

ENTERPRISE AND CULTURE COMMITTEE

Tuesday 5 October 2004

Session 2

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ENTERPRISE AND CULTURE COMMITTEE

21st Meeting 2004, Session 2

CONVENER

*Alex Neil (Central Scotland) (SNP)

DEPUTY CONVENER

*Mike Watson (Glasgow Cathcart) (Lab)

COMMITTEE MEMBERS

*Richard Baker (North East Scotland) (Lab)

*Chris Ballance (South of Scotland) (Green)

*Susan Deacon (Edinburgh East and Musselburgh) (Lab)

Murdo Fraser (Mid Scotland and Fife) (Con)

*Michael Matheson (Central Scotland) (SNP)

*Christine May (Central Fife) (Lab)

*Mr Jamie Stone (Caithness, Sutherland and Easter Ross) (LD)

COMMITTEE SUBSTITUTES

Mark Ballard (Lothians) (Green)

Rhona Brankin (Midlothian) (Lab)

Mr David Davidson (North East Scotland) (Con)

Fiona Hyslop (Lothians) (SNP)

George Lyon (Argyll and Bute) (LD)

*attended

THE FOLLOWING ALSO ATTENDED:

Lesley Fraser (Scottish Executive Education Department)

Kathleen Preston (Scottish Executive Legal and Parliamentary Services)

THE FOLLOWING GAVE EVIDENCE:

Mark Batho (Scottish Executive Enterprise, Transport and Lifelong Learning Department)

Caroline Docherty (Scottish Arts Council)

Gavin Gray (Scottish Executive Enterprise, Transport and Lifelong Learning Department)

Maggie Maxwell (Scottish Arts Council)

Jim Tough (Scottish Arts Council)

Gill Troup (Scottish Executive Enterprise, Transport and Lifelong Learning Department)

CLERK TO THE COMMITTEE

Simon Watkins

SENIOR ASSISTANT CLERK

Judith Evans

ASSISTANT CLERK

Seán Wixted

LOCATION

Committee Room 1

Scottish Parliament

Enterprise and Culture Committee

Tuesday 5 October 2004

[THE CONVENER *opened the meeting at 14:00*]

Interests

The Convener (Alex Neil): Welcome to the 21st meeting in 2004 of the Enterprise and Culture Committee of the Scottish Parliament. I have received apologies from Murdo Fraser—I cannot begin to guess where he might be. Could he be at the Tory conference?

Christine May (Central Fife) (Lab): Murdo Fraser is at the seaside, I think.

The Convener: He is at the seaside. Susan Deacon has indicated that unfortunately she will have to leave just after 3 pm.

I invite Michael Matheson to declare any interests.

Michael Matheson (Central Scotland) (SNP): I have no interests to declare.

Arts in the Community Inquiry

14:01

The Convener: I welcome three witnesses from the Scottish Arts Council: Jim Tough, deputy director; Caroline Docherty, head of planning and area development; and Maggie Maxwell, visual arts officer. I invite the witnesses to make opening remarks, after which I will open the meeting to questions.

Jim Tough (Scottish Arts Council): Thank you. We are delighted to be here and we welcome the committee's interest in arts in the community, which is a valuable area of work that we have advocated for a long time. The Scottish Arts Council funds such work and all three of us have worked in the area at various points in the past. Arts in the community are not on the margins of our thinking or activity and in Scotland we have much to be proud of, because our activity in the area often has an international reputation.

The Scottish Arts Council has three corporate aims: to increase participation in the arts; to support artists; and to place creativity at the heart of learning. There is interplay between all three aims in relation to arts in the community.

There are three dimensions to arts in the community. The first dimension is people's right to have access to quality cultural experiences, which might be targeted to overcome particular geographical, social or economic barriers. For example, we will introduce our getting there programme to many arts organisations, to help such organisations to overcome attitudinal and physical barriers to access to the arts by disabled people.

The second dimension is the power of the arts to have benefits for the individual and the community, which is sometimes described as the instrumental value of the arts. For example, we have encouraged Greater Glasgow NHS Board to work with the Dance House. If I may do a bit of audience development, let me say that the play "A madman sings to the moon" is being performed this evening at the Royal Lyceum Theatre as part of our partnership with the Scottish Executive Health Department. If members are not busy this evening, I recommend that they go along.

The third dimension is about having a good time—I hope that we can all retain our enthusiasm for arts and culture. We often provide assistance to the voluntary sector at strategic level, by supporting umbrella organisations that support community amateur endeavour, such as the Scottish Traditions of Dance Trust.

The arts in the community theme operates in those three key areas, but not just in relation to targeted themes or schemes. Much of the public money that is channelled through the Scottish Arts Council goes to the big arts organisations and we encourage those organisations to recognise their responsibility to the community and to make it part of the fabric of their activity. Organisations such as the Lemon Tree in Aberdeen or the Scottish Chamber Orchestra, which has touring and educational programmes, represent good examples of that approach.

Three issues require attention. First, much work is enthusiastically pursued by the community sector through time-limited lottery funding, so there is a conundrum about how we can sustain such good work in the longer term. Secondly, it is important to recognise the value of artists and understand what they can bring to projects. My final point, which relates to the two previous points, is that we need to build commitment at the strategic level. For example, in planning projects such as community regeneration programmes, whether physically or more widely, we should consider the cultural life of the people whose lives we are trying to improve.

The Convener: Thank you. That was helpful, as was the written evidence that you submitted. Do Maggie Maxwell and Caroline Docherty want to say anything at this stage?

Maggie Maxwell (Scottish Arts Council): We are happy to take questions.

Mr Jamie Stone (Caithness, Sutherland and Easter Ross) (LD): I am sure that you will have guessed that I would ask this question. I must remind members of my declaration of interests as a board member of Grey Coast Theatre Ltd.

Will you say a little about remoteness and distance in relation to delivery? I am a strong supporter of all that you do, but remoteness is of considerable interest in relation to arts in the community in parts of John Farquhar Munro's constituency, for example.

Jim Tough: As a national organisation, we are conscious of our responsibilities to the entire nation. In that sense, projects and work in all parts of the country and all communities are important to us. In Caithness and Sutherland, we have been working proactively with the local authority to try to establish a sustainable arts programme that serves the community. Grey Coast Theatre is one of the partners in that and I believe that there are also capital projects. That is something that is dear to our hearts. Caroline Docherty, as head of area development, has led that work over the years.

Caroline Docherty (Scottish Arts Council): One of our contributions in many parts of Scotland is to try to build capacity at different levels. A few

years ago, Highland Council identified a gap in Caithness and Sutherland: there was no arts officer, no strategic plan and no set of priorities for the area. Lots of good work was going on, but there were sustainability issues and there was little support for the voluntary and volunteer-led sector. We were able to help in a three-way partnership with the enterprise company and the local authority to seed-fund dedicated arts officer posts in both Caithness and Sutherland. Those posts are now in their second year and provide valuable support to the arts in those areas.

Mr Stone: I should mention that in the past I was on the board of the Highland festival. What approach do you take? Do you support the hub-and-spokes idea of arts delivery—which could work, with, for example, outreach from Eden Court Theatre, although the jury is slightly out on the Highland festival—or should one have an area-based string of pearls around the Highlands? I do not know the answer to that question. I am interested to hear your philosophy on it.

Jim Tough: My philosophy is that I am wary of formulaic responses. The country is extremely varied and we must acknowledge the cultural nuances and economic differences in its different parts. We are looking at how we can encourage adjacent local authorities to work together, along with the national cultural partners. We are moving towards the view that some form of regional planning for culture and the arts would be a useful approach. Within that, it might be that the hub-and-spokes idea works. I am always taken by the notion that Eden Court Theatre's Christmas show attracts an audience from the primary school in Lochmaddy, which makes an overnight trip. People will travel for high-quality arts experiences.

Mr Stone: That is interesting. I hope that this is not an unfair question, but do you think that, in trying to get the 32 authorities to co-ordinate more, we might have to parallel what the Executive is doing in other areas, not least tourism, and do something through legislation or by tweaking to encourage that co-ordination? At the moment, co-ordination does not necessarily come about unless there is good will from adjacent authorities—one thinks of Highland Council and Moray Council as an example.

Jim Tough: We have found that if we have the human resources to engage closely with folk, we can work with the local authorities and other partners in a developmental way and plan things. Sometimes, encouragement is what is required. Legislation might reinforce that and encourage standards but, if we took a minimum-provision approach, there would be a fear that what we would get is the minimum. We should aspire to the best.

Christine May: I vividly recall that, when Scottish Arts Council cash allocations were announced each year, opprobrium would be directed at the council from all sides, which, I presume, meant that it was getting the balance more or less right and pleasing nobody. In a discussion on Radio 4 last night, I heard a quotation from some economist with venom dripping from his pen on the attempts down south by the Department for Culture, Media and Sport to quantify the contribution to the economy of the arts in the broadest sense. His point was that, on that calculation, the arts make a greater input to the economy than manufacturing industry, but the calculation included advertising, which is where the venom really dripped.

I have three questions, two of which are interlinked. The first is on your goal of improving sustainability, which I link to enterprise in arts. By that, I do not mean business sponsorship; I mean the efficiency of boards and committees and their ability to see and set a strategic direction and to provide funding for that. What work do you do, perhaps in collaboration with others, to improve those skills? Secondly, VOCAL—the Voice of Chief Officers for Cultural, Community and Leisure Services in Scotland—has given evidence to us. What is your relationship with the folk on the ground who deliver community projects and work to develop local capacity? Finally, will you talk about the broader business aspect of creative industries, such as the importance of good design in business and of encouraging excellence in design and input into business?

Jim Tough: I will try to say something on all those issues. On board development, we work with Arts & Business, which is an organisation that we revenue fund. It operates United Kingdom-wide, but we fund it, in part, to offer board development training. Organisations that lack marketing or finance skills can draw on the Arts & Business board bank to get board members to help them to achieve the full set of required skills. We examine closely the governance, financial probity and management skills of the core-funded organisations that we support and back that up by offering training in board development through Arts & Business. We want to continue to encourage the shift in culture through which the boards of arts organisations now have a responsibility for all that goes with governance.

Christine May: Forgive me, but that answer relates to core-funded organisations, whereas community arts organisations tend to be non-core funded, although some get seed funding and so on. What work do you do with such organisations?

Jim Tough: Two years ago, we had a capacity-building programme through which we offered money to community organisations, particularly

those involved in arts and disability and promoting cultural diversity. We felt that such organisations were not getting a fair kick at the ball in receiving financial support because their capabilities were limited, so we offered them money to build their strengths. As we intended, some of those projects have gone from being community-project based into being core funded—Lung Ha's Theatre Company is an example of that. Caroline Docherty may want to talk about VOCAL, because she works directly with it.

14:15

Caroline Docherty: I described earlier the work that we have done with local authorities to build capacity. We also have a local authority partnership scheme, which at present supports 11 local authorities in whose areas investment in the arts was low, both from the Scottish Arts Council and, in most cases, from the local authorities. The programme was designed for local authorities, on behalf of their communities, to identify what might change and what could be done better. The important aspect was that the scheme was designed from the local authority end. We provide up to £120,000 per project over three years, but one of the requirements is that the local authority must find partnership or match funding of 50 per cent to try to ensure sustainability. The scheme aims to ensure a longer-term commitment to the arts.

The results have been varied. For example, West Lothian Council chose to focus on the voluntary arts. Having received lottery money for its Howden park arts centre, it already had a physical hub where a lot of activity went on. However, the voluntary arts sector had identified capacity issues such as volunteer burn-out, so West Lothian Council was asked what it could do to help. West Lothian is now about halfway through its innovative programme, the results of which we await with interest.

We have regular meetings with local authority arts officers, who are the people on the front line. We meet them both one to one and in cluster groups, which bring together six or seven adjoining authorities. The cluster groups have a common geographical interest, but we did not prescribe that. For example, Moray Council chose to join Highland Council and that was absolutely fine. The authorities sit in whichever group is best for them. The clusters offer an opportunity for the local authority arts officers to share experiences and best practice and for us to exchange information with them so that we can identify where there are shared priorities and how we can make a difference together.

Jim Tough: On the creative industries, we work in partnership because those are not the exclusive

territory of the Scottish Arts Council. In partnership with Scottish Screen and the National Endowment for Science, Technology and the Arts, our new approach will allow us to support individual artists who hope to translate their creative idea into an enterprise or business idea. The new approach is provisionally called "Ideasmart" and it will be out soon at a venue near you.

Our submission to the Cultural Commission recommended the percentage for art scheme. That idea has been around a long time, but it would allow us to build design into the fabric of the environment at an early stage. We hope that the commission might pursue that idea and build on it.

Susan Deacon (Edinburgh East and Musselburgh) (Lab): Reading the Scottish Arts Council's enjoyable submission and listening to the evidence today have reinforced my view that our inquiry is very much an exercise in asking the "How?" question rather than the "What?" question. In other words, given the broad spectrum of agreement on what does and does not work, the big question is how we ensure that community arts are encouraged, supported, developed and funded as effectively as possible. For that reason, I want to ask a series of "How?" questions to get views and practical suggestions on some of these issues.

First, how can we ensure that the community arts receive greater recognition and are placed higher up the agenda? Obviously, our committee hopes to do that by dint of undertaking this inquiry, but both the Parliament and the Scottish Arts Council have an issue to face. Although big national bodies have some visibility and are, validly, the centre of some debate, it is much harder for the impact of anything that is community based—whether it be arts or anything else—to be recognised. How might we give greater recognition to arts in the community?

Secondly, how can we achieve greater joined-up thinking among agencies? The issue has been touched on to some extent, but do the witnesses have anything else to add? Given that the wider impact on health, well-being and so on that involvement in community arts can have is acknowledged, how do we get agencies and decision makers who are not necessarily charged with an arts responsibility to factor those wider benefits into their thinking and plan accordingly?

Thirdly, how effective are current evaluation and monitoring processes at examining qualitative outcomes? The committee has already spent some time thinking and talking about that issue informally. I for one am concerned that we have many evaluation processes that are highly quantitative in nature and that are very much about ticking boxes. The arts are not alone in that respect, but it is more difficult in the arts than in

most other spheres to measure impact. How might evaluation and monitoring processes be improved in that regard?

My final question is a biggie—I am sure that you will come back to it in response to colleagues. Where should the strategic lead for building and encouraging more activity in arts in the community come from? There is a proliferation of cultural activity and discussion, as well as of bodies to consider culture. I note that you would like to carry out a feasibility study into an institute for community cultural development. How would you ensure that something like that added value rather than clutter? Where could and should that strategic push come from?

Sorry, I have just been criticised by a colleague for not leaving any subjects for anybody else. I am more than happy for you to pick up only the bits that you really want to.

Jim Tough: I am happy to answer all those questions, if you have the time.

The fact that we are sitting here today, talking about this subject, is fantastic. The three of us come from a field in which such a discussion would have been unthinkable 15 years ago. We have achieved a lot; there has been a huge step forward.

You ended with a comment about the idea for an institute. There is a lot of great stuff going on out there, but it tends to be isolated and fragmented. That does not make the best use of the knowledge and experience of the folk who are doing that work. An institute would add value by virtue of building confidence collectively in the sector—there would be somebody sitting here representing the sector.

A small example is our support for Edinburgh's capital city partnership, which is an amalgamation of Edinburgh's social inclusion partnerships. It is considering the formation of something that could work throughout the city. The partnership created the Edinburgh arts and social inclusion forum.

Again, I am talking about building that collective confidence and collective voice. There is a need for continuing professional development so that the practitioners feel that what they are doing is valued and has professional status and that their training and development are treated seriously. Those are some ideas to do with recognition.

On being joined up, the Scottish Arts Council is considering the idea of a regional approach. Such an approach to cultural or arts planning could allow the involvement of the health boards and the enterprise companies, alongside the voluntary sector and national bodies such as the Arts Council. It is sometimes difficult to make those planning mechanisms work, so I suggest that that

approach should be incentivised. Funding could be made available so that the bodies plan together and, equally important, have that plan translated through decisions that they have the resources to support. I will ask Maggie Maxwell to elaborate on our relationship with the health boards and health sector.

We share the concern that evaluation is difficult. Indeed, not only is it difficult, it is frankly alien or an irritation to many folk on the ground. People are enthusiastic to get on and do the work, but folk like me come along and say, "Well, actually, we need you to fill in this form to say whether the work has achieved its objectives." We have to encourage folk on the ground to see that doing that helps the big picture and helps to gain the recognition that we have spoken about.

Last week, I spoke at a conference on youth justice. The audience included teachers, social workers and youth workers. What was fascinating to me was that they were saying that the arts are one of the few diversionary or preventive activities that they can rely on to make a difference. As for evaluation, some of the work happens not in the arts dimension, but in social work and elsewhere. We need to recognise that across the board.

Finally, I will talk about strategic drive. Something that had national status and an international profile and that recognised the good practice that has developed in this country in the past 25 years would add value. There would be a locus for such a development to punch its weight politically.

Maggie Maxwell: I will give two good examples of greater joined-up thinking by agencies. One is a partnership with the national programme for improving mental health and well-being. This week, we are advertising the post of arts and mental health development officer, which will be located in the Scottish Arts Council. That post will have a national remit. The officer will undertake a major research programme into the benefits of the arts to mental health and to recovery.

We are also working closely with Greater Glasgow NHS Board. We have targeted the west of Scotland and we are examining health priorities with the board. We are funding a development officer who will be located in the health board. They will work at a strategic level as an advocate for arts and health, make the case for revenue funding in the health board and start a network. Much is going on in the west of Scotland in arts and health and we want that to be joined up and developed strategically.

Mike Watson (Glasgow Cathcart) (Lab): I was interested that your submission highlighted three aspects of community art activity: increasing access, improving the quality of life and

recreational and voluntary activity. You made the point that is perhaps self-evident but is nonetheless worth making that many arts projects serve one or more—if not all—of those purposes.

Despite my history in the subject, when I read your submission I was surprised at the spread of activities that are taking place in various parts of the country. I will highlight music and ask you a couple of questions about that. You highlight the Making Music Scotland and Fèisean nan Gàidheal projects, which both involve tuition. Making Music also provides administrative services and has an advocacy role for its members. To what extent is it the Scottish Arts Council's role to assist people—I was going to say "young people", but people of any age are included—to learn how to play a musical instrument or to learn about promoting music? How important is that in your work?

Jim Tough: Both aspects are important. Making Music involves the voluntary and community sector. Fèisean nan Gàidheal is an exemplary organisation. It is involved in youth music, tuition and other Gaelic arts traditions. We return to the evaluation theme. We have just funded Fèisean nan Gàidheal to examine tracking some of the youngest people who were involved in its first classes about 20 years ago when the organisation started on Barra to where they are now. That would include those who have become professionals and who perform in venues here and abroad. We would like to track the trajectory of success as part of the evaluation answer. That is vital.

The committee will be aware of the youth music initiative under which the Executive has directed money through the Scottish Arts Council to improving the opportunities for young people to have experience of musical learning through schools—that is sometimes their first hands-on experience. That, too, is important.

The voluntary sector is vital. Many voluntary groups that are initially recreational have a genuine impact on folk's confidence in their learning in general and sometimes encourage them to go on to achieve professional status.

Mike Watson: You talk about professional status. I see that the submission mentions the tune up scheme, which I had not realised existed. A month ago, I attended a concert in Dunfermline's Carnegie Hall at which Eddi Reader performed. She paid her dues to the Scottish Arts Council and made an announcement about the scheme.

Jim Tough: Brilliant. We will pay her now.

Mike Watson: That scheme involves halls in places that are off the beaten track, which benefits some very small places. Incidentally, Eddi Reader

also said that she was tuning up for her performance in the Parliament on Saturday.

On access to the arts, you referred in your submission to the arts for all conference in 2002, which I remember. You said how effective it was and that it was oversubscribed. That conference was two and a half years ago: why has it not been repeated? It seemed to me that it would be worth while having such a conference every couple of years, say, because of the demand and because, as time goes by, community activity is progressing.

14:30

Jim Tough: I agree. When putting together our submission, I was struck by the thought that it was time for another such conference. However, we have held similar themed events since then. For example, we had the hidden voices conference in Dundee earlier this year, which was based around the theme of cultural diversity, and we had a major international conference in Edinburgh around the theme of arts and disability. Those communities of interest have followed on well from the more general interests that the arts for all conference started with in the Gorbals two and a half years ago.

Mike Watson: My final point has a couple of strands to do with local authorities. As you may know, we had a session last week at which a local authority and the Convention of Scottish Local Authorities were represented. We have received written submissions from only six local authorities, which I find disappointing. Nonetheless, you referred in your submission to the local authority partnerships. We have had evidence about the vast differences in local authorities' arts activity, or in their support for such activity. We are not simply talking about the islands versus the central belt. There are vast differences between Ayrshire and Lanarkshire authorities and between Aberdeen and Dundee.

Can you say a bit about the local partnerships? You said in your submission that you

"identified 11 local authorities which had the lowest investment in the arts"

and that you assist them with up to £120,000. Your monitoring showed that the support had an effect. However, that was in 2002. Has there been further development? Local authorities have an important role to play in the arts. They put a lot of money in—I am not suggesting that they do not—but it is patchy and some areas need more assistance.

Jim Tough: Caroline Docherty led on that important programme.

Caroline Docherty: The programme is still under way. We took three local authorities at a time because the relationship is not just about money, but about working with them. We will shortly commission the next evaluation, which is due later this year. We hope to have more results on more recent partnerships.

Jim Tough: A local authority partnership came along to a council meeting last month and told us about the Lossie posse, which was a group of youngsters in Lossiemouth who had been causing a lot of vandalism at the local school. The partnership used mobile telephones to promote the fact that a dance artist and a video artist were going in to work with the youngsters. Since then, the partnership has apparently saved £16,000 in glazing works at the school.

Mike Watson: We heard evidence on that two weeks ago that made quite an impression on us.

The second strand of my point is on something to which you refer in your submission and which we have heard about, which is creative links officers. You say in your submission that those posts

"will be extended to each of the 32 local authority education departments by 2007."

You say that the creative links officers are jointly funded, which suggests that all local authorities have gone along with you on that. Is that the case? Will they all participate? Perhaps they had other priorities, but some local authorities seemed reluctant to put money into that sort of activity. However, your submission suggests that you have made progress in that regard.

Jim Tough: Yes, I think that we have. Our education department's work has been strong and has built on the relationships that it has formed with education authorities over the years. There are still a few links officer posts to complete, but it is just a question of rolling out the funds. I think that the problem for local authorities is that although we are offering funds up front, we are asking them to recognise the importance of the creative links officers in the long term by securing mainstream funding for the posts for three or four years down the line. For many local authorities, the issue is whether they are able to do that, but the spirit is certainly there in most local authorities.

Chris Ballance (South of Scotland) (Green): I have three distinct questions, but if it is all right with you, I will put them together and you can decide how much weight to give each answer.

My first question is about training for artists who work in the community. A lot of training in the art forms is available to artists, but much less training is available for working in the arts in the

community. Is that an issue that the institute for community cultural development would examine?

My second question is about evaluation. How do we get over the low profile and perceived lower quality of community arts? It seems to me that those stem from the basic assumption that the process—the quality of the experience—is more important than the final result in the community arts, which turns on its head the notions of the professional arts, in which the important factor is the quality of the result, rather than whether the actors enjoyed the rehearsals. What can we do to change that and improve the profile of community arts?

The other point about evaluation is that it is easy to look at global statistics on how the arts improve health and well-being, but it can be difficult to pinpoint that effect in one particular project. It is not easy to say that, for example, X number of people came off tranquilisers or reduced their dosage as a result of a certain project. As one of our first witnesses said, it is difficult to quantify the warmth of the smile on the face, but that is exactly what evaluation forms have to do. Would you care to comment on that?

Jim Tough: We acknowledge that training for artists needs attention. The two sets of skills that are acquired in the training to be an artist and the training to apply artistic skill in a community setting are different, and there are good examples in which the sector has taken on that training role itself out of necessity. The most obvious example is Artlink Edinburgh, which works with a lot of visual artists in health settings and first offers them training to allow them to be able to do the work effectively. Project Ability in Glasgow is another example, and on the youth justice theme, there is an interesting organisation in England called Unit for the Arts and Offenders. Before its artists work with young folk—or anybody—in prison, they have to undergo some fairly in-depth training on prison culture and some of the issues with which they might be confronted.

Community arts training is something that the Scottish Arts Council should think about at the strategic level of advocating the need for it and that the colleges and the higher education organisations should also think about. It is important to look at the community arts in artists' training, but the idea that the institute might have a role in professionalising such work is also important.

Process versus product is a long-standing and important debate. The important thing is for individuals to decide when they start out as artists, arts administrators and participants what the work is about and to be up front about whether it is recreational, educational or about producing an interesting piece of art. We have to start out by

deciding what we are trying to do and then define it in those terms.

The example that best illustrates the profiling issue that is involved is Theatre Workshop in Edinburgh. Critics have challenged the artistic quality of its work with its integrated company, but its most recent production, "The Threepenny Opera", was a milestone in challenging and overcoming that artistic critique. The deciding factor was that Theatre Workshop had enough money to put on a production that matched the production values of mainstream theatre. It was a case, not of the company being inhibited artistically by the fact that some of the actors had disabilities, but of its needing the level of funding that any mainstream production requires. There is a resource issue, and the more such productions that happen, the more we will move away from the sense that community-based or inclusive work is second best.

On the theme of evaluating the impact of the work, I hope that, through this kind of discussion, we can work towards having a bit more trust in practitioners who have seen the impact of this work over and over again. Yes, we need statistics, research and documentation but, as you say, how do you measure the value of the smile? There are many examples of folk out there who have seen that smile or that impact. To some extent, we need to move towards trusting that this is an important area of work—it is not exclusively about trust, but we need to have a bit of faith.

Susan Deacon: Can I push you a wee bit further on that? What would that look like in terms of practical evaluation? I keep using the words evaluation and monitoring, but I do not know whether I am using the right words. Especially for funding decisions, in practical terms how could we move in the direction that you have just outlined? Personally, I would fully support that.

Jim Tough: Again, I am trying to envisage how, when we sit around and make funding decisions, we ask, "Does this bring a smile to the face or does it change somebody's life?" The officers in the Arts Council start from the proposition that if they are comfortable that the organisation that is offering the project up is well organised and capable and that the artists who are involved are good artists, that will be one of the outcomes.

Maggie Maxwell: The example that comes to mind is Hearts&Minds working on the elderflowers project with people with dementia. They record things. There is a marvellous video—a lot of evaluation is done through video—of people with profound disabilities and the impacts of working with the arts. In a recent project in Stirling, which involved Artlink Central, the reactions of the people to opera was a blink of the eye because they had such profound disabilities. That was

moving enough. The artists who were involved were top-quality artists and it was a beautifully organised project. We funded the project because we had trust in the organisation.

Christine May: I would like to take this back slightly further. In your initial remarks, you spoke about building commitment at a strategic level. I am curious to know how prescriptive you would want the Executive or the Parliament to be. Are you saying that, for example, the arts—in their broadest sense—should be built into all community planning partners' strategic plans, which might include a percentage for the arts, the recognition of art therapy in health, and work on antisocial behaviour and vandalism? Would you want that to be said explicitly? Picking up on Chris Ballance's question, would you want to see funding for activities that do not necessarily produce quality work but that produce very good therapeutic work? Should that come out of the arts budget or the health budget? Does it matter? Tell us how prescriptive you would like us to be.

Jim Tough: I will ask Caroline Docherty to say a wee bit about that in the community planning context. It probably does not matter which budget the money comes from if we are getting the right impact in the right places for the right people. In some ways, we would like to encourage health boards, youth justice departments and social work departments to see the arts as something that contributes to those areas. The Arts Council can help them to find the right approaches, the right artists, if necessary, and the good practice.

It is not about the Arts Council laying claim to more public funding to do these things. We often get applications for lottery funding for things that look more like a health project than an arts project. We value that, but we then have the difficult task of striking a balance. That is a crazy situation to be in if we all agree that a project has an important impact. The prescriptive area, for me, would be in seeking to say, at the level of health and education strategies, "What are you doing that uses arts and culture to achieve your ends? We believe that they can." More formally that could be part of community planning.

14:45

Caroline Docherty: We see community planning as an opportunity to be joined up at a strategic level. We have been running sessions with some of the other cultural bodies to see how it might work and how we might respond both individually and collectively.

On evaluation and the qualitative side of things I talked to somebody in Dundee only a couple of weeks ago about regeneration and frustration with measuring impacts. One of the opportunities that

community planning or being more joined up could offer is the chance to share some of the impact evaluation and to move away from the idea of specific causality. We have funded in-depth research, which has been useful. We could go deeper and deeper, but there is a cost-benefit issue. In the complex areas of regeneration and social inclusion, often a combination of factors is involved. Perhaps we should waste less time trying to prove one thing and accept that a menu of activity is going on. We all see communities that have a sense of well-being and we know intuitively the combination of things that is making a difference. Perhaps we should put a little more money into doing and a little bit less into measuring.

Mike Watson: My question is about community planning partnerships. You said in your submission that your arts and social inclusion work ended when most of the social inclusion partnerships came to an end last year and you put the money into something else. Community planning partnerships are supposed to follow on from social inclusion partnerships. Do you have plans to link up again once community planning partnerships are fully up and running? A lot of work that would have been started under your arts and social inclusion work could be usefully carried on if the funding was there.

Jim Tough: Part of what we are doing is advocacy work for the role that we want arts and culture to play in community planning partnerships. We have reinvested funding for the social inclusion partnerships into residencies. The idea is that we will prioritise areas of particular need and have artists come and work in those communities in a range of settings, whether educational, rural or whatever. The social inclusion partnership areas and the community planning partnerships that have priority designation would be a particular focus for that.

The Convener: I want to pursue that. In the same section of your submission you mention an increase of 5 per cent in participation rates. By whom is that participation? Why is it 5 per cent and what time period are we talking about?

Jim Tough: That is the Scottish Executive's target for us as a body. That is our homework.

The Convener: What is the baseline? From where do you start?

Jim Tough: At the moment we are working on establishing a baseline through a research programme on access and participation.

The Convener: How can you establish the need to increase participation by 5 per cent if you do not know the baseline?

Jim Tough: The first survey that has come in has shown an increase of 5 per cent. Is that right?

Caroline Docherty: No. We have two things going on. One is a 5 per cent increase by under-represented groups. The only way that we can establish that is by surveying the general public and the levels of participation among different under-represented groups. The other thing is the number of projects in social inclusion partnership areas and the number of partners involved.

The Convener: Those kinds of things are easier to measure. What do you mean by participation?

Jim Tough: It includes audiences. It is not exclusively about people coming and doing; it is about coming and seeing.

The Convener: So if someone turns up to one event, they have participated.

Jim Tough: Yes.

The Convener: Chris, please make this the last question, because I am conscious of time.

Chris Ballance: My question follows on neatly from that. You talk about the 78 per cent of people who participate in arts events. What information do you have about the 22 per cent who never participate and why they do not participate?

Jim Tough: One of the things that we have under way is called the audiences Scotland research initiative, a bit of which will involve considering the things that inhibit people from becoming involved. A lot of that work happens already but tends to be specific to an art form, a place or a venue. Research is done on what stops people from going along. Is it because it is not the kind of work that they want to see? It is not just about why they do not go but about whether they are being offered things that they want to go to. We are looking at how we can increase participation, including audiences. To answer that, we need to know what is stopping them from participating at the moment.

The Convener: Your written and oral evidence has been extremely helpful. I thank the three of you for coming in today.

Further and Higher Education (Scotland) Bill

14:50

The Convener: We move to item 3. While the Scottish Executive officials take their seats, I will say a few things about the Further and Higher Education (Scotland) Bill. First, I remind committee members that the bill resulted from a recommendation of the Enterprise and Lifelong Learning Committee, of which I was a member. One of the many recommendations arising from our lifelong learning inquiry was that the two funding bodies should be merged.

Secondly, this is the fourth round of consultation on the issue since the first consultation was conducted by the Enterprise and Lifelong Learning Committee two years ago. We have to keep an open mind, but I think that there is general acceptance of the need for the merger. It would be particularly helpful if the committee focused on the practicalities and the detail of the bill, about which there has been a degree of controversy.

Thirdly, I remind everybody about the differences between the draft bill and the bill, because some of the concerns that were expressed by outside bodies have been addressed in the bill that is before us.

Having given a preamble to give them time to get into their seats, I welcome Mark Batho, who is head of the lifelong learning group in the Scottish Executive Enterprise, Transport and Lifelong Learning Department; Gill Troup, who is head of the higher education and science division in that department, and Gavin Grey, who is also from the higher education and science division.

I also welcome Fiona Mullen from the Scottish Parliament information centre, who has prepared an extremely helpful paper showing the differences between the previous draft bill and the existing bill. I have asked Fiona to come to the table so that if we have any points that we feel we need to refer to her, we can do so.

I remind the politicians that these witnesses are officials, so they are not able or willing to answer political questions. They are here to answer technical questions about the bill. Would you like to say a word or two of introduction, before I go round the table for questions?

Mark Batho (Scottish Executive Enterprise, Transport and Lifelong Learning Department): I am afraid that I cannot offer a theatrical performance this afternoon, but we will do our best.

The purpose of the bill is to create a single funding council for FE and HE. It has to be seen in the context of the wider lifelong learning strategy, of which the bill is one part, to create the best possible opportunities for people to learn and to create the best match between learning opportunities and Scotland's societal and economic needs. The background, as you said, convener, lies with this committee's predecessor committee, the Enterprise and Lifelong Learning Committee, which examined lifelong learning and found that, while there was significant joining up across different aspects of learning, things could be improved. The bill is one attempt to create a greater joining up between further and higher education.

The draft bill was put out in April, along with a consultation paper, to which there was a fairly lively response. It was followed by a period of intensive engagement between Executive officials and representatives of the different stakeholders, particularly higher education stakeholders, who had the greatest concerns.

The main concerns that emerged were about the need to recognise the distinctive roles of higher education institutions and colleges. There were concerns that the Executive or the new funding council should not take on more powers in relation to the planning of provision at the expense of the valued independence of institutions and colleges. There was also the late-emerging concern of the National Union of Students about the power to allow differential fees to be charged for different courses of study.

As the SPICe paper indicates, the bill has changed significantly from the consultation draft. The main change is that the term "tertiary education" has been dropped to alleviate concerns about the distinctiveness of the further and higher education sectors. The bill has been significantly reordered and there has been some redrafting of provision to make clear the distinctive roles of the Government, the funding council and the institutions and colleges—in effect to say that the Government deals with matters of policy, the funding council deals with matters of strategy and individual institutions are responsible for planning and managing what they provide.

Where there have been particular points of concern, such as the provision allowing the funding council to have access to meetings of governing bodies of institutions and colleges, the bill has been changed in response to the consultation. There is a provision on supporting the Scottish credit and qualifications framework. There is a new provision extending the power of the ombudsman to HE and FE, which reflects a separate consultation that was going on at the same time. The proposed requirement for the

council to take account of the skill needs of Scotland has been widened so that it now has to have regard to economic, social and cultural issues and the broader United Kingdom and international context.

All that has led to the main stakeholders now broadly welcoming the bill. When it was introduced last Friday, they expressed support for its main provisions. The significant exception was that the NUS remains opposed to differential fees for different courses of study.

The Convener: One of the areas of controversy was the categorisation of the four categories of institution. That was essentially a technical matter but it appeared as a policy decision. How has that categorisation changed?

Mark Batho: It was intended to reflect the existing statutory background to the ancient universities and the post-1992 universities. I am afraid that I am going to lose track of all the categories, but there were four of them. That has been changed in the bill to reflect the institutions that are currently the responsibility of the Scottish Higher Education Funding Council and those that are currently the responsibility of the Scottish Further Education Funding Council—in other words, higher education institutions, and colleges—with no further distinction.

The Convener: It is worth getting that on the record.

Richard Baker (North East Scotland) (Lab): The bill is much better and it is good that the sectors' concerns have been taken on board. That bodes well for the draft bill process. Many of the concerns have been addressed already, but there are still two areas that I wish to ask about.

First, why was the proposed name of the council changed from the Scottish tertiary education funding council to the Scottish further and higher education funding council? Presumably the change in title is a matter of emphasis and has no material impact on policy or the drive towards greater articulation between the two sectors.

Mark Batho: That is correct. The higher education sector in particular was concerned that its brand might be compromised internationally by a misunderstanding of the fact that the tertiary sector contained the higher education and further education sectors. However, in practice, there is no difference between the intention of the consultative bill that was issued in April, which referred to tertiary education, and the present one.

Richard Baker: I welcome those comments. My second question is on fees. The NUS and others have raised the issue of ministers being able to vary the overall level of fees. I understand that that

part of the bill is new and that the provisions were not included in the draft bill.

15:00

Mark Batho: No, those provisions post-date the consultation and were not in the draft bill. They were included in the Deputy First Minister's announcement of 24 June.

Richard Baker: I seek assurance that the intention behind section 8 is purely to give ministers the ability to vary fee levels in order to address cross-border flows. I know that ministers are concerned in particular about the Scottish medical schools. I understand that the provisions are intended to prevent English students in particular from coming to Scotland to take up a cheap medical course and, in so doing, crowding out Scottish students. I want to be sure that that is the reason why ministers are seeking the ability to raise fee levels by way of the bill.

Although the Executive's position is made clear in the explanatory notes, perhaps you could advise the committee what weight the explanatory notes carry in ensuring that the provisions can be used only for that purpose.

Mark Batho: On the first point, the member is exactly right: the provisions specifically address cross-border flows. As things sit today, the Quigley agreement means that the costs of studying in Scotland are broadly the same as those in England. The introduction of variable fees south of the border alters the balance. As the member rightly said, it creates the potential that more English students will be attracted to Scottish universities. Medicine is the course that has been specifically identified in that respect.

The provisions are intended purely as a market mechanism that would operate against the background of Scotland-domiciled students not paying fees. The extent of the Executive's intention is to increase the price of studying in Scotland and thereby retain the present balance. The limit of the intention is to reflect the situation that is likely to happen in England. Fees could not be varied by the institutions; the provisions would be applied across the institutions.

I am not a lawyer, but I am assured that the legal effect of the explanatory notes is taken into account in any interpretation of the law. Without my legal friends beside me, I cannot offer anything more than that. The notes have weight—

Richard Baker: They have legal weight—

Mark Batho: Yes, in determining the purpose of the provision when it was introduced.

Richard Baker: Some people have described the provision as fees by the back door. However,

you are saying that there is no way in which the bill could allow Scottish institutions to charge their own levels of fees in line with those in England.

Mark Batho: They could not do it.

The Convener: It might be useful if you could ask the Executive's lawyers to confirm your response to the point that Richard Baker raised and, again for the record, to confirm that any changes in fees under the bill would have to be made by statutory instrument.

Mark Batho: Indeed.

The Convener: The statutory instrument would come to this committee for approval.

Mark Batho: It would come under the affirmative procedure.

Mike Watson: It is fair to say that we have been round the block a few times on this issue both in this Parliament and in another place. I cannot remember any draft bill having so many changes before it is finally introduced. The changes are so many that the bill has had to have a special section on them.

The Convener: What about the Scotland Act 1978?

Mike Watson: I do not remember that one. I am such a sad person—I read all through the policy memorandum. Paragraph 54 nearly took my breath away. It says:

"The Enterprise, Transport and Lifelong Learning Department has undertaken a comprehensive programme of consultation on these proposals."

I thought that the reference was to the published proposals, but the paragraph went on to say:

"In November and December 2003 the Department held individual meetings with key stakeholders".

Given that the proposals were published in April of this year, what went so wrong between when you had the outcome of the consultations and when you published the proposals? Did the proposals have to be changed because of subsequent discussions with stakeholders? Why did those issues not emerge in the initial consultations? If they had, the draft bill might have looked a bit more like the final bill.

Mark Batho: The answer is probably that, in substance, the bill is significantly as was originally discussed with the stakeholders last year. The bill attempts to give greater uniformity between the existing provisions for further and higher education, but the way in which that was presented caused people significant concerns about how it might be interpreted in future. There has been a significant amount of drafting, rather than change of policy, in order properly to reflect

the concerns that stakeholders had about how the provisions might be interpreted.

For example, we were originally going to include a duty to make “adequate and efficient” provision. Such a duty already applied to further education and the firm intention was that it was a duty requiring ministers to take care of further and higher education. However, there was a concern that the new application of that term to higher education might be interpreted as being a planning power for ministers, so that they could look across the piece and say, “It isn’t adequate,” or, “It isn’t efficient.” There was concern that the wording that was intended to put a duty on ministers was not actually doing that. The reordering of the bill as you now see it, particularly in sections 1, 2 and 3, teases that out to deliver what was the policy intention to begin with.

Mike Watson: I can understand that, and I can understand the renumbering of some of the sections, but it seems to me that the most controversial issues—I notice that the word “controversial” is used on a number of occasions in your submission on the changes—are such things as the use of specified tertiary education providers, or STEPs, and tertiary education fundable bodies. When I spoke to academics, the concern raised most often was the business about the council’s right to attend meetings of governing bodies, whether that would be obligatory and on what basis it would be done. It would be fair to say that the terms of that power have now been softened. I am not necessarily asking, “Why didn’t you spot it?” It seems to me that some of the key stakeholders, as you call them, did not raise those concerns particularly clearly at that earlier stage. Would it be fair to say that?

Mark Batho: It would be fair to say that there was not a meeting of minds, but I would certainly not wish to apportion any blame. The period since April has been extremely fruitful, as we have had quite intensive engagement with stakeholders, with a draft bill in front of us to give focus to specific concerns that perhaps did not emerge when we were talking at a policy level. That has been the catalyst for getting to where we are now.

Mike Watson: Do not get me wrong. I think that it is a positive process. It is good that it can work in that way. However, given that consultation had taken place earlier, I just wondered why all that was necessary.

The policy memorandum also states:

“The provisions set out in the 1992 Act give far more flexibility and autonomy to the Higher Education institutions,”

and says that the time is now right to apply them to the further education sector. Could you say a bit

about what that means for the further education sector?

Gill Troup (Scottish Executive Enterprise, Transport and Lifelong Learning Department): One of our principles in framing the legislation is to apply consistency of treatment, where we can, to the two sectors. One example of how we have applied conditions to further education institutions that previously applied only to higher education institutions is in relation to academic freedom, restricting the ability of ministers to indicate the type and nature of provision by individual institutions. I know from colleagues in the FE sector that that provision has been well received.

I shall ask Gavin Gray to expand on some of the aspects where there will be a difference in further education in relation to governance. There is a difference in the FE sector boards’ relationship with the Parliament under the public finance legislation. That is one area in which we have not been able to apply to the FE sector the provisions that apply in relation to higher education.

Mike Watson: Are you referring to the Public Finance and Accountability (Scotland) Act 2000, which was passed in the early days of the Scottish Parliament?

Gill Troup: Yes, I am talking about the accountable officer relationship of the individual college board under the Public Finance and Accountability (Scotland) Act 2000.

The Convener: Can you explain in more detail what the difference is, please?

Gavin Gray (Scottish Executive Enterprise, Transport and Lifelong Learning Department): When the Public Finance and Accountability (Scotland) Act 2000 was passed, HEIs were exempt from that act but FE colleges were included. That has not been changed, so it is one area in which there will still be some differences between the two sectors.

The Convener: What does that mean in practical terms?

Gill Troup: It means that audit of colleges is undertaken by the Auditor General for Scotland. That is not the case for universities.

Christine May: Perhaps the committee could get a letter clarifying that.

The Convener: Yes, it would be helpful if we could get more clarification on that.

Mike Watson: I have two further points to raise. In section 20 of the draft bill, the council was told that it had to have regard just to skills, but that provision has been expanded to include economic, social and cultural issues. Can you say a bit about where that change came from? What was the driver for that?

Mark Batho: It was the concern of the higher education sector especially, but of others as well, that our higher and further education institutions are not just about skilling up our work force but have a wider contribution to make. It was felt that reference to social, cultural and economic issues encapsulated that wider role beyond simply the provision of a training ground for the work force. The bill was redrafted to try to capture that idea.

Mike Watson: I am interested to hear that the idea came from the higher education sector. I would have thought that it might have come from the further education sector.

Mark Batho: It was principally the higher education sector that made that point.

Mike Watson: Wherever the idea came from, I am pleased to see it included in the bill.

My second point relates to the Scottish public services ombudsman. The financial memorandum states:

"The Ombudsman's office has calculated the likely cost implications for 2005/06 to be in the order of £50,000-£60,000. This can be met from within existing Departmental budgets."

Is that the start-up cost to enable the ombudsman to get up to speed with the additional work that is likely to be generated, or is it likely to be a recurring expenditure uprated on an annual basis?

Gill Troup: That is the estimate of the recurring costs for the ombudsman's office. We have compared that with the estimate for the Office of the Independent Adjudicator for Higher Education, south of the border, and found that the estimates are consistent with each other.

Mike Watson: In the same paragraph, the financial memorandum states that the Executive has,

"in consultation with the Ombudsman, sought information"

about likely complaints. Thirty complaints a year are expected. I understand that the ombudsman's experience as a professor at the University of Edinburgh would inform her about the detail of that sort of issue; however, there has never been anything like that before. I wonder what that figure is based on. Are you able to tell us, or is that a question that we should put to the ombudsman?

Gill Troup: It would be a question for the ombudsman. However, I understand that it was based on evidence that the ombudsman's office sought directly from the institutions about the number of complaints that go beyond the internal level at the moment.

The Convener: Should we write to the ombudsman, asking for more written information on that?

Mike Watson: That would be useful. Thank you.

The Convener: Is that agreed?

Members *indicated agreement.*

Christine May: We could also ask for more information on the funding of the ombudsman's office.

The Convener: Absolutely. The ombudsman part of the bill arose from a recommendation in the Enterprise and Lifelong Learning Committee's report. It is good to see that the Executive is listening to the wisdom of the committees.

Christine May: I would like to pick up on the ombudsman provision. One of the concerns that was raised was a fear that the ombudsman might have something to do with academic quality decisions. That, allied to a concern about the powers that it was perceived that ministers were giving themselves to intervene in the policy direction of the individual institutions, seems to have been dealt with. Would you like to comment on what was done in that respect?

Mark Batho: Quite simply, the bill now states that the ombudsman will not deal with matters of academic complaint.

Gill Troup: May I make a clarification about matters concerning academic judgment? There may be complaints about the administration of academic procedures, which will be covered by the ombudsman.

Christine May: But to confirm, there is provision in the bill for some sort of quality assurance of academic standards.

Mark Batho: Yes, through the Quality Assurance Agency for Higher Education, as now.

15:15

Christine May: On collaboration between fundable bodies, I presume that the provisions are designed to allow any new merged institutions to be included by statutory instrument. Is it envisaged that we may have more degree-level courses being validated by higher education institutions but being delivered elsewhere?

Mark Batho: Ministers would be happy to see that happen. They are not forcing merger or collaboration, but projects such as the UHI Millennium Institute, the Crichton campus and other collaboration arrangements between the further and higher education sectors are all welcome.

Christine May: That brings me to my final question, which is about the anomaly that degrees that are validated by higher education institutions but which are delivered in FE colleges attract a

lower rate of financial support. Will that be changed to make the situation equitable?

Mark Batho: I will not say yes at the moment, but I will say that an internal review of funding for learners has just been published, and it addresses issues across the HE and FE boundaries. It is simply a review to identify issues that need to be addressed in the short, medium and long term. The matter is quite far down the track, not least because of the significant funding issues that are involved.

Christine May: Committee members might want to keep that issue at the back of their minds.

The Convener: Absolutely. The committee might want to address funding for learners in its work programme later in the year, once we have seen the results of the Executive's work.

I have two questions. First, on quality, one of the recommendations from the lifelong learning inquiry was that quality control should be better co-ordinated between higher and further education. There was a particular problem in further education, in that some colleges were subject to 28 separate quality assessment regimes, mainly because of their involvement in Scottish Enterprise programmes. That does not come under the auspices of the bill.

However, a substantial proportion of higher education is now provided in further education colleges. I can understand why the provisions in the primary legislation are as wide as they are, but is it intended—either by statutory instrument or by some other means—to address issues to do with better co-ordination on quality and taking a more equal approach to quality for the two different types of institution, given that the colleges are inspected by Her Majesty's Inspectorate of Education and the universities are inspected by the QAA?

Gill Troup: We have discussed that from the point of view of policy. As you rightly said, the position in the bill on quality is that the funding council has an obligation to assure and enhance quality—the reference to “enhancing” is new. Ministers took the view that there is now considerable evidence of collaboration between the various quality bodies that are in and out of our institutions. For example, HMIE is co-operating with Scottish Enterprise on the mutual recognition of quality systems. Similarly, I note that the QAA in Scotland is in discussions with HMIE about its approach to the UHI Millennium Institute, which sits on both sides of the issue.

The feedback from the institutions is that they are pleased to see the developments happening and the Executive does not have a policy view that any intervention would be needed at the moment. However, a piece of work that we commissioned

has been completed recently on the overall approach to quality throughout Scotland, which fulfilled a commitment in the lifelong learning strategy. We hope that the report will be published shortly as a contribution to the debate about greater harmonisation throughout our quality assurance systems.

The Convener: It would be useful to get a report on how well the streamlining exercise is going, in measurable terms, particularly on the colleges and Scottish Enterprise side. I know that that does not relate directly to the bill, but it is a major issue and was a major cost factor for colleges too—it clearly became a nonsense. Most of the 28 regimes were publicly funded from the same sources.

Mark Batho: Would it be helpful if we produced a short paper on that?

The Convener: That would be extremely helpful.

The other general point that I want to make is on section 16, in relation to the watered-down right of the new merged council to attend meetings of the governing body of any of the institutions. Is there an intention to qualify that by statutory instrument after the bill is enacted? If so, what are your thoughts? For example, does there have to be mutual agreement as to the date, time and place of meetings? Does funding have to be on the agenda of the meeting? Roger McClure could turn up at any board meeting of any of the institutions and the chief executive, principal or whoever could decide that funding was not on the agenda.

We have already seen the situation at Central College of Commerce in Glasgow where the board has ignored the ruling of an employment tribunal. I do not want to get into that issue, but it is an example of where it will be important to define properly the relationship between the funding council and the governing bodies. We have a fairly general provision, which again is an improvement on the draft bill and probably much more acceptable to the institutions concerned. Is there an intention to further qualify it by statutory instrument?

Mark Batho: I think that my colleagues will back me up when I say no. That is the power that has been discussed with the different sectors, including the chairs of universities, who had a significant say and had concerns about the constitutional right of the funding council to demand a meeting. The view that has come across is that the provision will work because it is a sensible way to go about things and people would not want it to be particularly qualified and restricted. If experience dictated that things were going wrong and the provision was being misused in any way, there would be opportunities to revisit it.

The Convener: So there will be a general provision. Good, I am glad about that. We have asked you for quite a lot of additional and follow-up information and—dare I say it—the quicker we get that the better. We have two weeks' recess after the opening ceremony on Saturday, which will be a good opportunity to catch up on writing, no matter which part of this country or any other country we might be in.

Mark Batho: We will make sure that the information is with you after the recess.

The Convener: That is very kind. Thank you.

I also thank Fiona Mullen.

Christine May: I echo that. The note from the Scottish Parliament information centre was very helpful, as were the responses that we got from the Scottish Executive.

The Convener: Absolutely. The controversial parts such as STEPs were never in the recommendations of the committee.

Subordinate Legislation

Scottish Network 1 Tourist Board Scheme Order 2004 (SSI 2004/396)

Scottish Network 2 Tourist Board Scheme Order 2004 (SSI 2004/397)

15:23

The Convener: Item 4 is subordinate legislation. Once again we are joined by officials from the Scottish Executive. I welcome Lesley Fraser, from the Scottish Executive's tourism unit, and Kathleen Preston. Are you from the same unit?

Kathleen Preston (Scottish Executive Legal and Parliamentary Services): No, I am from the solicitor's office.

The Convener: Jim Logie is not coming—is that right?

Lesley Fraser (Scottish Executive Education Department): That is right. Kathleen Preston is in Jim Logie's team.

The Convener: We have two orders to consider this afternoon: the Scottish Network 1 Tourist Board Scheme Order 2004 and the Scottish Network 2 Tourist Board Scheme Order 2004. Would you like to say a word or two about the orders, after which we will ask you some questions?

Lesley Fraser: Yes, thank you.

The two orders set the framework for the new, integrated tourism network that we are hoping to establish from April 2005. The committee is pursuing an inquiry into the area tourist board review, and it has plans to question the minister on that matter later in the session. These statutory instruments will abolish the 14 existing area tourist boards and make available their staff, assets and liabilities to the new network, so that the excellent work that has been undertaken by the area tourist boards can be used as the basis for the new, integrated network from April 2005.

I draw the committee's attention to an error in the Scottish Network 2 Tourist Board Scheme Order 2004 that has come to light in the past 10 days. Due to a drafting error, the names of the local authority areas have been incorrectly stated in article 3 of the order. We offer our apologies for that. The error crept in early in the drafting and, despite extensive internal and external consultation with all local authorities, the Convention of Scottish Local Authorities and VisitScotland, it has only just come to light. We propose to produce an amending order

immediately after the recess to amend the Scottish Network 2 Tourist Board Scheme Order 2004.

The Convener: Christine May is asking what is wrong with the order. I think that four local authorities have been wrongly named in it. For example, Western Isles Council appears as “the Western Isles” instead of the Gaelic version.

Christine May: Oh, I see.

Mike Watson: It names “Dumbarton and Clydebank” instead of West Dunbartonshire Council. It uses the old names.

The Convener: Exactly. Some of them date back a considerable time.

Christine May: The names have been transposed from the old orders. When the Subordinate Legislation Committee considered the orders on technical grounds, it had no comment to make; it was quite satisfied and managed to miss the mistake as well.

Although the orders are technically fine, how ready are the existing bodies to make the transition?

Lesley Fraser: It is a complicated process to merge 14 area tourist boards with the national tourism organisation, VisitScotland. After the ministerial announcement in March, teams were set up under the auspices of VisitScotland and they have been working over the summer. There are nine project teams, involving VisitScotland staff, area tourist boards, members of the industry and representatives of local government. All are considering the various aspects that will result in a fully functioning, integrated network from April. I am pleased to report that that work is being carried out to schedule and that we expect that the network will be up and running from 1 April 2005.

Christine May: It is some weeks since I had discussions with my local area tourist board. I assume that, if I go back to it and it tells me that that is not the case, it is wrong.

Lesley Fraser: Yes. The local authorities and the area tourist boards have been working closely with us. A great deal more information about the detail of the new network will be forthcoming. That information is planned to be released at the end of October or the beginning of November. The work is progressing well, and there have been some productive discussions with colleagues throughout the tourism industry on the different aspects.

Christine May: I welcome that because there was concern a couple of months ago that things would not be ready.

The Convener: That is right. I talked about the matter last week with Philip Riddle, the chief executive of VisitScotland. He explained the process of redesignating jobs and how jobs will be

filled and so on. I will not go into the detail of that, but I was concerned about there being no estimate yet of the transitional costs for the staff and other organisational changes that will result from the reorganisation. There is no budget line for the costs. Given past problems with transitional changes in the tourism structure, the committee needs to keep a close eye on the situation. I suggest that, when we discuss the budget in November, we should expect the Executive to be able to present an estimate of the transitional costs. We will certainly ask about both the transitional arrangements and their costs.

15:30

Christine May: It is as well to remind the committee that the minister assured us that the transitional costs would not be met from existing tourism budgets. I am sure that that is on the record. We will probably want to confirm that that remains the case and find out where the costs will come from.

The Convener: That is right. We will also want to know what the costs will be. They may be minimal, but nobody knows. It is fair for us to expect an answer to a question on that at budget time in November.

Mike Watson: On that point, I am checking our work programme and it seems that the minister is due to come before the committee again in November. Can we not just combine the two matters, so that we not only get a general report on progress, but deal with the specific issue of costs?

The Convener: It will be the new minister.

Mike Watson: Yes, but I still think that it would be appropriate for the new minister to attend. It will not be until the middle of November, so there will be time for—

The Convener: To get their feet under the table.

Chris Ballance: The two instruments will transfer local tourist boards’ property and assets. Presumably, local authorities and boards own such property equally. If that is the case, have you had any representations about the loss of local authority property to a central network?

Lesley Fraser: Yes. Over the summer, the Executive and members of the network project team went out and met every local authority to discuss in more detail the authorities’ concerns. The property issue was raised with us at those meetings. The minister assured local authorities in writing that, if they have built up assets in their area tourist board’s local area, those assets will be ring fenced for use by that area in the new network. That will apply in particular to the area tourist board for Loch Lomond, the Trossachs and

Stirling, for example, which has invested a great deal in building up tourist information centres.

Chris Ballance: Is it your understanding that the meetings have reassured all local authorities?

Lesley Fraser: Yes. The most recent letter from the minister went out within the past couple of weeks and we have not had any feedback from that. So far, we are reassured that the minister's message has got across.

Chris Ballance: If there was any feedback, would that come before the November meeting as well?

Lesley Fraser: Yes.

Mike Watson: I have a couple of further points. I am not sure whether my first will occasion dismay to Miss Fraser and Miss Preston. You mentioned earlier the amendment in relation to local authorities and the board's constitution, but I fear that you will have to make another amendment. In both orders, paragraph 11 in part IV, on transitional provisions, refers to

"Any area tourist board established for the purposes of the exciting schemes".

I know from experience that the schemes are very exciting, but I think that the word should be "existing". Unfortunately, that mistake is repeated in both orders so there will have to be two amending orders.

Kathleen Preston: Thank you for drawing that to our attention. I think it might have been a Freudian slip.

Christine May: The legal adviser to the Subordinate Legislation Committee will be taken to task.

The Convener: That proves that members of this committee read their papers.

Mike Watson: No doubt the schemes are going to be wound up and dissolved because they are exciting. The new ones will probably be dull.

More seriously, I noticed that paragraph 12 on the same page says that all staff will transfer under the same terms and conditions. Does that mean that they will transfer under the Transfer of Undertakings (Protection of Employment) Regulations—the so-called TUPE regulations?

Lesley Fraser: My understanding is that it is not exactly those provisions, but they are analogous, so the staff will have the same protection. Kathleen Preston will correct me if I am wrong, but I believe that although Scottish ministers are not bound by TUPE, they undertake to provide the same protection.

Chris Ballance: On that point, one of the things that has come up before is the fact that a large

number, if not most, of the staff who are employed by the existing boards work on a six-monthly contract from April to September, so the chances are that they might not be employed on 31 March despite the fact that they might have been working in the same tourist information centre for the past 20 years. Is there any protection for them? I have asked the minister about that before and he said that there would be, but I do not see that it is necessarily granted by the orders.

Lesley Fraser: I would need to come back to you on that specific point. My understanding is that it is intended that seasonal tourist information centres will operate next season as they have operated this season and that those staff will be required, so they would be protected and would find employment there. Perhaps we can come back to you on that just for clarification.

The Convener: I think that I am right in saying that 70 per cent of the staff who are transferring work in the TICs.

Lesley Fraser: Yes, a large number of them do. The number coming over from area tourist boards is about 900, whereas there are 200 in VisitScotland, so the area tourist boards are very much the larger partner in this merger.

Mike Watson: My other point is about the formation of the new boards. The orders state:

"The Scottish Ministers shall appoint the first and future members of the Board, which members shall be all or some of the persons who are the members of the Scottish Tourist Board",

which is currently VisitScotland. How many members are on the board of VisitScotland?

Lesley Fraser: There are seven members.

Mike Watson: There will be 18 places to be filled with the two new boards.

Lesley Fraser: Yes, there will be up to nine members on each board.

Mike Watson: Does that mean that all members of the VisitScotland board will be on one or other of the two boards?

Lesley Fraser: Yes.

Mike Watson: The subsequent places will be filled by other people who have been appointed by ministers.

Lesley Fraser: If that is required, yes.

Mike Watson: There will not necessarily be nine members on each.

Lesley Fraser: Yes. We have considered various options for the boards of the network tourist board, but the overriding policy reason for considering the VisitScotland board is that we want to create an integrated network, and having

the same members on the boards of the network tourist boards as are on the board of VisitScotland is one way of achieving that. The board of VisitScotland also represents the plurality of interests that is envisaged in the area tourist board legislation. There are representatives with strong local government and industry experience, so there is a good mix. We intend that they should be the board members of the new network tourist boards.

Mike Watson: Is it your intention that the members of VisitScotland's board should be on both of the new boards? Will any one person be on both boards?

Lesley Fraser: Yes.

Mike Watson: Will they all be on both boards?

Lesley Fraser: We envisage that the board of VisitScotland will be on the board of each of the network tourist boards.

The Convener: There is also an issue around local authority representation on the main board. I believe that the chairman is setting up a chairman's committee of the main board to try to ensure local authority representation. Any change would apparently require primary legislation.

Lesley Fraser: Yes, it would. The Development of Tourism Act 1969 constrains the number on the VisitScotland board to seven, so there is no room to increase it beyond its current size. That is something that we would like to consider as soon as primary legislation can be introduced. In the meantime, there are two proposals to engage local authorities better in the new network. The first is to set up a chairman's committee to advise the board, which would probably have three or four local authority representatives on it. Proposals are also being discussed with COSLA to set up a national convention, so that all local authorities would meet the board of VisitScotland once a year to discuss the key tourism issues that affect them.

Christine May: I am pleased that we have come to that, because something that is not in the instrument is how local stakeholders—that is a horrible word—who currently have an interest will continue to be represented. I am quite concerned that that is not in the legislation. I welcome the setting up of a chairman's committee, but it will have relatively few folk on it. Something that brings all local authorities together is welcome as a national advisory body, but it is not particularly good for keeping the local economic link, which is what has worried people. If we are going to respond to the minister, we might flag that up as a continuing concern.

My second concern is about the answers we had on TUPE and the protection of employees. We have all seen transfers of undertakings.

Everything is fine. If the transfer happens on 31 March, everybody is still employed on 1 April, but then on 2 April consultation begins on a redundancy programme. That would have an impact on the transitional costs, because any redundancies that happened after 1 April 2005 would fall into the revenue budgets for that year's expenditure by the body concerned. Will the transitional costs cover both those years? Perhaps that is something that we need to ask the minister.

The Convener: That is one of my concerns. I do not think that that has yet been agreed, because nobody is sure exactly what the costs will be or what movement of staff will take place. We shall have the minister before us on 30 November—St Andrew's day, appropriately enough—and we can ask about it then. If the Scottish Executive officials can follow up on those issues and update us, that would be helpful, but we will have an opportunity to pursue those questions in more detail with the minister.

Christine May: That would be welcome.

The Convener: I do not want to have a wider discussion, because we are really supposed to be discussing only what is of direct relevance to the statutory instruments. Are all members now satisfied with the instruments?

Members indicated agreement.

The Convener: This is in no way a reflection on the two ladies who are with us today, but I get the feeling that there is a bit of carelessness in the Executive when it comes to statutory instruments. This is the second lot that we have had in two weeks on which we have had to note amendments as a result of mistakes made. Much more attention needs to be paid to details. It wastes Executive officials' time and our time if we have to go over statutory instruments because of mistakes in the original versions. We would accept that happening now and again, but it is becoming quite regular. I have no doubt that the Subordinate Legislation Committee will be addressing the matter, but I know that other committees are also concerned about it. I make that observation.

Lesley Fraser: We have learned lessons from the process and will see what we can do to ensure that it does not happen again.

Mike Watson: When the instruments came before the Subordinate Legislation Committee, was the issue of the incorrect names of the local authorities identified, or did the Subordinate Legislation Committee fail to pick that up?

Kathleen Preston: There were no comments from the Subordinate Legislation Committee.

The Convener: I believe that the error was identified by our clerks, which is a reflection of the quality of our clerking team.

I thank the witnesses for their helpful evidence. No doubt you will go back with some of those messages. If you could feed us more information on the questions that we have asked, that would be helpful.

Lesley Fraser: We shall do so.

Work Programme

15:44

The Convener: We move on to item 5, which is the final item on our agenda. Although we are considering our work programme from now until the Christmas recess, members will note the suggestion that, at our meeting of 23 November, we discuss our work programme from January to June 2005. Therefore, it would be helpful if between now and our meeting in November, members would feed in to the clerks and myself ideas for issues that our programme between January and June next year should address. Obviously, we want all members to feed into the process; the programme should feature not only the priorities of the convener and deputy convener.

The paper on the work programme includes ministers' names; however, as of yesterday, some of those names have changed. Obviously, we will need to double check that the new ministers are able to make the dates and times that are shown in the programme. Subject to that proviso, are members happy with the draft work programme?

Richard Baker: I have one comment about the taking of bill evidence, which I made to the clerks on a previous occasion. The NUS is included in the programme as is the ad hoc group CHES— the Coalition of Higher Education Students in Scotland. There is no democratic structure in that organisation, so it has always seemed odd to me that we should choose that organisation instead of other democratically organised organisations and student committees.

Everyone knows how partisan I am on the issue. I am not saying for a second that we should invite only the NUS to give evidence. I am simply suggesting that, rather than invite a non-democratic forum to give evidence, we should invite the NUS and two institutions outwith it, or the NUS, one university outwith it and one FE college within it. That would give us a different perspective. The people who would give evidence would also be directly accountable to their student organisation, which is an important point.

The Convener: The problem is a perennial one. I feel as if I am suffering from déjà vu: when I was last a member of the committee, we took evidence on lifelong learning. At that time, we took the position—which I assume members would agree with now—that, as a committee, we did not want to get involved in the internal student politics between different student organisations.

I think that I am right in saying that we reached a compromise last time by inviting both the NUS and

two institutions—I think that it was the University of Aberdeen and a college. We managed to accommodate both positions.

Richard Baker: That would accommodate my concerns.

Christine May: That would be preferable. Unfortunately, not all universities are affiliated to the NUS—the University of Glasgow is not, for example.

Richard Baker: I am not disputing that. I am simply suggesting that, if we want to get a view outwith the NUS viewpoint, it would be good to invite institutions that are directly accountable to their students.

The Convener: In other words, we are saying that we should invite the NUS plus representatives from other institutions but not CHES.

Mike Watson: I agree. Richard Baker's suggestion was that we should invite an FE college and a higher education institution that are not in the NUS's membership.

Richard Baker: To be fair, the vast majority of the FE colleges are affiliated to the NUS. I would not want us to be prescriptive about which institutions we invite. I agree that we want to get the point of view of the non-affiliates, but we also want to get cross-sectoral views. We should have a university outwith the NUS, if needs be, but I would not want to apply the same caveat to the FE colleges, as most of them are affiliated.

Mike Watson: I want to clarify my remarks. When I talked about institutions, I meant the student representatives of the higher education and further education institutions and not the representatives of the institutions themselves.

The Convener: We should not restrict ourselves to democratic organisations; if we did that, we would not have many witnesses.

Christine May: I have one further comment on the draft work programme. I ask members to look at the suggested agenda items for our meeting of 23 November. Are we trying to bite off more than we can chew at that meeting? The agenda has three fairly big items: the business growth research presentation; an opportunity to take evidence from Jack Perry and Sandy Cumming; and the draft arts report. Can we manage all of those without staying in the building overnight?

The Convener: That is a fair point; the agenda does look heavy. That said, we have allowed two discussions on the draft report.

Christine May: Perhaps the convener, the deputy convener and the clerks could consider the issue.

Mike Watson: Do the clerks intend the draft arts report to be signed off after the second discussion?

Simon Watkins (Clerk): Yes, as that is the second meeting at which the committee would discuss the draft report. Although the extent of controversy on the issue would be a factor, by that stage the item might not take as long as would be the case on the first occasion.

Christine May: That has not been my experience of other draft reports.

The Convener: The alternative might be to have the business growth presentation as a one-off open meeting on another day that week or at another time of the day. It is important that we do as much as we can in public—and I remind members that we are still in public session now. We do not want to rush it, as we have a lot of questions to ask. If we took that presentation out and tried to have it on another day, perhaps for an hour or an hour and a half, would that be helpful?

Christine May: I would rather have a considered reflection on the matter from you, the deputy convener and the clerks than a decision now.

The Convener: Okay. That is a fair point. We can come up with a recommendation.

I have two more points to make on the work programme. First, I remind members of something that Mike Watson has suggested that we do, and which the committee has done in the past, which is to get out and about in Scotland a bit more. When we are drawing up our work programme for 2005, we should bear in mind the fact that there is no need for us always to be based in Edinburgh. There are obviously cost and time implications, but it has always been the aim of all parties to make this a Parliament of the whole of Scotland. In the past, the committee has gone to Inverness, Shetland, the Western Isles and various other places.

Secondly, what is the status of the football report, which Richard Baker and Brian Adam were preparing?

Richard Baker: I have been liaising with Stephen Herbert in SPICe about it. An interim report is being compiled at the moment although, unfortunately, we have not received a huge number of written submissions from football clubs. Dundee United Football Club is a notable exception, as we received an excellent submission from it. The lack of written submissions has been of particular concern; therefore, we have been trying to meet representatives of the clubs instead, which has extended the process somewhat. Most of the meetings for the report should have taken place soon after we return from the recess. Some

are being conducted during the first week of the recess.

The Convener: I take it that Brian Adam is no longer involved in the report.

Richard Baker: My understanding is that he cannot be, as he is no longer a member of the committee.

The Convener: Would it be an idea to bring in Michael Matheson in Brian Adam's place, to help you to finish it off?

Richard Baker: I am happy to take whatever input is offered, but we are pretty far down the road, having taken evidence and submissions.

The Convener: What does the committee think?

Mike Watson: The report is just about complete, is it not?

The Convener: When are we going to get it?

Richard Baker: After the recess.

The Convener: Is that acceptable?

Members *indicated agreement.*

The Convener: How long will we need for discussion of that report? Three hours?

Richard Baker: No.

Mike Watson: Forty-five minutes each way should do.

The Convener: Is everybody happy with the work programme, with those amendments?

Members *indicated agreement.*

The Convener: Okay. Thank you very much.

Meeting closed at 15:53.

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