



The Scottish Parliament  
Pàrlamaid na h-Alba

## Official Report

# ECONOMY, ENERGY AND TOURISM COMMITTEE

Wednesday 6 October 2010

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**ECONOMY, ENERGY AND TOURISM COMMITTEE**

**27<sup>th</sup> Meeting 2010, Session 3**

**CONVENER**

\*Iain Smith (North East Fife) (LD)

**DEPUTY CONVENER**

\*Rob Gibson (Highlands and Islands) (SNP)

**COMMITTEE MEMBERS**

\*Ms Wendy Alexander (Paisley North) (Lab)

\*Gavin Brown (Lothians) (Con)

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

\*Marilyn Livingstone (Kirkcaldy) (Lab)

\*Lewis Macdonald (Aberdeen Central) (Lab)

\*Stuart McMillan (West of Scotland) (SNP)

**COMMITTEE SUBSTITUTES**

Nigel Don (North East Scotland) (SNP)

Alex Johnstone (North East Scotland) (Con)

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

David Whitton (Strathkelvin and Bearsden) (Lab)

\*attended

**THE FOLLOWING ALSO ATTENDED:**

Hugh Henry (Paisley South) (Lab)

**THE FOLLOWING GAVE EVIDENCE:**

Jim Galloway (City of Edinburgh Council)

Anil Gupta (Convention of Scottish Local Authorities)

Philip Lamont (Scottish Government Justice Directorate)

Jonathan Levie (University of Strathclyde)

Kenny MacAskill (Cabinet Secretary for Justice)

Robin Presswood (Fife Council)

Ronnie Smith (Business Enterprise Scotland)

**CLERK TO THE COMMITTEE**

Stephen Imrie

**LOCATION**

Committee Room 1



## Scottish Parliament

### Economy, Energy and Tourism Committee

*Wednesday 6 October 2010*

[The Convener opened the meeting at 09:30]

### Protection of Workers (Scotland) Bill: Stage 1

**The Convener (Iain Smith):** I welcome members to the 27<sup>th</sup> meeting in 2010 of the Economy, Energy and Tourism Committee. We have four items on today's agenda. As far as I am aware, we have received no apologies. I am sure that Chris Harvie's bus is on the way up from the Borders as we speak.

Agenda item 1 is to continue our consideration of the Protection of Workers (Scotland) Bill at stage 1. I am pleased to welcome the Cabinet Secretary for Justice, who is a rather rare visitor to the committee. He is accompanied by Philip Lamont from the Scottish Government justice directorate. I ask the cabinet secretary to make brief opening remarks, after which we will proceed to questions.

**The Cabinet Secretary for Justice (Kenny MacAskill):** Thank you for inviting me along. No one in the room would disagree that workers who serve our communities should be able to go about their daily lives free from the threat of attack. It is entirely unacceptable for people who are the lifeblood of our communities, such as bus drivers, train drivers and shop staff, to suffer from assaults and threats. However, there is disagreement on the steps that should be taken to reduce the incidence of violence against public-facing workers. We do not think that we can view the problems of attacks on public-facing workers in isolation. Only by beginning to address the underlying causes of crime more generally will we reduce violent attacks on public-facing workers. The committee will have seen our memorandum on the bill, which outlines why we do not support it. I am happy to take members' questions.

**The Convener:** I beg members' indulgence, as Hugh Henry, the member in charge of the bill, is with us but has to leave shortly to convene the Public Audit Committee. If members are content, I will allow Hugh Henry to ask his questions first.

**Hugh Henry (Paisley South) (Lab):** Thank you for your indulgence, convener. I apologise for the discourtesy, but the Public Audit Committee has a witness coming in shortly.

Cabinet secretary, I recognise the commitment that you have made to tackling violent assaults and I share the sentiments that you have expressed on that on more than one occasion. Will you confirm that, since 2007, you have extended the provisions of the Emergency Workers (Scotland) Act 2005 to cover additional groups?

**Kenny MacAskill:** That is the case.

**Hugh Henry:** Which groups are they?

**Philip Lamont (Scottish Government Justice Directorate):** The Emergency Workers (Scotland) Act 2005 was extended. However, that did not involve adding new workers, because that could not be done through secondary legislation. It involved moving certain categories of worker from one bit of the act to another bit, the effect of which was to provide them with protection whenever they are on duty rather than only when they are dealing with emergency circumstances. I cannot remember the exact list, but I think that the three categories were medical practitioners and nurses—

**Hugh Henry:** Nevertheless, you felt that it was important to extend the cover for those groups of workers—we can get the list later in the proceedings—so that they were covered not only in emergency situations.

**Kenny MacAskill:** That was the request of people working in the medical profession.

**Hugh Henry:** The Scottish Police Federation and the Law Society of Scotland said that there is no need for the emergency workers legislation because anyone who is assaulted is covered by common law in Scotland and that, since sentencing provisions were extended, the need for the 2005 act has been removed. However, rather than take that approach, you decided to alter the provisions of the legislation to extend cover to groups of workers in non-emergency situations. Why was that?

**Kenny MacAskill:** When I was in opposition, similar points were made about the Emergency Workers (Scotland) Bill. However, Parliament, the Scottish National Party group and I took the view that emergency workers are distinct and different and that we should seek to protect them. When we came to power, we sought to ensure that the appropriate cover that had been sought was, in fact, provided.

In his letter of 1 October 2010 to the committee on behalf of the Crown Office and Procurator Fiscal Service, John Logue referred to comments that Colin Boyd, the former Lord Advocate, made in a parliamentary debate. Of course, Colin Boyd served as a law officer in the Labour Government in which you served. Mr Logue wrote that Colin Boyd

“stated *inter alia* the following:

‘It is completely unacceptable that anyone should be the subject of assault or abuse at work. We want to make sure that the law is an effective tool in ensuring the safety and welfare of emergency workers and all public service workers. We are prudent to recognise that legislation is not the answer in every case. In some situations the best possible solutions lie within existing law. I am firmly of the view that this is true for the protection of public service workers.

However, the situation is different for emergency personnel. These workers perform a unique and vital role in our society. The nature of their work renders them, and those who assist them, particularly vulnerable to attack. When emergency workers are assaulted, obstructed, or hindered, in the course of dealing with an emergency, it is not only their lives which are put at risk, but the lives of those they are working to protect.’”

Colin Boyd was speaking in 2004. The Emergency Workers (Scotland) Bill, which was introduced by the Labour-Liberal Democrat Administration and supported by the Scottish National Party, differentiated between public-facing workers and emergency workers.

My view, and that of the Crown, is that the situation that applied in 2004 applies now. That is the basis on which the Government has acted. We have built on the action that the previous Administration was right to take and we have tweaked the 2005 act at the request of the medical profession, to ensure that there is appropriate protection for medical workers, while recognising the difference that the Labour Administration recognised.

**Hugh Henry:** Do you disagree with the Scottish Police Federation and the Law Society of Scotland, which said that there is no need for the 2005 act?

**Kenny MacAskill:** I disagreed with that position in 2004, when I supported the Emergency Workers (Scotland) Bill. Emergency workers are a distinct group and it is entirely unacceptable that paramedics who are going about their difficult job should be subject to assault or abuse. It is appropriate that we record public opprobrium and that the courts ensure that the matter is dealt with in the way that is provided for.

**Hugh Henry:** However, you now think that it is important that some workers are covered in non-emergency situations.

**Kenny MacAskill:** No. I support the ethos of the approach to which Labour’s Lord Advocate referred. The changes that this Administration made were to ensure that cover is available for workers in appropriate situations, because there were areas of their work that were not covered.

The argument that Hugh Henry is putting forward relates not to emergency workers but to public-facing workers. That is a different matter

entirely. As I said, the Lord Advocate correctly differentiated between the two groups in 2004.

**Hugh Henry:** I am not disputing what the Lord Advocate said at the time; my question relates more to the clarification that Philip Lamont provided. Mr Lamont will correct me if I am wrong, but I think that he said that cover was extended to certain groups of workers when they are not in emergency situations.

**Philip Lamont:** Yes. The key point is that they are workers who deal with emergency situations in the course of their work. If they did not deal with emergency situations, they would not be covered by the 2005 act in the first place. Their place in the 2005 act was changed.

**Hugh Henry:** Yes—and the effect is that they are covered in non-emergency situations.

**Philip Lamont:** Yes. A modification order amended section 1 of the 2005 act so that medical practitioners, registered nurses and registered midwives have the same status under the act as constables and fire brigade and Scottish Ambulance Service personnel, and are therefore covered whenever they are on duty. That reflects the fact that they are extremely likely to have to deal with emergency circumstances.

**Hugh Henry:** The cabinet secretary talked about what the Lord Advocate said in 2004. There is no disagreement between us on that, but the Lord Advocate was talking specifically about emergencies, whereas you are talking about groups of workers—doctors and nurses—being covered when there is no emergency. What is the difference between such a situation and one in which a social worker is taking a child into care in a stressful and potentially confrontational situation?

**Kenny MacAskill:** First, let us set out what the Government tweaked. We wanted to ensure that workers whom we decided to classify as emergency workers on duty were given protection, and there was a decision on the nature of workers’ employment back in 2004. If I were to have a heart attack now, for example, and Philip Lamont offered me some form of medical care, he would not be classified as a medical worker because he is not a medical worker; he would simply be a good citizen. We as a society have decided to classify individuals by the nature of their employment.

It is clear that a range of jobs are involved. You mentioned a social worker dealing with children in care. From having been involved in legal practice, I know that such work can be stressful. However, the question is this: where do we draw the dividing line? The committee doubtless knows that you have referred to bus and train drivers—I have referred to them, too—and shop assistants.

Coverage can be broadened to everybody who is involved with the public. That has been referred to in the representations and the consultation. It has even been suggested that self-employed people should be eligible. On that basis, who would not be covered by the bill or the 2005 act? Would that be MSPs, MPs and a few others because everybody else would be in?

I think that the logic that you accepted back in 2004, which the Labour Lord Advocate correctly put forward, is that some positions should be covered because of their very nature. Social work is extremely stressful, and there can be difficult situations in such work. Equally, there can sometimes be difficult situations for members in their surgeries.

**Hugh Henry:** Yes, but you have accepted the principle that certain categories of workers who do specific types of jobs should be covered in non-emergency situations.

**Kenny MacAskill:** No. I said that the 2005 act covers people who are doing their job. There could be an assault, but that might not be in an emergency situation. A medical person can be on duty doing their daily job, but not in an emergency situation. The issue is not the emergency; it is the fact that they are within the category and on duty.

**Hugh Henry:** Can we clarify that? I think that what the cabinet secretary is saying is slightly different from what Mr Lamont said. Mr Lamont said categorically on the record that certain groups of workers are covered in non-emergency situations, but when I asked the cabinet secretary about that, he said no. He then said something about the classification of workers. I do not doubt that a doctor or a nurse helps in emergencies, but I am talking about the 2005 act potentially covering them in situations in which they are not engaged in an emergency. Is that the case?

**Kenny MacAskill:** There are two factors. First, section 1 of the 2005 act provides protection for constables and fire brigade and Scottish Ambulance Service personnel whenever they are on duty. The modification order that Parliament approved in early 2008 added registered medical practitioners, registered nurses and registered midwives to the list and removed them from section 2. Section 2 provides protection for prison officers, coastguards, social workers when they are dealing with child protection cases, and mental health officers, but only when they are dealing with emergency circumstances. Therefore, there are two categories of people. There are those who are provided with protection when they are on duty: constables and fire brigade and Scottish Ambulance Service personnel. That started with Lord Boyd. We added to that list medical practitioners, registered nurses and registered midwives. In addition, prison officers, coastguards,

social workers and mental health officers, because of the nature of their jobs, are provided with protection in emergency circumstances, whether while taking a child into care or while tending somebody who may be detained and sectioned under mental health legislation.

**Hugh Henry:** The point is that a doctor who is assaulted by a patient would be covered by the 2005 act even though that assault did not take place in an emergency situation. Is that correct?

09:45

**Kenny MacAskill:** Yes, because the person is classified as a doctor on duty.

**Hugh Henry:** That is the point at which I am driving.

**Kenny MacAskill:** If the person is on holiday on the beach on the east neuk of Fife, they will not be considered a doctor on duty. However, if they are on duty at work, they will be covered by the 2005 act.

**Hugh Henry:** Of course, but reducing the arguments to the absurd does not help either of us. We are talking about people who, in the course of their employment, are classified in a certain way. You have confirmed that workers such as doctors and nurses are covered by the 2005 act in non-emergency situations simply by dint of their profession.

**Kenny MacAskill:** That was always the case. The position was established in 2004 and its logic was narrated by the Labour Lord Advocate, Colin Boyd. I have read out what he stated in Parliament. If you wish me to repeat it, I will do so. He expounded clearly why emergency workers' positions were distinct.

**Hugh Henry:** I do not dispute the logic of the argument and do not criticise the cabinet secretary for it. I am merely trying to establish that he has accepted that the provisions of the 2005 act have been extended to cover certain groups of workers when they are dealing with members of the public in non-emergency situations.

**Kenny MacAskill:** Parliament agreed to that when it passed the Emergency Workers (Scotland) Bill.

**Hugh Henry:** Which you support.

**Kenny MacAskill:** Yes. I have said that.

**The Convener:** One argument that was made in favour of the Emergency Workers (Scotland) Bill when it was introduced and that is being made in favour of the Protection of Workers (Scotland) Bill is that the legislation will act as a deterrent. I understand that when the Emergency Workers (Scotland) Bill was introduced, the penalties that

were available under the common law were less than those for which the statute provided. Am I correct in saying that that is no longer the case?

**Kenny MacAskill:** Yes. That is true if a case is charged at summary level and not on indictment.

**The Convener:** The deterrent aspect of the 2005 act was the greater penalties that were available under the statute, as opposed to the common law offence, but the penalties under the Protection of Workers (Scotland) Bill are the same as the current penalties under common law. Do you consider that the deterrent effect that was intended by the 2005 act is no longer relevant?

**Kenny MacAskill:** There is a variety of issues. The previous Administration, in which the convener served, correctly introduced the Emergency Workers (Scotland) Bill partly because it was appropriate that we should record such offences in order that those offences, rather than breaches of the peace or assaults, would appear in previous conviction lists. There was and remains a clear problem in that area. If we broaden the legislation, we will reduce its effectiveness.

The convener is right about sentencing. It can be argued that the 2005 act has not made any difference in that regard. The Crown would argue—correctly—that prior to the 2005 act anyone who assaulted a paramedic, a fireman or a doctor who was on duty would have had that libelled as an aggravation, and that the courts would have dealt with the offence most seriously. The additional benefit of the emergency workers legislation is that convictions are recorded. That means that, if there is a further conviction, the sheriff will know that there was a past offence. If it were recorded simply that someone had been convicted 10 times for breach of the peace and five times for assault, there might be no indication that they had assaulted a nurse or doctor previously.

There is no evidence that the 2005 act has increased the level of sentencing, but it was thought to be appropriate for emergency workers. The Protection of Workers (Scotland) Bill will not necessarily increase the level of sentencing, as action has already been taken on the issue. However, if we extend the provisions of the 2005 act to almost everyone, we will not know whether an offence was committed against someone in a very serious situation, such as an emergency worker. That will devalue what we intended to do back in 2004, which was to record such offences.

**The Convener:** I want to look at the issue from a slightly different angle. When the committee scrutinises the general principles of any bill, it must consider whether there is a need for the legislation. Given that the proposed penalties in

the Protection of Workers (Scotland) Bill are the same as those that are available under common law, and given that there is a dearth of evidence on whether the 2005 act has acted as a deterrent—the committee has tried to establish that, but it is difficult to do so—is there any need for the bill?

**Kenny MacAskill:** That goes back to what I said at the outset. Is there an issue here? Yes, there is. Someone who is going about their lawful business in working as a train driver, a bus conductor or a shop assistant should not have to put up with foul-mouthed abuse, whether or not it is alcohol fuelled, and should certainly not be assaulted. The question is whether the situation would be resolved by a law. My answer is that it would not. The bill would not change the law in any way; it would simply place in statute the law that currently exists under common law. It would not make the law any tougher or achieve anything—indeed, it might devalue the benefit of what was introduced in the Emergency Workers (Scotland) Act 2005. We all accept that there is an issue, and Mr Henry is right to flag it up. However, changing the law through his bill would not improve the law at all; it would just make such behaviour a statutory offence as opposed to a common-law offence.

It perhaps comes back to the fact that we have taken our eye off the ball. If a law could have solved the problem, it would have been introduced by now—we would have introduced it in 2004. In 2004, we introduced the Emergency Workers (Scotland) Bill. Sadly, although the 2005 act is correctly being driven home by the police, the prosecution and the judiciary, the number of assaults continues to be high. The root of the problem in many cases is the fact that it is alcohol-fuelled abuse. We know that, in this country, there is a clear correlation between overconsumption of alcohol and assaults on emergency workers, shop assistants and bus drivers. Our view is that the bill would not add anything and could, indeed, undermine the attempts that were correctly made by the previous Administration to ensure that we targeted emergency workers for protection.

**Rob Gibson (Highlands and Islands) (SNP):** Good morning, cabinet secretary. It has been led to us that there is a feeling that abuse—which is a kind of assault—is not treated as seriously as assault, despite the fact that it might be the sort of thing that people who work on trains and so on experience on the weekend shifts, as was suggested by a ScotRail witness last week. The descriptions in various police forces of what constitutes a minor assault of an emergency worker are beginning to be rolled out across the country. Do you think that more knowledge about the number of complaints that lead to a charge relating to abuse would strengthen our hand in



getting the prosecution services to take instances of abuse more seriously?

**Kenny MacAskill:** The Crown Office would argue that it takes such instances seriously. There have been some recorded incidents to which I could refer—they have probably been made available to you by the Crown Office anecdotally—for which severe sentences have correctly been handed down by the court. As you say, it is not always about serious assault; it can be about disrespect or ignorant and loutish behaviour, which is entirely unacceptable. In Scotland, such behaviour tends to go hand in hand with alcohol overconsumption and is not restricted to Fridays and Saturdays. Would more information be beneficial? It might be, but, drilling down, it might sometimes be hard to get that. What is quite clear, though, is the link between alcohol and offending at that level. Although it is not serious assault, it would be wrong to classify it as low-level offending. It is unacceptable and, whether it is against a male or female, it can be extremely frightening and distressing.

The Parliament has passed the Criminal Justice and Licensing (Scotland) Act 2010, which makes it clear that overconsumption of alcohol cannot be used as a defence. Somebody cannot say, “It wisnae me. I was drunk.” That drives home the message that being in the pub beforehand is no excuse for shouting at the bus driver.

The Crown Office and the police could seek more information for the committee, but I do not know where that would take us. The issue is very broad indeed and I believe that the fundamental solution is not a law that could be introduced at any stage. The bill will not change the current situation except by classifying such behaviour as a statutory offence as opposed to a common-law offence. The solution is more in driving home the message about enforcement, and the British Transport Police, the police in Scotland and licensing standards officers must all take appropriate action.

**Rob Gibson:** I hear your comprehensive response. Do you think that when people are talking about a minor assault of an emergency worker, there should be some reference to alcohol, so that we show directly in figures the number of people who are aggravating their behaviour through alcohol? Would that help?

**Kenny MacAskill:** I can understand why that might be helpful. These things are always about striking a balance between not having a bureaucratic burden and how much information we have to recall. It would be fair to say that when such people are prosecuted, their police report will almost invariably say that the accused was drunk when he did this or that. That information will be available and the procurator fiscal will doubtless

lead it. What we as a Parliament have managed to close down is the suggestion that the defence agent will stand up and say, “He’s a swell guy who is normally really nice and it was just the drink that did it to him last night.” That excuse has gone.

You could ask for that information, but it is a question of striking a balance. It might be that police officers, prosecutors and court officials are recording lots of information. However, if it looks like an elephant and walks like an elephant, it is an elephant. Therefore, if alcohol is the major problem, as we hear from police, prosecutors, sheriffs and the Scottish Prison Service, maybe we should deal with that.

**Lewis Macdonald (Aberdeen Central) (Lab):** I want to take you back to the question of how the proposed bill relates to the 2005 act. Let me take you through what I understand the position to be and you can tell us whether you agree.

The 2005 act divides the population into three categories. The first is those who are covered by the full force of the act in section 1: police officers, fire staff and ambulance staff. The second is those who are covered by section 2 only, which includes doctors, nurses, midwives, prison officers, coast guards, social workers and child protection duty and mental health officers. The third category is everyone else who is not covered by the first two specific sections. Does that accurately describe the position?

**Kenny MacAskill:** With the caveat that for some of those positions, such as social workers, it depends on the nature of the work that they are doing. The act refers to social workers who work with children, not social workers per se. So, a social worker dealing with care for the elderly for example, who might be assaulted by a patient suffering from dementia, is not covered. However, a social worker dealing with the case that Mr Henry narrated is covered. Equally, mental health officers per se are not covered, but mental health officers in certain situations are covered. There is a drilling down. Although Lewis Macdonald is correct that some categories are fully protected under section 1, other categories are more focused.

**Lewis Macdonald:** Thank you for that clarification. The Scottish Government decided to move some of those groups—the doctors, nurses and midwives—from section 2 cover to section 1 cover.

**Kenny MacAskill:** Yes. There was a significant representation from the British Medical Association and the Royal College of Nursing that referred to the fact that those staff wear uniform and the nature of their job. We fully accepted that.

**Lewis Macdonald:** You accepted their representations. Did you have representations

from any other groups of workers who were covered, but wanted to be covered by section 1 of the act, or from groups who were not covered at all and wanted to be covered?

**Kenny MacAskill:** That I cannot recall. I can happily investigate and reply to you, but I cannot say off the top of my head.

**Lewis Macdonald:** It would be helpful to have that clarification if that is possible.

If you had been asked to consider other categories, what criteria would you have applied? You tell us that you responded to the representations from the professional representatives of doctors, nurses and midwives. Had you received similar representations from other groups covered by section 2 of the 2005 act, would you have considered them? If so, what criteria would you have applied in making a decision?

**Kenny MacAskill:** I would have looked at the facts and circumstances. The society in which we live ebbs and flows, which is why we listened to representations and expanded on what was passed in 2004. New situations come about. An example of that is the UK Border Agency. We now have officers walking around who look like policemen. At some stage, they might well say that they are victims of this or that. I would look at the facts and circumstances at the time.

As I said to Mr Gibson, it is a matter of balance. We have to consider whether it would be useful to have certain information or whether recording it would cause a bureaucratic nightmare and we would be better just letting folk do their job. That is a matter of balance that you will have to decide as a committee.

Doubtless new jobs that we have not thought of will be established. Despite the desire of Governments north and south of the border to reduce the number of agencies, agencies might well spring up that have to be protected. We will look at each such case. Again, it comes down to a balance. If we included almost everybody apart from a few people, we would detract from what we are trying to achieve. I would consider each instance on its merits.

10:00

If we did what the bill seeks—and certainly if we included the self-employed, on which there has been lobbying—only a handful of occupations would not be included. That would not be the appropriate balance and would go too far, especially given that, as the convener correctly said, we would not be improving the law, increasing the penalties or ensuring a greater conviction rate. We would simply move something

from the common law of Scotland that has served us for centuries and put it in statute. As I said, I do not see what additional benefit that would provide. The 2005 act provided the additional benefit that a sheriff can see that the accused, X, has carried out five assaults, including two on emergency workers, and can say, “You’ve done it again, Mr X—that’s unacceptable.” If everybody was included, what would be a breach of the peace? That would lose the focus.

There could always be an argument to consider individual jobs but, whether they are with the UK Border Agency or HM Revenue and Customs—it could be licensing standards officers—the individual facts and circumstances should be considered. The bill is too wide and too deep and would not add anything. If the bill simply would not make things any better, that might have been all right, but the danger is that it could make matters worse by undermining the work that we have tried to do to make it clear that the people who are included in sections 1 and 2 of the 2005 act need to be protected because of the nature of their jobs. I am happy to consider adding more people to that act, but the bill would undermine the ethos of the bill that we correctly supported in 2004.

**Lewis Macdonald:** You made a judgment in government. From what you have said, the judgment was based not simply on the representations that you received from the medical, nursing and midwife professions. As you have described, you considered each case on its merits. You considered the case that those professions made to you for being included in section 1 of the 2005 act rather than section 2 and you decided that they were right to argue that they should be afforded the additional protection from section 1.

**Kenny MacAskill:** We followed the 2005 act. Apologies, convener, but I think that 2004 was when Colin Boyd, the then Lord Advocate, spoke about the Emergency Workers (Scotland) Bill. We followed section 8 of the 2005 act, which was introduced by the Labour-Liberal Administration and supported by the SNP, although I cannot remember whether the support was uniform throughout the Parliament. Section 8(2) of the 2005 act states:

“The Scottish Ministers shall not make an order under subsection (1)(a) above—

which is about adding a person—

“unless it appears to them that the person to be added (or, as the case may be, each person of the description to be added) is one whose functions or activities are such that the person is likely, in the course of them, to have to deal with emergency circumstances.”

The 2005 act is clear that we can add to it. I hypothesised about whether licensing standards officers, customs and excise officers and so on—

you name it—could be added. The role has to have some emergency factor. If we broadened it beyond that, there would be difficulties, so there would be difficulties with adding shop assistants. Although I have every sympathy for them and believe that it is entirely unacceptable for people to go into off-licences under the influence of drink and shout abuse or do worse, that could not be covered by the 2005 act.

**Lewis Macdonald:** That is clear. The categories that are covered by section 2 could not be added to other than with additional groups of emergency-related workers. However, for example, if a case was made to you in relation to social workers, who currently are covered by section 2 when they deal with emergencies in relation to child protection, you could by order add them to section 1 if you were persuaded that that was appropriate.

**Kenny MacAskill:** That is a fair assessment.

**Lewis Macdonald:** You mentioned other groups of social work staff, for example those who may be subject to the fear of violence when providing care for persons with dementia. Would it, in your view, be possible that ministers could determine that those social workers were dealing with an issue of an emergency nature and bring them within the scope of the existing legislation?

**Kenny MacAskill:** Clearly, an argument could be made, but I have to say that I would take a lot of persuading. I appreciate that there can be instances when those suffering from dementia can strike out and be violent, but I tend to think that the circumstances to which the legislation refers are much more fraught than that. A legal argument could be made for bringing such cases within the scope of the legislation, but would it be one that would persuade me or, indeed, the Parliament? I am probably sceptical, much as I am sympathetic to those who work in that environment, because at the end of the day we all recognise the difficulties.

These things come down to legal arguments. Lawyers can make arguments—I practised law for 20 years—about whether the interpretation of section 8 of the 2005 act is capable. Indeed, there is a definition in section 2(5) of the 2005 act. It states:

“For the purposes of this Act, circumstances are ‘emergency’ circumstances if they are present or imminent and—

(a) are causing or are likely to cause—

- (i) serious injury to or the serious illness (including mental illness) of a person;
- (ii) serious harm to the environment (including the life and health of plants and animals and the fabric of buildings); or
- (iii) a worsening of any such injury, illness or harm; or

(b) are likely to cause the death of a person.”

As I say, I think that you could find an argument to be made for social workers in a variety of situations being included, but I have met regularly with the Association of Directors of Social Work and it has never suggested to me that it wishes the powers to be extended. I appreciate that in certain situations social workers face the issue, and I would be very open to considering the matter, but the circumstances would have to fall within the interpretation of “emergency” and, as I say, I think that these professions, to be fair to them, have sought to use the powers sparingly.

**Lewis Macdonald:** Finally, I take you back to a comment that you made at the outset, which is that part of the point of the existing legislation was to record public opprobrium and ensure that the courts did the same. If you are not willing to support the bill that Hugh Henry has introduced, is there any other method that you would support for recording public opprobrium in relation to assaults on non-emergency, public-facing workers?

**Kenny MacAskill:** That is a matter for the Crown and it is why we have aggravations within the law. It can be made clear that you shouted abuse at X in the course of whatever it was that they were doing and, if need be, that you did so under the influence of alcohol. That can be recorded within the common law. We have made it clear as a Parliament that we are not prepared to tolerate alcohol as an excuse. Thereafter, rather than simply record that, I would expect the courts to do their duty, which is to enforce severely that we are not, as a society, prepared to tolerate rude, ignorant and disrespectful behaviour. The respect agenda is not supposed simply to be at governmental level; it is supposed to be across our society and communities. We are not prepared to put up with it and we encourage the courts to act appropriately.

**Gavin Brown (Lothians) (Con):** A number of witnesses have put forward the public policy argument as one reason for the bill. They have said that it sends out a message to those who work on the front line that such behaviour will not be tolerated, that it might encourage them to report incidents—there is a suggestion that a lot of incidents are not reported because of a feeling of helplessness—and that at the same time it would send out a message to deter those who might engage in such behaviour. What is your analysis of that argument, which the unions and others have put forward?

**Kenny MacAskill:** I think that, again, it is a matter of each and every one of us ensuring that we drive home the message that there must be a culture change and that we are not prepared to tolerate such behaviour. For example, you and I both travel regularly on Lothian Buses. Lothian

Buses makes it clear in signs that are visible for all to see that their drivers and staff are not expected to put up with abuse. Employers have a clear duty to make it clear that their employees will not have to put up with drunken behaviour, whether they are serving in a shop or driving a bus. It is important thereafter that the police take such incidents seriously—they do—and that the Crown prosecutes appropriately, drawing all the aggravated factors to the attention of the court, and that the court acts appropriately.

It is a matter of each and every one of us playing our role so that people feel that crime has to be reported and that such behaviour should not have to be tolerated and that action will be taken. As I said, I believe that public transport employers have taken that on board. I think that the same approach should be taken across the board, but I have no doubt that almost all good employers will do that as a matter of course.

**Gavin Brown:** You say that employers are taking that message on board. I concur with you in regard to the attempts that Lothian Buses is making to address the issue. Unions and many others in the public sphere are pushing the message hard, but there is still an issue, as I think that you said that you accepted. Everyone is doing what you have suggested. You say that the police and the Crown Office are taking the matter seriously, too, but there is still an issue. The committee was told in evidence that last year front-line workers were subject to in the region of 30,000 incidents, and that was the evidence of just one union, which did not cover a variety of other professions.

Given that that is the extent of the issue, if we are already doing everything that we can to take it seriously, what else can be done to ensure that it ceases to be an issue? Something has to be done. You accept that there is a problem, but you do not think that the bill will solve it. What will solve it?

**Kenny MacAskill:** Two things spring to mind. First, there needs to be a culture change—people must recognise that such behaviour is just unacceptable. Following on from that, those who have the statutory powers and responsibilities require to act and the police require to visibly enforce them. As a Government, we have ensured that we have record numbers of police officers. The prosecution authorities require to drive home the message in the courts. We must ensure that those who have the statutory duties and responsibilities act accordingly. The Crown has been in touch with the committee, and I think that it has made it clear that it takes the issue extremely seriously. The police have done the same and I support them in that.

Secondly, we must tackle the root problem. At the end of the day, 50 per cent of the prisoners

who responded to a Scottish Prison Service survey last year said that when they committed their offence, they were under the influence of alcohol. I do not know about the specifics of the evidence that was given to the committee, but I have no doubt that of the 30,000 incidents that you mentioned, a significant proportion—probably a majority—were perpetrated by people who were under the influence of alcohol.

**Gavin Brown:** I am sure that you are right about that. Could a bill such as the one that we are considering play a part in bringing about a change of culture?

**Kenny MacAskill:** A bill that was more tightly focused could. I think that the Protection of Workers (Scotland) Bill is in danger of undermining the benefits of the 2005 act. Lewis Macdonald asked whether we could extend the provisions of the 2005 act. Yes, of course we could, but my one worry about the bill is that we might extend provisions to such a point that only a small minority of people would not be covered, and that would undermine the focusing and targeting that I referred to when I mentioned the position of Lord Boyd back in 2004.

There is an issue. The bill is well intentioned, but I do not think that it would add anything to the law; it would simply replace the common law with an act of Parliament. The danger in trying to provide protection for such a wide number of professions is that we might undermine what we tried to do in focusing on specific professions that we all know sometimes act as a magnet for ne'er-do-wells.

**Gavin Brown:** One of the other points that you made was that the Crown would argue that it takes such incidents seriously. Does it?

**Kenny MacAskill:** Yes, it does. To be fair to the Lord Advocate, I know how much she and the Solicitor General for Scotland are exercised by such matters. As the Cabinet Secretary for Justice and someone who spent 20 years as a defence agent, I have to say that the Crown does take such incidents seriously. The Crown will make quite clear the circumstances of the case, because the court would want them to be brought to its attention. Was the accused under the influence of alcohol? What was the nature of the offence? It would be brought home that the victim was driving a taxi, working in a shop or going about their lawful business as a bus driver when the accused came up and did whatever.

**Gavin Brown:** The difficulty that we have is that even though the Crown Office and you say that such behaviour is treated extremely seriously and is unacceptable, we have evidence to the contrary from unions and workers. One worker gave us details of what happened to him. A number of

organisations have told us that these incidents are not taken seriously at all and many of their people simply do not bother to report them any more, because they do not think that there is any point. Do you have empirical data or evidence to support your assertions that such incidents are treated seriously?

10:15

**Kenny MacAskill:** No. Such data are collated by the Crown, which, to be fair to it, can act only on what is brought to its attention. That normally happens by way of a police report and, on matters of police reporting, you will need to take evidence from the Association of Chief Police Officers in Scotland. All I can say is that, from my experience with and knowledge of the police and the instructions that they get from the Crown, such incidents must be collated and reported. We can make inquiries with the Crown and the police for you, if you so wish, but my understanding is that they are taken seriously and acted on. It is a matter of regret to the police and the Crown when such incidents are not reported, even if, because of a lack of witnesses or whatever else, a prosecution might not have been pursued. I certainly know that the police would rather that the matter was reported because they can begin to work out a pattern or identify the offender as, say, the person who has been doing the same thing to other individuals on previous nights. As I say, I am more than happy to go back to the Crown and police on this issue but, as Mr Gibson has correctly pointed out, there comes a point at which you have to wonder what you can do with such information.

**Gavin Brown:** The information is quite important, because a clear distinction has been drawn here. On the one hand, one group is saying that many of the 30,000 incidents that take place are not taken seriously, while, on the other hand, you and the Crown are saying that they are. Both positions cannot be right—they are clearly contradictory—so if you can make the inquiries that you have referred to and get us the information, that would be a huge help.

**Kenny MacAskill:** I am happy to ask the Crown and the police about the information that they can provide on incidents of which they have knowledge that fall within the bill's domain.

**Ms Wendy Alexander (Paisley North) (Lab):** I think that there is common ground on some issues. For example, we agree that certain occupations are a magnet for these difficulties, that some of those occupations are covered by existing legislation and that other occupations—such as train guards, taxi drivers and bus drivers—that also act as a magnet are not covered. However, you have argued that the

danger of extending current legislation to cover the other magnet occupations, or of introducing new legislation to extend that reach, is that only a handful of occupations would be left uncovered, and that the bill's essential weakness is that it is too wide and deep and includes everyone.

I am seeking evidence from the Scottish Government on that very matter, because I note that there is no attempt in your submission to define how many of the population would be covered by the bill. In the course of the work that it has undertaken in reaching its view, has the Government carried out any work to back up the assertion that only a handful of occupations would not be covered if the bill were to proceed? In fairness, that is not my reading of the bill, but I accept that I need to see some evidence and simply wonder whether the department in question has carried out any analysis in that respect.

**Kenny MacAskill:** I am giving evidence not on my bill—a Government bill—but on Mr Henry's bill. I accept that the Government has certain obligations, but usually it is the proponent of the bill who states how matters stand. I suppose that it all depends on whether you accept Mr Henry's proposal or certain submissions suggesting that the legislation be extended to the self-employed. If the committee is minded to accept that extension, it will have to accept the subsequent and significant deepening and widening of the provisions. I cannot answer your question without knowing just what the proponent of the bill is targeting.

**Ms Alexander:** You asserted this morning that a shortcoming of the bill was that only a handful of occupations would be left uncovered. Given that that argument does not feature in the Government's submission on the pros and cons of the bill, do you have any evidence to back it up?

**Kenny MacAskill:** My assertion is based upon what Mr Henry and you have said, and the evidence that has been submitted to the committee. Evidence has been given that the provisions should be extended to include the self-employed. In your two questions, you mentioned bus drivers, train drivers, shop assistants and taxi drivers—where is the line to be drawn? It is not for the Government to draw that line in a bill that does not belong to it. If you accept the logic of the evidence that has been submitted by those who support the bill, I suggest that it is fair to hypothesise that we have probably included a significant majority of the working population of Scotland.

**Ms Alexander:** The Government has been helpful in providing information so far. The bill provides a definition. The Government is well placed to provide some estimate of how many people it believes would be covered by the

definition and that would aid the committee in its deliberations. It is, of course, up to the Government to decide whether it wishes to assist the committee by providing the figure for how many people it feels would be covered by the definition. I leave it on the table as a piece of information that would be helpful to the committee as we pursue the bill, and perhaps the Government can reflect and come back to us.

**Kenny MacAskill:** I am happy to provide that information, but the committee will have to tell me whether it wants me to include the self-employed, just those who are mentioned in the bill, or people more widely than just those in the bill. For the Government to be able to answer Ms Alexander's question, it would require to be formulated in a legitimate way.

**The Convener:** Cabinet secretary, we can take evidence only on what is in the bill. Obviously if you want to respond to any of the evidence that the committee has received, that is a matter for you. If we consider amendments to the bill at stage 2, and you want to bring forward supplementary evidence at that stage, we will be happy to see it, but at the moment, we want information that is specifically related to what is in the bill. It is entirely up to the Government if it wants to provide any additional information.

**Kenny MacAskill:** We will happily do what we can to provide information about the number of the working population of Scotland that will be covered.

**Stuart McMillan (West of Scotland) (SNP):** The bill is about the protection of workers, but the definition of worker is quite varied, to be honest. As I read the bill, a chief executive who does not own a company but is employed, a marketing manager, or anyone who is involved in a company at a senior level would be protected if they were involved in some kind of public consultation with the community, whereas the people who work for them, such as on the shop floor of a shipyard or an engineering works, would not be covered by the bill. Is that fair?

**Kenny MacAskill:** That is my understanding of the bill. Section 1(3) defines a worker as

"a person whose employment involves dealing with members of the public, to any extent",

so the scenario is as Mr McMillan suggested. The chief executive who engages with the public from time to time would be protected, but someone working down in the back office would not be.

**Stuart McMillan:** I raised the point with a panel that was before the committee a couple of weeks ago. The bill would not be so much about creating a two-tier system as a three-tier system. We already have the emergency workers legislation,

and the proposed legislation would bring in protection for many people within society, including senior management, but not workers in factories, who would not be covered. It would be understandable if those who work in factories or shipyards, and so on, felt left out.

**Kenny MacAskill:** That is a reasonable interpretation.

**Stuart McMillan:** I have another quick question. The bill suggests that certain evidence could be uncorroborated. Is that a laudable aim, or would it create more difficulties?

**Kenny MacAskill:** That is fundamentally a matter for the Crown. It would certainly be a significant change from what is normally viewed as necessary in Scotland, but we are coming into uncharted waters with the case of *Cadder v Her Majesty's Advocate*. However, the provisions in the bill do not reflect what would normally be required in terms of corroborated evidence.

**Stuart McMillan:** Thank you.

**The Convener:** Briefly, Chris Harvie—I am sorry but we are very short on time.

**Christopher Harvie (Mid Scotland and Fife) (SNP):** One point that has not been raised is the protection of the front-line worker from his own management. I have just received a letter from a lady who, along with 50 or 60 other people, had to stand all the way from Markinch to Edinburgh on a train that was supposed to be five carriages but turned out to be three. There was a very nonchalant response from the general manager at ScotRail, but let us imagine the position of the staff, who were caught in the situation in which they found it impossible to check tickets or move people on the train.

There seems to be a situation that is not covered by common law or the bill as it stands in which staff are put unnecessarily in a front-line position—if we added in intoxicated passengers or something similar, such staff would be in a very difficult situation. What should be the redress in the case of a management that accepts that people have to stand in great discomfort for an hour-long railway journey?

**Kenny MacAskill:** I have a great deal of sympathy for staff in those situations. Primarily, it would be a matter for health and safety at work legislation, which is obviously reserved to Westminster, although we would expect it to be the first port of call to ensure that those who are doing their daily job are not put in a situation that is damaging to them, either through the circumstances or because of the people they might meet. Equally, there is employment legislation about ensuring that people have a right of recourse and redress. Fundamentally, it is a

point of health and safety rather than the criminal law. As with all these things there are interpretations and grey areas, but it is a matter of health and safety at work.

**The Convener:** I am aware that you need to get away, cabinet secretary, but I want to ask briefly about the verbal abuse of workers, which has been raised by a number of people in evidence. Do you think that Hugh Henry's bill covers verbal abuse and, if not, do you think that the provisions on threatening and abusive behaviour that are brought into force today under section 38 of the Criminal Justice and Licensing (Scotland) Act 2010 would cover that?

**Kenny MacAskill:** You would probably be better to ask for a proper legal opinion. Our view is that Hugh Henry's bill is driven towards dealing with assault. Can an assault be non-physical? You would probably find that the Crown will argue that there are circumstances in which that can be the case—if somebody is up in your face, almost spitting or whatever. However, I would hazard a guess that that definition would not cover some of the abuse that is generated at a bus driver as somebody jumps on or off the bus and which is unpleasant and sometimes threatening and intimidating.

There are circumstances in which an assault can be non-physical, but it would certainly diminish the purpose and intention of the bill if it could not deal with the drunken lout shouting at the shop assistant if there was no specific threat of violence. There are difficulties in covering the points that Mr Brown correctly made about workers who feel threatened and intimidated perhaps at a lower level—although I do not like to use that terminology because it all depends on the individual. However, there is a significant gap in the bill.

**The Convener:** The other question was whether the provisions on threatening and abusive behaviour in section 38 of the Criminal Justice and Licensing (Scotland) Act 2010, which were referred to in news reports this morning, would cover non-physical threatening behaviour.

**Kenny MacAskill:** Section 38 of the Criminal Justice and Licensing (Scotland) Act 2010 was brought in to cover domestic violence and its provisions are meant for different circumstances. I would have thought that the common law of breach of the peace would cover non-physical abuse. There are some circumstances that would not necessarily be covered by the bill. Mr McMillan referred to somebody who works in the back office, where there is limited public contact, whereas the definition in Mr Henry's bill relates to public-facing workers. I think that dealing with verbal abuse would be about better enforcement of breach of the peace.

**The Convener:** Thank you for coming in, cabinet secretary. I appreciate that the timing was inconvenient because of our change of plans.

10:30

*Meeting suspended.*

10:33

*On resuming—*

## Enterprise Network Inquiry

**The Convener:** Item 2 is to continue taking evidence for our enterprise network review. Today's panel of witnesses will focus on the transfer of economic development and regeneration responsibilities to local authorities. Before we move to questions, I ask members of the panel briefly to introduce themselves and to make some opening remarks.

**Anil Gupta (Convention of Scottish Local Authorities):** I am the team leader for a grouping of officers in the Convention of Scottish Local Authorities who manage enterprise functions, among others. Also in my team are the three members of the business gateway who were transferred from Scottish Enterprise. We are currently in the process of filling in the team, to draw in additional capacity. I apologise for our late submission of information. We only recently concluded the survey that is appended to our written submission. I pass on apologies from Alison Hay, who has business in her ward.

**Jim Galloway (City of Edinburgh Council):** I am the business growth spokesman for the Scottish local authorities economic development group. I am also a member of the business gateway Scotland board. In my day job, I am the head of enterprise and innovation at the City of Edinburgh Council.

**Robin Presswood (Fife Council):** I am the chair of SLAED. My day job is managing Fife Council's economic development function. I am on the board of the national business gateway unit. I am a non-executive director of Impact-21, which is the deliverer of the business gateway contract in Fife.

**Ronnie Smith (Business Enterprise Scotland):** Good morning. I am the executive director of Business Enterprise Scotland, which is the organisation that represents the enterprise trust movement in Scotland. Most of our members are business gateway contractors, although that is not all that enterprise trusts do.

**Jonathan Levie (University of Strathclyde):** Good morning. I am a reader at the Hunter centre for entrepreneurship at the University of Strathclyde.

**The Convener:** Thank you for those introductions. In its submission, SLAED states:

"one of the unintended consequences of the review is there has been a considerable reduction in local economic development expenditure".

I invite the panel to comment on why that is the case and on its implications.

**Robin Presswood:** We do not have precise data on the issue. However, when taking evidence, the committee has identified the substantial reduction in expenditure on Scottish Enterprise and Highlands and Islands Enterprise that has taken place.

There is no evidence that local authorities have made significant cuts in their budgets to date—indeed, there has been a small inward transfer of local economic regeneration funds and the full value of the business gateway contracts—but, overall, the pot that is available for economic development across Scotland has reduced considerably. Both to assist the committee and to inform its own inquiries, SLAED is trying to get a national picture by amalgamating all national agency spending with an updated position on local authority spending. We hope that, before the committee concludes its inquiry, we will have made a supplementary submission that gives a national picture of what is happening. We are in the process of surveying all 32 member councils, so that we can be clear about what is happening in their 2010-11 budgets. Hopefully, we will be in a position to submit that information by the end of the year.

**The Convener:** Will you confirm that, in your view, the issue is not that moneys that have been transferred from the enterprise networks to local authorities, as part of the changes in functions, have not been used by local authorities for economic development but that, rather, the overall pot that is available has reduced? Are you saying that local authorities are still spending the same amount but the overall pot that is available is smaller?

**Robin Presswood:** In general terms, that is correct. The COSLA survey is helpful. Anil Gupta and his colleagues have spoken to each of the councils to clarify the position on resource transfer moneys. That information is included in COSLA's submission, so you can drill down into how each council has invested the money. The business gateway transfer was fully funded, and the money from that is being used fully for the business gateway.

**The Convener:** Does Anil Gupta wish to add to that?

**Anil Gupta:** No. Robin Presswood has set out the position that we have established with our members. In some areas, transferred regeneration moneys were not allocated immediately. Because local government finance is not restricted to a 12-month spending period, quite a lot of the money is being held in reserve while plans are put in place for expenditure of the regeneration moneys.



**The Convener:** In its submission, SLAED goes on to say that there is

“significant variance in investment between comparable authorities.”

Could you expand on that point?

**Robin Presswood:** Local economic development is not a statutory function of councils, so provision will have been driven by historical need and the political priority that different administrations have given to it historically. SLAED has tried to bring an element of consistency to professional practice. We are developing a series of guidance notes to ensure that each council is aware of best practice and we have developed a series of national performance indicators to enable us to compare and benchmark council activity, so that we can see how effective councils are. The indicators will—I hope—be introduced as part of the 2011-12 single outcome agreement round. There is growing professional consistency in standards and measuring, but it is right that different councils invest resources differently in those functions, because areas have different needs. The needs of a prosperous rural area might be completely different from those of a more deprived urban area.

The SLAED survey, which was carried out in 2007-08 and published in 2008, gave a national picture. The private version of that, which was shared with local authority chief executives, revealed the spend by individual councils but, for obvious reasons, we did not publish that. It is very much for councils to determine how appropriate it is to resource their expenditure on economic development.

**The Convener:** For clarification, does the variation to which you referred in your submission relate to the pattern of how local authorities have treated economic development historically, rather than being the result of changes that were introduced after the 2007 review?

**Robin Presswood:** Yes, that is correct.

**Rob Gibson:** I am interested in considering issues to do with the business gateway and business support on an all-Scotland basis. I represent the Highlands and Islands. In the submission on local government economic regeneration, it is suggested that business start-up rates have increased. What sort of businesses are we talking about? Is the picture patchy? There has been much talk about the figures for business start-ups getting worse.

**Jim Galloway:** During the two years since the business gateway was transferred, the performance of the programme has, in many ways, matched typical performance of an economy in a recession, with increased numbers

of business start-ups. The concern is to identify businesses that have the potential to grow. There has been an increase in small businesses and micro-businesses, including many lifestyle businesses. In a recession there is often a push towards self-employment among people who have lost their jobs.

**Rob Gibson:** It has been suggested to us that cities are the drivers of the Scottish economy, although that is open to interpretation. Are there more start-ups in cities than in small towns and rural areas, as a percentage of the total?

**Robin Presswood:** I take a snapshot figure, which might not be a good indicator but does not seem to suggest a greater focus on cities than on rural areas. If we compare the figures for Highland in August 2009 and August 2010—the August 2010 figures are the most recent ones to be made available by the business gateway national unit—we can see that there has been an increase from about 50 starts to about 80 starts. There is some evidence that the increase is a countryside phenomenon.

**Rob Gibson:** Does Mr Levie have a view? Entrepreneurship in Scotland needs to be underpinned, as is clear from the statistics.

**Jonathan Levie:** I think that what you have been hearing about—please correct me if I am wrong—is statistics on businesses that have been assisted in some way by the business gateway. There is a big difference between the number of start-ups in Scotland every year and the number of start-ups that are assisted by the business gateway. There are roughly 20,000 start-ups in Scotland each year, but only about 10,000 of those are assisted by the business gateway.

The year 2009 was quite unusual. Many entrepreneurs found that they could not get money from banks or from friends and family, so where did they turn? I suggest that they turned to the state, through the business gateway, for example. That may be a reason for the increase in activity that the business gateway saw, but that does not mean that there was an increase in business start-up activity throughout Scotland. We just do not know yet—I think that we will know at the end of the month—the official figures for start-ups based on pay-as-you-earn and VAT data. What we do know is that the overall business stock in Scotland declined in the year to March 2010 by 0.8 per cent. That is not as bad as the position of the overall business stock in the United Kingdom, which declined by 2.5 per cent. I think that we had an unusual situation in 2009.

10:45

**Rob Gibson:** Given the recession, we would expect such a situation.

**Jonathan Levie:** Yes.

**Rob Gibson:** It would be useful for the committee to have those figures as soon as they are made available.

**Jonathan Levie:** They will be available at the end of the month.

**Rob Gibson:** With some sort of analysis. Do you analyse them when they are made available?

**Jonathan Levie:** I can certainly do that.

**Rob Gibson:** You can provide us with those figures.

**Jonathan Levie:** Yes.

**Rob Gibson:** It is interesting that we talk about lifestyle-type employment and people trying to find themselves work at this time. Of course, the idea of the business gateway is based on a time when the economy was expanding and it would have had a bigger part to play in encouraging a wider range of people to take part. We have heard about the effects of the recession. Do you think that, if the economy had been on the up and up, more people would have set up their own businesses and had access to banks and therefore would not have needed the business gateway? Mr Levie has suggested that, at the moment, probably only half are using the business gateway to get their start-up.

**Ronnie Smith:** Could you run that question by me again? I am not quite sure what you are trying to get at.

**Rob Gibson:** We have identified that the business gateway is providing support for perhaps half of the people who are starting up businesses at the moment. When the business gateway was created, the economy was on the rise. Would you have expected the business gateway to have underpinned half of all start-ups or fewer at that time? People would have had access to finance and so on.

**Ronnie Smith:** A lot of health warnings come with this. The business gateway is not just about start-ups, although those are what it is most obviously associated with at the moment. You are correct in saying that the business gateway model was designed in a different world. One of the pains of the past two years has been to shift that model from a period of considerable growth into the mess that we have had for the past couple of years.

You would expect me to say this, so I issue a health warning about this as well. I think that businesses that start with the support of the business gateway have a much better chance of long-term survival. There will always be a requirement for a national service for people who want to set up in business. The main client group for start-up services at the moment is—as has

been suggested by my colleagues—those for whom self-employment is a valid option at a time when the level of unemployment is high, and it is rising at the moment. We have many people who are considering self-employment per se and lifestyle-type businesses. The issue that the business gateway faces at the moment is that there has been a reduction in the number of people who are setting up businesses that are likely to become the more substantial type.

You asked whether we would ever get to a situation in which we did not need a national service—I think that that was the nub of your question. Personally, I do not think so. I see the benefits every day of people being supported and learning about entrepreneurship and how to run their businesses. That makes a significant contribution.

There are 20,000 or so start-ups, but nobody really knows the number of start-ups in Scotland. I caution you not to believe the clearing bank statistics, which are pertinent only to the clearing banks and, as we all know, quite a few people who are considering borrowing lost confidence in the clearing banks, hence the plethora of alternative lenders. Also, the proportion is not a straightforward 50:50 split. The people who want to start up in business nowadays seem to be looking to the business gateway for support.

**Robin Presswood:** The point about access to funds is very important; it is one of the areas in which there has been more activity through the business gateway. Three years ago, a firm that was starting up would not have needed to seek public sector loan funding, but it has become difficult for small businesses to access funding through the banks. Local authority-led loan funds have come into their own, and we have taken the opportunity to significantly increase the range of loans available by creating the east of Scotland investment fund as a sister organisation to the west of Scotland fund.

The demand for and take-up of those products has clearly increased as a result of the recession. That reinforces the transfer in large part of responsibility for the business gateway to the local authority, as it enables closer links with local authority-led lender-of-last resort-type funds.

The figures that we publish reflect actual interventions—either one-to-one or one-to-many interventions—with businesses. They exclude the self-help tools that are available through the business gateway's website, which are well used and well respected, and which reveal a much broader ability to engage with the client group.

**Jim Galloway:** There is strong evidence to suggest that local authorities, in their new role in shaping business gateway services at a local

level, have put in place measures to help businesses in the recession.

Those measures include refocusing the business gateway workshop programmes to cover survival as well as growth, and linking the gateway to some of our employability measures so that those who are coming out of the market through job losses can link into opportunities through self-employment.

There has been a broadening of the small business markets to cover national, international and web-based trading, and local authorities are now able to focus on those parts of their local economy in which they feel there is the greatest potential for growth.

**Rob Gibson:** There are a lot of things that I want to follow up, but other members might want to ask those questions.

You say that you have helped businesses to survive, which it is obvious that businesses must do in a recession. Do you have any figures on the success of that type of intervention on your part?

**Jim Galloway:** It is early days but, going back to what Ronnie Smith said, I note that our figures indicate that 78 per cent of the businesses that are supported by the business gateway are surviving after three years' trading, against the Scottish average of 64 per cent.

**Robin Presswood:** That is an important example of the role of the business gateway. We would be happy to work with Ronnie Smith to carry out a survey of the contractors.

Wearing my hat as a director of Impact-21 in Fife, which delivers the gateway contract, I know that in a significant number of businesses—I would not like to say precisely how many—the staff of Impact-21 have taken a detailed company doctor-type approach. They go in and try to turn around a business that is in a significantly challenged financial position. A number of those interventions have been very successful; I would estimate that up to 100 jobs have been saved through projects that I have been involved in, or made aware of by the staff of Impact-21. There is good evidence from a Fife perspective, but I would be happy to collaborate in a joint survey of all the contractors.

**Gavin Brown:** Ronnie Smith talked about the clearing bank statistics. Those banks put out stats about three weeks ago that suggested that start-ups were down by 8 per cent, but that figure was rebutted by the business gateway in the various articles that I read.

Can you expand on the reason for your health warning on the clearing bank statistics?

**Ronnie Smith:** I am happy to do that. The clearing bank statistics are, funnily enough, the statistics of the clearing banks. There are four of them—well, there are three if we regard Lloyds TSB and HBOS as being the same business. The statistics refer to start-ups only in terms of the new accounts that have been opened; they do not go outwith that. Six, seven or eight years ago, that was probably a valid statistic, but there has since been a sea change in the lending options that are available to Scottish businesses. There is no question but that, although the banks have worked quite hard to get their reputations back, the four high street clearing banks have suffered quite badly from poor opinion on the part of small to medium-sized enterprises in particular.

**Gavin Brown:** Your view is that, six or seven years ago, that figure would have been a pretty good indicator as to how start-ups were doing.

**Ronnie Smith:** It would have been a most significant statistic.

**Gavin Brown:** Now, though, because businesses are going elsewhere to open accounts or to get funding, a high proportion of start-ups will not be included in figures from the four clearing banks.

**Ronnie Smith:** I would say that that is the case. You will get varying views depending on which bank you speak to, but the lending policies of the banks have been to move away significantly from anything that is tinged with any kind of risk. There is clear evidence from the business gateway that the high street clearing banks in particular are only now beginning to loosen up their lending criteria. They had been turning away start-up businesses—that is the bottom line.

**Gavin Brown:** I am interested in the views—brief views, anyway—of each panel member on a more general theme. The business gateway contracts and the business gateway function were transferred from Scottish Enterprise to local authorities two and a half to three years ago. It is difficult to judge the success or otherwise of that reform, as an enormous number of things have happened in the interim period, but, drawing on evidence or just your own gut feelings and experience, do you think that it has made things better or worse, or have things stayed about the same—trying to discount the enormous financial difficulties that the country and businesses have faced? Based on your experience over the past couple of years, are things better, worse or roughly the same?

**Ronnie Smith:** What answer do you expect when I am sitting beside three guys from local authorities? Humour is always a good thing in these situations, I have discovered.

I cannot discount the major economic tremor of the past two or three years. We are not comparing apples with apples. If I had been asked at the time whether it was a good thing to move the business gateway away from Scottish Enterprise, I would have said emphatically no, it was not—we did not need that disruption. However, the economic circumstances that developed immediately after that changed our situation radically. The business gateway model was, until very recently, entirely designed to support a growing economy, and the contract was designed in such a way that companies that met particular growth criteria had to be sought out. With those companies being fed to Scottish Enterprise to become account managed, the whole thing was a production line—a growth pipeline, as it was called.

The way in which the local authorities have embraced the change has been a bit of a revelation, although there have indeed been some difficulties. My view is that when an administration starts to interfere with the delivery process, something is wrong, but in fact the business gateway network across Scotland in its current form is much more finely tuned to the differences in local circumstances and in the economy, now that we are in a period of having to fight for recovery.

Although that might be a somewhat diplomatic and political answer, unfortunately—we are not comparing apples with apples—as far as contractors are concerned, my members are generally very happy with the current situation, and the last thing we are looking for is a major structural changes as a result of either your work or anybody else's work in the Parliament.

**Robin Presswood:** The reform has been a success from my perspective, but we should remember that it was not a full transfer. At the national level, the business gateway remains a partnership involving Scottish Enterprise, Highlands and Islands Enterprise and the Scottish Government, with COSLA taking the lead role in running the national unit and with individual local authorities being represented through SLAED. That is a mature position for Scotland to end up in, with Scottish Enterprise still running the inquiry fulfilment and research centre and the call-centre side of things. The marketing is led by the national unit, which is run through COSLA, as I have just said, with local contracts delivered by the lead local authorities. That is the first point: it is a mature partnership; it has not been a wholesale transfer.

11:00

Secondly, we know that the reform has been a success because the results and—from what I have read in the submissions—the feedback from

the business associations from which you have taken evidence have generally been positive. We have also been able to fine-grain polish it to integrate it fully with local authority activities, which Jim Galloway will say more about.

However, I have two health warnings for the future. First, a number of respondents to the inquiry have highlighted what they perceive to be a gap between the business gateway and Scottish Enterprise. As our response makes clear, more polishing needs to be done and we must try to close the gap in the crossover between account management in other Scottish Enterprise products and the business gateway suite of products. In that respect, we suggest that there should be formal tripartite liaison in each local authority or contract area to ensure that there is a formal mechanism for agreeing transfer, no overlap or duplication and no gap between the different partners.

My second health warning is that we are coming up to the end of the current contract period in 2012 and, as we make clear in our evidence, it is essential that we work jointly on the post-2012 scenario for the delivery of business gateway services. To that end, we are working jointly with Scottish Government, COSLA, Scottish Enterprise and Highlands and Islands Enterprise to commission a study of the various options.

**Jim Galloway:** The 2007 reforms to the business gateway presented local authorities with a number of challenges. For example, we had to promote greater cohesion between the business gateway and local services, improve customer experience and develop the business gateway as a true partnership, and, as we have strongly indicated in our written submission, our approach in that respect has been a success. The transfer has promoted business growth as a key budget priority for economic development services across local authorities and has resulted in the commitment of a further £9.5 million to align local authority activities with the business gateway and add value to the contract.

Local authority economic development offices are entrepreneurial in nature and have been successful in leveraging in further European funding in the region of £14.5 million to complement business services. Drawing those services together has created a broader range of services with business gateway at the core, and the local authorities are able to bolt on services to meet local needs. Customer satisfaction with the service stands at 91 per cent, which I believe is very good, and it is important that we maintain that core service and local authorities' ability to bolt on additional services.

**Anil Gupta:** Aside from COSLA's responsibilities for the transferred staff, we have

put in place arrangements to ensure that the process is properly informed by work at a local level. My submission refers to the board in which we are all involved, but I have to say that I think that it provides a very useful opportunity for joint working between the main stakeholders—Scottish Enterprise, the Scottish Government and local government—and indeed has brought very important benefits for us all. Other work, which has involved lead officers and representation from the HIE area, has been useful in bringing to the surface common problems that councils are facing and informing action that has been taken. Work involving the European regional development fund, the sub-growth pipeline and the east of Scotland investment fund has benefited greatly from the discussions that have taken place and the stakeholder groups, which form the last major element of the committee structures, have been useful in securing the industry's views and feeding them into the process.

**The Convener:** Ronnie, in your last response you mentioned being diplomatic. The written submission from Business Enterprise Scotland is slightly less diplomatic. It states:

"The process of getting acceptance for clients into the 'pipeline' and subsequently into Direct Relationship Management by SE has been more complex and burdensome than anticipated ... With the development of a new approach to marketing SE's products and services directly to the customer, there are even suggestions that SE is 'competing' with BG".

You say that, while the inquiry fulfilment and resource service

"continues to be the recipient of the majority of enquiries arising from BG marketing, its primary purpose now appears to be servicing the promotional objectives of Scottish Enterprise and its various functions and indeed BG referrals are simply the enquiries that SE does not want to deal with directly."

Those seem to be quite critical comments about the new relationship. Will you expand on them?

**Ronnie Smith:** I have to say that I thought that they were quite diplomatic.

Robin Presswood has referred to this already. The inquiry and fulfilment service is still within Scottish Enterprise. There has been quite a move. The original model for the business gateway was that it would, funnily enough, be the portal for all business-related inquiries. We have moved significantly away from that. The tone of much of what we said in the BES submission was born of our members' feeling that Scottish Enterprise does not market itself in close partnership with the business gateway. There is still an issue about where and how inquiries are dealt with.

The original model for the inquiry service was that it was set up to service the business gateway. That has changed and evolved. I fully accept that

these things happen. The inquiry service no longer services the business gateway, which is the minority contract in terms of its service level agreement through COSLA. The inquiry service, which was set up with business gateway money—he said without bitterness—is now servicing a different part of the marketplace.

One of the key things that annoys BES members is the fact that there is relatively poor alignment—other than locally with councils, where there is a huge amount of alignment, which is one of the main benefits to have arisen from the shift. A number of different organisations in Scotland are involved in economic development and business support and their marketing is not co-ordinated. That particularly irritates people on the front line and at the coalface of economic development and business support.

**Lewis Macdonald:** That is an interesting point. It sounds as if the clarity around who does what in dealing with new businesses has been reduced rather than increased by the transfer. Is that a fair comment, given what you have just said?

**Ronnie Smith:** Our members believe that we have lost clarity over the past two or three years about who does what in the Scottish economy.

**Lewis Macdonald:** As I recall, part of the argument for transfer—and certainly one of the founding principles of the business gateway—was that it would create some clarity and give people who were starting up in business one point of entry to public sector support. Has that been diluted? Is that also the view of other panel members?

**Ronnie Smith:** I will give a straightforward answer, and I will be interested to hear what my fellow witnesses say. I think that the business gateway is recognised as the start-up service. A lot of the early marketing made an effort to establish that. The issue that BES members have is that the marketing is confused for the company side and for existing businesses—businesses that are trading and which are seeking public sector support, whether because they want to grow or because they are facing a survival issue. There are many examples out there of misleading marketing. You are quite correct that the original idea for the business gateway was that it would be the one focus for business inquiries and that businesses would be directed once they were through the gateway—that was the whole point. Scottish Enterprise developed and designed that model. Circumstances have changed and now that is not the case.

**Robin Presswood:** From my perspective, there is not a problem with where you go for assistance for start-up—you go to the business gateway. Other providers have commercial products on the

market, but for public sector assistance you go to the business gateway. As Ronnie Smith said, the problem comes at the top end. One of the written submissions—I think that it was from the Scottish Chambers of Commerce—talks about the ceiling of the business gateway programme and the floor of Scottish Enterprise. That is where the overlap is. In my comments, I focused on the need for proper co-ordination at a local level to ensure that specific companies with inquiries do not face confusion. They need to know where one organisation stops and what the handover process is. Ronnie Smith made a fair and valid point about marketing. We probably need to pick that up through the business gateway national board a bit more formally to ensure that there is no confusing marketing.

**Jim Galloway:** Mechanisms are in place through the business gateway board and through regional growth informal networks, in which Scottish Enterprise and the business gateway teams come together, to ensure that the system works well for referrals. In essence, there is a cultural difference between Scottish Enterprise and local authorities. The purpose of the account management programme in Scottish Enterprise is to support companies with the highest possibility of successful outcomes. It picks the companies that it works with carefully. However, in broad terms, there is a growing expectation that local authorities will work with the broader local economy and nurture businesses through the business gateway and other programmes. While the business gateway programme continues to be target driven, we will have people working towards targets rather than focusing on individual business needs.

**Lewis Macdonald:** Will you expand on that point about the target-driven approach rather than the business-need approach? What are you referring to? What is in danger of being too target driven and not closely related enough to what businesses require?

**Jim Galloway:** Because of the nature of our work, it is necessary to have a framework and structure that includes targets. As we have mentioned, when the business gateway contract was originally set up, there was a different economic climate. The contract is target driven, with targets for the number of business start-ups, the number of businesses that are supported to meet VAT targets to get into the growth pipeline, and then the ultimate, which is direct relationship management or account management. There are targets and payment points throughout that process.

It is right that we have structures to manage the programme, but they tend to drive behaviour, at Scottish Enterprise level and at the business

gateway contract level, so that it is focused sometimes on the targets rather than on the broader local economic development needs. One benefit that occurred as a result of the transfer of the contract to local authorities is that the target is a bit broader.

**Lewis Macdonald:** So it would be reasonable to conclude that the critical point in the history of the business gateway will be when the next set of contracts are let. I am interested in Mr Levie's views on that, too, because if Jim Galloway's analysis is widely shared, we might expect a different set of criteria to be applied in the contracts that are let in 2012 from those that local authorities inherited in the previous round.

**Jonathan Levie:** As you think about those contracts, you need to be mindful that, with local delivery of business advisory services, especially if finance is involved, there is a danger of local businesses capturing the local agency or individuals in the local agency. Targets provide a discipline.

It should be remembered that there is not much point in propping up with state funding businesses that are not going to go anywhere. The point of the enterprise agency system was to get more young firms to appear and go through the growth pipeline. There is a danger of slipping to assisting all companies that want help as opposed to companies that will create the most economic benefit to the nation.

11:15

There are possible advantages from a shift to local delivery through local authorities, some of which contract to contractors. One possible advantage is experimentation. I wonder about the extent to which some body—I would have thought that Scottish Enterprise would be the relevant body—is tracking that experimentation. Some experiments will work, but some will not. There is great potential for learning from the experience of the past couple of years, and I hope that some body is monitoring those experiments and learning from them.

**Jim Galloway:** I emphasise that I am not against targets per se. Targets are essential in providing a framework and mechanism by which people can understand what services they get, where they get them and the level of service that they should receive. I agree that local authorities can bring to the table additional services and additional funding through programmes such as ERDF. In Edinburgh, we have just won an Interreg programme bid to introduce innovation in small and medium-sized enterprises. Those additional services can provide experimental programmes that support business growth and focus on local

needs. However, the central framework is still needed.

**Lewis Macdonald:** Do you accept Jonathan Levie's point that what has been described as the local authority perspective on the business gateway is no longer focused on promoting growth companies, and is now about providing a safety net for local businesses in general?

**Robin Presswood:** No. From my perspective, that is not a fair characterisation of the changes that have taken place or the changes that will take place. We accept the fundamental principle of the business gateway contract, which is the separation of one-to-many services from one-to-one services. The one-to-many services will focus on volume start-ups, which are important. They are about creating a culture of enterprise in Scotland and are a good health check of the economy's general vitality, but perhaps they are not the most significant part of the range of support and assistance. The current contract's focus on businesses that have the potential to grow and create jobs is correct and will remain. We argue that we need to ensure that the targets are relevant to the objective of supporting growth businesses.

Some of the eight targets that were in the original national contract as negotiated do not provide a good proxy for supporting growth businesses. My personal view is that the VAT-plus target has not been an effective measure of growth businesses. As part of the 2012 review, we will certainly question whether that is a correct measure to include.

Does the contract allow enough capacity to help businesses in rescue situations? We spoke about that immensely important matter earlier. That is done tremendously well by the contractor in Fife, and I want to ensure that any future contract can support that. Does the contract adequately support investment by firms in going for regional selective assistance funding and innovation funding? We need to create a national contract post-2012 that supports growth and innovation in businesses and continues to support the volume of business start-ups, but in the services that people are asking for there certainly should not be a slipping down to the lowest common denominator. It is about driving and shaping those services post-2012.

**Lewis Macdonald:** On a national basis?

**Robin Presswood:** Yes.

**Jim Galloway:** A lot of the focus of the collective activity of SLAED and of the business gateway board has been to shore up and broaden the services that are available for business growth, so we are firmly behind support for business growth.

**Stuart McMillan:** My first question touches on what has just been said. We have already heard that the initial idea behind the business gateway seems to have changed because of the economic circumstances. Do you foresee the financial situation that we face resulting in a major change in the four or five years from 20 October 2010?

**Robin Presswood:** Economic development will not be immune to the financial problems in the broader public sector. There have been substantial cuts in the Scottish economic development budget over the past two years, and I am sure that ministers will reflect on that in setting appropriate budgets.

The obvious issue around the business gateway budget is the fact that we are contractually obliged to make payments to the contractor, including an inflationary uplift, so there is very limited ability to make cuts in the business gateway contract until 2012, when it is due for renewal. That will provide an opportunity for a joint review of what we are trying to achieve and of the level of investment that it is appropriate to put into supporting the business gateway, but my view is that there should not be any significant cuts until 2012, because we are contractually obliged to pay the contractor, subject to its meeting agreed outcomes.

**Stuart McMillan:** Has the abolition of the local enterprise companies and the movement to a regional approach reduced the ability of local businesses to have a voice in economic development?

**Ronnie Smith:** That is a tricky question. Yes, it has, but I would not like to comment on how big that reduction has been, because I do not know. The move from a regionally focused LEC network to a centralised one was hugely disruptive and caused all sorts of issues and challenges in our business that we are still coming to terms with. That is partly why there is a bit of a disconnect between what Scottish Enterprise does with businesses and what the business gateway does with businesses, but we are all working hard to try to resolve that.

The issue goes slightly wider than your question. Despite my boyish good looks, I have been in this business for quite a long time, so I have seen different evolutions of the same problem. It is extremely difficult to get a business perspective, because the SME community in Scotland is primarily an SME economy. It does not have a corporate view, and even using the business representative organisations, it will never be possible to get a corporate view of what SME Scotland thinks.

One thing that the LECs did was allow the business community to have board membership at

a local level. The loss of that has been responded to in radically different ways in different parts of Scotland. In our submission, we make the plea that, just occasionally, more prescription is better than less. We would like there to be some sort of local or regional set-up that allows businesses to participate in discussion and is, in effect, a vehicle for the interpretation of national strategy at local level. Has the abolition of the LECs adversely affected the ability to do that? Undoubtedly. Was that necessarily the complete solution? Probably not.

You ask a valid question. I would like that whole principle to be developed. We certainly favour some sort of national network of local enterprise representation.

**Robin Presswood:** Local authorities will respond to local circumstances. I will give the example of how Fife Council has tried to respond to its circumstances. The biggest impact has, of course, been financial. The abolition of Scottish Enterprise Fife has had a multimillion pound impact on economic development. On business engagement, the local economic forum was disbanded formally as part of the enterprise review, as was the LEC board, so two private sector-led entities disappeared.

We have responded to that by creating a very strong Fife economic partnership, which is entirely private sector-led. It is chaired by the private sector and by chief executives of the main firms in Fife. They drive strategy. They are not responsible for spending decisions, as that clearly sits with the council, but they are responsible for driving strategy and they have influenced our strategy very heavily and very beneficially for Fife.

You will find a number of such good examples. Some of them are multi-authority partnerships, such as Aberdeen city and shire economic forum, which is a great example, because it brings together the regional advisory board with the local authority-led partnership. There are good examples across Scotland of local authorities stepping in to ensure that the business voice is not lost, because it is immensely beneficial.

Some contractors have also tried to reinforce private sector representation on their board. I mentioned that I am on the contractor board in Fife. We have introduced three new private sector representatives on to the board and we propose to reduce the local authority representation on the board to try to get a more private sector-led animal.

Local authorities understand and value the business community's input, and we have taken measures across most of Scotland to ensure that that is not lost due to the removal of the LEC boards. You will have read the submissions from

various parties, and it is fair to say that the consensus seems to be that the regional advisory boards are less active and less prominent than the former LEC boards across the country, but they still make a valuable contribution and act as a bridge between Scottish Enterprise and the private sector.

**Jonathan Levie:** That is an example of the experimentation from which we can learn. There are other examples—I think that Stirling has one. We can learn from local experiments, select the best and try to implement best practice in all local authorities.

**Stuart McMillan:** It is probably fair to say that whenever a new system is introduced, it takes a wee bit of time for it fully to bed in and for people to get fully to grips with it. Would panel members change the current system or are you happy to keep it as it is and to continue to work at it to ensure that best practice is implemented throughout the country? Alternatively, would you want to go back to the system that existed prior to 2007?

**Anil Gupta:** In COSLA and among our membership, we want the bedding down process to continue.

It would be useful to see how the current arrangements—whether it is the existing contracts or the progress that is being made in the HIE area, where the new services will follow their own particular paths—collectively work over the coming period, so that we can feed that into the new environment in 2012. I do not think that there is any great nostalgia for what there was before.

**Ronnie Smith:** I agree with Anil Gupta: I am not sure that there is nostalgia for the previous arrangements, but we lost something quite valuable. Our members would be quite keen for there to be a consistent approach to a national strategy. Robin Presswood gave first-class examples of how local partnerships can work, and although I fully appreciate his point, the approach is not consistent throughout Scotland. I accept Jonathan Levie's point that variation and experimentation can lead to good examples, but sometimes you need a bit of structure and a capability. If we have a national strategy—and we do have a national strategy in Scotland—what is the local way of interpreting it? What vehicle do we use for all the local participants to come together to discuss how they will participate in delivering that strategy? We do not have a consistent model for that in Scotland.

It works the other way round, too. If the next version of the Government's economic strategy is to be valid and an evolution of what we have just now, the model will have to allow feedback from local areas to go back up the way. Local



partnerships are extremely important, and we take our hats off to the local authorities that have led them in the absence of the LECs, because someone had to step into the breach. We need to make that arrangement slightly more sophisticated now, and we are looking for something that says that every area in Scotland will have the capability for that representation and activity to happen.

11:30

**Robin Presswood:** I will highlight one area in which we are trying to pick that up and get a consistent approach, if not consistent provision, because resourcing is for individual authorities. I mentioned earlier that we work closely with the Scottish Government and the national agencies. We have identified a gap between the Government's economic strategy and local authorities. The strategy is high level, but it is down to the individual community plans and single outcome agreements to decide what is delivered at the local level.

We believe that there is a gap for some sort of local authority economic development framework that will look at what constitutes best practice in each of the different economic development workstreams. We have spoken to the national agencies and the Scottish Government about that gap, and there is a shared agreement that it would be sensible to fill it. We are working with the Scottish Government, the Improvement Service and COSLA to develop a local authority economic development framework, which will allow us to identify the best, share best practice, encourage people in individual councils to pick that up and take it on, and cover each of the main disciplines within economic development. We aim to conclude that framework within the current financial year. The Scottish Government has kindly agreed to provide funding, so we will start work on that fairly soon.

**Marilyn Livingstone (Kirkcaldy) (Lab):** Before asking my questions, I should say for the record that my husband works at the business gateway in Fife.

Robin Presswood spoke about the transfer of resources, which, speaking as a Fife member, I think has challenged us. He talked about a multimillion-pound reduction in economic development in Fife, and we have seen that. We know that the £12.5 million was transferred over, but, because of legal commitments, it was being done on a sliding scale. What impact has that had, and how much has actually transferred over?

One of the big questions that I have asked again and again of Scottish Enterprise and the Government is about what happened to the staffing resource. Away back, the committee was

told that there would be a staffing resource transfer, but that has not happened—or does not seem to have happened. I have two questions about that. One is about funding, and the second is about the loss of LEC expertise.

We know that the LECs worked in partnerships and so on, and we know how they worked in Fife. Fife Council has done an amazing job in trying to fill the gap, but I want to know what happened to staffing levels at a local level, and how COSLA views that issue at the national level.

**Robin Presswood:** The local perspective is always difficult because the LECs' budgets varied from year to year. In general terms, SE Fife had roughly £7 million a year to spend in Fife. About £1 million of that has been transferred to us to run the local business gateway Fife contract. Apart from that, we have received the transfer of only one—immensely gifted—member of staff who runs the business gateway contract, and the salary equivalent to fund that post.

Last year across the whole of Scotland, the annual resource transfer was £3.8 million as part of the recurring trickle-transfer approach. That is lower than it was in the previous year, but it will go up again during the current year. In Fife, that means that we had just under £300,000 of additional economic development budget. In broad terms, and once we take out management costs and the overheads that SE still bears, I would have thought that, given that last year we had about £300,000, the reduction in spend might have been of the order of £4 million in uncommitted activities that SE Fife used to discharge.

There has been a big hole for us to fill. We have had tremendous support from Fife Council's elected members in relation to resourcing, and we have made internal management changes, to free up more of my time so that I can act as one of the lead points of contact for the private sector.

We work immensely well with Scottish Enterprise. A key point that comes across in the submissions from SLAED and Fife Council is that partnership working with Scottish Enterprise is generally positive, although it is difficult for SE, because there are fewer staff and significantly smaller budgets for the type of engagement and partnership working that has been so successful in Fife in the past.

**Anil Gupta:** Members will appreciate that the lack of transfer of Scottish Enterprise staff has been reflected across the whole of the Scottish Enterprise area. As far as I know, councils have been getting resources to appoint the lead officers from among their own staff. That has gone okay, by and large.

As members know, three members of staff came over to the business gateway national unit to cover the three main functions. After a piece of research work that reviewed the unit's functions, we thought that, on balance, we needed more staff to come in. I think that that reflected the reliance of the original three members on some backroom services of Scottish Enterprise. We will try to re-evaluate how budgets are allocated, to try to squeeze in some additional staffing to carry that forward.

**Marilyn Livingstone:** The example that Robin Presswood gave of the £4 million reduction in spend in Fife was a good one. We have lost staffing as well, which was a huge resource. I am interested to learn what the overall reduction is, including staff. I do not know whether the witnesses can supply the figure. It would be helpful if we could find out what the actual reduction in economic development funding has been.

**Robin Presswood:** The committee can probably get the most accurate figures from Scottish Enterprise when it takes evidence from the agency. As you heard, I struggled a little with the Fife figures, and I am sure that my peers across the country would do the same for their areas, so it is difficult to piece together a national figure. Scottish Enterprise would be able to provide greater clarity.

**Marilyn Livingstone:** You mentioned how the call centre works. Issues to do with mixed messages and marketing have been raised with us. Does the panel think that Scottish Enterprise is the best place for the call centre to sit, given the restructuring? From what the committee has heard, that seems to cause issues.

**Robin Presswood:** There was a conscious decision, after COSLA and SLAED carried out a fairly detailed evaluation, that leaving those functions within Scottish Enterprise's management would represent best value. Otherwise, we would have had to separate out two small call centres, with two managers, two offices, two sets of procedures and protocols and such like. The added benefit of the approach is that it keeps Scottish Enterprise involved in the delivery of national business gateway services and in the national business gateway board.

I suppose that post 2012 will be the right time for us to reflect on the issue and consider whether there is broader evidence that the business gateway element of the contact centre has been downplayed. We would want to have more detailed discussions with Scottish Enterprise and I suspect that there will be a long-term change process rather than a desire for an immediate further round of structural change.

**Jim Galloway:** I agree. While the business gateway contract is delivered by us and there remains a Scottish Enterprise element to that, it is essential that there is one point of contact. Where that sits is currently less important than customers' experience when they phone.

It is important that customers have an 0800 number to phone, which they know will get them into the system. We just need to ensure that the information flows efficiently and correctly once it is in the system.

**Marilyn Livingstone:** I have two final questions that I hope will be brief. Further restructuring in Scottish Enterprise has had an impact on the regions. For example, in the east—part of which I represent—the business growth manager has not been replaced. The staff to whom I have spoken feel that a further Glasgow-centric approach is being taken. There has been restructuring and then further restructuring. When the local enterprise network went, we were all concerned that such an approach would be taken. My concern is about further restructuring and the loss of directors—although that is not the issue; the issue is the emphasis away from the regions and towards the centre. Will the panel comment on that?

**Robin Presswood:** It is not fair to say that the approach is Glasgow-centric. Having read Glasgow City Council's submission, I am sure that the council would agree with me. However, Scottish Enterprise has turned into a national agency. No regional management structures exist, other than a single regional director.

We have had to make the mind shift to accept that Scottish Enterprise is a national agency and to engage with it as such. Three years ago, most of our meetings with Scottish Enterprise were in the Glenrothes offices, whereas now, most take place in Scottish Enterprise Edinburgh, and a large proportion are in Scottish Enterprise Glasgow or with SE officials who come to meet us in council offices in Fife.

We engage with SE at the appropriate level, wherever that might be in the country. The situation can create practical housekeeping issues. For example, we spoke about the tripartite arrangements in relation to account management, but it is taking a little time to bed in the new management structures and to be clear about whom we liaise with, since the business growth director for SE east has left the organisation.

The issue involves bedding in. We must accept that SE is a national agency; we engage with it on that basis. The reduction in regional staff is not so much a policy decision as a resource decision that reflects the funding reality for the agency.

**Marilyn Livingstone:** Some submissions refer to the subject of my final question. It is obvious that we will face a round of cuts. Some nervousness is felt in councils about further cuts to economic development. Because economic development and the recovery are the Government's priority, it has been suggested that the funding should be statutory or ring fenced. That leads on to the new contracts for the business gateway. There is a lot of uncertainty across the board. As economic development is a Government priority, should we consider ring fencing funding for it or putting it on a statutory basis?

**Anil Gupta:** I will give the general position quickly. As you are probably aware, COSLA is generally not in favour of statutory duties on councils. However, we do not have a specific position on making economic development a statutory duty. Going down the statutory path might have dangers for councils. For example, a clear decision would have to be made about the level at which the statutory duty was applied. All councils have a fairly good understanding of the importance of enterprise to them, to local economies and to the local population. That is reflected quite well in their community planning partnerships.

The advantage in having a statutory duty is not immediately clear. If it were set too low, it could be made a bit easier to cut. That issue would arise in our approach to the general question whether we were for or against the proposal. If the duty were set quite high, other council budgets would probably be significantly affected at a time of cuts.

11:45

**Robin Presswood:** Marilyn Livingstone has neatly put her finger on the one issue on which COSLA and SLAED do not see 100 per cent eye to eye, although we respect COSLA's position on statutory duties. Our perspective is that John Swinney, in making the original statement on the review of enterprise functions, was clear that local authorities were to be the lead agency for delivering local economic regeneration. We believe that we are well placed to do that and we think that, in general, the reforms have been successful.

There is a slight inconsistency between that and not saying that economic development should be a statutory duty, but I absolutely accept the point that Anil Gupta made about the level of provision that would be required of councils. We could not just have a statutory duty—we would have to say that it involved X, Y and Z. However, that would present the danger that some councils might retreat from fairly high levels of provision on the basis that, because what they needed to do was

defined, they would do only that. Those are the types of issues that arise. The priority for us is to develop the framework and to be clear about what local authorities should be gently encouraged to do. We can find common cause with COSLA, the national agencies and the Scottish Government on that. That is the first and most urgent priority for us.

**Ronnie Smith:** Somebody must take responsibility. The baton on local economic development has been passed to local authorities, and it would be a reversal if they were not prepared to pick it up. Whether it would be right to have a statutory requirement—to make local economic development obligatory—is another discussion, but somebody has to take responsibility. As I said, economic development is a bit of a soft option. If we are not careful with the economic development and business support budgets, because the business community is not particularly vocal, it could be easy for some local authorities to decide not to spend money on that, because they will not have lots of people outside with placards saying, "Support our local business."

My point, notwithstanding what my colleagues from local authorities have said, is that if somebody is responsible for something, they should take that responsibility. With that responsibility, we should recognise that there must be clear provision, whether through ring fencing or otherwise, so that a budget is available. That will become particularly important beyond 2012.

**Christopher Harvie:** I am interested in the references to start-ups. At the moment, at least from my point of view, the industries and activities concerned are not very well defined. We have had many reports about activity on renewables, from laboratory into production. Has that area been reflected in the start-ups that come for assistance from local authorities through the business gateway?

**Robin Presswood:** A sectoral analysis is done, but I am not sure whether the figures are published. We will speak to colleagues in the business gateway national unit and supply any breakdown by sector that we can. In general, local authorities, the business gateway and Scottish Enterprise try to co-ordinate and plan on a key sector basis, and an effort will be made to work with the contractor and the local authority at the local level.

To take Fife as an example again, we will be carrying out specific programmes that are aimed at key sectors in Fife. The business gateway in Fife will deliver creative industries programmes, which is in line with the national emphasis on creative industries and our emphasis in Fife on that sector. In the future, renewable energy will become an increasingly important—perhaps the

most important—growth sector for communities such as Fife that are on the coast and so can benefit from it. The alignment takes place at local level reasonably effectively.

**Christopher Harvie:** So you cannot distinguish between, say, someone who comes to you with a bright idea for which he wants expenses to go through the patents process and a firm that is setting up to provide training for people working in, say, Burntisland Fabrications. Is a picture emerging, either at the local level or a co-ordinated Scottish level, of the likely appeals for assistance?

**Robin Presswood:** I am not aware of that detailed analysis having been done yet, but we will review the data to find out whether we can discern any patterns that might be beneficial to the committee.

**Anil Gupta:** Once we have the low-carbon economy strategy paper out—and it is due fairly soon, I think—

**Christopher Harvie:** Very soon.

**Anil Gupta:** It will help to focus attention and to direct our discussions about the approaches to be taken across council areas.

**Christopher Harvie:** I spent a day with Voith in Heidenheim in Germany and, boy, the people there are interested. Voith is the biggest performer worldwide in water turbines. It has prototypes operating in Korea and elsewhere, and it is thinking about that for Scotland. We should be alert to that.

**Jonathan Levie:** When Scottish Enterprise ran the whole of business gateway, it used it as a vast information collection machine, in my view. People who came to business gateway were asked lots of questions, and the data ended up somewhere. Is there still a data collection and analysis system, now that the delivery of business gateway has been localised? There is still a need to have a national view of what types of start-ups are coming through, as you suggest. Again, it is a matter of ensuring that there is co-ordination—of information, in this case.

**Ronnie Smith:** As we have said regularly today, it is early days. There have been two huge sea changes: the change of business gateway to local authority management, and the change in the economy. Anil Gupta referred earlier to our recognition of the need to have a strong national presence, through which some of the analysis and research could be led.

Scottish Enterprise was a big national agency, but that has changed. It now has very little involvement with the start-up sector, which is very much the preserve of business gateway and the local authorities that manage the contracts. As we

said earlier, we are adjusting to the new circumstances, and the requirements are huge.

Much of the information that was analysed—Jonathan Levie was more diplomatic about this than I will be—did not actually come out, and a lot of the work that was done to collect the stats was never turned into anything useable or meaningful.

The point has been made well, and I hope that the business gateway will lead on many exercises at a national level and that it will identify opportunities for start-ups.

**Christopher Harvie:** Judging from your general surveys of start-ups, and against the background of the economic situation, is there a trend in any particular direction?

**Ronnie Smith:** Yes. In relation to the national volume service—the service that provides support, assistance and training for people who want to set up in business for themselves and perhaps employ one other person—the statistics on business gateway support, as was suggested earlier, show an increase. There is no particular geographic location, although one or two cities are doing especially well. The trend applies right across Scotland.

The difficulty that we appear to have now lies with opportunities for substantial businesses. That part of the start-up market seems to be significantly constrained. It is a much harder job now to identify the opportunities that we might have been looking for two or three years ago for growth businesses to feed the growth pipeline—even compared with 18 months ago, in fact. Sadly, therefore, we are seeing growth just at the lower end of the market, if I may use that term, rather than at the higher end.

**Ms Alexander:** In the conclusion to its submission, Business Enterprise Scotland talks about how we get right some of these boundary issues at the top end, where there is some concern about disconnect. The submission suggests that the role for a Scotland-wide agency—leaving aside the question whether we have two or one agencies—should be focused on

“Sectoral Initiatives, Global Competitiveness, Innovation”

and

“National Projects”.

It goes on to talk about the role for a strengthened gateway start-up service.

Does that mean that all account management activity, or a good bit more of it, would move from Scottish Enterprise, which has 2,000 plus high-growth accounts, to the start-up gateway space? Should the key account management activity remain with Scottish Enterprise or be entirely attached to an enhanced gateway service? I am

trying to understand that suggestion for further tweaking.

**Ronnie Smith:** It is a good question. When someone says, “You said in your submission”, you always get a cold feeling of fear and rush immediately to see what you said. The view of Business Enterprise Scotland, which some of my colleagues on the panel do not share, is that there is far too much administration. There is also conflict between the growth pipeline and access to account management at Scottish Enterprise. We believe that both those functions should be managed under the same banner, but we are not entirely sure whether that should be a local authority banner or a different device. While the situation remains under review—and a lot of hard work is going on to make things better—our view is that an extra link that does not necessarily need to be there has been put into the chain.

Scottish Enterprise and the business gateway have different sets of circumstances and criteria—they are not yet harmonised. The contract is designed in such a way that the contractors get paid on the basis of pay points to put companies into direct account management at Scottish Enterprise. That has not worked particularly well; it is an area of some rub and friction. We believe that how that situation can be resolved is something that should be looked at fairly urgently.

**Ms Alexander:** Obviously, moving more of the account management function into the local authority space, or wherever the boundary is drawn, takes us back to the question that Marilyn Livingstone pressed. My question is for Anil Gupta. In acquiring these additional functions, does COSLA want no change to local authorities’ duties, statutory responsibilities and contractual obligations for the growing space of economic development? Obviously, we have already had the transfer of regeneration and the business gateway to the local authorities. We now have the suggestion that boundary issues at the top might involve another slight change. The SLAED position is that no formal duty, statutory recognition or obligation should be added to those activities. Given the financial climate, what is the COSLA position on the matter?

**Anil Gupta:** COSLA has no formal position over the question of statutory duties for economic development. The question has not been put to the executive group that deals with the issue. From the submissions that you have received and my knowledge of the members who are involved, I imagine that views on the matter would be divided.

I return to what I said earlier: councils as a whole view the issue as a serious one. The single outcome agreements and community planning partnerships are well oriented to the issue of economic development engagement, as they are

to regeneration overall. I am trying to second-guess, but I am not sure that members would feel that creating new duties was an urgent matter. They almost certainly feel—I am trying to choose my words carefully—that the availability of more resources is more urgent. As we all know, that is not likely to happen in the near future.

**Jim Galloway:** The business gateway Scotland board is working well, bringing together Scottish Enterprise and the local authorities through SLAED. There is a role for SLAED to ensure that service users get a consistent service across the board. Robin Presswood mentioned that. There are good examples of regional approaches being taken to renewable energy. As we move forward, the issue is not about whether we should make that provision statutory or contractual; it is about ensuring consistency of services and having sufficient resources to do the job that is expected of us, which is possibly going to be the biggest challenge.

**The Convener:** Thank you for that, Jim. I thank all the witnesses for their evidence this morning and afternoon—we have just drifted into the afternoon. I am sure that it will be very helpful to the committee in its inquiry.

12:01

*Meeting suspended.*

12:03

*On resuming—*

## Climate Change

**The Deputy Convener (Rob Gibson):** Item 3 is the climate change strategy and scrutiny. Under this item, the committee will consider its approach to the scrutiny of relevant sections of the Scottish Government's forthcoming draft report on proposals and policies consequent to the Climate Change (Scotland) Act 2009.

I point out that the Scottish Government intends to publish the draft report on proposals and policies around the time of the budget, but there is no guarantee of that—ministers still have to make a decision. That may slightly affect the timetable to which we can work. I am sure that all members agree that it would be helpful to know sooner rather than later what timetable we are following. We know that part of what can be done depends on the comprehensive spending review, and it is clear that we must take into account it and when the budget will be produced. The schedule is tight, and we have to fit those things in, but I hope that we can agree an approach that means that we can work in a structured fashion.

**Ms Alexander:** I have two points to make. First, I understand that the energy efficiency action plan—which has, I think, been awaited for six years—is due to be published this week. Given that we made extensive representations on what the content of that plan should be, and given the congested timetable at the end of November and in December—I will come to that shortly—it would be useful if we could slot in a brief review of the plan's content and how it reflects our recommendations. Perhaps that review could be done by the energy experts in the Scottish Parliament information centre. That would set the tone for committee consideration of the report on proposals and policies that is proposed in paper 5.

I see that we have dedicated an entire meeting to issues such as Skills Development Scotland's skills training providers. That is a valuable area, but it is outwith the committee's scope. If the energy efficiency action plan is being published between now and the first meeting after the recess, that meeting might provide an opportunity for a brief recap of what we suggested and what is in the plan. That would set the scene for the one-off evidence session on the budget. I hope that that bit will be non-controversial.

**The Deputy Convener:** The energy efficiency action plan has been published, and copies of it are now available. We had papers on that in the Transport, Infrastructure and Climate Change Committee yesterday afternoon, and we will have copies of the plan this week. That plan will, of

course, form part of the proposals and policies. We have to see those things as integral, because our approach to decarbonising the economy relies very much on reducing demand. We could, as Wendy Alexander suggests, take advice from our experts in SPICe about how those things come together. The convener might wish to reflect on how best to present things, but the energy efficiency action plan certainly ought to be part of the analysis as early as possible.

**Ms Alexander:** My second point is about timetabling. It is simply not true to say that the Government intended to publish the report on proposals and policies in mid-November. As recently as the time of the independent budget review, the Government was saying that it would publish early in the autumn how it would meet its climate change obligations. The decision to tie the report to the budget became apparent only last week through a letter to the convener of the Transport, Infrastructure and Climate Change Committee. The unfortunate consequences of that are revealed by the fact that we will have only three meetings at which to consider the entirety of the budget and how to meet our obligations under the Climate Change (Scotland) Act 2009, which is notionally the Parliament's flagship legislation.

The report on proposals and policies certainly does not cover only the next two years; it is meant to cover the period to 2020. The Government has already given a provisional estimate of £8 million in the independent budget review. By holding off publishing the report until the same day as the budget, the time for serious consideration by the Parliament or third bodies is minimised. I regret that. Such an approach is not in keeping with the Parliament's flagship legislation, but that is the way that the Government has chosen to go. A sum of £8 million that extends over three CSRs could happily have been considered independently, as was the plan until last week, but we can do nothing about that.

The consequence is that it is suggested that the committee should have only two sessions for considering the budget, which we are told will be the worst since 1945, and that neither of those sessions should involve anybody from outside Government. The Government and two Government agencies would be involved. I have no doubt that that was the Government's intention, but that is not in the interests of good governance of the country. The proposal would leave us with no evidence whatever from the business community, which may not be what the clerks intended.

We have no choice but to devote one of our sessions to the report on proposals and policies, and I accept that that should happen on 24 November as planned. It is suggested that we

then devote two committee meetings to the budget, and that, understandably, the Cabinet Secretary for Finance and Sustainable Growth and the enterprise agencies should give evidence in them, but it is vital that we have at least one evidence session that would allow any of the organisations that are affected by the proposed budget to share their views on it.

**The Deputy Convener:** It is important to understand that the approach to the budget has not been finally agreed. As Wendy Alexander identifies, the clerk's recommendations are one approach, but the convener has yet to weigh up all the approaches. It should also be pointed out that, after the applications in May, the targets for CO<sub>2</sub> reduction were finally agreed yesterday by the Transport, Infrastructure and Climate Change Committee, and they are being recommended for the Parliament's support using affirmative procedure.

The extra time that has been taken to set the targets has affected the proposals and policies, because it was always said that those would follow from the process of setting the targets. The conflation of our consideration of the report with the CSR, the budget and so on is partly the consequence of earlier concerns in the Parliament about what the targets would be. I am glad that the Parliament is likely to accept the proposed targets. If it does not, the proposals and policies may be held up further.

**Lewis Macdonald:** I would like to reiterate the points that Wendy Alexander has made.

**The Deputy Convener:** They do not need reiteration. You could add to them.

**Lewis Macdonald:** Absolutely. The principle behind Wendy Alexander's points is that it is for the committee to determine its work programme. We should take on board the issue that has arisen. The constraint on time leaves us at risk of not hearing from external bodies, which is essential to any proper consideration of the budget. I second Wendy Alexander's proposition that we take more time to hear evidence on the budget from wider sources, because we should not sacrifice the principal responsibility that we have for this bit of the Scottish Government's budget.

**The Deputy Convener:** That point has been made and taken on board. As the committee has the right to decide its business, the point will be dealt with and a proposal will be brought back to members. Does the committee agree to take note of the paper and to have the clerks and the convener bring forward business on the basis of the concerns that members have just raised?

**Members indicated agreement.**

## Scottish Development International (Chief Executive)

12:12

**The Deputy Convener:** Our final item of business is to consider a letter that has been received from John Swinney in relation to the post of chief executive of Scottish Development International. Members will have seen the letter, which expressed the hope that the appointment would be made by the end of September. That has not taken place. Do members wish to comment?

**Lewis Macdonald:** Have there been any updates since the letter was received? It is now October and the letter arrived in my in-tray only at the end of September.

**The Deputy Convener:** There are no updates at present.

**Ms Alexander:** Given that the interviews took place on 17 September, it would be helpful for us to ask whether an appointment has been made and, if so, when it will be made public.

**Gavin Brown:** I do not mean to be churlish, but there must be an update of some sort, even if it is not to confirm an appointment. I presume that the appointment has not been made, but the cabinet secretary could say that it will be made at the end of October or that he does not know when it will be made.

**The Deputy Convener:** We will get that update and present it to the committee as soon as possible. The decision is that we need an update. An appointment was supposed to be made at the end of September, so there must be news on top of what the cabinet secretary has told us. We will get that for the committee and discuss it once it has been received. I hand back to the convener.

**The Convener:** I apologise to the committee for having to depart briefly and thank Rob Gibson for stepping in at the last moment. In case it was not mentioned while I was out of the room, I advise the committee that the energy efficiency action plan was published this morning. I suggest that at our next meeting we consider whether we wish to take further evidence on that, if the committee has not already agreed to do so.

**Rob Gibson:** We have agreed to do that.

**The Convener:** Well done—I am glad that I am consistent with everyone else. At our next meeting on 22 October, we will take further evidence in relation to our enterprise network inquiry. I thank all of you for your hard work on the inquiry and other business, and wish you a good recess.

*Meeting closed at 12:14.*





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