

# **AUDIT COMMITTEE**

Tuesday 7 December 2004

Session 2

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## AUDIT COMMITTEE

### 22<sup>nd</sup> Meeting 2004, Session 2

#### CONVENER

\*Mr Brian Monteith (Mid Scotland and Fife) (Con)

#### DEPUTY CONVENER

\*Mr Andrew Welsh (Angus) (SNP)

#### COMMITTEE MEMBERS

\*Susan Deacon (Edinburgh East and Musselburgh) (Lab)

\*Robin Harper (Lothians) (Green)

\*Margaret Jamieson (Kilmarnock and Loudoun) (Lab)

\*George Lyon (Argyll and Bute) (LD)

\*Mrs Mary Mulligan (Linlithgow) (Lab)

#### COMMITTEE SUBSTITUTES

Chris Ballance (South of Scotland) (Green)

Mr Ted Brocklebank (Mid Scotland and Fife) (Con)

Marlyn Glen (North East Scotland) (Lab)

Mr John Swinney (North Tayside) (SNP)

\*attended

#### THE FOLLOWING ALSO ATTENDED:

Mr Robert Black (Auditor General for Scotland)

Barbara Hurst (Audit Scotland)

Arwel Roberts (Audit Scotland)

#### CLERK TO THE COMMITTEE

Shelagh McKinlay

#### SENIOR ASSISTANT CLERK

David McLaren

#### ASSISTANT CLERK

Clare O'Neill

#### LOCATION

Committee Room 5



## Scottish Parliament

### Audit Committee

*Tuesday 7 December 2004*

[THE CONVENER *opened the meeting at 10:02*]

### Items in Private

**The Convener (Mr Brian Monteith):** Having banged the electronic gavel, I bring the meeting to order. I am happy to declare that the 22<sup>nd</sup> meeting in 2004 of the Parliament's Audit Committee is now in session. I make the usual announcement about switching off mobile phones and pagers. Members should ensure that their cards are inserted in the console, as that helps the electronic aspect of proceedings. As well as members, I welcome to the meeting the Auditor General for Scotland and his team, our visitors from Guernsey and members of the public and press. We have no apologies—everyone is present and on time.

The first item on the agenda is consideration of whether to take in private three agenda items. Under item 7, the committee will consider its approach to the section 22 report by the Auditor General that is entitled “The 2003/04 Audit of the National Galleries of Scotland”. Under item 8, the committee will consider the written evidence that it has received from the Executive on the Argyll and Clyde NHS Board and discuss arrangements for our inquiry into the Auditor's General's report “The 2003/04 Audit of Argyll and Clyde Health Board”. Under item 9, we will consider the evidence that we took at our most recent meeting, which was on 23 November, on two reports by the Auditor General: “Commissioning community care services for older people” and “Adapting to the future: Management of community equipment and adaptations”. Members will recall that, during that lengthy session, we took evidence from the accountable officer. Do members agree to take in private agenda items 7, 8 and 9, as well as next week's discussion of lines of questioning for our inquiry into “The 2003/04 Audit of Argyll and Clyde Health Board”?

**Members** *indicated agreement.*

## “The 2003/04 Audit of the National Galleries of Scotland”

10:05

**The Convener:** Agenda item 2 concerns a section 22 report by the Auditor General on the National Galleries of Scotland. I invite the Auditor General to address the committee.

**Mr Robert Black (Auditor General for Scotland):** It is important to draw the Parliament's attention to a situation that has arisen in relation to the finances of the National Galleries of Scotland. In both 2002-03 and 2003-04, the galleries used a significant proportion of the money that was allocated to their purchase grant to assist with running costs. I will expand on that.

As members know, the NGS is a non-departmental public body that is sponsored by the Scottish Executive Education Department. During 2003-04, the department provided the galleries with grant in aid of some £8.6 million to assist with running costs. The department also provided a purchase grant of about £1.2 million for the purpose of purchasing works of art for its collections. The galleries generated a further £7.9 million, mainly from donations and lottery funding, for the refurbishment of the Royal Scottish Academy building and the expansion of facilities at the National Gallery of Scotland on the Mound in Edinburgh—which is commonly known as the Playfair project.

If we go back to 2002-03, we find that the galleries reported a surplus of income over expenditure of just over £100,000, but that was achieved by transferring some £400,000 from the purchase grant that was provided in that year to keep the running costs going. For 2003-04, the NGS reported a surplus of £370,000, but that was again achieved through the transfer of funds from the purchase grant to cover running costs. In 2003-04, which is the most recent financial year for which there are accounts, the sum transferred was about £1.1 million out of a total purchase grant of £1.2 million. If the purchase grant had not been used in that way, the galleries would have recorded a deficit of more than £780,000. In its 2003-04 accounts, the NGS indicates that, for the first time in its history, nearly all the grant in aid provided for the acquisition of new objects had to be used to fund running costs.

A major exhibition of Monet paintings was held during the summer of 2003, which generated increased income from sponsorship, admissions and publications, but expenses associated with the exhibition, along with the increased costs of opening the refurbished RSA building, accounted

for a significant proportion of the increased running costs.

The Executive is currently providing additional funding over and above its annual grant in aid of some £3 million. The provision of that money, which is being spread over three years, is only a short-term measure that will expire in 2005-06. The Executive's latest spending proposals—which are for 2005 to 2008—show that the annual grant in aid that the galleries can expect to receive to cover running costs will increase in each of the next four years to £11.5 million, in round terms, by 2007-08. That represents a 33 per cent increase from the 2003-04 levels. In 2006-07, ministers will also provide some £7.7 million to assist with the acquisition of the Scottish National Gallery of Modern Art, which is designed to release the galleries from rental payments of £550,000 a year.

The galleries have updated their financial projections to take account of the Executive's spending proposals. The projections show a continuing reliance on the purchase grant to fund running costs in the three-year period to 2006-07. Without the use of the purchase grant, the galleries would expect to have an accumulated deficit of about £1.4 million by 2007.

In my opinion, there is a need for the department and the galleries to consider how best to manage the gap between income and expenditure over the period. Given the importance of the issue to the future of the galleries, it needs early attention. I shall of course expect the appointed auditor to monitor the developments in the galleries' financial position and to report to me as necessary over the next year or so.

**The Convener:** Thank you. We now have the opportunity to question the Auditor General on the section 22 report. Under agenda item 7 we can discuss how we might wish to proceed.

**Robin Harper (Lothians) (Green):** The NGS has been awarded considerable sums of money to purchase works of art for the nation, but that money has been transferred to fill the funding gap. How are the galleries able to do that? What terms of the purchase grant allow them to transfer that money to be used for a purpose for which it was not awarded?

**Mr Black:** I am not sure whether we have the details of the terms on which that transaction took place. The committee has to appreciate that the report is not a full report as it relates simply to the accounts. I imagine that the galleries would reach an agreement with the department that they could transfer funds from what is in effect a capital purpose to on-going revenue.

**Robin Harper:** Have the galleries indicated whether what is now recorded as a surplus, but which is in fact their purchasing grant, is going

back into purchasing, or is it swilling around somewhere in the accounts as a surplus sum?

**Mr Black:** We are likely to see a continuing pattern of annual purchase grant being used to fund running costs through to 2007-08, by which time it is possible, according to the audit report, that the purchase grant will be reduced to nil. Over the same period, the funding of running costs will increase by about 33 per cent.

**Mrs Mary Mulligan (Linlithgow) (Lab):** The report states that the NGS intends to carry out a best-value review. Do you know whether that has started or been completed and when it is likely to be available?

**Mr Black:** A best-value review has been undertaken, which the auditor reported. We do not have the details of what it covered or what its implications will be for the future running of the galleries. The auditor's report identified a number of areas of concern, such as the need for the galleries to develop an action plan to address the deficit, a need for them to review expenditure priorities and a need for the management team to improve its effectiveness, because corporate working could be improved. We have not been involved actively in that and have not had sight of the consultants' report.

**Mrs Mulligan:** So you do not know whether action has been taken to address what the review identified.

**Mr Black:** Not at this stage.

**Mrs Mulligan:** The report also refers to the Monet exhibition. It says that there was increased income, but also increased costs. Do you have a breakdown of the outcome of that exhibition?

**Mr Black:** I do not think that we have that information to hand. You would be best advised to obtain it from the galleries.

**Mrs Mulligan:** Thank you.

**George Lyon (Argyll and Bute) (LD):** Even with a 33 per cent increase in grant funding for running costs, the galleries do not seem to be planning to be able to balance the budget. Can you explain why? A 33 per cent increase is huge by anyone's terms.

10:15

**Mr Black:** The 33 per cent increase in grant relates to a portion of the running costs. The grant in aid forms about half of the galleries' total income. There are other sources of income, such as exhibition admission fees and general sponsorship, but they are not expected to increase at the same rate, so the overall increase in income will be somewhat less than 33 per cent. However,

the increase that will come from public funds during the next four years is 33 per cent.

We are advised that the galleries expect their core running costs—staff salaries, building maintenance, utilities and so on—to increase by about 10 per cent in the period to 2007-08. There will be additional running costs for the newly refurbished Royal Scottish Academy building and the extension of facilities at the National Gallery of Scotland at the Mound—the so-called Playfair project. We understand that the Executive is seeking increases in service provision in the areas of access, education and information and communications technology. There are pressures in the budget but at this stage we have not analysed them in any detail.

**George Lyon:** How many purchases have the National Galleries of Scotland had to forgo to balance the books? The purchase fund clearly exists to purchase works. How many purchases have they been forced to—

**Mr Black:** I suggest that you would have to put that question to the National Galleries of Scotland.

**George Lyon:** It seems that, as part of its budgeting process, the NGS relies on its ability to transfer funds from the purchase grant. Do you have a sense that that is part of its forward budgeting process? In other words, does it plan to transfer the purchase grant to the budget for running costs rather than to use it for purchases? If so, I wonder what the Executive's response is.

**Mr Black:** Unfortunately, I cannot read into the minds of the galleries' senior management when they put the budget together, but there is quite clearly—

**George Lyon:** Could you draw some conclusions?

**Mr Black:** There is clearly a requirement to rely on the purchase grant year on year and it is clear that that will continue right through to 2007-08. At the same time, there is an increase of 33 per cent in the budget for running costs.

**Mr Andrew Welsh (Angus) (SNP):** The reported budget surpluses were, in fact, transfers between one budget heading and another. How was that reported to the board and the Scottish Executive Education Department?

**Mr Black:** I am sorry. We do not have that level of detail available.

**Mr Welsh:** I presume that that was accepted by the board and the department. Did the department know that that was how the galleries were operating?

**Arwel Roberts (Audit Scotland):** Yes. The transfers take place with the Executive's knowledge and agreement.

**Mr Welsh:** So it was a matter of policy.

**Arwel Roberts:** It was a matter of agreement.

**Mr Welsh:** I presume that it was accepted by the department. If I have got this right, there were no new purchases, there was an underlying and growing deficit and there were an extra cost for running the newly refurbished buildings. The NGS could see that coming after one year and by 2007-08 it will be running to stand still—it will have an actual deficit. You say

"There is ... a need for the SEED and NGS to consider how best to manage the gap between its income and expenditure over this period."

Do you not mean "solve" or "eliminate" rather than "manage"?

**Mr Black:** It is fair to say, and we have to recognise, that there is an increasing cost base because of the new activities the NGS is expected to take on—and that is recognised by the Executive.

I should expand on the point about whether any purchases are taking place and place it on the record that the galleries continue to acquire works of art with the money they have. If the committee is interested, I can give details of the paintings that were purchased in 2003-04. I have a list of them. We must recognise, however, that those acquisitions were financed largely from trust and bequest funds and that some items are bequeathed to the galleries. The acquisition policy is founded on non-public sources of funding because the public funds are being diverted to cover running costs.

**Mr Welsh:** You mentioned new activities, but they seem to be extremely limited, given what has been happening to them. What is happening looks like deliberate policy and there is no sign of any change in that policy. Were deliberate management decisions taken or did they not see the situation coming?

**Mr Black:** I am afraid that those questions would have to be put to the management of the National Galleries of Scotland.

**Mr Welsh:** I look forward to doing that.

**Margaret Jamieson (Kilmarnock and Loudoun) (Lab):** Was any work done, as part of the auditor's report, to find out where the increases in running costs are taking place?

**Mr Black:** We have only limited information on that. As I may have indicated earlier, the National Galleries of Scotland is expecting the core running costs—for staff, building maintenance and the like—to increase by about 10 per cent. It also expects additional running costs for the new gallery and the Playfair project. As I mentioned, the Executive is seeking increases in the services

provided by the galleries in relation to access, education and ICT support. We do not have a breakdown of the detailed costs. The committee would have to acquire that from the National Galleries of Scotland management.

**Margaret Jamieson:** Was sufficient funding built into the projections for the financial year to cover the refurbishment of the Royal Scottish Academy building?

**Mr Black:** The Playfair project, which is now finished, was completed in time and on budget. The total cost was about £31 million, which was met by moneys from the Scottish Executive and sponsorship and donations initiated by the National Galleries of Scotland and the Heritage Lottery Fund. We have no evidence that the construction costs have contributed to the financial problems of the National Galleries of Scotland, although there may be short-term cash-flow issues that contribute to its difficulties. We do not have detailed information relating to that. However, as the Playfair project involves an extension to the facilities, it is likely to have consequences for the running costs. For example, we would reasonably expect there to be increases in the warden costs as a result of the requirement to oversee a bigger exhibition area. In all probability, there will also be increased heating and lighting costs. However, the general picture is that the project seems to have been completed according to plan and within budget.

**Margaret Jamieson:** Do you believe that the projections for the running costs were sufficiently robust and that they did not contribute to the use of grant in aid and purchase grant?

**Mr Black:** I am sorry, but we have no more detail than I have already given to the committee.

**Margaret Jamieson:** To me, the use of the funds as described in the report seems to be similar to the use of non-recurring funds in the national health service to deal with difficulties that are faced year on year. Do you share that view?

**Mr Black:** It is certainly a fact that, to the best of our knowledge, the National Galleries of Scotland has not had performance targets set by the Scottish Executive against which it can be measured year on year.

**Margaret Jamieson:** That is interesting.

**The Convener:** In other funded arts organisations, such as Scottish Opera and Scottish Ballet, that receive funding from the Scottish Arts Council, it is common for a member of the SAC to attend board meetings. The National Galleries of Scotland is not funded in that way—it is funded directly by the Executive. Do you know whether a member or representative of the

Scottish Executive Education Department regularly attends board meetings?

**Mr Black:** I am sorry, but I do not have that information. Perhaps my team can help.

**Arwel Roberts:** I confess that I am not certain. I believe that a representative of the Executive attends board meetings as an observer, but I will check that and correct myself if I am wrong.

**The Convener:** It would be useful for us to have that information. An interesting situation has been described, especially when one is aware—as I am—that at least half a floor of the Scottish National Portrait Gallery, which is part of the National Galleries of Scotland, is permanently closed. It is not the case that the galleries are working to full capacity.

To what extent have the galleries' auditors drawn to the board's attention—or the management's attention—the likely developments if the practice of using the purchase fund continues into the future? Is that something that the galleries' auditors have noted any concerns about?

**Mr Black:** The auditors whom I appoint to the galleries have drawn attention to that issue. It was on the basis of their report that I determined that I should make a section 22(3) report on the accounts.

**George Lyon:** I have a brief question. The year 2003-04 has been exceptional in the fact that, by and large, the whole purchase grant was transferred into running costs. Do any exceptional circumstances lie below that, which explain it?

**Mr Black:** I am not sure that I can give an answer to that beyond repeating what I said earlier about the development programme that the galleries have been running over the past few years and the difference that that makes to the cost base of their activities.

**George Lyon:** It is important to know whether that is a one-off or whether it is the trend line in the galleries' predictions, which are not terribly robust. I suspect that we will need to ask the galleries.

**The Convener:** It is fair to say that there are different impacts on the accounts depending on which exhibitions are held in which year and how successful they are.

**George Lyon:** I understand that. I am trying to tease that out.

**The Convener:** That information is not available to us at the moment. We might add that to the list when we come to agenda item 7.

**Mr Welsh:** You mentioned the best-value report. When is that expected to appear?



**Mr Black:** It has been concluded and it is reported in the auditors' annual report. If it helps the committee, I can give you an indication of the key findings.

**The Convener:** That would be useful.

**Mr Black:** According to the auditors' report, a number of areas of concern were identified and plans have been developed to mitigate those—mitigate is the word that is used. The significant areas that were identified were the development of an action plan to address the potential financial deficit; the need to seek to improve the overall effectiveness of the management team, in terms of corporate working; improvement of the planning, development and review of the performance of the exhibitions; review of arrangements for partnership working; review of the prioritisation of spending and actions to maximise access to collections; development of an effective succession plan by the middle of 2004; development of a mechanism for constructive staff commentary on the operations of the galleries; assessment of whether the galleries comply with best practice in the modernising government agenda; and, finally, consideration of the galleries' compliance with the Scottish Executive's stated art policy priorities. Those areas have been addressed by the best-value review.

**The Convener:** Thank you. That has been a most instructive agenda item. We will discuss in private, under item 7, our reaction and how we wish to proceed.

## **“Scottish Prison Service: Contract for the provision of prisoner escort and court custody services”**

10: 28

**The Convener:** Item 3 is consideration of the response from Tony Cameron, the chief executive of the Scottish Prison Service, to our letter with regard to the Auditor General's report “Scottish Prison Service: Contract for the provision of prisoner escort and court custody services”. I will invite members to comment and will then ask the Auditor General whether he has any comments to make. Do members wish to make any observations?

I found paragraph 2 and the penultimate paragraph of the response quite interesting. In paragraph 2, Mr Cameron refers to the

“clear objectives for the project in the light of the considerable deficiencies of the previous escorting systems”.

I must admit that I was not aware that the case had been proved that previous escorting systems had failed.

**Margaret Jamieson:** I do not think that that is what it says.

**The Convener:** It says

“in the light of ... considerable deficiencies”.

I am not entirely sure whether those deficiencies have been set out.

**Margaret Jamieson:** I take that to mean that the deficiency was the use of police officers.

**The Convener:** The term is fairly ambiguous.

**Mr Welsh:** I have just noticed that, in true civil service fashion, the response talks about a

“multi-agency review team ... an expanded contingency planning group”

and

“a performance review system”.

I would prefer the SPS to get prisoners safely from point A to point B and back again.

It is good that different agencies are speaking to each other. However, at the bottom of page 1 the response says:

“It is difficult to say exactly when the contract will have fully bedded in”,

whereas on the next page it states:

“we are already clear that many of the key objectives of the contract have already been achieved”.

That means that some key objectives have not been met. I would like to know which ones they are.

The SPS says:

"we believe that prisoner security has been improved"

and that

"the efficiency of escorts is likely to have improved ... In all we consider that the contract is already delivering".

Those are opinions. I do not see many facts to back them up.

**The Convener:** The committee has decided not to take any particular evidence on or to institute an inquiry into this matter. Members will be aware that the Justice 2 Committee is following up the process of awarding the contracts. I simply mention that to help us keep in context any decisions about what we might do with this response.

**George Lyon:** The last paragraph of the response states:

"a post implementation review needs to await a full year's running of the contract".

Only then can we start to evaluate whether it has delivered in full. After all, the contract has just been rolled out in some places; indeed, it still has to be rolled out in one or two areas. I think that all Mr Welsh's questions will be answered when we reach that stage.

**Mr Welsh:** Except I would have liked to see details of the performance reviews and all the other methods that are being used to measure performance. Central Government is very quick to introduce very stringent measures to test whether local government is being effective, but it does not seem to apply them to itself.

**George Lyon:** The targets are all laid out in the contract. I can give you a copy of it if you want.

**Mr Welsh:** So I take it that losing prisoners was a mere detail.

**George Lyon:** As I remember, the company was fined for that.

**The Convener:** Auditor General, do you have any observations to make on the response? You might also wish to outline how Audit Scotland plans to monitor the outcome of the contracts.

**Mr Black:** I have no further comments to make on the letter. As I indicated when the committee previously considered the item, I would expect the appointed auditor of the Prison Service to keep the performance of the contract under review and to provide an assurance on the basis of that analysis when it comes out in a year or so.

**Margaret Jamieson:** Given that the review was undertaken at the Minister for Justice's behest,

has she indicated whether she wants you to review the matter one year down the line?

**Mr Black:** The terms of my report to the committee were based on audit work that would have been undertaken in any case. In other words, I would expect any appointed auditor to look at such a major contract with such clear potential risks as part of their annual audit. At the minister's request, I asked the auditors to bring forward the work that they would have done in due course. This year and in future years, the matter will be monitored as a normal part of the audit process.

**The Convener:** Given that the letter has been copied not only to the Minister for Justice but to the Justice 2 Committee for its information, and given the Auditor General's comments, I propose that we note the response. That will allow us to come back later and consider whether the contract has been successful or otherwise and whether it has met its targets and specifications. Do members agree?

**Members indicated agreement.**

## “Overview of the National Health Service in Scotland 2002/03”

10:34

**The Convener:** We move on to agenda item 4, which is consideration of a follow-up response from the Scottish Executive to the committee's eighth report in 2004, on the “Overview of the National Health Service in Scotland 2002/03”. I invite committee members' comments on Ian Gordon's letter.

**Margaret Jamieson:** I find the content of the letter unhelpful. When we wrote again to Mr Gordon we gave him an opportunity to provide robust and detailed information, but, again, he has not done so. I have real concerns, given the issues that have been brought before the committee time and time again and given that we are considering the situation in NHS Argyll and Clyde later in the month. One must wonder why individuals such as Mr Gordon remain in post.

**Susan Deacon (Edinburgh East and Musselburgh) (Lab):** First, I will respond to the two suggestions in the letter, which are to have a briefing on pay modernisation and a briefing on the review of health and care statistics.

My view is that, subject to our finding time in our schedule, we should take up the offer of a briefing on pay modernisation, because that issue could usefully be explored through discussion with the relevant officials. I do not believe that we should take up the offer of a briefing on the review of statistics at this stage. However, we should return to the request, which I am sure we made before, for a clear and succinct written brief on what data are collected, through what means and with what frequency, and what the plans are for the piece of work that is under way. Presumably, draft proposals must exist for how the data collection systems will change. That information can best be conveyed with precision—and in a way that is time efficient for us all—in a written note from the Scottish Executive Health Department. I make that formal proposal.

I also wish to take this opportunity to comment on the review of health and care statistics. I am sure that I am not the only member of the committee who is finding the frequency with which we return to the issue wearisome. I ask colleagues to bear with me as I outline some of my concerns. We are told in the letter:

“NHS data collection has not kept pace with changes in service delivery. As you know, to address this deficiency a major review of health and care statistics has been launched. The review aims to identify gaps in current information and make recommendations by April 2005.”

If recommendations are being made in 2005 I presume that thereafter there will be a consultation process to consider them. The department will not be in position to consider the implementation of revised data collection systems until 2006 at the absolute earliest. By definition, any change to the data collection system will require considerable changes within the health service, which has to provide the data. To be realistic, we will be the best part of a decade down from the creation of the Parliament before the Scottish Executive Health Department has effective data collection systems in an area that accounts for a third of the Executive's budget. That is fundamentally unacceptable and I have to say—I arguably have a vested interest in saying this—that I honestly do not believe that that is about a lack of political will. Ministers, even prior to devolution, have looked consistently for improvement in the area. I know for a fact that post devolution the instruction to change the systems has been given on a number of occasions.

I think there are serious double standards in operation. If a surgeon in the health service were to take a decade to adopt modern and effective clinical practice, he or she would be found negligent. Similarly, if a nurse or health service manager were to take that amount of time to adopt good practice in relation to hygiene and infection control, I am sure that the Health Department and relevant regulatory bodies would have something to say about it. We should have something to say about the fact that a major department of Government is failing to do its core job.

Managers past and present, particularly those who are responsible for the performance management function of the department, have failed to undertake a core part of their work. People may think that the issue is one for anoraks or is purely of concern to members of the committee, but it is worth reminding them of the impacts of the deficiency. First, it means that we cannot have effective accountability in the political system. For example, it is an absolute nonsense that ministers have to stand up every time waiting list data are released to explain all sorts of caveats and give clarifications about what the figures tell the country and how they reflect what is really going on in the health service. That is unacceptable.

The second impact is an issue that the committee has discussed previously. If the wrong data are collected, performance in the health service is driven in the wrong direction. Old practice is being measured and, de facto, being rewarded and recognised at every level of monitoring and accountability in the health service, which means that there are no drivers in the system to put in place effective, modern clinical practice and to incentivise meaningful service

redesign. The issue is fundamental to the wider question that the committee and the Parliament have addressed several times—and, no doubt, will return to—about how to improve and modernise performance in the health service.

I return to my request for a written report on what is happening with data collection at present and what will be done in future. Can colleagues or the Auditor General advise me of any further work that can be done on the issue? I will duck the Latin, but a question that has gone through my mind several times as the committee has considered the issue is this: who guards the guards?

**The Convener:** The Auditor General will comment once we have exhausted members' questions and observations.

**George Lyon:** I am amazed at the Health Department's response. In effect, the department admits that, although the present initiatives are changing fundamentally the way in which services are delivered in the health service—they are probably the biggest changes in the past 40 or 50 years—it has no idea of how to measure their impact or even of how to project the expected end results, such as the output from the system or what will be delivered for patients. I am utterly underwhelmed by the department's ability to manage what is, as Susan Deacon rightly said, one third of the Scottish budget, which will be £10 billion by 2007-08.

It would be useful to have the two written briefings that the department offers, but the committee must make a robust criticism of the department. The changes to junior doctors' hours and the pay modernisation systems are not new; they have been coming down the track for some time. It beggars belief that, despite repeated requests, the department cannot measure the costs or carry out any modelling to provide the committee with its views on the impact on the service. To be frank, the view that I have had since we started to investigate the matter, and which I still have, is that the department is flying blind.

**Mr Welsh:** I thoroughly agree with what members have said. We are dealing with an absolutely fundamental issue, but we do not have accurate statistics with which to look forward. Nor do we have performance information, such as information on how best value is used to measure success or failure. We have not had replies on either of those fundamental questions. We are probably dealing with a systemic fault. The committee would do a service to the whole community of Scotland if we pursued the issue further, investigated it and got to its root. We are asking people to improve their performance and to work out the correct way forward. The points that

members have made so far are absolutely spot on. I hope that we will get accurate advice about how to progress for the benefit of all.

10:45

**Mrs Mulligan:** I agree with Susan Deacon on the need for that information to be made available, and I share her concern that it could take even longer until we have it. In the short time that I have been on this committee, we have looked at two areas within the Health Department—community care and NHS Argyll and Clyde—from which it is clear that information is not always available to enable us to see why certain decisions have been taken and how matters are progressing. Without that basic information, it is difficult to examine issues from the audit perspective and to say whether policies are effective. It is impossible to take a clear view of the way in which policies are being developed and whether they represent value for money or whether they are costing the country more than they should do and are not producing the results that people are looking for. I agree with Susan Deacon and share her frustration that we have not been able to get a better response.

Ian Gordon's response to the committee is unhelpful to say the least; it does not provide us with the information that we need, and it does not recognise why we need it. The question seems to be, "Why do you want this?", as if the information is unimportant; that gives further cause for concern. Any suggestions from the committee or the Auditor General on how we can address the lack of information would be useful.

**Robin Harper:** One of the most powerful elements of Susan Deacon's argument was the possibility that large sections of the national health service could be being driven in the wrong direction as a result of lack of proper information and accountability. That rings a lot of bells for me. How do we get the Health Department to come up with a plan that will deliver within a time-limited framework of perhaps three or four years—or perhaps less—instead of a decade?

**The Convener:** Members have made powerful contributions. The letter is deeply disappointing. If someone is driving a car and they cannot see where they are going, they are meant to slow down and stop. The health service, however, is trying to go faster without being able to see where it is going.

I invite the Auditor General to comment on the letter, and to help us with the context of where we might go with regard to his forthcoming report on the NHS overview. In determining how we should react, we might take into account any publications that the Auditor General has coming out, and our available meetings, so that we can take those

publications into account. The offer of briefings is in the letter, but if further information is going to be available to us from the Auditor General, we need to be aware of it and to take it into account.

**Mr Black:** The next report that I shall lay in Parliament is the financial overview of the NHS for the past financial year 2003-04, which will complement the overview of the performance of the health service that we laid in the summer. The financial overview will be out within a few weeks, and it will be available to the committee early in the new year as a basis for further evidence taking from the accountable officer of the Health Department, if the committee so wishes.

The overview report will mention pay modernisation and the costs that are associated with it, which will provide the committee with the opportunity to ask questions of the department on the basis of my report. That might be an opportunity for the committee to take formal evidence from the accountable officer and possibly one or two others, such as Mike Palmer, and for the evidence to be recorded in the *Official Report*. That would be helpful as a future reference point. That opportunity will be available in the new year.

I welcome the project to develop better information on the health service. As members will recall from the performance report that we prepared in the summer, the biggest problem that we had was a lack of reliable data with which to measure performance in some key areas. We found occasionally that the reported information did not tie in well with the analysis of what was happening in the health service. We welcome the fact that the department is pushing ahead with that.

In a sense, the department is in a difficult place because it is arguable that the whole area should have been addressed much earlier than it has been; I think that that is the sense of Susan Deacon's comments. I am not really in a position to comment on policy matters relating to such issues. Barbara Hurst is generally aware of what is happening in the department and if it would help the committee, I am sure that she could give a general indication of her understanding of how that work is going.

**Barbara Hurst (Audit Scotland):** The committee knows that a data deficit project has been going on for some time. In the main, the project has been examining data on out-patient work and the different health care professionals' activities in that field.

I am aware that the information and statistics division of the health service has been preparing a draft report on its work on identifying the current gaps and trying to put together proposals for filling those gaps. I think that that report is due to go to

the Health Department shortly. If the committee wanted to pursue its understanding, it might want to take up Susan Deacon's idea of getting a summary of that work; I am not suggesting that the committee go for the whole report, because it is quite detailed. The report outlines what ISD is doing, where the gaps are and what it proposes to do. The ISD is pushing quite strongly for the Health Department and health boards to take ownership of that issue as well.

**Susan Deacon:** For clarification, can Barbara Hurst explain the respective roles and relationships between ISD and the Health Department with regard to this exercise? The performance management unit in the Health Department might be called something different now, but where do the responsibilities lie for analysing that work and driving it forward?

**Barbara Hurst:** You would probably have to ask the Health Department for the definitive answer on that. As I understand it, ISD has been taking the lead on finding the gaps in the information, but it has also been working with the department's performance management people. However, ISD feels that there might be an issue about who is driving the project and who owns it.

**Robin Harper:** I have another question, although I would accept it if you were to say that you cannot answer it yet because of the lack of information and the apparent confusion. If there were maximum investment and commitment, what would be a reasonable timescale to stipulate, within which the situation would have to be sorted out?

**Barbara Hurst:** I feel that that question puts me on the spot.

**Robin Harper:** That is why I apologised in advance.

**Barbara Hurst:** There is a legitimate need to ensure that the work is done properly and that will take time. However, the frustration that has been felt by the committee and others is not really appreciated in terms of the proposed timescales; I suppose that I am wriggling out of answering the question directly, but I suspect that the eventual timescale will be shorter than the one that is currently proposed.

**George Lyon:** I think that we have gone as far as we can in burrowing into what is happening in the Health Department.

After the December 2003 report was published, we issued a report in which we asked many probing questions; we were not sure whether we were dealing with misinformation or whether the information just did not exist. That report contained a series of questions to the department. We now know fine that the information does not exist. The

committee is deeply concerned about the Health Department's ability to manage the service with any strategic direction. The department does not even have in place the basic reporting systems to allow a strategic direction to be laid out.

The time has come for the committee to decide to issue a short report that is based on the August 2004 overview report and which lays out our concerns. Two new ministers are in place and I expect a new accountable officer to be put in place. I suggest that that will provide an excellent opportunity to push them in the right direction and to flag up the committee's genuine concerns about the Health Department's ability to manage the health service. It is clear to all of us that the department has been found wanting on several matters. It is time to put that on the record and to push it, in order to speed the process of overhauling the department and enabling its systems to support proper strategic management.

**The Convener:** I was keen to have an idea of the context, because we have an inquiry in the next month on NHS Argyll and Clyde, which will take up some days of business. In December, Audit Scotland will publish the financial overview, which is a development from the previous overview. We also have an offer of briefings. We have deep concerns about gaps in information, to say the least, and we have a working knowledge of our likely commitments in January.

What is the committee's reaction to the idea of briefings? Given that other reports are to be published, should we ask for both written briefings? If members are unhappy with that, we can discuss it. We will consider later in private aspects of our agenda for our meeting on 11 January, which will be our first of the new year. If the financial overview report is published in December, we could put it on the agenda for our meeting on 21 December, but I would be concerned about rushing to consider the report and having to pick it up again after the break.

The document will be laid before Parliament before we break up, but the Auditor General could deliver evidence to us on 11 January, which would allow us to consider our reaction, taking account of George Lyon's proposal. We could pull in all the evidence—the financial overview and the written briefing that is being offered to us. After that, we could decide about writing a report, which might concentrate on matters such as statistics and information gathering. Is that a reasonable way forward? Do members have any concerns that we would not proceed fast enough if we did that? Further information will come on stream for us.

**George Lyon:** I am happy with that approach, provided that we have the aim of producing a report towards the end of January that sums up the committee's concerns. That is the objective.

We will hear from NHS Argyll and Clyde and have the next overview report, plus an evidence session with whoever the new accountable officer is. Many strands need to be pulled together and we must aim to do that by the end of January.

A piece of work is needed that reflects the concerns that the committee expresses every time that we discuss the health service. Otherwise, we could continue to discuss those concerns week after week.

11:00

**The Convener:** I agree entirely. We need to see where closure comes for us to say definitively what we feel. I will talk the committee through the likely progress that we will make.

We will take evidence from NHS Argyll and Clyde, and we will take evidence from the Executive in January. In reaction to our discussions, it strikes me that it would be possible to consider having an evidence session with the Executive on NHS Argyll and Clyde. We would then need to consider having a second part to that evidence session, on the financial overview. The only alternative would be having people back a fortnight later. We would have to take advice about that, but that approach would make sense if it is possible to do both things, perhaps with a break in between. I recognise the pressures that we would put on the clerks through having to write up and produce two reports. I suspect that we might see—I detect a feeling that we might want to see—a report by the committee on the Health Department coming out before the report on NHS Argyll and Clyde. Clearly, the question is how we can manage things. We must take that into account.

That said, although we can have all the evidence gathered in January, the report would be more likely to come out in February. If we are going to take evidence, I do not think that we can do things more quickly because of the break for Christmas and the new year.

**Susan Deacon:** I do not fundamentally disagree with what you say. I agree that, as a general rule, if one is going to do a report on anything, it is better to do it properly. I am happy to defer to the convener and the clerks, who can manage all the details of our schedule.

However, I have one comment to add. Is there anything that we can do now with a light touch to convey the point about urgency back to the department? One hopes that the department will pore over the *Official Report* of the meeting and take to heart the concerns that have been raised.

**Margaret Jamieson:** There is always a first time.

**Susan Deacon:** In case that does not happen, I wonder whether there is an appropriate mechanism that can be used to draw the department's attention to the discussion and specifically to the urgency. We are operating in real time. Big ticket announcements and debates about the shape of the health service will take place over the next few months. The fact that it is not possible to conduct those debates with an accurate and transparent picture of what is really going on in the health service in Scotland is a matter of concern. It would help if we could inject a note of urgency from the meeting.

**The Convener:** Partly because we seem to be discussing the national health service constantly, I appreciate entirely why members think that we are not making progress. We have produced reports and will produce more, but there is a sense of urgency.

I could write on behalf of the committee to Ian Gordon and refer to the *Official Report*. I suggest that we take up the offer of briefings, but say that we would prefer them in written form. On the statistical briefing, we should take up Susan Deacon's point and ask the department to discuss progress and not simply to give an idea of what statistics are being gathered. I think that the committee is concerned about the lack of progress or its ability to see any progress in the department. We should also inform the department that, subject to the financial overview report by Audit Scotland, we are likely to return to take evidence on a number of issues in the coming months. I hope that that will convey the committee's sense of urgency. Are members content with that proposal?

**Members** *indicated agreement.*

**The Convener:** Thank you. That discussion was helpful.

## Subordinate Legislation

### Public Finance and Accountability (Scotland) Act 2000 (Economy, efficiency and effectiveness examinations) (Specified bodies etc) Order 2004 (SSI 2004/482)

11:04

**The Convener:** Agenda item 5 is subordinate legislation. Members will recall that we discussed this order at our meeting on 23 November. No motion to annul the order has been lodged, and I am not aware that any members wish to lodge such a motion. That would require a further meeting of the committee and the minister would have to come before us.

Members will be aware from the paperwork that the Subordinate Legislation Committee saw no need to draw the Parliament's attention to the order. I therefore seek the agreement of members to report to the Parliament that the committee has no recommendation to make on the order. Is that agreed?

**Members** *indicated agreement.*

## Financial Scrutiny of Legislation

11:05

**The Convener:** Agenda item 6 is financial scrutiny of legislation. The committee is asked to consider a letter from the convener of the Procedures Committee on the financial scrutiny of legislation. The item should not take a great deal of our time, but I wanted to have it on the agenda so that we could formally note the conduct of the Procedures Committee.

Members will recall that one of our earlier tasks when members of the committee came back after the first session was to consider a report by Audit Scotland on the mainstreaming of special educational needs. That report drew to public attention the issue of changes that were made to proposed legislation at stage 2 and to the financial implications of such changes. That was of interest to the committee, but we were content to let the Procedures Committee discuss the issue, having written to that committee outlining our concerns about the degree of financial risk that amendments could have for the Executive.

Members will note that there are now some proposals to change the procedures. The proposals will be subject to parliamentary approval, but they would allow a change to be introduced in the financial memorandum if amendments made a significant change to the financial costs of the legislation. Without wishing to commit members, I think that they will at least appreciate that the Procedures Committee has made some proposals. I think that we should note those proposals and move on. Is that agreed?

**Members indicated agreement.**

11:07

*Meeting suspended until 11:30 and thereafter continued in private until 12:25.*



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