



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

PUBLIC AUDIT COMMITTEE

Wednesday 24 February 2016

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PUBLIC AUDIT COMMITTEE

6th Meeting 2016, Session 4

CONVENER

*Paul Martin (Glasgow Provan) (Lab)

DEPUTY CONVENER

*Mary Scanlon (Highlands and Islands) (Con)

COMMITTEE MEMBERS

*Colin Beattie (Midlothian North and Musselburgh) (SNP)

*Nigel Don (Angus North and Mearns) (SNP)

*Colin Keir (Edinburgh Western) (SNP)

*Stuart McMillan (West Scotland) (SNP)

*Tavish Scott (Shetland Islands) (LD)

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

*David Torrance (Kirkcaldy) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Professor Alice Brown (Scottish Further and Higher Education Funding Council)

Sarah Davidson (Scottish Government)

Paul Gray (Scottish Government)

Laurence Howells (Scottish Further and Higher Education Funding Council)

John Kemp (Scottish Further and Higher Education Funding Council)

CLERK TO THE COMMITTEE

Anne Peat

LOCATION

The David Livingstone Room (CR6)

Scottish Parliament

Public Audit Committee

Wednesday 24 February 2016

[The Convener opened the meeting at 10:03]

Decision on Taking Business in Private

The Convener (Paul Martin): Good morning. I welcome members to the sixth meeting of the Public Audit Committee in 2016. I ask all those present to ensure that their electronic items are switched to flight mode so that they do not affect the work of the committee.

Agenda item 1 is a decision on taking business in private. The question is, that we take agenda items 5 and 6 in private. Are we agreed?

Members indicated agreement.

Section 22 Reports

“The 2014/15 audit of NHS 24: Update on management of an IT contract”

10:04

The Convener: We move to agenda item 2, which is evidence on the Auditor General for Scotland’s report entitled “The 2014/15 audit of NHS 24: Update on management of an IT contract”. I welcome our witnesses from the Scottish Government: Paul Gray is the director general of health and social care, and Sarah Davidson is the director general of communities. I understand that Mr Gray wishes to make a short opening statement.

Paul Gray (Scottish Government): Thank you for the invitation to give evidence to the Parliament’s Public Audit Committee. As the accountable officer for the health budget, I both understand and accept the anger and frustration that the committee has expressed at the very substantial delays and cost increases associated with the NHS 24 future programme. I am very sorry indeed about that.

It is not my intention today to seek to deflect criticism or to seek to tell the committee what it should think about the evidence that it has before it already or the evidence that is presented today. However, I wish to provide the committee with as much information as I can in response to the questions that members raise. If neither Sarah Davidson nor I have the information readily to hand, we will provide it as quickly as possible after the evidence session.

I want to assure the committee that we are taking the lessons that have been learned from this process to heart. We have taken a number of steps, working with NHS 24, to ensure that it has access to the leadership and the skills that are required in order to bring the future programme into operation.

The appointment of Angiolina Foster as chief executive of NHS 24 has already been announced. We have commissioned the chief nursing officer, Professor Fiona McQueen, working with John Brown, chair of NHS Greater Glasgow and Clyde, and Jeff Ace, chief executive of NHS Dumfries and Galloway, to form an advice and assurance group in support of the implementation plan for the future programme.

I can assure the committee that the NHS 24 board chair, Esther Robertson, and the board as a whole are taking the matter very seriously indeed. NHS 24 has enhanced the governance over the future programme and has brought in additional

expertise to ensure that it is now implemented as effectively as possible.

I do not want to take up more of the committee's time with my opening statement. Sarah Davidson and I will be happy to answer the questions that the committee may wish to put.

The Convener: Can you confirm what your arrangement is and what the accountability structure is between you and NHS 24?

Paul Gray: I am the accountable officer for the national health service in Scotland and its chief executive. I delegate the budgets to the accountable officers of the 22 boards, of which NHS 24 is one. Each of the boards has an accountable officer, and I delegate the budgetary responsibility for the running of the board to those accountable officers. However, I am the accountable officer for the whole of the health budget.

The Convener: So, when there is a significant overspend of £41.5 million, as we have seen in the NHS 24 budget, you would take responsibility for that, would you?

Paul Gray: I would accept that that responsibility falls to me. It falls to the accountable officer of NHS 24, but I am ultimately accountable for all the budget of the NHS in Scotland. That is what I meant when I said that I am not going to try to deflect criticism. I accept that I am the accountable officer for the whole.

The Convener: For how long have you been the accountable officer?

Paul Gray: I have been the accountable officer since December 2013.

The Convener: So, you could say that, over the period since then, you have had significant dealings with NHS 24. That period seems to have been when the significant overspend started to develop. What kind of action did you take during that time? It does not look as if it has been that significant, given that the overspend has continued.

Paul Gray: I have a detailed timeline. I want to be mindful of the committee's time. How much detail would you like me to go into?

The Convener: It is okay—we are more than happy for you to proceed. It is a significant overspend of £41.5 million, so I guess that the public would want us to ensure that we take the time.

Paul Gray: All right—thank you, convener.

If it is okay, I will start from before I took up the role. In July 2010, the NHS Scotland capital investment group considered the programme initial agreement from NHS 24 and recommended that

an outline business case should be prepared, noting that it was to be funded from within NHS 24's own resources. I make the point that, in my view, the approach of going through the capital investment group was not the appropriate approach, and it would not happen now.

On 16 December 2011, the full business case was considered by the capital investment group and was approved on the basis that NHS 24 engage with other health boards. A contractual process was undertaken, and in March 2012 NHS 24 signed contracts with Capgemini for software for approximately £20 million, and with BT for hardware for approximately £55 million—that is the £75 million starting point.

The go-live date in June 2013 was delayed until September or October 2013—I will say October—because of issues with the performance of the clinical content system, which was the core clinical system supplied by a subcontractor to Capgemini. Basically, the system did not work with 600 concurrent users. In August 2013, the stage 4 gateway review was commissioned by NHS 24 and the programme got an amber rating. In October 2013, the go-live date was deferred again.

In January 2014, I met the chair and chief executive of NHS 24 and sought to understand the issues. Shortly after that meeting, the chair and chief executive alerted me to the fact that they had discovered that not only was the system not performing but the contract itself was incomplete. That was in January 2014.

In February 2014, we implemented our escalation process, following the mid-year review. That was the point at which we jointly commissioned Ernst & Young to report on the state of the system. That report was finalised in March 2014, and in April 2014 the then cabinet secretary, Mr Neil, met the chair and chief executive of NHS 24 to discuss the issues and was provided with substantial assurances on the steps that were being taken.

However, I did not consider that NHS 24 could proceed without an experienced programme director. We identified an experienced programme director, and that person was put in place in June 2014.

There is a lot of detail for the period between then and September 2015, which I will be happy to go through, but the core points are that in June 2014 there was neither a functioning system nor a contract, but by August 2015, when Ian Crichton came in as chief executive from NHS National Services Scotland, NHS 24 had worked with him and others in NSS who had expertise to get to a point at which there was both a functional contract, which could actually be enforced, and a system

that provided the functionality that was required. Throughout that period, we ensured that NHS 24 had the support that it needed from NSS to get to that point.

On 7 and 8 September 2015, a system dress rehearsal was conducted—basically, that is a full running of the system. That provided assurance from the staff who were operating the system that it was working successfully. NHS 24 had a successful test of business continuity and undertook a learning exercise from that. It switched on scheduled care services on 28 October 2015, and the scheduled care element of the system worked.

There was a failure, because of a breakdown in the external telecoms, but that was not to do with the core system. However, what became clear when NHS 24 moved to the out-of-hours element—as opposed to the in-hours or scheduled care element—was that although that element functioned effectively in testing, there had not been enough investment in training staff. Staff were not sufficiently familiar with the system to operate it at the speed that was required to give the turnaround to patients who were calling in.

I went to NHS 24 to see the system in operation, so I can vouch for the fact that it works. Equally, I can vouch for the fact that I saw staff who had had insufficient training struggling to operate the system at the rate at which it should be operated. I am being completely honest, convener. I see no point in trying to hide any facts here.

At that point, a clinically-led decision was made that although the system was operating effectively, because it could not be guaranteed that the required turnaround for ill patients would be provided, NHS 24 would revert to the old system and carry out further testing and training.

I can give you a considerable amount of extra detail about what we did in the interim period, if the committee would find that helpful, but that is the broad summary to October 2015. Subsequent to that, the committee has had access to the lessons learned report and has heard the evidence from Ian Crichton and John Turner.

10:15

We have now put Angiolina Foster in place as the chief executive. Angiolina has considerable experience in running organisations, particularly organisations that have gone through periods of difficulty, which is why she was selected. One of the members of the assurance group is John Brown. Before he took on the role of chair of NHS Greater Glasgow and Clyde, he had experience in the operation and turnaround of major call centres.

The Convener: Thank you. We do not normally give witnesses such an extended period to respond, but given the concern and the significant sums that we are talking about, it was helpful to do so.

You have referred to the three-year period for which you have been responsible as the accountable officer. One of the actions that you took in that period was to encourage NHS 24 to employ a programme director. Is that correct?

Paul Gray: That is right.

The Convener: Is that not something that the chief executive of NHS 24 could have considered for themselves? Does it need Paul Gray, the accountable officer for the NHS nationally, to lay out the kind of discussion that should take place? Is that the level of detail of your involvement?

Paul Gray: To answer you frankly, that level of involvement would not normally be required. I would expect a chief executive of a health board to see that through. However, what we were able to help with was finding the right person from somewhere else in the NHS and expediting the process so that they were in place quickly.

The Convener: When was the programme director appointed?

Paul Gray: That was in June 2014.

The Convener: Significant losses were still incurred despite the appointment of the programme director, so it did not have the desired effect.

The issues that you referred to were the need for a programme director and staff training. Where is the connection? You said that the system was delivered, but that there was an issue with the staff being trained to operate it. Given that the appointment of the programme director was made in 2014, the recommendation that you made to the organisation did not have the desired effect, did it?

Paul Gray: It had some of the desired effect, but it did not have all of it. That plus all the other assistance that we provided had the desired effect of getting us to the stage of having a viable contract and a system that functioned.

I would like to speak about one of the lessons learned, which is in two parts. Part 1 concerns what in contracts and information technology systems is called optimism bias. The initial contract had a degree of optimism bias. In other words, it was optimistic in its prediction of how complicated the new system would be and how much it would cost. It did not include an allowance for inflation and it did not include any contingency. Again, I believe that both of those decisions were wrong.

Part 2 is that, if a system is tested using the most experienced staff with one-to-one support from experts, it will inevitably be better and faster than it will be when there are less experienced staff with less direct support. For example, when I was in NHS 24 on one occasion, the ratio of staff to support was 25:1—in other words, there was one person supporting 25 staff. NHS 24 misjudged the amount of training that would be needed and it took too much confidence from the effective running in testing.

The other point to make is that the system was tested on one site, but it runs across multiple sites. Systems that run across multiple sites never perform exactly the same on every site.

The Convener: You have confirmed that you are the accountable officer. Ultimately, you are responsible for the £41.5 million. Is that correct?

Paul Gray: I am responsible for the £13 billion that the NHS has. However, the decisions to increase the funding for the programme were taken within NHS 24.

The Convener: We will come on to that.

Paul Gray: Therefore, I did not allocate additional funding from within central funds for the programme.

We agreed brokerage, but that is to be repaid. I did not go to the finance director for the NHS in Scotland and say, “Could you please give NHS 24 another £41 million?”

The Convener: You are responsible for the oversight of the leverage.

Paul Gray: Absolutely.

The Convener: You have appeared before the committee on other issues concerning leverage. We are talking about an organisation in which there has been an overspend of £41.5 million. It is an organisation that has cost the public purse significant sums of money, which have been spent not on the delivery of services on the front line but on an overspend, which the public do not see—what they see is cuts that are being made locally. Cuts of £69 million are being made by the health board for the area that I represent.

That £41.5 million of overspend could have been prevented. You are the accountable officer who is responsible for that. Do you not feel that you have let down the Scottish Government by allowing the overspend to take place over the past three years?

Paul Gray: I have been the accountable officer for two years and two months, but that does not alter the fact that, ultimately, I am responsible for the total sum. The decisions that were taken in relation to what got us here were taken before I was the accountable officer, but I am the

accountable officer now and I accept responsibility.

Mary Scanlon (Highlands and Islands) (Con): Far be it from me to correct the convener in our second-last meeting, but I note that Audit Scotland now says that the final cost is likely to be £125 million. Given that it started off at £75.8 million, we are now talking about an overspend of £49.2 million—is that correct?

Paul Gray: That is potentially the overspend, depending on what the ultimate implementation date is.

Mary Scanlon: I do not like to exaggerate; I always like to present my case on the basis of fact.

The convener made a point about cuts. I looked at my emails this morning and there is a woman up a Highland glen who cannot get two hours of integrated home care a day from NHS Highland. The cost of that care is about £20 a day. I look at that and think, “Oh gee, what can I do?” NHS Highland and Highland Council are up against a wall with the cuts.

Mr Gray and Ms Davidson, do you understand how angry members feel when we have to look constituents in the eye and say, “I’m sorry your mother cannae get care to get her out of bed in the morning and back to bed at night,” even though the cost of that is only £20 a day? Then we come here and learn that the common agricultural policy futures programme IT system is £70 million over budget and that we are £50 million over budget here. Those figures just slip off the tongue, but the reality is that the cuts out there are horrific. Do you really understand how angry and frustrated members of this Parliament are about the constant overspends on information and communication technology?

Paul Gray: I do, Ms Scanlon. I sought to acknowledge that in my opening statement, and I meant it—I was not saying it for effect.

Mary Scanlon: I appreciate that. I have always taken you at your word—you are one of the very few whom I respect, Mr Gray.

Tavish Scott (Shetland Islands) (LD): I would leave now.

Dr Richard Simpson (Mid Scotland and Fife) (Lab): Quit while you are ahead.

Mary Scanlon: I intend to come back to you giving your word here a few years ago, but, before I do so, I point out that we have been here before. In August 2012, in its report entitled “Managing ICT contracts: An audit of three public sector programmes”, Audit Scotland said that the Scottish Government was “unable to provide” the advice that Registers of Scotland, Disclosure

Scotland and the Crown Office and Procurator Fiscal Service sought, so it did not do too well in that regard.

Despite all the recommendations that were made in 2012, "Managing ICT contracts in central government: An update", which came out three years later, in 2015, tells us that, despite not being able to get staff for IT, the Scottish Government

"did not perform a skills gap survey across the public sector until August 2014."

You were so worried about ICT and staff that it took you two years to do a skills gap survey.

I turn to your letter to the committee from October 2012, which is three and a half years ago. As the accountable officer, you told us that a

"strategic review of current ICT skills availability within central government"

was to be carried out. We all sat here, naively, taking you at your word. You then went on to say that "Scotland's Digital Future" set out plans to develop the workforce and ITC skills and that you were working on an action plan to ensure that the central Government ITC workforce would be in place by March.

We received the next Audit Scotland report in June 2015. I do not know whether Audit Scotland is as angry and frustrated as I am, but it keeps coming up with reports and we are no further forward. Part 1 of the Auditor General's report says:

"The Information Systems Investment Board's role was to oversee the implementation of the framework but it did not have sufficient information or capacity to perform this role effectively. It did not receive all the ICT investment and assurance information required from the Scottish central government".

That is your role as the accountable officer, but you are getting very little support from what I can see after nearly five years on the Public Audit Committee. We are not even looking at the CAP futures programme IT system, which is £70 million over budget.

What you set out nearly four years ago was intended to ensure that the problems with Registers of Scotland—which were minimal compared to this—would never happen again. How can we take you at your word today?

Paul Gray: When I gave evidence to the Public Audit Committee in my previous role, I told you honestly and as clearly as I could what I expected to happen. What actually happened—Sarah Davidson may have further information to provide—was that, when the skills survey was undertaken, it did not produce the results that were necessary to allow us to take a coherent approach, so we did something else.

Mary Scanlon: It took you two years to do it.

Paul Gray: I accept that. I am not disputing what you say, Ms Scanlon; I am simply saying that the skills survey did not produce something that would be effective in allowing us to tackle the problem, so we took a different approach. Does the committee wish to hear from Ms Davidson what that approach was?

Mary Scanlon: I am putting all the blame on you, Mr Gray. What responsibility does Ms Davidson have for the £50 million overspend?

Paul Gray: On NHS 24?

Mary Scanlon: That is what we are talking about.

Paul Gray: That responsibility is mine.

Mary Scanlon: What is Ms Davidson here for, then? What is her role?

Paul Gray: To put it simply, she is here because the committee asked her to come.

Mary Scanlon: What responsibility does she have?

The Convener: Perhaps that should come from Sarah Davidson.

Sarah Davidson (Scottish Government): I have responsibility for the assurance framework that governs the central Government sector, which is similar to but different from the assurance framework that governs the NHS. I have responsibility for the digital transformation service that supports the central Government sector. Therefore, the skills gap survey that Ms Scanlon alluded to a moment ago is my responsibility. The arrangements that we have put in place to respond to what we learned from the skills gap survey, which did not take place as early as it should have done, as I acknowledged the last time that I was here, are also my responsibility.

Mary Scanlon: It took two years. Just so that we can get through this today, can you tell us what responsibility you have for the £50 million overspend on NHS 24 ICT?

Sarah Davidson: None at all.

Mary Scanlon: Okay.

The Convener: For the record, the request was made for Ms Davidson to attend the committee in relation to the skills gap, as there was a discussion at a previous meeting in response to that. There will be other questions for Ms Davidson.

10:30

Mary Scanlon: Yes, I am sure there will be.

Let us return to Mr Gray. I found it hugely concerning that you said that staff needed training.

Are you saying that the ICT failure was partly due to a lack of staff training? We understand that the revised framework that was introduced in April 2015 provided “clearer instructions and guidance” and that the assurance framework, for which I think Ms Davidson was responsible, “lacked clarity”. What were you saying about the staff? Were the staff not fully trained? Did you not give them full training in the IT system?

Paul Gray: In the future system—

Mary Scanlon: There are so many systems, I do not know—

Paul Gray: The training that I was talking about was for the NHS 24 future system. All the staff who used the system were trained in using the system. However, the training was not sufficient and the support that was provided when they were using it in live operation turned out to be insufficient. That is what happened in that particular case.

Mary Scanlon: That is pretty disappointing. That is also what the Auditor General says.

One final question bothers me. In April 2012, it was an NHS 24 member of staff who discovered that some of the negotiated sections were missing from the signed contract. That is pretty poor. It was nearly two years later before the chief executive and the director of finance were aware that what they had negotiated was not in the written contract. Did that member—or those members—of staff employ the services of Pinsent Masons between April 2012 and January 2014 in order to renegotiate the contract without your knowledge and without the knowledge of their director of finance and their chief executive?

Paul Gray: I do not know the answer to that question, Ms Scanlon. I do not know the specific member of staff by name.

Mary Scanlon: Are you aware that it was a member of staff who identified that some of what had been negotiated was missing from the written contract that had been signed? Are you also aware that the director of finance and the chief executive of NHS 24 were not made aware of the missing terms in the contract?

That led to an action in the Court of Session, to having to pull out of the Court of Session and to huge embarrassment for the Government and the civil service in Scotland. At the end of the day, Capgemini was right about the contract, and it would appear that it was fulfilling its written terms.

Paul Gray: I am aware that knowledge of the deficiencies in the contract was with staff in NHS 24 some time before the chief executive and the chair were told.

Mary Scanlon: It was nearly two years before.

Paul Gray: I cannot say that absolutely, Ms Scanlon, but I do not dispute it.

Mary Scanlon: Audit Scotland has said it.

Paul Gray: I am happy to accept that. I am aware that the chair and the chief executive did not know until January 2014. I met them in early January 2014, and at that point we were talking about the deficiencies in the performance of the system. When I met them again in January 2014, they had become aware that the contract itself was incomplete. I can confirm that they did not know until then, and I am happy to accept Audit Scotland’s evidence that someone in NHS 24 knew in 2012.

Mary Scanlon: In terms of project management, not only did you not know that part of the verbally negotiated contract was not in the written contract but NHS 24 did not do a page-by-page check, so it did not even know what was in the written contract that it had signed.

Are you not concerned that not only did you not know that NHS 24 was running towards a £50 million overspend but the director of finance and the chief executive did not know? A member of staff employed a leading legal company to try to negotiate the contract and you, the director of finance and the chief executive were unaware of it. Does that not cause you a bit of concern?

Paul Gray: It causes me grave concern.

Mary Scanlon: Are you sorting that out for the future?

Paul Gray: Convener, I could give a substantial answer to that question if you wish, but I am happy to be guided as to the committee’s time.

The Convener: Please give as brief a response as you can with as much detail as possible.

Paul Gray: An organisation in which a member of staff knows something of that significance and does not escalate it immediately to the board is a dysfunctional organisation. It is therefore my concern to ensure that no organisation for which I am responsible behaves in such a way that a member of staff feels that they cannot escalate an issue of that significance to the board. That is as brief an answer as I can give.

Mary Scanlon: That is fine. Thank you.

Dr Simpson: I find interesting the material that we have had today from Lee Evans about IT, in response to other questions. He says that NSS has considerable experience and that

“NHS organisations in Scotland already work collaboratively in the commissioning, procurement and implementation of IT systems within an established eHealth Governance framework.”

If we have an “established eHealth Governance framework”, what was it doing in relation to this particular contract? One of the problems with the NHS as a whole has been, and is still, that we have allowed NHS 24 and, indeed, all 22 boards to go off and commission IT themselves, although they do not have the experience to do that. For example—referring to the Health and Sport Committee’s 2010 report on clinical portals—one result is that we still have a major problem five years on with access to clinical portals between different boards. My questions to the Government on that, which have been answered, demonstrate that clearly.

For as long as I have been in Parliament—I include session 1—we have had a pretty dysfunctional system for IT procurement. I am not convinced that we have got any better at that.

I will move to the other point that I want to make. Why do we have to employ Pinsent Masons to do the legal work for the contract, when Lee Evans states in his report to us that

“NHS National Services Scotland (NSS) has considerable procurement expertise and works with and on behalf of NHS Boards providing, for example, contract management support and legal services”?

We have spent £500,000 of Government money on a private firm whose software did not upload the tender document properly, and which then advised somebody on the board that that is quite common. I find that alarming. It said, “This happens all the time—we’ll just have a memorandum of understanding and it’ll be okay.” Then, it repeated the mistake. Why are we employing external people?

The Government, with all its different bits—not just the NHS—is a pretty big procurer of IT. Why have we not got a core legal service, a legal framework and core expertise in IT that allows every programme of procurement to be directed to an oversight board that examines it at every step of the way? I include call centres in that. We have call centres for the police, for the fire service and for the NHS. Why do we not have that expertise?

The Convener: I ask colleagues to try and keep their questions as succinct as possible. That will ensure that we get answers.

Paul Gray: What happened should not have happened. There is no nicer way to put it. NHS 24 should have used the expertise that is available in NSS. We have now instituted with the chairs and chief executives an approach that we call “once for Scotland”, which says that, if boards are doing certain things, this is how they must do them—they cannot just go off and make personal choices about what might suit, but are obliged to make use of the available skills, capability and experience. If the board chooses not to do that, the accountable

officer must explain why. There may be circumstances in which not enough resource is available centrally—NSS can to procure that resource through its contracts.

How do I put this? I sought to persuade NHS 24 to use NSS, but I quickly gave up on that approach and simply told it to do so. That is as brief an answer as I can give you.

Dr Simpson: That is helpful. The problem is that boards can go and do things themselves. I know that we have tried to prevent massive expenditure on a centralised records system, for example. Look at what happened in England: billions of pounds were wasted there. We have avoided that. However, we now have a fragmented system that is totally dysfunctional between boards. If a person uses one board area, they are probably okay, but if they have to go from NHS Fife to NHS Tayside, for example, the Tayside clinicians will not have access to basic information, such as Scottish care information lab stuff. We are five years on from the Health and Sport Committee’s telehealth report.

The fact that you stepped in and did what you did is very welcome, but should the boards not have to account to you, as the accountable officer, at every step of the way if they do not go down a certain route? An example is that the 14th board is not procuring TrakCare—one board. Why is that board being allowed to do that and to have a system that is not compatible with those of every other board?

My question is really about how you are controlling things. What reporting mechanism to the centre is there that would prevent, at each step of the way, a dysfunctional system?

Paul Gray: In January this year, responsibility for the e-health programme overall transferred to John Connaghan, who is the chief operating officer. It was a deliberate step on my part to put that under the aegis of the chief operating officer. In other words, it is concerned with the operation of the health service as a whole. I have asked John Connaghan to provide me, by the end of March, with an analysis of all the major ongoing programmes and the risks that are associated with them, with particular reference to the points that I mentioned to the convener earlier.

I am referring to programmes in which we think there may be optimism bias: we hope that the programme will work, but we are not absolutely sure, or we hope that it will cost a certain amount, but experience tells us that it probably will not. When I was a member of the infrastructure investment board in the Scottish Government, one of the starkest pieces of advice that we got, via the Scottish Futures Trust, was that, in some capital building programmes there is optimism bias of 40

per cent. In other words, the outturn cost is underestimated by about 40 per cent.

I was the chief information officer for the Scottish Government, where my analysis was that optimism bias in IT programmes ran in the range of 20 to 25 per cent—we routinely had to build in about 20 to 25 per cent contingency. We did not just say, “That’s a pity, but we’ll wait and see what happens” because there was evidence for what would be likely.

Dr Simpson: I asked a question about a gateway report in Parliament and was told that they are not Government reports. Can somebody explain to me what gateway reports are about? The particular gateway report that I mentioned highlighted an example of best practice, although there was an amber alert related to possible delays. What are gateway reports? Are they the mechanism by which the Government’s central body looks at what is going on with projects being run by individual health boards or other organisations, and confirms that a programme is on time, that the optimism bias is acceptable, that it is being developed appropriately and that the correct training is being put in place?

Paul Gray: As I understand it, gateway reports consider governance and contractual arrangements. On the face of it, that appeared to be sufficient. I am seeking to answer the question cautiously. A number of gateway reports have been excellent and insightful, and I do not want to undermine the gateway process in the eyes of the committee, because I think the process is valuable.

However, for a programme of such complexity as the one that we are discussing—and one that is reviewed once every 15 years—my analysis, which I have conveyed, is that a review or report would need to be done by individuals who have experience in similar systems of similar complexity. That was not the case in this review report. If a gateway report is to make sense, it must be carried out by people who have sufficient experience, seniority and capability.

10:45

The review process ran over about two days. Again, there is a question in my mind about whether, with a programme of such scale and complexity, that would do any more than simply give a top-level set of assurances. Your points about deeper assurance are germane, in that context.

Dr Simpson: Can I ask for information that would be sent to us later on?

The Convener: Briefly.

Dr Simpson: Can we have a note from Sarah Davidson or Paul Gray on all the costs of external consultants that had to be brought in on any IT projects, such as PricewaterhouseCoopers and Ernst & Young? The Ernst & Young costs were not in the latest report. We have spent three quarters of a million pounds on external consultants on this one project. I know that the projects are not all NHS projects, but can you relay my request to the appropriate information officer?

Paul Gray: We can do that. If it helps, I am happy to tell the committee now that the cost of the Ernst & Young report was £58,700. If the committee wants information on every single IT project in the public sector, that will be a massive piece of work, so is there any context that the committee would want to put around the request? We will do that if that is what the committee wants, but I want to alert members to its being a substantial piece of work.

The Convener: We will come back to you with further details on that.

Colin Beattie (Midlothian North and Musselburgh) (SNP): I do not think that we can look at the issues around NHS 24’s IT problems in isolation, because they are part of a broader issue about Government ICT procurement. I am sure that our successor committee will want to pursue that matter.

There are all sorts of problems here about industry, skills shortages and how the whole service is managed. We are looking back at all the problems, but we still have a service to deliver to the public. Will you give us assurances about delivery of the service? What are the milestones and what reassurance do we have that those will be adhered to?

Paul Gray: That is a fair question. I would like to allow the incoming chief executive, Angiolina Foster, to review the lessons learned and to come to a view, with the support structures that we have put in place, on the likely implementation programme. I have heard nothing so far that takes me away from believing the proposition that the system will be implemented by the summer, but I want to give the new chief executive the opportunity to review what has been done so far and to assure herself, given the expertise that we have put in to allow her to get that assurance, before giving absolutely fixed points in time by which certain things will happen. I hope that the committee will understand that that is a reasonable stance to take.

Colin Beattie: With hindsight, did we choose the right system for NHS 24? Is it overly complex?

Paul Gray: Those are two separate questions. Let me, as a way of saying that I think that it is a suitable choice, give you a brief description of

what the system will do. It will allow emphasis to be placed on triage rather than on consultations; in other words, patients will be fully assessed and sent to the most appropriate service or provided with information as quickly as possible. The system will speed up that process and it will reduce the need for repeat questioning and duplication—folk get annoyed if they have to answer a set of questions and then have to answer virtually the same ones all over again. The system will reduce that. There will be a single sign-in for all staff to all the systems that they require, which will reduce the time that is needed for a call and make it safer.

The knowledge management system, which is used to signpost the services, will give real-time information on what services are available at the time of the call. In other words, a patient will not be signposted to something that is not available at that time of the day. That facility is an improvement.

There will be a single patient record for all services, so NHS 24 staff will immediately know whether a patient has made an earlier call to the service in a different place. All that will be drawn together.

There will be improvements to the patient journey, and a modern IT platform will be provided on which new digital health and care services, such as video-supported services, can be provided. That simply could not be done with the existing platform.

The system is therefore appropriate for NHS 24.

Colin Beattie: Was the system built from the ground up? In other words, did we invent it ourselves, or did we take advantage of comparable systems elsewhere?

Paul Gray: The Arezzo core is a clinical triage system. It was not built from the ground up, but it had to be adapted to fit with all the other telephony and scheduled care services. It was built not quite from scratch; rather, it was built using components that already existed, but it is unique to NHS 24.

Colin Beattie: I presume that there is a comparable system south of the border. Was simply transferring that system here considered as a possibility?

Paul Gray: I cannot answer that, but I am happy to get that information for the committee, if it would be helpful.

Colin Beattie: I think that you said that you came in as the accountable officer towards the end of 2013.

Paul Gray: Yes.

Colin Beattie: At what point did you become aware of a problem with NHS 24?

Paul Gray: I became aware of it in January 2014, five weeks or so after I took the post.

Colin Beattie: When were the Scottish ministers advised that there was an issue?

Paul Gray: Let me go through my timeline. I can give the committee the assurance that I certainly advised ministers as soon as I knew. On what they were told before that, there was, for example, the stage 4 gateway review, which gave an amber alert. That was in August 2013; it would certainly have been drawn to the attention of ministers. However, I am not about to try to invent points at which ministers were told; I can simply tell the committee that I told ministers in January 2014. I cannot imagine that senior colleagues would not have told ministers before that; indeed, they would have known about the gateway report. That could not have not been known.

Colin Beattie: There is a great deal of talk about the increasing costs, which are substantial. You said that there was an optimism bias in IT contracts of 25 per cent or thereabouts.

Paul Gray: That was roughly the figure when I was involved.

Colin Beattie: You said that no contingency was built in, at all.

Paul Gray: No.

Colin Beattie: What is the 25 per cent optimism bias constructed from?

Paul Gray: When I was chief information officer, that analysis was based on reviewing a large number of systems, from small ones to great ones, and comparing the outturn expenditure with the planned expenditure. Of course, some of the amount is because of specification changes after the contract is let, which clearly increase the cost. However, that was an average that we worked to. If a programme came to us with no contingency having been set, we would send it back and say that a proper business case had not been done because no contingency had been thought about.

Colin Beattie: I presume that the overrun in costs is being met by brokerage.

Paul Gray: Yes.

Colin Beattie: Given that overrun, what are the implications for future service delivery and funding? Can that be coped with?

Paul Gray: It can. However, the convener and the deputy convener have made important points about that £50 million not being spent on something else. I accept that point. It will not bring the NHS in Scotland to its knees, but that £50 million could have been spent on something else.

Tavish Scott: Thank you for your frankness this morning, Mr Gray. On your final point, you say that this will not bring the NHS to its knees, but I was told last night that NHS Shetland is facing cuts to primary care—general practices—of £300,000. That is going to be pretty damaging. That £50 million could have helped the Highlands, the convener's constituency and all our constituencies. Some things will be brought to their knees because of the NHS 24 IT failure, will they not?

Paul Gray: It is £50 million that could have been spent on something else—I am not going to try to argue my way round that. However, it is not that we took money from the primary care budget or from another board; in effect, it is £50 million that NHS 24 could have spent on other things. It has not actually removed money from other places.

Tavish Scott: Can you clarify whether the £50 million overspend is on capital expenditure—on BT and Capgemini—or on training? I am a bit puzzled because, in your initial remarks, you rightly highlighted the failures of training. Is the £50 million—or whatever the figure currently is—split between those budgets? How would you like to break that down?

Paul Gray: It is largely on contractual payments. The training element is not a significant part of the overspend. Again, if the committee would like a detailed breakdown, I am more than happy to provide it.

Tavish Scott: I am sure that that would be helpful.

There is another thing that I would like clarified. You have mentioned, very fairly, the new chief executive whom you have appointed. Is that a permanent appointment, or is she coming in for a temporary period of time so as to take care of the troubles that are currently in the organisation, as I think you pointed out?

Paul Gray: The appointment of Angiolina Foster is to the end of this calendar year. That was deliberate rather than a happenstance. It seems to us and to the chair of NHS 24 that once NHS 24 is through its current set of issues and has a successfully implemented system—once it is a stable organisation—that will be the time to seek a permanent chief executive. At the moment, we have brought in a chief executive who is experienced at taking an organisation through a period of difficulty, but a particular skill set will be needed later for a steady-state organisation and that will be somewhat different.

Tavish Scott: That is fair enough. Is it your expectation that the new system will be operational in June, as we were told earlier?

Paul Gray: I have said the summer, so I am being slightly less—

Tavish Scott: A civil servant's summer is many months, Mr Gray. I seem to remember using that term in the past as well.

Paul Gray: My wedding anniversary is on 3 September, so it is always summer then.

Tavish Scott: So are we to take it that it might be operational by September?

Paul Gray: I am not trying to give the committee a hint. I am simply saying that I expect that the system will go live in the summer. I think that it is very important that it does, Mr Scott, because we will come to the winter and the busy period, with all the pressures that that places on us, and we really do not want to be—

Tavish Scott: The reason why I asked about the summer is that if the chief executive is leaving and you are recruiting in the autumn for a new appointment at Christmas or the new year, which—as you rightly just said—is the busiest time for the whole national health service, is that the right time to be making an appointment, given that pressure?

Paul Gray: What I do not think that we will do is create a further burden on NHS 24. If our new chief executive is appointed and cannot start until January, we are certainly not going to take the current one away.

Nigel Don (Angus North and Mearns) (SNP): Good morning. I would like to take this discussion up a level to ask some of the questions that are occurring to me.

If I can start with you, Mr Gray, I think that you implied just now that it is perfectly possible that somebody would bring forward a project that did not include contingencies. As a factory engineer 30 years ago, I would not have dreamed of putting forward a proposal that did not have the relevant contingencies. It would not have had contingencies only if it was something that was buyable off the shelf and I could take it off a price list. Why are we in a position where people are putting forward projects without contingencies?

Paul Gray: I do not suppose that it would be sufficient for me to say, "Well, I wouldn't." I was not a factory engineer, but I was an IT professional and I would never put forward a project without some level of contingency that I had assessed properly.

Why does it happen? It happens for three reasons. First, I think that people feel that it is very important to get all their estimates right the first time. We all know that that does not happen.

11:00

The second reason is that we are somewhat guilty of making people produce business cases that are not really business cases. What do I mean by that? I have described some of the benefits that the new system provides, but the business case for the new system is also that the old system is going to run out of support pretty soon. Frankly, if you are trying to construct a discounted cash flow that says that a new system will produce this much saving over this much time, you are always being pushed to make the cost as lean as possible so that the saving can emerge as quickly as possible. We need to get more sensible about business cases and say that the business case for this is that our building is going to fall down if we do not do something, so we need to do something; it is not because we will save £20 million over a period of time.

The third reason is that we place undue weight on very precise numbers. We need to look at a system in the round and look at the evidence that we have about what has happened in the past when people have tried to implement such systems. We have to look at the cohort of people whom we are serving and the cohort of people whom we are going to have to train and think hard about what they know and what it is going to take to get them into the new system.

One of the things that the training did not cover was what the new system did not do. That may sound like an odd thing to say but if you are used to a system that does one thing when you press button B and all of a sudden, when you press button B, it does not happen, that is a bit of a shock.

That all requires us to think in a contextual way about what it is that we are trying to implement. Once we have done that, we move away from what all the software and hardware will cost to what the total cost of implementing the system will be. Then we get a much better estimate of what the real cost is.

Nigel Don: Thank you for that exposition. I am wondering whether there is somebody listening who could tidy that up, write it on one side of a piece of paper and send it to every single civil servant, because you have just expounded how to get some intelligence into the process.

I am sorry, but that is how we should do these things. Why do your colleagues not understand that? What is the point of having a cash-flow analysis if they have not even built in the contingencies? That is obvious to those of us who look at these things. Why does the civil service not understand that? That is a question that you cannot answer, but maybe Alyson Stafford is

listening. I guess that my next question is for Alyson—forgive me, I mean Sarah Davidson.

Paul Gray: I think that Ms Davidson does understand. I will leap to her defence on this one.

Nigel Don: I am sorry; I picked the wrong name.

Can I come back to the general issue of governance? I do not want to get remotely personal about this, but I have been through a period on this committee listening to people explaining how a lot of projects have not worked very well.

Of course, a lot of projects have worked well and we have not covered them, which is part of Mr Gray's point about what systems do not do. We have been through a diagram that I think had nine different boards on it for the governance of such things. I am not the only member of the committee who has commented that that may not be a very good way of operating. However, what were the governance organisations doing while this was going wrong? What have the governance organisations learned to make sure that it does not happen again?

Sarah Davidson: Paul Gray will answer first and then I will answer the point more generally.

Paul Gray: You asked what the governance organisations were doing. I cannot speak in detail about what they were doing before I was in post. However, what I have said before—and I will repeat it—is that the way in which this was put through governance was not right. It did not touch the right bits of the governance organisations. That was part of the problem.

However, what the governance did in February 2014 was to act in relation to what we call our ladder of escalation. That is our process for escalating things. That ladder of escalation was what ultimately brought about the appointment of a new programme manager and the restoration of the contractual position. It meant that we got to a system that was at least functionally operational. From 2014, the governance stepped in and that produced some results, but it did not produce a system that functioned in November 2015. I am not trying to glide away from that point. The governance was there and when it operated, it produced a result. However, because the programme started off in the wrong place, it was not touching the right points of the governance as it went along.

There was internal governance within NHS 24. The committee has already explored some of that and Audit Scotland reported on it. As I have already mentioned, I am very anxious to understand whether there are systems being developed locally that have national significance but are not touching the governance in the way

that they should. That is why I have asked John Connaghan to do that work.

Sarah Davidson: Although NHS projects and central Government projects are managed within different frameworks, what they have in common—as Mr Gray has explained—is that the responsibility and assurance for them runs through the senior responsible officer to the accountable officer. In the central Government sector we have increased our focus on the need for escalation quickly through those systems so that we use the governance frameworks well—we can take from what we have heard this morning that the same is true for health in the light of the recent Audit Scotland reports. In central Government, we are also using the assurance framework to act immediately if problems are flagged up, rather than leaving them to be dealt with by individual organisations within their own assurance. That is the way in which the broader governance system can support the assurance that takes place within individual organisations.

Nigel Don: I will dig into this subject. If I am hearing you both right, you are suggesting that governance exists and the problem is pushed up to it, so that it is the responsibility of those who are aware of an issue to escalate it. Would it not be altogether rather safer if governance were seen as being an activity that went down and periodically dug deep enough to check whether there were problems? That is what governance is all about. We do not want to wait until the plane falls out of the sky before we check whether the routine maintenance of the engines is good enough.

Sarah Davidson: Absolutely. Within individual organisations in the central Government sector, I would expect the governance of an individual project to be doing exactly what you describe, Mr Don. Provided that things are going well, that type of iterative, virtuous-circle governance ought to keep things on track. The strengthening that we have put into the assurance system over the past couple of years is to pick up things in cases where that governance is not working as virtuously as it should, so that the problem does not just remain hidden in the local governance but is escalated to the senior accountable officer, or ministers if necessary, and action can be taken.

Part of what we want to do is to build a culture in which organisations and internal governance are far more comfortable with flagging up the fact that they have difficulties and need help, rather than thinking that they need to resolve everything themselves.

Nigel Don: Okay, but that is working against human nature, which is not about to change.

I have a letter here that is unrelated to the project, but it is about a performance board that

has been set up by the Government—I am sure that you will be aware of it. Looking down that list, I see that there are directors and two non-executive directors, but there is no personal information at all. I have no idea who the non-executive directors are, but I suspect that they are what we would describe as “usual suspects”. To what extent is there a real non-executive challenge within the organisations that you represent, which are rather important parts of the Scottish Government? To what extent are those virtuous circles able to be virtuous, with people asking the right questions and not just being on the golf course together?

Paul Gray: I do not play golf, which is probably a mercy for many people.

If I take NHS 24 specifically, I can tell you from personal experience that the non-executive directors are now exceedingly focused on their task and take it very seriously indeed. The non-executive members of the board have also been significantly refreshed—there are new members.

You ask a fair question, which is how we get the necessary level of external challenge so that we are not sitting comfortably assuming that it is all going fine while Rome is burning. The answer is that we go through pretty careful selection processes to appoint non-executive directors. I have certainly been faced—quite properly so—with some pretty uncomfortable challenge to what I do and how I go about it. I do not want to name names, but I assure you that I have a number of non-executive colleagues on the health and wellbeing audit and risk committee who are completely fearless in asking questions and are not too worried about whether I like them. That is absolutely right, and I do not think that the non-executive directors who have been asked to take part in the broader sphere of the performance board will do so in an automatic or anodyne way.

Nigel Don: I was not trying to pull you up on that. My point was simply that there are only two of them. They can be the finest available, but if they are seriously outnumbered, they can quite easily get overwhelmed.

Sarah Davidson: I will add one point about the investment that we have been making in the digital transformation service, which again relates to the central Government sector but will be available to health. The service provides other individuals who can stand separate from executive responsibility in an individual body while bringing quite a deep expertise in the structure and delivery of the digital transformation programmes and IT projects, and who are able to ask the kind of questions—or to support non-executives in asking questions—that will get to the heart of the matter. That is another contribution that we can make to the analysis.

Nigel Don: Have you reflected at all on the general governance structure on which we have commented previously, which seemed to be very complicated? It suggested to me, from my experience elsewhere, that people would just be having meetings, as there would be so many people that they would have to hold a meeting to decide when the next meeting would be.

Sarah Davidson: There is an important distinction between the governance of individual projects and programmes and the governance of the Government's overarching digital transformation strategy. The latter is about ensuring alignment—for example, the overall digital transformation sponsor board ensures that all sectors across the public sector are developing public services in a digital way that aligns with the vision for that. That task is quite different from the governance of individual projects and programmes.

I am satisfied that the former does not contaminate the latter—in other words, that the landscape that is required to engage in the more reflective piece of alignment is not getting in the way of the good delivery and management of individual projects. However, as I think I said when I appeared before the committee in the autumn, and as the permanent secretary iterated at Christmas time, we are going to review the overall operation of the assurance framework—and necessarily the governance that goes with it—in spring or summer this year. We will take stock of that, and take on board the views of those who are involved as to whether they feel that it genuinely hinders or helps them to achieve what they are trying to achieve.

David Torrance (Kirkcaldy) (SNP): My question is directed at Sarah Davidson. Are we going to ensure that the skills and expertise are there in future ICT contracts so that we are not back in the same boat two years later with people sitting in front of this committee? It was interesting that you said that issues were flagged up when organisations needed help. Should we not have the correct procedures and expertise in place at the beginning of the contracts, rather than having people come running to flag up that they need help and are in trouble?

Sarah Davidson: Absolutely. The way in which the assurance framework and the transformation service—which is the skills service—work together is intended to do exactly that. In the central Government sector—I am sure that there is a parallel process in health—a particular part of the sector will, if it decides that it needs a particular project, be required to engage with the office of the chief information officer in Government and to have the initial proposition assessed by that office in order to determine—picking up all the points

that we discussed earlier with regard to contingency and other aspects—whether the budget looks right; whether the right skills are in place to deliver a project of the scale and complexity that is envisaged; and whether the timescales that are envisaged are realistic.

If any of those points is deemed to be inadequate, the project will get an amber rating. If more than one of the points is deemed to be inadequate, the project will get a red rating. That triggers the active involvement of the office of the chief information officer, which will work with the project and programme management centre of expertise and the digital transformation service to remedy the issue, or—more correctly—to support the SRO and his or her team, and the accountable officer, in remedying it.

When I was last at the committee, the digital transformation service was only in its first weeks of operation, but already, in the quarter since then, it has staffed up considerably, has applied exactly that type of support to projects at inception stage and is currently working with, I think, five organisations at early business case stage to identify the skills that they need. If they need skills, the service will help them to go and get those skills from the market.

11:15

That is absolutely what we need to be doing. Envisaging, as we are at the moment, the increased responsibility that comes with the devolution of additional powers, some of which will require significant IT and digital capability, we are already thinking about the skills and the types of individuals that we will need to find from the market to ensure that we can deliver those powers well. In doing so, we absolutely learn the lessons of projects that have gone well and those that have not gone so well in the recent past.

Stuart McMillan (West Scotland) (SNP): Mr Gray, you spoke about the staff training being insufficient. Before I was elected to Parliament, I worked in a private sector organisation, and a huge change took place in software implementation. It was quite a feat. Our department doubled in size even though software is supposed to facilitate matters and make things a bit easier. The point that struck me then also strikes me in relation to the NHS 24 contract, and it is about staff accessing training. With the numbers of people who work at NHS 24, not everyone will be able to go to training at the allotted time. Did NHS 24 face any particular issues with staff accessing the training? If individuals did not fully understand the software, were they able to go back on multiple occasions to get further information and assistance?

Paul Gray: It is a fair question, Mr McMillan. My understanding of what happened is that the issue was not so much staff being able to access the training, but the time that was provided and the floor walkers—the on-floor support. If somebody has, say, three hours of training to come to terms with a new system, it probably feels okay at that point, but then it comes to live running. If, in testing—NHS 24 did this—there are actors describing symptoms, that is, to be frank, rather different from being in a live situation with someone on the end of a phone describing symptoms that you know are serious and need urgent attention while you are struggling with a bit of software in front of you.

The issue was more to do with the amount of training and, as I said, the fact that colleagues needed to know what the system did not do as well as what it did do. Also, the amount of support that it was necessary to provide on the floor was underestimated. It was all those things together that created the effect.

Stuart McMillan: I take it that, as NHS 24 goes forward with the system, that will be fully addressed. In particular, when new members of staff come into the organisation, will their IT competence and any additional training that they require be taken on board?

Paul Gray: Certainly. That is why I want to give Angiolina Foster time to ensure that she is satisfied that space has been allowed to address all those additional issues.

Perversely, it might be easier for someone coming in who has never used the old system, because they will not have approaches and ways of doing things that are aligned with the old system; they will simply become familiar with the new one from scratch and will go ahead with that.

I am very clear that NHS 24 has a strong commitment to ensuring that people who come in to use its systems are properly trained on them. At times, it is genuinely a matter of life and death, so that cannot be left to chance.

Stuart McMillan: Is the new system that is being introduced being asked to do the same job as the previous system but just a bit differently or is it being asked to do something totally different?

Paul Gray: It is a bit of both. For example, I spoke about the reduction in repeat questioning and duplication, which is about doing what the old system did but doing it better. However, the switch in emphasis from consultation to triage is a new approach that has strong clinical support. The real-time information on the services that are available at the time of a call is a new feature, as is the single patient record. It is about doing some things better, but also about doing some things differently.

Stuart McMillan: Okay. We received from the Scottish Government a copy of NHS 24's lessons learned report, and under the heading "Recommendations", the second bullet point in paragraph 6.7 states:

"The Executive Management Team should secure effective call centre implementation support from both Capgemini and other independent sources to support the Future Programme."

Who do you envisage that the "other independent sources" will be? Will they be from other private sector providers that have high volumes of calls every day or from other areas of the public sector?

Paul Gray: I can give you two examples of what the board has done on that. It has just recruited someone on a contract who has expertise in delivering call centre implementations and is working with the programme director, so she has direct personal access to that level of expertise. Also, I mentioned earlier John Brown, the chair of NHS Greater Glasgow and Clyde, who has direct personal and very recent expertise in the area, and that is why he is part of the assurance. There is, therefore, assurance from both a public sector expertise angle and a private sector expertise angle. That is in place and is not just something that we hope will happen.

Stuart McMillan: Okay. Thank you.

Colin Keir (Edinburgh Western) (SNP): Good morning, Mr Gray. Something that you said earlier about the method for financing the contracts and the like got me animated in my thinking, if you like, particularly on optimism bias and contingencies. Your answers to the questions from David Torrance and Nigel Don addressed some of the aspects that I wanted to ask about, but I want to go back to the need for complete clarity about what is required.

You talked about an acceptance that there will be specification changes in any programme, which means thinking about working within the contingency. However, if the optimism bias is so low, the contingency really means nothing. It comes down to who is keeping a hold on what the contractor is being asked to produce in the end product that will be used.

Who is keeping a hold on the decision on what specifications will change and when? It seems to me that there should be somebody who is completely aware that there is a change in what is being asked for and in the specs that are coming in. Who is keeping their hands on the technical difficulties and the cost overruns that would necessarily happen? It seems to me that, every time an ICT project comes up, there is a lack of knowledge about what is being asked for and how it will change from beginning to end.

Paul Gray: I will try to be brief in my response. Ultimately, it is the responsibility of the programme director, not just in the NHS 24 programme but in any programme of its size and style, to ensure that any changes that are asked for are actually required. I say that because sometimes, when we get through the process of system design and then see the system in operation, people say that it would be nice if it did something else as well. My response to that would be that it might well be nice if the programme did something else, but it was not in the original specification and paying more money for something that would be nice is not a good use of public funds.

We might get to a point—I will deliberately use an invented example—where we have a clinical system that allows us to record three conditions but, in practice, people turn up with more than that. In that example, to require the system to deal with people who have four or five conditions would be a necessary change. If we ask for a system that can record a certain number of conditions but it turns out that that will not work in practice and we have to change it, that will be a required change.

Each change ought to be the subject of a change control notice. In other words, it should not involve someone saying on a whim that they would like a change to happen. The change control notice should go through the governance framework so that the programme director can be assured that the change is necessary and cost effective.

It is also important to bundle changes rather than making them in a piecemeal way, because it adds hugely to costs if people make a little change followed by another little change. Furthermore, if people do not bundle changes, they can end up with adverse interactions between the changes, which can create situations that they did not want. It is important that that is properly controlled from the point of view of the expenditure of public funds and not undoing the good that has been done in the development of the system.

Colin Keir: How confident are we that the people who are in place from procurement to management and the gateway reviews are the right people to be doing those jobs? You talked about how carefully issues are looked at and so on, but with regard to the problems that have been faced and the £41 million overrun, are we really sure that we have the right people in place to identify what you have described?

Paul Gray: I have considered that carefully. I met the person who is being employed from the private sector because I took that issue seriously, and he has excellent credentials and strong evidence of success in the relevant areas. I interviewed John Brown, the chair of NHS Greater

Glasgow and Clyde, as part of the appointments process and I have real confidence in him and understand the account that he gave of his personal expertise, which is the basis on which I selected him.

We have put in place the strongest team. I do not wish to give the committee the impression that I wish that we had a stronger team. We have a very strong team. The chair has been incredibly assiduous in the way that she has assembled around her a team of people who can support the implementation, and I pay tribute to her for that. She has worked extremely hard to get the right people in place and I am as confident as I can be that this will work. We have put in place the necessary resource.

Mary Scanlon: Paul Gray has answered questions in a straightforward manner and with a degree of common decency. I am grateful for his apology for what went wrong.

Ms Davidson, given that you have been in your position for nearly two years and have had oversight of a £50 million overspend on NHS 24 and oversight of the CAP overspend of nearly £70 million, would you also like to take this opportunity to apologise for not learning lessons from the past? Can you say that, in the future, things will be better and that our successor committee—I will not be in Parliament by then—might look forward to not having to address on three separate occasions critical overspend on ICT?

Sarah Davidson: As Mr Gray explained earlier, I do not have personal responsibility or accountability for NHS 24 or the CAP futures programme. However, I absolutely do have personal responsibility for ensuring that lessons are learned from all IT and digital projects and programmes across the whole of government, and not just the central Government sector. I can absolutely give an assurance that we will continue to learn from those projects and that we are constantly improving the relationships and engagement between people who are responsible for delivering programmes and projects in various places, and we will particularly be looking to learn lessons from the experience of NHS 24.

11:30

Mary Scanlon: Okay, so you are failing to apologise.

Mr Gray, the NHS 24 project has been seven years in the making—it started in January 2009. I apologise for giving you a wrong figure earlier in respect of your previous appearance before our committee in 2012. The estimated cost for the Registers of Scotland ICT project was £66 million and the final cost was £112 million, so there was a significant overspend at that time—the price

doubled—and there are continuing concerns about ROS.

Given that you have been very honest today and that it is Audit Scotland that has brought the millions and millions of pounds of overspend to our attention, will you as the accountable officer be looking to cabinet secretaries and ministers to take some responsibility in these difficult financial times for our councils and our health service? Is it not reasonable to expect our ministers to take some responsibility, too? I have heard no apology or acceptance of responsibility for the huge overspends. Is that a reasonable request for an about-to-retire MSP to make of a democratic Government?

Tavish Scott: You had done so well up to that point.

Mary Scanlon: We can live in hope.

Paul Gray: Let me say three things, Ms Scanlon.

First, in fairness to Ms Davidson, she should not be asked to apologise for things for which she is not the accountable officer. I am the accountable officer for this. Ms Davidson had no responsibility for the overspend in NHS 24. I did, and I have accepted it and apologised.

Secondly, ministers are rather dependent on their civil servants. Any colleagues here who have been ministers will know that. I am the accountable officer. I am responsible and I am apologising.

Thirdly, what is reasonable to ask of ministers? I think that a lot is asked of ministers—I do not mean ministers of this particular Government—that is not reasonable, but I have never found ministers of any Government slow to apologise for things that they got wrong. I do not think that ministers got this wrong; I think that we did.

Mary Scanlon: They still have to accept responsibility.

The Convener: I have a final question. We recognise the humility that you have shown, but we know what the situation would be if you were running any other business that was running at a loss of more than £50 million—the differentiation in some of the figures has been mentioned. When can we hope that the losses will come to an end? What is the five-year or 10-year plan to ensure that they will not continue? No business out there could continue with those losses, and the Government should not think of this in any other way.

Paul Gray: That is a fair point, convener.

The Convener: Can you give me a five-year plan? When can we expect to see a return that says that NHS 24 will not be running at a loss?

Paul Gray: NHS 24 has a plan to return its brokerage. When that brokerage is complete, NHS 24 should not be running at a loss.

The Convener: To be fair, that is not the answer to the question.

Paul Gray: Sorry.

The Convener: You have provided brokerage to NHS 24, but surely you cannot continue to write blank cheques. That would be unacceptable and no organisation could continue to do it. If NHS 24 was a business, it would be bankrupt and somebody else would be taking over. You have given NHS 24 a blank cheque, because you have said, “Here is the leverage.” Surely the condition attached to that is that the organisation stops running at a loss to the public purse. Facilities across the whole of Scotland are being closed down because of the overruns in this organisation’s budget.

Paul Gray: I am sorry if I misunderstood—

The Convener: Let us forget about humility. You have apologised and we have heard all the apologies. Now is the time to deliver. When will you deliver to ensure that NHS 24 does not keep receiving blank cheques? Nobody else receives blank cheques. Like others, NHS Greater Glasgow and Clyde has been advised to make £69 million-worth of savings. It does not get blank cheques, so why should NHS 24 get them?

Paul Gray: NHS 24 has to repay what it got. It does not simply get it.

The Convener: I understand that, but tell me when.

Paul Gray: NHS 24 should implement the system in the summer and, from that point on, it ought to be financially sustainable and not to require further brokerage. From this summer, I expect NHS 24 to be financially sustainable. Can I predict what might happen in two years’ time? I cannot, convener, and I will not try to do so, but from the summer I expect NHS 24 to be financially sustainable.

The Convener: Let us put this on the record. You are the accountable officer. You are the person who came here today and had to apologise, and we accepted that apology. However, let us forget about that.

Any other business would be expected to do exactly the same thing. Organisations across the NHS have been asked to make cuts, ensuring that they cut their cloth accordingly and that they do not find themselves with a budget overrun. They have all had to do that. NHS Greater Glasgow and Clyde has been advised that it must have a five-year financial plan to make £69 million of savings. Can you confirm what the financial plan is for NHS

24? What is the plan to ensure that it runs according to the budget?

Paul Gray: NHS 24 has to submit its draft financial plans in March of this year, and they need to be finalised by me. That is the point at which we will have clarity about that matter. In seeking to answer your question, I will say that I do not expect that we will have to provide—

The Convener: That is not the question. I am asking you whether it will ever break even on the budget. When can we expect that?

Paul Gray: It should have a break-even budget by May of this year.

The Convener: Thank you.

Paul Gray: I am sorry if I misunderstood you.

The Convener: By that point, it will have a break-even budget and the Government will not have to provide any more leverage to allow it to exist.

Paul Gray: The answer that I will give you is that there will be no additional brokerage.

The Convener: That is the position that you expect in this financial year.

Paul Gray: Yes.

The Convener: I thank the witnesses for their time.

11:36

Meeting suspended.

11:41

On resuming—

“The 2013/14 audit of Coatbridge College: Governance of severance arrangements”

The Convener: Agenda item 3 is an evidence-taking session on the Auditor General for Scotland’s report entitled “The 2013/14 audit of Coatbridge College: Governance of severance arrangements”. I welcome to the meeting our panel of witnesses from the Scottish Further and Higher Education Funding Council: Professor Alice Brown, chair; Laurence Howells, chief executive; and John Kemp, director of access, skills and outcome agreements.

I understand that Professor Brown will make a short opening statement.

Professor Alice Brown (Scottish Further and Higher Education Funding Council): I will indeed, convener. Thank you very much, and thank you for inviting us to the committee again. We welcome the opportunity to discuss this very

important matter and to give a brief opening statement.

First, I must emphasise, as we have emphasised in our written submission, the seriousness with which we take what happened at Coatbridge. We are grateful for the Auditor General’s report and your subsequent hearings, which have shone a very bright and necessary spotlight on the issue.

At the time that the issue arose, colleges were not public bodies; however, they have been public bodies since April 2014. As such, the Scottish public finance manual now applies to them and, as you will be aware, it considerably strengthens the rules on severance. Colleges must now obtain the SFC’s prior approval before severance payments can be made; indeed, it is now a condition of grant.

In our written submission, I stated that the funding council is taking a number of steps to learn crucial lessons from what happened. We understand the need to be more proactive in ensuring good governance across the college sector, and we are already doing that. Although today is not the time to go into specifics, I wish to highlight one such example, which is the funding council’s approach to issues that arose last year with the Glasgow Clyde College board. We will also implement, without delay, the recommendations of the college good governance task group, which our chief executive Laurence Howells is a member of and which will report next month.

I should also take this opportunity to update the committee on two matters, the first of which is our revised severance guidance. We delayed finalising that guidance until the committee’s report on Coatbridge was completed, but it has now been issued.

Secondly, we, together with New College Lanarkshire, asked Mr John Doyle to respond to our letters seeking a return of a proportion of the severance payment that he received, in time to share his response with the committee. We understand from our legal advisers that he has not yet given a substantive response, but he has indicated that he will do so. When we get his response, we will consider next steps with the college.

Again, convener, thank you for this opportunity.

11:45

The Convener: Professor Brown, do you, on behalf of the funding council, accept all the contents of our report on Coatbridge College?

Professor Brown: We accept the contents of your report—

The Convener: Do you accept the recommendations?

Professor Brown: —and the recommendations. As we said in our written submission, we think that one aspect, which relates to our support for colleges going through what was a major regionalisation process, is not fully justified.

The Convener: In that case, you do not accept the recommendations, if you feel that part of them is not justified. That is different from what you advised us.

Professor Brown: We accept the recommendations. We were just putting into the public domain additional information to show that we did a lot to support colleges going through the process. As you will recall, 10 mergers took place over a period of 18 months. Anyone who has been involved in a merger process—I am sure that some members have been—will know that it is very complex, particularly when we have to ensure that students continue to be taught well throughout. It is hugely disruptive for students and staff. Now—

The Convener: But you will accept that Mr Doyle received £304,000—well above the recommended amount—as a result of poor governance in that organisation and that that affected students. We have advised that the Scottish funding council could play a more proactive role in assisting in such processes, and we have said that lessons have to be learned from the issue. Why do you feel that our recommendation is unjustified?

Professor Brown: I am not saying that your recommendation is unjustified.

The Convener: That is what it says in your letter. It says that you do not feel that the recommendation “is ... justified”.

Professor Brown: It says that it is not “fully justified”. That is because of the additional information that I have given. However, we fully accept that we could have been more proactive, particularly in relation to issuing the severance guidance in a more timely way, at the point of merger. You will recall that we issued merger guidance but that the severance guidance was not reissued. Of course, one of the ironies is that, with the particular college involved—Coatbridge College—the guidance was reissued to it in January 2013, and it chose not to take that advice or follow the guidance. That is a different matter.

The Convener: I want to come back to the correspondence that we exchanged in connection with business cases. You asked us to amend the *Official Report* of a meeting to reflect Mr Kemp's feeling that the information that we asked for was

provided adequately. Was the one business case that we were provided with for all the colleges involved the full business case?

Professor Brown: That point is rather separate from the point that we have been discussing. Are you referring to the letter that I sent about the information provided to the committee?

The Convener: Yes.

Professor Brown: When I heard about the comments that were made on the day the committee published its Coatbridge College report that the Scottish funding council had not produced information that the committee had asked for, I was rather alarmed and obviously asked members of the executive why information had not been provided. I was then given the full information about what had been provided, when it was asked for and what had been delivered. That is the point that I was trying to make.

I would be alarmed if the committee did not receive information that it requested, so I wanted to know the circumstances around those points. I am satisfied that, in fact, information that had been asked for at particular times was provided. There was some confusion around a particular request for information in a letter, rather than what was said at a committee hearing, and I think that Laurence Howells has apologised for any confusion around that. However, in no way did we intend not to provide information.

The Convener: Just to clarify, we asked for all the business cases that could be provided in connection with severance payments to college principals. According to the table in the document that I am looking at, only one business case was provided. I will come back to that in a second. There is an attachment to the document, which I think relates to Langside College, but when I interrogate the document further, it does not look like I have a full copy of the business case; instead, it looks like I have an extract from an annex to the document. We asked for a full copy of the business case, and we have not received a full copy of the business case. Do you understand our frustration?

Professor Brown: I certainly do, if that is the case. I ask Dr Kemp to answer that point.

John Kemp (Scottish Further and Higher Education Funding Council): The reason that you have one business case—

The Convener: It is not one business case—it is an extract from a business case. The point that I am making is that I have before me a two-page document that refers to various annexes such as annex F, which suggests that I actually have two pages from a much larger business case document. It is therefore fair for the committee to

ask whether the document that we have is incomplete.

John Kemp: This is the first time that we have heard that—

The Convener: Well, you provided the document, and it is not the full document—

John Kemp: But this is the first time that we have heard that concern from the committee. We are happy to follow that up and see whether there are other annexes that have not been provided.

The Convener: I will come on to the actual issues relating to the business case in a moment, but with regard to the document that we have for Langside College, do you accept that although we asked for the business case we have been provided with an extract? Is that correct? We do not have the full document here.

John Kemp: I am not aware of whether it is the full business case or whether the reference to annexes applies to something else. We can follow the matter up.

The Convener: Okay.

On the subject of business cases, I have a question—again, for clarity—for Mr Howells. During your evidence session with the committee, I said to you that Mr Doyle might come before us and advise us that other principals had received similar deals. You advised me that, for a deal to be approved over and above the guidance on severance payments to which we have been referred, a business case should be provided. That is what you said. Is that correct?

Laurence Howells (Scottish Further and Higher Education Funding Council): Our guidance required business cases for exceptional payments outwith the schemes that were generally operating in the other colleges. Apart from Mr Doyle's case, which was exceptional, all the other principals' cases and schemes were in line with the general schemes for all staff.

The Convener: You say that they were in line with the general schemes. Would you expect those schemes to meet the terms in the guidance circular that was issued in the year 2000? Is that correct?

Laurence Howells: Yes.

The Convener: In the table that you have provided, significant sums are referred to in the column entitled "Contractual pay in lieu of notice". Given that your guidance refers to the fact that payment in lieu of notice should be avoided except in very exceptional circumstances, we would expect that column to list only one or two principals who found themselves in that exceptional position. Why, then, does the table show all those principals receiving significant

sums of public money? It appears that, apart from the cases that have been referred to Audit Scotland, Langside College is the only one that had a business case. When people receive sums outwith the guidance that has been set out by the Scottish funding council, should it not be accepted that the college should say, "If we're going to pay this significant lump sum, we need a business case"?

There are other payments listed in the table; for example, in one case, there was a pension payment of more than £200,000. Would that have required a business case?

John Kemp: Under the system in operation at that time, the business cases were made to the board. Our guidance was that they should be made and retained, and the information was looked at by auditors later on. The business case did not have to be sent to us at that stage.

The Convener: You are paying the cheques. You were the accountable officer, Mr Howells, so you were responsible for public funds being paid to those principals under guidance that is more specific than people probably give you credit for. The guidance that was set out in the year 2000 is quite specific about what is required. When you looked at that guidance, did you say to your officials, including Mr Kemp, "Maybe we should ensure that the funds going out the door have a business case attached to ensure that they represent the best use of public money"—or did you just let them go out the door?

Laurence Howells: At the time, the decisions on those arrangements were a matter for the individual boards—

The Convener: But they were not. It was your job to provide the funds to the boards. Your funds were allowing those payments to be made, were they not?

Laurence Howells: Indeed. I understand that, which is why—

The Convener: You were the accountable officer.

Laurence Howells: Indeed, and that is why since April 2014 we are now in the preferable situation in which arrangements have to be approved by SFC. At the time, they were the responsibility of the boards. We did not—and we do not—run colleges, and we were relying on delegating authority to those boards to take forward those arrangements in the context of our guidance.

I agree that it is regrettable that that did not happen. With the tightening up of the arrangements and the rules, we are now in a better situation. I can only apologise on behalf of the boards involved in the sector concerned that

the situation happened. We are now in a much different situation, and the new situation—

The Convener: All the apologies that we have heard this morning will keep the official report busy. They are welcome, but we have heard them before, and the issue is to get to the bottom of the situation. There is a table in the documentation that sets out payments that were made over and above the recognised scheme, and it shows that one person received £200,000 as part of the pension scheme. Did no one ever refer that to you, Mr Howells, and say, “Look—this is one of the payments that we have heard about at this college”? If so, did that not alarm you? Was anything ever brought to the funding council that said—

Laurence Howells: The cases that were brought to us were those in which the auditors in the colleges and the Auditor General had identified significant governance concerns. They were covered in the Auditor General’s 2015 report, which highlighted the two cases that we know of—North Glasgow College and Coatbridge College.

The Convener: Let us look at the situation. There was £50 million-worth of public funds going into the merger process. It would have been no secret to anyone that, as part of that process, significant sums of money would have to be used to deal with principals who would no longer be continuing in post as a result of mergers. You would have known that the Scottish funding council was paying money to the colleges to pay off some of the principals. Did you never say, “I need to make sure that whatever funds are being paid to these individuals are appropriate”? I have already referred to a £200,000 pension payment in one of the colleges, and a number of other payments were made. Did you never have any sight of those?

Laurence Howells: We did not have sight of those payments before they were made. In the case of Coatbridge College, we were aware of what was happening, so we intervened.

The Convener: You intervened in Coatbridge College only after you were made aware of the issues by the Auditor General.

Laurence Howells: No. In the case of Coatbridge College, we were made aware of the situation before the payments happened, and then we were active. The Auditor General’s report came afterwards.

The Convener: My final question is one that I have always wanted to ask you. When you became aware that Mr Doyle was seeking payments over and above the recommended level, did it never occur to you that the Scottish funding council should say, “We’re not paying the money”?

Laurence Howells: We took the judgment at the time to limit any payment that we made to the standard 13 months. I accept the committee’s judgment that, when I went to the board, I could have been stronger. I should have said—

The Convener: I am not asking you about when you went to the board. Mr Howells, you have the cheque book. The only way that Mr Doyle could be paid the money was for you to say to him, “Yes, this money will be paid to you.” If it had been made clear to him that he was not going to receive the money in the first place and that you were not going to sign the cheque—if you had advised him that the Scottish funding council was not going to make the payment—you would have stopped the process from going any further. Is that not fair?

Laurence Howells: At the time, it was the boards’ responsibilities to make those payments—

The Convener: To make the decision, yes. It was not your responsibility to give Mr Doyle or the board the money, was it?

John Kemp: To be clear, we did not write the cheque—

The Convener: You did eventually.

John Kemp: In fact, we contacted the college and asked it not to make the payment—

The Convener: We know that.

John Kemp: It went ahead and made the payment. I appreciate that your question is about what we should have done after that, but—

The Convener: Was Mr Doyle advised that the payment would not be made?

John Kemp: The payment was not going to come from us. We could have chosen not to make a payment for the proportion that we paid to the college—

The Convener: That is the point.

John Kemp: —but that issue would have been relevant after Mr Doyle had had the cheque paid by the college, despite our asking it not to do that.

The Convener: I will finish with this question then—perhaps it will make things a bit clearer. Did the Scottish funding council contact Mr Gray, the then college chair, and advise him, “You can agree to whatever payment you want, Mr Gray, but we are not paying this money”? You asked him not to do that, but there is a difference between asking the college not to do that and saying that you are not going to provide it with the funding. Did you do that?

Laurence Howells: To be accurate, what we said was that we would not pay above the 13 months; we did not say that we would not pay the

college anything in relation to Mr Doyle. That is a fact.

The Convener: Did you say that you would not pay above 13 months?

Laurence Howells: Yes.

The Convener: But you paid above 13 months.

Laurence Howells: No, we did not.

The Convener: So the college paid.

Laurence Howells: Yes.

The Convener: And you provided the funds for the 13 months. Is that the sum that is referred to in the payments column?

Laurence Howells: Yes.

12:00

The Convener: So you said that you would pay the 13 months. If you had said that you would not pay the 13 months because the college had agreed to pay well above the agreed scheme, would that not have been more appropriate?

Laurence Howells: At the time, we made the judgment that the danger in doing what you have suggested was that it would have taken another £100,000—or whatever the figure was—out of the services that the new college could give to students.

The Convener: But that was what happened anyway. The money that you paid could have gone to the college sector.

Laurence Howells: Indeed. That was the judgment that we made at the time. We accept that the committee believes that we should have made a different judgment, and we are now in a different situation.

The Convener: If Mr Doyle had been made aware when he was arranging the package and colluding with others on that, that you were not even going to give the college the 13 months, he could not have taken the matter any further. That is the position that he would have been in. He might have tried to take the money from college funds, but that would have been much more of an issue for him, would it not?

Laurence Howells: Indeed. For the college to have paid that, the money would have had to have come from its general funds. What I could not have done was to stop paying the college any money—that money is necessary for running a college. I paid the college money every month, and it was the college's responsibility to decide what they paid for in any particular month. Had I said to the college that I would pay it nothing instead of paying the 13 months for Mr Doyle, it would have sent a more forceful message to the

college. I accept that we should have been more forceful at that moment, but the college could still have gone ahead and paid the £300,000 out of its funds.

Mary Scanlon: I want to talk more about being forceful. I refer you to the letter of 17 February that you sent to the convener, in which you seem to accept—grudgingly—the recommendations of the committee.

I do not want to pick over the coals, because we have already spent huge amounts of time on this, but for future governance we really need to be sure that this is not likely to happen again.

In terms of being forceful, at the critical meeting of the board of Coatbridge College, which you attended to tell them that you were not paying £304,000 to John Doyle and that you would stay within the recommended guidelines of the Scottish funding council—we would expect no less of you—why did you leave after 10 minutes? Was that your choice or theirs?

Laurence Howells: I will tell you my experience of that meeting. When we entered, the atmosphere was not entirely welcoming. I had ready what I wanted to say to the board, and as you can see from the minutes of that meeting, I made sure that the board heard the essence of our guidance from me, orally. I made it clear to the board that I would be interested in debating with them and that I would be keen to have a dialogue. I reached a point where no dialogue was happening, although there had been one or two questions. At that point we were invited to leave.

I could have stayed and repeated the points that I had made and, on reflection, maybe I should have been more forceful. That is something that we learned from subsequent events. However, my main purpose at that meeting was to ensure that every member of the board was absolutely clear about our guidance and that they would take that on board.

We have learned from the events, and it is clear that there are occasions when we need to be more forceful. Some of the subsequent events that Professor Brown referred to show where we have been trying harder on that.

Mary Scanlon: It really does not matter whether or not you were welcome and whether or not the board were talking to you. You had a serious job to do on behalf of the Scottish taxpayer and, indeed, on behalf of the Scottish Government. If you had done that, you would probably have saved the committee an awful lot of time, an awful lot of reading and a huge amount of work. I give credit to every member of the committee, because we have done a thorough job. I retire in three weeks.

I have to say to you that I was very disappointed. I am talking personally, not on behalf of the committee. I was very disappointed with the role of the Scottish funding council. I think that John Doyle and John Gray ran circles round you, which is very disappointing. I stand by every single comment and recommendation in our report, although I appreciate that you say that it was not fully justified.

Did the Government put so much pressure on you to ensure that the mergers happened that you were willing to turn a blind eye to John Doyle and John Gray? I appreciate that Mark Batho was the chief executive of the funding council at the time. The Auditor General mentioned collusion by John Gray and John Doyle after the guidelines were set out to them. Collusion in order to get the remuneration committee to pay almost an extra £200,000 to John Doyle is a very serious matter indeed. In my dictionary, it is fraud.

That will be overlooked, I imagine, although today's *Official Report* will go to the police. Do you agree with the committee and the Auditor General that John Gray and John Doyle colluded in order to ensure that the remuneration committee was not fully informed of the SFC guidance and to ensure that John Doyle got significant additional amounts of taxpayers' money to which he was not entitled?

Laurence Howells: Yes.

Mary Scanlon: I am interested in preventing the senior team from receiving an unjustifiable package, and I do not want to digress, but if you want to answer quickly I am happy about that.

The point that really concerns me is that you had sanctions but did not use them. The college probably knew perfectly well that you were not going to use them, and that allowed those concerned to help themselves and line their own pockets.

You referred to paragraph 299 of our report. You had sanctions not to pay the money. You decided that you would not bother penalising John Doyle, because that would result in "penalising students and staff." If you had sanctions that you were not willing to use at any point, did you ever go to the Scottish Government and say, "This isn't really working. You are giving us sanctions that are worthless. We need greater sanctions to ensure that taxpayers' money is not wasted."? You did not use the sanctions that were available to you. Can you answer that point?

Laurence Howells: Indeed—and I accept that position. I guess that is why the post-2014 arrangements give us a new power in respect of those particular—

Mary Scanlon: I am talking about saying, "We have to go over this."

Laurence Howells: I accept that.

Mary Scanlon: We are referring to our report.

Laurence Howells: In relation to your report, you are correct. We did not recover the money, or pay nothing for John Doyle's severance, for the reasons that we have given—we have been there before. During that process, we did not say to the Government that we needed extra sanctions. However, following the event, since April 2014 we have the authority to decide on a more—

Mary Scanlon: You were given sanctions that you refused to use, which made life easy for John Doyle and John Gray. Have you ever used those sanctions?

John Kemp: Yes. We use the sanction of withholding grant quite frequently. The reason why we did not use it—

Mary Scanlon: In terms of severance payments.

John Kemp: I do not think that we have ever used it in terms of a severance payment.

Mary Scanlon: You have never used it in terms of severance.

John Kemp: I cannot think of an occasion when we have used it in terms of a severance payment.

Mary Scanlon: Do you realise the signal that that puts out? John Gray and John Doyle knew perfectly well that they could do what they wanted.

John Kemp: I will explain why we did not use it, although we did consider it. The reason why we did not use it in the context of the John Doyle and John Gray issue was, as you said in an earlier question, that it was an issue of apparent collusion between two people to achieve—

Mary Scanlon: It was not "apparent", according to Laurence Howells: he said that it was collusion.

John Kemp: I am not disagreeing with that at all. However, those two people had exited the college pretty much on the evening that Mr Howells attended the board meeting. Despite our asking the board not to make any payment until we could get to the bottom of its decision, it made the payment and Mr Doyle had the money in his bank account almost immediately after the board meeting.

Our view at that stage was that, once the money had left the college, if we were to use the sanction of not paying the grant or withholding grant for the whole amount, that would have impacted only on the college. As you know from earlier discussions at this committee, we considered other options. For example, we sought legal advice on whether

we could recover the sum from board members who had taken a decision that was against guidance. However, the advice was that that was unlikely to succeed.

We considered other options, but we did not think that the options of withholding grant or not applying part of the grant for the merger would work. The money had already been paid to Mr Doyle, and we did not think that if we withheld money from the college there was a prospect of his immediately repaying what he had received.

Mary Scanlon: I can speak for only myself here. Do you understand why I am very disappointed by the role of the Scottish funding council and its lack of supervision, oversight, scrutiny and management of the Coatbridge College severance payments? Do you understand my personal disappointment in that regard?

John Kemp: I can understand the anger of people at that event and our role in it. In our defence, as we said in our letter, we knew about the issue in advance and we tried, using all the powers that we had at the time, to prevent it. However, I can understand your anger.

Mary Scanlon: Attending a 10-minute meeting where you were unwelcome and nobody was talking to you was hardly using all the powers at your disposal. You are a serious government agency with a serious budget, but you allowed yourself to be pummelled around by John Doyle and John Gray. They made you unwelcome and nobody was talking to you, so you left after 10 minutes. I would have stayed there for 10 hours, until they got the message. However, you just walked out the door quietly and meekly—that was not using all the powers at your disposal.

Laurence Howells: I have accepted that we should have been more forceful. We have learned from that and we are going to be more forceful in the future.

Colin Beattie: Professor Brown, do you agree that the Scottish Government put considerable faith in the SFC and its central role in the merger of the colleges?

Professor Brown: Yes, it did, and the SFC worked in partnership with Scottish Government officials and the change team in taking forward the merger process.

Colin Beattie: In retrospect, do you believe that you fully met that faith?

Professor Brown: You must remember that I was not chair of the Scottish funding council at the time, so I am reflecting on what happened and have been looking at all the paperwork as well. The Scottish funding council achieved a lot in the 18 months of the merger process, when there were 10 mergers to undertake. In hindsight, given

the evidence that has been produced through the inquiries of the Auditor General and the committee, it is clear that the SFC could have done some things better—the funding council totally accepts that.

The matter was brought to the attention of our board again in January this year, when all members got a copy of the committee's report and a report from the chief executive. We will be looking very carefully at all the steps that will be taken to ensure, as far as we can, that this kind of thing does not happen again.

Another point to note is that we must also think about the issue in the context of a whole governance framework. There are different roles, responsibilities and lines of accountability at play here. Clearly, we start with the appointment of principals and their terms and conditions, the appointment of chairs of boards and their terms and conditions, and the appointment of board members. The committee made a point in its report about the adequate training of those members, which is a point that we are taking up at present.

Within all that, we have the checks and balances of auditors, both internal and external; the SFC; the Office of the Scottish Charity Regulator, with which we are in discussions; the Standards Commission for Scotland; and the Commissioner for Ethical Standards in Public Life in Scotland. There is therefore a network and framework of governance that is part of looking at the whole picture. I would say that that framework failed on this occasion and that it failed the public. The committee described the kind of sums involved as eye-watering, and I certainly find them so.

12:15

Colin Beattie: I am finding what you say to be a sort of spreading of the blame over everybody.

Professor Brown: No, not at all. We accept responsibility for our part in what happened. What I am saying is that when we are looking forward and learning lessons from what happened, we have to think about how that network works effectively to make sure that it does not happen again. It is not about one institution, but we fully accept responsibility for our failure in this respect.

Colin Beattie: The convener was asking about business cases. I think that it was Mr Kemp who said in response that business cases did not require to come to the SFC but just required to exist and to be presented to the board or the colleges. However, the third paragraph on page 3 of your letter of 17 February states that

"the guidance ... did not require the College to share the business case, for any *exceptional* payments".

You specify “exceptional payments”, which implies that normally the business case would be shared but that in exceptional cases, which are presumably where the college is picking up that part of the cost, the business case is not.

John Kemp: We maybe could have written that sentence better. What it means is that where there was no exceptional payment, no individual business case would be needed for a payment. If the principal was simply getting exactly the same deal as everyone else, it was non-exceptional and no business case was needed. Where the deal was exceptional and a business case was needed, that still did not need to be shared with the SFC.

Colin Beattie: So you are saying that you do not need a business case if it is just within the terms of the—

John Kemp: Yes. Our guidance was that if the principal, for example, was getting exactly the same deal in terms of months for years of service as everyone else, no individual business case was needed and it was just part of the wider scheme.

Colin Beattie: Would you not still need a business case to say that the deal was justified and appropriate, and that the payback period for it was appropriate?

John Kemp: It would be implied that the scheme itself covered those issues, because it would cover the length of service that qualified for a particular payment and therefore the payback would be included in that.

I can see your point, though, because outwith the context of a merger, making a severance deal for a principal would have to take into account the fact that another principal would be needed. However, we are talking about the context of mergers and there being fewer principals.

I would like to make a point about the Scottish public finance manual and lessons that we have learned. As we heard earlier, the Scottish public finance manual changed matters so radically that it meant that, in essence, our previous guidance was irrelevant. One of the lessons that we have been very carefully learning is that because that happened, things were happening through a system that was not within our sight at the time. We would not have had to learn that lesson if matters been dealt with otherwise by the SPFM.

Colin Beattie: During the course of the process, did you see the SFC in a supervisory or watchdog role in relation to what happened and the payment of moneys?

John Kemp: We had a variety of roles. We were encouraging and supporting the merger programme, but we were aware that we had a supervisory role as well. That is why we intervened to the extent that we did in Coatbridge

College. There were other cases where we had to express views on how things were going. Many of those have not come to light, because they were resolved. However, we saw that we had a supervisory role, a supporting role and other roles in the merger process.

Colin Beattie: The third page of your letter of 17 February states:

“We were successful in preventing the senior team receiving an unjustifiable package.”

If you were successful with the senior team, it seems strange to me that you were not successful with the principal. What was the difference in approach there?

John Kemp: Our approach was exactly the same in both cases. Many of the actions that have been described in earlier committee meetings in terms of our interaction with Coatbridge College were about both cases, because they were both live issues right up until the end, when the board dropped the additional payment to the senior managers but retained the payment to John Doyle.

Our approaches were very similar. We saw all the additional payments as unacceptable. We took the actions that you heard about in earlier meetings. We had the chair and the principal in to express our concerns. By the time that Mr Howells attended the board meeting, we knew that the senior management team package had been dropped, so it was down to Mr Doyle’s payment. In essence, the process was the same.

Colin Beattie: Given that the same process was in place, why was it successful in preventing the senior team, but not Mr Doyle, from receiving an unjustifiable package?

John Kemp: I was going to say that you would have to ask Mr Gray and Mr Doyle that, but you have done that already, and you have reached your conclusion, with which we agree.

Colin Beattie: Mr Howells, you stated that you were invited to leave the meeting that you attended. My understanding is that you were there for 10 minutes. Given that there were questions and so forth, you probably did not get to state much in those 10 minutes. How did it come about that you were invited to leave? What did you think as you were asked to leave?

Laurence Howells: To be quite honest, there were not many questions. What did I think? I thought that I had got my message across and that there was no one on the board who could possibly not have understood what I was expecting of them, and that I expected them to go into a debate among themselves and challenge the chair and the remuneration committee about the way forward. That is honestly what I thought. It has been suggested that it was perhaps naive of

me to think that. I thought that I had got my points across, and I expected the board to say, "We need to follow this guidance."

Colin Beattie: During the course of those 10 minutes, did you indicate that the funding council would still be prepared to pay the 13-month severance?

Laurence Howells: The minutes do not record that I said—

Colin Beattie: They do not record very much at all.

Laurence Howells: I said, "You need to follow your guidance. If you are going to go beyond the 13-month period for everyone else, you are going to need to go through these processes."

Colin Beattie: Did you indicate that you were prepared to fund that portion of it?

Laurence Howells: I do not think that we talked about our funding at that meeting.

Colin Beattie: You said that you could not have changed the mind of the board—that is on page 3 of the letter that was mentioned. Presumably, you left that meeting after 10 minutes thinking that you could not change the mind of the board.

Laurence Howells: I will be honest. I left that meeting thinking that the board had heard what it had to do, and I expected the board members to do that.

Colin Beattie: However, the letter talks about your not being able to change the minds of the board. That does not seem logical. If you left believing that they had heard the message, presumably you believed that they would take note of it and do something about it. On what basis did you believe that you could not change the mind of the board? At what point did you start to think that?

Laurence Howells: I think that, in our letter, we are referring to the whole situation and the aftermath. I am honestly saying what I thought when I walked out of that meeting. If our letter does not give an accurate impression, I apologise.

Colin Beattie: I have to say that I find the role of the SFC in this matter quite weak.

Dr Simpson: I want to address two areas. I understand that the senior management's additional payments were not made on the same basis as that of John Doyle because the letter that they had received expired on 31 July. However, I do not think that the committee has ever seen the letter relating to John Doyle. Have you seen it? If it also expired on 31 July, the board is doubly culpable, because it failed to take cognisance of the guidance that was offered to it. Have you attempted to ascertain that at any point?

John Kemp: I think that our view has been that, if it was not in accordance with the guidance, it should have been set aside.

Dr Simpson: Yes, but my understanding of the basis for John Doyle's receiving the package is that it was felt that, on the advice of the lawyers and because of previous correspondence, the board was contractually obliged to pay it. However, that was clearly not the case with regard to the senior management because of the termination letter regarding the original proposals for merger, which had to be submitted to you on 31 July. Am I right in thinking that you did not seek to clarify that and have not done so subsequently? I know that that is shutting the stable door after the horse has well and truly bolted—and bolted pretty fast in this case.

Laurence Howells: The role of the board and the basis on which the board acted is an important question, and we have not clarified that particular point to my knowledge. As Dr Kemp said, we thought that, if the scheme was not in line with the guidance, it did not stand anyway.

It goes back to the role of the whole board in looking after the affairs of the college and in its responsibility to challenge.

Dr Simpson: Well, those matters may be sub judice in due course.

Another issue that really interests me goes back to the merger involving Stevenson and Telford colleges in 2011-12, when the severance payments under a regional scheme were for 21 months. That Edinburgh scheme was at odds with the scheme that the SFC was promoting as part of the merger process. Yet again, at Dundee and Angus College in 2012-13, a whole year later, there was another 21-month term under a general scheme. There were two areas in Scotland with general schemes that John Doyle cited in his proposal to have a regional scheme for Lanarkshire, so I have some understanding of where he was coming from. Three principals had got away with 21 months' severance pay, and some of them got £52,000 and £23,000 in lieu of notice in addition to that. He must have thought, "They got away with £249,000 and £202,000, so why shouldn't I have a good go at getting the same scheme? It seems only fair. Why should I be penalised and not have the same scheme that others are getting?" What was your comment on those schemes as they went through?

John Kemp: Our view was that we could not justify funding 21 months' severance pay, and we did not fund up to 21 months.

Dr Simpson: No, but did you comment that that was at odds with the guidance? I know that you were not responsible at that stage, because the boards made the decisions. However, as the

funding council that handled the public money, did you comment at all on the fact that that length of service was well in excess—at least eight months in excess—of the maximum amount that you were prepared to fund?

John Kemp: We did. Colleges were well aware that the maximum amount that we would fund was roughly a year's payback, which sometimes meant a 13-month scheme. The 21-month scheme that was offered by some colleges—I stress that the excess above a year's payback was not paid with our money—was in line with voluntary severance schemes right across Government. We did not say to Edinburgh College or to Dundee and Angus College, "We object to your scheme." We said to them, "We are not prepared to fund all of your scheme. This is public money and we want to spread it around as much as possible."

In the case of Coatbridge College, the reason that we objected to the proposed 21-month payment to the senior management team and John Doyle, as we understood that proposal early in 2013—in fact, the payment to John Doyle ended up being for longer than that—was that it was to be for only the senior management team and not the whole college. Had the board come to us and said, "We have reserves. We want a 21-month scheme that will apply to everyone in all the merging colleges, including the principal," we would not have objected.

Let us be clear that 21 months was a relatively standard scheme across the public sector in Scotland. We were prepared to fund a more meagre scheme, and most of the colleges went for that. The issue with Coatbridge College was the disjunction between the very generous scheme for the senior managers and the 13-month scheme for the other staff. That was what led to our initial objection.

Some of how the Edinburgh scheme was reported in the minute of the remuneration committee meeting at Coatbridge College in January significantly misrepresented it by saying that it was standard across the sector. It was not. It was not alone—there were other such schemes—but it was quite unusual. The minute implied that we would fund the whole thing, but we would not and we did not fund the 21-month scheme at Edinburgh College; we funded up to 12 months' payback. As you will see in the table that we have given you, the SFC contribution in most cases was considerably less than the whole amount.

Dr Simpson: We are not disputing the SFC's contribution at any point in this proceeding, but you have just said that a 21-month scheme was fairly standard across Government.

John Kemp: Yes. I think that the standard civil service scheme is 21 months.

Dr Simpson: So, the scheme that was proposed for severance as part of this very rapid and fairly forced merger process determined that, although the civil service could offer 21 months' pay, colleges could not. I am beginning to feel very confused about this. If there is a general Government view that 21 months' pay is reasonable, it is rather unfair that that can apply to civil servants and the Government but not to college staff.

12:30

John Kemp: Our view was that, within the limited money that was available—

Dr Simpson: That was the money that the Government decided to give you. The Government gives its civil servants 21 months' pay as a standard severance package. That was applied as part of the regional scheme in Edinburgh—that is what your table says—and it was applied as part of the regional scheme in Angus. However, because Lanarkshire, Clydebanks and the other Glasgow areas did not have that scheme in place, they were not allowed to apply the general Government scheme. Why does the Government say that one class of employee, for which it takes responsibility, is entitled to 21 months' pay but that it will fund only 13 months' pay for everyone else? What right does the Government have to do that? Did you point out to the Government that that was at odds with the general scheme that was available?

John Kemp: Should they wish to implement it, the colleges have the right to have a 21-month scheme for all their staff. We objected to the fact that, at Coatbridge College, the scheme was in place for only some staff. Any college could decide to have a 21-month scheme.

Dr Simpson: It could do that without a business case. Correct me if I am wrong, but you are telling us that there is nothing exceptional about the Government scheme and that, if someone's employment history is long enough, they get up to 21 months' pay.

Laurence Howells: I do not know the details of the Government scheme and I do not have them to hand at the moment.

We were quite clear that we were trying to achieve mergers across the country. As John Kemp said, we wanted to make the money available to support as many colleges as possible to merge in a very short space of time with the resources that we had. That is why we offered 13 months' pay, and it is why we encouraged people to use that money.

Dr Simpson: I am not blaming you for what you did in that respect. You operated on the basis of the money that the Government gave to you and, I presume, on the basis of the scheme under which the Government told you to operate—the 13-month scheme.

John Kemp: The decision to limit funding to a one-year payback was taken by the funding council, not the Government.

Dr Simpson: But it was based on your examination of the funds. Did you ask the Government to fund 21 months? Did you ask for that in order to follow what Telford, Stevenson, Angus and Ayr colleges did? Those colleges all had a 24-month or 21-month severance payment. Did you ask for that in 2013, thinking that that would be enough money?

Laurence Howells: We did not ask for 21 months to be funded across the system as a whole. The Government provided a one-off additional sum of money, which I think was £50 million, to support the merger programme and that is what enabled us to afford our contribution of 13 months' payback—one year's payback.

Dr Simpson: We now know that, as a whole, college redundancies cost £90 million. Therefore, £34 million of that was met from college reserves, which would otherwise have been applied to teaching, students and all the rest. There is a lot of responsibility on the Government for not laying out and funding an absolutely clear programme that was fair in relation to what the civil service had.

Tavish Scott: I will continue that line of argument. When the Government announced the merger process and gave the funding council the resources to deliver it, was there any discussion between either civil servants or ministers and the funding council about the politically controversial nature of high severance payments?

Laurence Howells: We were clear what schemes we would offer—

Tavish Scott: That is not what I asked.

Laurence Howells: I know. I do not recall particular attention having been paid to that.

John Kemp: Do you mean high severance payments in the context—

Tavish Scott: I mean payments of £249,000, £202,000, £126,058, £174,000 and £304,000. Those are pretty high payments by any standard.

John Kemp: I am simply trying to clarify whether you mean payments of 21 months' salary as opposed to—

Tavish Scott: No, I am interested in the sums involved, which you have provided in the table.

John Kemp: There was frequent discussion with the Government on every aspect.

Tavish Scott: On severance payments?

John Kemp: Certainly, when the issue at Coatbridge College came to light—

Tavish Scott: No. As Dr Simpson has just suggested, there was an issue before what happened at Coatbridge College. In some ways, Coatbridge College is a red herring in the argument, because the severance payments there started in 2011-12. At any time, did ministers or senior civil servants say, "Hold on a minute. Are we really going to start paying out £249,000, £202,000, £126,000 and £174,000 in taxpayers' money?" Was that issue raised at any stage?

John Kemp: In many cases, the payments are simply the standard scheme multiplied by a high salary.

Tavish Scott: That is not what I asked. I asked whether the issue was raised or discussed.

John Kemp: Not specifically.

Tavish Scott: There was no interest among senior civil servants or ministers in how much money was going to be used specifically for people leaving the colleges at principal and senior management levels as a result of the merger process.

Laurence Howells: Everybody accepted that there would have to be a departure of principals if there was going to be change. It was accepted that, provided that that was done within the rules, it was a necessary consequence of merging 25 colleges into 10.

Tavish Scott: Was there no specific discussion on the level of those payments and how that would appear to an auditor, whether that was an internal auditor, the Auditor General for Scotland or the Public Audit Committee of the Scottish Parliament?

Laurence Howells: I do not recall any specific discussions. However, the general principle that there was guidance that people should follow was part of the debate.

John Kemp: The Auditor General had produced a report on exits, which was available at that time.

Tavish Scott: Indeed, and that makes the events a heck of a lot worse.

I question the suggestion that the funding council paid only a certain amount. Let us take the example of the £102,308 that was paid out of a total package of £126,058—the rest of that package will have come from the funding that the college received. Given that the funding council provided the college with all its funding, the idea

that it paid only a certain amount is another red herring, is it not? As you will know from the evidence from Coatbridge College, the former principal and chair tried to make that case as well. Those two characters tried to say that the money came from commercial income but they could not justify it. We know that that is not the case.

John Kemp: Indeed. I referred earlier to one of the lessons that we would have learned from this experience had the SPFM not changed things considerably, which is that the system that was in place at the time meant that we did not know the outcome of these things until afterwards. Under that system, auditors would pick such things up and they would either report them to the Parliament in section 22 reports—as two cases were reported—or they would not. Had things not changed, we would have wanted to learn that lesson. If Coatbridge College had been number 1 on the list instead of last, we might have learned that at a different time. We accept that point.

Tavish Scott: That is fair.

My other point is on the business case. I want to be clear, as the convener was, that the committee asked about the business cases—you can read the *Official Report* and see all the times that I asked about the business cases. I was, therefore, not taken with getting a letter saying that I needed to correct my position on that. All along, I was very clear—as was the convener—about the business cases, and what you have said this morning has rather confirmed that. I ask you to back off on that one.

Stuart McMillan: Mr Howells, you became the chief executive of the Scottish funding council in April 2014 and you joined its predecessor organisation in 1994. In that time, were you ever before asked to leave a meeting?

Laurence Howells: Are you asking whether I had been asked to leave a board meeting or a meeting of that sort?

Stuart McMillan: Yes.

Laurence Howells: I had been asked to leave meetings before, although not in the context that you have described. It is not a common event for us to go to board meetings. That board meeting was the first that I had attended in the role of acting chief executive. I subsequently attended a board meeting that I was asked to leave, but I had learned some of the lessons from the Coatbridge College experience and was considerably more forceful in that debate. In answer to your question, that was the first time in that role in that kind of situation.

Stuart McMillan: I accept that it is unusual for the chief executive of the Scottish funding council to attend board meetings, but what about other

staff members? Would they attend board meetings more regularly?

Laurence Howells: During the merger process, we attended virtually all the partnership board meetings. There was a lot of interaction during that period.

Stuart McMillan: Was anyone else ever asked to leave any of those other board meetings?

Professor Brown: Subsequently, post Coatbridge College and the lessons that we have learned, I have attended two meetings of boards and was asked to leave one, along with Dr Kemp and the chief executive.

Stuart McMillan: We are here to discuss Coatbridge College, so the convener might stop me here, but can you tell the committee why you were asked to leave those subsequent meetings?

Professor Brown: We were asked to leave because the chair said that it was the decision of the board that it would hear what we had to say but it did not want to take any questions or have any discussion and that we would be asked to leave. I objected on a number of occasions and was then accused of not respecting the board. We left under protest and asked for that to be minuted.

Stuart McMillan: Now that that is on the record, I am sure that people will have an interest in the situation. Can you tell us which institution that was?

Professor Brown: It was Glasgow Colleges Regional Board.

Stuart McMillan: Did that happen recently?

Professor Brown: It happened last year.

Stuart McMillan: Was that before or after the change?

Professor Brown: Before which change?

Stuart McMillan: Was it before the new system that we have was introduced?

John Kemp: It was in March.

Professor Brown: Yes, it was in March. It was not specifically to do with severance payments; it was more to do with general governance issues.

Stuart McMillan: Okay. Let us go back to Coatbridge College for a moment. Some of the areas that I was keen to ask about have been covered, but I am interested in the meeting that you were asked to leave, Mr Howells. Did you raise any protests at that meeting? Did you indicate that you felt that that would be inappropriate, or did you just leave?

Laurence Howells: My memory is that I attempted to say that I was there to have a discussion. I said that the board must have

questions, and I asked what those questions were so that we could talk about them, but I got no response. I think that there were one or two questions, but there was no attempt to pursue that dialogue, which seemed to me to be the right thing to do. I received no response. I reached the point where I had had my say and it was for the board to listen to the guidance and do what was expected of it.

Mary Scanlon: I seek clarity on the £52 million that was allocated to the merger process. Was that specifically for severance payments or was it a more general sum? Dr Simpson mentioned that the amount that was allocated has increased considerably—I think that he said that it was £90 million.

John Kemp: Dr Simpson can correct me if I am wrong, but I think that he was referring to the fact that our funding for the mergers, when it is added to the other funding that came from college reserves and so on, comes to the higher figure. Is that correct, Dr Simpson?

Dr Simpson: That is correct.

Mary Scanlon: So how does that differ from the £52 million that was mentioned in the Audit Scotland report?

John Kemp: The £52 million—

Mary Scanlon: Are you over budget? That is what I am asking.

John Kemp: No. The £52 million is the SFC funding. The figure that Dr Simpson referred to represents recognition of the fact that colleges put in some of their own resources. For example, in Edinburgh, we funded a voluntary severance scheme and paid up to a one-year payback, and the element between that and 21 months came from colleges' reserves. That is what—

Mary Scanlon: Sorry, but this is important: so the SFC is not over budget on this.

John Kemp: No.

Mary Scanlon: As part of the merger process, a promise was made to have national pay bargaining. Before becoming a member of Parliament, I was an economics lecturer in further and higher education, and I am aware that my former colleagues in the University of the Highlands and Islands are paid up to £7,000 less than many people doing the same job with the same qualifications in colleges in the central belt are paid.

Three years down the line from the promise of national pay bargaining, they are no further forward and I note that strike action has been mentioned. I am obviously very much in favour of my colleagues. It will be difficult to recruit in the Highlands and Islands unless we pay staff there

the same as we pay staff elsewhere. When will we get national pay bargaining and where will the money come from?

12:45

John Kemp: National pay bargaining is not specifically related to the mergers. It was not part of the aim of the merger programme.

Mary Scanlon: It was mentioned at the time.

John Kemp: It is part of the reforms of the college sector more widely, but it is not specifically an aspect of the merger programme, although the merger programme arguably makes it easier.

Mary Scanlon: It has been mentioned in Audit Scotland reports. That is the only reason why I mention it.

John Kemp: There has been quite a lot of progress on national pay bargaining. It is not quite there yet; certainly, the final aspect of it—pay harmonisation across the sector—is not imminent, because there are costs attached to it. The college sector has been working closely with the unions on a framework for national pay bargaining, which is almost in place.

There are still some colleges that have to sign up fully to the national pay deal and there is a series of concerns that relate to how they operate as charities and how that can affect the negotiating mechanism that they have. However, there has been considerable progress on the issue and a recent letter of guidance from the Government asked us to support the colleges in taking that further forward. We have been in fairly active discussion with the colleges and, indeed, the Educational Institute of Scotland on the issue.

Mary Scanlon: The Scottish Government promised pay harmonisation prior to the merger process. You can understand that I have colleagues in the Highlands who are asking me when it will happen. They have been promised a significant amount of money. We want the same level of education and the same quality of lecturers in the Highlands and Islands as elsewhere. When can I tell them that they will get an extra £7,000 in their salaries? It has been on the cards for three or four years now. I have been very patient.

John Kemp: I am afraid that I cannot give an answer to that question. We are working closely with the sector to try to move national pay bargaining forward.

Mary Scanlon: Am I right in saying that you are facing strikes because of it?

John Kemp: There are issues in the national pay bargaining arena at the moment, but the eventual point of everyone being paid the same is

some way off and that is not what the issues are at the moment.

The Convener: Mr Howells, you referred earlier to your attendance at the meeting with Coatbridge College. If I recall correctly, at a previous meeting—the *Official Report* will confirm this—you advised us that you advised the college that, if it were to fund the scheme for Mr Doyle over and above the 13 months, it would need to meet the costs. Is that correct?

Laurence Howells: Yes. In that process, we were clear that we were only ever going to fund up to 13 months.

The Convener: That would not have been the concern to Mr Doyle that you are trying to imply, because you were really saying that you could provide the 13 months' funding but anything else would have to come from the college. He would have been in no way concerned about you saying that you would fund only up to 13 months, because he would have seen it as the package being in place with that amount from the funding council and the rest from the college, so I am not really sure what the purpose of your attendance at the meeting was.

Laurence Howells: My purpose was to make absolutely certain that the board, whose responsibility the decision was, knew what it was expected to do.

The Convener: What was it expected to do?

Laurence Howells: If it was offering a deal that was outwith the deal for the rest of the staff, it had to justify it. That was what the rules said. I was underlining the guidance at the time and seeking to ensure that the board knew what its responsibilities were.

The Convener: But you never gave the board the impression that it should not approve the scheme. Did you ever say to it, "Do not approve the scheme?"

Laurence Howells: I did not say that because, at that time, it was the board's decision to make. There is a choice about what side of the line we lie on, if the system is such that that is the board's decision. It is not my job to run colleges.

The Convener: Yes, but it is your job—it is the funding council's job—to provide the funding.

Laurence Howells: I understand—

The Convener: Alongside the guidance, it is your job to provide the funding and—as the guidance makes clear—the terms of that funding. That is part of your role.

Laurence Howells: I played that role in saying, "We will pay up to 13 months." The view of this committee—

The Convener: Why did you have to say that you would provide that amount? You could have just said that you would not provide it, because it was over and above the recommended amount.

Laurence Howells: Indeed. I could have done that, but—as we have said before—we took the view that we would not damage the college and its on-going arrangements. I accept that there is a different view that I should have been more forceful and should have made that choice—

The Convener: What would "more forceful" have been?

Laurence Howells: Something like you suggest, such as a threat to fine the college or whatever. I have to say that the context at the time was that the mergers were voluntary, and we were seeking to persuade rather than force. That was the tone of all our discussions.

The Convener: You wanted the principals out the door. You wanted them to move on, and there was a convenient process of saying, "Yes, we'll provide this." It was helpful that Mr Doyle decided to go, was it not?

Laurence Howells: Undoubtedly, that merger would have been hampered had he resisted.

The Convener: Absolutely.

Finally, I have a question for Mr Kemp. I am looking at the table in front of me—I am sorry; my eyesight is not as good as it used to be—and in particular at the sum of £200,000 for pension enhancement at Langside College. There is no business case attached to that. Would you expect it to be a contractual arrangement when someone receives a pension enhancement?

John Kemp: We understand that it was a contractual arrangement. Again, that is something that we find—

The Convener: Was it a civil servant contractual arrangement?

John Kemp: No. I think that it was a Strathclyde pension scheme contractual arrangement.

The Convener: But other boards rejected that, including the board of Coatbridge College.

For the record, can you make it absolutely clear that there was no need for a business case to provide for that pension enhancement?

John Kemp: I am clear that there was no business case, and I am also clear that there was no requirement for the college to tell us in advance that it was producing a business case or, indeed, to show us the business case afterwards—

The Convener: I am not worried about that, Mr Kemp.

John Kemp: I am answering your question in a very specific way, because—

The Convener: We do not have time to go over that. The college has not provided a business case. It is clear that a payment of £200,000 has been made—

John Kemp: Yes.

The Convener: When the board looked at that, are you saying to me that it was written into the principal's contract that he would receive that enhancement—yes or no?

John Kemp: We understand that that is the case.

The Convener: Right, so it is the case that, for the principal's pension on the basis of early departure, there is a specific reference in the contract that says, "You will receive this sum plus the basics"—in other words, the 13 months' salary.

John Kemp: We understand that it is the case that it was a contractual right, and it has been through the audit process.

It would have been within the board's gift to say, "This is a contractual right, but if this person leaves it has to go, because we are not convinced that it is worth that."

The Convener: That is where a business case would have come in, would it not?

John Kemp: Indeed, and I completely accept that point.

The Convener: The point—which the committee has made on many occasions—is that surely, when all that public money is going out the door, somebody has to say, "Yes, you might have a contract in place, but you need to make a business case for enhancements."

John Kemp: Yes.

The Convener: That is all that is being said here. We have asked for that information and it has become clear that the process was pretty haphazard. I have been an elected representative for 22 years, and I have been to meetings of community councils and residents associations that have more effective monitoring systems in place for paying out sums of money that are very small in comparison with what we are talking about today. I just cannot believe that the Scottish funding council, when it entered the process, did not say, "Fifty million pounds? We'll make sure, to the best of our ability, that every penny that is spent has everything attached to it that is required to be in place." It is clear that that did not happen.

John Kemp: In the case to which you refer, we did not pay the £200,000—let us be clear on that. We paid an element of it.

The Convener: You still made the package—

John Kemp: I have accepted earlier, and I will repeat again, that, were it not for the Scottish public finance manual, one of the lessons that we would have learned earlier is that we would need more oversight of the element that was outwith our control and in the control of boards. We accept that.

The Convener: In conclusion, today will be the last time that this committee will interact with you. We thank you for your contribution, but we hope and would like to think that, given the robust report that we have put on record and the recommendations that we have made, the Scottish funding council—through your leadership, Professor Brown—will take on board the concerns that we have raised today and ensure that there is a legacy for the future. The issue may come up again—there may be some other mergers or processes in which it will come about—but lessons will have been learned.

Professor Brown: I can assure you of that, convener.

The Convener: Thank you.

"The 2014/15 audit of the Scottish Government Consolidated Accounts"

The Convener: Agenda item 4 is on the section 22 report entitled "The 2014/15 audit of the Scottish Government Consolidated Accounts". Colleagues will have on their desks the connected response from Alyson Stafford, who is the director general of finance in the Scottish Government. Do colleagues have any comments?

Tavish Scott: Yes. There is a response from the permanent secretary to the Scottish Government, Leslie Evans, that relates to the consolidated accounts. Page 5 of that response mentions the CAP futures project, which we have mentioned in passing. Can we ask Leslie Evans for an update on that? My understanding is that that programme has paid out less than a quarter of the sums that it should have, and there is no sign yet of any accelerated payments. As Leslie Evans's letter says, it is already 74 per cent over budget.

In addition to that cost, there are the extra staff costs that the cabinet secretary has already announced. It is right to have done that, as the situation is a shambles and a fiasco.

Given the colossal amounts of public money that are being spent on something that is not working, can we ask the permanent secretary to be much clearer about what is going on in the next response that we receive from her? I appreciate that the Auditor General for Scotland is also

looking into the matter, and I strongly welcome that.

Mary Scanlon: First, I support what Tavish Scott has said. I had the pleasure of visiting his constituency last week, and I heard that staff from Shetland have been seconded to Edinburgh to help to try to get things in order. Mr Scott's points about additional staff are well made.

Secondly, how much will be incurred by way of additional costs for paying by instalments?

Thirdly, we have mostly talked so far about the basic payments in relation to the common agricultural policy. I understand that they were due in December. I met five crofters in Shetland, and none of them has had a penny of the money that was due then. They say that the main part of their funding is the less favoured areas status payments, which are due in March, and they are worried about the domino effect. December payments have still not been paid at the end of February, so when are the payments that were due in March due to be paid? I cannot go into the details, but people who are involved in agriculture and crofting in Shetland stated very serious concerns about the cash-flow problem that is emerging.

I support Mr Scott. We could do with considerable additional information on the payments before the end of the session, because they are causing real worry and hardship out there.

Colin Beattie: I would like a bit more information about the charity arrangement with the capital projects. How does the national charity ring fence local community benefit? How do we ensure that that portion goes back into the local community? That is not clear.

The Convener: Okay. Can we be clear about the information that Tavish Scott is looking for? Will he confirm what he is recommending?

Tavish Scott: I recommend getting an update on the actual cost of the programme that I mentioned, which is supposedly £178 million; on the additional costs for employing extra staff, which must be staffing revenue costs; and on the profile of when payments were made using an extraordinarily expensive computer that is not working.

The Convener: Obviously, we do not want to duplicate the Rural Affairs, Climate Change and Environment Committee's work.

Tavish Scott: Absolutely.

The Convener: Shall we clarify with that committee what work it has done on that? If there is any duplication, we can allow it to lead on that, but if there are areas that are relevant to this

committee, we can leave that with the clerks to prepare accordingly.

Tavish Scott: My understanding is that the Rural Affairs, Climate Change and Environment Committee is not looking at the money, but is looking more at whether people are getting paid.

13:00

Dr Simpson: On the Lee Evans report—

Tavish Scott: Leslie Evans.

Dr Simpson: Leslie Evans—sorry. Some of the questions that I had were answered. The same applies to NHS IT procurement. We should ask the Health and Sport Committee whether it is doing anything on that. There are issues around from its previous reports that indicate that things have not really progressed.

In 2010, the Health and Sport Committee had an inquiry into clinical portals and telehealth. In paragraphs 47 and 48 of its report, it expressed concerns about developing multiple portals and the consequences of that for functionality. In addition, it questioned having a single user identity, as that led to considerable complications in the system. I think that there was a new policy or strategy from 2012 to 2015. The Health and Sport Committee was looking for a report in 2011-12. Can we ask whether that report has been done? That committee may want to put pursuing that issue into its legacy paper.

There is a general point that has not been answered. After this morning's discussion, even with Leslie Evans's report, I have no clear idea of a pathway from the idea that we need a new IT system through to its completion. We should ask the Government and the person who is in charge of digital services or whatever about that. I do not know what all those people do, but we should ask whoever is right at the top of the procurement of IT across the whole Government about that. We should have a much clearer pathway than we have from the current structure.

Nigel Don: I go back to what was previously said about the charity arrangement in capital projects. Can we get a reasonably comprehensive briefing on how that is supposed to work? We have reached a point at which people know what they are trying to do. It is not for me to say whether that briefing should come from the Government or perhaps even from the Scottish Parliament information centre, but a briefing that lays out pretty comprehensively what we or our colleagues later need to know about the matter would be useful.

The Convener: Okay. We will leave it with the clerks to try to ensure that we do not duplicate the

work of the other committee but that we take on board the points that have been made.

13:02

We will now move on to the next agenda items, which we previously agreed to take in private.

Meeting continued in private until 13:16.

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