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Health Committee Official Report 18 April 2006

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Scottish Parliament

Health Committee

Tuesday 18 April 2006

[THE CONVENER *opened the meeting at 14:03*]

Health Inequalities

The Convener (Roseanna Cunningham): I welcome everyone to the Health Committee's first meeting after the Easter recess, in particular Harry Burns, the chief medical officer for Scotland, who will discuss with us the report of the Kerr sub-group on health inequalities. The matter has been of some interest to members.

Dr Burns, do you want to make an opening statement or go straight to questions?

Dr Harry Burns (Chief Medical Officer for Scotland): It might be helpful if I put the Kerr report into context.

The Convener: Well, we have had quite a few dealings with the Kerr report; indeed, the man himself has been before the committee. We are particularly interested in the question of health inequalities.

Dr Burns: An important issue is how all of this has been constructed. Those who know me know that I can talk about health inequalities till the cows come home. I have been involved with the matter since I worked as a consultant surgeon at Glasgow royal infirmary and found that, because of their socioeconomic position, people from the east end of the city did not make such a good recovery.

In the 20 years since then, we have gone up many blind alleys as far as strategies to correct the problems of health inequalities are concerned. The Kerr report represents the conclusion of a lot of thinking that acknowledges that although we have been doing what we can to change the social and economic situation in deprived communities and have been trying to persuade people to lead healthier lifestyles, an element has been missing, which is the targeting of national health service resources at deprived populations.

The evidence in the Kerr report from south Wales, which was submitted by Dr Julian Tudor Hart, showed clearly that targeting additional resources and using them in specific ways can lead to considerable improvements in life expectancy. The theme of the chapter of the Kerr report that contained that evidence was what the NHS can do to improve health inequalities to

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based on an American population in Massachusetts and are used all over the world—comes back to what we said about Kaiser Permanente, which is that the social mix is completely different. The study showed that, for a given level of cholesterol or blood pressure, the more socially and economically deprived people have a higher risk of having a heart attack than do people on whom the risk-scoring system is based, so we must develop our own Scotland-based risk-scoring system to take account of that. That is being done now. We have the evidence and we are well on the way to developing a system that will target the people in Duncan McNeil's constituency who are most at risk.

I return to the point that we need patients to be on side. We want primary care to be proactive, but we will not force people to do something that they do not want to do because that would be unethical. However, we want to make it explicit to people that we can make a dramatic difference.

People always talk about Finland, which gets on my wick. They say that Finland has made dramatic changes to its heart-disease mortality since the 1970s, but the fall in heart disease mortality there since the 1970s is identical to that in Scotland, although we do not get credit for that. The two curves are identical. I argue that some of that fall is a result of reducing the prevalence of smoking here. We take more exercise and many of our health behaviours are improving and we do not give ourselves enough credit for that. Much of the reduction in the heart-disease mortality rate has been because the health service has started—albeit that it has been in an ill co-ordinated fashion—to deal effectively with the risk.

The health inequalities paper says that we should co-ordinate activity and systematically offer people the opportunity to change their life expectancy so that we can to see how far we can go in reducing health inequalities, and that we should ensure that the health service, local authorities and central Government are doing what they can. They are all trying to do things but—for goodness' sake—we must ensure that the health service is up there acting in a co-ordinated fashion.

The Convener: That is probably a useful note on which to end. I suspect that we will continue to have a conversation with you.

Dr Burns: I will be happy to do that.

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The Convener: We will consider public health for our work programme, so we may return to you on several issues. Thank you for coming along.

14:58

Meeting suspended.

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15:01

On resuming—

Hepatitis C

The Convener: Item 2 is our consideration of the case for a public inquiry into infection with hepatitis C as a result of NHS treatment. Members will recall that on 31 January we heard evidence from the Scottish Haemophilia Forum and the Minister for Health and Community Care on the case for a public inquiry into infection with hepatitis C as a result of NHS treatment. During the evidence-taking session, the minister agreed to provide supplementary written evidence on the traceability of blood transfusions or blood products that people received prior to 1981. He also undertook to write to us on governance arrangements as they relate to potential private suppliers of blood or blood products and on the compensation scheme for those who were infected with hepatitis C as a result of involvement in clinical trials. The committee also agreed to write to the Lord Advocate for a clarification of practice concerning deaths that result from hepatitis C and of post-mortem practice. We also agreed that we would reconsider the case for an inquiry once we had received all the additional information.

We have now received a response from the minister, which has been circulated to committee members. We have also received submissions from the Scottish Haemophilia Forum and Thompsons Solicitors and a response from the Crown Office, all of which have been circulated to members. Today, we need to consider all the evidence and decide whether we want to call for an inquiry into infection with hepatitis C as a result of contaminated blood and blood products.

We have in attendance today Euan Robson and Carolyn Leckie. The resignation of Mike Rumbles from the committee prior to the Easter recess means that we are one member down. As a result of the timing of that resignation, we have as yet been unable to replace Mike Rumbles with another Liberal Democrat member. Our standing orders do not allow a substitute to attend in the case of a position being vacant. I take this opportunity to give the committee's best wishes to Mike Rumbles. He was on the committee for a very long time and was always a very dynamic committee member. He contributed hugely to our debates and will be missed. I anticipate that at some point in the future Euan Robson will come on to the committee, but perhaps we should not prejudge that decision.

Carolyn Leckie made a specific request to speak this afternoon. As members of the Parliament,

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both Carolyn Leckie and Euan Robson are entitled to do so. Carolyn Leckie also asked me to circulate to committee members a set of papers that she made available late this morning. We received the papers too late for all members to receive them in advance of the meeting, so I am not inclined to allow the papers to be submitted formally at this stage.

However, all committee members have received a copy of Carolyn Leckie's covering letter, which was sent to me and to those members who managed to get a copy of the set of papers. I would expect her comments to be in keeping with the issues that she raised in that covering letter. I would have preferred it if the papers that were circulated so late in the day had been made available earlier, because it is impossible for us to ensure that all committee members have all the paperwork under these circumstances. It is a courtesy to members to allow them the maximum amount of time possible to read submissions.

Carolyn Leckie (Central Scotland) (SSP): If I may explain, although the papers that I circulated this morning were in my possession as the result of a freedom of information request, they had not been examined and their relevance was not noted until yesterday afternoon. Given the importance of today's discussion, it was a courtesy to the committee to circulate them. I thought that it was right to circulate the papers rather than keep them in my possession. I intended to take up the relevant issues anyway.

The Convener: The difficulty is that, because of the late notice of the papers, three committee members have not yet had them even now, as they were not available to them in the places where they were.

Carolyn Leckie: Their offices have now received them. I made sure of that.

The Convener: That may be, but—

Carolyn Leckie: I am just making this explanation for the record.

The Convener: At this very late stage, it is difficult to ensure that committee members have the paperwork. In future, I urge all MSPs who have things that they wish to bring to the attention of members of any committee to do so at the earliest possible opportunity. That makes it considerably easier to deal with the issues involved.

I want to open up the discussion on this subject. We should consider the evidence that we have heard. We need to decide whether we are going to call for an inquiry into infection with hepatitis C as a result of contaminated blood products. I invite members' views. Jean Turner, Shona Robison and Helen Eadie are indicating that they wish to comment on the subject.

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Dr Turner: Reading through the evidence from Thompsons Solicitors, I am struck by the first three cases that are outlined, which describe how people did not know for some time that they had been infected by blood or blood products. In one case, the person did not know for 20 years; in another, the person did not know for around 12 years; and in another the person did not know for 14 to 15 years. That is a long time, whichever way we look at it.

To move on to the future, we must learn from the past. If I had received any such product, the most important thing for me would be to be notified of the potential hazard of being infected. Once it is known that people have been administered an infected product, it is important to track them down—to do one's utmost to find the people affected, whatever the cost. There is a duty of care towards the person who has been infected and towards their family. In one case, a spouse did not realise that they had been infected—I assume that it was because of the products that the wife had been given. Discovering such an infection affects the family. It can also give rise to problems among NHS staff and even among undertakers. When people died in the cases concerned, there was no further investigation. I think that investigations should be made even when the outcome is death.

Someone who has been infected but does not know it could be travelling about the country before developing appendicitis and turning up in a hospital to be operated on without anybody knowing that they have hepatitis C and the problems associated with it. To take another example, an undertaker might be working on embalming a body. Unless they were given specific information, they would be putting themselves in danger. That also applies to variant CJD. It is up to the professionals to let the patients know that they have an infection. I am aware of cases where the professionals know, but the patient does not know. It is imperative that people who could have an infection with such serious implications as hepatitis C has are told about it. There have been serious gaps in the attempts to find those people, which is a major flaw.

We all want to know why Scotland was so far behind in providing safe blood products. An astonishing letter that is part of the evidence refers to a head of department in the national service in Scotland tearing to bits somebody in the north of England because they were doing something that seemed to be best for patients. We need to figure out why that kind of thing can happen and how our processes for communicating with people can be made better than they have been until now.

It seems to me, after reading through all the evidence, that more questions remain than we have had answered. I am in favour of going ahead with an inquiry.

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Shona Robison: I will focus my comments on the look-back exercise, which I think is the most significant piece of new evidence that we have seen. The minister refers to it extensively in his evidence to the committee. By his own admission in paragraph 6 of his evidence, the exercise concentrated only on the donor population and was carried out between 1995 and 1997. Why did it take eight years to begin to trace people, when it was known that hep C infections were happening up to 1987? Given that blood transfusions continued to infect people up to 1991, when screening was introduced, why did it take a further four years, to 1995, for any attempt to trace people to be made?

The term "look back" implies that all cases were looked at, but they were not. The exercise concentrated only on those donors who happened to come back to give blood. It did not address hep C infection from donors who did not come back. Unless anyone around the table can prove otherwise, it seems to me that the look-back exercise related to only a two-year window within which a donor may or may not have come back. That is a totally inadequate exercise in attempting to trace people who could have been infected.

Why did the look back cover only the period from 1995 to 1997? What if a donor returned between 1991 and 1995? What about those who returned after 1998? The minister states that he has computer records going back only to 1985. Why has he excluded a manual look back at hospital records prior to 1985 to identify those who had transfusions, which could have been done? A large number of recipients identified from the return donors were deceased. Why was no attempt made to counsel their relatives, particularly their partners? Why was there no recipient-centred strategy such as a system of recall, as we have had for smear tests when there were problems with those, which could have assisted in contacting those who had a transfusion during the danger years when people were being infected? There are hundreds of unanswered questions.

There is also the evidence in the letter from Professor Ian Franklin, dated 28 April 1998, which is on page 15 of the submission from Thompsons, which suggests that those not traced through the restrictive look-back exercise were ignored because of a lack of resources from the Scottish Office. That has to be investigated further to see whether it was the case.

If no one around the table can answer the questions that I have asked—which are only a sample of the questions that I think are raised in the new evidence—surely the committee has a duty to recommend that an independent inquiry be established to get answers not just to those

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questions but to the hundreds of others that I think have arisen in the evidence that we have taken since we started to consider the matter.

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Helen Eadie: At the weekend, I looked at the Inquiries Act 2005, which was passed just before the dissolution of the Westminster Parliament last April. If I am right—I look to the committee clerks to advise me—the legislation on inquiries has been changed significantly. I wonder whether Frank Maguire of Thompsons and all the patients whom he represents want the kind of inquiry that they would get under the 2005 act.

Having read Frank Maguire's papers and the minister's response, I am in no doubt that action needs to follow because both raise concerns that the public and I want to be reassured about. However, I am not certain that a public inquiry is the right forum for that. A group—a task force or whatever—must be convened to address public concerns and allay fears. After reading Frank Maguire's papers, I have questions such as why it is that when we give blood, it is not necessarily screened for hepatitis C. I see that Duncan McNeil is shaking his head, but I made notes—

Mr McNeil: That claim was countered this week.

Helen Eadie: Okay, I look forward to hearing what Duncan McNeil has to say about that. However, I assumed that when Joe Bloggs gives blood, a check for hepatitis C is carried out before the blood is passed on to other patients. That is the sort of concern that must be categorically refuted, which can be done only through the expertise of an action task force.

Frank Maguire raises points about computer records and the minister states in his response that hospitals were asked to undertake manual tracing. We need to find out who monitored the results from that manual tracing to be certain that hepatitis C sufferers were identified. Other people have asked what has been done to ensure that the relatives of those who died from hep C were tested. I want immediate action in response to those questions; I do not want to wait for any inquiry for that.

The Inquiries Act 2005 changed previous legislation so that an inquiry would be accountable not to Parliament but to the minister, who would choose the chairperson. I want whatever action we take to be accountable to the Parliament and not only to the minister.

On Shona Robison's point, although the look-back exercise lasted only from 1995 to 1997, I noted in the minister's response that it was

"a complex operation, requiring the coordination of reports from a number of centres over several years, and involving

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records of donations going back over a long period prior to 1991."

It is not the case that the exercise looked only at that two-year period; it went back over many years prior to 1991. I wonder whether there has been a misunderstanding about that.

The Convener: I can see what the concern might be. Does Duncan McNeil want to come in at this point, as he was referred to?

Mr McNeil: It is difficult to keep pace with press conference after press conference and with all the radio shows. Many of the issues that I heard about during the recess last week were not before the committee. We did not have that courtesy. We did not get the papers until later, but we heard all those views being aired on our radios and televisions. Some members who are at the committee today participated in that process, but others who are not here gave a contrary view and stated that the head of the service had denied some of the things that were said. Carolyn Leckie has made some additional information available this morning and, apparently, that has been the subject of a press release as well. I do not know what position I am in today. If there is significant new evidence—not just new information, but significant new evidence—I want to hear both sides of the story.

The Convener: We will formalise the decision shortly, because there might be a couple of different positions that need to be considered.

Mrs Milne: I confess that I had no knowledge of the Inquiries Act 2005, to which Helen Eadie referred, but there are obviously still important questions to be answered. I am extremely concerned at the lack of patient information. There are still patients coming forward who are suffering from hep C and who did not know until recently that they had the illness even though they have obviously had it for a considerable time. I agree with Shona Robison that the look back has been severely inadequate. Therefore, it is terribly important to find out what exactly has gone on. Public confidence in the blood transfusion service and in the NHS itself is at stake.

As members will realise, I did not support the call for a public inquiry in the debate in December because, although I accepted that many questions needed to be answered, I took the view that they could be dealt with by taking a test case to court. However, at the committee meeting on 31 January, when I asked Mr Maguire about the feasibility of that and why an inquiry would be better than a test case, it was made plain that a test case was not a possible way forward.

I would like more information about the act that Helen Eadie mentioned, but we must by whatever means get to the bottom of what has been going

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on. I do not envisage that an inquiry would necessarily open the floodgates for compensation claims because negligence would still have to be established in any case, but it is terribly important that we find out what went on. I will be guided as to what the best way forward is on that.

Carolyn Leckie: I agree with Duncan McNeil that both sides of the story need to be heard. That is why we need an independent public inquiry because, so far, we have been asked to accept the judgment of the current Minister for Health and Community Care, previous health ministers and previous Governments that everything is okay, lessons have been learned and there is no need for an independent public inquiry. The only way that people can trust that judgment is by having an inquiry with independent analysis of the evidence and an independent judgment on it.

It is not about coming to a conclusion or judgment today, because that is impossible, to be frank. The large sheaf of papers that I have with me contains only the papers that are associated with the third bullet point in my letter. I extracted a few of those papers and circulated them to the committee. The reason why committee members got them only this morning is that I read them only yesterday afternoon; I moved as quickly as possible to circulate them to the committee. They are an example of the many questions that surround the issue and of why there is a lack of trust and confidence in all the Government departments and NHS services, such as the blood transfusion service, that have been involved in the story.

I will concentrate on my third bullet point, because it relates to some of the evidence that Frank Maguire submitted, which is part of the documents that the Scottish Executive has released. I have many other documents that have been obtained from other sources and I have told the committee previously that it can access them. The letter from the Scottish National Blood Transfusion Service to the northern region of the National Blood Transfusion Service to which Jean Turner referred says, in effect, that the northern region of the NBTS needs to come into line. Defensive medicine was being practised and, if one arm of the blood transfusion service did one thing, the rest of the service would be exposed to the risk of litigation.

That came at the end of a protracted discussion and debate about the availability and efficacy of a non-specific test—an alanine amino-transferase test—to identify non-A, non-B hepatitis in the period before 1991. The test was available and accurate in five cases out of six in America and in other European countries from 1986. The Scottish National Blood Transfusion Service wanted to introduce it but was prevented from doing so by

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the Scottish Office home and health department and the Westminster Government. That information is contained in the documents.

More astonishingly, instead of introducing the routine screening that was the best available at the time and which could over five years have reduced the risk of infection by what was known at the time as non-A, non-B hepatitis, the working party advocated a research project. One paragraph of the documents that have been submitted states:

"The position explicitly reached at the meeting is to recommend research of no great significance or scientific interest because the prospect of research would serve to counter pressure from for example haemophiliacs and Haemophilia Directors to embark on an indirect and largely ineffective form of screening".

Rather than introduce the only routine screening that was available to them, they substituted research for it and procrastinated for more than five years.

In the research, the working party identified the blood from donors that was prospectively at risk and had the markers that could be identified by the ALT test. The documents that I have supplied indicate that it knowingly allowed that blood to be received by people without their knowledge and that it followed up the matter in only a small way. Knowingly, it put those people at higher risk of transmission of non-A, non-B hepatitis, in order to conduct research that the Medical Research Council did not even support and that was a substitute for introducing the only screening available, which the Scottish National Blood Transfusion

Service wanted to introduce but did not under Government and political pressure. That is where the letter comes in. The Scottish National Blood Transfusion Service abided by the political will of the Government departments of the day, but the northern region of the National Blood Transfusion Service stepped out of line and unilaterally introduced the ALT test. That is why the SNBTS was angry.

I have my judgment on the morality of what happened and what it says about how the process was conducted. I have provided just one example of many controversial developments associated with the issue. I am not asking the committee to form a judgment today or asking Duncan McNeil to accept my version of events without having seen the documents. However, what I have described shows that there needs to be an independent analysis and trial of the evidence, so that an independent judgment can be reached on it. We are having to fight tooth and nail to get every wee scrap of information. Documents have been withheld from the Executive. We have letters from the blood transfusion service to Government departments—the Department of Health and Social Security and the Scottish Office home and

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health department—but there are no replies. Where are the replies? The fact that there are loads of questions demonstrates the need for an inquiry. Only then will both Duncan McNeil and I be satisfied.

Kate Maclean: I feel at a disadvantage, because I have not been in my office in Edinburgh today. I do not have staff through here, so if papers were delivered to my office I have not had access to or been able to read them. Carolyn Leckie referred to information contained in certain documents. Can the clerk or Carolyn refer to papers that we have already received that include that information?

Carolyn Leckie: It is in the Scottish Executive documents that were released under the freedom of information regime.

Kate Maclean: I am talking about papers to which I have had access. I am wondering whether some of the documents that Carolyn Leckie has distributed are included in the papers that we have received already. I find it difficult when Carolyn keeps referring to documents that I have not seen. Three members of the committee have not seen those documents.

The Convener: Some of the issues to which Carolyn Leckie has referred are contained in the papers that members have seen. They might be presented in a slightly different way, but the information is in our papers.

Kate Maclean: The situation is not satisfactory.

15:30

The Convener: It is not satisfactory, as I said at the beginning.

We decided that we would reach some kind of decision today. We have several options to consider, which may or may not be formalised into a decision. The first option is to call for an independent inquiry. Both an independent inquiry and an independent public inquiry, which are not the same, have been mentioned. That matter would have to be clarified if an inquiry were proposed. We could argue for a debate in Parliament, although we had one in December and we would need to think what we wanted the debate to be about and how it would be different from the debate in December. I will ask Helen Eadie to formalise her comments, but she suggested some form of committee inquiry, with a small i rather than a large one. Alternatively, we could have a committee inquiry with a large i or decide to take no further action. We have several options. I want to bring the discussion to a close and, ideally, have the committee agree on future action.

Janis Hughes: I accept that there are a few options, but I agree with Kate Maclean and

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Duncan McNeil about the further evidence that has been submitted—I was given it literally as I left to come to the meeting and, like other members, I have not read anything other than the covering letter. I accept the convener's point that some of the information is contained in the evidence that we already have, but Carolyn Leckie has referred to evidence that the majority of members have not considered. I hesitate to make a final decision today on the basis of papers that we have been given but not had the chance to read. I urge caution in making a final decision.

The Convener: It is a matter for members whether they make a decision on the basis of the papers or on the basis of the evidence that was already before us, which is what we should do. I do not want a roundabout discussion to go on for a great deal of time. I want some formal proposals that the committee can either agree to or not agree to.

Mrs Milne: I seek clarification on one issue, convener. You referred to an independent inquiry and an independent public inquiry, but you did not use the word "judicial" at any stage.

The Convener: No, because nobody around the table has used the term "judicial".

Mrs Milne: If memory serves me right, that was what was called for when we took evidence.

The Convener: I am asking for the various positions to be clarified.

Helen Eadie: Before we do that, could we have some clarification? The Inquiries Act 2005 was passed in April last year. I want to know whether that act affects Scotland and, if so, what the implications would be if we went down the route of an inquiry. Can the committee clerks find that out for us?

The Convener: I do not know when you knew about the Inquiries Act 2005, but some of the comments that applied to Carolyn Leckie apply also to you.

Helen Eadie: I found out about the act during last-minute reading before I retired for the evening last night.

The Convener: Decisions about inquiries go on all the time.

Helen Eadie: We have just had a recess, during which I was in Coventry. I came back late on Sunday night, did my work yesterday and then found out about the Inquiries Act 2005. I want to know what a public inquiry would achieve. If a public inquiry would be the appropriate route, members might wish to opt for it, but if we want to safeguard the people of Scotland, other action might be more appropriate.

The Convener: No reference was made to the Inquiries Act 2005 at any stage during the many

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debates about the McKie case, which suggests to me that the legislation is not particularly germane to the present situation. I would like some clarified positions to be made so that the committee can, if necessary, vote on them. If Helen Eadie wants to delay a decision further, the committee as a whole can decide on her proposal.

Shona, do you want to go first?

Shona Robison: Before I do that, would it be helpful to clarify something that Helen Eadie asked about?

The Convener: Yes, please.

Shona Robison: Let us be clear about the look-back exercise, which Helen Eadie has raised. It took place between 1995 and 1997, and the minister's evidence makes the situation clear:

"Where a returning donor was identified with Hepatitis C after 1991, records were identified for any donations made prior to September 1991 and for each blood component made from these donations".

Only those returning donors during that period were considered, which is why the look-back exercise was inadequate.

Despite the information that Kate Maclean has talked about Carolyn Leckie producing, the bulk of the evidence that concerns the committee is within the existing papers, especially those from Thompsons Solicitors. Having seen the stuff that Carolyn Leckie has submitted, I assure the committee that the most important element of her paper is already in the Thompsons Solicitors paper, so we can come to a conclusion today. My proposal is simple: the Health Committee should call on the Scottish Executive to establish an independent public inquiry into the infection of people with hepatitis C through NHS treatment. Helen Eadie has mentioned the Inquiries Act 2005. Frankly, even if what she says is true—the minister would appoint the chair and the independent inquiry would report to him—it would be better than having no inquiry at all. Having been a member of the previous Health Committee and having heard all the evidence, I think that we owe it to the people who are affected to come to a decision today, and I put that forward as a proposal to the committee.

Kate Maclean: I ask for clarification of what Shona Robison has said. Carolyn, have you not submitted any new evidence to the committee today?

Carolyn Leckie: I have circulated papers that have already been released by the Scottish Executive under the Freedom of Information Act 2000. Their relevance became apparent to me only yesterday, and I quickly gathered them together for the benefit of the committee. The issue that I am highlighting has not, to my knowledge, been highlighted before, but the evidence is not new. The Scottish Executive has known about it, as it has had the documents. Information on the ALT testing has been submitted in Frank Maguire's documents.

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Kate Maclean: That does not really answer the question that I am asking. Is there any evidence that the committee has not already seen? Have you submitted new evidence or not?

Carolyn Leckie: I do not know whether you have read the documents that have been released by the Scottish Executive—

The Convener: Leave your documents out of it.

Kate Maclean: I am talking about the papers that have been circulated to the committee. Have you today circulated evidence that is new to the committee?

Carolyn Leckie: If you have not read all the documents that have been released by the Scottish Executive, the answer is probably yes.

The Convener: I detect that Helen Eadie and Janis Hughes take a different position from Shona Robison. I do not know whether you want to formalise it in some way.

Janis Hughes: On the basis that Carolyn Leckie has said that there is evidence that we have not seen—

The Convener: I am trying to move us on, Janis.

Janis Hughes: On the basis that she has said that she has submitted evidence that she has received under the Freedom of Information Act 2000 that we have not seen, because it has not been submitted to us—

Carolyn Leckie: It is in the Scottish Parliament information centre.

Janis Hughes: But it has not been submitted to us in the papers that we have received for today's meeting. I would like to be able to see—

Carolyn Leckie: It is not a—

The Convener: Carolyn, could you please be quiet at this stage and let Janis Hughes formalise her position?

Janis Hughes: I would like the opportunity to see that evidence.

The Convener: So, you move that we continue the discussion to a future date to allow us to consider further papers.

Janis Hughes: Yes.

The Convener: Is there any other position that anybody wishes to formalise at this stage?

Helen Eadie: Could I add an amendment to Janis Hughes's position? I also wish to have that further information to clarify precisely what the impact of the Inquiries Act 2005 will be for Scotland and what benefit an inquiry under that act would have in contrast to an action strategy delivered by the minister. Undoubtedly, we have been given information that demands action.

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The Convener: We can take it as read that the clerks will look at the Inquiries Act 2005 issue. If the committee's decision is to continue the discussion, that is one of the issues that will be looked at.

Dr Turner: I made my decision on the basis of the material that was submitted to the committee. I got Carolyn Leckie's papers as I was coming down the stairs to the meeting and had time only to open and glance through them. If there were to be an inquiry, her detailed information, which we have not been able to read as yet, would come out.

It would take an awful lot of time to take in all the material that she has presented, but only a short time is available to us. As I said, I made my decision on the material that we had in front of us and on the fact that the look-back exercise did not look back far enough. Not only were many areas missed out but there were a number of discrepancies, for example in communications between our system in Scotland and the system in England. Also, at the time the powers that be were the Westminster Government and the Scottish Office, not the Scottish Executive. I am in favour of this—

The Convener: I think that we understand your position, Jean. Do you want to come in at this point, Nanette?

Mrs Milne: I am in favour of an inquiry of some sort. Again, I apologise for my ignorance of legal matters, but is Shona Robison's proposal for a public inquiry significantly different from a call for a judicial inquiry?

The Convener: A judicial inquiry would be remitted to a named judge who would operate it on the basis of taking evidence. We have seen many such inquiries in the past. Strictly speaking, public inquiries do not have to be heard in front of a judge, but they usually are. The difference may simply be semantic. Perhaps Shona Robison will clarify whether she sees her proposal in terms of a judicial inquiry.

Shona Robison: Yes.

The Convener: Perhaps it would be better to actually say that.

Shona Robison: I am happy to say that.

The Convener: Right. That needs to be said; the purpose is for everyone to be comfortable.

Shona Robison: In custom and practice, it is the same thing.

Col 2747

The Convener: The situation appears to be that two proposals are on the table. The first is that, as a result of the evidence that has been before us, the committee calls for a public inquiry into all matters pertaining to hep C that was acquired through contaminated blood, but with particular reference to the issue of traceability, which has arisen in new form.

The second proposal, which Helen Eadie and Janis Hughes have jointly proposed, is that the committee's consideration of the issue be continued to allow for a further look at, among other things, the paperwork that Carolyn Leckie attempted to circulate today and the issue that Helen Eadie raised on the Inquiries Act 2005. Is that a fair summation of the two positions?

Members *indicated agreement.*

The Convener: Okay. If it comes to it, our standing orders require me to use my casting vote; I am not permitted to dodge the issue. Given that the committee now has an even number of members, I thought it would be helpful to say that in advance of any vote. Two proposals are on the table. We will have to take a vote. Will those members in favour of Shona Robison's proposal indicate their support?

FOR

Cunningham, Roseanna (Perth) (SNP)
Milne, Mrs Nanette (North East Scotland) (Con)
Robison, Shona (Dundee East) (SNP)
Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)

The Convener: Will those members in favour of Helen Eadie and Janis Hughes's joint proposal indicate their support?

FOR

Eadie, Helen (Dunfermline East) (Lab)
Hughes, Janis (Glasgow Rutherglen) (Lab)
Maclean, Kate (Dundee West) (Lab)
McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)

The Convener: I was afraid that that would happen. The situation is not one in which the status quo is the imperative. As I voted for the inquiry, I will use my casting vote for Shona Robison's proposal. It would have been preferable to come to a broader agreement, but if that is not the case, it is not the case.

The committee has agreed to call for an independent public inquiry into the issues that have been before us until now. That will be communicated forthwith to the Minister for Health and Community Care. I thank everyone for their forbearance.

Col 2748

Item in Private

15:45

The Convener: The final item on our agenda is consideration of matters in private. At our meeting next week, we will discuss our work programme. I seek the committee's agreement to consider it in private. Are we agreed?

Members *indicated agreement.*

Meeting closed at 15:45.

Lord M.

- Now the documents have been found.
- Int'l inquiry : they fixed the terms, made it v. narrow,
  excluded the Soc, etc.
- Medical establishment against a public inquiry.
- Paul Giangrande – ~~a~~ will he support a PI?

Unravel facts + reassure the ~~[illegible]~~ h. community