



OFFICIAL REPORT
AITHISG OIFIGEIL

Health and Sport Committee

Tuesday 8 December 2020

Session 5



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HEALTH AND SPORT COMMITTEE

33rd Meeting 2020, Session 5

CONVENER

*Lewis Macdonald (North East Scotland) (Lab)

DEPUTY CONVENER

*Emma Harper (South Scotland) (SNP)

COMMITTEE MEMBERS

*George Adam (Paisley) (SNP)
*Donald Cameron (Highlands and Islands) (Con)
Alex Cole-Hamilton (Edinburgh Western) (LD)
*David Stewart (Highlands and Islands) (Lab)
*David Torrance (Kirkcaldy) (SNP)
*Sandra White (Glasgow Kelvin) (SNP)
*Brian Whittle (South Scotland) (Con)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Jacqueline Angus (Food Standards Scotland)
Joe FitzPatrick (Minister for Public Health, Sport and Wellbeing)
Jeane Freeman (Cabinet Secretary for Health and Sport)
Stephen Lea-Ross (Scottish Government)
Sam McKeown (Food Standards Scotland)
Euan Page (Scottish Government)
John Scott (Food Standards Scotland)

CLERK TO THE COMMITTEE

David Cullum

LOCATION

Virtual Meeting

Scottish Parliament

Health and Sport Committee

Tuesday 8 December 2020

[The Convener opened the meeting at 10:00]

Subordinate Legislation

Feed (Transfer of Functions) (Miscellaneous Amendments) (Scotland) Regulations 2020 [Draft]

The Convener (Lewis Macdonald): Good morning and welcome to the 33rd meeting in 2020 of the Health and Sport Committee.

We have received apologies from Alex Cole-Hamilton. I ask that all members and witnesses ensure that their phones are on silent and that all other notifications are turned off during the meeting.

The first item on our agenda is consideration of a draft affirmative instrument. We will then report to Parliament accordingly.

We will have an evidence session with the Minister for Public Health, Sport and Wellbeing. Once we have asked all our questions, we will have a formal debate on the motion.

The regulations make provisions to transfer functions for the execution and enforcement of feed law in Scotland from local authorities to Food Standards Scotland. As highlighted in the committee paper, Food Standards Scotland carried out a consultation with stakeholders from 28 August to 20 November 2017, alongside local authority and industry focus groups. A public consultation took place from 13 May to 8 July 2020. A consultation report is available on Food Standard Scotland's website.

I welcome to the committee from the Scottish Government Joe FitzPatrick, the Minister for Public Health, Sport and Wellbeing, who is accompanied by Ivan Boemer, a solicitor with the legal directorate. From Food Standards Scotland we have Jacqueline Angus, who is the workstream manager on feed; Bryan Campbell, who is the regulatory strategy programme manager; and John Scott, who is a lead feed officer.

Thank you all for joining us. I invite the minister to make an opening statement.

The Minister for Public Health, Sport and Wellbeing (Joe FitzPatrick): Thank you, convener. I am pleased to join you to consider the regulations.

The regulations aim to transfer competence for animal feed law functions from local authorities to Food Standards Scotland on 1 April 2021. The step has been taken to address a number of concerns relating to a significant reduction in the level of inspection and sampling activity across Scotland. Given that animal feed safety has a direct impact on the safety of food for human consumption, the matter clearly needs to be addressed.

Local authorities are competent authorities for official feed controls. The delivery of animal feed control functions is carried out by 31 trading standards services across Scotland. There has been a steady decline in the number of inspections and sampling visits carried out, which are required under the European Union official controls regulation.

Local authorities have also reported reducing numbers of qualified and competent staff entering and remaining in trading standards, increasing numbers of feed businesses in Scotland and competing priorities with other trading standards functions, such as doorstep crime and product safety.

Although Scottish ministers and FSS have powers in this area, the issuing of a direction would have been unlikely to change the overall situation and would most likely result in resources that are needed elsewhere being redirected to respond to the direction.

The regulations amend a number of existing feed instruments, changing the competent authority from local authorities to Food Standards Scotland, as the convener said. They provide for the delegation of functions from FSS to qualifying third parties. FSS intends to delegate only official functions, inspections and sampling to third parties, with the option to delegate some investigation and enforcement powers in an emergency.

From 1 April 2021, any outstanding issues on that date will remain with the local authority until completion. Given the current low levels of feed law activity, the likelihood of there being any such work in progress is expected to be minimal.

Work began on developing the new model in 2015. During the past five years, regular stakeholder engagements have taken place with the feed industry, local authorities and other regulators. That has allowed FSS to develop a new model that is effective, robust and sustainable.

In recognition of the qualifications and experience that already exist in local authorities, FSS intends to use authorised officers for delivery under delegation, where they are willing and have the capacity to do so.

The new model is supported by the industry to meet its needs. It provides consistency across Scotland and a more level playing field for Scottish feed businesses.

As well as regular engagement with industry and local authorities, there have been two formal consultations, in 2017 and 2020, as the convener said. The infrastructure and governance for feed are currently being developed in collaboration with relevant stakeholders.

I hope that members agree that the regulations are necessary in order to provide an improved official control regime for animal feed, and that they agree to the necessary changes to existing Scottish statutory instruments in order to transfer competence from local authorities to Food Standards Scotland. That change will support enhanced levels of protection of human health, consumers' interests and animal health and welfare.

Consistent and increased levels of delivery will minimise risk at all stages of production, processing and distribution of feed products for or fed to food-producing animals. That is particularly important in the run-up to the United Kingdom's exit from the EU.

We are happy to take any questions.

The Convener: You mentioned that local authorities will continue to deliver some of the functions that they currently, where they have the qualified and appropriate staff. Can you confirm that local authorities are content with that change in responsibility?

Joe FitzPatrick: Yes—this has very much been a collaborative effort with local authorities, so as to ensure that we have the best, most robust system. FSS is developing its own competencies to deliver feed controls directly. However, it feels appropriate for local authorities that have the capability and capacity to participate in delegation, which retains skill and local knowledge.

For any local authorities that are participating, officers will still be able to carry out other functions at the same time—for food, primary product inspections and animal health and welfare—which will minimise footfall and the regulatory burden on the many feed businesses. It is very much a collaborative project.

Sandra White (Glasgow Kelvin) (SNP): Good morning. Thank you very much for your replies to the committee's questions. One of my questions is whether the framework is fit for purpose. I note your reply to our letters, but we have concerns about the United Kingdom Internal Market Bill, and I wondered how that would affect the framework.

The Convener: I suspect, Sandra, that you are looking to put that question in relation to our

discussion on common frameworks, which will immediately follow this one.

Sandra White: My apologies, convener.

The Convener: Keep your powder dry—I am sure the minister will be forewarned that you will put that question to him.

Sandra White: Apologies, convener and minister.

The Convener: No problem.

Joe FitzPatrick: I had better have a really good answer to that one.

The Convener: You surely will.

Emma Harper (South Scotland) (SNP): Good morning. I am also a member of the Rural Economy and Connectivity Committee, and we have been considering food, feed and some relevant SSIs as part of our work. I have asked a couple of questions in the past about maximum residual levels and general levels of pesticides or veterinary drugs in food and agricultural products.

I know that there are different ways in which food is produced in the United States, where more antibiotics and pesticides are used. There are different acceptable levels in the US. Will it be Food Standards Scotland's role to monitor the food, feed and produce that comes into the UK specifically with regard to residual levels of antibiotics, for instance, or steroids used in meat production?

Joe FitzPatrick: When we were developing this proposal, it was not really with Brexit in mind. In normal times, it was the right thing to do and it was about making a more robust system.

The issues that the member mentions makes it important that we take a consistent approach. The draft regulations are specifically about the feedstocks that are made here for our livestock.

Jacqueline Angus might want to add something about this.

Jacqueline Angus (Food Standards Scotland): Since we started developing the model, we have become aware of the impact of the exit from the EU. The model that we are developing includes enhanced import controls. A lot of work is being done to approve additional border control posts, and import controls is a key part of the work that we are doing.

Emma Harper: My thoughts are that we need to be vigilant about the different production and processing methods that are used in other countries so that, when food enters our supply chain, we are cognisant of issues such as antibiotic resistance and, for example, the use of higher levels of antibiotics in dairy cattle in

America. There is an antibiotic called Carbamax, which is used in the production of pigs. I assume that monitoring will continue as trade negotiations and deals move forward.

The Convener: In responding to that, minister, could you also comment on the relevance or impact of the removal of the EU regime from the distribution of powers between FSS and local authorities that is contained in the regulations?

Joe FitzPatrick: On the latter point, I do not think there is such an impact in the SSI.

On moving from 31 different competencies to a Scottish competency, the regulations make sure that we can quickly develop the appropriate expertise across Scotland to deal with the new and potentially challenging issues that Emma Harper has raised. That expertise will mainly be in FSS but we will also work with those local authorities that have a large number of producers and therefore the level of work to make sure of those competencies. The new challenges that the exit from the EU brings, there will have to be new competencies and expertise developed to make sure that we are alert to that challenge.

The Convener: There are no further questions from members so we now move to item 2, which is the formal debate on the affirmative statutory instrument on which we have just taken evidence. I remind the committee and others that we are no longer asking questions of the minister and his official may not speak in the debate. I invite the minister to move the motion, after which members can contribute to the debate, if they wish.

Motion moved,

That the Health and Sport Committee recommends that the Feed (Transfer of Functions) (Miscellaneous Amendments) (Scotland) Regulations 2020 [draft] be approved.—[*Joe FitzPatrick*]

Motion agreed to.

The Convener: That concludes consideration of the regulations, and we will report to Parliament accordingly. I thank the minister and his officials for their attendance.

“Nutrition Related Labelling, Composition and Standards Common Framework”

10:14

The Convener: Item 3 is an evidence session on the provisional UK common framework on nutrition-related labelling, composition and standards, following our first session on the framework at last week’s meeting.

As stated last week, common frameworks are being developed to ensure that rules and regulations in given policy areas remain consistent across the UK following our exit from the EU. The committee’s role is to scrutinise the common frameworks that fall within its remit and we have taken the view that we have a role both to influence the content and to monitor the application of the frameworks.

The committee will also act as a conduit between stakeholders and the Scottish Government. The Government has asked the committee to provide a commentary on the content of the framework. Last week we took evidence from stakeholders; this week we will take evidence from the minister.

I welcome again Joe FitzPatrick, Minister for Public Health, Sport and Wellbeing. This time, he is accompanied by Euan Page, head of UK frameworks at the Scottish Government, and Sam McKeown, head of food and feed safety policy at Food Standards Scotland. I invite the minister to make a short statement on the framework.

Joe FitzPatrick: I thank the committee for inviting me to assist with its deliberations on the common framework. Officials from Food Standards Scotland have been involved throughout the process, alongside officials from the Department of Health and Social Care, the Welsh Government and the Food Standards Agency in Northern Ireland.

The framework is one of a number of provisional common frameworks that will come before Parliament and it is part of a programme that my colleague the Cabinet Secretary for the Constitution, Europe and External Affairs has coordinated for our interest. I am, therefore, supported today by officials from Food Standards Scotland and the Scottish Government.

There has been a hugely collaborative effort demonstrating genuine co-operation and engagement between UK Administrations. The framework has been identified as a priority for agreement by the end of the year, in order to ensure that functions that are currently undertaken

at EU level are delivered in a coherent and robust manner when the transition period ends.

The committee asked why it is seeing the framework only now and not alongside other frameworks relating to food. That is a consequence of both the approach by consensus that we have agreed with colleagues across the UK and wider pressures, not least the current pandemic. I assure the committee that the framework will not be finalised until all UK legislatures have had an opportunity to consider it in full.

Nevertheless, excellent progress has been made with the framework, which is one of the first to go before Parliament for scrutiny. I consider that it will ensure that repatriated EU functions relating to nutrition and health claims made on foods, the addition of vitamins, minerals and certain other substances to foods, and the composition and labelling of food supplements, food intended for infants and young children, food for special medical purposes and total diet replacement for weight control will all be delivered to a high standard.

The framework has followed agreed protocols for framework development and includes agreed UK processes for making policy recommendations to ministers, as well as governance and dispute resolution arrangements. It has been developed in accordance with the joint ministerial committee (European negotiations) principles that were agreed by all Administrations in 2017. That includes the principle that UK frameworks should ensure the functioning of the UK internal market while acknowledging policy divergence and that they should respect the devolution settlements and the democratic accountability of the devolved legislatures. On that basis, we consider that the framework delivers against the principles agreed in 2017.

I hope that the committee found my reply to its letter of 17 November helpful. I am, of course, happy to answer any further questions.

The Convener: Thank you, minister. I will start with a reference to your reply to that letter to establish a matter in relation to statutory instrument notifications. Your letter dated 30 November stated that there were two SI notifications from the Government to the Parliament relevant to the framework. The committee has considered numerous such notifications to date and we are still awaiting correspondence from the Government on several to confirm that the instrument has been made in the UK Parliament. Our calculation is that we are waiting for 16 out of 39. I ask the minister to confirm the notifications for which correspondence is still outstanding and confirm that we will receive those before the Christmas recess.

Joe FitzPatrick: I will ask Euan Page to come in with more detail on that. The two instruments that I referred to in my letter to the committee—the Food (Amendment) (EU Exit) Regulations 2019, which are a Department for Environment, Food and Rural Affairs statutory instrument, and the Food and Feed Hygiene and Safety (Miscellaneous Amendments etc) (EU Exit) Regulations 2020, which are a Food Standards Agency SI—are the two that we expect to update the committee on before recess. I do not know whether Euan can enlighten the convener about any further SIs that the committee should be expecting in the longer term or whether it would be better for us to write to the committee about that.

Euan Page (Scottish Government): That may be a question for my colleague Sam McKeown in Food Standards Scotland, as it relates to SIs that fall within FSS's remit.

Sam McKeown (Food Standards Scotland): I can confirm that the two SIs relating specifically to this framework—nutrition—have both been completed and the committee has been notified.

As the minister said, there are a couple of SIs for FSS—the DEFRA SI on food information and composition matters and the SI on food safety hygiene—that are in process at the moment. Wider SIs will be the responsibility of others across the Scottish Government. It may be that we need to get back on to that and collate a response across the Government.

The Convener: Thank you. That would be helpful. Minister, you suggested that you would respond in writing, and it would certainly be helpful for the committee to know what else we should be waiting for, as well as the outcomes of the SIs and whether and when they will be laid in the UK Parliament.

I will move on to a question about consultation. We heard from our witnesses last week that they were consulted either late or not at all. As a committee, we wondered whether there is a culture of framework development happening before people are consulted and, if so, whether more should be done to engage with stakeholders and allow them to participate?

Joe FitzPatrick: We will obviously pay close attention to the comments in the evidence that the committee has heard to check that we have got that right. However, stakeholder engagement is an important part of the framework development process.

In general terms, industry considered that the framework is supportive of business and that it will deliver consumer confidence in the process. However, only the stakeholders with a specific locus in the policy area were contacted. Some of the witnesses in last week's evidence session had

interests in other areas, such as organic food production and novel foods, and they would not have been contacted as part of this framework, because it does not cover those areas.

However, we pay close attention to the evidence that the committee receives and we will make sure that we have got the balance in the engagement process correct, because it is crucial that we bring the frameworks forward in collaboration with our stakeholders.

The Convener: Is it correct that you will consult on the most recent version of the framework?

Joe FitzPatrick: Yes, I think so. We have consulted in general, wider terms as well, to help to influence our discussions with UK partners.

The Convener: Finally, can you outline the interplay between the framework and the accompanying concordat?

Joe FitzPatrick: The concordat is an agreement between ministers about the high-level process and principles that will apply for matters that are in scope. It covers approaches to communication between parties, as well as setting out escalation procedures. The framework outline follows a common template and provides answers to more detailed operational aspects. The concordat is at the higher level and the framework provides more detail and has essentially been used as a tool for developing the form of high-level arrangements that are set out in the concordat.

Does that answer your question?

The Convener: Yes, it does. I wanted to understand how changes to one will affect the other, and what you have said is helpful.

George Adam (Paisley) (SNP): Good morning, minister. The nutrition-related labelling, composition and standards framework is one of a number of frameworks across food and nutrition policy; there are also frameworks on food and feed safety and hygiene and food compositional standards and labelling. There is quite a lot for us to go through. Is it possible to find a competent way to move forward that would also make it simpler for the committee and others who are involved to go through this mire of legislation?

Joe FitzPatrick: We are doing our best. We are clear that the committee's work is crucial to the whole process, and it is important that we share as much as we can with you.

One point to remember is that the frameworks themselves are policy neutral and build on established ways of working across Government. Provided that the principles that are committed to in them are adhered to, most of the concerns should be mitigated. It is important that all four Administrations adhere to the principles. However,

we should remember that, overall, the framework is not about changing policy now but about how we can look at making changes in the future while respecting the importance of the devolved settlements across these islands.

George Adam: On that point, there is a difference of opinion between the Scottish Government and the UK Government. The latter wants to legislate on much of the framework, whereas you do not believe that that is necessary. Can you talk me through that?

Joe FitzPatrick: The approach to the framework has been one of the most collaborative approaches across the four Administrations, so I do not want to put words in the UK Government's mouth; it would be for the UK Government to answer that. As far as I am aware, neither the UK Government nor FSS officials have identified any areas in which legislative underpinning would be required to deliver a framework that meets the principles for its development that were agreed back in 2017.

However, the United Kingdom Internal Market Bill takes the matter to a different place, and there are real challenges there. The provisions in the bill suggest that standards that are set by the UK Government would apply in Scotland, irrespective of any recommendations that are made under the frameworks. Everything in the framework fits with all the principles of respecting devolution, but the internal market bill drives a coach and horses through that, so there are huge concerns about it.

With regard to what we are discussing today, we are content that the process is robust and respects the different devolved arrangements.

George Adam: The internal market bill is a concern for us all. Nevertheless, is it important that the consumer understands the new system before implementation? Should we ensure that, when we move forward, people understand the system and have an opportunity to engage with it?

Joe FitzPatrick: I go back to my point that the framework is, and should be, policy neutral. Changes to policy and regulations should be undertaken with care, but the framework is policy neutral. In the future, there could be changes coming underneath that; it is important that they get proper scrutiny, and the framework supports that process.

10:30

Emma Harper: Good morning again, everybody. I am interested in discussing some issues around the Northern Ireland protocol and interoperability with it. It has been noted that the United Kingdom Internal Market Bill

“includes broader Market Access Principles, which would mean that irrespective of the policy determinations made in this framework, Ministerial decisions taken in each GB country would only be binding on the products produced in those countries”.

Last week, we heard testimony from the Food and Drink Federation Scotland that many food and drink businesses will halt exports to Northern Ireland for the months following 31 December. Do you have any concerns as to the interoperability of the framework and the Northern Ireland protocol? How would you reassure businesses?

Joe FitzPatrick: Matters relating to trade do not fall within my brief, and it would be difficult to offer any reassurances to business in current circumstances. Everything to do with the EU exit has been challenging and unpredictable. Even in our worst nightmares, we would not have expected to be here, at this stage, discussing these frameworks without knowing what the final settlement and the arrangements for trade will be. That is a real challenge for industry.

The framework before us is a four-country agreement which, hopefully, gives people in industry in particular some reassurance that we are seeking to develop consistent approaches. EU legislation will continue to apply on the specific matters relating to Northern Ireland. The interface with EU regulations in Northern Ireland means that we will all have to consider our approaches on a four-country basis.

Emma Harper: I know that stability for our businesses is something that we absolutely aspire to and support. There are about 24 days to go until the end of the EU transition period. In the back of my mind, I am always wondering whether we are or will be ready for it. Last week, I read a report that stated:

“A 21-month adjustment period has been proposed for goods placed on the market in GB to reduce the impact of the change in requirements for identification marks taking the deadline for compliance to 30 September 2022.”

That might allow businesses a bit of time to prepare for the labelling changes requirements. Can you update the committee on that, and can you explain how that might link to the common frameworks that are before us?

Joe FitzPatrick: The point about stability is a very important one. The requirement for health and identification marks is set out in food hygiene regulations. That subject comes under the framework for food and feed safety and hygiene rather than the one that is before us, but that provision, which allows businesses to continue to place goods with existing “EC” marks on the GB market, is a transition measure. It ensures that those goods would not be rendered useless, and it keeps them legal until September 2022, as the member said. That is an entirely pragmatic

approach, and it is in line with the member’s starting point about providing some stability.

Emma Harper: Would any of the proposals in the United Kingdom Internal Market Bill conflict with or constrain the effect of the framework or the ability to action it? I am concerned about some aspects of the bill.

Joe FitzPatrick: Any framework covering the setting of standards in relation to goods, including food, is affected by the United Kingdom Internal Market Bill. The Scottish Government sees the bill as the biggest threat to devolution since 1999, and we will vigorously oppose it at every turn. It is fundamentally inconsistent with devolution, as it aims to centralise control in the UK Government and the UK Parliament, and to cut across devolved powers by imposing new domestic constraints. It is unnecessary, because common frameworks address any domestic market issues that might arise as a consequence of EU exit. The Scottish Government will support common frameworks when they are in Scotland’s interests and when they are agreed but not when they are imposed.

Sandra White: Good morning, minister. Earlier in the meeting, I asked my question at the wrong point. I now want to pick up on the issue of the United Kingdom Internal Market Bill and the common framework. Your reply to the committee’s letter said that the common framework is “fit for purpose”, which is excellent. It has been raised with the UK Government that there are some concerns, and I note that you said in your letter that you were still awaiting a “satisfactory answer”. Will you provide an update on that? Have you had a satisfactory answer to the concerns that you raised in your letter to the UK Government?

Joe FitzPatrick: Unfortunately, the situation is exactly the opposite. As I have made clear today, the bill is not good. It does not respect devolution and it threatens the powers of the Scottish Parliament and your committee to influence decisions. I am disappointed about the update that I must provide you with because, last night, the House of Commons reinstated all the changes that were made to the bill by the House of Lords, some of which would have given primacy to the frameworks. As I understand it, those changes were all removed by the House of Commons, although I have not yet had a full report of what was agreed. Everything that was done in the House of Lords to mitigate the bill was welcome, but the House of Commons reversed all the potentially positive changes to the bill and returned it to being a piece of legislation that is a serious threat to the devolution settlement. As I said, it is also unnecessary because, if the framework were operationalised, it would be able to deal with the

issues that the UK Government is trying to deal with through the bill.

Sandra White: That leads me to another question that I want to ask. Should the bill, which breaks international law, be amended to give primacy to the common frameworks? Would that be possible?

Joe FitzPatrick: Our starting point is that the bill is not necessary. The amendments giving primacy to the frameworks that were passed by the House of Lords would have made it better, so I was hugely disappointed to hear that those amendments were reversed by the House of Commons.

Sandra White: The bill will be like a ping-pong ball as it goes back and forth between the House of Commons and the House of Lords. Following what happened last night and considering any deal that might still be made, what is your assessment of whether the common frameworks and partnerships with the European Union will be constrained? Will what has happened constrain this framework or any other policy areas that you are developing?

Joe FitzPatrick: We would be in a far better position if we were sitting here agreeing the framework and we knew whether there was a deal or no deal and what the details of the arrangements would be. However, the intention was always that the framework would be amended before being applied post-transition in order to accommodate whatever the circumstances around the deal would be. That remains the case.

Another point to remember is that the framework is not required for day 1—not having it then will not be a particular issue. The framework is about ways of working after the transition period ends, irrespective of the deal that is in place. I return to the comment that none of us expected to reach this point without having more clarity.

Sandra White: The UK Withdrawal from the European Union (Continuity) (Scotland) Bill, which is going through Parliament, introduces the keeping pace principle. How will the Scottish Government apply that principle to the common framework that we are discussing and other frameworks?

Joe FitzPatrick: I touched on the fact that the framework is a four-countries agreement and is intended to drive consistent approaches across these islands while acknowledging policy divergence. Any changes to EU law will require to be considered through the framework, given that EU law will continue to apply in Northern Ireland. The Scottish Government has set out our view that the law in Scotland should be aligned with EU law when such alignment would be appropriate and in Scotland's best interests. Northern Ireland's

position means that such issues must be considered under the framework.

Sandra White: The situation is difficult—I understand. You mentioned EU law and the Northern Ireland protocol. Who will have responsibility for monitoring changes in regulation and practice in relation to the framework? Who will oversee how that affects Scots law and practice?

Joe FitzPatrick: No changes to how laws are made will arise from the framework. When changes to EU law happen, changes will be made by Scottish statutory instrument or by UK instrument, if the Scottish Parliament consents. That should not change on the basis of the framework. Provisions for making changes to retained EU law are in the UK fixing legislation.

Sandra White: Last week, we heard concerns from the food and drink industry, which Emma Harper touched on. The industry is concerned about workforce capacity issues for regulators—the minister mentioned that in replying to the convener—particularly in local authorities and Food Standards Scotland. Will you reassure the committee that Scotland will not be badly affected by a lack of resources in local authorities and Food Standards Scotland, which concern was expressed about?

Joe FitzPatrick: Unfortunately, I cannot give reassurances about Brexit's impact on Scotland more generally, but I am acutely aware that new demands—for example, to provide export health certification, which Emma Harper mentioned—will bring increased pressures.

I am advised that FSS is recruiting and expects to be in a positive position to deliver its statutory requirements on excess, but we must be alert to the fact that a large number of official veterinarians who work in meat plants are EU nationals. Changes to immigration rules could make recruitment and staff retention difficult. We have repeatedly made such points to the UK Government, but we will nevertheless try to mitigate the situation.

Official veterinarians undertake a particular training programme, and most such veterinarians who work in the UK have been trained in Europe. We must continue to be alert to that challenge.

10:45

Donald Cameron (Highlands and Islands) (Con): I have a follow-up question on the United Kingdom Internal Market Bill. I appreciate that strong views are held on the issue, and it will not surprise you that I take a different view from you, minister. That aside, it is likely that the bill will pass through Parliament and become law, whether amended or in its current state. Given that fact,

what is the Scottish Government's view as to how the bill will interrelate with the common framework?

Joe FitzPatrick: As I said, we are really concerned that, as it stands, the bill drives a horse and coaches through the framework. The frameworks have been developed in a collaborative way across the four nations. As long as they are allowed to function as intended and as agreed, respecting devolution, the frameworks are really robust. That is why there is actually no need for the bill that is going through Westminster.

As I said, amendments were agreed to in the House of Lords that softened the bill's challenge to devolution but, as I understand it, those were all reversed last night. We all know that parliamentary processes can be complex, so UK ministers might be considering further amendments to the bill that will respect those issues—I certainly hope so. As I said, the drafting of the frameworks and, in particular, the one that we are talking about, which I have most knowledge of, has been a collaborative process across the four nations. That is the strength of the framework.

Donald Cameron: I am glad to hear about that collaborative work.

Let us turn to the role of the Scottish Parliament in implementing and monitoring the common framework. What is the most useful role that the Scottish Parliament can play, and how should we measure the success of the framework?

Joe FitzPatrick: As I said in answer to a question from the convener, effective parliamentary scrutiny is an essential element. Pre and post-implementation monitoring of all the common frameworks is essential. For example, the operation of dispute resolution mechanisms and any issues that are identified will be an essential element of the scrutiny process, which is important for us all.

On success, our focus in the first instance will be on trying to ensure that public health remains protected and that there is no diminution of standards once we leave the EU. I guess that that is the really important or top measure of the success of the framework.

Donald Cameron: Do you have any thoughts on what would be useful trigger points to allow for parliamentary scrutiny? For example, a House of Lords committee has suggested that the annual report of the activities of the NLCS policy group might be a moment at which Scottish parliamentary scrutiny kicks in. Would that be a typical event that might trigger scrutiny?

Joe FitzPatrick: Scottish Government officials are still working with parliamentary officials on pre and post-implementation scrutiny across the

frameworks. For this framework, there will be an annual report, which, as you say, might be an appropriate starting point for the committee. In principle, the answer is yes, but I understand that a lot of work is going on behind the scenes between our officials and the Parliament officials to ensure that the scrutiny is as robust as it should be.

The Convener: Indeed.

Donald Cameron: Finally, when and how do you expect legislation to flow from the framework?

Joe FitzPatrick: Most likely, it will be triggered by industry, through submission of health claims. That is most likely to be the thing that will trigger applications. Another trigger might be consideration by the UK nutrition and health claims committee.

I do not know whether Sam McKeown or Euan Page wants to add anything to that.

Sam McKeown: I can confirm what the minister has said. The trigger points will mainly be when applications come in for the authorisation of new health claims. That will probably be the first area. If amendments were triggered by changes in technology and science or developments in public health, those would initiate our normal policy process.

Given that there is a process to go through when we do risk assessment and risk management in such areas, we do not expect any legislation to be introduced for at least three or four months—maybe not for six months. That will give us time to carry out those processes. We will consider the best and most efficient way of doing things. We might make changes to the instruments quarterly, rather than as and when they happen, to try to make the process more efficient for everyone.

Brian Whittle (South Scotland) (Con): Good morning. My questions are about the implementation of the framework and what its impact will be. When we legislate, we sometimes forget about the impact on individuals and the people whom we represent. The minister and I are very keen on improving the health of individuals and the nation. The framework covers nutrition claims, health claims, food for specific groups, food supplements and so on. Where are the opportunities in the common framework that will help the Government to improve the health of individuals in Scotland? As an addendum to that, how can the framework be utilised in relation to the good food nation policy that we are waiting for?

Joe FitzPatrick: As I have said, the framework is policy neutral. Any changes to the law need to be considered through the wider prism of the

Government's aims in relation to the issues in which Mr Whittle and I share an interest and the good food nation policy. The framework allows us to discuss with the other UK Administrations and legislatures how any changes that we choose to make would impact across the piece.

To be fair, on most of the issues relating to the health agenda in which Mr Whittle and I share an interest, there is already very good collaboration and discussion, as well as the sharing of best practice and longer-term aims. I have relatively frequent discussions with my counterpart at Westminster, Jo Churchill, on such matters. As is always the case for myself and Mr Whittle, those are never matters for party politics, as such; it is about using legislation to make a difference to people's lives.

Brian Whittle: I completely agree that the health of the nation is not a matter for party politics. We have discussed in Parliament the good food nation policy, which has been coming for a while, so I am particularly interested in how the legislative framework sits across the top of that policy. Will particular issues arise for the food and drink sector in Scotland as a result of the proposed arrangements? If so, how will they be mitigated?

Joe FitzPatrick: The framework, in and of itself, should not cause issues for industry. We will continue to actively seek the views of those who would be affected by potential changes in law and policy. The decision-making process is at the heart of the framework, because we want to ensure that that process is transparent. The framework might give industry some reassurance in knowing that a process is in place whereby, when we make changes in the Scottish Parliament, we are cognisant of issues elsewhere in these islands.

David Stewart (Highlands and Islands) (Lab): The minister will be aware that we took evidence from Professor Paul Haggarty last week. With regard to dietary reference values, which the minister will know are used in the labelling of foods, he said that the description in the text is ambiguous. Does the minister agree with that?

Joe FitzPatrick: The nutritional aspects of the general food labelling rules are included in the scope of this framework and will be retained in GB law, ensuring that the status quo is maintained from day 1. However, we will look again at the scope's wording to see whether there needs to be further clarity. As I said earlier, we have listened carefully to all the committee's deliberations and to Mr Haggarty's comments on the matter.

David Stewart: In the light of the evidence that we heard last week, that would be useful.

Professor Haggarty stated in evidence that he was concerned about the omission of novel foods.

For those who are listening, I would define novel foods as foods that do not have a significant history of consumption in the UK. Can the minister address those concerns?

Joe FitzPatrick: First, I apologise to Professor Haggarty for not giving him his correct title.

The category of novel foods falls within the scope of the common framework on food and feed safety and hygiene, which will also come before the committee for scrutiny. That is why it is not in this framework. I hope that that answers the question.

David Stewart: What would be the timescale for that?

Joe FitzPatrick: I think that that framework is with the committee.

The Convener: Yes, it is. It has arrived, but we have not yet considered it as a committee. It is a matter for future business.

David Stewart: I will bear that in mind when we are considering that particular framework.

I have two further questions. What role has the Scottish Government played in the establishment of the new UK nutrition and health claims committee?

Joe FitzPatrick: The recruitment process for the scientific experts was conducted by Public Health England, as members will be aware. That took place at the end of 2018 in preparation for a no-deal exit, which obviously did not happen at that time. Policy officials in all the devolved Administrations were involved in the process as part of the development of the framework and the consideration of procedures for risk analysis and decision making.

Although a no-deal Brexit did not happen, panel members were initially appointed in February 2019 but stayed in the background in case the committee was needed. Members were then formally announced in October.

Policy officials from each of the four nations will have observer status at the committee's meetings, and we have been involved since its inception, in 2018.

David Stewart: I am sure that the minister will join me in welcoming the Scottish representative, Professor Harry McArdle, deputy director of the Rowett institute. That is an observation, rather than a question.

How, generally, will Scottish scientific expertise feed into the on-going assessments around the categories of food and additives that are contained in the framework?

Joe FitzPatrick: The committee would publish its scientific opinion. At that point, there would be a one-month statutory consultation. The policy group, risk management assessment and recommendations would be informed by that scientific opinion. If it was a substantive matter rather than a technical one, the evidence from the scientific opinion would go to the FSS board, which would then present recommendations to ministers for decision.

I have perhaps put that in a slightly convoluted way, but I hope that that answers your question.

The Convener: Emma Harper has a brief supplementary question.

11:00

Emma Harper: Thank you for letting me come in, convener. On the back of Dave Stewart's question, I have a question about novel foods. I read recently that laboratory-grown chicken is being served in a restaurant in Israel and one in Singapore. Will the issue of novel foods be included in future frameworks?

Joe FitzPatrick: As we have said, it will not be included in the current framework. Lab-grown chicken meat is outside any of the briefings that I have had, but I have now had a hint of one of the questions that you will ask me when the next framework comes forward.

The Convener: We look forward to that discussion. I now call David Torrance.

David Torrance (Kirkcaldy) (SNP): Thank you, convener. On the nutrition and health claims process, are you reassured that the role of scientific evaluation is adequately catered for in the proposed process for assessing nutrition and health claims and for requests related to the other categories of vitamins, minerals, food supplements and foods for specific groups?

Joe FitzPatrick: Yes. Our scientific community and the UK scientific committees have that role. They provide technical advice on a range of matters, and it is absolutely appropriate to assume that that will be a robust assessment, which will help us to make policy decisions.

The Convener: George Adam has a question.

George Adam: Thank you, convener. Last week, I asked stakeholders a question about the nutrition-related labelling, composition and standards policy group, and they said that there was a need for expertise on that group. How is the Scottish Government ensuring that we get that expertise?

Joe FitzPatrick: That is important, but, as I said, that has happened and there was an open and transparent recruitment process for scientific

experts. Although that process, which took place in 2018, was led by Public Health England, it involved officials from the Scottish Government—or, rather, Food Standards Scotland. The group's role is hugely important. There has always been a concern that one of the unintended consequences of Brexit—Dave Stewart has raised this in numerous other fora—will be an impact on scientific skills and the ability of scientists to move and collaborate across Europe. That is one of the challenges, but it was an open and transparent recruitment process.

The Convener: George Adam, are you happy with that answer?

George Adam: Yes, thank you.

The Convener: Finally, minister, we have heard evidence that the dispute resolution mechanism does not provide a specific role for the Scottish Parliament and that the process does not encompass all the devolved Administrations. What is the Government's view on the dispute resolution process and Parliament's involvement?

Joe FitzPatrick: Dispute resolution is intended to be a four-nations approach, with equity between parties, notwithstanding the particular issues that relate to the Northern Ireland protocol. It is largely a matter for disputes between Administrations, so disputes should be resolved before measures are laid in Parliament. However, the laying of legislation in one Parliament before a dispute had been resolved and legislation had been laid in another would constitute a breakdown of the framework process. If that were to happen in relation to the Scottish Parliament, I know that this committee and others would look at that very seriously.

It is probably worth highlighting that the framework refers to the secretary of state taking the final decision in a dispute, but the published wording does not accord with the wording that has been agreed, and I understand that that will be rectified before the final text is agreed. From what has been published, it might look as though there is a particular final role for the secretary of state, but that has not been agreed.

The Convener: To be clear, are there any other changes of substance in the final text that are not in the framework that we have seen?

Joe FitzPatrick: If there is anything else of any substance, we will obviously ensure that we alert the committee to that. We will write to the committee as soon as we are aware of anything.

The Convener: I thank the minister and his officials for their attendance, which has been very helpful in our continuing consideration. We will consider further what has been said later in the meeting.

University of St Andrews (Degrees in Medicine and Dentistry) Bill: Stage 1

11:05

The Convener: Agenda item 4 is a stage 1 evidence session on the University of St Andrews (Degrees in Medicine and Dentistry) Bill. It is for the Health and Sport Committee to consider the bill at stage 1 and to report to Parliament accordingly.

Last week, we took evidence on the bill from key stakeholders. This week, we will hear from the Cabinet Secretary for Health and Sport, Jeane Freeman, who is accompanied by Scottish Government officials. Carmen Murray is the bill team leader; Stephen Lea-Ross is head of workforce practice; and Magdalene Boyd is a solicitor in the legal directorate. I welcome all of you.

I invite the cabinet secretary to make an opening statement on the bill.

The Cabinet Secretary for Health and Sport (Jeane Freeman): Good morning to the committee, and thank you for inviting me to give evidence on the University of St Andrews (Degrees in Medicine and Dentistry) Bill.

I heard with interest the evidence that was presented to the committee in last week's evidence session. I am grateful to those who have given evidence and to all those who have responded to the committee's call for views.

The bill, which is technical in nature, has a single purpose: it seeks to remove an archaic, unfair and, arguably, anti-competitive prohibition that prevents the University of St Andrews from awarding medical and dentistry degrees. That prohibition was intended to be temporary, and it is no longer needed. It was put in place in the 1960s as a transitional provision in order to give immediate effect to the separation of Queen's College in Dundee from the University of St Andrews to form the University of Dundee. It is clear that that purpose has been achieved.

No other higher education institute in Scotland or in the United Kingdom is prohibited by primary legislation from awarding degrees in any discipline, and it is clear that the Universities (Scotland) Act 1966 did not intend to prevent future competition between the University of St Andrews and any other higher education institute in Scotland or, indeed, the UK. The bill will embed a fairer higher education sector and enable all our valued institutions in Scotland to maximise the options that they offer to students.

The timing of our introduction of the bill is to enable the University of St Andrews to award jointly with the University of Dundee primary medical qualification medical degrees to Scottish graduate entry medicine programme students in advance of the first cohort graduating in 2022. ScotGEM is Scotland's first graduate entry programme for medicine. It formed part of a package of initiatives that the Scottish Government announced in 2016 to enhance the national health service workforce of the future, and it is delivered in collaboration with the University of the Highlands and Islands and a number of partner health boards. It has a specific focus on general practice and remote and rural working, and it aims to retain as many doctors as possible within NHS Scotland following their graduation.

I heard concerns being raised in last week's evidence session. I clarify that, although the University of St Andrews may well have the ambition to offer its own PMQ medical degree in the future, the bill will neither determine nor provide for that. Whether any higher education institution is able to offer a degree in either of the controlled subjects of medicine and dentistry and, if so, the number of places that it might be able to offer are matters that are subject to separate financial and regulatory controls and decision-making processes that involve the Scottish Government, the Scottish Funding Council, NHS Education for Scotland and the General Medical Council, and which take account of the views of our boards. The prohibition is therefore not required in order to prevent the university from awarding its own medical degree.

As the University of St Andrews, together with the University of Dundee, has already been awarded the Scottish graduate entry medicine programme, the immediate effect of the bill would be to allow for those universities jointly to award the ScotGEM primary medical qualification degree. As I know that the committee heard last week, that is clearly the expectation of students who enrolled for this special course and who hope to graduate shortly. The committee heard how passionately ScotGEM students feel about their unique identity as students of both universities. It is fair and right that they should be able to graduate with a jointly awarded degree that reflects the studies that they have undertaken and the incredible work that has been done at both Dundee and St Andrews to establish such an innovative programme.

That is all that I have to say at this point, convener. Of course, I will be happy to take any questions that committee members might have.

The Convener: You mentioned that you had listened to the evidence that the committee received last week. You also said that the bill

neither authorises nor provides for the University of St Andrews to go beyond the training and higher education that it currently provides and offer its own PMQ. That is true, but it enables that to happen. As we heard clearly last week, the context for that was the proposition that there should be a new medical school somewhere in Scotland.

Among the evidence that we heard, two concerns struck me most clearly. The first was raised by Professor David Maguire, the principal of the University of Dundee, who felt that Scotland did not need another medical school. We also heard from Aberdeenshire health and social care partnership, whose concern was that if a new medical school was established in the central belt, it would have an impact on the recruitment and retention of medical graduates in the north of Scotland. How do you respond to those concerns?

Jeane Freeman: You are quite right, convener. The passing of the bill would remove the prohibition on the University of St Andrews, which is the only institution in the whole of the UK on which there is such a prohibition. That would then enable the university, if it wished to do so, to put forward a case that, should the Scottish Government introduce a new medical school, in line with its 2019 programme for government, it could house that school and provide such an offer, either alone or jointly with another institution that offers undergraduate medical education in Scotland. Removing the prohibition, as the bill seeks to do, would simply allow the University of St Andrews to be part of that discussion on the same basis as all the other higher education institutions in Scotland that have medical schools.

Although I am aware of Professor Maguire's argument on the current bill, I also know that, with his colleagues from other institutions, he has argued for the provision of additional medical undergraduate places. He is therefore not arguing against the fact that we might want to have such places; rather, he is simply arguing that they should go to his university or one of the others. On the contrary, the principal and vice-chancellor of the University of Edinburgh sees no such difficulty or problem with how the bill might affect how his university would be placed as a deliverer of quality medical undergraduate education, nor have such concerns been expressed by our other medical schools.

As for the concern expressed by Aberdeenshire health and social care partnership, my officials have had long discussions with it. As I know that the committee knows, the process of establishing another medical school or having an institution go through the process to become approved to deliver a medical degree is a long one. The degree programme has to be developed, funding

has to be secured for the additional controlled places, clinical placements need to be secured that do not—the GMC is very particular about this—detract from what else is offered by established medical schools, the GMC needs to accredit a new medical school and there is obviously on-going GMC regulation. Therefore, it is not immediately in the offing for any of our higher education institutions.

11:15

We had begun the work to look at what propositions might come forward—all were invited to give us those—but, inevitably, we had to pause that work as we had to respond to the Covid pandemic. Because we are still in the middle of the pandemic, we have not yet finalised when we can pick that work up again and make progress on it to honour the 2019 programme for government commitment.

If we remove the prohibition, the University of St Andrews—on its own or alongside another institution—could make a case that any new medical school should be housed with it and offer a programme to that effect. However, that is not inevitable; it would have to meet all the requirements that I have mentioned, and the Government of the day would have to take a view as to whether what was offered there was better compared with what was offered by other medical undergraduate courses and institutions.

The Convener: Can you briefly explain why the Scottish Government's preference is to create an additional medical school rather than additional places at existing medical schools? Also, what do you anticipate that the impact on recruitment and retention in the north of Scotland might be if a new medical school were established elsewhere?

Jeane Freeman: In response to the latter point, the University of the Highlands and Islands has expressed an interest in being part of discussions about the possibility of a new medical school. Therefore, we should not assume that, should there be a new medical school, the school will go anywhere in particular.

Partly in the spirit of what we have seen in ScotGEM—although no one should take that to imply that we favour either Dundee or St Andrews for any future location, should there be one—we were interested in finding out whether more could be offered either from existing medical schools or from a combination of them. The University of the Highlands and Islands, the University of St Andrews and the Crichton campus in the south-west were all in that discussion about whether we could widen access to Scotland-domiciled students in remote and rural areas and encourage

them to work for the NHS in Scotland once qualified.

You will know that the ScotGEM course has a bursary aspect to it. That is given on the condition that the student works for the NHS in Scotland in their foundation year, and it is a test to see whether doing so would put students off; evidently, it has not. Therefore, it gives us information and evidence to decide whether that might be something that we would consider in the future as part of any increase in the number of medical undergraduate places.

The Convener: Very briefly, can you explain why a new school should be created rather than those other options?

Jeane Freeman: The programme for government says that we would like to have a new medical school. However, clearly my mind was open to how we might achieve an increase in the number of medical undergraduate places and what we would secure from that to address some of the issues relating to the medical workforce across the country.

My officials and I had discussions with the current medical schools as well as with the Crichton campus, the University of the Highlands and Islands and the University of St Andrews. They all made propositions and the existing medical schools argued the case that any additional places should go to them. We had not got beyond that before we had to pause the work and begin the response to the Covid virus.

David Torrance: Can you explain why a partial removal of the prohibition was ruled out?

Jeane Freeman: There are two reasons. First, it is very clear that the prohibition was always intended only to be temporary. I am simply following through on that intention. Secondly, the prohibition, either in full or in part is fundamentally unfair. It is unfair for any academic institution to be prevented from offering a degree in a controlled subject that their counterparts elsewhere can offer. I think that I made the point about the additional implications that prohibition has for the capacity to undertake research in those areas. We know that Scotland is well placed in medical and life sciences research and I do not want one of our institutions to be prevented from playing the fullest possible part that it can in that. I see no reason for a partial removal when a full removal opens up opportunities in research and removes an unfair fettering of one of our institutions compared to its counterparts elsewhere in the UK.

David Torrance: Could the prohibition be amended for the purposes of ScotGEM and then amended further in the future if need be?

Jeane Freeman: Technically, it could. However, I do not see any reason why we would go to all that fuss and bother given that I have heard no good argument that we should remove the prohibition in part. Either we remove it in full or we do not remove it at all. My argument is that it was never meant to be in place for as long as it has been—it was always intended to be transitional. We should follow through on that and we should remove the prohibition in its entirety, because I have heard no good reason why we should only remove it in part.

David Stewart: Good morning, cabinet secretary—*[Inaudible.]*

The Convener: It appears that Mr Stewart's connection is a little awry. We will go to Emma Harper and then come back to David Stewart if we can.

Emma Harper: I listened with interest to the discussion about a new medical school. The cabinet secretary has mentioned the Crichton campus a couple of times, which I welcome, because I know that there is a lot of interest in establishing a new medical school affiliated with one of the established ones and placing it in a rural area such as Dumfries and Galloway. Professor David Maguire said that 80 per cent of the students who attend the University of Dundee come from deprived areas. I know that widening access is very important—it is for me in Dumfries and Galloway. What are your thoughts on whether the inclusion of the University of St Andrews, with its prestige as one of Scotland's ancient universities, could limit progress on widening access by attracting a different demographic to the ScotGEM programme, for instance?

Jeane Freeman: The bill is not about a new medical school; it is about removing a prohibition so that, should the current Government or a future Government make significant moves beyond those that I have initiated but necessarily paused towards a new medical school to provide for additional medical undergraduate places, St Andrews can compete equally in that field with any of our other medical schools that currently exist. It is not about a new medical school; it is about removing a prohibition that currently cuts out one of our higher education institutions from that discussion.

To go back to the convener's earlier question about why the Government thinks that a new medical school is something to be discussed, part of that is about an understanding that widening access is about more than ticking a box on which areas of deprivation undergraduates come from; it is about taking practical steps that make participating in higher education more feasible for people. That is clearly the case for some of our very able students in Ms Harper's area, in my

constituency and, I am sure, in Mr Macdonald's and Mr Stewart's areas—in other words, in our more remote and rural areas outwith the central belt of Scotland. It is about more than simply looking at the area that a student comes from; it is about how practically to make it more likely that they can enter that degree of higher education and sustain their participation.

That is why, in the early discussions on the issue, I was keen to involve the University of the Highlands and Islands to hear what it had to say and to hear what the Crichton campus had to say. That is the way to understand what widening access is. To be completely frank, none of our institutions—I have said this to all of them when I have met them—has as good a track record as I would want on widening access to medical undergraduate courses. We need to do more. However, it is not simply about putting the burden on the institutions to tick the right boxes; it is about thinking creatively about how to deliver an undergraduate medical degree in ways that widen access to all potential students. ScotGEM is an aspect of that, but it cannot be the exclusive one.

Emma Harper: Thank you for that clarification.

The feedback that I have had so far on the ScotGEM course is that it is doing really well and the students are great in engaging with the coursework, the learning and everything else that is part of the programme. I know that the ScotGEM students come from different backgrounds and include pharmacists and dieticians. Do we have a breakdown of those who are currently undertaking the course so that we can encourage more healthcare professionals who already have degrees to participate in ScotGEM in future?

Jeane Freeman: We have that breakdown, but I do not have it with me. I am happy to ensure that it is made available to all committee members. Another aspect of the ScotGEM course is the involvement of general practitioners as clinical educators. I know that the students on the course and the GPs value that highly, and that they are keen for us to consider that in other aspects of medical undergraduate education.

The Convener: I once again call David Stewart.

David Stewart: I apologise, cabinet secretary—I have put a pound coin in the meter, so I hope that I will be able to speak to you now.

You might have heard my point about my bid for a new medical school in the Highlands and Islands, in conjunction with UHI, Dundee and St Andrews, but that was more an observation.

I am enthusiastic about ScotGEM and I believe that it will have a vital role in the attraction and retention of rural GPs in the Highlands and Islands

and across Scotland. You will be aware of the student survey in which nearly 98 per cent supported the idea of the degree coming from both institutions. What do you think of the students' views on that?

11:30

Jeane Freeman: Yes, I have seen that. The students take a perfectly fair and reasonable position, which is that when they secured their place—that is not straightforward to do—and enrolled on the ScotGEM course, they did so on the basis that it was a joint award from both the University of Dundee and the University of St Andrews. They are enthusiastic and, as you heard, passionate about the quality of the education that they experience and the position that the award should be a joint award, because that is, in part, the basis on which they entered the course. I am keen to ensure that the prohibition is removed in order for that to be possible.

As I said to Mr Torrance, I do not see the point of, if you like, footering around with partial removal and then maybe full removal at some point in the future. That does not seem to me to get the fundamental point that it is unfair that a prohibition that was put in place to be transitional is not removed in full so that one of our institutions can then compete on an equal footing with their colleague institutions elsewhere in Scotland and the UK.

David Stewart: Is it fair to say that having it as a joint degree is a remarkable selling point for it and that, if we do not get the bill through, that could affect demand for the course in the future?

Jeane Freeman: I have no absolute, hard data to confirm my response to that, but I think that what we have heard from successive student enrolment makes it pretty clear that the high calibre of students who are being attracted are attracted because of the nature of the programme, which comes from it being a joint exercise. The students are attracted by potentially being graduates of both universities. All of that would therefore make me think that, if it was not a joint award, that would have an impact on its attractiveness to future students.

David Stewart: Although you cannot make forward commitments to the committee, the course is a great success. The Scottish Funding Council would obviously have a view if the course numbers were going to be increased, but what is your general view on that? It is a Scottish success, so could the numbers be increased? That would help with the supply of not just GPs in general but GPs in rural areas in particular.

Jeane Freeman: You are absolutely right that I cannot make forward commitments, but I can tell

you that I am hugely enthusiastic about the ScotGEM course and how it has played out since it was introduced. It has a number of innovative aspects that are working well, not least the conditional bursary and the clinical educators from our GP community. One of the things that we are seeing anecdotally in feedback, which we will be able to track more definitively as we go forward, is that the ScotGEM undergraduates undertaking their clinical practice in GP practices in remote and more rural areas become hugely enthusiastic about the opportunities for exercising and increasing their skills as young doctors in those remote and rural practices. We always want to try to overcome the notion that the only place where it is exciting to practise as a GP is in an urban setting. Undoubtedly, that is exciting, but I am a firm believer that there is a range of enticing intellectual and skill challenges to doctors in remote and rural areas. ScotGEM is helping us demonstrate that.

The Convener: Thank you. We have a bit more on the same question from Stephen Lea-Ross. [*Interruption.*] There seems to be a technical problem. If that is resolved before the end of the evidence session, we will come back to him. We move to Brian Whittle just now.

Brian Whittle: Much of the focus of the bill is on degrees in medicine, but the bill would also allow the University of St Andrews to award degrees in dentistry. Neither the bill's policy memorandum nor any written submission explores the potential impact on dentistry. Why is dentistry included in the bill?

Jeane Freeman: Perhaps one of my colleagues can explain that. The bill deals with medicine, dentistry and midwifery. That is taken from the 1960s act that imposed the prohibition in the first place. Generally speaking, midwifery at that time was about obstetrics—that is how it was described. Obstetrics is now part of the undergraduate degree as a whole; we do not offer a separate degree, although there are specialisms and so on. Dentistry is part of what was prohibited and is therefore covered by lifting the prohibition.

Carmen Murray (Scottish Government): I echo what the cabinet secretary said. The full prohibition that is contained in the 1966 act relates to medical and dentistry degrees, both of which are controlled subjects. The rationale for removing the prohibition and its not being determinative of the university's ability to award either medical or dentistry degrees applies.

The cabinet secretary has explained to the committee that we have heard no reason to leave any part of the prohibition in place, because it was intended to be transitional and it no longer serves a purpose in today's context. The bill will put the University of St Andrews on the same footing in

law as any other university in Scotland. It makes sense to remove the prohibition in its entirety rather than leave any part of it in place.

Brian Whittle: I presume that consideration has been given to the potential benefits to medicine and dentistry of lifting the prohibition. Will the cabinet secretary shine a little light on the benefits to dentistry in Scotland?

Jeane Freeman: The potential benefits are the same as those for undergraduate medicine. The bill allows the University of St Andrews to move in that direction if it wishes to. However, as the bill team leader said, dentistry is a controlled subject, so significant effort, regulation and work are needed to get to the point at which any institution is considered an awarding body for dentistry. The same applies to medicine.

All that the bill does is remove the current prohibition on the University of St Andrews from considering whether to offer a medical or dentistry undergraduate degree in full. Even if it wished to do that, there are steps that it would need to go through and requirements that it would need to meet, including consideration of the impact of any additional places in those areas on other, existing dentistry or medical schools. It is about not just places but opportunities for the necessary clinical practice in the field, which is part and parcel of what students need to go through in order to graduate. As with medical places, it is a separate question. All that the bill does is take away the current block on the University of St Andrews from being part of that consideration, if it wishes to, alongside its counterpart institutions in the rest of the country.

Brian Whittle: The outcome that we are looking for will be to the benefit of medical and dentistry degrees in Scotland. Last week, we heard concerns about the impact on other medical schools in respect of the recruitment and retention of doctors. We have discussed such matters at length in the chamber, including the set quota of local medical students who can be recruited into those universities. One of the concerns that I heard last week was that the effect might be to simply spread the same number of health professionals across more universities. Will you comment on that and on whether those concerns about the impact could also be applied to dentistry?

Jeane Freeman: There is quite a detailed process for determining the number of places in what have been described as "controlled subjects". That process includes the Government's consideration of our anticipated workforce requirements for doctors and dentists. We do the same exercise for nurses and other members of our health professions. We then look at what undergraduate places we have, what the flow

through will be, and what is going out at the other end of the profession through people retiring and so on, and we try to balance those factors to ensure that we get both an increase in numbers—as we have done in recent years—and a reasonable flow through.

In those circumstances, all the medical schools want to maximise the number of places that they have, which is perfectly understandable. That is why the existing medical schools made the case to me that the additional places that may go to a new medical school—they would prefer that there was not a new medical school—should go to them as existing medical schools. That is a perfectly reasonable case for them to make. For all the reasons that I described earlier, no decisions were reached.

We have two interests in considering that request as well as whether we should have a new medical school instead. First, we have to make sure that we have the right number of undergraduates going in to meet our anticipated flow through. It takes a while to produce doctors and dentists, so we need to anticipate the flow through so that we can offer the clinical placements that they need as part of their undergraduate education and, at the other end, get the right numbers out and working in Scotland in order to meet our anticipated workforce demands.

Secondly, we have to ask whether, as a Government, we can do more with the levers that we have to widen both access and the throughput into the areas of our country that traditionally struggle to recruit and retain doctors. I am talking about GPs in remote and rural areas, and doctors in particular specialisms, for example. The committee will know how we try to use the information that we publish about the traineeships to fill gaps that are anticipated because of retiral numbers or because we are putting a greater emphasis on mental health, for example.

That is the process and exercise that we go through to ensure that we put into medical and dentistry education the numbers that we anticipate that we need to come out the other end to meet our workforce requirements. We have increased medical undergraduate education, and we pulled back a little before on undergraduate education for dentistry. Each year, we consider how we need to flex the numbers. However, this year, we have said that there are more medical undergraduate places as a consequence of the decisions that were made on the higher results. We have also said that, in funding those places, the additional numbers are not at the expense of any young people who are coming through school this year and applying to go to medical school.

We will have increasing numbers as we go forward, because the age profile balance of our medical workforce is such that I anticipate that we will need to steadily increase our medical undergraduate numbers.

The short answer is that, should we have an additional medical school, we will not spread the same number across a bigger patch.

Brian Whittle: Finally, there is a lot of chat about the potential for a new medical school in Scotland. Would that also include a new dental school?

11:45

Jeane Freeman: Not necessarily. A case has not been made to me that we need a new dental school in Scotland. As you know, we have dental schools in Glasgow and Aberdeen, and the one in Aberdeen is relatively new within the course of devolution. I have not seen a case for a new dental school, although that does not mean that one does not exist.

Colleagues need to appreciate that, although it was my hope that, following the 2019 programme for government commitment, we would undertake the initial discussions that I described, receive proposals, have a good look at them and take a view on whether we needed to put in additional places in a new school, all of that has been paused. Although I intend to pick that up and move it on a little, the time that is left in the current parliamentary session is so limited that I do not anticipate that we will reach a final view before Parliament rises for the next set of elections.

Carmen Murray: The cabinet secretary said that no case has been made for additional undergraduate dental places. I add that our workforce planning has not shown a need for such places. We have dental undergraduates at work across Scotland, as part of their clinical placements, in Stornoway, Campbeltown, Inverness and Dumfries. There is no evidence at present that there is a requirement for additional dental places.

The Convener: Stephen Lea-Ross wants to respond to David Stewart's question about the future of ScotGEM.

Stephen Lea-Ross (Scottish Government): The number of places allocated to ScotGEM has increased from 40 to 55 in recognition of the contribution that that programme is making across the board. We are convening the medical undergraduate group to establish undergraduate intake recommendations for 2021-22. They will go to the cabinet secretary in the new year. Thereafter, we will undertake further discussions with the SFC about the total number of places and

their distribution across relevant courses in Scotland. Final decisions on individual institutions rest with the SFC, but future growth in ScotGEM places will be under consideration.

The Convener: Thank you. That is helpful additional information.

That concludes the committee's oral evidence taking on the bill. We will report to Parliament accordingly. I thank the cabinet secretary and her officials for their attendance this morning.

We will move into private session and resume our meeting on a different platform.

11:48

Meeting continued in private until 12:17.

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