



The Scottish Parliament  
Pàrlamaid na h-Alba

## Official Report

# HEALTH AND SPORT COMMITTEE

Tuesday 26 March 2013

Session 4

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**Tuesday 26 March 2013**

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**HEALTH AND SPORT COMMITTEE**

**10<sup>th</sup> Meeting 2013, Session 4**

**CONVENER**

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

**DEPUTY CONVENER**

\*Bob Doris (Glasgow) (SNP)

**COMMITTEE MEMBERS**

\*Mark McDonald (North East Scotland) (SNP)

\*Aileen McLeod (South Scotland) (SNP)

\*Nanette Milne (North East Scotland) (Con)

\*Gil Paterson (Clydebank and Milngavie) (SNP)

\*Dr Richard Simpson (Mid Scotland and Fife) (Lab)

Drew Smith (Glasgow) (Lab)

David Torrance (Kirkcaldy) (SNP)

\*attended

**THE FOLLOWING ALSO PARTICIPATED:**

Chris Daly (Petitioner)

Helen Holland (Petitioner)

Jim Kane (In Care Abuse Survivors)

Michael Matheson (Minister for Public Health)

David Whelan (Former Boys and Girls Abused in Quarriers Homes)

**CLERK TO THE COMMITTEE**

Eugene Windsor

**LOCATION**

Committee Room 3



**Scottish Parliament**  
**Health and Sport Committee**

*Tuesday 26 March 2013*

[The Convener *opened the meeting at 10:09*]

**Decision on Taking Business in Private**

**The Convener (Duncan McNeil):** Good morning. I welcome committee members and the public to the Health and Sport Committee's 10th meeting in 2013. As usual, I remind all those present to switch off their mobile phones, BlackBerrys and other wireless devices, because they may interfere with our sound system.

Agenda item 1 is a decision on whether to take items 5 and 6 in private. Item 5 is on the committee's approach to the next phase of the health inequalities inquiry and item 6 is on the approach to waiting times. Does the committee agree to take those items in private?

**Members indicated agreement.**

**Victims and Witnesses (Scotland)**  
**Bill: Stage 1**

10:10

**The Convener:** Under agenda item 2, I ask the committee to delegate to me responsibility for arranging for the Scottish Parliamentary Corporate Body to pay, under rule 12.4.3 of standing orders, any expenses of witnesses in the Victims and Witnesses (Scotland) Bill evidence sessions. Does the committee agree to that?

**Members indicated agreement.**

**The Convener:** Item 3 is our first evidence session on the bill. I welcome on the committee's behalf our guests David Whelan, spokesperson for Former Boys and Girls Abused in Quarriers homes; Jim Kane, committee member, In Care Abuse Survivors; and Helen Holland and Chris Daly, the petitioners who lodged PE1351, on time for all to be heard.

Thank you all for your attendance. We will do our best to conduct the session in as relaxed a way as possible, although that can be difficult round the table.

**Dr Richard Simpson (Mid Scotland and Fife) (Lab):** I will start by taking us back a bit. When I was a justice minister, I attended a cross-party group that Marilyn Livingstone ran. That was 11 years ago and since then, there has been progress with the strategy, the time to be heard pilot forum and, now, the proposed national confidential forum.

I invite our witnesses to say whether they feel that the move to put such matters into legislation is the correct next step, whether that is the way in which we should progress and whether they are comfortable with the forum's format, with the fact that it will be under the Mental Welfare Commission for Scotland, with the definition of institutional care and with the eligibility to participate at the age of 18.

**David Whelan (Former Boys and Girls Abused in Quarriers Homes):** Thank you for inviting us to give evidence. Our position is that there is a role for a national confidential forum, but the proposed forum's mandate and remit do not go far enough. There will be no remedies, no redress and no effective investigations or inquiries under the model.

**Chris Daly (Petitioner):** I back up what David Whelan just said about the national confidential forum. The Scottish Government asked the Scottish Human Rights Commission to draft a remedies framework for survivors of institutional child abuse in Scotland. The SHRC came up with

a framework, which included something like the national confidential forum.

However, In Care Abuse Survivors and I feel that, although the proposed forum has the acknowledgement aspect, the element of accountability is missing. The forum does not consider the element of justice. Indeed, Tom Shaw made no recommendations about access to justice in his report on the time to be heard pilot. A number of remedies are key to the way forward. I agree that the proposed forum is helpful in some ways, but there are other remedies, which the SHRC addresses in its framework.

**The Convener:** I ask Helen Holland and Jim Kane whether they wish to add anything, although they should not feel compelled to do so.

10:15

**Helen Holland (Petitioner):** I would just like to say that it is regrettable that, 11 years on, we are still talking about the issue, given that a number of survivors have already died, having seen no justice whatsoever. We are talking about child abuse, which is a crime. It is not a health issue; it is a justice issue.

We have children who were denied justice because they were in care and did not have a voice. Those same people are now coming forward and giving themselves a voice—they have found the courage to come out and speak about what happened to them while they were in care. They deserve the same right to access to justice as anybody else has.

I will read a quote from Ireland, where the justice minister said:

“The persons who committed these dreadful crimes—no matter when they happened—will continue to be pursued. They must come to know that there is no hiding place. That justice—even where it may have been delayed—will not be denied.”

People in Scotland need to hear that, too. We need to hear that justice will not be denied to the survivors of abuse in care.

**Dr Simpson:** That is an interesting and understandable viewpoint. The confidential forum will separate things out in that it will provide an opportunity for a confidential hearing, which might be sufficient for some, although clearly it will not be for others.

Is the restorative justice approach that Sacro has piloted helpful? There is also the current consultation on the time bar, which I know has always been a vexed issue for some who have been abused. Do you have any comments on those elements?

**David Whelan:** As a group of survivors, we do not believe that the restorative justice model is appropriate for vulnerable adults who have been abused by the system. I have had an initial experience with restorative justice, and I think that it is immoral to ask survivors to resolve their issues independently. These people are extremely vulnerable. Some people who are not capable and who have mental health issues were put in a process of restorative justice in which they were supposed to engage with the organisation and resolve their issues.

That model is just not appropriate for this group of vulnerable adults, for a number of reasons. Some people had to wait for responses, although I appreciate that a process had to be gone through to understand things. Some people had to sign confidentiality clauses at the beginning, so they were denied rights at the beginning of the process. They engaged with the process, but they had to sign that agreement and so could not speak about or discuss it. That seems inherently wrong. A number of the people whom we represent came out of that process more damaged than they were when they went in, and their issues were not resolved, so that is not the way forward.

Generally speaking, survivors are not criminals—we are victims of crimes that were perpetrated on us when most of us were children.

**Chris Daly:** I back up some of David Whelan's points. I believe that Sacro is involved in supporting prisoners in the Scottish Prison Service. I do not see how, from within that setting, it has the expertise to deal with victims of abuse.

Another point about the restorative justice pilot that went along with the time to be heard forum is that, as David Whelan said, individuals went along to the institution of Quarriers with no support. Some survivors went along on their own to where the abuse took place—into the lion's den—to speak to the chief executive officer of Quarriers.

**David Whelan:** It is commendable that Quarriers wanted to engage, and we welcome that. We are looking for a non-adversarial process to resolve the issues. Chris Daly is right. At the end, individuals were meeting the chief executive if they got to that process. However, we need to look at the numbers who went into the restorative justice process and the outcomes at the end. How many people had an outcome that was beneficial to them? I think that it was four, plus perhaps one person at the end. That tells us that the model is not appropriate.

When we were involved in time to be heard, we were given a pamphlet, which I have brought along today. The booklet does not mention restorative justice. We went in for one thing—time to be heard—and we came out the other end with

restorative justice being suggested to us. We have never been consulted on it, yet that is the key to all this. The key to helping to resolve the issues is to involve the survivors. That process has begun, and begun comprehensively, with the Scottish Human Rights Commission interaction process, in which we are now all engaged, along with the other parties. The survivors support the Scottish Human Rights Commission recommendations and the framework, and we have engaged in the first interaction.

There is clearly a willingness on our side. Even after all these years of things not happening, there is a willingness on our side to engage constructively. However, as Helen Holland said, people have died, people are becoming more vulnerable and people are being more traumatised by the delays.

**Chris Daly:** Can I ask Helen Holland to speak about the Irish situation and the counselling support that is provided in Ireland, which we do not have here?

**Helen Holland:** I will speak about that, but I want to say something else first. With regard to restorative justice, Sacro was asked, "Have you dealt with this type of thing before?" It was honest in its answer, which was no. It did not have the expertise to deal with the issue, in all fairness to it.

David Whelan is absolutely right. Less than 1 per cent of the survivors took on board and accepted the restorative justice element as it stood. I do not think that enough work was put in to start with to ensure that it would be helpful for the survivors and that it would be a healthy option. It certainly has not been a healthy option. Anybody that I know who went through that process has come out of it worse off. I speak to some of them, and they cry every single time that I speak to them. They say, "I wish I had never done it. All that I did was open a can of worms. I can't get the lid back on now. How do I get back to sleep at night? How do I start doing this?"

As far as I am concerned, the confidential forum model fails because it asks people to come forward, speak about their experience and then walk out of the door. People cannot do that. They cannot suffer 10 years of abuse or 10 years of torture and then come forward and speak about it in one afternoon to people whom they have never met before and do not know. The model asks people to come forward and speak to the commissioners—or whoever is appointed to do the work—about their experiences, but people will not know them.

Because they were in the care of the system, most survivors who have been in care have major issues with trust. How can they come forward and speak about intimate details of abuse with people

whom they do not know, do not trust and will never see again? They will not know what the expectations are, whether they will get any justice at the end or even whether the issues will be taken on board and taken back to the institutions. We know that that is not what has happened. That is not what the process is about.

That is why I feel that the confidential forum is flawed. As a stand-alone entity, it will not meet the survivors' needs. If it incorporates the other things—that is, the human rights framework—I think that there is work that can be done there, and it can be progressively taken forward. It needs to be done quickly, although I hesitate to say that, because it has taken 12 years to date.

A number of survivors have died since the start of the process, which breaks my heart. I was aware that there were eight terminally ill people when the time to be heard process took place. I was on the advisory board for the process with Tom Shaw and I asked whether the terminally ill people and the elderly could be brought into the group of people who were giving evidence. I was initially told that they could be but, at the very end, I was told no. Those terminally ill people could have taken part only if they had been in Quarriers. I understand now that that was because Quarriers was meeting part of the bill, so it makes sense.

Only two years have passed and, of those eight people, only one survives. It is an absolute disgrace that the country that we live in allows that to happen. Such people have the right to have their voices heard. The state let them down as children. We were children of the state and we are still children of the state, although we are adults now. The people who died were denied the right to have their voices heard. Please do not deny people that right any longer. Too many have died during the process.

**The Convener:** The committee has been asked to scrutinise one element of the bill. We are not the main committee and we are not dealing with the justice issues.

Earlier, we met the bill team, which has worked on the issue for a considerable time. The witnesses might know some of that team. The Government contends that the confidential forums are a health measure rather than a justice measure. The committee is trying to evaluate the proposal, which is why it is interesting to hear the witnesses say that, in some cases, the proposed measure might damage someone's health and not help them at all. We need to get some clarity and opinions about that.

We have also heard from the people who have developed the policy that they have based their work on the pilot and its success. We need to hear a view on that.

We are dealing with a situation in which many people will be affected in different ways. I am only testing the idea. If the witnesses tell me that I am wrong, I will be happy to hear it. I am trying to encourage a discussion that will help me and my colleagues.

For some people, the forum will be successful: it will help their health and wellbeing. This is a difficult job. We are looking at one element of the bill as a health measure, and other colleagues will scrutinise the bill on the basis of whether justice can be achieved or helped to progress more effectively.

**David Whelan:** In the time to be heard pilot, 100-plus people came forward and 98 were heard. That demonstrates that there is a role for the confidential forum model, and it was therapeutic. However, people need to have the proper support before, during and after the process. That support is crucial for any model and will need to be in place.

I do not want to labour the point, but I have an issue with the confidential forum model, and it comes from my experience. My experience with time to be heard was a bit mixed. There was some confusion about the security of people's testimony, because the pilot was not set up in legislation. My issue is that I gave time to be heard official Quarriers documents that outlined abuse that my sister reported to the organisation, but nowhere in the time to be heard report—even if it is anonymised—does it say that a participant in the pilot provided official documents about the organisation. That worries me. That is an issue with the confidential forum model.

I also provided a court document and there was no reference to that. There was also no reference to the conviction of the person involved. That was an official court document, which I gave in good faith. I was not asking to be identified, but that is my worry about the confidential forum model.

**The Convener:** Do you think that the bill and the process of scrutinising it might address some of your issues?

10:30

**David Whelan:** Yes, I think so. If the forum is set up in legislation, there is more scrutiny of the issues that we are raising. As we said in our submission, we have been in touch with the bill team leader, Louise Carlin, who was very helpful and gave us appropriate information. Those were initial inquiries and I am sure that we will have more inquiries as the bill progresses.

Participants will be protected—if that is the right word to use—in the legislation. We have to recognise that everyone has rights, and that

includes the accused, the organisations, the institutions, the entities, the church or whatever it might be. They will have rights in any model that is progressed and FBGA expects those rights to be upheld.

**Chris Daly:** On the health aspect, if a confidential forum is to be rolled out, Tom Shaw recommends that the survivors are given adequate support before, during and after the process. Survivors are suffering now. They have had issues accessing mental health services in Scotland and many survivors are unhelpfully diagnosed with personality disorder. That labelling cancels out the treatment of other conditions that have been diagnosed such as post-traumatic stress disorder, anxiety disorder or depression. In Scotland, unlike England, personality disorder is not treated and it is difficult for survivors who have that label of personality disorder to access mental health services.

In Ireland, there is a very positive process for survivors to get psychological help. There is a fund for survivors of institutional abuse, who can access money from the keepers of the fund that will go directly to the therapist. Perhaps Helen Holland will know the name of the fund and the organisation that runs it. Survivors have a choice in Ireland and the money is there for them to pay for their choice of specialist trauma therapy. They have the choice of where they want to go and that is not time limited. If a person accessed a psychologist through the national health service in Scotland, the sessions would be limited to between eight and 12 sessions. In Ireland, the fund for survivors is not time limited and the survivor can choose where they want to go for specialist trauma therapy.

Survivors have been making this point for years to various committees, including the Public Petitions Committee, which Helen Holland and I were very involved with from 2002 to 2004, when the then First Minister, Jack McConnell, apologised for the abuse in institutions. We have been telling the Parliament and the Government that survivors need psychological help now. If survivors go through the national confidential forum process without having the support and therapy that they need—and have needed for a long number of years—here and now, it will retraumatise them.

**Helen Holland:** I think that the Government would say that it put in place that support by putting an amount of money into the in care survivors service Scotland.

However, as I said, survivors have major trust issues. Whether we like it or not, the state is primarily responsible for children in care, and those children were abused while they were in care. A lot of adults chose not to go down the

route of asking the ICSSS to come along with them during the process, and that is their prerogative.

With regard to the report on the success of the whole procedure, the committee has to understand that the evaluation papers were produced two weeks after the survivors spoke. Some of the survivors had never spoken before about what had happened to them, as Tom Shaw admits in his report.

When someone first speaks about abuse, there is initially an element of euphoria that they have managed to do so, and they feel better about the whole thing. However, as time goes on, the depression starts to come back, and they begin to question whether they did the right thing by speaking about it. A number of people go back to their doctor and say, "I'm not coping—I went along to the forum and spoke about what had happened to me, and now I can't sleep at night," or they have issues with food or depression.

An evaluation paper that is produced two weeks after the event is, in my opinion, not fit for purpose, because it is not a true reflection of how successful the whole process was. I say that with all due respect, as I know that the forum was a learning process for the Scottish Government, but there are many examples out there that could have been examined and called on.

The organisation that Chris Daly mentioned is called Towards Healing. When the Irish Government put in a sum of money, the Catholic Church chose to do the same, and every institution in Ireland then put a lump sum of money into the pot. The organisation was set up so that someone could phone—whether or not they had been through the process in Ireland—and say, "Look, I was brought up in care and I was abused." The organisation would ask, "What home were you in?", and the person would be able to tell them. They might be asked who the abuser was, but they would not have to answer that question at that time.

If someone says that they are struggling and feel that they require some type of counselling, the organisation will, nine times out of 10, agree to 80 sessions—not eight—which equates to a year and a half, and the sessions can be continued if necessary. The individual is given a number—that might sound strange, but a lot of people would prefer to use a number rather than their name as it provides them with anonymity and they are not labelled as psychiatric cases. We might as well be honest about the fact that a lot of survivors have issues with that.

When the person goes for their counselling session, the counsellor contacts the organisation, which provides the funding for that individual. The

funding is then taken from the lump sum that came from the institution in question. The system seems to be working—it is obviously working, because it has been going for years. You can look it up on a computer and you will see the details for yourselves.

Around 42 different institutions in Ireland have put something into the organisation's pot. If that system works in Ireland, there is no reason why it cannot work here in Scotland with all the different children's homes and institutions, especially as this is the bigger country. That is just one example of the type of thing that Ireland is doing for people who have been through the process.

To look at it from a health point of view, I, personally, do not want to go along for a one-afternoon counselling session. As a stand-alone entity, that is what the confidential forum would become. I would not then want the information that I had provided to that counsellor or commissioner—whatever we want to call them—to be destroyed two weeks after everybody has given their evidence, which is what happened with time to be heard.

If somebody comes forward to speak about what happened to them, they do it with the expectation that there will be something at the end of it, but that is not the case with the confidential forum as a stand-alone entity. You may argue that it will be possible to direct that person to counselling services, for example. However, survivors have been going round revolving doors for years—probably since they came out of care.

**The Convener:** What was the expectation then?

**David Whelan:** Do you mean in time to be heard?

**The Convener:** Yes. Did you think that it would lead to something else? What did people who participated in it expect? To go back to what I said earlier, would there be different expectations?

**David Whelan:** A number of survivors had expectations. I suppose that it was a pilot. We are not guinea pigs, so one has to question why pilots were set up in the first place, but I understand the reasons why.

Sorry—what did you ask again?

**The Convener:** When people participated in the time to be heard pilot, what were their expectations? It is our reference point—the Government tells us that, because the pilot was successful, it has developed a certain policy from it. Was it not explained to people who participated in it what would happen?

**David Whelan:** I think that it was explained to them. It is obviously in the document—

**The Convener:** What was your experience?

**David Whelan:** The basis of time to be heard was that people were not entitled to a remedy. Tom Shaw came out clearly and said that it would not result in compensation, reparation, redress or remedy. However, a number of survivors had such expectations. We must recognise that people have been through the criminal court procedures in Scotland, so there was an expectation that we would engage with the process, others would understand a bit more and a remedy would be offered.

We have proposed a way forward to a number of Government departments and the SHRC. There are five elements, but I want to concentrate on the model of the confidential forum. We have a number of questions about the actual model, particularly about the chairman's role. Normally, in such a set-up, the chairman is able to go back to the minister to ask for amendments in the terms of reference. Is that included in the bill? So that would be one question we would want to ask about the bill.

As for recommendations in relation to changes in practice and law, are those in the bill? That is what needs to come out of the model for things to change and for good practice to continue or happen in future.

There needs to be an issue about the desirability of people seeking remedies through the bill. How will that be addressed?

**Mark McDonald (North East Scotland) (SNP):** Thank you for coming to give evidence today. You have spoken about appropriate support before, during and after appearing at the forum. I note that one of the things that you mention in your evidence is independent advocacy. I will frame my questions around that element. My experience from other areas, which are not related to victims of abuse, is that there tend to be three categories: people who are confident and comfortable with advocating for themselves; people who require independent advocacy; and people who want an advocate who might not fall within the traditional definition of independent advocacy.

I am interested in hearing whether you think that part of the support that would be given in advance of a person's participation would be about finding out whether they required advocacy. Also, how might advocacy be defined in the bill? An individual might want a family member to be their advocate, but such support might not come within the definition in the legislation, which might relate to traditional advocacy services.

10:45

**David Whelan:** As you said, some people are quite capable of putting their point across, but others are vulnerable and cannot do so. We think that people should be empowered and enabled to take up their rights, whatever those rights are. Some vulnerable witnesses will not even know that they have rights to justice and to remedies.

The question is how we empower and enable people to take up their rights in the context of the model that we are talking about. The ICSSS could be expanded—I understand that it provides advocacy. I think that FBGA would like an independent, impartial group to provide advocacy as part of the process, so that anyone could go to it for advice, help and support, perhaps through a helpline.

There is obviously a need for a health advocacy service that people can access. It could be ICSSS or another service that a person could access independently.

The committee should recognise that many people who took part in time to be heard have left Scotland. In FBGA we have people from Canada, the United States of America, Germany and Hong Kong who took part in time to be heard. With all due respect, we provided the advocacy. The committee might want to consider enabling survivors groups to provide a certain amount of advocacy or part of the service. That is something for the committee to consider. We certainly want advocacy to be independent and impartial.

**Helen Holland:** As part of preparing people to go through the process, something will need to be in place that can make clear that independent advocacy is available. We are talking about the Victims and Witnesses (Scotland) Bill. A victim whose case is going through court has access to victim support services, which can talk the person through the process, talk about their choices and let them make the decisions for themselves.

There are vulnerable adults among abuse survivors, but many people do not necessarily need advocacy in the—sorry, let me rephrase that. There are a lot of people who have been abused who have not even told their families or partners and have real issues with telling anyone. I think that those people will need independent advocacy. They will need long-term support. It is not a case of someone saying, "I'll come along on the day and hold your hand while you talk about what happened to you." There needs to be much more support than that.

Who provides that support is debateable. As you said, some people might want a family member, but others might choose to go along by themselves because they carry the shame and guilt of what happened to them. It might be that

the whole process should be dealt with much more gently before someone gets to the stage of giving evidence to the forum's commissioners—or whoever it will be—so that a person is allowed to build up a relationship with the person who will be there to represent them. A lot of people who went along to the previous forum had probably never even met the person or had maybe met them once or twice before the event. People cannot talk about issues of abuse with a complete stranger. I think that Tom Shaw mentioned in his report that many people had not even told their spouses or families about it. A lot of people carry the shame of being in care. That should not be the case, but it is. Children in care are stigmatised to this day. We need to look at that.

**Mark McDonald:** I absolutely agree with that point about stigmatisation. The Parliament has looked at that in other areas.

Mr Whelan said that he would like a national advocacy forum or something similar. In each area, a number of organisations provide advocacy on a range of issues and individuals in those organisations have particular specialisms. Are you seeking some kind of joining-up-the-dots approach so that individuals know where they can go to access the advocacy that is available?

**David Whelan:** It has to be seamless. The ICSSS provides certain services, including advocacy. However, many of the people who will be participants in the national confidential forum will not live in Scotland and they will want to access a point where they can get advice and support. FBGA believes that the ICSSS has worked well. It is helpful and people can get support if that is what they want from the organisation. Perhaps the committee could consider an advocacy agency or giving an advocacy agent direct funding to provide the advocacy for the national confidential forum.

That might be a way forward. Again, we would like such a service to be independent and impartial, although we understand that it will have to be funded by the Scottish Government. That could be a way forward for people to be enabled and empowered to take up their rights. If we have that and we tell people about their rights and how they can take them up, people will exercise those rights and they will expect to come out of the NCF with those rights addressed.

**Chris Daly:** There is a practical side to the advocacy that David Whelan speaks of. A good number of survivors have poor literacy skills, but the documents that they receive—whether it is letters from their lawyer relating to issues such as civil litigation or Government papers that go to survivors on the time to be heard forum and the confidential forum—often use complex and complicated language. If advocacy support is to be

provided before the forum, the survivors should be taken through all the complicated wording. It might also be good to have an easy-read version. A booklet was produced for the time to be heard forum, and if a similar booklet is to be produced for the national confidential forum, it should not be in complex language, or an easy-read version should be available. It would certainly be a role for any advocacy service that supports survivors to elucidate areas of complexity in the forms or papers when someone accesses the confidential forum.

**David Whelan:** Chris Daly is right to raise those issues. We have said that any document that is produced for the national confidential forum should spell out what redaction means. People who come forward to tell their experience expect to pick up the report and say, "Oh—there's my experience." However, although there will be a selection of experiences, some of which might be similar, not every survivor will be able to identify their experience. That has been an issue with confidential models in Ireland and other places. Survivors have not been able to identify their testimony in the confidential model.

It is important that that is explained. As Chris Daly said, that should be done in non-jargon and in an easy-read format. It should be set out what the terms "redaction" and "anonymised" mean, because some survivors might not quite understand that. People might pick up the report and say, "My name's not here," or, "Why am I not in this?" They might not be able to see their testimony.

**Chris Daly:** The consultation for the NCF involved events in various places, and I attended one in Glasgow. When we discussed that matter, I raised the issue of how a person's testimony is identified to them and only them in the finished document. I said that, in other places, a code is used and I asked the people who were working on the bill to consider the possibility of giving survivors a specific code when they give evidence to the forum, so that their testimony would be identifiable only to them. The code would be destroyed after they give their testimony, but they would have a copy of the code and so could recognise it in the finished report.

**The Convener:** That is slightly different from other things that we have heard. We have heard that the priority for people setting up the forum is to provide a confidential and safe opportunity for people to share their experience. We hope to get some benefits at that level from people being able to put their stories on record. In some sense, they should feel better for it. Are you saying that, for some people, we should allow a wider sharing of their story in an anonymised way?

**Chris Daly:** No.

**The Convener:** Maybe I picked you up wrongly.

**David Whelan:** My point is that people will give a wider story but, by the time that it is redacted and anonymised, they cannot identify that story. That has been a concern for survivors.

**The Convener:** I understand. They do not want to be identified. They have got their story out but, once it is anonymised or whatever, does it help to—

**Chris Daly:** It helps for them to see their testimony in the report.

**The Convener:** Right. I am trying to understand.

**Chris Daly:** The people who gave evidence to the time to be heard forum, for example, said afterwards that they thought that they would be able to recognise their testimony in the report. One person said about Quarriers:

“I have nothing bad to say about the place. The house parents were kind, food was good and plentiful.”

A few people might have said something similar, but that person wants to know whether that is their testimony. If, as I suggested, there was a code that was specific to that person’s testimony and that is included in the document, they can recognise their testimony in it. That is an issue for survivors—they want to recognise their testimony in anything that is produced afterwards.

11:00

**David Whelan:** In a sense, as Chris Daly has said, given the important point that the national confidential forum will aggregate the testimony of survivors from a number of institutions, people will want to be able to identify what they have said and where it relates to. Of course we understand the legal reasons why the testimony is redacted and so on, but, without wanting to repeat myself, I think that if that is explained to people, they will understand the process that they will engage in.

**Jim Kane (In Care Abuse Survivors):** As you will have noticed, I have not spoken much, because Chris Daly and Helen Holland have more experience than me on the issue.

I have in front of me the statement that I gave to Mr Tom Shaw. When I read through the survivor statements in Tom Shaw’s report, I could find no identification of any of the survivors or victims—whatever you want to call them. Three of the paragraphs in his report come from my statement. I know that because I know what is in my statement and I can identify those paragraphs as mine. However, as David Whelan and Chris Daly have said, other survivors will look at the report and ask why they are not identified. They will want to know.

In reading the statements in Tom Shaw’s report—it may be that I am wrong on this—I would count every paragraph as being the statement of a different individual. As I see it, that is a flaw. He has taken three paragraphs from my statement, but anyone would count them as being the statements of three people rather than of one person.

**David Whelan:** As Chris Daly said, perhaps where people have given similar testimony, their comments could be anonymised by using letters of the alphabet or numbers or some other code. If six survivors have given similar testimony that has been redacted into two paragraphs, perhaps there could be a reference to witnesses A, B, C and so on or perhaps they could be numbered.

**The Convener:** I get the point that how the testimonies are reported and presented is important to people who have pushed themselves through the process. If they are to get to the point where they feel some benefit from participating, there needs to be a recognition that they need to be supported through the process, including on the day of the hearing, and consideration needs to be given to how their testimony is subsequently shared. I think that we get some of those points.

**Gil Paterson (Clydebank and Milngavie) (SNP):** I should put on the public record the fact that I am a board member of Rape Crisis Scotland. My experience tells me that, for victims and survivors, health and justice issues are closely intertwined. Equally, as I am sure everyone here is aware, the fact that health and justice services operate so separately from each other presents a problem for people. There is no doubt about that.

Given that someone who comes forward may in the first instance be helped by disclosure, I wonder whether the forum should include someone who knows what other steps are available to someone in this situation. Perhaps one answer would be for the forum to have on hand a board member with justice expertise, who could explain some of the issues about the journey—which, I understand, might not always be good—for the person. That might provide some food for thought. Would that work?

**David Whelan:** If a person is moving into other areas of justice, that would be helpful, I think. If there are other elements of the process, it might be helpful for a person with justice experience to sit in on one of those. As we understand it, the NCF is a therapeutic model. We believe that there should be a number of elements to the process, with perhaps the NCF sitting at the top and then an investigation and research element. The investigation element should have certain statutory powers, if required, to get people to come to it and to get access to documents, but it should be inquisitorial rather than adversarial.

Different people might want to go to different elements of the process. Some people might just want to go to the NCF and say, "I have told my story, I have got my support, I am happy." Some people might want additional elements, so that at the end of the process or at some other point the issues for that individual are addressed. That is what we envisage.

There is good practice out there. There are some very good elements in the bill that has just been enacted in Northern Ireland. The southern Ireland process was good in some respects but from our point of view it was very adversarial and costly and we do not believe that a Scottish model needs to be that way. We are very clear that the issues could be resolved in a non-adversarial way.

I know that cost will play on the minds of members of this committee and the Justice Committee, and it is not helpful when media organisations come out with figures such as the £500 million that the BBC quoted on its recent programme "Scotland's Forgotten Children"; it is not helpful for politicians in making decisions and it is certainly not helpful to the victim survivors because we do not see that as the cost. We think that matters could be resolved cost effectively, and when I say cost effectively, I mean with the benefits going directly to the victim survivors and not to lawyers or other third parties.

**Helen Holland:** I think that complications are coming in because we are considering the confidential forum as a sole entity. Ireland had two things on-going at the same time; it had a justice forum and a confidential forum running in parallel. We have to remember and take on board the fact that many survivors will not want to go down the confidential forum route simply because they do not want a therapeutic session; many survivors simply want justice. What has been said is important: if we lump the whole thing into one forum—regardless of what forum that is—we must incorporate the other issues such as justice, reparation and compensation. That is the biggest difficulty.

In Scotland, the Government has looked at what happened in Ireland and has picked out one element of the whole process, which is the confidential forum—and, by the way, it is also the cheapest element—and is expecting it to work for survivors in Scotland. However, to me, it is just not going to work. It is not fair on the survivors in Scotland to expect them to take part in a therapeutic process, because that is not what survivors are looking for.

I absolutely, 100 per cent accept that some people may want to come along and say that they were in such and such a place for such and such a time and their experience was pretty good. That is absolutely brilliant, as a lot of the institutions

cannot move forward because the issue has not been dealt with properly and appropriately. That is not the survivors' fault, but we respect the fact that the institutions want to move forward as well.

I do not want to bring down the church; that was never my intention in coming forward. The reason why I came forward was so that people knew that it was true that abuse did take place in these places and because we need to accept that. Before, people hid behind the fact that they did not have the knowledge that abuse had taken place.

I absolutely accept that when there is ignorance, people do not need to take responsibility. However, when there is knowledge, people need to take on board the responsibility, and that is what we are asking people to do. We are asking the Government to take on board responsibility for the whole issue. If it takes on board only the confidential forum, it will deny the survivors who do not want to go into the therapeutic system the right to justice, and that forms quite a large part of the issue.

You are being asked to look at the issue from the point of view of the health, including mental health, issues. It is just as unhealthy for someone who wants justice to be denied the right to it as it is for someone who wants a therapeutic process to be denied that, but people are getting the right to that. Rather than acting in a justifiable way towards one person and in an unjustifiable way towards another, the Government needs to bring the whole lot together and take it forward as a complete package.

**David Whelan:** I agree with something that Helen Holland said. Speaking personally, why would I want to keep going into forums just to tell my experience? I have been through a court of law and my case has been determined. The cases of other people who were in Quarriers have been determined, as have some cases involving the Catholic Church. We want to find closure and we want to go and get on with our lives. We have always recognised the good work that Quarriers has done, both in the past and today. However, the issues have not been addressed.

**Chris Daly:** A justice issue comes up in relation to the NCF. If the commissioners who sit on the forum hear evidence of crimes, they have an absolute responsibility to engage the police in the process as well. If someone comes along and it is clear that a crime was committed, and particularly if the forum sees a pattern, with corroborating testimonies from survivors who were in the same institution at the same time, there will be a responsibility and a duty on the forum to engage with the police on the matter. At the end of the forum, we should have information on the numbers of cases that went to the police, the

outcomes and how many prosecutions there were. We need those sorts of statistics.

**Gil Paterson:** That is where I was coming from. If, inadvertently, there is corroboration and two pieces of a jigsaw fit together, there would be an expectation that authorities would—

**David Whelan:** That occurred in the time to be heard pilot.

**Gil Paterson:** Yes. I would have thought that.

I am perfectly aware that, for the individuals who come forward, different forms of closure will take place at different times. I also understand what Helen Holland said.

If the advice is to move the case on to another part of the system—for instance, if someone is interested in a justice remedy—I think that the plan is that they will be signposted. I might be wrong—it might just be the area I work in—but knowing how many people are seeking justice for what has happened in their lives, I wonder whether it would help a particular individual if at a particular point they were able to get some on-the-spot expertise in the forum.

11:15

**Chris Daly:** Yes. Are you suggesting that being an expert in justice should be part of the commissioners' make-up?

**Gil Paterson:** It might give some traction or help by giving people an explanation at a particular point in time.

**David Whelan:** That would be helpful. With those coming forward for the first time, that kind of expertise might be needed to decide certain legal issues in testimony. I could see a role for someone with justice experience on the commissions.

People talk about the standards of the time and say that things were different then. However, even when judged by the standards of the time, many victim survivors were victims of serious ill treatment according to the meaning of article 3 of the European convention on human rights. Organisations or people might say that things were different at the time, but we are talking about ill treatment that should not have been acceptable at any time.

**Chris Daly:** People should have been guided by the various children's acts over the decades, which actually make it clear that what people were doing in these institutions was criminal at the time. As for the excuse that times were different, that there was corporal punishment in schools and so on, we are not talking about that level of chastisement or treatment of children—the belt at school, for example; we are talking about a totally different degree of physical and emotional abuse.

The laws that were in place to protect children, such as the various children's acts and, as David Whelan mentioned, the ECHR, actually cover the protection of children in these institutions at the very time about which people now say, "Well, it was different back then." People gave their kids a skelp on the bottom and kids could get the leather belt in school, but we are talking about a totally different level of physical abuse, emotional abuse and, for some in these institutions, sexual abuse. You cannot say that because things were different at the time, such treatment was acceptable. Those were not the norms—it is not the norm to treat children in such a way—but a lot of the time people make the excuse that it was a different era, a different decade and so on.

**Helen Holland:** Going back to Mr Paterson's question about signposting people for access to justice, I think that one of our biggest problems is the way in which Scotland's justice system is set up. Some of the survivors who were abused while in care are now 70 or even 80 years old. The problem with the criminal courts is that the evidence has gone and the problem with the civil courts is the time bar, which was initially set up to deal with accidents at work and did not cover child abuse and the amount of time that it might take for a child to be able to speak about it. We all know—there is plenty of evidence out there—that it takes a number of years before individuals start to speak about the abuse that they suffered, for whatever reason.

The only other avenue that is available is the Criminal Injuries Compensation Authority, but that applies to people only from 1964 onwards. A lot of the survivors are from pre-1964, so their avenues to justice in the system are zilch at the moment. Something needs to be done in the bill to address that. Even if somebody from a justice department was on the forum, they would be limited in where they could signpost survivors to go purely for justice.

**David Whelan:** I understand that no legal aid is available for cases. Legal aid was withdrawn and cases that were in the Court of Session could not proceed, because a number of them were funded by legal aid.

**The Convener:** We take Helen Holland's point about the difficulty. A related point is how the bill was allocated to the committee. There is a bit of debate about whether the Justice Committee should have covered the whole bill.

We are waiting to hear from the minister so, unless Gil Paterson has a pressing question—

**Gil Paterson:** I have a question on legal aid.

**The Convener:** I am trying to steer people away from debating—

**Gil Paterson:** From discussing justice issues—okay.

**The Convener:** I reassure the witnesses that everything that they have said today is on the record and that we will consider it in producing our report to the lead committee. However, I am being careful to ensure that we do not make you more confused than you need to be, because of the legal aid issues, the complexities and the uncertainties of access to justice and the legal process. We know that that process is expensive and that its outcome is uncertain.

The committee was allocated the bill on the basis of the therapeutic health outcomes, but we absolutely take the witnesses' point. In the evidence session, committee members—including me, probably—have drifted into wider areas, as have the witnesses. We understand that and we hope that we have not confused the witnesses too much.

I ask for last questions now, because our session with the minister was due to start a couple of minutes ago. There are two bids for questions.

**Nanette Milne (North East Scotland) (Con):** I will follow on from some of what has been said about the mixture of health and justice aspects. What is your general feeling about the proposal for the forum to be a committee of the Mental Welfare Commission?

**David Whelan:** We recognise that many survivors suffer from mental health issues. We also recognise that the commission has done good work. Our initial concern was that people would be stigmatised. I know that society is trying to address issues of stigmatisation in relation to HIV and mental health. FBGA does not have a major issue with the proposal.

**Helen Holland:** The arrangement could be seen as a stumbling block, because of the stigmatisation. We accept that a lot of survivors have issues with mental health, but many do not. Many survivors have gone on to become well-adjusted members of society. I would not like them not to come forward just because of that arrangement.

I understand that the forum must go somewhere. As it is being dealt with as a health issue rather than a justice issue, the proposal makes sense, rather than incorporating yet another title and putting the forum under another body. However, the reason for the proposal needs to be made perfectly clear not just to survivors but to society as a whole.

**Nanette Milne:** That is interesting. My feeling from reading the papers is that it probably makes as much sense to put the forum under the Mental

Welfare Commission as it would to put it anywhere else.

**Chris Daly:** I think that now but, at first, I wondered why the decision was made. When David Whelan, Helen Holland, Jim Kane and I talked it through before we came into the meeting, we concluded that it was not too much of an issue, but there is an issue about whether people will feel stigmatised by the forum being overseen by the Mental Welfare Commission. Is that the right term?

**Nanette Milne:** I think that the phrase “hosted by” is used.

**Chris Daly:** Yes—“hosted by”. The proposal is not a real issue, but it might cause a problem for some, because of the stigmatisation.

**David Whelan:** I think that it is important that the NCF is independent and is set up as such, even though it will be a sub-committee of the Mental Welfare Commission. It is important that survivors understand that the NCF is independent. I presume that all the media stuff will just talk about the national confidential forum.

**Helen Holland:** The issue is about education, including education of the media, so that people understand that, although the forum may come within the Mental Welfare Commission's remit, that does not necessarily mean that all survivors have mental health issues. However, some of those survivors who have mental issues have had very negative experiences of the mental health sector. That is why I said that the remit might cause problems for some people. Nevertheless, if the matter is explained properly and in a way that people understand, I think that the proposal will be accepted.

**Nanette Milne:** It is helpful to have that on the record. I very much appreciate the evidence that you have given today, which I have found extremely interesting.

**Aileen McLeod (South Scotland) (SNP):** The questions that I was keen to ask, both about the Mental Welfare Commission and about support services, have already been answered. I am quite keen on ensuring that there are support services for abuse survivors after they have given evidence to the national confidential forum. Obviously, it can be a trauma to give evidence about an experience that has been extremely painful, so people will need to deal with the aftermath of that. The people involved will not be able simply to go in, give their evidence and then leave, as they will need to deal with the aftermath of that as well. We need to ensure that there are support services in place to help people to deal with that.

**Helen Holland:** Realistically, I think that support services will need to be in place for people for at

least a year afterwards. That might sound totally way out there, but any trauma therapist will confirm that that is not an exaggeration. I think that we need to look at the issue properly. We cannot just say that we will provide services until such time as we send along the people who will report back to the Government on whether the forum has been successful. The provision of support is a realistic expectation from survivors who will go through that trauma.

Giving evidence will be traumatic and will open doors that people thought they had closed a long time ago, so I do not think that it is unrealistic to expect there to be specific support that the survivors themselves are happy with. They should not simply be told, "This is the support that is available to you and that is what you must use." People need to be empowered to make the decision for themselves as to where they go for that support. That is an important element.

**Chris Daly:** On support, if the Government says that there will be support before, during and afterwards, it should not make empty promises. That support is needed throughout.

Helen Holland and I have been coming to the Parliament and engaging with the Scottish Government for 12 years. We have spoken about the support that is needed for survivors and we have continually been promised that the support will be put in place, but we, who are so close to the issue, have not been given support throughout that time. The Government should not make empty promises about giving people support before, during and after giving evidence to such a forum. The survivors might be left feeling just as raw—and possibly even more traumatised by the experience—if they do not get the emotional support that they need.

**David Whelan:** I think that it is important to have health professionals available and in place. If it has been identified that someone needs access to a psychologist or psychiatrist in addition to counselling, it is important that that is followed through and that the support is seamless. If someone lives out of location—that is, outside of Scotland—it is important that the services link up and ask whether the person is getting the support. If it is identified that someone has real issues in giving testimony, the person should be able to come back and say, for example, "Look, I need support. Where can I get that support in Birmingham?" We need health professionals such as psychologists and psychiatrists to be involved to help people with traumatic issues.

11:30

**The Convener:** I see that no other members have questions. I thank the witnesses for being with us this morning. We certainly got a lot out of the session: many issues came out in the answers, although not because we planned it that way. The insightful evidence that we have heard about the concerns and sensitivities surrounding the issues will be useful to us.

Do the witnesses wish to mention anything that has not been covered this morning? I do not want any of you to leave and say that a particular aspect was never mentioned. It is like leaving an interview: you go away and say, "I wish I'd said ...". You have the opportunity to say something now. If you have a quick discussion when you leave the room, we will be happy to hear any additional comments—if you email them to the clerks, we will take them into consideration.

I ask you to take note of the committee's other evidence sessions on the subject, although I am sure that you will do so anyway. Please see yourselves as participating in an on-going evidence session: if you strongly agree or disagree with any of the other evidence that you hear or wish to provide a perspective on or a context for it alongside your own written and oral evidence, feel free to communicate your thoughts informally to the clerks.

**Chris Daly:** I just want to say that the NCF is only one remedy. It may be therapeutic and cathartic for some, but the SHRC framework covers all the remedies that have been discussed throughout the years, including the justice aspects such as reparation and so on. Although the NCF will be helpful for some, it is important to look at the bigger picture.

The issues are complex and relate to areas such as health and justice. The SHRC framework of remedies for institutional child abuse in Scotland is pretty concise and covers all the remedies rather than just one element.

**David Whelan:** The issues are not insurmountable, as other countries have demonstrated through good practice and without necessarily having to change their time-bar laws. I raised some issues relating to the time to be heard forum, and I am happy for the commissioners to have the opportunity to comment on those, because that is only fair.

**Helen Holland:** I wrote one thing down on the train on the way here, and I would kick myself if I never said it. The economic climate cannot and should not ever be used to deny victims justice. I leave you with that comment.

**The Convener:** I thank you all once again for your time and the evidence that you have provided.

11:34

*Meeting suspended.*

11:39

*On resuming—*

## **Subordinate Legislation**

### **Sale of Tobacco (Display of Tobacco Products and Prices etc) (Scotland) Regulations 2013 (SSI 2013/85)**

**The Convener:** For item 4, I welcome Michael Matheson, the Minister for Public Health, and, from the Scottish Government, Siobhan Mackay, tobacco control policy adviser, and Rosemary Lindsay, principal legal officer for food, health and community care.

I am told that it is a little unusual to take evidence on a negative Scottish statutory instrument, but as at least one member requested that we hear from the minister on the regulations, I decided to invite him to give evidence before we consider them formally. I invite him to make an opening statement.

**The Minister for Public Health (Michael Matheson):** Thank you, convener. The regulations provide detail on the ban on the display of tobacco and smoking-related products in places where tobacco products are offered for sale, and also detail on the display of prices of tobacco and smoking-related products.

The Tobacco and Primary Medical Services (Scotland) Act 2010 was passed with an overwhelming majority in the Scottish Parliament. As the committee knows, section 1 of the act, which provides for the display ban, was subject to a legal challenge from Imperial Tobacco—the case was appealed to the Supreme Court. I am pleased that the courts dismissed the challenge at every step of that process, and we are now in a position to implement the regulations, which will come into force on 29 April this year for larger shops and 6 April 2015 for smaller shops. In developing the regulations and agreeing dates for implementation, we have worked closely with retailers to find a way forward that is practical but which does not undermine the spirit of the legislation.

As the committee will know, we consulted on draft regulations in 2010, and in response to concerns that were raised by retailers we had a further, extended engagement period during 2011. The most contentious issue was the size of the requested and incidental display areas, which will allow retailers to retrieve tobacco for the purpose of sale and to undertake day-to-day activities such as stocktaking and cleaning. Our original regulations envisaged an allowable display area of 120 square centimetres which is about the size of one packet of cigarettes. Following further

engagement with retailers, that was increased to 1,000 square centimetres in the final regulations, which were published at the start of 2012. We think that that display area could contain about eight packets of cigarettes depending on how retailers implement the legislation. The regulations do not prescribe a solution that retailers must follow. Retailers requested that the regulations be flexible to allow them to devise solutions that meet their business needs and budget.

I believe that the change shows that we have listened to retailers and responded to their concerns without undermining the policy aim of the 2010 act. That aim, which is supported by evidence and was overwhelmingly supported in the Scottish Parliament, is to remove displays of tobacco from shops.

The final regulations also include a couple of technical changes that were requested by retailers, including allowing retailers to use the Arial font on price labels and lists.

We have continued to work with retailers to support them as we move towards implementation of the ban. Guidance for retailers and enforcement officers, which was developed in consultation with trading standards officers and retail representative bodies, was issued in January. We are also working with retailers to develop in-store posters to raise awareness of the legislation.

I am sure that the committee will agree that the regulations are within the spirit of the legislation that the Scottish Parliament passed more than three years ago. It is now time that it came into force.

**The Convener:** Thank you, minister. Nanette Milne has a question.

**Nanette Milne:** I confess to being the member who was keen to have the minister along. I am grateful to him for coming before the committee.

I am pleased that the date on which the regulations come into force, which was initially at the beginning of April, has been changed to the end of April. That is very satisfactory.

I have one or two questions pertaining to the size issue. A fairly simple method was developed to comply with the display ban in England, Wales and Northern Ireland, which involves a sliding door system to conceal the displays. What consideration was given to that? Why was the proposed solution chosen, albeit that the size has been increased to 1,000 square centimetres from the 120 square centimetres that was initially proposed?

11:45

**Michael Matheson:** It is not really for me to explain why the United Kingdom Government chose to take a different approach to the display ban. Originally, we proposed a 120 square centimetres display area but, given the feedback that we received from retailers, we considered how to balance the challenges that that would present to them while maintaining the spirit of the legislation, which is to ban the display of tobacco in shops. We concluded that increasing the space to 1,000 square centimetres allowed us achieve that.

**Nanette Milne:** My understanding is that the system is a little more complicated for retailers to operate. Does the minister have knowledge to the contrary?

**Michael Matheson:** We do not specify how retailers should set up the display; we just specify the space within which they can operate. How retailers choose to apply that in their workspace is a matter for them.

**Nanette Milne:** Do you have knowledge of the costs for retailers in Scotland relative to the costs south of the border for those who are using the alternative system there?

**Michael Matheson:** I do not know what the costs are south of the border, because we were not dealing with the regulations there. However, a business and regulatory impact assessment was issued with the regulations that we are considering today.

**Nanette Milne:** Will you measure how effective the display ban is in the next couple of years?

**Michael Matheson:** The information that came out at the weekend from Cancer Research UK shows that we cannot be complacent. We need to continue to consider what measures we can take to reduce smoking. The display ban is one important measure in helping to dissuade people, particularly young people, from taking up smoking. Point-of-sale displays are seen as a form of advertising. To deal with the issue effectively, we need to take a range of measures that will assist us in doing that.

**Nanette Milne:** I have no difficulty with the purpose of the regulations and I certainly will not move that we annul them. However, if, over the next two or three years, the system that is being used principally south of the border appears to be more effective than the Scottish system of display, will you compare the two and perhaps review the system in years ahead?

**Michael Matheson:** I have no plans to compare the two. Of course, the UK Government might choose to monitor what we are doing, and might find that our system is more effective, although I

am not aware that it plans to do that. We have taken what we think is a proportionate approach to try to maintain the spirit of the legislation. What the UK Government chooses to do at the UK level is a matter for it.

**Nanette Milne:** I will be interested to follow how things pan out in the next year or two in Scotland. I sincerely hope that the measure works and is beneficial. I have no problem with the principle behind it.

**Michael Matheson:** We have no plans to review it.

**Dr Simpson:** In light of the recent evidence on horsemeat and other issues, the trading standards people will be under considerable pressure. I am slightly concerned when you say that the requirements of the implementation phase will be met entirely by reprioritisation. Have I understood correctly that there will be no additional resources for trading standards officers to give advice in the initial phase and to ensure that people are complying? With previous acts, money was provided for the initial inspection phase.

**Michael Matheson:** We provided resources to local authorities prior to the introduction of the 2010 legislation. About £1.5 million was provided to local authorities to assist with some of the necessary implementation work around tobacco control. That continues to be provided to local authorities for that purpose. We have been working with trading standards officers to ensure that they have consistent guidance on the implementation of the legislation. We provided some of that detail earlier this year to allow them to consider how to proceed and apply the legislation in their areas.

**Dr Simpson:** Are you confident that the measure can be implemented effectively in mobile vans that sell cigarettes?

**Michael Matheson:** Those vans have to be registered and, to maintain their registration, they have to comply with the legislation. Given that we have that dual approach, I expect them to ensure that they comply.

**The Convener:** When was the £1.5 million allocated?

**Michael Matheson:** I think that it was in the 2008-09 budget.

**The Convener:** So there has been no additional money since then for this measure.

**Michael Matheson:** That was part of the preparation for the tobacco sales control programme, which we set up leading up to the legislation.

**The Convener:** As there are no more questions, do members agree that the committee

has no recommendations to make on SSI 2013/85?

**Members indicated agreement.**

**The Convener:** I thank the minister and his colleagues for their time.

As previously agreed, we now go into private session.

11:51

*Meeting continued in private until 12:33.*



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