretary to discuss the issue. Just yesterday, I was in Dundalk at a tripartite discussion with the Irish Minister for Justice and Law Reform and the Northern Irish Minister of Justice. I confirm that the first item on the agenda was human trafficking, because it is a problem shared. I hope that we can provide some common solutions.

Tackling this form of serious organised crime is, given its horrendous nature, a priority for the Government, so I welcome this opportunity to update the committee on trafficking in human beings. The Council of Europe convention on action against trafficking in human beings rightly places a strong emphasis on support for victims of trafficking. Signatories must help victims with the

physical, psychological and social recovery from their ordeal.

The Scottish Government is determined to fulfil its obligations to the full. In 2009-10, it provided a total of £236,215 to the trafficking awareness raising alliance project—also known as TARA—and to Migrant Helpline, which resulted in support being provided to 107 suspected victims. Final funding arrangements for the current year are still being discussed, and the final figure will depend on the number of victims who are recovered, but I expect that even more funding will be made available. TARA works with women who it is suspected have been trafficked for the purposes of commercial sexual exploitation, and Migrant Helpline works with all other categories of adult victim. The arrangements replicate those elsewhere in the UK. For example, in England and Wales, support for women victims of sexual or domestic exploitation is provided by the Poppy project; Migrant Helpline supports other categories of adult victim.

The arrangements for supporting victims have grown over time in response to rising demand, and are still evolving. It is important not only that support services are tailored to the needs of individual victims but that they are responsive to the demands that are placed on them by enforcement agencies, which may need to find support for victims urgently or may be planning major operations.

The committee should be in no doubt about our commitment to take whatever further action is required to eradicate trafficking and to work with agencies here and Governments abroad.

The Convener: Thank you for that comprehensive answer.

You are a member of the UK interdepartmental ministerial group that is responsible for implementing the HT action plan. The group has four key areas of responsibility, including prevention, investigation, enforcement and prosecution, and child trafficking. How exactly does the arrangement work in practice? What are the logistics of that?

Gery McLaughlin (Scottish Government Justice Directorate): The UK anti-trafficking action plan is published jointly by the Scottish Government and the Home Office, but although the Scottish Government has a wide span of command, the Home Office does not represent the only UK Government interest in the plan. Therefore, the interdepartmental ministerial co-ordinating group includes ministers from a range of departments across Whitehall who have an interest in the plan, including the Ministry of Justice and the Foreign Office. It meets roughly quarterly to monitor the plan's implementation.

The cabinet secretary is a member of the group and has attended meetings, but is often precluded from attending due to attendance at the Scottish Parliament. On such occasions, officials represent him.

Does that answer the question?

The Convener: Yes, but there seem to be two parts: Scottish Government officials sit on the project group that is responsible for taking forward the implementation plan—I think that is what you referred to—but I asked the minister specifically how often the interdepartmental ministerial group meets and how often he has attended.

Kenny MacAskill: I cannot give those precise details, but could write to the committee with them. I met the Home Secretary two Tuesdays ago, I think it was, and trafficking was one of the items on the agenda. We do not know how she will play matters in comparison with how her predecessor dealt with them. I had an aside with her junior ministerial colleague Nick Herbert when I was in Belfast. Clearly there are differences between how those who deal with victims and those who deal with operational matters operate.

We would be more than happy to give you a breakdown of meetings that I have attended and that officials have attended.

The Convener: We would very much welcome that. The UK interdepartmental ministerial group is considering the four key areas. That seems fairly key, so it would be preferable to know how often you are at that group and how often it meets, rather than about issues that are being discussed ad hoc at other meetings that are, ostensibly, for the discussion of other subjects.

There has been a catalogue of committees being set up, a little bit of duplication and then progress being made. It is fair to say that we are still somewhat in transit. Will you update the committee on the establishment of the human trafficking victim services operational group?

Kenny MacAskill: Arrangements for working with stakeholders on victim support have evolved over the past few years in response to changing circumstances, particularly ratification of the convention and the introduction of the national referral mechanism.

In 2007, the Scottish Government was trying to establish what was happening on the ground and to raise awareness of human trafficking. Officials had a series of bilateral meetings, which culminated in a joint Convention of Scottish Local Authorities and Scottish Government meeting in November 2007. That work continued with the convening of a stakeholder group that ran until the middle of 2009. With the introduction of the national referral mechanism, it became apparent

that the focus needed to shift to operational issues.

An operational group was formed but, to some extent, it replicated discussions that were taking place at UK level and so proved to be unnecessary. However, raising awareness among practitioners in Scotland remained an important task. The Scottish Government and the Scottish Crime and Drug Enforcement Agency jointly hosted and funded a human trafficking workshop for stakeholders at COSLA's Edinburgh headquarters in March this year.

Experience of the NRM and major operations has grown over the past 18 months. An emerging lesson is the need to co-ordinate victim services, and we are forming a new group that will concentrate on practical issues, such as accommodation and emergency cover. Its first meeting is scheduled for 30 September.

The committee may be interested to know that the multi-agency table-top exercise that Sandra Jamieson mentioned in her evidence on 14 September has taken place. I understand that it was a great success and is likely to be repeated in other areas.

The Convener: Will you elaborate a little more on the replication of existing UK structures that led to your decision that there was no longer any need for the human trafficking Scottish operational group?

Bill Hepburn (Scottish Government Justice Directorate): The issue with that group was that the main players in the Scottish context were the likes of TARA and Migrant Helpline, for victim support, and the police and the UKBA. All those organisations also work at a UK level, so the feeling was that they could feed in anything that we discussed about the NRM at a UK level rather than that information having to be funnelled through the Scottish Government. Therefore, it did not seem necessary to have an organisation or structure that considered those issues solely in a Scottish context.

Since then, however, we have learned from experience that there needs to be more co-ordination of operational issues. That is separate from the functioning of the NRM, if you like. It is about how we organise support agencies, the police and the UKBA to work together. The support agencies are funded by the Scottish Government, or by central Government across the UK, but their main clients are not just victims themselves but enforcement agencies, which is unusual in victim support. Therefore, there is a need to get the organisations to work better together. There have been some operational difficulties around that in recent times. The Scottish Government, as funder of the support

agencies and also as a representative of central Government, if you like, therefore revisited the need for an operational group and has formed a new group that is focusing entirely on operational issues. Clearly, discussions about operational issues will cover the functioning of the NRM, the provision of accommodation and what to do in major operations, and when appropriate those discussions will also be fed in at the UK level.

The Convener: But my specific point was about replication. I would be interested to know which forum you were at when you discovered that duplication existed.

Bill Hepburn: The difficulties with the NRM were raised at a Scottish level, but the same difficulties were being raised at a UK level.

The Convener: In which forum were they raised? That is what I am trying to establish.

Bill Hepburn: In the Scottish forum, we were asking, "In trying to take this forward, what are the issues?" and agencies were saying, "Well, this is the issue." Those same discussions were taking place at the UK level, because the NRM is a UK mechanism.

The Convener: I understand that, but I am trying to find out the logistics. Where exactly were you meeting? What is the name of the umbrella organisation or group in which you had those discussions?

Bill Hepburn: The name of the group in Scotland at that time was the Scottish human trafficking stakeholder group. The discussions at the UK level took place at the UK human trafficking centre victim care sub-group and also, depending on the issue, at the NRM strategic monitoring group.

The Convener: That is helpful. It helps us to home in on exactly where these things were discussed, what was discussed, and when.

Will you comment on the statement in COSLA's evidence that there is a gap in information sharing as a result of the disbanding of the Government's human trafficking stakeholder group in 2009?

Bill Hepburn: COSLA made that comment, but since then the new group has been formed and COSLA has been invited on to it. In the intervening period, as I think Lorraine Cook mentioned in her evidence, the joint SCDEA and Scottish Government seminar was held at COSLA's headquarters in March, which brought together a wide range of stakeholders to be updated on how human trafficking is being addressed in Scotland.

Marlyn Glen: I am quite concerned about the direction of the answers so far, cabinet secretary. I ask you to comment on the anti-trafficking monitoring group report, which criticises the lack of

engagement between Scottish stakeholders and those who develop policy on trafficking at Westminster. Amnesty International also says that the expertise of Scottish stakeholders is not being taken into account. That seems to go against what you have said, or are you saying that we had a gap but are now recovering?

11:30

Kenny MacAskill: We are saying that these matters are on-going. We are clearly replicating matters here. In terms of whether our matters are taken on board south of the border, you would need to ask the UK Government about that. I cannot comment on its position. I can say that there is a variety of interaction and engagement between Scottish stakeholders and Westminster. I mentioned my meeting with the Home Secretary within the past fortnight.

On victim support, the UKHTC has a victim care sub-group, which takes a UK view on issues that affect victims. Both the Scottish Government and TARA are members of that group. The UKBA chairs an NRM strategic monitoring group, which looks at the operation of the NRM and is undertaking a review of the current arrangements. The Scottish Government and TARA are also members of that group. The funding that is allocated to TARA allows it to be represented on the two groups, as well as on the UKHTC sub-group on prevention and other UK stakeholder groups.

For the record, I should mention that Migrant Helpline is also represented on a number of UK groups, including the NRM strategic monitoring group. Although Migrant Helpline has a UK remit, it can also feed in its experiences in Scotland.

Both the UKHTC and the UKBA are participants in Scottish stakeholder groups, and officials from the UKBA's headquarters have given a presentation to stakeholders on the NRM.

Marlyn Glen: I still share the convener's concern that, despite all those group meetings, sometimes too many people are involved, and things could fall down the gaps.

You mentioned that you had a meeting with the Home Secretary. What has been and what is the extent of the Scottish Government's engagement with the UK Government in developing policy on human trafficking?

Kenny MacAskill: That is a difficult question. We try to make the link between human trafficking and serious organised crime, but there is a significant problem when the director general of the UK Border Agency clearly tells us that immigration is a reserved matter that is not really for the police but for that agency. There are

difficulties and sensitivities. Obviously, I do not want to take the committee into a constitutional argument, but we should be under no illusions: the director general of the UK Border Agency has made it quite clear to me that immigration is a reserved matter for that agency.

The problem is not simply a Scottish problem, and we aim to work closely with the UK Government and others, including the newly restored Administration in Northern Ireland and the Irish Government. I recently met the Home Secretary, as I said, and the Lord Chancellor. The discussions with our Irish colleagues were predicated not simply on seeking to deal with those who traffic and perpetrate misery. Scottish gangs have operated in Northern Ireland, and we know that organised crime has crossed the North Channel. That is why the Scottish Government has made significant comments in conjunction with Irish representatives on what has happened in Stranraer, Cairnryan and Belfast.

The issue is also not just about prosecution. In our discussions with the Northern Ireland and Republic of Ireland Administrations, we have discussed sharing advice on what we can do to deal with those who have been trafficked and are afflicted. We are looking to build on, at an early stage, the trilateral meeting that we had in Dundalk and to consider how we can ensure that the Garda, the Police Service of Northern Ireland, the Scottish Crime and Drug Enforcement Agency and the Scottish police work together and share good practice, and how organisations and groups can work together at official level or in the voluntary sector in Belfast, Dublin, Edinburgh, Glasgow or wherever. We have common problems. Indeed, perhaps more rural problems are replicated across the Irish Sea than south of the border.

On our work with the UK Government, the committee will be aware that the UK anti-trafficking action plan is published jointly by the Scottish Government and the Home Office. I am a member of the interdepartmental ministerial committee that oversees that action plan. Ministers from a wide range of UK departments have responsibility for aspects of the plan.

Of course, we do not always agree with decisions by UK departments. For instance, the committee will be aware from the Scottish Government's research report on trafficking, which was submitted with the written evidence, that

"a significant route appeared to be from Belfast ... to Stranraer ... via the Republic of Ireland (usually Dublin) and other European countries."

I have taken on board the points that Dermot Ahern made about Ireland perceiving the route as the reverse of that, but what goes in will also come out. We view Stranraer and Cairnryan as ports of

arrival, but they are also points of departure. That is logical, given the nature of the trade that we are dealing with.

As I said, I have concerns about that. Action has to be taken. I am concerned about UKBA's withdrawal of funding for the officers who were seconded to Dumfries and Galloway. The impact of that decision is that there will no longer be a direct immigration resource at either of the Stranraer ports. The director general of the UK Border Agency has made it clear to me that immigration will be dealt with in Northern Ireland. I disagree with that. The responsible Northern Irish minister also seems to think that no resource transfer has happened. There is also no requirement on the Scottish police service to deal with immigration, which should be dealt with by the UKBA. I have argued that the UKBA should increase its resource at the Stranraer ports in recognition of the fact that, although they are classed as domestic ports, a significant number of illegal immigrants use them in seeking to access mainland UK. In 2008, some 240 foreign nationals were arrested at the ports; the figure for 2009 was 185. On average, annually, only 0.4 per cent of passengers were checked for immigration purposes when the UKBA resource was in place.

Immigration policy and enforcement are matters for the UK Government. Dumfries and Galloway Constabulary is under no obligation to fulfil any role that UKBA staff carried out previously. Without UKBA officers, there will be a lower checking and arrest rate at the Stranraer and Cairnryan ports in relation to immigration offences. The proposal from the UKBA is to move its focus to Belfast and Larne. While I hope that the strategy is successful, the UKBA will need to review the impact on the Stranraer ports. Of course, Dumfries and Galloway Constabulary, other forces and the SCDEA will continue to work collaboratively with the UKBA on operations, including human trafficking, where that is mutually beneficial. I will continue to work with the Governments of the Republic of Ireland and Northern Ireland on the matter. I will also continue to lobby the UK Government.

Elaine Smith: I am not entirely sure that we are pinning this down, minister. The nub of the question is the report to which Marlyn Glen referred. The Scottish stakeholder group pointed out that Westminster had not taken account of its opinions. It said that it had been

"particularly marginalised in discussions concerning the national referral mechanism".

It also said that Scotland and Northern Ireland were not part of the Home Office impact assessment on the effect of the implementation of the convention, even though the assessment was cited as a UK-wide exercise. I give that

background in returning to Marlyn Glen's question, which you did not answer fully. Is there a lack of engagement between Scottish stakeholders and those who are developing policy in this area at Westminster? If so, what will you do about it? If not, what do you say to the Scottish stakeholders who hold that opinion?

Kenny MacAskill: I frequently feel that Scotland's views are not well represented at Westminster on a whole array of matters. Quite often—

Elaine Smith: But you disbanded the group. As Bill Hepburn said, the group was disbanded because it was felt that all these things were shared.

Kenny MacAskill: I raise these issues and, quite often, I am chastised for seeking to provoke confrontation with Westminster. In this instance, I take the view that we are looking to deal with the problem. If we can do that successfully by working with the UK and by avoiding replication and duplication, we will do so. If matters are not being dealt with, I am more than happy to speak out. That is why I spoke out against the UKBA decision on the Stranraer ports. The issue is not fundamentally a constitutional one; it goes across jurisdictions. We recognise that we have shared interests with Northern Ireland and the Republic of Ireland, just as we recognise that we have shared interests with south of the border.

We are more than happy to take the issues on board and replicate matters, but we acted as we thought expedient to ensure that the issues were dealt with. If the committee wishes us to pursue matters on a much more constitutional basis or to ensure that Scotland is represented independently, I am more than happy to do that. Elaine Smith should be under no illusion about the major problem that we face in this area: those in power, the director general of the UKBA and Westminster officials are telling me that immigration is reserved, and having to deal with something that is not devolved causes considerable problems for everybody north of the border. As we all know—indeed, as the committee will have found in its investigations—trafficking is not a simple problem. Immigration and criminal matters are involved, so we have an overlapping problem. At the end of the day, there are victims. We try not to make partisan points if we can avoid it. However, if Elaine Smith so wishes, I am more than happy to do that.

Elaine Smith: Convener, I just want the minister to say why the stakeholder group was disbanded, if it was raising particularly Scottish issues.

Bill Hepburn: I think that it is an exaggeration to say that the group was disbanded. The group had a series of meetings. The issues to do with

UK matters, such as the status and operation of the NRM, were being raised at the UK level by the same groups that were raising the issues at the Scottish level.

The existence or otherwise of the Scottish stakeholder group made no difference to the extent to which Scottish views were taken on board at the UK level, because the Scottish Government was a member of both groups and was able to feed in its views. The main players—TARA, Migrant Helpline, the police and, indeed, the UKBA—were all feeding in their views at the national level.

The stakeholder group's existence was about how matters were to operate in Scotland on a practical level. The decisions on policy and how it would be applied throughout the UK were taken at the UK level, and Scotland had independent input into the process.

Elaine Smith: We do not seem to be getting any further. Issues to do with the disbanding of the stakeholder group have been raised by COSLA and in Amnesty International's report.

The Convener: That has been noted.

Marlyn Glen: I do not want to invite further confrontation, but I ask the cabinet secretary to comment on the implications for Scotland of the UK Government not opting in to the forthcoming EU directive on preventing and combating trafficking in human beings. As we heard, trafficking happens not just in the UK but throughout the EU.

Kenny MacAskill: I have put on record, in writing to the UK Government, that we are disappointed at the position that has been taken. Gery McLaughlin will comment further.

Gery McLaughlin: The position is that the UK had an opportunity to opt in to the directive and chose not to do so. However, it has not opted out, because before the directive is finalised there will be a further opportunity to opt in. We remain hopeful that the UK will choose to opt in at the end of the process.

The impact in Scotland of the UK Government not opting in would be that the directive would not be binding on Scottish authorities. Our understanding of the legal position, which I think is still a matter of debate at the European level, is that the existing framework decision, which is similar to the directive in many respects, would remain binding on the UK. However, the new directive will strengthen the legal framework at the European level—that is the point of having it.

In our view, the law and arrangements in Scotland are already in line with the requirements of the directive in its current form, even though the UK has not yet opted in. In that respect, the impact

on Scotland of the UK Government not opting in would be limited, although there would be no European law to back that up. As I said, we hope that the UK will decide to opt in at the end of the process, even though it chose not to do so at the earlier stage.

Marlyn Glen: Will you continue to put pressure on the UK Government in that regard? David Cameron said to Harriet Harman at Prime Minister's question time that the directive

"does not go any further than the law that we have already passed."—[*Official Report, House of Commons*, 15 September 2010; c 873.]

Do you agree? Is that the situation in Scotland as well as in England?

Gery McLaughlin: I think that Scots law goes slightly further than English law in that respect. I think that English law would need to change to comply fully with the directive, whereas changes that we made to Scottish law under the Criminal Justice and Licensing (Scotland) Act 2010 bring us into line with the directive as it stands. The directive is going through the negotiation process, so we do not know what the final outcome will be.

11:45

Marlyn Glen: That is interesting in the light of the different rate of prosecutions, but another committee member will address that issue.

The Convener: Any specific information that you could give us would be welcome.

Stuart McMillan: Cabinet secretary, can you explain what information on human trafficking the Scottish Government collects? How can the current knowledge base on human trafficking in Scotland be improved?

Kenny MacAskill: As the committee has heard from those who have given evidence, the criminal and covert nature of human trafficking means that it is difficult to obtain accurate data. Indeed, I can confirm that that situation is replicated across the Irish Sea, where they face similar challenges. The Garda Síochána and, indeed, the Irish Government have the same difficulties as our own organisations have here.

The Scottish Government's written evidence to the committee included a copy of the research report that we commissioned on human trafficking in Scotland, which represents the best available overview of the position. Since then, we have a new information source in the form of the data provided by the national referral mechanism, although, as the committee will be aware, that cannot be regarded as a comprehensive picture.

I look forward to the committee's report, which I am sure will further update the picture, and we are

also working with the SCDEA to improve our knowledge. We know that there are clear links between trafficking and other forms of organised crime. Last year, we provided the SCDEA with additional funding to boost our capacity to tackle organised crime and, within that, to provide Scotland's first dedicated expert resource to build the intelligence necessary to support and improve human trafficking information and investigation. The SCDEA's human trafficking unit is now fully staffed and operational. As a matter of priority, it is undertaking a project that will provide a strategic picture of the nature and extent of human trafficking in Scotland.

The Scottish Government is also working with partners on a research project to address the information and evidence gaps that exist in relation to human trafficking.

Stuart McMillan: You touched on the difficulties in both Northern and southern Ireland. Is there any joint working between the Scottish Government and the Administrations in both Irelands on trying to achieve better information gathering?

Kenny MacAskill: That is what we are now seeking to do. Yesterday's meeting was the first trilateral that we have ever had. I have had bilaterals—with David Ford and with Dermot Ahern—but the outcome of yesterday's meeting, at which, as I said at the outset, human trafficking was the first issue discussed, was a commitment to ensure that we share best practice. There are already matters on which the SCDEA and the Scottish police interact with the PSNI and the Garda Síochána, and that practice will be enhanced.

Equally, we have made it clear that, at official level, we will seek to exchange information. We will have discussions to ensure that we can share anything that we have here and that we can learn from anything that they have there. There are complexities, especially with the Irish Republic—it is a separate jurisdiction, which involves crossing national borders. However, you have an assurance from us that we recognise—as we have discussed with the Home Secretary and organisations south of the border—that it is a common problem. If there were one simple solution, one of us would have implemented it and shared it. There is no simple solution, but we will work together to ensure that we do what we can to deal with the matter and protect those who are exploited.

Stuart McMillan: Amnesty International has suggested to the committee that better information-sharing protocols across devolved and non-devolved agencies should be established in order to collect and publish data on the extent of trafficking in Scotland. Has that been considered?

Have you had many dealings with Amnesty International on the issue?

Kenny MacAskill: That is a good question. There are two issues, which Amnesty International should recognise: protocols and publication of information. Protocols that govern relationships, including information sharing, between agencies are a matter for the agencies concerned. I understand that relevant protocols are already in place between devolved and non-devolved agencies and, indeed, between agencies in Scotland. We may find through our discussions with stakeholders that protocols are not in place or are not working. If so, we will encourage the agencies involved to remedy the problem. However, we have no evidence that a lack of protocols is inhibiting the sharing of trafficking data.

On the publication of data, the UKHTC already publishes information on the number of victims and defendants from across the UK as well as information on NRM referrals. The UKHTC has indicated that, in principle, it is willing to consider breaking down NRM data to the level of English regions and the devolved Administrations. At the moment, however, the numbers involved are relatively low, and when they are broken down by gender, by type of exploitation and, in the case of children, by age, it may become possible to identify individuals from published data. That would clearly be wrong, but it is an issue that can be revisited as the numbers of referrals increase. The publishing of information is something that we keep under review as it must be balanced with the protection of the individual.

Elaine Smith: You clearly feel strongly about trafficking. You have used terms such as “abhorrent” and “evil” to describe it, and it is obviously a form of modern-day slavery. There is no disputing how you feel about the issue. How do you feel about tackling it through policy? You have, rightly, been complimentary about TARA and have cited that organisation quite a lot in your evidence today. However, in evidence to the committee, John Watson of Amnesty International noted:

“In theory, TARA is now a Scotland-wide project, but it is not resourced at a level that enables it to provide a high level of support to people throughout Scotland.”—[*Official Report, Equal Opportunities Committee*, 15 June 2010; c 1876.]

That has been raised with us as an issue. Given your obvious strong feelings, what is your comment on the evidence that we have received that indicates a lack of support for the victims of trafficking in Scotland?

Kenny MacAskill: There have been issues around the availability of support and accommodation outwith the central belt,

particularly in emergencies. Supporting suspected victims of trafficking can require specialist skills and, given the numbers that have, so far, been identified as victims of trafficking, it would be difficult to justify making the services available across Scotland on a standby basis. However, there is clearly a need for services that are as co-ordinated as possible and a role for local agencies. The victims services group that is being formed, which will meet for the first time on Thursday, will consider the practicalities of providing support and how that can be best done.

There are also several protocols in place at a local level—for example, in West Lothian—governing responses to suspected victims of trafficking. Encouraging other areas to adopt similar approaches may be an option that could lead to improved provision for suspected victims, particularly at the point at which they come to the attention of the authorities.

We are seeking to do what we can in supporting TARA, recognising the complexities of the geography of Scotland—that is an issue that is shared across the Irish Sea. We are prepared to work with those agencies and, as I said to Stuart McMillan, we are seeing how we can learn from, or, in some instances, work with, organisations in Northern Ireland and Ireland as well as south of the border.

Elaine Smith: Can you give us any specific information on what resources the Scottish Government has committed to multi-agency support for the victims of trafficking throughout Scotland?

Kenny MacAskill: In 2009-10, the Scottish Government provided a total of £236,215 to TARA and Migrant Helpline, which enabled them to work with 107 suspected victims of trafficking. Agreement has been reached with Migrant Helpline on funding for the current year, but, as funding is allocated on the basis of a call-down arrangement, a total for the year will not be available until after March 2011. Negotiations with TARA on funding for the current year are still under way. Those should be concluded shortly, but the current offer from the Scottish Government allows for an expansion of TARA's services and helps to address the mental health issues that Ann Hamilton of TARA mentioned in her evidence to the committee last week. It is hoped that an announcement will be made shortly.

Malcolm Chisholm: Several groups have highlighted the problematic overlap between the national referral mechanism and the immigration and asylum system, to the extent of the same case owner deciding on a national referral mechanism application and an immigration or asylum claim. You may well share those concerns. What input has the Scottish Government had into

the review of the national referral mechanism, and what key issues have been identified to date?

Kenny MacAskill: There has been criticism of the NRM, especially in relation to the process in the UKBA in which asylum applications and decisions on human trafficking are made by the same case officer. Other issues have caused concern, such as the need for informed consent and overcentralisation of the process. The NRM has been designed by the UK Government, and immigration is a reserved matter. However, the NRM is very much a work in progress, and the UK Government is undertaking a review of its operation, in consultation with stakeholders. It is likely that it will be some time before a definitive system is in place. In the meantime, we are committed to working with the UK Government to help to refine and improve the way in which victims of trafficking are identified.

The review of the NRM has involved discussions with stakeholders, and a couple of exercises revisiting cases to analyse the decision-making process and the quality of the evidence on which they were based. I am glad to say that the Scottish Government and TARA were both involved in that process. Final recommendations on improvements to the NRM will be made by the NRM strategic monitoring group, of which the Scottish Government and TARA are members. The review is still under way, so it is not possible to say what the outcome will be. However, issues that are currently being considered include ways to improve decision making, improving the way in which the NRM operates for children and informed consent.

Malcolm Chisholm: Did the Scottish Government make any suggestions? Did you voice any of the concerns that I referred to earlier, such as overlap, or did you feel that that was too controversial?

Kenny MacAskill: No. We have always sought to replicate the views of stakeholders. Bill, do you want to add anything?

Bill Hepburn: Yes. The formal process is being conducted in committee, and Scottish Government officials, or TARA, put their views over as appropriate. For example, if the Scottish Government has identified problems relating to the usefulness of the NRM, we would raise them in that forum.

Malcolm Chisholm: A specific suggestion that TARA made to us—I do not know whether it made it as part of the review—was that there should be a localised multi-agency Scottish national referral mechanism. Would the Scottish Government be interested in supporting that concept?

Kenny MacAskill: We have always said that the important issue is the system that is best for

the victim. There are advantages and disadvantages to having a more localised NRM. If there is evidence that a Scottish NRM would be beneficial to victims, we would consider how best to introduce one. However, at this stage it would be better to see what changes are introduced to the NRM as a result of the current review before making decisions on an alternative approach. If the committee has views, we will take them aboard. We are aiming to work constructively to change and improve the NRM. If it still feels as if something is inappropriate, we would certainly not preclude a separate Scottish NRM, nor indeed would we preclude, for example, seeking to co-operate with other agencies, such as the Executive in Northern Ireland or elsewhere. We have to do what works best for the victim. However, there is willingness and openness to considering alternatives.

Christina McKelvie: The most vulnerable people in the system are young people and unaccompanied asylum seekers. The anti-trafficking monitoring group made a number of interesting recommendations in its report. One of the things about informed consent that really concerns me, which I think is a fundamental flaw in the national referral mechanism, is that it does not give us accurate data and it does not get to the perpetrators of the crime. If it is informed consent, and the person is coerced through fear of deportation or other means, getting accurate information is quite difficult. There seems to be reluctance on the part of the UKBA to determine people as trafficked. How can a child give informed consent? Should a child be taken into the national referral mechanism simply because they are vulnerable?

Kenny MacAskill: I have said before that the covert and criminal nature of human trafficking makes it difficult to obtain reliable data. If anything, that is even more the case for child trafficking. Nevertheless, we work with the SCDEA to improve our understanding of the picture.

I am aware that the anti-trafficking monitoring group's report criticised the NRM for how it addressed the issue of children, especially those aged 16 to 18. I remind the committee that child protection procedures apply, with local authority social services taking responsibility. The Scottish Government's view on the operation of the NRM relates to its operation as a whole, rather than to any specific issues relating to children.

From a Scottish perspective, officials have been engaging with the Home Office in reviewing the operation of the NRM during its pilot period, while ensuring that local authority services are better placed to recognise and act on child trafficking through the publication of dedicated Scottish guidance on the issue and events to raise its

profile. The matter is subject to consideration. If the committee has views now or once that work has been done, we will be more than happy to take them on board. It is a question of doing what is right.

There are difficulties with trafficked children, as you correctly point out. Equally, there are broader issues to do with their being children.

12:00

Christina McKelvie: One of the bits of information that the anti-trafficking monitoring group's report provides is that in Glasgow alone, the child protection committee had a look at 75 young people who were unaccompanied asylum seekers—that figure relates only to children from outside the European economic area—23 of whom were deemed to be possible victims of trafficking and in relation to nine of whom there were deemed to be suspicions of trafficking. That makes 32 in total, which is a good proportion of those 75 kids.

One of the report's recommendations is that child protection authorities, not the UKBA, should be given the power to determine whether a child is trafficked. What is your opinion on that?

Kenny MacAskill: At the end of the day, a child-centred approach must be taken. It might come back to the UK taking the position that immigration is a reserved matter. As I said, I have had specific discussions with the UKBA. It is the view of the current Home Secretary, just as it was of her predecessors, that immigration is reserved to the UK Government. I could foresee difficulties with the UK agencies but, equally, we must remember that we are dealing with children who appear to have been trafficked and that what matters is their care and welfare.

Bill Kidd: Good morning, cabinet secretary. I have a few questions, the first of which you have covered quite a bit of—it is about co-operation between UK agencies and the Scottish Government.

I have been informed about circumstances in Govanhill in Glasgow, where there is a pool operating, which is just like the old-fashioned pools that used to operate at the shipyards. Migrant workers turn up in the morning and are taken on or not taken on. If they do not keep their noses clean as far as the illegal gangmaster is concerned, they do not get work, and their wages and conditions are subject to variation on that basis.

As far as co-operation with agencies is concerned, I know that the UKBA seems to be problematic, but how does the Gangmasters Licensing Authority operate in Scottish

circumstances? Does the Scottish Government deal with that organisation much?

Bill Hepburn: Yes. The GLA was a member of the Scottish stakeholder group and had input through that. It also attended the seminar that I mentioned earlier.

As far as operational matters are concerned, the GLA's co-operation must be with the police, and that is not a matter that we can interfere in. My understanding is that the GLA operates as effectively in Scotland as it operates anywhere else.

Kenny MacAskill: It is a valid question. Much of the emphasis is on prostitution, which is clearly reprehensible in the public eye. It emerged at yesterday's discussions in Dundalk that there had been a major court case in Belfast that related to prostitution. From speaking to Dermot Ahern, it is quite clear that the Irish Government has labour problems—what we are talking about is almost a form of indentured slavery. We were conscious that human trafficking is a domestic issue; it is not simply the city of London to which people are being trafficked.

Human trafficking comes in a wide variety of forms. Whatever disputes we may have with individual organisations that defend their rights, everyone in whatever capacity, whether north or south of the border, or on this side or the other side of the Irish Sea, recognises that there is an issue and that we have an obligation to work together to address it.

Bill Kidd: We know that heavy penalties are in place for human trafficking offences in Scotland—potentially up to 14 years. However, we have heard in evidence about the problems in getting people to the stage at which they face such sentences. Deputy Chief Constable Meldrum of the Association of Chief Police Officers in Scotland spoke of the lack of prosecutions for human trafficking in Scotland. He said:

"The difference in conviction rates between Scotland and the rest of the UK is startling. In Scotland to the best of my knowledge, we do not have a conviction for human trafficking. One case got to the stage of going to court but was abandoned."—[*Official Report, Equal Opportunities Committee*, 4 May 2010; c 1658.]

He is of the opinion that the Metropolitan Police in London and Greater Manchester and West Midlands police forces are far more successful in securing prosecutions. Why do we have that difficulty in securing convictions for trafficking? What can be done?

Kenny MacAskill: I am very grateful for the question. I know how committed our law officers are. I have spoken to the Lord Advocate on the matter and I know that she is concerned. Everybody in the Crown Office is doing what they

can. I have told the Lord Advocate that the committee is interested in these matters. She will respond formally in writing.

The Convener: We are very disappointed with the answer, cabinet secretary, given the notice that we gave you of the question. The issue is very important, particularly given what is going on in the rest of the UK. We seem to be pretty far behind. A fundamental issue is involved in terms of the Crown Office and Procurator Fiscal Service.

Kenny MacAskill: That may be, but unless you wish to change the constitutional nature of our country, I cannot direct the Lord Advocate. She is operationally independent; any comment requires to come from her. As I said, I passed on the committee's request to the Lord Advocate who has indicated that she is happy to respond in writing. I cannot speak for the Crown. I represent the Executive.

The Convener: I understand that, but I had hoped that information would be made available for this evidence session. We look forward to hearing what the Lord Advocate says in due course.

Hugh O'Donnell: Do you have any observation to make, from the point of view not of the Crown but of the Executive, on the nature of the charges as a result of operation pentameter 2, under which 18 individuals were prosecuted? In a letter to my colleague, Marlyn Glen, Frank Mulholland said astutely that

"COPFS has successfully prosecuted persons for offences against a background of people trafficking."

He then listed a number of offences, including:

"trading in prostitution, offences under the Identity Cards Act 2006, the Immigration Act 1971, and attempting to pervert the course of justice."

What puzzles me is why no one was prepared to put on the face of a charge sheet the charge of trafficking. Does the COPFS do what it does because it is easier to get prosecutions? Is it a case of plea bargaining down offences to those for which the Crown thinks that it can secure a prosecution?

Kenny MacAskill: I cannot answer that. That is a matter of Crown policy, and it is not appropriate for me to comment. I appreciate the views of the committee and the convener, but I cannot give you any more than I have done. The Lord Advocate is committed to this. The Crown takes the matter most seriously.

I ask Gery McLaughlin to comment.

Gery McLaughlin: While not wanting to comment in any way on something that is a matter for the Crown, I know something about operation pentameter 2, to which the member referred,

which was the second UK-wide police operation against human trafficking.

The Crown Office undertook an exercise in relation to the operation because of the number of associated individual operations and arrests. In terms of the outcomes in cases in which there was a suspicion of human trafficking in the premises that were targeted, I understand that officers identified a number of people who were potential victims of human trafficking. However, they found that people were prosecuted for a variety of other offences, rather than human trafficking. Without wishing to comment inappropriately, I assume that that relates to sufficiency of evidence and that, if there had been sufficient evidence, the Crown would have prosecuted. Usually, it is harder to identify cases that might have a human trafficking background but, in that instance, because the cases were related to that specific operation, they were easier to pick out of the system.

Hugh O'Donnell: I commend Mr McLaughlin for venturing into that area.

I notice that 18 individuals were mentioned. I would be interested to know how many of those individuals who were subsequently prosecuted were identified as victims or as the operators of any of the establishments that were involved in pentameter 2. I guess that the cabinet secretary is not in a position to respond to that.

Kenny MacAskill: That is correct.

Hugh O'Donnell: Have you a comment to make on the training and awareness raising of prosecutors and judiciary in Scotland? What is the status of draft guidance for procurators fiscal in Scotland, as identified as a key action in the UK action plan on human trafficking?

Kenny MacAskill: Again, the Lord Advocate will respond formally to the committee on the matter. I can only reiterate that I know how seriously she takes the issue.

The Convener: I want to ask about migrants—I know that you are here to talk about trafficking, but some migrants could be involved in trafficking, too. What kind of checks are made when people come into the country, in terms of criminal records and the sharing of information?

Kenny MacAskill: Fundamentally, as has been made clear to me without a shadow of a doubt by the director of the UKBA, immigration is a matter for the UKBA. The Scottish Government has tried to explain that there is overlap involving child trafficking, labouring and so on—as Hugh O'Donnell's question made clear, sometimes it is hard to work out who is what. However, we have been told that it is not an area into which we are to venture.

Clearly, the Scottish police are required to look after the safety of our communities, and we are seeking to improve the ways in which we exchange information across Europe. Some of that is not yet in operation, because the nature of how things are recorded in other countries means that there can be some doubt about what has been provided. However, the police work with other agencies through the European Police Office and the International Criminal Police Organization. Some countries—even in the EU—have a long way to go in terms of the information that they can provide, but there is a drive from a European direction to ensure that we have information that can be shared to ensure that we are aware of who the people who come here are. In many instances, certain people should not be coming in at all, but that would be a matter for the UKBA.

The Convener: A number of times, you have referred to the director general of the UKBA saying quite specifically that this is a reserved issue. However, given that this is not an issue from which political capital should be made—it involves human beings, including children, being put in the most appalling conditions—do you agree that the issue might be worth raising in the UK interdepartmental ministerial group? As I said, I am disappointed that you do not know how many meetings of that body there have been or how many you have attended. In all sincerity, I put it to you that that would be a good forum in which to raise some of the issues that have been vexing the committee today.

12:15

Kenny MacAskill: It is not only Lin Homer, the director of the UKBA, who has said that the matter is a reserved issue; that was made clear by Theresa May, the Home Secretary, and her predecessors, and it has been made quite clear to us by British Administrations of whatever colour that immigration is a matter for them, not for Scottish ministers. As I said, there are areas of overlap, and we seek to raise those issues. If the committee wants to encourage us to be more vociferous in our arguments, we will be delighted to take that up. However, as I said, the matter has been raised not only at interdepartmental level—I have raised it with Jacqui Smith and with Theresa May. We have made quite clear the difficulties that we face, but the dividing line has always been made quite clear to us in return.

That said, we would welcome any support that the committee might want to offer. We have received support from across the Irish Sea because there are concerns that immigration issues around Cairnryan and Stranraer will not be dealt with properly, and there are problems with that.

The Convener: We hope that there will be some movement on the four key areas of the UK action plan and that, as we heard from the minister, people will be prepared to work together with regard to what is strictly devolved or reserved, in order to resolve the problems. I very much hope that that will be the approach that is taken with regard to trafficking, as well.

Elaine Smith: TARA suggested that asylum proceedings should be suspended while someone is waiting for a determination on whether they had been trafficked. Our report will stray into reserved areas and will, hopefully, be read by others outwith the Parliament. Do you agree with TARA's suggestion? Would you be willing to press that issue?

Kenny MacAskill: We believe that such matters should be fully devolved and that we should have the same powers that every independent Parliament has to decide who can come to our country and how we deal with them, even if they arrive illegally or under duress, so I am sympathetic to the position that has been expressed and am more than happy to raise it. If the committee wishes me to raise the Stranraer/Cairnryan issue alongside the representations that are being made by Dermot Ahern and David Ford, I will be happy to do so as well.

I agree that there is a danger of manifest injustice. We must remember that we are dealing with victims.

The Convener: That concludes our questions. I thank the cabinet secretary for attending and look forward to receiving the additional information that he promised us.

12:17

Meeting continued in private until 12:41.

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