

ENTERPRISE AND LIFELONG LEARNING COMMITTEE

Wednesday 13 September 2000
(Morning)

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ENTERPRISE AND LIFELONG LEARNING COMMITTEE 19th 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 MEMBERS ALSO ATTENDED:

Mr David Davidson (North-East Scotland) (Con)

David Mundell (South of Scotland) (Con)

WITNESSES

Stephen Beere (Scottish Knowledge)

Karen Birch (Cortex Media/Scotch Corner)

Louisa Buller (Bring-a-Bottle)

James Cook (Scarlet Training)

Derek Gray

Richard Irwin (all-hotels.com)

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

Mike Kinsella (Saw-You.com)

Jonathon Land (globalfarmers.com)

John McGuire (Pulsion Technology)

Gordon MacIntyre-Kemp (icosmart.com)

Alan Park (Sinclair McCormick & Giusti Martin)

Chris Risbey (Banana Brothers)

David Stewart (Scottish Executive Enterprise and Lifelong Learning Department)

ADVISER

Ian Ritchie

CLERK TO THE COMMITTEE

Simon Watkins

SENIOR ASSISTANT CLERK

David McLaren

LOCATION

The Hub

Scottish Parliament

Enterprise and Lifelong Learning Committee

Wednesday 13 September 2000

(Morning)

[THE CONVENER opened the meeting at 10:05]

The New Economy

The Convener (Mr John Swinney): Good morning. Let us bring the 19th meeting of the Enterprise and Lifelong Learning Committee to order. Bearing in mind the fact that we have a gathering of high-tech communicating individuals, I would ask that all pagers and mobile phones be switched off as they cause dreadful interference with the sound system.

I welcome everyone to the meeting. We have a somewhat unusual seminar format for our discussion this morning, involving members of the committee and a number of entrepreneurs who have joined us to contribute to our inquiry on the preparedness of Scotland for the new economy. I plan to have a fairly open round-table discussion. Before I ask Ian Ritchie, who is advising the committee on its inquiry, to say a few words, I would like everyone to give a brief introduction of who they are and the companies and interests that they represent.

I will start: I am the member of the Scottish Parliament for North Tayside and convener of the committee.

George Lyon (Argyll and Bute) (LD): I am the member for Argyll and Bute.

Allan Wilson (Cunninghame North) (Lab): I am the Labour member for Cunninghame North.

Ian Ritchie (Committee Adviser): I am a high-tech entrepreneur.

Simon Watkins (Clerk to the Committee): I am clerk to the committee.

Miss Annabel Goldie (West of Scotland) (Con): I am a West of Scotland MSP and deputy convener of the committee.

Nick Johnston (Mid Scotland and Fife) (Con): I am a Mid Scotland and Fife MSP.

David Mundell (South of Scotland) (Con): I am a South of Scotland MSP.

Mr David Davidson (North-East Scotland) (Con): I am a North-East Scotland MSP.

Elaine Thomson (Aberdeen North) (Lab): I am the member for Aberdeen North.

Marilyn Livingstone (Kirkcaldy) (Lab): I am the member for Kirkcaldy.

Mr Duncan McNeil (Greenock and Inverclyde) (Lab): I am the member for Greenock and Inverclyde.

Dr Elaine Murray (Dumfries) (Lab): I am the member for the Dumfries constituency.

Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP): I am the MSP for Inverness East, Nairn and Lochaber.

Karen Birch (Cortex Media/Scotch Corner): I am the managing director of two internet companies—one that makes software available to people who are running online stores, and another, Scotch Corner Ltd, that owns and manages 20 online internet stores.

Louisa Buller (Bring-a-Bottle): I represent bring-a-bottle.com, which is an internet wine retailer.

Mike Kinsella (Saw-You.com): I represent Saw-You.com, which is a start-up youth communications wireless application protocol company in Glasgow.

John McGuire (Pulsion Technology): I represent Pulsion Technology. I am involved with Saw-You.com and with an application service provider called Pro-Pulse.

Derek Gray: Until the beginning of this year, I was the general manager of Adobe Systems, which is a billion dollar American company in the graphics design marketplace. I am now a high-tech investor.

Gordon MacIntyre-Kemp (icosmart.com): I am an e-commerce consultant and a director of an online learning company, and I run the First Tuesday e-commerce network in Glasgow and the Wireless Wednesday Scotland network.

Chris Risbey (Banana Brothers): I am top banana at Banana Brothers Ltd, which is a soup and sandwich bar in Glasgow. We take orders for local delivery online, and we are looking to expand in both Glasgow and Edinburgh in the next six months.

Richard Irwin (all-hotels.com): I am from all-hotels.com. We provide online booking for about 60,000 hotels all around the world. We have a business-to-consumer site and a business-to-business site. We are enabling hotels with internet technology to make best use of it as a distribution medium.

Alan Park (Sinclair McCormick & Giusti Martin): I represent Sinclair McCormick & Giusti

Martin solicitors. I am also one of the organisers of First Tuesday in Glasgow.

James Cook (Scarlet Training): Good morning. I am the managing director of Scarlet Training. We are a high-technology classroom training company and an e-learning training company.

Jonathon Land (globalfarmers.com): I am from globalfarmers.com. We are an internet trading exchange for the agriculture sector, looking at ways of driving costs out of the farming industry.

The Convener: Thank you all for those brief introductions. The committee is undertaking an inquiry into the preparedness of Scotland for the new economy. So far, we have undertaken a number of case studies in different parts of Scotland to establish the degree of interest and involvement in e-commerce and in new ways of trading. We also want to establish the ways in which some of the more traditional sectors of the economy are adapting to the challenges of the new economy.

We have recruited Ian Ritchie as an adviser to the committee. Much of the input to this inquiry has come from debates in committee and from an event that was held in the Parliament chamber in February, at which we gathered information and ideas from a number of businesspeople about the whole process of business development in Scotland. During those discussions, we heard thoughts that focused specifically on the new economy sector.

We are part way through our inquiry. After today's discussion, we will go into something of a hiatus, because we are undertaking more urgent inquiry work into the Scottish Qualifications Authority in connection with the exams situation over the summer. However, we will come back to this inquiry in October.

The committee has talked about the extent to which Scotland is prepared to operate in the environment of e-commerce. At our previous meeting, we had a fairly lengthy discussion about the establishment of an infrastructure to allow the Scottish economy to adapt to e-trading and e-commerce. We are especially interested in how we compare with other countries. We want to find out what all of this means for the competitive position of the Scottish economy, and how our economy can perform in this environment.

We would welcome the input of today's witnesses to our inquiry, and I hope that we will have a fairly free-flowing discussion. Before I open up the discussion, I will ask Ian Ritchie to set the scene.

Ian Ritchie: There is no shortage of inquiries into the territory of the new economy. In

preparation, I have had a look at all the various papers that have been produced. On the UK economy, Westminster has produced a few papers and Scotland has had the Digital Scotland task force. There are plenty of reports; most of their conclusions are fairly sensible and there is a lot that we could pick up and run with.

In this inquiry, our practical MSPs want to work out in a practical way the state of affairs in Scotland today. They have set up a number of contacts with various industries. They have also set up working parties and made four trips to various industries—for example, textiles companies and high-tech companies at the Cadence centre. Part of the process of consultation has been with what we believe to be the companies in the new economy industries, which, by and large, are innovative young companies.

Start-up companies are, naturally, preoccupied with the problems of starting up, funding and growth. That subject is worthy of investigation by this committee on another day. However, the focus of the committee today is the new economy—Scotland's readiness for it and effectiveness in it. We are primarily concerned with our effectiveness in competing with the rest of the world in the new economy. We want to consider the implications of that and the economic forces and conditions. We are not specifically concerned with how easy or otherwise it is to get start-up support or funding. That is another issue, although it obviously impinges on our inquiry.

Scotland is relatively famous—at least, we think it is—for its silicon glen. A look at the map will show that there are 34 silicon something-or-other wannabes around the world. All of them are trying to copy silicon valley and to be the hot spots in their area for high-tech activity. There is the research triangle in Austin, Texas; North Carolina; silicon fen in Cambridge; silicon bog in Ireland; and so on.

It is interesting to compare Scotland with other silicon wannabes. It is generally assumed that we are in the second or third division of that league table. Silicon valley is in the first division; Austin and North Carolina might be in the second division. People consider Cambridge and perhaps Dublin to be in the second or third division; we are probably below that. The most relevant comparison is probably Cambridge, as it has the same fiscal environment as us. It is interesting to note that, of the top 15 companies in Cambridge, 13 are new technology companies, including ARM and Autonomy, which are in the FTSE 250. In fact, earlier this year ARM overtook Scottish Power, our largest company, in market capitalisation.

10:15

Of the top 10 companies in Scotland, eight are industrial revolution companies—power generation, banks and transportation. The only two new economy companies in the top 10 in Scotland are telecommunications companies. Scotland is not growing the new economy—certainly not in terms of corporate power—in the way that Cambridge is. That is an interesting comparison, because Cambridge has the same fiscal conditions as we do.

Which other conditions are relevant? It is difficult to say that we are less technically literate here than people are in Cambridge or that the research base is poorer. If we count the major Scottish research universities collectively, I am sure that they compete quite effectively with Cambridge. It is difficult to say that funding is any different here from what it is in Cambridge. French capitalists have to get on a train for an hour to get to Cambridge or a plane for an hour to get to Edinburgh, Glasgow or Aberdeen.

We have many of the right characteristics: the same open and competitive economy; technological literacy; a good research base; intelligent people; and access to funding. Why then is Scotland not competing with the rest of the world, or even with Cambridge? That is the kind of topic that the committee should be trying to get to the bottom of.

The Convener: The key issue that the committee is interested in is how we can make a difference in this area of policy. What can the committee recommend that would make a tangible difference to the competitive conditions that Ian Ritchie has talked about and in which you all operate? That is the focus of the discussion that preoccupies us.

We have been joined by Margo MacDonald, one of our colleagues in the committee.

Elaine Thomson: A minor point: the acoustics in this room are very poor, so it would be helpful if our guests spoke up.

The Convener: People should signal to me if they cannot hear.

I open up the discussion—who wants to start the ball rolling?

Alan Park: I will give it a go. As one of the few lawyers here, I will try to stick to what the law says. As most members will know, two acts relating to e-commerce were recently passed in the UK: the Electronic Communications Act 2000 and the Regulation of Investigatory Powers Act 2000. The Government's stated intention with both acts has been to facilitate e-commerce. If we consider the ECA, we find that it makes provision for the regulation of cryptography service

providers and digital signatures. The problem with the latter is that it could take years to implement, through further regulation.

To give some world comparisons, India and the Czech Republic have also passed digital signature acts—they are slightly ahead of the UK in bringing that matter into line. By no means is the UK ahead—or even in the middle—of the game.

The Regulation of Investigatory Powers Act 2000 was introduced specifically to intercept communications, to bring investigatory techniques online and to give access to encrypted data. The problem is that the UK is third only to the great democracies of Russia and Malaysia in permitting the official surveillance of internet traffic. In my legal opinion, neither act will facilitate e-commerce. Some commentators are saying that, by 2001, £2 billion in e-commerce will be lost because companies will say, "We will not allow our cryptography services to be tapped by the Government when it slaps a warrant on us just because it thinks we might be selling arms to the IRA."

Germany opposes restrictions on cryptography. Ireland is just about to pass an e-commerce bill making it illegal for the Government to access cryptographic keys. The UK is becoming one of the most heavily regulated regimes in Europe. Given the nature of the devolutionary settlement on e-commerce, Scotland has to go along with the regulatory regime dictated at UK level.

This committee should consider the recent Home Office draft code of practice, which addresses the ground-level aspects of the legislation on investigatory powers. The committee should help to ensure that the code of practice is conducive to businesses in Scotland and the rest of the UK—for example, that it does not make them decide to set up their internet service providers in Dublin or Berlin rather than in Glasgow, Edinburgh or London.

One of the questions that the committee has asked is what can be done to enhance Scotland's competitive position. I spoke to some people at Motorola recently, which, as far as I am aware, is the largest private employer in Scotland, with nearly 11,000 employees. As the committee will know, the company recently bought a site in Fife, which could lead to almost £2 billion coming into Scotland in the next few years. Motorola's stated intention for the future is that it will interface only with those suppliers—small or large—that can invoice and accept transactions electronically. It has already begun to implement that. Even small and medium-sized enterprises that are excellent at their job may be regarded as e-incapable of supplying Motorola, which will mean that the company will simply stop using them. That will happen not only with Motorola but with other large

companies in silicon glen. That is an excellent example of why the Scottish Parliament must help SMEs in particular and realise the opportunities to assist them with training.

From the legal point of view, the devolution settlement seriously restricts the Scottish Parliament from using Scots law to create a better, unique e-commerce environment. The Scottish Parliament must lobby Westminster to ensure that any future UK acts on e-commerce contain specific Scottish provisions that suit Scots law. Some American companies have said that one of the reasons they come to Scotland is that the legal and commercial environment is conducive to business. That will not continue if UK acts of Parliament are not sympathetic to Scots law, the Scottish way of doing business or the banking law. If that is not addressed at a UK level, we will lose out.

Derek Gray: In my experience, Scottish business has moved very little to take up e-commerce. The response has been pretty patchy and the quality of most of the stuff around is poor. As for the infrastructure that is necessary in the next five years to allow us to exploit the e-economy, I am not sure that we exploited the old economy very well, let alone the new one. I will come to that in a moment.

We are better than some in our preparedness to compete with global competitors. However, we seem to be behind countries such as Finland, Denmark and Sweden, which are of comparable size. The committee asks what can be done to enhance our competitive position, which I take to mean, "What can the Parliament do?" The Parliament should encourage more people to study or learn about computer science. I do not mean only the bits and bytes, but all the activities associated with computer science. The curriculum could be changed, so that when people are studying for computer science standard grades, highers and so on, they learn about server technology and how e-business works.

There is a tremendous dearth of talent and of enthusiasm for sales and marketing. That is one of the biggest issues in London—many people are starting up businesses and wanting to get going. There are some such folk here today, although they are definitely in the minority. For some reason, the Scots' attitude to life and business seems to be pretty dour: "We will work in a satanic factory and we will make things that have to be bashed with hammers." Going out and selling intangible items does not seem to appeal. It is not viewed as something we should get involved in. I do not know whether the Scottish Parliament can change that.

The answer would be to change the environment. The drive will be commercial—

Motorola and other companies are the ones that will change. We must ensure that we have the people and the skills to effect change. We should lobby BT and Mercury Communications and so on, to ensure that they put in the infrastructure for change, although I do not know whether that is within the powers of the Scottish Parliament.

A final suggestion would be for the Scottish Parliament to start using e-commerce for procuring and to set the standard for its implementation. The Parliament could provide an interesting showcase, as Scotland is a relatively small country with a small Parliament, in comparison to Westminster. That would show that the Parliament means what it says and it would help to educate others.

James Cook: My first suggestion is to increase awareness of the individual learning accounts. Awareness of those accounts seems to be more widespread in England than in Scotland. Awareness of the Scottish university for industry also seems not to be as great as for the equivalent institution in England. Chancellor Brown's proclamation of the 1,000 information technology learning centres does not seem to be as widely known about up here as it is down south.

Here is some feedback from our research. In 1996, we conducted a study into technical computer training—as opposed to end-user computer training—and found that 40 per cent of Scotland's technical training was being delivered south of the border. We have conducted more research over the past six months, which has shown that that figure has dropped to 15 per cent. That is a good sign that more technical computer training is being conducted in Scotland.

A lot of kudos is placed on the call centres that are being established in Scotland. I do not want to rub in the point too hard, but our knowledge of numerous call centres is that they are akin to the sweat shops of 200 years ago. One should not feel that fantastic jobs are being created in those environments, because they are not. Many Scottish people are being pushed to perform tasks for four hours at a stretch, with only a 10-minute break before working for another four hours. Hard labour is being forced on people.

On the positive side, the Royal Bank of Scotland has made progress with e-learning. Every branch of the Royal Bank of Scotland in the UK can download or access any of the corporate headquarter learning facilities across the network, and can conduct that training itself. Not only is the demand for technical training in our Edinburgh and Glasgow training centres increasing, but the shift is being made from plain operating systems and basic programming languages to technicians wanting to understand web technologies.

Marilyn Livingstone: On education and training, Derek Gray mentioned awareness in schools. That is important, as we hear a lot about the knowledge economy.

In our inquiry into e-commerce in the new economy, we have taken evidence from the oil and gas industry in Aberdeen. Two of the organisations that we interviewed were universities, and one of the questions that I put to them—and I would like to ask the same question of you—was whether they thought that universities, colleges of further and higher education and other training establishments in Scotland are in a position to react to the needs of the new economy and whether they are reacting well. We talked to them about courses that were delivered online, via the web, and about the competition. If someone wants to study for an MSc in lifelong learning, for example, they can get the information online not only from Scottish universities, but from institutions worldwide.

I am interested to know whether we are ready: whether companies will give enough support to our universities to provide the learning that will be necessary. Secondly, how competitive are we with other countries, in providing learning down the line?

James Cook: I do not want to hog the debate, but I would like to give some pertinent feedback.

An American investment bank recently hired 200 people in Glasgow. It deliberately shifted its European technology headquarters from London to Glasgow because of the availability of IT graduates there. When we conducted the first course for the bank, we were amazed by the differential between the skills that we expected computer science graduates from a Scottish university to have and the skills that they actually had. We had to close quite a significant gap. On the plus side, the MScs graduating from Scottish universities have, to my mind, greater technical ability, and more mature people in their 30s and 40s are studying for those MScs before coming to us.

Scottish Knowledge, the body that is attempting to congregate the universities and colleges of Scotland, needs to move a little bit faster on an e-learning solution, as it has the knowledge and the large contracts—with Shell and BP—but no electronic means of conveying the information.

10:30

The Convener: We will take evidence from Scottish Knowledge immediately after this debate, as it is an organisation that we would like to hear a great deal more about.

Derek Gray: There are simply not enough

computer science graduates. Some courses should be cancelled and the universities should be paid more to create more places on computer science courses. There is no unemployment in the high-tech business, and thousands of jobs could be relocated here if we had the talent.

The curriculum in secondary schools could also be changed. Both my children studied GCE computing. I am not a great technical person, but I have been in the business for a while and know that most of the course involves learning how to programme in BASIC—who goddamn cares? Why has it taken so long to change the basic curriculum in schools—which I would have thought would be relatively straightforward—to include, as part of the course, transaction with a website or a pretend business? We seem to be far too slow in changing those courses. Unlike mathematics and English, which are more staid, computing has to be changed and refreshed all the time. The last time that I looked at a computing course was three years ago, and I thought that it was about 10 years out of date.

The Convener: Those are interesting points about the education system.

John McGuire: Technical skills are important, but we must also focus on entrepreneurial skills. If a large number of computer science graduates is attracting lots of inward investors, that is great as long as the economy is booming. However, we know that, when times get hard, inward investors move away. We must encourage entrepreneurialism. I was not taught it at school. My first experience at Scottish Enterprise was somebody shaking their head saying, "No, that will never work."

The Convener: Encouraging, then?

John McGuire: Yes. As well as focusing on technical skills, we must focus on entrepreneurial skills.

This country must decide what it is going to do. Are we going to support every business and let every business have its own web page, as people have suggested, or are we going to pick winners? We have limited resources, so we must make a decision. At the moment, we are trying to convince everybody to set up shortbread.com, or whatever. However, if we are going to grow large businesses, we must have some sort of focus.

The Convener: You have latched on to a question that we agonise over all the time—how can winners be picked? Can you advise us on that, from your experience? I accept what you are saying; it is a fundamental question that is never easy to answer.

John McGuire: I do not know the answer. If I knew how to pick winners, I would get funding

from the European Union and make a fortune.

Enterprise companies and parts of Government are trying to persuade companies to take up e-business. However, if they need to be persuaded, they are probably not going to take e-commerce to its logical conclusion, as they will skimp on what they are doing. It is like trying to persuade somebody 50 years ago to buy a telephone by saying that their business would suffer if they did not. We should try to persuade everybody, but some people are just not going to pick up on the new technology. We must accept that some businesses will die.

Ms Margo MacDonald (Lothians) (SNP): My question links two of the points that have been made. Alan Park said that suppliers for Motorola, for example, need to be online. Is there a suggestion that Scottish Enterprise or one of the other public funding bodies might help individual companies to go online? Is it your view that they should not be helped if they do not have the nous to go online themselves, by begging, borrowing or stealing the money, and that they should be left alone?

John McGuire: I will respond to that question, as we did some work for a company that interfaces with Motorola. The company saw that it could get a contract with Motorola to repair mobile phones, and recognised that it needed an electronic system in order to communicate with Motorola. It saw that if it developed the software, it would get that contract, and was visionary enough to get the software developed. In fact, the software saved the company some money, as it does much of the billing that otherwise would have been done by a team of people sitting in an office.

Many people who see an opportunity will seize it, although they may have to wait for a specific trigger in their business. For example, Motorola might say, "We will tender a contract, but to get this contract, you will have to put systems in place". We work for various electronic companies that are waiting for large triggers, such as IBM, Compaq or whatever, to award them a contract and then they will put the systems in place. That approach is relatively sensible for those companies.

The difficulty is with those people whom we have to persuade to install business-to-business links, as they do not recognise the benefits of such links. There are some business people who just will not get online. That cannot be helped—we will just have to accept it.

The Convener: But that may be because of the cultural change. Companies such as Motorola may say, "That is how we are going to operate. You either do it or you don't get a contract".

Karen Birch: To pick up on comments made by

John McGuire, this is a question of what is appropriate. My company has been selling online for the best part of four years, and over that period we have had expert input into the local enterprise companies and Scottish Enterprise. The numbers game—how many businesses we get a website for—seems to be flavour of the month. However, a website is entirely inappropriate for an awful lot of small local businesses. I am concerned that a lot of resources are being wasted inappropriately in that numbers game, with enterprise companies out-bidding one another on the number of websites that are being created within a particular time scale. That has not changed over the three-year period, and I have been repeating exactly the same thing: "Stop doing it".

Our company is, more or less, shortbread.com, and there is nothing very exciting about what we do. We sell hundreds of thousands of Scottish gifts, primarily over the internet to Americans, at a profit, and have been doing so for three years. It can be done—we are doing it and we make a profit—but it will not work for every company. In particular, it will not work for a lot of companies that are trying to do it now, because, to be frank, they are too late. People who advise small businesses must have a better understanding of appropriate, and inappropriate, use of technology. They should not force people to spend hundreds, thousands or tens of thousands of pounds on a website to boost their own numbers.

While I have some space, I will go back a bit. From the discussions that we have had over the past three years, we identified three issues, which have remained unchanged during that period and which have a stifling effect on new companies. The feedback that I have had is that neither the Parliament nor Scottish Enterprise can do anything about those issues directly, but the Parliament should use its influence in relation to them.

The first issue is communications. In the larger part of Scotland, the population is much more spread out than in England. My company is in Crieff, which is not at the edge of the world by any stretch of the imagination. Through the advisory committee that involves Scottish Enterprise Tayside and the local councils, we met British Telecom, which told us in no uncertain terms that we would not get access to asymmetric digital subscriber line. ADSL will come to Perth, but it will not reach Crieff. What chance has a business that is starting up further north than Perth or Dundee? British Telecom is a commercial company and I understand its arguments—I have heard them hundreds of times—but that huge problem must be addressed, as it is stifling businesses.

The second issue has to do with the banking sector. As I indicated, we have been online

profitably for three years, paying bank and merchant servicing charges. We are changing to online banking transactions but have been advised that the bank wants to take between £60,000 and £100,000 as a bond against our trading, despite the fact that we have been trading successfully for three years. Goodness knows what the banks are telling brand-new businesses that are just getting started.

The third, longer-term, issue is distribution. The products that we deal with are not particularly price sensitive, but companies that deal in the global environment may be able to distribute their products more cheaply from European or US sources, which makes UK and Scottish businesses uncompetitive.

Those issues must be addressed and while they may not fall under the direct influence of the Parliament, members should shout loudly at the people who can make a difference.

The Convener: Thank you, Karen. That was helpful.

I want to get views from our witnesses before I come back to committee members.

Richard Irwin: A couple of issues have arisen from this discussion. More than anything, I am frightened by the fact that people do not understand what the internet is about. People think of high-profile websites, such as the site that we run, which has had about 12 million visitors this year. We also do online transactions—this month, we will do more than \$1 million-worth of bookings. However, that is not what the long-term future of e-commerce is about. While we are first movers and we have a site, we cannot expect other businesses to create new opportunities in the same way. We must recognise that e-commerce is about supporting existing businesses, or new businesses that come up, and making them more efficient.

For example, I am in the process of setting up another business that provides an e-commerce consultancy. That business has a customer who manufactures in India and distributes in the UK and who wants an integrated accounts package with an invoicing system. In the old economy, that could not be done easily, as it would have cost thousands of pounds in leased lines. However, my customer can have that system with the internet. We can produce programmes that run through a browser, hosting those programmes for the customer on our server and acting as an ISP.

The Enterprise and Lifelong Learning Committee must look beyond the hype produced by organisations such as Microsoft that say that the internet is all-singing and all-dancing. That is not where the real e-commerce is. Real e-commerce will be business within businesses, making

businesses more efficient and more competitive. When the committee examines e-commerce, it must consider which businesses in Scotland can be supported and made more competitive.

Another issue worries me. My brother-in-law is in Customs and Excise, and his attitude towards financial transactions is "If it moves, tax it". We must recognise that we exist in a global economy and that companies such as mine are quite capable of moving our equipment, which may be worth a few thousand pounds, from one place to another without any difficulty. If European, UK or Scottish legislation interferes with our business, there will be no incentive for us to stay in Scotland.

We have stayed in Scotland because of the excellence of the universities. Many first-rate people from the University of Edinburgh now work for us, which is absolutely brilliant. I love this place and I do not want to move. However, if legislation is introduced that makes it impossible for us to compete, we will have no choice but to move that functionality out of Scotland. We must take lessons from the rest of the world and consider regulation as appropriate rather than stifling.

10:45

Louisa Buller: Karen Birch mentioned the banks. I am a recent start-up and have been trading for only 10 or 11 weeks. Getting merchant services was the most difficult barrier to overcome in setting up, and an online consumer company has to be able to take credit cards. The Royal Bank of Scotland was helpful up to a point, but it required a bond from me and my family that was larger than my entire start-up capital. I was able to come up with that money, but a lot of people are not. If someone has an idea and wants to go out there and realise it, the need for such a bond will kill their plans before they begin.

The Convener: Is that situation peculiar to the mode of trading that you are involved in as an online company? If you had been setting up a wine merchants company with a traditional shop and a van, would the bank have asked you for the same bond?

Louisa Buller: No, it would not have done. All cardholder-not-present transactions are keyed in and the banks conduct no security verification except to check that the card has not been reported stolen and that there are sufficient funds. Transactions are not even cross-checked against addresses, and personal identification numbers are not used. Such checks are coming, as I know from reading trade publications and keeping my eyes open, but the Royal Bank of Scotland has not told me that.

As Karen Birch said, Scottish Enterprise plays a numbers game, saying, "We've got more websites

than you have." At the Confederation of British Industry conference last week, speakers were talking about making Scotland global, with the main focus being on e-commerce and the future. They compared Scotland with other silicon business cultures around the world. Scotland may not be big, but does that matter? Does being bigger matter in the game, or should we be thinking about being smarter rather than bigger?

That was the main thrust of the conference. One does not have to go in big to do things properly. At the moment, people seem to think that only a company in the FTSE 250 can create employment or carry the thrust of the economy. In fact, there could be a groundswell from smaller companies.

Gordon MacIntyre-Kemp: The point about web page numbers is an interesting one and I agree with what Karen Birch and Richard Irwin have said about that. As an e-commerce consultant, I have advised companies not to set up web pages, and the idea of everybody in Scotland getting a web page built is ludicrous. For many companies, the first stage in e-commerce is to start with internal e-mail, so that there can be quicker communication between salespeople in the field and their production and quality control people and managing directors.

We should not talk only about e-commerce. We should talk about how internet technologies can improve business systems. Alan Park mentioned Motorola, and I know that it costs Motorola £65 to process and chase up a paper-based invoice, compared with £3.50 to do it electronically. When one considers how many invoices Motorola issues every year, one can understand why it does things electronically.

A few years ago I was sales and marketing manager for the bakery division of Northern Foods, which was a FTSE 100 company at the time. We did not have e-mail or a website and we did not trade electronically at all. However, Sainsbury's and Marks and Spencer, which bought about £18 million worth of baked goods from us, insisted that they would cancel all their orders if we did not upgrade to an electronic system. We resisted and resisted until eventually we gave in and got all the right systems in place. We then found that all the other small manufacturers that we were competing with were dying on their feet and we were picking up their business left, right and centre, simply because we could e-mail the buyers and tell them where our trucks were.

As Motorola has said, e-commerce is an opportunity for Scotland, but it could also be a hazard, as the small companies that lose out might well be Scottish ones and the ones that have the right systems in place might not be. One of the barriers is that we have the wrong business

culture in Scotland for e-commerce and networking is extremely poor. Scotland is a very small nation and everyone can know everyone else in certain industrial sectors, but it just does not seem to happen.

I am a lead organiser of the First Tuesday network in Glasgow and of Wireless Wednesday for the whole of Scotland. When we get 400 people in one room, we find that individuals seem to stay with a group of just three or four people. Among today's witnesses there are quite a few members of First Tuesday. They are all smiling. They are not the ones who do that, which is why they are successful. Chris Risbey turns up at meetings with an inflatable banana and waves it above his head so that people can see who he is—it is very effective.

The Convener: That would have been an interesting diversion today.

Gordon MacIntyre-Kemp: I was looking for it when I came into the room.

First Tuesday and Wireless Wednesday are beginning to introduce a culture of networking. There is also a fear-of-failure culture in Scotland, and we do not have a great reputation for starting businesses. I am a director of two companies that are involved in e-commerce and yesterday I was offered the opportunity of becoming chairman of a funded e-commerce start-up. The first thing that I did was to phone Alan Park and ask what would happen if one of those companies was to go under. Might I be restricted from being a director of my other successful companies?

Non-executives who play a major role in driving forward new-start businesses, particularly young entrepreneurs who are starting their first business, must be guided by people cleverer than themselves—I do not know why they would ask me to do that. Many angels who invest money and become non-executives already have directorships in lots of different companies, all of which could be affected if they were to take a non-executive directorship of a high-risk business such as an e-commerce start-up. Something must be done about that UK-wide legal issue.

Entrepreneurism is not in the genes. We have missed out on new economy opportunities in e-commerce. Angels do not invest in e-commerce because they did not make their money in e-commerce. They invest in what they know. I would like a public commitment to aiding risk-taking. There are some great funds, such as the Strathclyde and East of Scotland investment funds, which take European structural finance and add it to private money. I would like that concept to be increased, because there is a lack of funding for dotcom start-ups, particularly wireless start-ups.

I would like a Government fund to take some of the risk. If someone needs £4 million, such a fund could kick in £1 million, providing that the entrepreneurs could get venture capitalists to validate their business plans and put up the rest of the funding. That might help angels to see that e-commerce is not such a risky investment. One can ask, "How do you pick winners?" Venture capitalists pick winners every single day. Ask them to do it and that mechanism would work, because they know what businesses will work, what qualities and ideas work, and how competitive positioning and strategies should be put in place. The VCs pick the winners; we should pick their brains. Derek Gray is the only investor in the room.

Derek Gray: Ian Ritchie is also one.

Gordon MacIntyre-Kemp: Yes, Ian Ritchie is one of the very people you should ask about investment.

Quite a lot of dotcom incubators are springing up in Scotland, but they do not have any real e-commerce experience. We are far behind in e-commerce. We have missed that wave. The next wave will be the wireless revolution. Ian Ritchie has expertise in that as well. Wireless Wednesday has 120 members in Scotland. We are just about to hold our second meeting. We have 3,000 people on our list for First Tuesday, which is the e-commerce network. If we do not get behind e-commerce and drive wireless area networking, WAP, third generation, blue tooth protocols, programming and pervasive computing now, we will miss out again, because of all the factor conditions that are missing, such as the culture, angels who have made their money in the field, support and risk taking.

There are wireless incubators in Ireland. Mike Kinsella from Saw-you.com was making the point on the train here that we are very close to Scandinavia, which is miles ahead of us on wireless start-ups. We could tie in with Scandinavia and Ireland. We ought to be considering supporting business through wireless incubation projects in Scotland.

My view is that we are poor on e-commerce—we are way behind. We lack the factor conditions, the right people with the right attitude. There is a fear of failure. We do not have the right networking. There is not as much investment in Scotland in e-commerce and there never was, even in the heyday of e-commerce investment. The right advice is not available—there are just not as many good e-commerce consultancies around as there are in Dublin and London. Also, roughly 50 per cent of the e-commerce start-ups that I have spoken to are seriously considering leaving Scotland once the Regulation of Investigatory Powers (Scotland) Bill, which has

been mentioned by quite a few people, is enacted.

What do we need to do? What infrastructure is necessary to provide support to e-commerce? Wireless incubation would be a good start. We should force connections by taking our leading e-commerce and wireless start-ups to Ireland. The fund would be another good idea, as well as listening to the community.

Chris Risbey: I am a small businessman. We started Banana Brothers a year ago. We have gone from four to 14 staff. We have done the website. This year, we have been funded by Strathclyde investment fund. It is nice that someone else mentioned them. We have found them very useful and will sign funding with them this week.

Last week, I heard Tom Farmer speaking about the fact that an internet business is the same as any other business—it needs to make sales. I try to do that more efficiently through the internet, but I need to make a margin. The focus for me in the next year will be linking with better suppliers, finding out who is out there, finding out what everyone else is doing through talking online and checking out other companies and competitors online. I need to control my costs, which is vital for a small business. I can do that through better accounting and admin and using the technologies that are out there in the best way possible.

Looking after your people is important for new and old businesses. I can look after my people better if I can train them online. I am putting my staff through Investors in People. It would be perfect if IIP was online so that I could give people an hour at the PC and say, "Do the next course". Instead, all the stuff is in books and files, which becomes very cumbersome. I would like to have all my training, all the IIP stuff and all my personnel files online. Then we could start to grow the business, because the systems would be set up.

I agree with what Richard Irwin, Gordon MacIntyre-Kemp and John McGuire have said. It is not just about the front-end website—that is definitely true for a small business such as mine. We have spent money on a website, which has been recouped, but we grow our staff from four to 14 to 1,000 to 40,000 by getting everything linked together in a seamless, cost-effective system, which ensures that we can expand quickly once the groundwork has been done. Once we have tackled Glasgow, we will be able to move to Edinburgh, Leeds, Durham or Newcastle, because the groundwork will be there.

I speak to lots of small businesses and tiny little suppliers who would benefit from understanding the technology better. I agree that not every business needs a website, but there is a general

lack of awareness. My suppliers are always asking me about my website. Who did it? Has it been good? They are hungry for information. But some people who have been in business for a long time feel very uncomfortable. They do not think that Scottish Enterprise or enterprise companies in general are for them. They do not see the easy routes to getting basic information—a day out somewhere where they could see all the equipment in action, see computer systems and touch and feel them. Those people have never used them before.

I get a lot of feedback from my suppliers. I want to bring some of them along with me. I want my organic vegetable grower in Scotland still to be supplying me vegetables when we have 40 sites rather than two sites.

We mentioned the banks. I send out 500 e-mails a day to people who are interested in what food is on the menu that day. The one big company I do not send an e-mail to is my bank because it does not have the facility. When my bank manager tells me that I do not keep him informed, I tell him to get e-mail and then he would be informed every day. That strikes me as really strange.

11:00

Ian Ritchie: Which bank is it? Name and shame.

Chris Risbey: It is the Clydesdale Bank. For a lot of really small businesses—one or two-man bands—the bank manager is also their business adviser. For the bank not to have any information about e-commerce is terrible. We still cannot transact online, although we hope to change that in the next couple of months, thanks to the credit card issues that we talked about earlier.

I have to disagree with the person who mentioned call centres. I deal with call centres a lot. Teletech in Glasgow, which runs call centres for Ford, Hewlett-Packard and Ryanair, is a fantastic place to work. If I was not doing so well, I might get a job there myself.

I have already talked about Scottish Enterprise. I have used Scottish Enterprise. After a year in business, I have just about managed to find out whom I need to contact for different things, but it is an awful way of doing things. I have private sector advisers, but I would like someone to say: "Here is your public sector adviser. Anything you need, that will be your person." It would be someone who could fire off in all different directions and be aware of what is going on.

I seem to be doing a hell of a lot of the groundwork and missing opportunities as a result. Strathclyde investment fund has just invested more than £250,000. I just happened to see a flyer

about them somewhere else. I could still be rushing around on my moped—that is how we delivered our sandwiches before we got funded; now we have a van, but that is another story—if that had not happened. Why are those things left to chance?

Strathclyde investment fund has apparently got lots of money to invest and the guys are falling over themselves to try and give it away. I am sure that there are lots of people with good ideas out there who do not know what is available. The problem is awareness.

There was a business breakfast in Glasgow to kick off e-commerce week. There were 400 or 500 people there, who were all hyped up. They turned up at 8 o'clock in the morning for breakfast at the Hilton, which was not that fantastic so they must have come for the e-commerce. When they all walked out the door, I wondered what they would do that day to get into the new economy and who would be there to tell them what they could do, however small the step. People want to make small steps in that direction. It is up to you guys to make that process as easy as possible.

The Convener: Thank you. That was very interesting. I will take Jonathon Land followed by Mike Kinsella, but then I had better let my colleagues say something, or I will be lynched.

Jonathon Land: To give a bit of background, I came back from the United States deliberately to set up an e-commerce company in Scotland because I had the vision and thought that there was a real opportunity. We raised £4 million of start-up funding to make it happen, but it was a massive uphill struggle. I came back pretty enthusiastic, but it is not nearly as easy as one might imagine. You ask to what extent Scottish businesses have moved into e-commerce. We have hardly moved at all when one sees what is happening abroad.

That really came home to me once I had been back for about a year and went to the States to see some friends in Seattle. The States are so much further forward in the take-up of e-commerce. When I explained where we were and what we had done, business leaders would say, "My goodness, that's amazing." Over here, people just do not get it.

You asked what infrastructure we need. This is not really my expertise, but one classic thing is that our connectivity is still not what it ought to be. I have to have my guys fly to London to sort out internet connectivity. I know that we are getting there and that Iomart and AboveNet are working on it, but it is a big thing and a big reason why we should not be here. We have a long way to go. We have great potential. The interesting thing is that many Scottish people go to the States and work

very hard. Why does that not happen here? How do we make it happen here? That is a good question.

We have grown from four people to 40, which is a steep increase. Quality technical people are very difficult to find. We need people with good, relevant training, for example, in systems architecture, but it is almost impossible to find such people.

I had a vision—I wanted to start a company, to float it and so on. I have had three offers to buy my company in the past week, and am starting to ask whether that is the way to go. People say that we have a Scottish focus, and I wonder why that is a problem—there would be no problem if I were based in Cambridge, so why is there a problem because I am based in Scotland? We have to deal with the issue of perception.

Mike Kinsella: It is telling that the second question is:

"What infrastructure will be necessary in the next five years ...?"

I would have asked about the next five minutes. My understanding of the issue comes from infrastructure in colleges and universities. There is a two-track system. First, in view of our present position, we need to build infrastructure as damage limitation. I am an ex-silicon bog man. The Irish are doing some interesting things, as well as giving corporate tax breaks. They have always invested in technical education—I am a result of that investment.

Ian Ritchie talked about silicon glen. How tired is everyone in the room of hearing that term? The secret of branding is that the brand should have some sort of effervescent appeal—it should enthuse people and pull them together under one banner. Silicon bog and silicon glen are dead terms for what we are talking about, as they relate to PC assembly and microprocessor fabrication. We—I have lived in Glasgow for 16 years, and Scotland is very much my home—need a brand.

The Irish are selling themselves as the second largest exporter of software outside the USA. That is complete nonsense, as largely they recountrify Microsoft software and sell it to the European market, but it is true that they are the fifth largest exporter of software. Scotland has to become a little less embarrassed about what we are doing, and do what everyone else does—get out there and hype the concept, talk a little nonsense to people and sell the idea. The idea can catch fire if people talk a good game and talk it up, rather than sitting around moaning about how bad everything is.

As Richard Emmanuel of DX Communications said to me a couple of weeks ago, if you can see

the bandwagon, you have missed it. That is our philosophy. It is fair enough to become involved in the internet, e-commerce and so on, but moving up to division 1 is a tough aim to set ourselves. We have to set ourselves targets for the mobile internet. How many times has Motorola been mentioned today? We have dealt with Motorola, and it looks as if we will run a Motorola advertising campaign throughout the UK in the next couple of months.

Geographically, Scotland is very close to the Nordic countries, which are the home of telecommunications at the moment. For the new wave of technology, we should look east rather than west—we should not look to silicon valley. Guys from silicon valley are in Europe looking at what the hell is going on in Norway and Finland. We have an opportunity to mix with the Nordic countries, find out what they are doing, and dovetail what we do with what is happening there.

The Convener: I thank all the witnesses for their fascinating thoughts.

I will open the session up to my colleagues for brief points—I do not want long questions and tales.

George Lyon: We have heard about all the negative points: lack of an enterprise culture, fear of failure, the wrong school curriculum, inappropriate university courses and lack of funding for start-up companies. Given all those negative factors, how did all the entrepreneurs here achieve what they have achieved? Were they lucky with schools and universities and in talking to the right people to access funds?

We have heard much about how businesses have to use e-commerce so that we are not left behind. However—I speak as someone who runs a business—unless e-commerce affects the bottom line, I will not become involved. The hype is all very well, but we must deliver the product that is being sourced on the internet at a lower price than the current structures allow. Often, there are major questions about delivery—where will the product come from and what guarantees are there that it will arrive on time? For us to leap from face-to-face business to e-commerce, you guys have to deliver reliably on time every single time.

Jonathon Land: I will answer that, as I am sure that it is aimed at me.

George Lyon: It was a general question.

Jonathon Land: George Lyon has a farm, so his business is closely related to what my company does.

George Lyon has made a couple of good points. I think that most of us have profited from a combination of a lot of hard work and a lot of luck.

One needs both of those in Scotland at the moment to make things happen—it is kidding oneself to think otherwise.

It is true that e-commerce has to deliver benefits. Distribution and so on are big issues that have to be tackled properly. There are companies out there which are managing those issues and delivering benefits to many companies. The attitude that should be adopted is to look for the benefits, rather than criticising and jumping on the downside of e-commerce.

Miss Goldie: I was interested in what Jonathon Land said about speaking to his friends back in Seattle. Derek Gray referred to what is happening in our schools. Does Jonathon have any information about what is done by schools in the States?

Jonathon Land: The great thing about the States is that everyone knows somebody who drives a Porsche and has made a pile of money on an internet or technology company. Every kid has the goal of being a start-up entrepreneur—they all have their own business plans. That is the culture and philosophy there.

If Kevin Dorren or whoever get their company floated and make some money, and that success is visible, it will be an enormous help, as suddenly it will become incredibly trendy to be an entrepreneur. That needs to become the thing to do. A culture change is needed. The culture of making money has to feed down, and people have to be supported.

Miss Goldie: That answer addressed culture. What about the technical side of what goes on in schools? Derek Gray mentioned the curriculum.

Derek Gray: Most of the people who make it in life are articulate—they speak well. Anyone who is dealing with the Americans and does not speak well will have a tough time, because America is not a written society. We seem to be persisting with the written society in schools. Should not there be more emphasis on teaching people to talk on the telephone, to interact, and to stand up and express themselves?

Gordon MacIntyre-Kemp spoke about networking. Although I think that networking is over the top in America, where I spend a lot of time, people in America are not shy and are perfectly prepared to stand up and speak. There is even a marked difference between doing business here and doing business in London. We need to arm our children with greater confidence and the skills to be articulate and express themselves verbally. I am not aware of such activity in schools.

Allan Wilson: Is the Strathclyde investment fund a public sector fund?

Gordon MacIntyre-Kemp: It is supported by

European structural funding, but it is run by fund managers from the private sector.

Allan Wilson: I am familiar with a superannuation fund investment panel which set up a venture capital fund with the aim of ensuring that public sector funds were invested in start-up businesses. Is there any distinction, in your eyes, between public and private sector willingness to invest venture capital in such enterprises?

Gordon MacIntyre-Kemp: Yes. Scottish Development Finance, which has recently changed its name, has never invested in an e-commerce start-up, has it?

Richard Irwin: It invested in us.

11:15

Gordon MacIntyre-Kemp: I would still argue that it does not consider e-commerce start-ups as readily as others do. I do not cast a good eye over it either. Funds such as the Strathclyde investment fund and the East of Scotland investment fund might well invest in an entrepreneur rather than a business plan, but other VCs will not. It is about sharing the risk, and that should be rolled out across the whole of Scotland and supported with more money.

Fergus Ewing: One area in which the new economy is becoming increasingly important is tourism. More than half the clientele of many small bed and breakfasts that are online come from America, simply because they are online. Others, which are not online, are losing out.

I should like to hear Richard Irwin's views on where we are going in Scotland and what we can do about it. The Ossian project is one area where Scottish block money has been invested in the new economy infrastructure, but I hear rather alarming reports about the proposed booking system that is part of Ossian. Without going into detail, I should be interested to hear Richard's views on that.

Richard Irwin: I have not followed the Ossian project very closely. Representatives of the project came to see me about two years ago, when our first online reservation system was made available. One of the reasons why I am not fond of the project is that I am quite angry about it. We built up a business from a relatively small base, but now around 60,000 properties are bookable online through our site. The investment that was required to get to that position was around £200,000. Investment in the Ossian project has been many times more than that, and still nothing has been delivered. We could have provided the project with that technology for a small proportion of what has been spent so far. I am rather angry about the Ossian project.

Places such as Gleneagles, where our technology is used—we have just delivered a new reservation system there, and in the first two months, £100,000 of bookings were taken through it—are absolutely over the moon. Small properties in Edinburgh are using our reservation systems and are over the moon. One hotel owner told us that their hotel took more reservations in six weeks than traditional advertising brought in six months.

Somebody earlier made a comment about spending money on new technology. There seems to be a feeling that it requires a lot of money, but that is not true. Efficient systems can be produced very cheaply using the new technology, which is one of its main benefits. Vast numbers of people, with vastly expensive pieces of computer equipment, are not necessary to produce such systems. The key point about e-commerce systems is that an internet company can be set up for £1,000 or so—that is what we did. We bought our first server for £1,500 and built a business from that from our front room. We were running the business out of our front room last year; now we have 35 to 40 people in Leith, and we are conducting millions of pounds' worth of business. That has all come from small investments.

The key is having the vision to know what is relevant and knowing how to apply that vision to make things work, rather than going to some of the bigger players and saying, "Here is my million pound budget. What can you produce for it?" We can produce things incredibly cheaply and efficiently if someone has the right attitude and knowledge of what they want to achieve.

The Convener: Thank you. That is helpful.

Dr Murray: I return to the point about how we develop entrepreneurial skills among younger people. Several people have mentioned the reluctance to engage in sales and marketing, poor networking, the fear of failure, the lack of ability to talk a good game, the lack of verbal articulacy and confidence, and so on. In Scotland, we tend always to look on the dull side of life, and we have a willnae-work attitude rather than a can-do attitude. How can we change that in young people?

For years, Scottish Enterprise has conducted young entrepreneur programmes in schools, when youngsters make painted plant pots and clocks out of CDs and have fun selling them. However, is that the best way in which to develop entrepreneurial skills, or should people such as you be in schools talking to people about your experiences and trying to inspire them as role models? Should people think about undertaking work experience in companies such as yours, instead of in more traditional companies and professions? How can we access the aspiring m-commerce entrepreneurs who are coming through the

education system?

John McGuire: I went to school with Tommy Sheridan, in Pollok. My reason for setting up a business and getting into university was to escape a life of poverty. Tommy obviously chose politics.

One of the best things that Scottish Enterprise did was sponsor the business programme on TV.

Ms MacDonald: "Business Bites".

John McGuire: "Business Bites" and the business programme. When I was about to start up a business, I used to look at the people on TV and say, "If they can do it, so can I." That is leading by example. Many entrepreneurs in Scotland could take students and school leavers into their businesses, if the time could be found for them to do that. I would love to go back to schools in Pollok and say, "You can do it if you apply yourself and have the vision to do it."

The Convener: I shall allow four members to speak briefly, concluding at around 11.30 am, when I shall ask Ian Ritchie to sum up.

Elaine Thomson: We heard earlier that Motorola will insist that all its transactions take place online, and that much of the growth and many of the opportunities to strip the cost for companies are in business to business. Purchase orders, sales orders and so on will be issued over the web, although traditionally they always had to be signed to be legal. To what extent is the legislative framework in place—or not going to be in place—to allow such online transactions?

Alan Park: Motorola is happy to receive certain billing and invoices online, without the necessary signatures, when it has a secure transaction base with a company and after a contract has been signed conventionally. That is how it is operating at the moment, but it would like a better framework to be in place.

In Ireland—Mike Kinsella raised the Irish issue—the Government talks a good fight, but it is also putting the right legal regime in place. A bill was introduced and facilitated, and digital signatures will be up and running pretty soon there. During the passage of the bill, there was a website with a chat forum, where anyone in Ireland could say, "We like this," or "We do not like this," "Could you do that?" or "Could you do this?" I do not envisage such a chat forum being used on any of the Government websites in Scotland or England, as traditional methods of contact are preferred.

Countries such as India and Malaysia are passing digital signature acts and wanting to implement them now, whereas we are talking about introducing a bill that will allow digital signatures, but digital signatures are not yet valid in this country. They will be as soon as the appropriate secondary legislation is introduced,

but no framework has been set in place by statutory instrument.

People have already made the point that the internet world moves very quickly. People will go where digital signatures are already valid and working within a proper legal framework. We have passed two acts in the UK; Germany is currently considering 15 bills on the subject.

David Mundell: I have a general question on the relationship between business and Government. I have just come back from the United States and I was very struck by the way in which business engages with the Government at all levels. That engagement is not necessarily political, but is much more interactive.

I was at the business breakfast to launch e-commerce week, which Chris Risbey mentioned. Many people stood up and said, "We are having an e-commerce week and it's going to be great; after that, Scotland will be online". After that, everyone went away and e-commerce seemed to have been ticked off the list as having been done. In the US, there seemed to be a much more on-going relationship at all levels of government. There was a continuing dialogue, which does not seem to be taking place in Scotland.

Jonathon Land: In my experience, we do not have a relationship between Government and business. There cannot be that many e-commerce companies in Scotland; there is an opportunity for people such as MSPs to have quite a lot of interaction and take an active interest in such companies. That relationship is much more common in the United States.

Ms MacDonald: I wish that we had more time, because I would have loved to ask Gordon MacIntyre-Kemp whether, on reflection, he felt the same way about his answers and then to have asked everyone else at the meeting whether they agreed with him. However, I presume that we do not have time to do that.

The Convener: No. We have time for a wee question.

Ms MacDonald: I have a practical question. Underlying everything that has been said on the lack of confidence in marketing and the lack of analysis of what Scotland is marketing—both externally and business to business inside Scotland—is our provincial nature. If you want to think big, you have to get big. Wireless area networking is the next bandwagon to come round the corner and we want to be on it before it disappears. Do we have the legal framework to allow us to connect with Ireland and Scandinavia, or would that be a matter for British regulations?

Alan Park: British regulations.

Ms MacDonald: Yet we are talking about having

a Scottish solution to British problems.

The Convener: That was brief.

Mr Davidson: I recognise risk takers when I see them, but Governments tend not to take risks. Is there one thing that you would like the Government to do to stimulate the industry? Is it a case of the Government carrying out its business online or is there something else that it should be doing? People have not talked much about infrastructure today.

James Cook: I will not take the hint about infrastructure. The one thing that I would suggest is more teacher training.

Ms MacDonald: I agree.

The Convener: I cannot believe that we have finished with such short exchanges. That is very refreshing and an example to us all.

I will ask Ian Ritchie to sum up today's interesting discussion.

Ian Ritchie: We have had a very profitable hour and a half. Most of you will share my attitude, which is that most of the time the Government is pretty bad news; when the Government gets involved, it usually makes things worse—we know that from both Greenwich and project Ossian. There are lots of things that the Government can do wrong, so we should concentrate on the areas where it can have a positive effect. There are some things that the Government can do which the private sector cannot. In practice, only Government can affect education, infrastructure, the legal framework and the operation of enterprise support.

We have heard about education and there is a clear issue. We educate more technologists in Scotland than they do in England—we export many of them. That is the good news. The bad news is that only 3 or 4 per cent of technology education is undertaken by girls, whereas in Ireland the take-up by girls is about 30 per cent. That is something which we are getting wrong—we are not putting it across to half our population that technology is an exciting career.

There are other education issues. I see that Stephen Beere has just arrived, and I am sure that he could wax lyrical about the fact that Scotland's education system is split into 13 fiefdoms that do not work collectively. Perhaps the reason why Cambridge is successful and Scotland is not is that Cambridge operates as a unit that believes in its local economy, whereas Scotland is made up of 13 competitive parts, none of which has the critical mass needed to provide the online delivery that is about to become available internationally.

Bandwidth is an obvious issue. The city of Palo Alto in California is hardly a hotbed of socialism,

but five years ago it invested to ensure very high-capacity bandwidth throughout the area. We are still fighting—Crieff will get it in about 2008. Frankly, I do not know why Karen Birch's company is in Crieff because it is impossible to do business there. That is a problem which we must take on board. There is no point pretending that British Telecommunications is still a public sector company because it is not. We must consider other ways to ensure that the bandwidth is supplied.

11:30

We have heard about the real new economy, which centres not on websites, but on taking the costs out of the systems. That is critical. If a company does not remove its costs, its competitors will flatten it.

We have heard a little bit about Scottish Enterprise. I am a board member, so I should be careful what I say. People say that it is difficult to contact Scottish Enterprise, difficult to deal with Scottish Enterprise and that it plays the numbers game—the usual things. One of the things that Scottish Enterprise finds difficult is to know whether it is in the business of backing winners or social inclusion.

The main instrument of Government intervention, the regional development fund, is directed towards capital expenditure and job creation and is geared towards factories. That is a 20-year-old concept of industrial support. Yesterday, one of my young entrepreneurs suggested that we set up an overseas subsidiary and apply for a grant to come into Scotland. Another of my companies—it is based in Dunfermline—called up and said that it would not get a regional development fund grant because it had raised £10 million of venture capital. Motorola will get a lot of money in Dunfermline, and it could probably find £10 million in an afternoon if it wanted to.

The Government could examine the climate of competition between indigenous companies that are trying to create 40 to 50 high-quality jobs, and incoming investment—such as J P Morgan—that is also creating jobs, but is being supported in doing so. It is a good idea to support those companies, but it might be a bad idea to discriminate against indigenous start-ups.

I disagree with a few people here about the difficulty of starting up a business in Scotland—it is difficult to start up a business everywhere. I remind Jonathon Land that it would have been difficult to start up a business in Seattle.

Jonathon Land: I agree.

Ian Ritchie: It is tough and Scotland is not much

different from anywhere else. Scotland has a good business angel community; people such as Tom Hunter, John Boyle and Brian Souter are putting their money back into Scotland. They are putting money into e-commerce and new technology companies.

Attitude is the core issue. It has been a fact in Scotland for the past 150 years that the people with get up and go have got up and gone—we export good people. The world is now a global community and we need to network much more, not just among ourselves, but throughout the world. We must encourage people—not just the Scots—to forge links and build businesses. We are a rather insular nation, or as Margo MacDonald said, provincial.

Ireland has been working on that, and the Irish Government has done a lot to try to bring its people back. The Irish are returning to Ireland. I do not know whether Mike Kinsella is going back, but many American-Irish are returning to Ireland; it now has net immigration. It is impossible to have a fast-growing economy and a diminishing population.

The Convener: I thank Ian Ritchie and the witnesses for coming to the committee. I realise that you all have very busy working lives, and we appreciate the time that you have spent with us. The committee's inquiry into the new economy will pause for a few weeks while we carry out our inquiry into the Scottish Qualifications Authority, but we will return to it in mid-October. The points that you have made will be recorded in the *Official Report* and will form part of our later discussions.

11:34

Meeting adjourned.

11:42

On resuming—

The Convener: If Margo MacDonald sits down next to the witnesses, she may end up being scrutinised by the committee—that would be a welcome departure.

We continue with evidence for our inquiry into the new economy. I welcome Stephen Beere, the chief executive of Scottish Knowledge plc, to our discussions. Stephen has circulated a paper to members. I invite him to make some opening remarks, after which we will ask questions.

Stephen Beere (Scottish Knowledge): Good morning. Scottish Knowledge's aim as an organisation is to promote Scotland and, in particular, Scottish education internationally. Although we have some peripheral involvement in the UK and, to a lesser extent, Europe as markets,

our primary focus is on markets outside the UK and Europe.

From the brief paper that I have given the committee, members will note that we have decided to be niche focused and to try to capitalise on the strengths of Scottish universities. Our aim is, first, to bring universities together in a more collaborative way, and secondly, to provide a sharp focus. As Ian Ritchie said earlier, universities are diverse organisations—it is hard to get a focus in one university, let alone to get four or five of them to work together. That has been the challenge in the three and a half years that I have been at Scottish Knowledge. Some of the issues that are raised in my paper reflect that.

Despite my strange accent from the southern hemisphere, it is relatively easy for me to stand in a foreign country and sell Scottish education and training. It is a little confusing for people when I start talking, because they are not sure what part of Scotland my accent comes from, but I have no problem selling my product. My problem is delivering it to interested customers. That is a key issue that I hope will come out in the few minutes that I have to talk to you today.

11:45

The Convener: Thank you. Some weeks ago, we were in Aberdeen on a case study visit in connection with this inquiry, where we talked to the principal of Robert Gordon University, Bill Stevely. We questioned him about the availability of online courses at Scottish universities, and he made the point—I hope that I am representing his views accurately—that it is no cheaper to provide courses online than face to face in a tuition room. That means that universities are offering courses on a worldwide stage in an environment of intense competition, in which many other universities are offering a similar product. If that is an accurate representation of the marketplace, what does the Scottish university sector need to do that it is not doing at the moment? Do universities need to draw closer together to ensure that they are offering a world-class product that can be marketed successfully through Scottish Knowledge?

Stephen Beere: Bill Stevely is correct to say that, generally, delivery of courses online is not cheaper than delivery face to face. However, people can take online courses flexibly, in their own time. They do not, for example, need to leave their full-time job to take two years out for a master's degree, or to travel from Singapore to Aberdeen to study. Considerable cost savings are involved in that. The cost of a course may be the standard £6,000 to £8,000 for a master's degree, whether someone takes it here or in Singapore. However, the added costs of studying abroad and

the benefits of being able to study flexibly and to stay in one's own country and in work need to be borne in mind. That is the appeal of distance learning courses.

You asked what else universities could do. First, they need to grapple with the issues that I have mentioned and to be more aware of the importance of marketing them as part of the competitive edge of taking a distance learning course rather than coming to Aberdeen for two years. I am not sure that the universities, at this stage, do not feel that they would rather have the students here, in situ, than half a world away. There are issues to do with controlling quality and standards, maintaining interaction with students, and keeping up the level and pace of study. Very few distance learning courses have reached that point in their development. Usually they involve taking a paper-based course and turning it into an interesting web-based course. All the issues concerning the environment of studying, teaching and learning have still to be grappled with. The first challenge for universities is to examine how the model of delivery can be changed.

Secondly, although some universities, such as Strathclyde, have been successful in international activities for a long time, others are still struggling to find their niche in the international marketplace. They may find 50 or 100 students in Hong Kong, which may look like a nice business, but if another 50 or 100 students do not come on to the programme next year and the year after that, the universities will get nervous about how they will continue to fund that; suddenly, we are looking to west Africa or somewhere in Europe. There is no strategic focus. In other words, the university should have such a focus and stick with it.

The Convener: Does that have to happen university by university, or is there a requirement for an organisation to promote effectively Scottish higher education institutions and their niche markets in a number of places? I appreciate that that would be incredibly difficult to deliver among 13 disparate institutions.

Stephen Beere: I would hope that that is why the institutions invested in Scottish Knowledge in the first place. We are very much about strategic, long-term markets. I have said to everybody, time and time again, that our business is about having patience but being strategically focused. When I talk to an individual university, I tell it that I realise that it may be under pressure and unable to take a long-term, strategic focus, but that its investment in Scottish Knowledge will provide it with the funding, the marketing and the other support that it needs to do that. To my pleasure, some universities have done that but, to my dismay, others have ignored the opportunity. There are complex issues behind that, but I am not really the

right person to ask.

Dr Murray: Your paper is interesting and I am sure we could spend a lot of time discussing it. There are models in Scotland of universities working together. On the Crichton campus in Dumfries, a number of universities work together to deliver courses. The students work with all the universities to access the courses that they want, and use distance learning techniques. The situation is not bleak. Ian Ritchie suggested that there was no collaboration between universities in Scotland, but new models are developing.

Your submission mentions the accreditation of a nursing course. How do you deal with the delivery of practical courses? I know from experience that delivery of the academic side is easier. Some subjects can be more difficult. Could you say a little about how that is dealt with?

Your submission also makes a number of suggestions for the Scottish Parliament. The second last one is that there is duplication and overlap in the commercial activities of a number of "government and semi-government agencies." Will you expand on the problems there?

Stephen Beere: On the first point, as an organisation we are trying to address the issues that you raise at a strategic level. The key markets we operate in are north America, the middle east, and south-east Asia. To maintain standards, quality and delivery, all the agreements that Scottish Knowledge has put in place on behalf of the universities are with large, Government-backed, high-quality, high-profile universities, or with Government agencies.

We try to establish Government to Government relationships between the Scottish education system—in our case, the higher education system—and, say, the Malaysian education system. That is underpinned by all the elements that both systems want, for example that standards and quality are maintained on a course-by-course basis. That means the University of Strathclyde working closely with the University of Malaya or the University of Glasgow working closely with the university at Al Ain in the middle east.

We do not try to get in the way if universities want to sell their own courses. The University of Strathclyde has a great name internationally and does a lot of work in distance education. All power to it—it should continue to do that. We are trying to identify new opportunities but at the same time establish a long-term infrastructure through which the universities can work. Such an infrastructure should allow both parties to address issues such as how to maintain quality and standards on courses and what sort of infrastructure is needed to allow students to study through distance

learning.

The investment that Scottish Knowledge makes with the universities is not only about converting courses from paper-based to online, but setting up relationships with the Government, bringing people from the United Arab Emirates and Malaysia to meet Government and university people and establishing quality standards agreements between each pair of organisations. It is about us having a strategic, as well as a commercial, market-driven focus to our business.

That leads me to the second point, about duplication. When I go to Malaysia, saying "I am here as Scottish Knowledge, representing all the universities in Scotland," I find, coming in behind me, three different Government agencies, all on missions, exhibitions, round-robin visits and so on. They are selling their own products. I am not saying that they should not do that, but no one talks to anybody else about co-ordination. I talk to representatives of the British Council and Scottish education + training, but we are all doing our own thing. If we really want to make an impact on the market in the long term, we must work as one system, or at least co-ordinate as one system, despite the fact that we may then pick our own niches to work in.

Ms MacDonald: You may have answered my question—I planned to ask who your national competitors are. Presumably they are funded from the same public pot as you are. My first question is, who are your international competitors?

Secondly, how have your competitors resolved the problem of verifying standards in distance learning—for practical or other courses—especially in communities where communications are not as developed?

Stephen Beere: On the first point, my competitors are the various Government agencies, but also the universities themselves. In some cases, the universities have good international offices or divisions that are out there selling their own universities. I suppose the disappointment for me is that those universities decided to compete with the very company that they have invested in. It does not make much business sense to me, but I have had that debate many times and it goes on and on. That is life, I guess.

The real international competitors are north America and Australia. Increasingly, the private universities, corporate universities and ivy league universities—the Harvards, Yales and so on, with big endowments—have the money, the horsepower and, importantly, the brand, to get out there and convince people to take their online courses.

To return to my opening comment, the Scottish brand is powerful and stands up against the

Harvards and the Yales of this world. However, we are not always able to follow through, and that is the issue that we must address. If Harvard decides to go for a market, it does so in a big way and does not stop until it has captured it. If I take Scottish universities through the door, I need to know that I have back-up right to the last. I do not have that at the moment, in many cases.

Ms MacDonald: To clarify, is the problem that you do not have back-up as far as resources are concerned, or as far as the organisation and operation is concerned?

Stephen Beere: It is a bit of both. The universities are struggling for resources and we try to plug that gap by providing funding through Scottish Knowledge. However, not all the universities are committed to the idea of one brand—Scottish Knowledge—selling their distance learning courses. They make that decision themselves; they do not have to commit.

On standards, of all our competitors, the Australian model is very similar to the UK model. The Australians address standards at government level and, through the Australian National Training Authority or ANTA, fund universities to address such issues and deliver on quality issues.

America has a much more free market environment. Many private sector players are joining up with universities such as Harvard, Stanford and Yale and one either accepts the standards that are set by those international universities or does not. I have just come back from the US, where I did not find many attempts to implement standards across the board. The only organisation that is trying to do so is called the United States Distance Learning Association; however, I do not know its official status at this stage.

12:00

Miss Goldie: I have two brief, related questions. First, I notice that the company's turnover increased to just under £500,000 in June 2000. What is your projection for performance? You must have some target for growth to create a dynamic for interfacing with the university shareholders. What are your objectives?

Stephen Beere: Our objectives are modest at the moment, because we realise that unless you have very good products and penetration of the market, you will not achieve fantastic turnovers. However, we should double our potential every year. The latest figures suggest that online education is projected to be a £50 billion a year business by 2003. There is no reason why the Scottish education system should not be a major player, as the marketplace does not yet have a dominant player. If I picked a figure such as £50

million, my board might hang me for making projections that I could never meet. However, there is no reason why we should not double our turnover every year for the next three or four years.

Miss Goldie: Given that projected rate of expansion, it could be said that much of what you do is done to market Scottish higher education, even though your purpose is to provide online distance learning materials; as you say, you have been to Malaysia and Australia. At some point, might it make sense to conjoin the individual marketing that universities undertake abroad for their courses quite separate from their online provision? I know of one university—not Strathclyde—that will set up a location in another country to market its courses there. If we are trying to keep an integrated marketing core for higher education from Scotland, we could be heading towards a duplication of skill, facility and resource.

Stephen Beere: That is exactly my point. In March, Scottish Knowledge on behalf of the universities signed an agreement endorsed by the Malaysian Minister for Education with 11 public universities in Malaysia. The agreement creates a beach-head in that country that will allow every university to participate.

However, individual universities, for whatever reasons, are making their own commercial decisions to establish separate beach-heads. I cannot force them to turn around those decisions; all I can do is encourage them by letting them know that Scottish Knowledge gives access to Malaysia's 11 biggest universities that enrol 300,000 to 400,000 students a year. The potential market is there.

Someone mentioned accreditation of the world's first foreign nursing course, which has been approved by the American Nursing Association. There are about 6 million nurses in America. At the moment, Dundee University is the only foreign accredited university in the world that is allowed to deliver degree programmes into north America, and the challenge is to get four or five of the other universities with good nursing schools to join Dundee University to address a market with 6 million potential customers.

Marilyn Livingstone: I have two questions.

I have knowledge of your company because I worked in further and higher education in a previous life. How are further and higher education colleges responding? Have they moved on, or are we in the same position with the further and higher education colleges as with the universities?

I know that there has been interest in marketing the Scottish educational system—I am talking about vocational education and training—to countries abroad. My authority and colleges

worked with Namibia. Are you involved in the marketing of more than materials? Are you involved in the marketing of the design of the programmes? If so, will you give me an update on where we are?

Stephen Beere: On your first point, I am pleased to say that we have one FE college that is a shareholder. We are actively working with five FE colleges on projects. Although we were primarily set up to promote higher education, I said from the outset that I felt that there was as much potential for FE and the vocational sector around the world. The issue for the FE colleges is that they have great difficulties in mobilising people and systems from their internal resources to convert courses into online flexible delivery, although many of them are doing a fantastic job of that with their limited resources. We are happy to market and promote their courses around the world.

Marilyn Livingstone: What about the higher end of further and higher education colleges, such as higher national certificates, higher national diplomas and postgraduate courses?

Stephen Beere: The Abu Dhabi Petroleum Institute project is a good example of the work that we are doing on that. It is about linking the HNC and HND programmes directly into the undergraduate and postgraduate programmes. It gives students a pathway. Many of the students graduating with local diplomas and degrees in the middle east and in parts of south-east Asia need to do a bridging or transition programme. Therefore, the articulation between the FE sector and the HE sector in Scotland, which is probably the best in the world at the moment, is very good in addressing that market. That is a unique point, which we ought to continue to sell.

I have tried to work with the individual universities and the various educational systems and bodies to promote not only individual courses but the Scottish education system. It is a well-regarded system.

Elaine Thomson: I was with John Swinney and Marilyn Livingstone on the Aberdeen case study visit. One of the points that came through was that all the higher and further education colleges are under much more pressure in terms of global competitiveness. Is each university or college in Scotland providing too many courses? Is it necessary to take a more strategic look at what each university and college is doing and say that perhaps only the best two universities should provide this course and the others should stop doing it? That would help global competitiveness.

Stephen Beere: I am trying to identify the competitive or strategic advantage both within individual universities and within the system, then

to market and promote that. You are right. For instance, there are probably a dozen mechanical engineering courses relating to the oil and gas sector. The market that I am addressing in the oil and gas sector probably only requires a couple of mechanical engineering courses. If all the universities came and said that they wanted to put their mechanical engineering courses online, that would create a problem. The market would not be big enough to sustain all those programmes. In a roundabout way, my answer is that there are indeed a number of courses that look exactly the same across the universities. It is probably for people other than me to decide whether they should be rationalised. I try to encourage people to work together when there is a synergy of interest in business or IT.

The great challenge is not only to look at existing courses, but also to give universities a push towards developing new areas such as e-commerce and business. Much of our work is with the corporate sector. We recently signed a very large deal with Shell, and the sorts of courses that Shell wants are not off-the-shelf standard mechanical, electrical and drilling engineering courses. Shell wants courses that will have an immediate impact on employees and relate to their working environment. It might want a business course from Heriot-Watt University, but that should be very closely focused on the oil and gas sector. In such cases, we need to bring together two or three universities that can pool their expertise.

The next issue to consider is cross-accreditation. If Heriot-Watt University and the University of Aberdeen are working together, which one awards the degree?

Ian Ritchie: You are selling things and you obviously want educational products to support that. I want to ask you about investment. We have talked about how the new economy enables us to raise the quality of the products we sell and lower the costs. The same is true of higher education. The way we deliver higher education is still the same as the way we delivered it in medieval times, although the smarter universities are getting smarter. The effect of the Heriot-Watt scholar programme on the university itself and on schools at higher still level has been quite a revelation.

How are institutions to run such courses and re-engineer them to enable more effective interactive communication with students throughout the course, so that you can in turn provide more saleable products? Universities cannot lay their hands on the £5 million or £10 million needed to re-engineer courses. Is there a solution to that problem? Universities can get money to build new residences, so why can they not get money to build new courses that will turn into more efficient products, saving them money and paying back the

investment?

Stephen Beere: In the short term, there is a problem with universities raising money from external sources for a very commercial activity. The banking and investment sectors do not see the universities as commercially focused or driven. They have almost a paranoia about investing £5 million or £10 million, fearing that they will never see any results at the other end. That kind of investment is not like doing research, which may never have an end point but just goes on and on, as pure research should.

We have a number of large projects for which we are just at the beginning of the funding cycle. Some large international banks are asking us to provide seed funding. On the basis of success at that stage, those banks will come in and provide substantial amounts of money—millions of pounds—for the commercialisation of those products. The quality of the university and the fact that it is committed to taking a commercial, businesslike approach to the product will affect the willingness of banks to invest.

Some of our universities, to their great credit, are getting much more business focused, although others are not yet business focused at all. Heriot-Watt University is a good example of a university that realises that it must think about its position in 10 years' time. If it needs to shake the tree and shake it hard, it will do so. Collaboration between universities and business is a must, and already happens in the United States.

Allan Wilson: You mentioned mechanical engineering in the oil and gas sector and nursing in the health sector. How would you commercially exploit a niche market opportunity that presented itself outside the five key sectors that you identified—in engineering or creative media, for example?

Stephen Beere: Because we are a small company the most effective way is to stay quite focused, but if a new area is opening up, we will spend money on market research and market development work. If we felt that there was then a clear opportunity, for example, in the creative media sector, there would be nothing to prevent us either looking seriously at that opportunity as a new part of our business or looking for a partner with which to collaborate.

There are many big organisations, as most of you know, that will do that. News International plc did not invest in Scottish Knowledge because it thought that it was a philanthropic thing to do. It did so because it was looking for us to do exactly what you said, which is identify new opportunities and then come in behind us and put in some horsepower in terms of funding, marketing and distribution, so that we can capitalise on it. That is

the approach that we would take—a purely commercial approach.

12:15

The Convener: Thank you for your appearance at the committee this morning, Stephen, and for answering the great number of questions that have been posed. We are part of the way through the inquiry on the new economy, and we will be reflecting on the conclusions once we have dealt with the Scottish Qualifications Authority in the next few weeks.

Item 3 on the agenda is the report back on the recent case study visits. We had a brief word last time about whether we would have those discussions with the written reports in front of us. Do the reporters have their draft written reports?

George Lyon: They are not complete.

The Convener: Will we hold over this item until later in the inquiry?

Members indicated agreement.

The Convener: We will leave item 3 until later in the inquiry, when the written reports are prepared.

Scottish Qualifications Authority

The Convener: Item 4 is the inquiry into the governance of the Scottish Qualifications Authority. You will remember that we agreed to undertake that element of the inquiry as a result of our discussions at the previous meeting. In members' papers there is an explanatory note that sets out where we have got to with these issues, a draft inquiry remit for this committee, a draft work programme and the remit of the inquiry to be undertaken by the Education, Culture and Sport Committee.

I met Mary Mulligan, the convener of the Education, Culture and Sport Committee, during our discussions, in which she took part. We agreed the separation of issues: we would look at governance and the Education, Culture and Sport Committee would look at the school qualifications issues and steer away from the governance issues with that exception. That is the position that we have arrived at, and I am seeking the committee's agreement to the inquiry remit that is in the paper in my name. We can then go on to discuss the work programme and its contents. Do members wish to raise any points on the inquiry remit?

Allan Wilson: I do not have a point to raise on the remit, which I would happily sign up for, but on the paper to which you refer. It did not add anything; in fact it created confusion, certainly in my mind. The last sentence of the paragraph under the heading "Co-ordination with the Education, Culture and Sport Committee" states that that committee

"will examine the internal arrangements of the SQA as well as the link back to the senior management and the Minister."

That is where we see the focus of our inquiry. However, in the paper from the Education, Culture and Sport Committee on its terms of reference it is made clear—or it is qualified, to be more precise—that the Education, Culture and Sport Committee's role would be

"to examine the role of the Executive, and its relationship with the SQA"

specifically

"in relation to the events around the school exam results".

That seemed to us to be a better clarification than was contained in the covering paper. Otherwise, there would be a considerable degree of duplication and replication if both committees were doing the same thing in relation to that link back to senior management and the minister. We have to clarify where the Education, Culture and Sport Committee's terms of reference start and finish and ours begin.

Fergus Ewing: Where are we in respect of the request about documents that I understand was made after our last meeting?

The Convener: We will come back to that in a moment, Fergus. First we will deal with matters relating to the remit of the two committees.

Marilyn Livingstone: I understood that this committee would consider the impact on the further and higher education sector. That has not been noted, but it is important that we do that.

The Convener: The wording of the bullet point in the Education, Culture and Sport Committee's remit that Allan Wilson referred to reflects a specific issue that I raised with Mary Mulligan about the fact that the wording was much too loose at that point and might lead to her committee roaming into areas to do with SQA governance. I take the same view as Allan about that bullet point, which is the bit that matters in the remit of the Education, Culture and Sport Committee. That committee is examining the school qualifications issue and how it relates to ministers and that is all. It is not examining issues of governance. If the paragraph on the covering paper is unclear, it does not matter, as that paper has no standing.

On Marilyn Livingstone's point about higher and further education, my interpretation of where the committee left things was that we could not quite determine how we could tackle that input into the inquiry as things stood. We decided that we would keep an eye on that in the course of the inquiry to guarantee that we did not lose sight of the impact on that sector. That is why the remit has been set up as it has. If we want to make a specific reference to an examination of the further and higher education sector, we will have to take evidence from a group of people who will also be giving evidence to the Education, Culture and Sport Committee. The reporter that we have at the meetings of the Education, Culture and Sport Committee—you, Marilyn—will be able to represent our interests in that respect. I will take specific proposals if people want me to, but that was how I envisioned the matter being handled.

Marilyn Livingstone: I do not want the issue to be lost. Once the inquiry has been completed and the issues are sorted out, the impact on further education institutions could be significant. If all the institutions fish for students from the same pool, what will the impact be further down the line if more students are at the universities? We should take that issue on board, but I do not know how we can do that.

The Convener: We might be able to do that.

Miss Goldie: I might be able to help. Like Marilyn Livingstone, I wondered about the omission of that from the remit because I expressly covered that point at our previous

meeting.

The observation that I want to make, which I hope is helpful, is that I understand that the ramifications for our higher and further education institutions will not be confined merely to this year and admissions for this October but will run into next year and affect the academic year starting in October 2001. That is because pupils whose appeals are under way will have to submit applications for entry to university next year and may have to do so on the basis of undetermined appeals. In those cases, certain schools have expressed their willingness to accompany those applications with a personal statement of belief and conviction in the pupil.

However, it occurred to me that, for that reason, it might be better to defer consideration of the impact on the further and higher education sector until we deal with the issue of undetermined appeals, which, for reasons of public credibility, it is important that this committee deals with and reports back on as quickly as possible.

Marilyn Livingstone: I do not have a problem with that approach, but I am concerned about funding. I would like to know whether funding will be affected, as that will impact on students who may be on a two-year HND course and want to go on to university. If they do not take up a place at college, college funding could be affected for two years. However, I agree with Annabel Goldie. That area of inquiry could wait.

The Convener: That has been put on the record. The impact on further and higher education will be examined when that issue is brought before the Education, Culture and Sport Committee.

Allan Wilson: There is a bit of confusion about the remits of the two inquiries. The remit of the inquiry to be conducted by the Education, Culture and Sport Committee includes

"the impact on school pupils, and on their future prospects, of the performance of the SQA in issuing qualifications certificates this year".

Marilyn Livingstone's point is that the SQA has an impact on further education colleges, where it issues certificates, and, I suspect, on the higher education sector in certain circumstances. Perhaps that point should be incorporated under point 2 of our inquiry remit, in order to make specific reference to our role in examining the confusion and difficulties in the further and higher education sector.

The Convener: I accept the points that have been made, but we are trying to produce a remit for our inquiry, which will consider predominantly the governance of the SQA, as that issue is most directly related to the remit of the Enterprise and Lifelong Learning Committee.

If we were to go into an analysis of the further and higher education implications of accreditation, there is a danger that we would be more than likely to have to go through much the same process as the Education, Culture and Sport Committee will go through in relation to school qualifications. At this stage, it is difficult to see how we would not end up in that position. I fear that we would end up doing two inquiries about different sectors.

We must examine what the Education, Culture and Sport Committee does, and we will have a reporter on that committee's inquiry in order to ensure that we do not lose sight of the further and higher education sector.

Marilyn Livingstone: While the Education, Culture and Sport Committee is, quite rightly, examining the impact on schools and school pupils, I want the Enterprise and Lifelong Learning Committee to keep in mind the necessity of examining the impact on people who leave school.

The Convener: I absolutely accept that point—we will continue to consider that area in our work, both in this inquiry and in future inquiries.

George Lyon: Does that mean that the Education, Culture and Sport Committee will consider the position of people who leave school?

The Convener: The Education, Culture and Sport Committee will examine predominantly school qualifications, where the greater problem has been.

George Lyon: Will that committee consider the follow-through?

The Convener: No.

George Lyon: Not at all?

The Convener: No.

George Lyon: Does not that—

The Convener: Wait a minute. I am concerned that we will end up conducting exactly the same inquiry on the further and higher education sector as the Education, Culture and Sport Committee will conduct on the school sector if we go down that route. If that happens, we will end up with two inquiries: one into the impact on the further and higher education sector and the other into issues of governance. We went down the route of establishing reporting relationships with the Education, Culture and Sport Committee in order to ensure that we did not lose sight of further and higher education issues.

Allan Wilson: That is not what is being proposed. We are happy to restrict our remit to the governance of the SQA. However, in doing so, we want to ensure that there is a direct reference to the governance of the SQA and its effect on the

further and higher education sector in relation to the impact of issuing qualifications. There is no contradiction in that approach.

We do not want to extend the remit of our inquiry along the lines of the approach that the Education, Culture and Sport Committee is taking. We want to ensure that our inquiry into the arrangements for the governance of the SQA encompasses the further and higher education sector.

The Convener: I do not understand the problem. We are talking about the governance arrangements for the Scottish Qualifications Authority, not about what it does in relation to the school sector. Nothing is ruled out in that part of the inquiry, and there is nothing specifically targeted on the school sector or on the further and higher education sectors. The examination is of the governance relationship of the SQA with ministers and the Parliament.

George Lyon: In that case, my question is this: are we saying that there is no impact at all on universities and higher education?

Miss Goldie: Far from it. There is, George, and the point is—

12:30

The Convener: Wait a minute. What has been said repeatedly is that this committee has an interest in two things: the governance relationship of the SQA with ministers and the Parliament, and the impact of the whole situation on further and higher education.

We can address the second matter in one of two ways. We can either send a reporter to the Education, Culture and Sport Committee to represent those interests as part of the dialogue or we can do our own inquiry. If we conduct an inquiry ourselves, we will simply duplicate what the Education, Culture and Sport Committee is doing.

George Lyon: So you have agreed, convener, that that committee will conduct that part of the inquiry?

The Convener: We have a reporter at that committee, representing our interests.

George Lyon: That is all that I was trying to establish. I thought that you were saying that the Education, Culture and Sport Committee was not doing the part of the inquiry on the impact on further and higher education.

The Convener: The Education, Culture and Sport Committee is examining the whole qualifications process, which affects the higher and further education sector. That sector is our property, which is why we have a reporter at that committee's inquiry.

Miss Goldie: One emerging point requires clarification. As I understand the remit of the Education, Culture and Sport Committee, that committee will consider higher and further education in relation to the effect of the problems on school pupils, who may or may not be able to get into institutions and on to courses.

I think that George Lyon is saying that there is a separate question: have higher and further education institutions found themselves with fewer applicants for either this year or next year? I want that point to be covered and I want it to be the preserve of this committee. However, I think that it is premature to tackle it now. I do not think that it is possible to quantify the primary impact now, never mind the secondary impact for next year.

I wish to put on record that, if there is to be any consideration of where our higher and further education institutions have been left as a consequence of the problems, it is for this committee to investigate that at some point—but I do not feel that that point is just now.

George Lyon: That is the point that I was trying to make. I accept that we have to consider that issue at some stage, even if we do not feel that we can evaluate it now.

The Convener: I am anxious to come to a close on this question, as we have been at it for a long time.

Fergus Ewing: I just wanted to clarify which committee would be responsible for investigating a matter that occurred to me as I was listening to George Lyon and Annabel Goldie. I understand from anecdotal evidence—which may be correct or incorrect—that there have been problems with the compatibility of the computer systems operated by the SQA with those operated for admissions and registration purposes in further education colleges. There may be a problem with that, but whose job is it to consider that matter through taking evidence as part of the inquiry? Would that fall within our remit or the Education, Culture and Sport Committee's remit?

The Convener: My view is that it is within the remit of the Education, Culture and Sport Committee.

Dr Murray: Last week, I pointed out that the majority of students sit the exams dealt with by the SQA through the college system, not through the school system. The impact on college students will be contained within the Education, Culture and Sport Committee's review of the impact on school pupils.

The Convener: Yes, that will be the case.

Elaine Thomson: The full ramifications will take some time to become apparent, and we cannot know everything now. Would there be value in

having a session, or even just part of a session, to gather evidence about the implications for the higher and further education sector as far as they are known at the moment? There might be some immediate effects, particularly on institutions' funding.

The Convener: We can look at those issues and decide what we want to do when we consider the work programme, a draft of which has been prepared by the clerks.

Are there any specific amendments to the remits that have been suggested? If not, does the committee agree with the inquiry remit that has been circulated in paper EL/00/19/3?

Members indicated agreement.

The Convener: Fergus Ewing has asked about access to papers. I will ask Simon Watkins to cover that and to talk about the draft work programme.

Simon Watkins: As a preliminary step, at the end of last week I wrote to our liaison officer in the relevant part of the Executive to ask—in advance of the first meeting, whenever that will be—for papers that relate to the governance of the SQA. We should have those by the end of today. The Education, Culture and Sport Committee, which will carry out the bulk of the work, will seek more general access to all relevant papers—I think that the minister gave a commitment on that in the Parliament. That should cover anything that relates to the wider issues.

Fergus Ewing: I appreciate that most of the papers will go to the Education, Culture and Sport Committee, but I presume that we will have access to those papers.

Simon Watkins: Yes.

Fergus Ewing: Will the Education, Culture and Sport Committee and this committee be consulted on the questions that I feel we cannot really answer at the moment: which documents are relevant and which documents are necessary?

The Convener: These are often chicken-and-egg issues. If we say to the department that we want to see all the papers that are relevant to the governance of the SQA, I would expect the department to be generous in its interpretation of our request. I would not expect it to be selective in providing documentation, because we need the full picture. The Education, Culture and Sport Committee will have its view on which documentation it needs for its inquiry, but I would expect our committee to be given access to legal documents and to information about directions given, appointment processes, modes of operation, relationships between ministers and the board, relationships between the board and senior officials of the SQA, job descriptions, remits, and

so on. One of my concerns about starting the inquiry on Monday 18 September is that I want to see those papers before we start our hearing. Only when we see whatever the department is prepared to offer us will we be able to judge whether the information is anywhere near appropriate.

Fergus Ewing: I am reassured by what you have just said, convener, and I know that the Education, Culture and Sport Committee will be the lead committee. You touched on the timing of our work programme—the first meetings are next week. We have not seen any documents. We have to know what went wrong and how to put it right. To find out what went wrong, we need to see all the internal documents that passed between the SQA, the chief executive and the ministers. Those would include documents that would be specifically covered by the code of conduct as information that would not normally be made public. However, those documents must be made available.

Speaking as a solicitor, I feel that we are in the position of having a trial or a proof, due to begin on 18 September, for which we are expected to carry out an investigation but for which we have received no documents. No solicitor would find himself or herself in such a situation. If he or she did not prepare for a trial or a proof, he or she would rightly be sued. It would be foolhardy, and quite impossible, for us to question intelligently the prospective witnesses from whom we will take evidence until we had had a period, I suggest, of seven days during which we could study all the documents—including the internal documents that were passed between the SQA and the ministers. We need to see what was recommended, when and by whom, and we need to know what action was or was not taken by ministers following recommendations that may have been made by the SQA and/or the civil servants. Those are extremely important areas on which we need categorical assurances from the Executive.

George Lyon: As I think I said at our previous meeting, we need to have information going back a couple of years. We need to ask whether there have been fundamental problems with the SQA in previous years and whether concerns were expressed about the organisation and operation of the SQA in its first two or three years. The anecdotal evidence that I have heard suggests that not all was well in previous years. I take it that we will get access to any documentation that might be relevant to internal problems in previous years—if necessary, since the SQA was set up.

The Convener: The remit that we have just approved says that we are

“undertaking an inquiry into the governance of the Scottish Qualifications Authority since 1 July 1999”,

so we have somewhat time-barred ourselves. We could revisit the remit, but we would have to do so pretty quickly.

Allan Wilson: On what Fergus Ewing said, it occurred to me that it was probably optimistic to think that we could start our inquiry on 18 September. It would be advantageous to have the documents before we met Mr Ron Tuck and the members of the SQA board on 20 September. I suggest that we speak to the officials of the enterprise and lifelong learning department at that meeting, before we speak to the former chief executive of the SQA and the members of the SQA board. That would help us to make progress.

Dr Murray: I agree with Allan Wilson. As Fergus Ewing said, there are difficulties in gaining access to the documentation that we want. We also need to consider what written evidence we will require from witnesses before they come to the committee so that we are prepared before we start asking questions.

Why are we taking evidence from the Scottish Higher Education Funding Council and the Scottish Further Education Funding Council? I would have preferred to hear from witnesses from bodies such as the Association of Scottish Colleges and the Committee of Scottish Higher Education Principals, who could give an indication of the problems that they have experienced in dealing with the SQA. I have anecdotal evidence—admittedly it is from a head teacher—about problems with the SQA in previous years and about its lack of transparency over appeals and other matters. I would prefer to hear from the clients of the SQA.

The Convener: On access to documentation, I am concerned that we have seen nothing so far. I am not in a position to embark on the inquiry, as I have no knowledge of what documents will be offered. I am sceptical whether, at the first time of asking, we will get every piece of information that we require from the department. Therefore, the meeting that is scheduled for Monday seems a bit premature. Once I have seen the papers from the enterprise and lifelong learning department later today, I will judge whether they are adequate to be issued to the committee and I will decide what further papers should be requested from the department.

On Allan Wilson's suggestion that we combine the evidence-taking session with the department officials and the session with the SQA board and Ron Tuck, I think that that would be too much for one meeting. I do not know where the problems lie. Some of them may lie with the department, so we will need a couple of hours with its officials to work out whether that is the case. Some of the problems may lie with the board and key officials of the SQA, so we will need time with them.

We need to knock the time scale of the inquiry back by a meeting. At the earliest, we can take evidence from the officials of the enterprise and lifelong learning department on Wednesday 20 September. However, a caveat is that that will depend on what I see in the paperwork from the department later this afternoon. Is it agreed that we nudge back the time scale by one meeting?

Members indicated agreement.

The Convener: I am anxious that we finish taking evidence before the October recess so that we can have a preliminary meeting in private on 4 October about our conclusions. We might have to schedule another meeting between 20 September and 4 October if we want to take evidence from all those who are listed.

The other point related to the Scottish Higher Education Funding Council and the Scottish Further Education Funding Council. We included those bodies to allow us to examine the governance relationship between the minister and other non-departmental public bodies in the committee's area of responsibility. The idea was not to examine their experience of school and further education qualifications issues—for that, we would want to talk to Committee of Scottish Higher Education Principals—but to ask them about their relationship with ministers and the guidance that they receive. That will enable us to see whether the SQA has been handled differently from the SHEFC and the SFEFC. We want to know whether ministers have been more active, more involved and more directive in their dealings with the further and higher education funding councils than they have been in their dealings with the SQA. That will provide us with a comparison that we can use when we form our conclusions.

12:45

Allan Wilson: I agree with what the convener said about moving things back a week. It might be a typographical error, but I am not sure why we would want to meet on Tuesday 26 September in the afternoon, rather than on our normal meeting day of Wednesday 27 September.

The Convener: The problem is that availability of broadcasting and official report staff means that there are slots for only five committees on Wednesday morning and the committee has been unable to secure one of the slots. The scheduled time will be the afternoon of Tuesday 26 September. There are clashes with meetings of other committees—the Audit Committee and the Rural Affairs Committee.

Allan Wilson: I take the point that you made about the SHEFC and the SFEFC. However, it should be possible to take written evidence from those bodies on their structures and to decide

from that whether we have anything to learn from the extent to which the funding councils are accountable to the Executive and from the amount of operational control that ministers have over them. I am not sure whether there is a direct parallel with the SQA—the former Scottish Examining Board and the Scottish Vocational Education Council.

Rather than hear about the alternative form of governance that is exemplified by the SHEFC and the SFEFC, as is being suggested, I would be interested to hear from COSHEP and the Association of Scottish Colleges, specifically on issues of governance and the SQA.

Fergus Ewing: I would like to make two points, one of which has already been made by Elaine Murray. Before we question any of the witnesses, it would be extremely helpful to obtain written statements—certainly from the likes of Mr Tuck, about whom we know very little, other than the fact that he has resigned. It would be extremely useful to know what he has to say about the situation before we ask him questions.

It seems highly likely that, after we have taken evidence from everybody else, we will want to re-examine Mr Tuck. It is almost certain that matters will arise in the course of taking evidence from ministers and others who have criticised the regime that operated under Mr Tuck. If that happens, it is essential that we give him the right to reply to any questions that have been raised and to criticisms that have been made of him and his administration.

Would it be possible to ask Mr Tuck to come back to the last meeting for a brief time?

The Convener: I am in the hands of the committee on that and I do not want to prejudge a decision. The danger is that we prolong the inquiry without providing appropriate input. The committee can consider that again if it feels that that is necessary.

Marilyn Livingstone: We have to take evidence from COSHEP and the ASC for two reasons. First, that would cover George Lyon's suggestion about examining how things were in the past. Secondly, it would cover Elaine Thomson's point. I agree with the remit, but Fergus Ewing's suggestion would enable us to ask the witnesses whether there were any issues that they wished to raise with the committee.

The Convener: I draw the discussion to a close. We will alter the date for discussion between the committee and the enterprise and lifelong learning department officials to 20 September, subject to my seeing the papers this afternoon and being satisfied that there is enough information to send to committee members. If I am not satisfied, that will happen subject to my being assured that we

will have enough information by tomorrow morning. That will give members nearly a week to consider the papers.

The meetings with the SQA board and Ron Tuck will be separate sessions on the afternoon of Tuesday 26 September. We will have a third session, which will last for an hour on a date to be identified, with the Scottish Higher Education Funding Council and the Scottish Further Education Funding Council. We will receive evidence from COSHEP and the Association of Scottish Colleges, also for an hour.

The final session will be with the Minister for Enterprise and Lifelong Learning and the Minister for Children and Education on 4 October. We will also have a private discussion about the Scottish Qualifications Authority. Is that agreed?

Members indicated agreement.

Simon Watkins: As far as witnesses are concerned, do any members have strong feelings about which officials we should get along from the enterprise and lifelong learning department to the first meeting? There is the head of division, who is responsible for the SQA, but are there any others whom members wish to see?

The Convener: We certainly want to see the head of division, but we also want to see the people who are involved in the governance relationship—the people who draft letters about board appointments, guidance to the board and guidance to the ministers.

Fergus Ewing: Would that be as well as those in the department who dealt with the SQA on a regular basis and who attended its meetings?

The Convener: Yes—although I hope that those are the same people; it would be a strange arrangement if they were not.

Subordinate Legislation

The Convener: Item 5 is subordinate legislation. We have two matters to resolve. Members will have received additional notes this morning about both. We will deal first with the Education (Student Loans) Amendment (Scotland) Regulations 2000 (SSI 2000/240). We were waiting for an update on this from the Subordinate Legislation Committee, which has now arrived as part of the additional letter on the regulations.

Simon Watkins: At the previous meeting, the committee decided that it did not have any observations to offer on the regulations. The Subordinate Legislation Committee will report on two issues. First, it will refer to the very tight time scale, which we had also noted. Secondly, it intends to raise some technical issues of drafting. It is making no other comment to Parliament.

The Convener: Does that apply to both instruments?

Simon Watkins: No—only to the first one, on student loans.

The Convener: The committee had no other comments last week. It appears that no issues arise under the Education (Student Loans) Amendment (Scotland) Regulations 2000, so I assume that the committee has nothing to report to the Parliament on that subject. Is that agreed?

Members indicated agreement.

The Convener: The second instrument is the Education and Training (Scotland) Regulations 2000 (SSI 2000/292). We considered those regulations at our previous meeting.

Simon Watkins: We did, but subsequently the gentlemen who are sitting before us—David Stewart, Allan Wilson and Jim Logie—have written to us, in particular on regulation 7(4), on travel and other expenses. I received a letter that included a copy of a letter that has been sent to the Subordinate Legislation Committee.

There are some ultra vires issues that relate to the payment of expenses in connection with individual learning accounts, which do not seem to be allowed for under the Education and Training (Scotland) Act 2000. That has been accepted by the Executive and I understand that a solution is being sought.

The Subordinate Legislation Committee raised another issue in relation to regulation 7(5), which sets a limit of 100,000 individual learning accounts under the first set of circumstances. The Subordinate Legislation Committee has accepted that there is an implied power in the act to allow that, although it intends to draw the attention of

Parliament to that unusual or unexpected power. However, the first issue that I have mentioned is the more substantive one.

David Stewart (Scottish Executive Enterprise and Lifelong Learning Department): I have with me Allan Wilson and Jim Logie. We apologise for the error in regulation 7(4). We thought that that point was in order when we spoke to you last week, but we have since been advised that it is not. As the clerk has indicated, the error does not affect the implementation of the ILAs themselves, but it does affect the piloting of the discretionary travel and other costs in Lochaber and the Borders.

Ministers have therefore decided to make amendment regulations as soon as possible to seek legislative cover for the piloting of the discretionary costs. In the meantime, we shall arrange for notes of interest to be taken from anyone in Lochaber or the Borders who is likely to be eligible for that discretionary funding. They will be told what additional help they may be able to get in due course, once the amendment regulations are in force.

The Convener: You said that the error does not affect the implementation of individual learning accounts and that it affects only the pilots. Is that because the pilots are happening now? Can people who apply for discretionary travel support to go with individual learning accounts get that support under the law as it stands?

David Stewart: People can get an individual learning account and support for that. That is all in competent order. If they sought to get additional discretionary help for travel or whatever in the pilot areas, there would be a problem in relation to the statutory instrument.

The Convener: Let us move beyond the pilot areas. If I live in Perthshire and I want an individual learning account and discretionary travel support, will I get it?

David Stewart: No. As the minister said during the passage of the bill, such discretionary support is being piloted in two areas—Lochaber and the Scottish Borders.

The Convener: So, if I was not in a pilot area, I could not get discretionary support. Was that legal advice available to ministers when they were discussing the subject in Parliament? Were they told that it would be ultra vires?

David Stewart: No. The problem arose when the words “conditions of eligibility” were put into the final version of the statutory instrument. The Subordinate Legislation Committee pointed out that that was ultra vires in terms of sub-delegation. In relation to the rest of the scheme, the bill provides that conditions may be as determined by

ministers. In relation to the additional provision about discretionary travel and other costs, there is no such provision in the main bill.

The Convener: We are back to issues about which we were given assurances in Parliament. Amendments were lodged by Mr Ewing and supported by others, but we were told specifically that they were not necessary in primary legislation because they could be dealt with in regulations. Upon what basis did ministers say in Parliament that it would be possible to deal with the matter in regulations, when it is now patently the case that it is not?

13:00

Jim Logie (Office of the Solicitor to the Scottish Executive): The attitude is that it is possible to deal with it in regulations, but not in the manner in which we have done it.

The Convener: I am sorry, Mr Logie, but I simply cannot take that at face value. Mr Stewart has just said that there is a need for a legislative solution and you have just said that the matter can be handled in regulations by dealing with it differently from what has been proposed. Those statements are inconsistent.

David Stewart: In relation to the substantive ILAs, there is general provision in the legislation and there is provision for the detail to be in regulations. Some of that detail is in the regulations and other points are determined by ministers because the legislation allows for that. For the main ILAs, there is a generic power in the legislation, more in the regulations and there are certain things that ministers may determine.

On the discretionary travel arrangements, it was our intention that the regulations should give cover for the pilot schemes as ministers intended and that the details of the scheme, such as conditions of eligibility, would be determined as an administrative matter outwith the regulations by ministers. Because the Subordinate Legislation Committee has pointed out that that is not correct—that it is defective in terms of drafting—we will have to introduce amendment regulations to put into those regulations some of the detail that we had intended would be dealt with administratively.

The Convener: Are you saying that there is no need for primary legislation?

David Stewart: That is correct.

The Convener: So new regulations will be brought forward to amend the bill that went through Parliament?

David Stewart: No. They will not amend the bill; they will amend the regulations.

The Convener: But am I right in thinking that there is absolutely no need for primary legislation?

David Stewart: Yes.

Miss Goldie: Mr Stewart, what is it that makes this ultra vires? Is it the text of regulation 7(4)?

Jim Logie: Yes. It is the use of the words “conditions of eligibility” in regulation 7(4). The Subordinate Legislation Committee pointed out that the conditions of eligibility in terms of the Education and Training (Scotland) Act 2000 needed to be spelt out in the regulations. We could not reserve to Scottish ministers the discretion to determine for themselves the conditions of eligibility; they had to be specified in regulations. Hence, we propose to bring forward amending regulations that will spell out those conditions of eligibility.

Miss Goldie: So it is purely a drafting revision.

Jim Logie: Effectively.

Fergus Ewing: I speak as a member of the Subordinate Legislation Committee and an occasional contributor to its debates. Are you saying that the error was to create in delegated legislation the power of sub-delegation and that that is not competent?

Jim Logie: Yes.

Fergus Ewing: Is it true that if an amendment had been accepted in the primary legislation, the problem would not have arisen?

Jim Logie: I cannot remember the text of the relevant amendment. I think that the difficulty might have arisen, depending on whether the wording of the amendment reserved to the Scottish ministers the power to determine conditions of eligibility for travel grants.

Fergus Ewing: If regulation 7(4), as drafted by your good selves, had been in the primary legislation, the problem would not have arisen. Is that correct?

Jim Logie: Yes, I think that that would be correct.

Fergus Ewing: Given that the error was one of principle—establishing a power of sub-delegation that was not competent—should not that have been foreseen and avoided?

David Stewart: With the benefit of hindsight, I would say yes.

Fergus Ewing: We all make mistakes—I am certainly no exception—but it seems unfortunate, especially as the minister made the concession in the course of the debate and made me feel rather guilty for pressing the amendment to a vote.

You mentioned the position of the pilot schemes.

The pilot schemes are not so much to do with the ILAs, but with working out how best to provide for payment of travel and other costs that might arise in rural Scotland to ensure that there is a level playing field across Scotland. We all agreed with that principle. Am I right in thinking that no payments can be made of grants, even in the pilot schemes? Have the pilot schemes been aborted at the moment?

David Stewart: At present, given the defect in the regulation, it is not possible to pay additional discretionary payments in respect of travel. That is why I indicated that the intention was to take a note of anyone who might want that support and work out what their entitlement might be. Once the powers are available, such payments could be made competently for the period thereafter.

Fergus Ewing: When will the new statutory instrument that deals with this mischief and with providing a scheme for travel and other costs—in accordance with the minister's concession—be brought before the Subordinate Legislation Committee and the Parliament?

David Stewart: We hope to draft that SSI in the next fortnight. The main issues are to ensure that it has an element of detail in it and that the definitions fit in with the relevant definitions in social security legislation and so on. If the SSI comes to Parliament in that time scale, allowing for the 21-day rule and the October recess, that means that it would come into force around the end of October.

The Convener: We want progress to be made on the steps that have been outlined by officials. I also want the committee to express its concern that concessions were given in Parliament when the issue was raised and that there is some difficulty in implementing them. We will report on that basis.

That concludes our meeting.

Meeting closed at 13:07.

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