

ENTERPRISE AND LIFELONG LEARNING COMMITTEE

Wednesday 28 June 2000
(Morning)

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ENTERPRISE AND LIFELONG LEARNING COMMITTEE

17th 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

THE FOLLOWING MEMBER ALSO ATTENDED:

Rhoda Grant (Highlands and Islands) (Lab)

WITNESS

Gillian Thompson (Scottish Executive Enterprise and Lifelong Learning Department)

CLERK TEAM LEADER

Simon Watkins

SENIOR ASSISTANT CLERK

David McLaren

LOCATION

Committee Room 2

Scottish Parliament

Enterprise and Lifelong Learning Committee

Wednesday 28 June 2000

(Morning)

[THE CONVENER opened the meeting at 10:03]

The Convener (Mr John Swinney): I open the 17th meeting this year of the Enterprise and Lifelong Learning Committee. Apologies for absence have been received from George Lyon.

Item 1 on the agenda is on whether we take items 2 and 3 in private. Do we agree to take them in private?

Members indicated agreement.

10:04

Meeting continued in private.

11:27

Meeting resumed in public.

The New Economy

The Convener: Item 4 on the agenda is on the impact of the new economy—the committee's work programme for the summer and early autumn. The paper that has been circulated to members is self-explanatory. The proposal that it contains, to hold a committee meeting under the auspices of IBM at Greenock, has been approved in principle by the Parliamentary Bureau—it would require a meeting in premises outwith the normal committee premises of the Parliament. The conveners liaison group yesterday considered a paper on securing the necessary financial support for the visit to Greenock and the case studies. Annabel Goldie represented this committee at that meeting and can tell us whether the proposal was accepted.

Miss Annabel Goldie (West of Scotland) (Con): Yes. That was agreed.

The Convener: The paper that members have before them sets out the provisions of the inquiry. It has been recommended that the committee agree the work programme for the impact of the new economy inquiry as outlined in the paper. I seek the agreement of the committee to meet in private when we consider our report in relation to the inquiry, sometime in October. Are we agreed?

Members indicated agreement.

Marilyn Livingstone (Kirkcaldy) (Lab): I see that I have been allocated the case study of Aberdeen. I would be keen to undertake that study but, unfortunately, I shall be on holiday that week. Could we reschedule that study for the week before?

The Convener: We can discuss that after the meeting.

Marilyn Livingstone: I would like to undertake the study, and I am available any other week.

The Convener: We will come to some arrangement on that. That is not a problem.

Dr Elaine Murray (Dumfries) (Lab): I am happy with the report and with the idea of examining the textiles industry in the Borders. However, the committees are being restructured. Do you know the time scale for that restructuring, and whether we will know who is going to be on the committees after the recess?

The Convener: Unless a proposal comes before the Parliament before the end of next week—which I guess is unlikely—committee members will continue in their roles until the Parliament agrees to a motion to change the size and composition of the committees. I would be surprised if such a proposal came before the Parliament before next Thursday.

11:30

Miss Goldie: That issue arose at the conveners liaison group meeting yesterday. Considerable concerns were expressed over the proposals for either reducing the size of committees or creating, in some cases, two separate committees with one portfolio. As a result of that discussion, the convener of that group agreed to feed those concerns into the system. There is no doubt that the conveners liaison group is regarded as a committee of considerable stature in the Parliament. Therefore, matters may not be as straightforward as some people thought.

The Convener: That is all that we need to say about the size of the committee, which is a matter to be decided elsewhere. We note and appreciate the points that Annabel Goldie has made.

Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP): It is proposed that the visits relating to the case studies should take place at the end of August and the beginning of September. I am not sure whether I could manage a visit at that time, but I shall check. Might it not be preferable for the case studies to take place after we have received some oral evidence, so that we can test what we are doing against what we have heard in the general evidence that we will take

during the first two meetings? I say that with hesitancy, as I know that party conferences come thick and fast in September, not least the one in which I expect to be involved.

The Convener: We must be flexible and bear in mind how practicable the visits are for members. I quite understand that. A member of the clerking team and the information centre will work with each of the reporters to get dates and so on firmed up. There will be one-to-one discussions about the visits.

I invite the committee to agree the work programme for the inquiry and to agree that we will consider our draft report on the inquiry in private in October. Are we agreed?

Members indicated agreement.

Annual Report

The Convener: Item 5 is the committee's annual report. We are required under the standing orders of the Parliament to make a formal report to the Parliament on certain issues. I am advised by the clerk that we are allocated a fixed number of words in which to make that report. If anyone wants to suggest any additions to be made to the draft that has been prepared by the clerk, they will have to suggest what might be removed as well.

The report covers the period from 1 May 1999 to 1 May 2000, so it cuts off before we reported on our first major inquiry. However, those are the dates that the standing orders specify. Do members have any points to make on the draft report that has been circulated?

Elaine Thomson (Aberdeen North) (Lab): The draft report looks fine to me. What will be done with the report? Who is the expected audience for it? Would the public be expected to read it?

David McLaren (Senior Assistant Clerk): Yes. It will be a public document and will include reports from all the committees. It will be made widely available.

The Convener: It will be made widely available, but it is debatable whether it will be widely read.

Fergus Ewing: I do not think that we are blowing our own trumpet loudly enough; the annual report gives us the chance to do so in setting out what this committee has been able to achieve. We have a letter today from Ken McCorquodale, the policy officer of Highland Council, who ascribes to this committee the achievement—following the detailed examination of an oil company's activities—of a penny reduction in the retail zonal premium. The committee's activity therefore appears to have saved 1p on the fuel premium in parts of Scotland.

The Convener: Thank you, Fergus. I am not sure that that forms part of the annual report, which might be slightly more dispassionate.

Are we agreed on the content of the annual report?

Members indicated agreement.

Fuel Prices

The Convener: We move on to the paper on fuel price issues. We expect to be joined by Rhoda Grant, from the Rural Affairs Committee, which has an interest in the matter.

We agreed to consider our progress on the fuel price inquiry. The committee began its deliberations on the issue in January, as a result of representations made to several members in different parts of Scotland. We took evidence in public session on 31 January. The committee agreed to continue the inquiry by taking further evidence from oil companies. We had a meeting with one oil company—not because the others were in any way difficult or unco-operative, but simply because trying to find a date when four members and an oil company could be in the same place was next to impossible.

Our report captures the issues that we have considered so far. In relation to paragraph 15, I should point out that we have been told that the Office of Fair Trading report will be available at the end of next week. However, that has been a fair time in the coming. Our report rehearses several suggested actions. The clerks have also circulated a letter from the policy officer of Highland Council—to which Fergus Ewing referred—which the committee received yesterday. It is open for members to decide what further action we should take on this matter. We should bear in mind the fact that we have agreed a work programme for the inquiry into the new economy, which stretches over the next few months.

Dr Murray: Given that the long-awaited OFT report is apparently going to be published in the next few days, we should decide our future direction after we have reflected on its content. I know that Mr McCorquodale is anxious to encourage us to proceed, even without reading the OFT report, but I found some of his suggestions rather unusual. The idea that the committee might sit down with a list of all rural petrol stations, define a reasonable access distance and identify which should be regarded as essential services does not seem appropriate—those are not the duties of the committee. That was a rather strange suggestion.

Fergus Ewing: The role of the committee should be to recognise that many measures should be investigated by the Scottish Parliament and by Westminster—some even have a European element. I am sure that all committee members would agree that higher petrol prices in the Highlands and Islands are a matter of great concern to everyone in the area and to people in other parts of rural Scotland. This is not a Highlands and Islands issue exclusively.

Although the committee cannot implement a solution, we should recognise that there is much more work to be done and we might make some suggestions. If that general approach is agreeable to the committee, we need not be prescriptive in our report, but we could suggest some areas where work could be carried out fruitfully. That could be done today because, whatever the OFT report says, it will not result in any action until next April at the earliest. Even if the report finds that there has been unfair trading, the matter would have to be referred to the Competition Commission.

If the committee agreed to that general approach, we could consider the many issues that have arisen from the inquiry. For example, the Scottish Parliament information centre paper on fuel prices raises some extremely interesting matters that politicians of all parties and all Parliaments have a positive duty to investigate further.

The Convener: We have agreed our work programme and must consider your suggestion in that context, Fergus.

Allan Wilson (Cunninghame North) (Lab): The word “specific” is worthy of further consideration. The paper did not emphasise enough the fact that our inquiry was into differential fuel prices—particularly in relation to rural Scotland and the islands—not fuel prices in general. The gap in our evidence-taking process is a further meeting with the Petrol Retailers Association, which we spoke to in January. Given that we have met the oil companies, we should meet that body in the wake of the Office of Fair Trading report, which will inform our deliberations.

Fergus Ewing: I wanted to suggest areas in which further work needed to be done. I can refer to them briefly if you like, convener.

The Convener: We have to address where the inquiry fits into what we are doing in general. We have agreed a work programme that sets out the areas that we will cover over the coming months. We could ask members of the committee to do research into areas that relate to differential petrol pricing and report back to the committee. Before we decide what issues to investigate, we have to decide what mechanism we will use. I cannot see how we will be able to take much more evidence on the matter formally.

Mr Duncan McNeil (Greenock and Inverclyde) (Lab): I take it that we can agree to wait for the OFT report. Bearing in mind the points that have been made about the time scale and duplication of work, could we ask the Executive what work it has done on the issue and whether there is an intention to undertake further work? That would allow us to make better use of our time.

Fergus Ewing: I agree that we should do that; the clerks have suggested it as well. However, I want briefly to list areas that we should specifically ask the Executive about.

Is there a derogation to allow variable duty for parts of the Highlands and Islands, as there appears to be in Greece and Portugal? Is there the power to designate certain rural petrol stations as essential services, as Highland Council has called for? Is there the power to appoint a regulator? If so, would that regulator have the power to impose a price ceiling, which—as the SPICe note says—was used in all parts of Greece apart from Salonica and Athens in 1996, when a price was imposed on the oil companies by EU rules? If such mechanisms can be used in Greece, Portugal, France, Germany and the Netherlands, surely we can use them to protect motorists in the Highlands and the people who operate rural petrol stations. Politicians of all parties have a duty to deal with the problems that are faced by rural areas. An extra price has been paid by motorists and retailers for decades.

The Convener: Allan Wilson, do you have any comments?

11:45

Allan Wilson: My comments on the derogations that have been given to Portugal and Greece as part of their accession to the EU are a matter of record, as are the difficulties of the Netherlands with reducing prices on the German border. Those difficulties are also incorporated in the fuel price inquiry report. As those matters are being considered by the Westminster Government, it is questionable whether we can usefully add to the process. We should concentrate on matters that we can directly affect—such as the differential in fuel prices between urban and rural Scotland—and we should meet the petrol retailers. Obviously, we await the OFT report. We should certainly draw the Scottish Executive's attention to a number of issues that arise as a consequence of both courses of action.

Miss Goldie: From the evidence that we took, my main impression was that the differential—although we were able to clarify some of its elements—does not offer much room for manoeuvre on the whole quantum of the petrol price. We managed to tease out from some of the petrol retailers the fact that distance and volume are significant factors on the price that will be charged at the retail outlet.

I thought that the second SPICe paper on European petrol retailing was extremely interesting and offered opportunities that should be investigated. I am very sympathetic to Fergus Ewing's comments. We are not in a position to

produce a complete report just yet; however, it would not be complete if we simply restricted ourselves to the investigation proposed by Allan Wilson. With the knowledge that we have gained from the SPICe paper, the committee needs to communicate with the Executive and seek clarification on one or two of the issues that Fergus Ewing highlighted. Perhaps the Executive will then want to communicate with both UK and European authorities.

We know that prices in Scotland are the highest in Europe. I cannot believe that such a situation can prevail without some attention being given as to how it has arisen. Although derogation seems a very exclusive facility that is currently available only to very few member states, I cannot believe that that avenue is not worth investigating.

Allan Wilson: I am not suggesting that we should restrict our investigation per se; I am just saying that we should follow our initial intention and concentrate on the fuel price differential between urban and rural Scotland as the point of inquiry that would have maximum effect. I am quite happy to investigate derogation issues with the Scottish Executive and Westminster Government; I understand that those matters are under investigation anyway. I am more concerned about the evidence provided by the Petrol Retailers Association on the differential. Certain matters arose from the subsequent private session with the oil company that are worthy of further investigation and could have a positive impact on the issue. As I said, we should concentrate on the fuel price differential in future deliberations, which will obviously be informed by the OFT report.

The Convener: I will try to draw this matter to a conclusion. Several points have been made about representations and issues of inquiry that we could make to the Executive. If the committee agrees, I will ask the clerks to formulate a letter seeking information about the points that have been raised this morning, which I will then send to the ministers. We should consider producing another report quite early in the autumn that gathers information on the OFT inquiry and from a meeting with the Petrol Retailers Association, which will happen before the end of the summer recess and will involve members who were deputed to undertake the inquiry.

Fergus Ewing: That seems a sound way in which to proceed. However, it was suggested that we should have further meetings with the remaining oil companies. Could we do that?

The Convener: We could undertake those meetings if we wanted to incorporate them into our inquiry. Are we agreed on proceeding on that basis?

Members indicated agreement.

Petitions

The Convener: We now move on to petitions. The first petition, PE199, has been submitted by Scotland's Tomatoes Ltd. The petition has been referred to us by the Public Petitions Committee and its purpose is to encourage supermarkets in Scotland to stock Scottish tomatoes.

Members have received an unsolicited note from Safeway, which sets out the origin of the tomatoes that it purchases. We also received an e-mail yesterday, which it would be appropriate for me to read out for the benefit of members. The e-mail is from Mr Patrick Browne of the Scottish Retail Consortium. He writes:

"I believe that the Enterprise Committee is due to discuss a petition tomorrow from Scotland's Tomatoes calling on Scottish supermarkets to stock more of their products.

Whilst not wishing to pre-empt any discussion which the Committee may have, I felt that further information from our food retail members may be of use.

Scotland's Tomatoes' output is sold exclusively through a company called Caledonian Produce. I believe that Caledonian Produce currently has contracts with three major food retailers, as well as a number of local co-operatives.

Having spoken to another of our food retailer members they indicated that they did business with Caledonian Produce in 1997 but that in 1998 the company declined to supply them with their products. The company has not approached them since that point.

As you will be aware food retailers are keen to develop their business with Scottish suppliers. Safeway are currently seeking to expand their Scottish sourced products by 10% to an annual spend of £660 million. Sainsbury's are also looking to increase Scottish sourced products by 10% over the next two years. From discussions with Tesco they would also be keen to develop their food offering from Scotland and would welcome these discussions with suppliers.

I would hope that this information is of use, but if the committee would like to write to our members raising this issue then I am sure they will respond as positively as they can."

It is recommended that we write to supermarket chains to establish the current situation. Do members have any comments?

Dr Murray: That is a sensible suggestion. The e-mail suggests that there may have been a problem with the supply. It would be worth while to find out the view of supermarkets on the situation.

Fergus Ewing: The e-mail states that, in 1998, Caledonian Produce

"declined to supply them with their products."

Should a copy of the e-mail be sent to the petitioners and to that company, for their response? I suspect that there might be more background to this matter than we know. The

papers that we have received state clearly that Scottish consumers in 1999 could not buy Scottish tomatoes in the Scottish stores of Tesco or Sainsbury's, and could do so only intermittently in Safeway and the Co-op. I wonder whether supply negotiations were responsible for that, and whether we should find out a bit more before forming an opinion.

The Convener: All that we propose to do today is to write to supermarket chains. If we also want to write to Scotland's Tomatoes, highlighting the issues that have been raised by the Scottish Retail Consortium, we can do that. Are we agreed?

Members indicated agreement.

Miss Goldie: I am prepared to come up with an opinion: Scottish tomatoes are the best that you can get.

The Convener: Thank you, Miss Goldie. I shall elicit your views on the berry industry, which is rather significant in my constituency.

We have agreed to write to the supermarket chains and we will also write to Scottish Tomatoes Ltd and Caledonian Produce with the views of the Scottish Retail Consortium.

Petition PE178 is from the British Aggregates Association. It relates to the application of an aggregates tax, which is a reserved matter. Members will recall that we considered this petition on 31 May. At that meeting, we agreed to obtain the opinions of the Transport and the Environment Committee, the Rural Affairs Committee and the European Committee on the issues involved. The European Committee has no views to offer, and it is fair to say that the other two committees are rather bogged down in legislation and have not had the opportunity to consider the petition. It has come back to us because the time limit for us to respond to the Public Petitions Committee is upon us. I open up the issue for discussion.

Fergus Ewing: The petitioners want the Parliament to investigate the implications for the Scottish economy of the proposed aggregates tax, which, I understand, is to come into force from April 2002. The petitioners are concerned about the effect of the new tax on aggregate extraction of £1.60 per tonne on quarry operators in Scotland, as that would lead to an increase of 40 per cent per tonne in comparison with an increase of 16 per cent for operators in the south of England.

I have had lengthy correspondence with the British Aggregates Association and with representatives of small quarry operators in Scotland, of which there are a great number. I understand that many other bodies, such as local authorities—particularly Highland Council—have

expressed concerns about the extremely substantial impact of the tax on jobs in rural areas where there may not be immediate alternative employment opportunities.

Although it is obvious that the aggregates tax is a reserved matter, its impact, which we should investigate, will affect many devolved issues. I propose that an appropriate way in which to investigate the matter is to hold a one-day inquiry, once our inquiry on the new economy is completed. We should take evidence from appropriate bodies, including the petitioners, the Executive and other interested parties, so that we can do what the petitioners have asked us to do on this important matter. That is the very least that we could do in order to do justice to this serious topic.

Miss Goldie: I should declare an interest. I went to see Mr Durward at his quarry in Lanarkshire to try to get a better understanding of the situation. I was the beneficiary of a cup of coffee and a jar of honey—I disclose that fact to the public.

The visit was immensely instructive. The proposed imposition of the tax is a matter of concern to the Scottish economy. I believe that, unlike the situation south of the border, approximately 70 per cent of quarry operators in Scotland are privately owned. It seems clear to me that we may be presenting our quarry operators in Scotland with the real risk of losing competitiveness in what is already a very competitive industry.

I totally agree with Fergus Ewing that many quarries are located in the rural areas of Scotland, where jobs are of particular significance. In certain communities, the quarry may be the principal employer. It is difficult for the committee to come to a useful conclusion without the opportunity of hearing more evidence. I support Fergus's suggestion that we should set aside a half-day for an inquiry into this situation.

Fergus Ewing: I suggested a whole day for an inquiry.

Miss Goldie: I am perfectly content with a whole day.

Dr Murray: I understand that the Transport and the Environment Committee will be busy with stage 1 consideration of the Transport (Scotland) Bill, but I am a little disappointed that other committees did not find time to examine the matter, especially since the Rural Affairs Committee has had two meetings since we finished consideration of the National Parks (Scotland) Bill. I am puzzled that there has been a refusal even to examine the petition when there were two committee meetings at which it could have been considered.

The Convener: We can only report what has happened elsewhere.

12:00

Allan Wilson: The petition addresses the potential impact on the Scottish economy of the aggregates tax. It might be worth examining whether there would be an impact on the Scottish economy—adverse or otherwise—as a result of that tax.

Mr McNeil: The committee has decided to take evidence on fuel price differentials and now we are about to decide to do something about the aggregates tax. That will finish the year for us in terms of our work programme. We will be occupied until November or Christmas and we are adding to our work programme willy-nilly. I thought that we had established a principle that we would consider issues that we had selected from a list. It is not a pick-and-mix. We should continue with the method of establishing in our work programme what issues we will take evidence on. If we seize opportunities at individual meetings to make a case for new issues we will lose our focus and our control over our work programme.

The Convener: We have made decisions on the new economy inquiry. We also decided that we must allow a proper amount of time for consideration of the student finance legislation that will come almost immediately after the new economy inquiry report. There are timetabling issues that we have to wrestle with if we want to pursue Fergus Ewing's suggestion.

Do members wish to record support in principle for Fergus Ewing's proposal, but at the same time acknowledge that the committee must resolve timetabling issues in the autumn?

Mr McNeil: I may not have made my point very well. A couple of weeks ago, we selected our priorities from a list. Aggregates was not on that list, but now it is being pushed to the top. How did we get into that situation?

Miss Goldie: We must acknowledge that during the committee's work we might have to be flexible. The point is that the legislation will affect Scotland from April 2002. If the committee is to be responsible in discharging its duties we must be able to deal with matters that are significant to the Scottish economy and we must do so meaningfully. I understand what Duncan McNeil says—we must work within the constraints of our timetable—but it should not be impossible for us to depart from any list of work when other issues arise.

Mr McNeil: Only a couple of weeks ago, Annabel Goldie was arguing strongly for different priorities.

Fergus Ewing: The committee has limited time. The convener has acknowledged that by saying that if we recognise in principle the case for giving the petitioners a fair hearing, we are doing our duty. The petition was not before the committee when we decided to investigate other matters. I hope that the committee can agree in a non-partisan way that we should examine the matter. The convener has acknowledged that consideration of the issue is subject to the committee's timetabling problems being resolved. I would be extremely unhappy if the committee could not give a hearing to an industry that believes that it faces many redundancies and closures in parts of Scotland that are already hard pressed.

Marilyn Livingstone: I sympathise with Fergus Ewing, but I am concerned that we have had to put back our deliberations on the lifelong learning review. There are many moves in the Executive relating to lifelong learning, so it is crucial that we keep to our timetable for lifelong learning. The committee is called the Enterprise and Lifelong Learning Committee. I am concerned that we keep shifting back the second part of our remit. I take on board Duncan McNeil's point.

Elaine Thomson: I support Duncan McNeil's comments. This is just one issue—others are likely to come up. In future, there might be strong agreement that we should consider a matter, but I am not sure that this is that matter. Marilyn Livingstone's point about lifelong learning is valid.

I do not think that anyone disagrees that the new aggregates tax might have a significant impact on the Scottish economy, but the tax is a reserved matter. Perhaps there are other people who might more appropriately examine the issue.

Nick Johnston (Mid Scotland and Fife) (Con): If we are to have any meaning as a committee, we should not dismiss lightly the potential loss of 2,600 jobs in the rural economy. If we cannot find time for a day out of our schedule in the next six months or year, we are failing the economy of Scotland. With respect, I suggest that we have spent nearly two hours this morning discussing the meaning of two words in a report. Some members may feel that that was extremely significant. We were discussing a report to the Transport and the Environment Committee from the Enterprise and Lifelong Learning Committee.

The Convener: Can I stop you there, Nick. That discussion was in private.

Nick Johnston: Indeed, and I respect that. The allocation of our time should be discussed at another meeting. I feel that my priorities, those of Scotland and of the rural economy are not being reflected.

Allan Wilson: A more general issue arises as a

consequence of our discussion. As Elaine Murray said, the petition has been circulating around the committees; it has been to the Transport and the Environment Committee, the Rural Affairs Committee and the European Committee. I assume that we are the appropriate committee to discuss the issues that are raised in it. Has there been any discussion in the conveners liaison group on how committees should deal with petitions that relate primarily to reserved matters? Some of the petitions that are submitted to the Parliament will deal with reserved matters. Is there any general guidance on that?

The Convener: No guidance about how to discuss such issues has been laid down. We must respect reserved and devolved areas. Furthermore, we should consider how, as a committee, we can use our time most productively.

I hear what members have said about the need to carry out a lifelong learning inquiry. I remind members that a few weeks ago we had a work programme discussion and those who argued for such an inquiry could not sustain a majority. We decided on a particular inquiry programme. I hope that there will be support in the committee for our pursuing a lifelong learning inquiry when we consider those issues later.

Many petitions come from members of the public who want to raise certain issues with the parliamentary committees. We must take those petitions seriously and ensure that the representations that we receive are properly investigated. However, we must do that within the context of our agreed work programme. That is why I said that we can agree in principle that we want to consider the issue further, but that we must do it in the context of the work programme that we have already set. On that basis, I am sure that the clerks can bring us some proposals on how our work programme might pan out from September. We can reflect on this morning's discussion.

We have work programme discussions for a purpose—to ensure that we are working to certain themes. From time to time, petitions or other issues will come forward, such as our next agenda item, which will take up time on our agenda. We will give our support in principle to Fergus Ewing's proposal, but it will have to come back for timetabling in the autumn.

Education (Student Loans) (Scotland) Regulations 2000 (SSI 2000/200)

The Convener: The final agenda item is consideration of the Education (Student Loans) (Scotland) Regulations 2000.

We have been joined by Gillian Thompson, who is a member of the Scottish Executive but is rapidly acquiring the credentials of being a member of the Enterprise and Lifelong Learning Committee. I am sure that our paths will cross again during examination of the student finance legislation.

Gillian Thompson (Scottish Executive Enterprise and Lifelong Learning Department): I have no doubt.

The Convener: I welcome Gillian to the committee again.

Members of the committee have received the papers. There is an explanatory note from the clerk, the Executive note—which was prepared by Gillian Thompson—and a copy of the regulations.

I point out in relation to the third paragraph of the note from the clerk that the Subordinate Legislation Committee considered the instrument at its meeting yesterday and that it has no points to raise with the committee.

I invite Gillian Thompson to make some opening remarks to the committee.

Gillian Thompson: All I need say at this stage is that these regulations govern the making of loans to students under the 1998 arrangements for income-contingent loans. It does not have any impact on the mortgage-style loans prior to 1998—there are still students getting those mortgage-style loans.

The regulations replace the 1999 set and update the scheme. They introduce the loans for part-timers scheme, which was announced in January 1999 by the Westminster Government and was intended to come into force in 2000. It will start from autumn 2000. The general eligibility rules and so on of the part-time loan scheme mirror those for full-time loans, except where they do not—if you see what I mean—which is in relation to income eligibility and eligibility of independents. Other than that they match exactly the loan arrangements for full-time loans.

There are some minor changes from 1999 to tidy things up, such as removing the reference to disability working allowance and replacing it with the updated version, the name of which I cannot remember—I was doing my homework on the train

coming back from my health spa, so forgive me. We updated that reference.

A change of slightly more substance was that we took out the need for original documents as there was difficulty in the administration side in accepting original birth certificates, because those were required.

The other significant change was the decision to remove the loan rates that are available for students. That does not have any particular significance, because we have never used the regulatory system for the grant levels under the Students' Allowances (Scotland) Regulations 1999. They are now very complicated as we have different rates of loans for people studying outside Scotland, in Scotland and so on. It was felt that that would not make it terribly easy reading. They were published through a parliamentary question earlier in the year and they are published in the Student Awards Agency for Scotland's literature annually. The levels are published for people to see.

The Convener: Thank you, Gillian. I am sure that a number of committee members could do with going to a health spa this morning.

Gillian Thompson: I recommend it.

Nick Johnston: I do not want to appear picky, Ms Thompson, but may I refer you to the annexe?

Gillian Thompson: Which annexe is that?

Nick Johnston: The one that is attached to the Executive note.

Gillian Thompson: Is that the one on loans for part-time higher education students?

Nick Johnston: Yes. It states that students must

“Be attending a part-time course consisting of at least 50% of a full-time course”

—spelt L-E-A-S-E-D.

Gillian Thompson: Really? That is a spelling mistake. I am awfully sorry.

Nick Johnston: That is quite all right. We all make them. I just wanted to clear that little point up.

Gillian Thompson: It should be “at least”, spelt L-E-A-S-T.

12:15

Fergus Ewing: Regulation 16, on insolvency, states that for the purposes of section 32 of the Bankruptcy (Scotland) Act 1985, student loans will not be treated as income of an eligible student where the loan is received post sequestration. Is it the case that, once received by a student

borrower, student loans will be treated as income for the purposes of income tax and benefits rules?

Gillian Thompson: They are treated as income for the purposes of the social security rules.

Fergus Ewing: That is what I thought. The reason I raise the point is that last week there was a lady visitor to the Parliament who lives in Lochaber and travels each day to Inverness College. She told me that she ceased to receive benefit payments once she received her student loan. Is that a correct application of the law or has a mistake been made in her case?

Gillian Thompson: No. The rules and regulations governing benefits lie with the Department of Social Security. The general rule is, however, that full-time students are not eligible for benefits. Students were removed from eligibility for benefits in 1990, when loans for students and access funds were introduced, which, I am afraid, predates me. Students in vulnerable groups—those with dependants, lone parents and people with a disability—are still eligible, subject to an income test. Loans are taken into account as income for that purpose, although £10 a week is disregarded.

Fergus Ewing: This lady is a single parent, so she is in the vulnerable category. It is puzzling that a loan, which by definition must be repaid, should be treated as income for the purposes of benefits. It seems legally suspect.

The Convener: I am not sure that that is an issue that we can resolve here. There may be an opportunity to invite a member of the Executive to discuss those things. Gillian Thompson, do you want to say anything about it?

Gillian Thompson: I do not think so. Over the years, this has been an issue, but it is in the hands of the Secretary of State for Social Security to make changes should he wish to do so. It is not something over which we have any control.

Elaine Thomson: The Executive note states:

"The definition of a full-time course is removed as it was based on a DSS benefit definition which is no longer extant."

Can you expand on that a little?

Gillian Thompson: Probably not very helpfully. The definition in the previous loan regulations was not terribly helpful in explaining what was meant. We agreed with the Department for Education and Employment that we should remove it. The types of courses for which loans can be made are in any case set out in the literature that is provided by the Student Awards Agency for Scotland, so there is no particular good in their being in the regulations.

It was just a matter of tidying up. As far as I recall, the benefits regulations used to refer to full-

time courses. This issue relates to eligibility for income support and so on, but is of no consequence with regard to the scheme, as it has made no changes to the scheme itself.

Elaine Thomson: Is the DSS benefit definition of a full-time course the same as that which is described in the literature?

Gillian Thompson: I would have to get back to you on that; I cannot give you the verbatim definition now. I could find out.

Elaine Thomson: I would be interested to know.

The Convener: We appreciate that response to come.

Miss Goldie: Regulation 4(3)(a) deals with a student not being eligible for a loan if

"he has, in the opinion of the Scottish Ministers, shown himself by his conduct to be unfitted to receive a loan".

Who are the Scottish ministers for that purpose? Is it the whole lot, or just the Minister for Enterprise and Lifelong Learning? Is "conduct" deemed to be conduct in general or conduct relative to academic matters?

Gillian Thompson: I have never yet come across a case in which we have had to make a decision in relation to a student on that basis. Under the Scotland Act 1998, "Scottish Ministers", as a collective, replaced "the Secretary of State", which was a catch-all covering the regulations and the regulatory system. In reality, the responsibility lies with the Students Awards Agency for Scotland and with anyone else who might and could make such decisions.

A student holding an award from the Scottish Executive may behave in such a way that the institution itself might decide that that student should no longer be on the course. Their conduct may be deemed to be of such a level that the SAAS, in conjunction with the institution, may decide that that the student should not continue with an award. I have never come across such a case over several years.

Dr Murray: I used to teach part-time students and am pleased to see that, at last, part-time higher education students are to be offered some form of assistance. It has been a long time coming. People studying part time should receive the same sort of support as full-time students.

The figure of 50 per cent of attendance at a full-time course is quoted for part-time courses. Is that through a credit transfer assessment of the value of the course? I am particularly thinking of students who are involved in distance learning, through the Open University, the University of the Highlands and Islands or Crichton campus in Dumfries, where many students will not necessarily physically attend university, but will

effectively be attending via a distance learning mechanism. Will those students also be entitled to loans?

Gillian Thompson: No. We have not been able to extend the arrangements to distance learning students because the regulations are made under the powers that are given to the Scottish ministers by the Education (Scotland) Act 1980, which contains a requirement that Scottish ministers can make grants and loans to students in relation to their attendance on a course.

We have taken advice on the understanding of "attendance". That advice covered how "attendance" is understood generally and how it was understood when the 1980 act was being drafted. It dealt with students who were not physically attending on a regular basis—I appreciate that some students go along to the odd tutorial or to summer schools, which was a point made by the Open University.

Because the running of the scheme would be made complex with the need to ask about attendance—"Were you in or were you out?"—our aim would be to make a change to the Education (Scotland) Act 1980 at the earliest opportunity. It is not easy to find opportunities to change primary legislation, and one has to try to identify a relevant piece of legislation. I am hopeful that we will be able to do that in time for distance learning students, including Open University students, to benefit in 2001—obviously depending on how things go.

Dr Murray: It is disappointing that students will not benefit now. Most of the courses have some form of continuous assessment. It is disappointing that it will not be possible to use performance—and whether the students appear to be doing the work—to prove attendance, as it were.

The Convener: I am anxious to move to a conclusion, so I ask Fergus Ewing to be very brief.

Fergus Ewing: The definition of eligible students refers to people under 50 and between 50 and 55. I understand that people between 50 and 55 must, from the day they start, satisfy ministers that they intend to enter employment on completion of the course. To meet that test, is it sufficient that the applicant simply signs a declaration stating that they intend to enter employment?

Gillian Thompson: Yes.

Fergus Ewing: Do they otherwise have to satisfy the Scottish ministers?

Gillian Thompson: No. There is a statement that students fill in on the SAAS application form. It simply asks them what their intention is. They can write a bit in that section of the form, sign the form, and that is it.

The Convener: I do not think, from what members have said, that we want to report on any specific issues. The committee will therefore report to the Parliament that there are no issues to which we wish to draw its attention.

The Subordinate Legislation Committee made some remarks about the explanatory notes, but that issue will go directly to the Executive.

That brings us to the end of our agenda. Our next meeting will be on Wednesday 6 September, in this room, at 10 o'clock. See you then.

Meeting closed at 12:27.

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