

ENTERPRISE AND LIFELONG LEARNING COMMITTEE

Wednesday 10 May 2000
(Morning)

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ENTERPRISE AND LIFELONG LEARNING COMMITTEE 12th Meeting 2000, Session 1

CONVENER

*Mr John Swinney (North Tayside) (SNP)

DEPUTY CONVENER

*Miss Annabel Goldie (West of Scotland) (Con)

COMMITTEE MEMBERS

*Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP)

*Nick Johnston (Mid Scotland and Fife) (Con)

*Marilyn Livingstone (Kirkcaldy) (Lab)

*George Lyon (Argyll and Bute) (LD)

*Ms Margo MacDonald (Lothians) (SNP)

*Mr Duncan McNeil (Greenock and Inverclyde) (Lab)

*Dr Elaine Murray (Dumfries) (Lab)

*Elaine Thomson (Aberdeen North) (Lab)

*Allan Wilson (Cunninghame North) (Lab)

*attended

WITNESSES

Jim Logie (Office of the Solicitor to the Scottish Executive)

Frank Pignatelli (Scottish University for Industry)

Nicol Stephen (Deputy Minister for Enterprise and Lifelong Learning)

Gillian Thompson (Scottish Executive Enterprise and Lifelong Learning Department)

CLERK TEAM LEADER

Simon Watkins

SENIOR ASSISTANT CLERK

David McLaren

ASSISTANT CLERK

Mark MacPherson

LOCATION

Committee Room 3

Scottish Parliament

Enterprise and Lifelong Learning Committee

Wednesday 10 May 2000

(Morning)

[THE CONVENER opened the meeting at 10:01]

The Convener (Mr John Swinney): Good morning. I bring this, the 12th meeting of the Enterprise and Lifelong Learning Committee, to order.

I have some comments on the agenda. On item 3, we will be hearing not from Susan Pinder but from Frank Pignatelli, the chief executive of the Scottish university for industry, who has rearranged his diary to be with us today—we are grateful for that. On item 5, I will report back to the committee in private on the Parliamentary Bureau meeting yesterday in relation to the Education and Training (Scotland) Bill. Finally, I apologise to members and to our witnesses for the cramped surroundings in which we are operating today.

I propose that item 5, which is the consideration of the contents of our report on stage 1 and the general principles of the Education and Training (Scotland) Bill, be held in private. Does the committee agree to that?

Members indicated agreement.

Education and Training (Scotland) Bill: Stage 1

The Convener: Item 2 is the continuation of our stage 1 evidence on the general principles of the Education and Training (Scotland) Bill. We commenced our consideration last Friday in committee; the *Official Report* of that discussion is available this morning. I thank the members who were able to attend on Friday for an interesting session. I welcome to the committee Nicol Stephen, the Deputy Minister for Enterprise and Lifelong Learning, and ask him to introduce his colleagues.

The Deputy Minister for Enterprise and Lifelong Learning (Nicol Stephen): I have on my right David Stewart, the head of the opportunities for learning division and on my left, Allan Wilson, the team leader for the Education and Training (Scotland) Bill, both of whom spoke to you last Friday.

The Convener: Would you like to make some opening remarks to the committee?

Nicol Stephen: I should be pleased to do that. I am grateful for the invitation to attend the committee today.

Everyone in this room wishes to develop Scotland as a learning nation. The idea of developing a learning society in Scotland, where anyone, from any background, routinely expects to learn and to upgrade their skills throughout their lives, is important to the development of our economy and to individual development. It will require considerable changes in attitudes to learning.

We often speak about the change in culture that is needed to create a more entrepreneurial Scotland. Equally, however, a changing culture is needed to transform current attitudes towards learning, to encourage a spirit of lifelong learning and an increase in participation, and to change the delivery methods that we have in Scotland. It is about widening access, increasing access and repeating access—ensuring that individuals who have already learned, learn again and again. As part of our vision of lifelong learning, we are firmly committed to focusing on individuals and to empowering people to take greater responsibility for investing in their own learning. A key element in that policy is the national system of individual learning accounts that is being proposed.

Learning accounts will help people to invest in their own learning, with contributions from employers and the state. In the programme for government, “Making it work together”, we developed that general principle into a specific

target of 100,000 accounts to be opened in Scotland by 2002. To achieve that ambitious target, it is important that we start soon. The launch will be in the autumn of this year.

Access to information and funding is crucial to help to develop the learning habit. The Scottish university for industry—which we learned recently is to be called *learndirect* Scotland—will be launched later this year. It will be crucial in providing information on all kinds of learning opportunities across the country and has a major role to play in the context of the bill and of the introduction of individual learning accounts. Those two major initiatives, learning direct—sorry, I will have the name rolling off my tongue soon—

The Convener: It should be a matter of moments, minister. [*Laughter.*]

Nicol Stephen: *Learndirect* Scotland and the individual learning accounts initiative will work together to help many more people along the road of lifelong learning.

Employers, trades unions, learning providers in the public and private sectors, and guidance providers all have key roles to play in encouraging people to open learning accounts. One of the key elements from the evidence that was given to the committee last Friday on the pilots—which, having received a copy of it only this morning, I have briefly skimmed—is that individual learning accounts will not all be about national advertising and big budgets. It is important to emphasise that. Although people will make use of the freephone number, they will access individual learning accounts through *learndirect* Scotland. However, much local marketing has to take place. That will involve the local enterprise companies and their contacts with local employers and with learning providers.

Who is entitled to an individual learning account? In Scotland, accounts will be available to everyone aged 18 and over. That is slightly different from the situation in England and Wales, where the qualifying age will be 19. The accounts are especially aimed at people currently in employment or returning to work, and intending to undertake part-time learning. The learning needs of others will generally be better met through other initiatives that are already available. Within that target group, we particularly want to target the individuals who have not recently accessed training.

Learning accounts are based on two key principles: first, that individuals are best placed to choose what and how they want to learn; and secondly, that responsibility for investing in learning should be shared. That investment will come from the individual, the state and the employer.

Empowering people to take greater responsibility for investing in their own learning, possibly with support from their employer, is a key feature of the individual learning account. Learning accounts will contribute to creating a better equipped work force; enable people to have a personal stake in learning, with greater control over their personal development; increase levels of private investment and participation in learning activities; and raise people's expectations of the benefits that learning can create.

What will people be entitled to? Subject to the passing of the bill, the first 100,000 account holders, if they commit to spend £25 on eligible learning, will receive £150 from the Scottish Executive towards learning costs. Anyone beyond the first 100,000 who has a starter account will be entitled to a discount on their learning costs. That discount will be either 20 per cent or 80 per cent—I will come to that in a moment.

The incentives and discounts under learning accounts may be used for a wide range of learning opportunities. The approach has been to have a wide eligibility for individuals of 18 or over, and a similar approach has been taken towards the types of courses and training that can be taken. Other than the exclusion of full-time school and higher education courses, almost all other types of learning are included. The few specific exclusions are learning that is a statutory requirement for the individual's particular employment, because we believe that that should be paid for by the employer; courses that are given as a reward or inducement to an employee by an employer; driving lessons, flying and diving lessons, and outward bound courses; and leisure and sports activities, unless they lead to at least a level 2 qualification.

I can also announce that we intend the 80 per cent discount to be available for basic skills courses in information technology, communication and literacy. The key courses are standard grades, national units and core skills units up to level 1 in communication, numeracy and information technology. Also covered will be the European computer driving licence—and it is important that the word computer is there; courses of the computers-for-the-terrified type; and the level 1 Scottish vocational qualification in using information technology.

Travel costs and child care costs will not be covered; only the training and learning costs will be covered. ILA money was never intended to cover travel and child care costs. However, following representations that we have received, the issue has been looked at. No doubt the committee will want to question me further on that.

We also intend that ILA incentives may be used for all course costs such as registration,

assessment and examination fees, and—if the account holder wishes—to pay for adult guidance from an approved guidance provider. The overall package should provide the flexibility for learners to take up a wide range of learning to meet their employment and developmental needs.

Finally, as members know, in order to achieve all that and to put the framework in place, we are dealing with three bills. Two are Westminster bills—the Finance Bill and the Learning and Skills Bill—and here in Scotland we have the Education and Training (Scotland) Bill. There is a motion that relates to the bill that the committee is considering:

“That the Scottish Parliament agrees that the regulation-making powers relating to Scotland in respect of learning accounts in the Learning and Skills Bill should be devolved to the Scottish Ministers.”

If passed, that motion will ensure that any such regulations can be tailored to specific Scottish requirements, and I hope that committee members will accept it.

The Convener: Thank you for that full outline. The committee was quite struck during its evidence-taking last Friday by the consistency of the evidence. In a submission, Scottish Enterprise Grampian said:

“We have moved away from directly targeting those who are least likely to learn and most likely to benefit.”

From what you have said, I fully understand that people who are in employment and in the learning process will benefit from access to learning opportunities as a result of the measures. It is easy to understand how a marketing campaign could be structured to encourage those individuals to participate. However, I would like to hear how, in the proposals that you are considering, you intend to broaden access to involve people who are well out of the learning process.

10:15

Nicol Stephen: Putting lifelong learning centre stage is a key part of our strategy in relation to further and higher education, new learning centres, and the creation of the enterprise and lifelong learning department. It is a key part of our economic strategy as well as our education strategy. We want to widen access, especially among disadvantaged groups and individuals who, for whatever reason, have not accessed training after leaving school. Many of the initiatives that will complement individual learning accounts are focused on encouraging people back into training. For example, there are learning centres in deprived housing estates; learning houses that have been developed in Scottish Enterprise Grampian's area; and learning centres on high streets and in football stadiums. Some of the initiatives that are connected with the formation of

learnDirect Scotland, which Frank Pignatelli will no doubt talk about, are also focused on broadening access.

I believe that ILAs will greatly increase opportunities. However, it would have been wrong—and the evidence of Scottish Enterprise Grampian backs this up—tightly to restrict access to ILAs. It would have been possible to identify, and to encourage back into learning, a small number of individuals from deprived backgrounds who had previously failed to access skills training; but doing that would not have started to change the whole culture of attitudes towards lifelong learning. Had we made the ILAs exclusive to people from deprived or disadvantaged backgrounds, I do not think that it would have encouraged as many people from those backgrounds, or as many people who had not recently accessed training, or as many returners to work, as will be encouraged by our taking an inclusive approach. The numbers would have remained relatively small, and it would have been something of a struggle to encourage people back into training. However, by taking an inclusive approach, I think that we will see a boom—a huge growth—in the accessing of lifelong learning. You will start to see a whole range of innovative schemes, such as those that you have seen from Scottish Enterprise Grampian.

As part of that growth, there will be people who would have accessed training anyway. However, if we consider the 2,000 or so individuals in the Scottish Enterprise Grampian area who have accessed ILAs, a far higher number of them, in real terms, come from the disadvantaged or deprived backgrounds that we all want to focus on, than the number that was achieved before the change in the structure, when only a few had been encouraged to take part. At a certain stage, quite far into the pilot, fewer than 100 individuals had been encouraged to take up the access to individual learning accounts that was offered.

In short, it is a question of judgment, and I am clear that the judgment of making individual learning accounts open to all will encourage much wider, more creative and innovative use of them. That will help to do what Bruce Armitage from Scottish Enterprise Grampian spoke about with regard to accessing areas of the community and accessing individuals who, otherwise, no matter how much money was spent on an advertising campaign, would fail to be reached by an exclusive, more targeted approach.

Dr Elaine Murray (Dumfries) (Lab): I would like to expand on disadvantage, particularly with regard to the rural dimension. People in rural areas have particular problems. Someone on a low wage living in a remote area, possibly working for a small employer, might not have much money

to invest and might not have the necessary time off to access learning. How will you deal with such disadvantage? How will you encourage that person to believe that they can access learning, and to overcome the barriers to learning that can arise from remoteness and rurality? There might not even be a learning centre in the vicinity. What is your thinking about extending the scheme to include people in more remote rural areas?

Nicol Stephen: The rules of the scheme will be broadly the same throughout Scotland and the UK, but the emphasis will be on local delivery. Learndirect Scotland will have a key role. Applications for and advice on individual learning accounts will be directed to it. There will be a back-office administrator, which as members will know from the information given last week, is likely to be a private sector provider. Learndirect Scotland will be part of the national structure. Information on the back-office administrator will probably be announced in June.

I envisage the local enterprise companies having a very important role in local delivery and having local discretion on the solutions to be provided on the ground. I hope that, despite participating in an important national scheme that also has a UK dimension, we can be flexible and targeted in proposing solutions, and that we ensure that, through the LEC network of contacts, we access individuals in small companies in rural areas.

The training providers and further education colleges also have a key role. The bill's provisions complement current initiatives in FE colleges and in LECs to get learning provision out to rural areas. Through the use of new technologies such as the internet, and through more vocational training, training can be provided in a rural business—to individual farms or to individual boats in the case of fishermen or people in small fishing communities.

The frank answer is that the scheme in isolation, being a national scheme, will not achieve what you are suggesting, but because it will generate new initiatives and will help to release new ideas—we heard from Scottish Enterprise Grampian about ideas for new training schemes in smaller fish processing companies—it will be an important tool for leveraging the change that we all want.

Dr Murray: The role of information and communications technology will be important in the delivery of distance learning to rural communities. However, there is an investment problem, because the cost of developing new networks is higher in remote rural areas—it seems to depend on population density. Some form of positive action will have to be taken to ensure that rural and more remote communities get the benefit of that technology.

Nicol Stephen: I was involved when a Highlands and Islands Enterprise scheme was launched in Stirling—in the Scottish Enterprise area—because it was so innovative and because HIE wanted to show the whole of Scotland how effective on-line learning can be. Highlands and Islands Enterprise had problems with internet service providers, to do with the quality and consistency of line access and the bandwidth. However, individual learning accounts will lead to new courses being made available and new training providers coming forward. Any training provider, wherever they are in Scotland, who is on the learndirect Scotland database, will be able to access funding for individual learning accounts. As we have already seen in the rural part of Grampian, new initiatives and ideas will come forward. The scheme has already been shown to be attractive to smaller employers in more remote and rural areas.

Marilyn Livingstone (Kirkcaldy) (Lab): I have two brief questions. First, can you expand on how you see guidance and support being made available to those who most need it? You said that if guidance and support were needed, it could be paid for through the learning account. However, guidance and support would probably be the most costly aspect of the scheme, as it would have to be provided on a one-to-one basis. I am concerned that people who have become disfranchised and disaffected from learning, and who need the most support, will have the smallest amount of money left at the end for training.

Secondly, I want to return to the issue of additional support for child care and travel. Low-paid employees tend to regard child care and travel as barriers to their returning to learning. How are you addressing that issue?

Nicol Stephen: I will deal with guidance and support first. We have decided that the funding for individual learning accounts can be used for guidance. We are currently examining the issue of adult guidance in the context of the Careers Service review. Members will know that there is wide variation in the level, quality and cost of service between different parts of Scotland. In some areas, advice is already available free and on an extensive basis, but in other areas it is not. I would be very surprised if the Careers Service review did not produce some fairly fundamental recommendations on the issue.

In the meantime, we thought that it was important to include the cost of support and guidance in the individual learning accounts. Change is taking place in that area. The Education and Training (Scotland) Bill, the establishment of learndirect Scotland and the Careers Service review will force us to address the issues that Marilyn Livingstone raises and to come forward

with a more comprehensive and defensible scheme that applies Scotland-wide. However, we must not pre-empt the outcome of the review.

As a consequence of the discussion that has taken place and is taking place this morning, we will create the opportunity for a shift in priorities, so that child care and travel are addressed by Scottish Enterprise, Highlands and Islands Enterprise, the local enterprise companies, learndirect Scotland and others. I have no doubt that, when those issues are addressed, there will be pressure on the Executive to provide support and additional funding in those areas.

10:30

It would be wrong to include the costs of travel and child care in the regulations that ministers introduce. It was never intended that those costs would be included and it would be difficult to administer such payments. An analysis of the situation suggests that the amount of tracking and auditing and the problems of claiming those costs on top of the current individual learning accounts system would be disproportionate to the benefits.

That is not to say that those issues should not be addressed in other ways. For example, as part of the Cubie inquiry, we undertook to report back on child care costs in the context of further and higher education. When the Executive addresses that, as I believe it will, it is important that we produce a satisfactory set of proposals that cover all aspects of lifelong learning. I would like greater consistency in our approach to funding, whether in further and higher education or in individual learning accounts.

The Convener: Thank you, minister. We have a number of items to deal with, so I ask for brief questions and brief answers. We will need time to discuss the Sewel motion; members have received copies of it in the note from the clerk.

Mr Duncan McNeil (Greenock and Inverclyde) (Lab): What you have described is a nationwide scheme in which Scottish Enterprise will have a key role through the LECs. The head of Scottish Enterprise has said that he does not believe that his organisation should be delivering national training schemes. Are we confident that Scottish Enterprise is fully committed to that role? Are we confident that community networks can encourage the participation of key groups and those who most need training? Will ministers have a responsibility to ensure a level of participation from those groups? How will participation be monitored?

Nicol Stephen: I am convinced that Scottish Enterprise and Highlands and Islands Enterprise are fully committed to the individual learning accounts proposal. The local enterprise

companies that have piloted the initiative have played an invaluable and central role developing those proposals. I am certain that Robert Crawford has not said that he wishes national training to be taken away from the responsibilities of Scottish Enterprise. A full review of the enterprise network is under way at present. Just as in due course the Enterprise and Lifelong Learning Committee's review of local delivery will become public knowledge, the enterprise network's review will be announced later this year. It would be wrong to pre-empt that.

An initiative such as this could have been provided through the Scottish university for industry, but the decision was taken that the initiative was so significant that it would be wrong to add to the responsibilities of learndirect Scotland at its launch stage. It was also important to encourage the involvement of Scottish Enterprise, Highlands and Islands Enterprise and the local enterprise companies. We have seen the importance of that in the evidence from Scottish Enterprise Grampian and Scottish Enterprise Fife. What happens on the ground with local enterprise companies, colleges, training providers and employers is crucial to the success of individual learning accounts.

Mr McNeil: Will they be set targets to reach those who most need training? Will those targets be set and monitored? Will the success of the programme be judged on how many people get back into education?

Nicol Stephen: There will be monitoring but, initially, there will be no targets other than the overall 100,000 individual learning accounts target, which will be broken down into targets for local areas. We will announce priorities. We will not say that the money should be made available simply on a first-come-first-served basis; we want local initiatives to target individuals from more disadvantaged communities or from deprived backgrounds, who have not been accessing training.

The priorities will be made clear in the information that is made available to learndirect Scotland, to Scottish Enterprise and to local enterprise companies. We will try to prioritise in that way, but we will not set initial targets. We will monitor the situation and consider such factors as age and gender and how recently individuals have accessed training. In that way we will ensure that we are achieving our priorities, but fixed targets will not be provided for individual socio-economic groups.

Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP): Although I appreciate your candour, minister, I am shocked and appalled to learn that the scheme will make no allowance for the costs of travel and child care. How can we

expect people who live in places such as Kinlochleven, Lochaline and Knoydart to participate in a scheme when the nearest place of learning is in Lochaber and they would have to pay a tidy sum to get there to attend the course? If travel costs are not to be paid for, as you have admitted, does not that discriminate directly against rural Scotland?

Nicol Stephen: It is important to emphasise that all this is an improvement on the current position. There will be £23 million of new, additional funding over the next two years. It will be equally available in all parts of Scotland. A crucial element of encouraging learning and the development of new skills will be changing the traditional delivery mechanisms. It is not only about attending a college at some distance; much of the training will be provided vocationally at the premises of companies, and a lot of it will be available on-line and through the new technologies.

I appreciate your general point, which applies to all learning in all situations in rural and remote Scotland. I am not unsympathetic to the problems and I agree that travel and accommodation costs must be considered further. The whole issue of child care must also be examined more closely. In the context of the Education and Training (Scotland) Bill, which introduces a massive injection of new funding into skills and learning, it would have been difficult and inefficient to make those costs eligible. It was never envisaged that those costs would be covered as part of this initiative.

Fergus Ewing: The proposition that it is too complicated to legislate in a way that does not discriminate against rural parts of Scotland seems dubious. Taking what you say at face value, you seem to be indicating that travel and child care costs might be met by the local enterprise company by some other means. Are you aware that Highlands and Islands Enterprise is facing a 4 per cent cut in its budget next year, against an increase in the budget of Scottish Enterprise? Will you review the HIE budget and increase its funding to enable it to ensure that people in its area can participate in the ILA scheme?

Nicol Stephen: I made it clear that I would provide further information to the committee on the Highlands and Islands Enterprise budget. I pointed out that not a penny of the additional £23 million for individual learning accounts or the money that will be made available for learndirect Scotland—formerly the Scottish university for industry—had been allocated to Highlands and Islands Enterprise. All of it was in the Scottish Enterprise budget, which was clearly wrong, and an appropriate reallocation needed to be undertaken.

All the additional information the committee requested last week should be in front of me by

Friday and I shall ensure that the committee receives a letter as early as possible next week, to clarify those issues. As I explained last week, the fall in the funding of Highlands and Islands Enterprise is misleading for those reasons. It is important that the committee is aware of the real-terms situation and the fact that significant funds will be spent in the Highlands and Islands Enterprise area on individual learning accounts and learndirect Scotland.

I am suggesting a consistent approach towards issues such as child care, travel costs and accommodation costs not only in the spending of local enterprise companies, but in that of further education colleges and universities. We must address this in the round and come up with appropriate ways in which to make support available that assists people in remote and rural areas—and people from disadvantaged communities—to access skills and training. That will be partly in our response to Cubie's recommendations: I undertake to consider the issue further, given the concern that has been expressed by the committee this morning.

The Convener: Thank you, minister. Margo MacDonald will ask the final question in this session.

Ms Margo MacDonald (Lothians) (SNP): You have identified 100,000 individual learning accounts as a pilot scheme to test the water, but there is doubt in the committee about whether you will reach the conclusion you expect as you have not built in the support for your target groups that is absolutely essential. Would you consider finding some room for at least one project for which the community education structure that already exists could channel support if you allocated some resources to it? It would be worth seeing the difference.

It is not just in the Highlands and Islands that people are put off by the fact that there are no travel allowances or child care arrangements. In Fife, where such learning schemes are successful, people told us that what is holding them back is the lack of opportunity to progress with their learning once they have started. It is awful to start something only to find out that you cannot progress because you cannot afford the costs of child care or travel. The issue is so crucial that it might be worth finding a space in your programme to identify one pilot area in which the existing delivery services can deliver what we want.

Nicol Stephen: There will be an opportunity to do that. I emphasise the flexibility. I have responsibility for aspects of the new deal. One of the things the Scottish group is always asking for is greater flexibility. I realise fully the need for flexibility, and the idea of some sort of regional piloting is worth considering further.

Today, we are considering a bill that would give Scottish ministers the power to introduce regulations. As is clear, regulations may change over time; they may address the greater targeting of resources. I would like to get the scheme up and running in September. That means making progress on the bill, getting the regulations in place and making a start on achieving the ambitious target of involving 100,000 new people in skills and learning. We share the committee's concern to reach disadvantaged groups and to involve individuals who have not been able to access training in the past.

10:45

The Convener: Thank you, minister. I want to move on to the Sewel motion the minister mentioned. Members will have received notification of the motion in a note from the clerk dated 5 May. Mr McLeish has lodged a motion, S1M-8170, on the Learning and Skills Bill, which says:

"That the Parliament agrees that the regulation-making powers relating to Scotland in respect of learning accounts in the Learning and Skills Bill should be devolved to Scottish Ministers."

The motion relates to the minister's point about the subject under discussion being covered by three bills: the Education and Training (Scotland) Bill, the UK Finance Bill, which is going through the House of Lords and the UK Learning and Skills Bill, which is currently in the House of Commons.

We are required to give a view on Mr McLeish's motion, which will go before Parliament for a decision. If the committee is content with the motion, it will probably be taken without debate. This is our opportunity to make any comments about the motion. Do you want to make any additional comments, minister?

Nicol Stephen: As members will know, the original model intended individual learning accounts to involve the establishment of a bank account, involving the banks in the process. Given the problems that arose in the pilot schemes—Scottish Enterprise Grampian spoke to the committee about them last Friday—it was agreed that we should move away from that model. Many of us see an opportunity for individual learning accounts to develop over time.

One of the final recommendations of the Cubie report was that individual learning accounts should be considered in the context of further and higher education. For that reason, the opportunity to create ILAs that involve a new financial instrument—requiring the involvement of banks—was not dropped from the proposals. However, the proposals for such instruments are in the UK Learning and Skills Bill and banking provisions

remain a reserved matter. The Sewel motion would provide a power for Scottish ministers to enact regulations, should it be decided to create a new financial instrument as part of the development of ILAs.

The marketing of that development to the individuals who will access skills and training will be seamless. It would still be called an individual learning account, but it would be a significant development in statutory terms and that is why it requires separate legislation. We want permission to enact the regulations should the programme be a success and develop further. Those powers would not be acted upon initially.

The Convener: Do members have any comments on the Sewel motion? Are members content with the motion?

Members indicated agreement.

The Convener: Okay. We will report to Parliament the fact that the committee is content with the motion.

I want to ask about section 3 of the Education and Training (Scotland) Bill in relation to regulations. Mr McLeish sent a memorandum to the Subordinate Legislation Committee with some illustrative regulations that would come under section 3. Can you tell us why ministers have chosen that route to enact the policy issues in relation to individual learning accounts and why the regulations are not on the face of the bill, but are to be introduced during the summer recess?

Nicol Stephen: The illustrative regulations the committee has seen are intended to create the flexibility about which we have been speaking. If the regulations were on the face of the bill, we would be bound absolutely by that wording until amendments were made to it or new legislation was introduced. Given that we are discussing a major new initiative, we are unlikely to get it completely right first time. We will need flexibility to ensure that the initiative is successful. Although it would be for the minister to propose formally any changes to the statutory instrument, such changes would arise from recommendations made by the committee, learndirect Scotland or the enterprise network. We want to create a culture of lifelong learning in the context of the development of the initiative. We do not want to pretend that it will be absolutely perfect from the start and we do not want to create a rigid system.

The Convener: We would appreciate an assurance that when ministers formulate the regulations over the summer, they will reflect on policy issues raised by the committee in its report. I do not know what the committee will conclude as a result of its stage 1 consideration of the bill, but that will be our last chance to have any input on the policy issues.

Nicol Stephen: I give that undertaking. That is why we have produced illustrative regulations. As the regulations are revised—some of the revisions will take on board the concerns that have been expressed this morning—we will give the committee regular updates. The timing of the regulations is unfortunate and not what I would have wished; the problem lies with the timing of the two UK bills—the Learning and Skills Bill and the Finance Bill. Wherever possible we should seek to avoid introducing regulations during the summer recess. I hope that there will be better planning to avoid a repeat of the situation. However, knowing how such matters develop unexpectedly, I do not think that I can guarantee that. Everyone would have preferred to involve the committee and the Parliament in the consideration of those issues.

The Convener: Thank you, we appreciate those comments. I have made similar remarks to the bureau about the timetable the committee has been expected to follow on the bill. Although it is understandable, it is not ideal. Do you have any final comments for the committee?

Nicol Stephen: I apologise if some of my answers used more words than I would normally offer. I was told that my time limit today was an hour and a half, so I am pleased to have been able to complete everything in under an hour. That contrasts with last week, when the equal and opposite happened.

The Convener: There has obviously been a terrible breakdown of communication between the clerks and the convener—I had you down for an hour. I felt that we detained you far too long last week.

Nicol Stephen: I am not complaining.

The Convener: The committee will consider the general principles of the bill and, ideally, will report to Parliament before 19 May.

We will have a brief interlude for coffee.

10:55

Meeting adjourned.

10:58

On resuming—

The Convener: We will continue our consideration of the general principles of the Education and Training (Scotland) Bill. I welcome Frank Pignatelli, who is the chief executive officer for SUFI—although I should probably refer to it as learndirect Scotland. You are very welcome, Mr Pignatelli. First, I thank you very much for rearranging your diary to ensure that you can be with us today. That is very much appreciated.

Please make any opening remarks that you would like to make.

Frank Pignatelli (Scottish University for Industry): I should clarify that the Scottish university for industry will remain the corporate name of the entity and that learndirect Scotland will be the public face for learning centres and learning materials. It is a bit like Kellogg's being the company and Coco Pops being the brand name.

The Convener: I have eaten Coco Pops, so I know what you mean.

Frank Pignatelli: I would not want to pursue that analogy much further.

It is a pleasure to be at the committee today. I will make a preliminary comment and four specific points. I am delighted to have the opportunity to speak to the committee. I hope that the Scottish university for industry will become central to the delivery of the aspirations of this committee, because it is, as Henry McLeish said, the most radical and exciting learning development in post-war Scotland. We see a lot of the issues that have been discussed this morning, in a sense unfairly, as located within the debate on individual learning accounts, because they are much broader issues. I suspect that, when we come to a debate, members will be raising similar issues because the Scottish university for industry sits at the centre of those matters.

I come with two specific backgrounds. I have had 26 years in the public sector, involved in education, training, lifelong learning, community learning and setting up the continuing education gateway. Over the past four years, I have been in the private sector working with Associated Newspapers, Motorola, Kwik-Fit and Scottish Business in the Community. I say that because you get a different perspective when you shift from one sector to the other. A strong part of the thinking that informs the Scottish university for industry is about being the champion for learners, to ensure that it is client driven. There is an issue in Scotland about supply and demand. We must empower clients an awful lot more than we have in the past. That is an important point.

I have four specific points to make to bring the committee up to date on developments in relation to SUFI and to individual learning accounts. First, SUFI is not another initiative. It is the overarching body and mechanism to make sense of all the things that are going on. I know that in the committee's economic development inquiry, you stated that lifelong learning is a congested environment and you spoke about the need for more co-operation, less competition and more leadership. My view, in taking up the post as head of this organisation, is that that is the role that I

have been asked to undertake. SUFI is the national body for Scotland to create that focus. It is not realistic to suggest that we get rid of some of the providers. If there is a buck to be made, or a reputation to be made, there will be providers. We must make sense of all of that for the clients. That is one of the main aims for SUFI.

Second, SUFI has been asked to concentrate on two specific groups. This may address some of the issues that members raised earlier. The two groups that we have been asked to give direct priority to are socially excluded communities—we are doing that through relationships with the social inclusion partnership areas across Scotland and through the network of contacts that we have with a range of bodies throughout Scotland—and, just as important, small to medium businesses.

The committee will know very well the statistic that 98.8 per cent of companies in Scotland employ fewer than 50 people. That means that they cannot send people off to courses. It means that the bottom line is very critical and the profit-and-loss account is attacked if people are off doing courses. We must find innovative ways to attract people who are working in small businesses and—to pick up the point made by a couple of members this morning—people in rural communities. If provision does not exist in a rural community, we are charged with making that provision available.

One of the strands of that provision is that we have been asked by the Scottish Executive to manage the capital modernisation fund, which will put learning centres into communities where they do not currently exist. That will become public within the next four to six weeks. Bids will be invited for the creation of learning centres, or learning points, throughout Scotland against a budget, at this stage, of £8 million, with bids coming in between £1,000 and £100,000.

Clearly, on Dr Murray's point about rural communities, Margo MacDonald's point and some of the points made by others, if there is not local provision, we should be trying to get that in. Those are two critical groups that we are being asked to address. It is not in the general sense of lifelong learning; it is about skills and employability for the individual and competitiveness for the community. It is about creating a competitive Scotland through its people.

Thirdly, on our current position, the launch date for the Scottish university for industry is autumn—perhaps October—this year. The date is not yet finalised because major political and operational debates still need to be resolved. To make the name *learnirect* Scotland more visible, we are immediately embarking on a national marketing campaign, which will have the benefit of sending out consistent, high-quality messages to motivate

people, but is nevertheless targeted at local communities.

The campaign will carry a freephone number for the national call centre, which will raise issues such as the kind of welcome and guidance that callers receive, and will refer people to the website, which is in development, and to local learning centres. I know that people have concerns that this might be another national initiative that will neglect the local dimension. We must ensure that we direct people to *learnirect* Scotland learning centres throughout the country.

There are certainly about 500 learning centres scattered throughout Scotland in non-traditional locations—although there might be as many as 2,000, depending on whom you speak to. Increasing the number of centres and improving the quality of their provision will be a very high priority for the Scottish university for industry. To do so, we need to address certain barriers. For example, if a single parent phones the call centre to say that they need local learning provision because of child care responsibilities, we must resolve that problem.

In a sense, this morning's debate on ILAs focuses on a very small part of the picture. A whole range of people will be activated in this process. We will put pressure on local community education services, local councils and local partners in the Highlands and Islands Enterprise area, through the national LEC system, to concentrate on communities that are disadvantaged because they are not receiving the required provision.

I also want to mention the database, which is a critical part of this progress update. We must have a robust database of learning opportunities to help people who contact the call centre. At the moment, there is no such database in Scotland. The existing databases have severe shortcomings, and we are working hard to have a more robust database in place by September or October.

Our overall purpose is to simplify access, encourage learning, be a client-driven organisation and create new markets by bringing in people who are not already engaged in the process. I do not want to gainsay the Open University's massive advantages; however, that institution tends to attract already well-empowered and well-educated people who are upgrading their skills in a way that was probably not envisaged by those who initiated it. We want to grow new markets by attracting a huge number of people who are not already engaged.

At this stage, we would be delighted to answer questions, take observations or provide additional information later on this exciting opportunity.

The Convener: Thanks very much. Your very candid explanation of the work of the Scottish university for industry clarifies several points. Furthermore, I appreciated the way in which you set your comments in the context of the committee's interim recommendations on lifelong learning. You will not be surprised to hear that you speak the same language as this committee.

Miss Annabel Goldie (West of Scotland) (Con): Mr Pignatelli, continuing your breakfast cereal analogy, I was expecting a touch more fruit and fibre. I mean, learndirect Scotland sounds like a bad attack of constipation. Surely to heaven we can think of a more appealing title than that.

The Convener: I do not think that Miss Goldie likes your title, Mr Pignatelli. [*Laughter.*]

Frank Pignatelli: There is an old expression in the west of Scotland that you apply in these circumstances: "It wisnae me".

The Convener: Now that is accountability.

Frank Pignatelli: I accept total accountability for our conclusion.

Although the title Scottish university for industry is very helpful when discussing the idea with formal traditional providers such as universities and further and higher education institutions, it presents quite a barrier for our clients. As a result, we decided to find a better brand name. After we compiled a list of 150 possible names, we conducted a major market research exercise throughout Scotland to test them out. We found that, of the 19 names that remained after that exercise, 16 of them—phrases such as the learning exchange and the learning source—were already being used. The three remaining names were then put out to market testing.

What convinced us to choose the term learndirect Scotland was the decision by the university for industry in England and Wales to adopt the brand name learndirect. It has invested £19 million in a marketing campaign, putting advertisements in between episodes of "Coronation Street" and other very popular programmes, and has achieved a lot of reach in Scotland through national press coverage. Some of the big companies such as Sainsbury's and Safeway Stores, with which we have been discussing the possibility of setting up learning centres, are already engaged in the UK-wide programme. Our decision was very pragmatic and I associate myself with it completely. However, I recognise that it is not the most dynamic and positive name.

Miss Goldie: I am very grateful, Mr Pignatelli. However, although you appear to have researched the matter very thoroughly, I remain personally unimpressed.

During last Friday's evidence session, there was some concern about visibly benefiting people who undertake ILAs with some form of accreditation or other evidence that they had finished the course. We are all aware that this should not be a one-to-one operation. The person who benefits from the experience should surely have some form of transmissible evidence. However, how that would happen was shrouded in doubt and I believe that SUFI would clarify the situation. Can you tell us anything more about that aspect of the programme?

Frank Pignatelli: We are working very closely with the Scottish Qualifications Authority and the Quality Assurance Agency in Scotland. The Scottish university for industry has to engage the most deeply deprived and excluded learners right through to postgraduate and continuing professional development programmes for professionals. A Scottish credit and qualifications framework is being developed, which will allow people to follow routes from level 1 Scottish vocational qualifications, to graduate, postgraduate and PhD programmes.

However, that ladder of opportunity is about six feet from the ground, with a big gap between the bottom of it and people who are not engaged in the process. The Scottish university for industry has decided that every learning centre throughout Scotland—whether a new learning centre in a local area or an existing university or college—will have to sign up to a learning protocol stipulating that centres that want to be branded learndirect Scotland centres will offer learning opportunities that ensure progression and recognition for individuals.

The Scottish Qualifications Authority tells us that it is involved in accrediting bite-size learning, which it defines as half a module, or 20 hours' learning. However, we have told the authority that such learning might be only 20 minutes for someone who is really excluded.

Furthermore, we are giving a Scottish university pledge to learners, which is something that I am very excited about. We will pledge to learners who come to learndirect Scotland that they will receive their education when, where and how they want it, which means that we might have to create provision or provide the means whereby someone can access learning. However, that can be achieved only through very sophisticated technology.

We are part of a major consortium led by Logica—and including Cable and Wireless, Fretwell-Downing and other big companies—that is investigating how to create a Scottish university of industry internet service provider. We hope to dedicate an internet service provider facility to getting education down the line to rural

communities. That depends on those local communities making bids through the capital modernisation programme to get the learning facility. Of course, we want to act strategically. I have taken the message from this meeting that the rural, or excluded community, dimension is a high priority for the committee.

Miss Goldie: I have a final question. On Friday we elicited that there were concerns on the part of Scottish Enterprise Grampian about how the new relationships will interconnect, because we will have a Scottish university for industry, perhaps a contract administrator, an education provider at local level and a LEC. Scottish Enterprise Grampian was candid in saying that it was not entirely at ease with the structure. Can you clarify for the committee how SUFI will perform its role without getting in the way of what seems to be an effective delivery template at local level?

11:15

Frank Pignatelli: That is a helpful question, because one of the key issues for SUFI is that we will not be a provider, we will be a facilitator. While I was somewhere else I read the debates that have gone on in this committee over the months, and have seen why SUFI was being developed. It is to be an overarching body—it is the one-door approach—which will engage people with providers who are already out there.

The problem that we face is that some suppliers are good and some are poor. I recently said to the management group at the University of Glasgow, "I would not accredit the medical school of the University of Glasgow under the learndirect Scotland banner." That was not because of the content of the course, which is outstandingly good, but because of the infrastructure of continuous support for students. Equally, in some local community learning centres, the welcome is there and the support structures are there, but the content could be improved.

We will engage with all the providers across Scotland. We hope that they will all want to be learndirect Scotland badged, as a national badge of quality. We would be saying to learners, "That is the very least that you should expect." We are not an additional provider: we are the overarching framework that sets the national specification for standards and quality of experience.

I suspect that some of the providers will go to the wall with regard to the national specification that is set by ministers through the learndirect badging process. Henry McLeish talks about accredited learning centres. We are not having an army of quality assurers going out, but we are demanding that every learning centre and every learning experience in Scotland is capable of

being accredited to a national standard like SQMS—Scottish quality management system—or ISO 9001.

Allan Wilson (Cunninghame North) (Lab): I share your excitement at what is proposed. The outline of the vision that you have given us today answers a lot of questions that were posed in evidence-taking sessions as recently as Friday.

I should declare an interest. I am the director of a charitable company that is involved in the wider social action agenda, part of which extends to community learning in deprived communities. I am particularly interested in increasing the number of community learning centres and making learning more accessible by bringing the mountain to Mohammed if Mohammed cannot get to the mountain.

You referred to a bidding process. A prospective problem with that is that bids might not come from areas that are deprived, because they do not have the wherewithal to put together the necessary expertise to make the bid to receive the largesse from the Scottish Executive. Do you intend taking a proactive approach to deprived communities, which exist in rural areas and in our cities, to ensure that the learning process can be brought to communities that do not currently have access?

Frank Pignatelli: That is an important issue. There is an army of people throughout Scotland whose sole role in life is to write bids for funding. I am wary that we will get some of the bids for funding that have been rejected by others. They will be topped and tailed and put forward. The executive team—four directors and myself—has met all local learning partnerships in Scotland, which are engaged with 90 per cent of the population, to say to them, "We want to work with you to get projects that make sense." We will be extremely wary—many of us have experience of dealing with this over the years—of projects that have been twisted to meet the criteria. The criteria will be explicit. They will say, "You will get funding if you can sign up to the Scottish university for industry learning protocol", which says, "We will reduce the barriers for you if you work with us".

We have a duty of care. If we say to an individual, "We will get you a quality learning experience", we have to be sure that the provider can provide it. In the bidding process we are saying, "You will have to be comfortable with the learning centre protocol and the learners pledge. If you do that, you will be able to get funding." Of course, that relies on us being out and about, and most of our time from now until the launch will be spent engaging with adult guidance networks, local learning partnerships, community education services and so on.

Mr McNeil: You mentioned when and how. As Nicol Stephen said, there will be a boom in further education as a result of this initiative. I am supportive of it, particularly with regard to learning centres creating more access, whether they are in supermarkets, on industrial estates or in communities themselves. I am concerned about whether the providers are up to the job, because whether you are in a rural community or in the middle of Greenock and live next door to a college, that college will be closed at weekends and will be inaccessible. Although you can travel to the college, see it and touch it, it will not be open when you finish your shift at 10 o'clock in the evening. It will be available when you are being offered short-term employment, but because of the sessional arrangements it is not available when you find yourself unemployed.

Are you convinced, Mr Pignatelli, that you can get the culture change in providers, such as further education colleges and those supporting learning centres, so that they can be as flexible as the people they serve, who have had to become flexible to get employment, although they might be locked into low-paid employment and be unable to get the educational opportunities that they need to take them to the next stage, from which they can progress?

Frank Pignatelli: We have the benefit of a number of European ADAPT project pilot projects. The Glasgow Telecolleges Network is composed of 10 further education colleges in Glasgow that are experimenting with new models. The South East Scotland Network for Education and Training has 11 colleges that are looking at different ways to provide their services. I have had several meetings with all the principals of further education colleges in Scotland. I outlined for them the kinds of issues with regard to learning centre protocols and the learners pledge that we are talking about. A number of them are wary at this stage about whether they can move down that direction for a good set of historical reasons, but there are exciting things happening.

I have an anecdote that will help you to consider the issues. In Carluke in Lanarkshire Renshaw Scott, is a wholesale food company. Everyone in the company has to have health, hygiene and safety modules through the national certificate modular programme. Traditionally, the employees have gone to Motherwell College for those modules, and it has been a time-off task. I visited the company and met the managing director a couple of weeks ago. That company now has a learning centre. We have put the modules online. The college that they used to go to is not supporting them, but another of the colleges in the Lanarkshire area is supporting an online tutor programme. The company is delighted at the way in which things are going. It does not have to send

people out of the company for training. In addition, further education colleges are beginning to see new markets.

It is not a question of FE losing out to other providers: it is about FE reforming itself in certain circumstances. There will always be people who want to go to a class in a location called a college or a university, but the target group that we are looking at in trying to grow this new population of people is those who would never walk near a formal college, and that needs more flexibility. It is that kind of approach that we are trying to develop.

Mr McNeil: You seem to be saying that competition will push on that target. Does that mean that, from your discussions with principals, they are not ready to push on themselves? Are they going to wait until there is a competitive challenge before they make the leap? Will they be open on Saturdays? The ADAPT programmes say that that is beginning to happen, but I see no evidence of it.

Frank Pignatelli: We are at the early stages. Having had responsibility for FE colleges in a former life, I can say that they have gone through a huge upheaval with incorporation, through to where they are now. Some colleges are addressing that at the moment. They have flexible arrangements—they are open in the evening and at the weekend. There is an issue about conditions of service and historical practices, which will be driven by this kind of market.

The Scottish university for industry is firmly rooted in the public sector and third sector ethos, but will try to apply private sector practices. I tell the principals of colleges that this is the new world, in which e-commerce and the knowledge-driven economy are important. I tell them that exciting things are happening, that many people are taking up these opportunities and that they have to be involved.

There are outstanding examples of higher and further education in Scotland, but clearly there is some way to go. We are talking to John Sizer and the funding councils, as the way in which further and higher education are funded do not lend themselves to this kind of approach—the student unit of measurement and so on. There are optimistic signs, but members may have examples of poor practice, which we will have to address.

Elaine Thomson (Aberdeen North) (Lab): You say that you are creating a database of training providers and that you will be the umbrella body. Is it the case that any training provider, in either the public or private sector, can be included in your database? I welcomed what you said earlier about accrediting training providers, as there are some very poor providers. Do you hope to become the pre-eminent Scottish accreditation body for

training providers?

I visited an ADAPT-funded pilot training project in Aberdeen, which was excellent and provided many useful things.

Members have raised concerns about access to training and the barriers in terms of travel, child care and so on. The minister—

The Convener: Please move to a question. There are many members who wish to speak.

Elaine Thomson: I am getting there.

Will you record the names of everybody who has contacted SUFI and taken advantage of training? Will you monitor that according to criteria such as age and gender, so that any barriers are recognised and it will be apparent if certain people are being excluded?

Frank Pignatelli: All LECs in Scotland pass a huge amount of money to private consultants to develop the learning opportunities database. There already are databases, such as the Scotia database, which is the most robust, but which requires a lot of work. That database includes public sector and private sector providers.

Providers will have to be accredited. They will have to demonstrate that they can meet the demands of the SQMS, which is recommended by the Scottish Executive, and which, in an amended form, we regard as the way forward. All the providers on the database will have to meet the quality standard that we will develop with partner bodies.

One of the exciting things about the Scottish university for industry is that, because of the sophisticated information and communications technology infrastructure, we will be able to track closely what is happening. If we are to be genuinely client driven and to be advocates for the learner, whether that is a small business or an individual, we will have to take their comments on board. We have been asked whether that means that we will be able to produce an annual report indicating the experiences of learners—a *Which?* report, as it were, of learning in Scotland—but that is a step beyond our current thinking. Clearly, we will make use of all the information that is available.

We will focus on those groups that have traditionally been excluded: women returners, unemployed people, and people with long-term difficulties. We go beyond the ILA consideration that you addressed earlier and deal with a range of people. There is a strong conviction that many people fail to learn not because of their own problems, but because of other problems.

Last year, I chaired the skills and employability network for the Scottish Council Foundation. We

produced a report called “Dynamic Security”. If members have not seen it, we will try to obtain copies for them. That report talks about the barriers to learning, such as the benefits trap, the black economy, the intermediate labour market and inappropriate employer attitudes—an impression is sometimes given that all employers want to embrace this exciting world.

I have been working with the Scottish Trades Union Congress to say that this may be a vehicle to put pressure on to employers who do not rate learning as we would wish them to. Those barriers to learning are critically important. There were some outstanding people on the committee that produced “Dynamic Security”, and the philosophy of that document informs everything that we are doing. The technology, too, will help.

11:30

The Convener: It will be helpful if you could arrange for copies of that document to be sent to the clerks.

George Lyon (Argyll and Bute) (LD): I have an observation and then a question. We were talking about learning in remote areas. I will give the example of Argyll College, which has opened recently in my constituency. Remote learning centres have been set up on Tiree and Islay, and in Campbeltown, Rothesay, Dunoon and Oban. I have visited those centres and can say that they have been immensely successful. There has been a huge take-up and they are certainly welcomed by local people. That shows that learning can take place in rural areas. Most of the courses are sourced from Perth College and are delivered online.

In your introduction, you said that small and medium enterprises were one of the key target groups that you wanted to engage in the learning process. How will you achieve that, given the fundamental problem that small businesses—I hold up my hand to having been a small businessman in a former life—are driven by the day-to-day needs of the business? There is sometimes a view that, if one trains people, they will move on to someone else's businesses, so one will not get any benefit.

How will we engage small businesses in the process so that they encourage their employees to take up ILAs? That is fundamental to the challenge that Scotland faces, because, as you say, 98.8 per cent of people are employed in businesses that employ fewer than 50 people. Larger businesses will not be a problem, but the big challenge will be to deal with the mass of people who are employed in small businesses.

Frank Pignatelli: I endorse entirely what George Lyon says about learning in remote areas. I have been to Dunstaffnage and we are working close on the Argyll College concept for rural areas. I also spent two days in Orkney with the University of the Highlands and Islands academic council, which is doing the same thing in some of the most remote communities there. The First Minister and I spent a day in Orkney looking at the Orkney College provision. Some really isolated areas are getting high-quality provision.

We aspire to have 60,000 learning opportunities on the database by the end of the year, which will be available to anyone who can get connected. Mr McLeish talks about learning points at which one computer that is linked to the internet will give access to 60,000 learning opportunities. We have to train online tutors to support people through e-mail and direct contact.

We are working closely with the Federation of Small Businesses, with which I have had several meetings to try to identify how we can convince employers that this is the way ahead. We have also had meetings with the STUC about empowering individual employees to work with the their employers in small businesses to convince them that this is in everybody's best interests—for the individual's skills and employability and for the company's competitiveness. I agree that that is the nut we have to crack. It is a huge challenge. The federation is arranging for us to meet individuals.

The Renshaw Scott example came from a managing director who said that, if he sent people off for training, he would lose money, so he would not do that. That forced a rethink, and the Scottish learning network put together an arrangement that addressed that individual case. We need more examples like that.

The First Minister is committed to being involved personally in the launch of learndirect Scotland later in the year, but is anxious to involve parliamentary colleagues around the country. We think that we need someone in a small business saying that this training model has worked for them. We need to use case studies to convince people on the ground that it is making a difference.

Ms MacDonald: First, let me say that I am glad that Frank Pignatelli is doing this, because I was worried that it was going to be yet another telephone helpline. What he has sketched today is a strategy. What he is selling—as George Lyon said—is the concept of learning being good for you, in exactly the same way as the Health Education Board for Scotland says that eating roughage is good for you. Annabel Goldie should take note.

The Convener: We will get the prize for analogy use. We have had cream cakes and now breakfast

cereals. Where will it end?

Ms MacDonald: We are starting from the concept that learning is good for you. If the philosophical approach is correct, the marketing to SMEs will presumably be correct as well. I am interested in quality standards—the product is only as good as standards are consistent. Do you have enough money to do what you want to do and to tempt training providers to take part? A lot of money and personnel will need to go into tempting the providers to improve their premises in terms of health and safety, never mind the quality of the courses that they offer. Could other people in the network or existing partnerships do that, or do you need to recruit your own staff?

I have a basic question about the database. I was responsible for the building of the original Scottish training access points database. I know how difficult it was—admittedly, that was seven years ago now—to get the LECs to realise how essential it was and that we could not operate without a really good database. Who will operate the database? Will that be your direct responsibility, or will that responsibility be devolved? If there is one phone number, and people come to you, who will deal with them? Where will you find the people to give the guidance down the phone?

Frank Pignatelli: The member has raised a number of issues. Guidance is an important issue. We have almost banned the word guidance within the organisation, because the impression is that people need guidance at particular times in life—at 13, people need guidance about what subjects to do at school; at 16, they need guidance about jobs and so on. Our view is that learning and learner support should be available, consistently, throughout the learning experience—people always need some sort of support. That is why, when we talk about providers and quality, we insist that providers do not get involved only in providing content, but in offering support structures, either through tutors or through the environment that they create. There is no question in my mind but that that is a real issue.

We have embarked on a one-year relationship with Network Scotland, an organisation that Margo McDonald will know well, for the call centre. There are two kinds of call centre—the galley slave model, where you just ratchet up the technology and more calls come in, and the model that uses human potential and advises people. Our call centre staff have to be sophisticated, but not so sophisticated that they get into offering advice that they are not qualified to give. We have said that staff will need a level III national certificate in customer care, to ensure that they are able to engage with people. They will be the first point of contact. We could lose many people if callers get

a knock-back or a negative response at that stage. Once it becomes clear that an individual will benefit from one-to-one advice, we will refer them to someone helpful. That may not necessarily be a careers officer, through a careers company or the adult guidance service. We are working on who the providers will be to whom we refer people.

My answer to the question about money may be unusual. I believe that there is enough money in the education, training and development world in Scotland to respond to all the needs that exist. I do not need money from the Enterprise and Lifelong Learning Committee; I need its support to allow me to do what I want to do. I will be running a very small organisation of, we expect, between 30 and 40 people—originally it was going to be 25. Our purpose will be to set the specification nationally, to insist that things are delivered, to knock heads together and to say to people that there are better ways of using the money.

People such as Robert Crawford—to whom we have spoken—are entirely comfortable with the idea. He says that he will work closely with us if we take on the role with learning providers and professional development, education and skills. I need the Executive's support to promote and develop those ideas. I am convinced that, in the further education sector for example, some colleges are developing and changing their approach through a redistribution of resources, not an additional allocation. The danger is that we will have failed when all the exciting European projects come to an end and somebody says that they cannot continue unless the funding is continued. The European projects should be informing the masses of money in further and higher education and existing providers. My role is to push that boat and prod people to start taking new approaches.

We will have responsibility for the database. There are two issues: the database has to be web-enabled—we have to do that quickly—and it has to offer direct provider input, allowing access to individual providers to put data on the database against a specification set by us. That will be a real challenge, but it is exciting.

The Convener: Four or five people are waiting to ask questions. We need to close the discussion in about 10 minutes, so members should be brief.

Dr Murray: I preface my remarks by commiserating with Frank for having been forced to work from the centre of Glasgow rather than the beauty of the Crichton campus in Dumfries.

The Convener: We will come back to that point.

Dr Murray: I will move quickly on. Frank and I served on the Beattie committee and spent a considerable amount of time considering the post-school training problems for people with learning

difficulties. Do you see a role for learndirect Scotland in promoting learning for learners with special needs and addressing some of the concerns about uniformity of provision through the transition periods and so on?

Frank Pignatelli: Absolutely. The title of the Beattie committee report was "Implementing Inclusiveness: Realising Potential". Our role is to be the champions of learners in Scotland. We are not a provider and will lose our integrity if we get drawn into provision. We can stand as an honest broker and say that we have no interest other than the interests of the learner. That means that we must recognise that there are a huge number of people whom the Beattie committee considered.

The Beattie committee did not examine only specific and complex needs; it spoke about disadvantaged people and people who were excluded for reasons other than internal barriers. We need to consider the definition of employability. People talk about employability as if some people have a deficit or something wrong with them—as if they can be given a wee injection and they will become employable. There are other issues—external factors—that affect employability. If employers are not sympathetic to the problems that, for example, some difficult young people face, we will be in difficulty. The evidence to the Beattie committee made it quite clear that some employers are not interested in recalcitrant youngsters who are not able to concentrate and do the business. Such employers say, "Do not bother sending them to us." Beattie said that we need to find a bridge for those youngsters. We do a great disservice to young people who do not have the skills to cope with day-to-day challenges by making them experience that. Not only young people, but adults will be a high priority for learndirect Scotland.

Nick Johnston (Mid Scotland and Fife) (Con): My question is brief. We have had evidence from a number of private sector providers of education, such as Michelin in Dundee and Scottish Power, both of which have well-developed learning centres. This week, I visited United Distillers & Vintners in Fife, which has a well established system of educating its staff. What linkages will SUFI have with private sector providers? Will they have access to your database? Will they be expected to be accredited under the standards that you set?

Frank Pignatelli: I sit on the Motorola university board, because I worked for Motorola as an external consultant. Kwik-Fit has its own learning centres. We also work closely with Paul McKelvie and his colleagues at Scottish Power. I do not want to caricature the situation—it is always dangerous when a public record is being produced of committee discussions because if people do not

understand the ethos of the discussion, they may misrepresent it—but many big private providers do not have the best quality learning materials in their learning centres. Some have very attractive, glitzy, commercially produced materials, but they do not meet the specifications of public sector educators on challenges and educational routes.

We have given our commitment. At the launch, we will try to ensure that we send out the clear message that we can add value to the big corporates. The corporates' environments are phenomenal; they are very well tooled up and kitted out. However, NetG—a big provider of learning to corporates in the UK and world wide—is working with us, as it realises that we will make demands on those companies. We will tell the corporates—which will want to be learnerdirect Scotland centres, if that is the standard—that some of their materials may not meet the specifications for the learning protocol and the learners pledge.

11:45

Some of our discussions with the corporates are at an advanced stage. I am confident that we will be able to offer significant added value. When I say that, I mean that we will be able to put the corporates in touch with people who can help them to enhance the training that they offer. If we identify a problem with their materials, we must help to engage people to commission new materials. There is modest budgetary provision for us to convert existing material into more attractive material.

Clearly, our priority will be the SMEs and the socially excluded, but we will find commercial arrangements that allow us to offer—at a cost—the same kind of service to corporates; that will help to subsidise what we are doing. SUFI expects to be self-financing very quickly. We see opportunities to provide support to the corporate world and, by doing that, to support some of the key groups that we want to help across Scotland, although I expect that we will always have a public-sector philosophy.

Fergus Ewing: The budget for the ILAs is £23 million. In your opening remarks, you said that your priority is to ensure that ILAs help the socially excluded and small business. I endorse that. My concern is that the scheme as proposed by the Executive is inimical to those objectives. I say that in part because of the evidence we heard last week from Grahame Smith, who said

“There is a danger that some employers who have been investing in learning will take the opportunity of ILAs to substitute state support for that investment.”—[*Official Report, Enterprise and Lifelong Learning Committee*, 5 May 2000; c 802.]

Mr McKelvie from Scottish Power conceded that

some training that the company provides currently—and this is no criticism of Scottish Power, which does a good job—will be paid for by the state from the £23 million, instead of by the company. That means that we will be subsidising existing efforts. Do you share the STUC's concerns that some of the £23 million will not be used to best effect?

Frank Pignatelli: I would not want to anticipate what will happen. I am sure that people will try to maximise the advantage to their operation, wherever it happens to be. All I can say is that ILAs will be available much more widely than to SMEs and the socially excluded. The Scottish university for industry happens to see those groups as high-priority client groups.

We would encourage people not to use the additionality argument and would always support additional and extended provision. We have influence, because people are reading the signals from the ministers and the committee. Chunks of the committee's *Official Report*, setting out your aspirations, are cited in public meetings to justify what we are about.

The Convener: That warms my heart.

Frank Pignatelli: It concentrates people's minds. Employers, in particular, want to be seen to be doing the right thing. People want to engage with the new constitutional position in Scotland. I have no doubt that some people will take advantage of the ILA scheme and obtain a modest benefit from it; it will be our duty to tell them not to do that and to remind them of the returns that will accrue to their businesses if they enhance the services that they provide.

We must build up an argument about bottom-line benefits. That is part of the tracking system. Without a script being written for him, the managing director of Renshaw Scott said, when addressing a conference at the then Lanarkshire Development Agency by videoconference link, “If this is what learning is about, I am signed up for it. I am enthusiastic about this, because it adds value to my company.” We need to get such messages across very strongly.

Fergus Ewing: If the ILA model is the way forward—and it may be—is there not another danger, as mentioned last week by Peter Duncan of the Glasgow Chamber of Commerce, that employers might not understand the differences between the many different schemes. He mentioned skillseekers, training for work, new deal, employment zones and others. Employers must be baffled by the plethora of schemes. Is it your plan that ILAs should eventually take over and be the only scheme?

Frank Pignatelli: I would like to take over all the schemes and the ILAs. One body in Scotland—

ourselves—has been charged with giving a clear picture to employer providers and with being the champion of learners. I have identified precisely the issue that your witnesses suggested last week: people are confused. It is the job of the Scottish university for industry to answer the phone and advise employers about what to do and about the tax breaks and benefits.

I do not want to diminish the importance of ILAs, but I must point out that—with a budget of £23 million—they are a small part of a much more important agenda. For instance, Scottish Enterprise works with £500 million, and billions of pounds are devoted to further and higher education. ILAs are a tremendous way of supporting individuals but we must build on that. The University of Glasgow, for instance, runs the learning works campaign in which it invests £100 per person; we want it to keep investing that money so that, added to the new money, the figures becomes £250. I see the 20 per cent and 80 per cent discounts as Trojan horses to get people engaged in learning. We have to win the argument first, then ask for resources. In my previous life I did not do that, but I have learned to.

Marilyn Livingstone: In my previous life, I worked in further and higher education.

Frank Pignatelli: I know that. I have read everyone's biography.

Marilyn Livingstone: I am sorry that Duncan McNeil has gone, as I wanted to tell him that Fife College of Further and Higher Education has been open in the evenings and on Saturday mornings for a long time. Further education colleges are becoming more flexible.

I was pleased to hear you talk about on-going learners support and the fact that that would be client driven rather than output driven. However, we need to examine the billions of pounds of funding that you mentioned and ensure that it delivers what we want it to. We need to use more qualitative measures rather than purely quantitative ones.

You talked about how the Scottish qualifications framework would work and said that a student would have to take a 6 ft jump to get on the ladder. Once the student has made that jump and got a qualification, what can your organisation do to ensure that that qualification is portable? Such qualifications are accepted by some universities, but not by all.

Frank Pignatelli: Funding is critical. I have had conversations with John Sizer of the Scottish Higher Education Funding Council to clarify whether I would seek top-slicing of the council's money to do work on access. I told him that I would not do that. There are bigger fish to fry and I want to get to the big pot. I do not want someone

to give me £2 million from the funding council's pot; I want to be able to draw on the multi-million-pound pot. That relates to the rigid approaches that can force colleges to do things in ways that they might not want to. The student unit of measurement is an issue that we need to debate; John Sizer is keen to do that.

I was enthusiastic about coming to the Scottish university for industry, because it has great potential to change Scotland's thinking. I want to pressure further and higher education bodies to recognise the flexible routes by which people come to them. Learndirect centres will empower people and tell them what to expect from further and higher education. What will happen when those people approach the more formal system of further and higher education? They will not accept some of the things that have happened and the poor practice. Providers who recognise the way in which we are going will adjust their provision accordingly. However, we will have to look closely at portability.

George Lyon: I recall from our debates on the subject a number of months ago that pump-priming is available from central Government to get your organisation up and running. How much will it cost to run your organisation, and how and from where will money be drawn so that the organisation is self-funding once the initial pump-priming money runs out? What will be the time scales?

Frank Pignatelli: The original estimates were for £16 million over three years—roughly £5.33 million for each year. Early indications are that that figure was grossly underestimated. Only a genius could provide the agendas that I have described this morning for £16 million.

I have said that we will be self-funding, but we will always have a contract with the Scottish Executive or public bodies. If a national helpline is needed, that will be a contractual matter between us and the Scottish Executive. The Executive will always fund that, because it will allow us to progress the enterprise and lifelong learning department's aspirations.

We have to engage with Scottish Enterprise and all the other providers on, for example, the learning centre database and how it should develop. We are supplying those providers with a service, so there will be an exchange of funds. If an individual, a private company or a business wants to get on the database, we will have an income stream from that. If a skills gap is identified through the labour market information that comes to us, that information will be sellable. Feedback on the way things are developing, the pledge for learners, and the learners protocol, will be sellable to people in the private sector if they are involved in education, training and development. We are in

discussion with the Institute of Personnel and Development and others about that.

At the moment, the £16 million funding comes from the public sector. Over the next couple of years, the funding balance will change. We are not getting a grant in aid from the Government; we will enter into strict contractual arrangements with the Government to deliver certain things on its behalf. We will also engage with the private sector to try to get income that will subsidise some of the exciting things that we want to do.

Ms MacDonald: Having operated a network, I understand the concept of public duty and public service having a charitable status but, at the same time, having the ethos of the market place. If you jump ahead five years, and if everything is going according to the plan that you have outlined, do you see the university for industry being the overarching body that delivers the policy intentions of the committee and/or the Executive, without programmes for employers that are off-putting, or—as Fergus Ewing described them—misleading because they contain such a jumble of names? That is a big question, and I appreciate that answering it might be embarrassing, but I would welcome an answer.

On the £23 million for ILAs, would it be a fair summary to say that you are prepared to lose on the swings what you will gain on the roundabouts if you can persuade many more folk that ILAs—or even just learning—is a good idea?

Frank Pignatelli: May I suggest that the second question will have to be a rhetorical one? It would be foolish of me to answer it.

I am happy to answer the first question. We should make things simple for people. This is not rocket science. There are people in Scotland who need help and there are people in Scotland who can give those people help. Someone needs to put all those people together. I said earlier that, as long as there is a buck to be made or a reputation to be gained, we will get separate programmes. It is not helpful to have separate branded initiatives. It is not helpful if people are confused. I say that because, from where I am sitting, there seems to be a mess; there is a congested landscape. I would hope that in two or three—not five—years' time, people will recognise that there is one port of call that will make things simple for them. Someone might want to brand it.

I must pay tribute to Allan Wilson and David Stewart from the Scottish Executive, who gave evidence this morning. Through their understanding and their desire to ensure that what is proposed becomes part of the infrastructure, they have been immensely helpful. It was suggested some months ago that there would be a separate helpline for ILAs—we now have one

helpline for Scotland. Allan and his colleagues arranged for our director of marketing to work closely with the ILA directors of marketing and others to ensure that there was a simple message.

I may seem predatory, but I do not want to own anything. I have had 53,000 staff in the past; I do not want that again. I will be happy with 30 staff, with the power to try to influence. If that seems predatory—if I tell people that they should not be doing something—it is because I want to make things simple and to provide one door to make things more understandable. The sooner we can get away from separate branded initiatives the better. This committee is in a strong position to ensure that that happens. From its debates with the business community over recent months, I believe that that is where the committee is going.

12:00

The Convener: I draw this part of the discussion to a close and advise Mr Pignatelli that this afternoon we will launch our final report on economic development services. The committee will announce later today that we are minded to revisit in this session the issue of congestion in lifelong learning. I found some of what you have said very refreshing in relation to our debate on economic development and lifelong learning. Thank you. I am sure that in the fullness of time our paths will cross again.

Frank Pignatelli: I will be delighted. I have enjoyed myself immensely, convener.

Subordinate Legislation

The Convener: We move to item 4 on the agenda, which is the second opportunity that we have had to consider the Repayment of Student Loans (Scotland) Regulations 2000 (SSI 2000/110).

We are joined again by Gillian Thompson of the Scottish Executive enterprise and lifelong learning department and by Jim Logie of the office of the solicitor to the Scottish Executive. In addition to the material that we had before us last week when we considered this issue, members will have a note from the clerks, which summarises the report of the Subordinate Legislation Committee and the additional information from the Executive. There is a note from Gillian Thompson, dated May 2000, which contains follow-up points to our meeting of 3 May and the report of the Subordinate Legislation Committee. There is some other guidance on student loans. Gillian, would you like to say anything to the committee at this stage?

Gillian Thompson (Scottish Executive Enterprise and Lifelong Learning Department): No.

The Convener: The committee raised various points during its previous discussion, the first of which was whether the interest rate charged could be described as penal and whether it would be legally enforceable. We have had information from Gillian Thompson confirming it to be legally enforceable.

Secondly, we have had clarification about the powers that Parliament has to alter the income threshold for repayment under regulation 13. Some subsidiary information has been provided about the nature of the contract into which individuals entered when they took on student loans. It has been confirmed that there is no change to the contractual arrangements that individuals have entered into in that process.

We had to await the report of the Subordinate Legislation Committee, which said:

"The Committee draws the attention of the Parliament to this instrument on the grounds of an unusual or unexpected use of the powers and also on the grounds of defective drafting acknowledged by the Executive."

That is a technical point about the second part of the instrument, which the Executive has acknowledged and will take account of. The other views of the Subordinate Legislation Committee are also available for consideration.

Today, we must decide whether we will do anything with the statutory instrument—whether we feel the need to report to Parliament on any of its provisions or whether we are happy to endorse

it at this stage. Are there any comments?

Miss Goldie: My query refers to the matter that I raised at the previous meeting about the penal interest rate. I appreciate the full explanation that has been given, but I have some questions. Although regulation 12 does not specifically refer to a contract, is not it the case that any student loan is regulated from the outset by some contract? Surely the student signs something.

Jim Logie (Office of the Solicitor to the Scottish Executive): That is quite correct. The application form that a student signs for a student loan amounts in effect to an undertaking by the student and is therefore a contract, as that term is usually understood in Scots law.

Miss Goldie: In an attempt to interpret regulation 12(3) in a legal context, may I ask whether you are saying that, although the founding relationship is contractual, it is superseded by an intervening statutory provision?

Jim Logie: That is right. The contract that the student has is a hybrid one. There are some terms of the contract that one would recognise as traditional terms of a contract. There are undertakings in the application form and the supporting documentation that amount to terms of contract; they are what one would normally expect to find. On top of that, the provisions of the act and regulations affect the contract but are not necessarily part of it.

Miss Goldie: I get the impression that the regulation purports to bypass what has always been regarded under Scots law as an equitable provision in relation to interests. In other words, the law intervened to protect an oppressive relationship between a contracting party with strength on his side and a more vulnerable party with less strength on his. Any attempt by the stronger party to induce penal rates of interest, such as the 5 per centum liquidate penalty that used to be found in old forms of contract, would therefore be proscribed. I am slightly concerned that the Scottish Parliament appears to be imposing, through a statutory provision, an aspect or feature of regulation that, under Scots law, would be regarded as oppressive.

Jim Logie: The explanation that you have given is the classic explanation for the justification of the Unfair Contract Terms Act 1977 and the regulations based on it. When that legislation was enacted, penal rates of interest were certainly one of the things that it attempted to strike at. Imposing penal rates of interest was seen as an unfair exercise of a dominant negotiating position, for want of a better expression.

The effect of the provision in question is that the interest rate that one would get by the multiple of three would be between 6 and 7 per cent. To

determine whether something is penal, one has to consider its net effect. I believe that if we were challenged on the basis of an interest rate of 6 to 7 per cent being penal, we would probably be able to argue that it was not, because such an interest rate is well below the commercial going rate.

Miss Goldie: Interest rates fluctuate, however. The regulation refers not to a ceiling, but to "three times the rate or rates".

I want to place on record the fact that I am deeply uneasy about that.

The Convener: We have not formulated our comments on this subject.

Miss Goldie: I am grateful to Mr Logie for his clarification.

The Convener: Your point is well noted.

Fergus Ewing: The booklet that has been circulated entitled "Student Loans: Guidance on Terms and Conditions" states at the bottom of page 9 that the interest rate would be a maximum of the bank base rate plus 1 per cent. That is quite a high rate—7 or 8 per cent at the moment. Three times that is more than 20 per cent. I know that that is a maximum limit, but it is a bit disingenuous to suggest that the interest rate will necessarily be low.

Paragraph 3 of the Executive note that we have received from Gillian Thompson states:

"The Student Loan Company, acting on behalf of Scottish Ministers, has discretion in relation to applying penalties under Regulation 12. This is by reason of the use of the words 'the Scottish Ministers *may* determine' in the regulation."

That means that the Scottish ministers and the loan company have discretion as to whether they decide to charge interest. However, the wording of the regulation leaves them no discretion in deciding what interest rate is applied. If they decide to charge interest, they must do so at an interest rate of 3 per cent.

Miss Goldie: At an interest rate three times the rate as defined in the regulations.

Fergus Ewing: I stand corrected by another solicitor. Would it not be sensible to extend the discretion beyond determining whether interest should be applied to determining the rate at which it should be applied? The wording could be amended to "up to three times the rate". Would that not allow ministers more discretion and deal with the issue that Annabel Goldie has raised?

The Convener: I am not sure whether the officials who are before us can address that issue. I do not want to put them in the position of answering a question that they are not empowered to answer.

Gillian Thompson: We would need to consider the issue further.

The Convener: We will leave it at that.

Gillian Thompson: My only observation is that the rate of interest for student loans cannot exceed the retail prices index without the Westminster Parliament's agreement. That undertaking was given in the Teaching and Higher Education Act 1998. Although there is a reference in the regulations to a maximum level of interest, should the Executive want to increase the rate of interest above the level of inflation, it would have to seek agreement from the Westminster Parliament to do so.

The Convener: That does not undermine the Executive's ability to apply an interest rate three times the rate as defined in the regulations.

Gillian Thompson: No.

Fergus Ewing: I refer to page 11 of the booklet, which is headed "Cancellation". Would regulation 8 of the statutory instrument be affected by the sequestration of the person in receipt of the student loan? Would the student loan be discharged automatically by sequestration, or would it remain a debt following the discharge of the debtor from sequestration?

Jim Logie: I hesitate before answering because the principal student loans regulations contain provisions on sequestration that affect the manner of payments of student loans to students who have been sequestrated. However, sequestration does not cancel the liability to repay sums that have already been paid to them. A student loan is simply another debt that is taken into account in the sequestration.

Fergus Ewing: I would be grateful if that could be clarified after you have had an opportunity to look into the matter.

12:15

Miss Goldie: Under existing procedure, the final discharge of the bankrupt would extinguish the student loan debt, along with any other unpaid debts.

Jim Logie: I would have to go over the other regulations before I could provide a complete answer on that. We will provide some written advice on those points.

Dr Murray: You will be relieved to hear that I am not a solicitor so I am not going to ask a difficult question. Page 15 of the student loans booklet makes clear what will happen if a student does not make the repayments; it includes the provisions for non-UK taxpayers. It says that the Student Loans Company "may increase" the amount of interest charged on the account. There already

appears to be some flexibility in that paragraph.

The booklet that we have has a copyright of April 2000. However, the new scheme has been in operation for a couple of years. Did the students who signed up to the new loans system before April 2000 have a copy of a booklet similar to this one?

Gillian Thompson: Yes, my copy was published in 1999; I noticed that the copy that you are holding has a different cover. However, the booklet contains the same material. We have been publishing such booklets since 1998. The starters in 1998 received a booklet that told a similar story.

Dr Murray: Obviously, it is the responsibility of the individual student seeking a loan to look in the booklet that accompanies the application form. Was any other effort made to draw attention to those provisions?

Gillian Thompson: The information is also contained in the literature that is issued with the application form by the Students Awards Agency for Scotland. The booklet is sent out from the agency when the student applies for a loan to ensure that they get something with the return of documents and so on. Information is also included in the students awards guidance document that goes with the application process. As Dr Murray says, it is the responsibility of the individual to read the material. We can produce the material, but I cannot put my hand on my heart and say that everyone will read it.

The Convener: We have considered the instrument on two occasions and there are some technical issues on which we have asked for clarification. Those issues are not material to our consideration of the instrument, with the exception of the issue of the level of interest rates, which was raised by Annabel Goldie and Fergus Ewing.

The only proposal that seems to be emerging is to ask ministers to amend regulation 12(3) to say "shall bear interest up to three times the rate or rates" as defined in the regulation. Does the committee want to suggest that in its report to Parliament? Separately from our report, the Subordinate Legislation Committee will raise the points about which it has concerns. We do not need to report on those, but we should note the conclusions that that committee reached. Does the committee agree with that proposal?

Allan Wilson: Can I ask a question about the technical aspect?

The Convener: Before you do, could I confirm that members agree to comment on the statutory instrument as I have just outlined?

Members indicated agreement.

Allan Wilson: Paragraph 2(c) of the Executive

note lays out the question of dual interest. The final sentence does not make sense to me. Does the "Regulation 4(2)" that is referred to mean the Unfair Terms in Consumer Contracts Regulations 1999? In other words, is there a word missing between "and" and "would" in that paragraph?

Jim Logie: Yes. That is a reference to the Unfair Terms in Consumer Contracts Regulations 1999. The words that immediately precede that reference are quoted from those regulations. The point is that there are several exceptions from the ambit of the Unfair Terms in Consumer Contracts Regulations 1999. A specific provision states that any contractual term that is effectively mandated by statute or regulatory provision is exempt from challenge under the Unfair Terms in Consumer Contracts Regulations 1999.

Allan Wilson: Therefore the "and" is superfluous. The sentence should read: "Regulation 4(2) of the Unfair Terms in Consumer Contracts Regulations 1999 would thus be inapplicable".

Jim Logie: It is not regulation 4(2) that is inapplicable, but the Unfair Terms in Consumer Contracts Regulations 1999 as a whole, by virtue of regulation 4(2). I apologise for that error.

The Convener: I thank Mr Logie and Ms Thompson for attending the committee. We will report to Parliament on the basis that we have agreed.

We come now to agenda item 5, which the committee agreed should be taken in private.

12:21

Meeting continued in private until 12:41.

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