OFFICIAL REPORT
AITHISG OIFIGEIL

Public Audit and Post-legislative Scrutiny Committee

Thursday 9 February 2017

Session 5

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PUBLIC AUDIT AND POST-LEGISLATIVE SCRUTINY COMMITTEE
5th Meeting 2017, Session 5

CONVENER

*Jenny Marra (North East Scotland) (Lab)

DEPUTY CONVENER

*Liam Kerr (North East Scotland) (Con)

COMMITTEE MEMBERS

*Colin Beattie (Midlothian North and Musselburgh) (SNP)
*Monica Lennon (Central Scotland) (Lab)
Alex Neil (Airdrie and Shotts) (SNP)
*Gail Ross (Caithness, Sutherland and Ross) (SNP)
*Ross Thomson (North East Scotland) (Con)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Paul Gray (Scottish Government)
Christine McLaughlin (Scottish Government)
Fiona McQueen (Scottish Government)

CLERK TO THE COMMITTEE

Terry Shevlin

LOCATION

The Mary Fairfax Somerville Room (CR2)

Scottish Parliament

Public Audit and Post-legislative Scrutiny Committee

Thursday 9 February 2017

[The Convener opened the meeting at 08:45]

Decisions on Taking Business in Private

The Convener (Jenny Marra): Good morning and welcome to the fifth meeting of the Public Audit and Post-legislative Scrutiny Committee in 2017. I ask everyone to switch off their mobile devices or switch them to silent mode so that they do not affect the committee's work.

Apologies have been received from Alex Neil. Kenny Gibson, who is the committee substitute for the Scottish National Party, might join us.

Our first item is a decision on taking business in private. Do members agree to take item 4 in private?

Members *indicated agreement.*

The Convener: Do members also agree to take in private our consideration of our work programme at our meeting on 23 February?

Members *indicated agreement.*

Section 22 Report

"The 2015/16 audit of NHS Tayside: Financial sustainability"

08:46

The Convener: We will now take oral evidence on the Auditor General for Scotland's report entitled "The 2015/16 audit of NHS Tayside: Financial sustainability". I welcome to the meeting Paul Gray, the Scottish Government director general for health and social care and the chief executive of the national health service in Scotland; Christine McLaughlin, the director of health finance at the Scottish Government; and Fiona McQueen, the chief nursing officer of the Scottish Government.

I believe that Mr Gray does not wish to make an opening statement. Is that correct?

Paul Gray (Scottish Government): Yes, convener, although I would welcome the opportunity near the beginning of the evidence session to make a couple of comments on the letter that I submitted. It would be helpful for the committee to have a brief update on the position that was set out in it.

The Convener: It would be useful if you did that now.

Paul Gray: When I wrote to the committee on 27 January, I gave a brief outline of the position on NHS Tayside. As you would expect, I have had continued discussions with the chair and chief executive of the board. NHS Tayside remains committed to delivering its plan this year within the £11.7 million of brokerage that has been afforded to it. However, it is experiencing a bit of a time lag on the necessary culture change to bring about the prescribing savings, and I have agreed to provide support from the deputy chief medical officer, Dr Gregor Smith. The prescribing savings are generally to be found in general practice and I want the board to have all the support that it can so that they are achieved practically and in a way that does not affect patient care.

That means that, to meet the £11.7 million brokerage limit, NHS Tayside will have to adopt some contingencies. That is a sensible thing to do. However, I have asked to meet the chair and chief executive of the board at the beginning of March, once my colleagues have gone through the contingencies with them, to ensure that nothing in what they propose to do will affect patient care. If I conclude that it would be sensible to advance a small amount of further brokerage, I will do so.

I simply thought that it was fair to let the committee know that. I have not decided yet, but I

wanted the committee to be aware of my current thinking.

The Convener: That is useful, Mr Gray. Thank you for informing the committee of that meeting and your considered intentions. That leads me on to ask about the current financial figures.

I reiterate the Auditor General's statement that NHS Tayside's finances were "the most challenging position" that she had seen. The Auditor General also made clear that the efficiency savings target for NHS Tayside was, in cash terms, unprecedented among boards in Scotland. Today, we are going to ask questions about how that position has been reached, the possible implications for the people who use services in Tayside and the Scottish Government's role in ensuring that the issues are properly addressed.

Mr Gray, I start by asking for clarity, beyond what you have said already, on NHS Tayside's current financial position. I am sure that you have read the *Official Report* of the committee's meeting in Dundee in December with the chief executive, the chair and the finance director of NHS Tayside. A number of figures were given at that meeting, and there was not too much clarity around them. Can you confirm the savings that NHS Tayside must make in the current financial year and in subsequent financial years, broken down into efficiency savings and the repayment of the Scottish Government's financial support, which is known as brokerage?

Paul Gray: I will ask Christine McLaughlin, as the finance director, to give you the detail of that. The figure of £214 million has been quoted; if we start from there, perhaps Christine can explain how that figure has been arrived at and offer some commentary on the components.

Christine McLaughlin (Scottish Government): Please feel free to ask me questions if anything that I say does not make sense or is not clear enough.

Mr Gray is right about the position that we have agreed with NHS Tayside for the current financial year. Overall, the board had a gap of just over £58 million between its expenditure programme and its income. It set itself a savings target of £46.75 million, which it thought would be achievable to deliver against that. That amounts to just over 6.5 per cent, which is slightly above the average for territorial boards.

The Convener: Can you clarify something? The board's initial savings target was £58 million, and it was reduced to £46 million. Is that correct?

Christine McLaughlin: No, it is not. The board initially said that, in order to balance, it would need to make its system more efficient by £58.4 million. It did not have a plan to deliver all of that through savings. As a straightforward comparison, one would expect any other board to come up with savings of that level. There have been on-going discussions with the board about the extent to which the Scottish Government would provide it with brokerage. I am sure that you will want to ask questions about that, but I emphasise that brokerage is not, in itself, an unusual thing for us to do. It is very much about smoothing funding for boards over a number of years if there are particular reasons to do so.

We entered the financial year on a planning assumption, if I can put it that way, that we would provide £11.65 million of support to NHS Tayside in year, in recognition of the fact that we did not believe that savings of the magnitude of £58 million were realistic for the board. That is where the difference is. The figure has not slipped—it is just that the board never had a plan to deliver those savings. We did as much due diligence as we could on the board's position to understand what was reasonable, and we accepted that we would provide brokerage in-year.

The question in year is about the extent to which NHS Tayside can deliver savings of £46.75 million, the way in which it does so and what that will mean for its position over the next few years.

The Convener: I have a quick question on that. NHS Tayside's board papers from early December stated that the deficit would run to £18 million rather than £11.65 million or £11.7 million.

Christine McLaughlin: All boards start the year with a plan for how they intend to achieve savings. Some of those savings are clearly identified and there will be plans in place over a number of years. Other boards have what are very much initial plans for targets that they expect to achieve.

As we have seen, NHS Tayside had a plan to reduce agency nurse costs in year, and it has reduced those costs significantly. From April to December, in comparison with the previous period, there was a reduction of approximately £750,000, but it has not gone so far as to meet the target for the year.

As Paul Gray said, the board has not yet been able to make the savings on prescribing that it had hoped to make. It is doing work to put the plans in place, but the process is not about a simple switch from one product to another; it is about getting buy-in support from general practices to change prescribing patterns. We will do follow-up work with it on that, to see whether there is a way to go further and faster on savings in prescribing.

Although the board has made progress in some areas, other areas have not gone as the board planned. Like all boards, it has looked at alternative savings options. The work that NHS Tayside is doing, which is mentioned in its board

papers, is about identifying what we might call substitute savings in year to compensate for that reduction. Paul Gray's point is that we need to see the extent to which those substitute savings, and the options within them, will cover the savings where the board has not met the targets, and whether the actions that that would involve would be acceptable.

The Convener: Before you started talking about prescribing, you talked about the brokerage figures for this year. I am keen for you to set out the savings that NHS Tayside must make in this year and in subsequent financial years, broken down into efficiency savings and repayment of the loans to the Scottish Government. Do you have that breakdown for us?

Christine McLaughlin: I can give you it verbally and I am happy to back up anything that I say in writing, because we have quite simple documentation that can give you that.

I will start with the savings. For this financial year, we agreed savings of £46.75 million, which is about 6.6 per cent of NHS Tayside's total funding. In the current plans, for the next financial year, the board is looking at £45.8 million of savings. That figure might change slightly at the margins—for instance, if we look at the board papers for December, we see that the board is really working through the detail of that just now—but it is the recent figure that the board has shared with me. That is about 6.3 per cent of total funding, so that is a similar set of circumstances to those in this financial year.

The board's current planning estimate for its brokerage from us for next year is £4 million, so it does not see that the total amount of savings that it needs in order to get back into balance is achievable in one year—it cannot turn that around in one year. The current plans assume that, going into 2018-19, the board will be back in financial balance in year, and then we will put in place a repayment profile for the brokerage that it will have incurred up to that point in time.

Shall I continue taking you through the brokerage assumptions?

The Convener: Yes, please.

Christine McLaughlin: The number 1 priority for us is NHS Tayside getting back into sustainable financial balance in a way that keeps that balance with performance and its delivery targets. We have not yet pushed the board on a precise number for its brokerage repayment in each year. It is illustrating what it thinks is possible, but we will not come to a final decision on the repayment until we are absolutely satisfied on the measures to get it back into balance. That being said, the board is planning on four years of repayment of its brokerage, which would be about £35 million.

There are different ways in which the board might achieve that position. Its planning assumption on the savings in year for the next four years is over 5.5 per cent—it is about 5.7 per cent. The first thing that we would want to know is the extent to which that is realistic and what it would need to do to deliver that.

On the actual repayment of brokerage, the board has a few levers. First, it has a number of asset sales. It has a lot of estate, much of which is already vacant and on the market. We have worked with the Scottish Futures Trust to get a fair assessment of the valuation of those assets. We would allow NHS Tayside to use those asset sales to pay off part of its brokerage. Normally, those sale proceeds would come back to the Scottish Government and would help towards the overall capital position, but we would allow NHS Tayside to use them to offset some of its brokerage.

Secondly, the committee will be familiar with the way in which we fund boards and will know that there is a funding formula. As a result of the policy to have boards within 1 per cent of their funding formula, NHS Tayside will receive an additional £8 million in the next financial year. The board did not plan to have that £8 million; it was announced as part of the budget in December. The board will receive £8 million each year that it did not plan for.

Those two factors together will help to make the notion of repaying over a four-year period more realistic. There will be a combination of the board's delivering more efficiency savings and using those mechanisms to repay.

09:00

The Convener: I want to rewind to the figures in the first part of your answer. You have committed to providing us with the figures in writing, which would be really helpful. I think that you said that the savings figure for year 2 is £45.8 million, or 6.3 per cent of total funding. Is that correct?

Christine McLaughlin: It is around 6.3 per cent.

The Convener: Are you saying to the committee that you are not keen to press NHS Tayside on how much brokerage it will repay after that because it has to work out how much it can save?

Christine McLaughlin: Yes. Ideally at this point, all of that would be in place but, because of the scale of the challenge, it is right that we focus first and foremost on getting NHS Tayside back into financial balance. Its indicative plan for the next five years seems reasonable, but delivering that level of savings over that period is still pretty

challenging. To put it into context, the board assumes that it will make savings of £40 million each year in years 2 to 4.

The Convener: We discussed the matter in detail in the committee meeting in Dundee in December, and I think that we established then that NHS Tayside requires a detailed plan for the next five years that identifies where the savings will come from. I understand that the Scottish Government is leaving the brokerage open, as this is obviously about services but, towards the end of March, we expect to get from NHS Tayside a detailed five-year plan that will show year by year where its savings will come from. Are you saying that, so far, we have reached only year 2 of that plan?

Christine McLaughlin: No. There is a plan. In the board’s transformation programme, it has detailed a finance plan that supports that and delivers against the numbers that I have mentioned. It goes to 2021-22 and details the main workstreams and where it expects to get to in relation to nurse agency staff, medical locums, prescribing and its asset base. There is a level of detail there that gives me comfort on the five years. All that I am saying is that landing on those precise figures over a five-year period involves a level of accuracy, and we need to do more diligence on that. However, there is certainly a five-year plan in place for NHS Tayside that sees it being in balance and having repaid the brokerage to the Scottish Government at the end of that period.

The Convener: I think that all members of the committee understand the problem areas and where NHS Tayside aims to make cost efficiencies in agency and prescribing costs, but we were looking for more detail. Are you saying that that kind of detail is not possible in NHS Tayside’s detailed year-by-year plan for the next five years?

Christine McLaughlin: No—it is just more detailed about the earlier years. That is not unlike what happens in other boards. There is a very detailed plan that gives me assurance about the next financial year. The savings in the following years are predicated on continuing with those types of trajectories. There is a plan. There are fewer details about the latter three years, but they are very much about continuing with the delivery of the transformation programme.

By the end of March, we will have the local delivery plan for NHS Tayside, which we will get for all the boards. That is where I expect to see the real detail coming through. We have asked for early sight of the draft financial plan by the end of February and the full local delivery plan by the end of March. That is where I will really look to see all the further details.

The Convener: You said that the Scottish Government has agreed with NHS Tayside that the money that it releases from capital receipts from the sale of its assets will go towards repaying brokerage. NHS Tayside has been reliant on such non-recurring savings. Does that mean that in your discussions with the board you have reached agreement that the general savings that it will have to make will all be recurring savings?

Christine McLaughlin: On asset sales, over a number of years Tayside has relied on that non-recurring means. Such an approach will obviously take the board only so far. Somewhere between £10 million and £15 million of asset sales are planned over the five-year period. Those estimates have been revised, and they are quite prudent.

You are right that we would then be looking for savings to be genuine efficiencies in the system. NHS Tayside is currently running at a ratio of about 60 per cent non-recurring to 40 per cent recurring savings. Its plan over the five years gets it back to 60 per cent recurring by 2021. It is looking to shift the balance, but there will not be overall recurrence in all the board’s savings. We would not expect any board’s savings all to be recurring—that is not how boards have operated. There are always one-off measures that can be taken, in any system. However, getting the balance back to 60 per cent recurring savings would get NHS Tayside into a much healthier place. I have detail and assurances in that regard from the planning that has been done in NHS Tayside.

The Convener: Thank you.

Gail Ross (Caithness, Sutherland and Ross) (SNP): I was interested and reassured, to a point, to learn that the Scottish Government is happy with how planning is going. Christine McLaughlin sounds a lot more reassured than the Auditor General for Scotland did in her report.

Christine McLaughlin mentioned the £8 million that, as Paul Gray said in his submission to the committee, is NHS Scotland resource allocation committee funding to take the board to within 1 per cent of parity. Would the board have got that funding anyway, to take it to within 1 per cent?

Paul Gray: The board was not anticipating that. It did its planning without anticipating receiving the £8 million, so it now has £8 million of additional flexibility. We expect it to prioritise using the £8 million in ways that either defray any brokerage that it has or meet other pressures in the system. The board has £8 million more than it expected to have.

Gail Ross: The £8 million took the board to the target of being within 1 per cent of parity. If it had

not had that, it would not be within 1 per cent of parity. Is that correct?

Paul Gray: That is absolutely right.

Gail Ross: In your opening statement, you talked about NHS Tayside not making its prescribing savings. It is important that NHS Tayside fronts up and says, "Look, we are trying, but we are not quite getting there." I am not saying that that has been missing in the past, but it is important for NHS Tayside to be honest about how it will get to the stage that we want it to get to.

During our meeting in Dundee in December, which the convener mentioned, we talked about the five-year transformational plan, the delivery plan and the financial plan—there are quite a few plans. Christine McLaughlin said that the draft financial plan will come to you at the end of February and that the operational delivery plan will come at the end of March. At this point, when you have not seen that detail, how can you be sure that things are going in the way that you want them to go?

Christine McLaughlin: That is partly about judgment. As you would expect, I and others in the Scottish Government have been working closely with NHS Tayside and have gone into a lot more detail than we would with other boards. I am looking for assurance that the components that we would expect to see are in place—for example, are the monthly expenditure run rates going in the right direction? That type of thing gives a level of assurance.

However, as in any other part of the NHS, other pressures can come into the system that counterbalance something that is going in the right direction. We have to understand the overall position in NHS Tayside and the extent to which it can keep going with its total programme, of which there are lots of components in the plans.

We will get the detailed financial plans later this month, but I already have in front of me NHS Tayside's transformational change plan and the operational plan that supports it, which contains details of the next five years. The question to address is the extent to which the plans are realistic and achievable, given that the change plan is large and comprehensive and covers a number of areas.

I know that others have mentioned this in previous discussions with the committee about NHS Tayside, but if we step back and look at the overall operating model and the cost base, we see that the board's expenditure in some areas of cost is higher than that in other parts of the NHS system and that such expenditure is high relative to the board's size. That suggests that it is reasonable to assume that NHS Tayside could come back into line with the average across other territorial boards without that having a detrimental impact on its services. However, time is needed to work through how to implement such things in a logical way that maintains performance, and that is what our focus has been on. NHS Tayside has looked at a number of metrics, and it is benchmarking to give a clear indication of a cost base that is higher than those of other boards.

Gail Ross: The cost base is higher—we have looked at prescribing, staff numbers and the use of agency nurses. How did NHS Tayside get to the current position if it knew that its costs were higher than those of other boards?

Paul Gray: Benchmarking brings out the comparators, and some cost variations are reasonable. A rural board has a different set of cost pressures in some areas from those that an urban or city-based board has. NHS Tayside has also designed its services in particular ways. For example, it has designed its accident and emergency service in a way that produces a very high performance level. However, that comes at a cost.

We should not jump to the conclusion that, every time a board's costs are higher than another board's costs, the one with the higher costs is wrong. However, the extent to which NHS Tayside is out of alignment on some elements—we have spoken about prescribing and the use of agency staff—is sufficiently significant to be worth paying attention to.

Having taken a good, hard look at the way in which its budgets were being set up and delivered, NHS Tayside's current leadership has brought to the surface issues that the committee is aware of on asset sales and so forth, which has caused those people to think hard about how the board has been delivering services. In looking at overall efficiency, we ensure not only that all boards have access to and sight of the benchmarking information but that, when boards are outliers, they look carefully at the areas involved to determine whether they ought to bring them more within the norms. That is what NHS Tayside is doing, which is the right approach.

Gail Ross: I take your point about rural health boards being different from city health boards. Nobody is saying that such boards have to be run in exactly the same way, as that would be impossible, or that a board might be running things in the wrong way just because it has higher costs. However, surely the alarm bells start to ring when a board needs to be bailed out by the Scottish Government in consecutive years, time after time. Nevertheless, you are right to say that the fact that a board's costs are higher does not mean that it is providing the wrong service.

Does the fact that the Scottish Government has provided so much financial support to NHS Tayside mean that other parts of the Scottish Government's budget have missed out? Where would that money have been spent otherwise?

Christine McLaughlin: We have used brokerage as a way of smoothing out funding for a number of years, and we factor into our budget planning an element of support. That support often goes two ways—it involves boards repaying support as well as receiving support. The parameters in which we are working are within our planning assumptions; brokerage is fully managed within the health budget.

09:15

Gail Ross: You say—I think that this is completely the right approach—that the Scottish Government's opinion is that brokerage can be repaid only once NHS Tayside is financially sustainable. What does being financially sustainable look like? Does it mean breaking even?

Paul Gray: It means that NHS Tayside can break even, deliver the efficiency savings year on year without recourse to further brokerage and maintain appropriate levels of service and delivery.

Gail Ross: Do you take the approach that NHS Tayside should achieve the efficiency savings and then start to repay the brokerage, or should it do both at the same time? We want the position to be affordable and we want to make sure that services do not diminish for the people who use them.

Paul Gray: I am not giving an absolute commitment on what will happen, but I would expect the trajectory of the repayment of brokerage to grow over time. I would not expect to say to the board, "You're going to break even in two years' time, so there will be a flat-rate return or you'll have to repay all the brokerage in one year." I would expect us to agree on a trajectory, which would be informed by the likely timing of asset sales, as Christine McLaughlin said. We are seeking to be as flexible as we can be to make sure that we do not implement a transformation or recovery plan that imposes further burdens on NHS Tayside and makes things harder.

The Convener: I want to clarify a couple of points. NHS Tayside gave oral evidence that it would

"be back in financial balance within the five years of our five-year plan".—[*Official Report*, *Public Audit and Post-legislative Scrutiny Committee*, 15 December 2016; c 21.]

Does what you have said today mean that you expect it to be back in financial balance at the end of year 1?

Paul Gray: Year 2.

Christine McLaughlin: We have discussed with NHS Tayside what is reasonable. The starting point was achieving the aim within five years. We wanted to understand the extent to which that meant being in financial balance in-year and how much brokerage would be repaid. When we take all the factors into account—including asset sales and additional NRAC funding—the indicative programme that we are working to involves gradual repayment. In 2018-19, that would be of less than £2 million, but the repayment would start.

To go back to Gail Ross's earlier question, the plan is a mix of delivering efficiency savings and starting to repay brokerage. I caution that we need to understand the assumptions that NHS Tayside makes in the repayment plan to know whether it is reasonable. Its indicative position on repayment goes from £1.6 million now up to nearly £12 million in 2020, so there is a range and the repayment is largely back ended.

I have challenged the board to make repayment as early as possible, while achieving the balance. It would not help any of us to agree on something that it was beyond the board to deliver, which would mean that more brokerage needed to be provided; we would rather get it right now. The indicative plan would see repayment phased and back ended towards the end of the five years.

The Convener: Do I understand that the Scottish Government is pushing to have NHS Tayside back in financial health and breaking even by the end of year 2?

Christine McLaughlin: That is the position with NHS Tayside—we are working on the extent to which there is potential to be back in balance by 2018-19 and start to repay brokerage.

The Convener: NHS Tayside told us that the Scottish Government has agreed that its five-year plan is credible and that the Government is happy to support that plan. Is that correct?

Christine McLaughlin: NHS Tayside is continuing to develop the financial side on repayment. It will also have £8 million more in NRAC funding in each of the next four years, which is £32 million over those four years that was not in the previous plan.

The Convener: It sounds as if you are saying that the situation will be sorted out by the end of year 2, but the board is saying that it needs five years to sort it out.

Christine McLaughlin: The board says that it needs five years to fully implement its transformational change programme. There is no doubt that that is a five-year programme. My challenge to the board is on the extent to which it can get back to living within its means and when it

can do that, which I would prefer to be as early as it can be.

The Convener: Correct me if I am wrong, but much of what you have said has been predicated on the information that you get from NHS Tayside—what it says to you about what is and is not possible, what its plans are and what it is doing. Have you and the Scottish Government carried out your own evaluation to ensure that the NHS Tayside plan will not affect services to patients?

Paul Gray: The short answer is yes. Evidence of that is the fact that I have concluded that I want to meet the chair and the chief executive at the beginning of March to get that further level of assurance. We are not simply reading paper copies of plans and saying, "That will do." Christine McLaughlin is in regular contact and is in Tayside from time to time. John Connaghan, who is our chief operating officer, is also in contact and there.

The Convener: I am sorry to interrupt, but is John Connaghan there to help the board?

Paul Gray: No. I am sorry—I mean that John Connaghan goes to Tayside to see what is happening as opposed to simply receiving assurances. That is normal when we are providing tailored support to boards, as we are to NHS Tayside.

We are treading the line between having confidence in NHS Tayside's senior leadership, which it is right and appropriate for us to do, and assuring ourselves that what the board is doing is credible and soundly based. As the accountable officer for the whole budget, I need that assurance. We seek to adopt that balance.

NHS Tayside is absolutely right to say that we have confidence in what it has produced so far. If we did not have that confidence, I would be sitting here with a different narrative for the committee. However, we still want to build that confidence further, because what the board is seeking to do is not straightforward. If transformational change was easy, we would all have done it by now. What NHS Tayside is being asked to do and what it is trying to do is not straightforward.

The Convener: Is NHS Tayside the only NHS board that is in debt to the Scottish Government?

Paul Gray: It is not. Christine McLaughlin can give you the details.

Christine McLaughlin: In the current financial year, three boards are receiving brokerage. We have discussed NHS Tayside; the current plan is for NHS Ayrshire and Arran to have approximately £11 million in brokerage and for NHS Fife to have £4.8 million in brokerage. We are going through similar processes with those boards, but the difference is that the NHS Tayside position has been on-going for a number of years. For the two other boards, this is the first year of receiving financial brokerage, and we will work through the next five years with them both.

The Convener: NHS Tayside is the only board that has had to come back for brokerage year on year, and it has the highest level of debt to the Scottish Government. Is that right?

Christine McLaughlin: That is correct. In the past, other boards have had multiple years of brokerage that has been repaid, so the model has worked. I confirm that the cumulative outstanding brokerage will be £67.9 million at the end of this year. The committee will be aware of the situation with NHS 24, which has outstanding brokerage—

The Convener: That figure is cumulative across the boards.

Christine McLaughlin: That is correct.

The Convener: NHS Tayside's total is £36 million—is that right?

Christine McLaughlin: That is based on £11.7 million this year, which will mean £31.5 million in total. I can provide you with all the details.

The Convener: There is a discrepancy between the £31.5 million and the £36 million that John Connell said he thought would be owed.

Christine McLaughlin: The difference is in the extent of additional brokerage in the next financial year. On the basis of the plan, the board is planning on £4 million of additional brokerage in that year.

The Convener: What would be the implications of waiving the brokerage?

Christine McLaughlin: We have put in place the brokerage mechanism for the NHS to smooth out funding and to recognise the fact that it can be quite challenging for any large organisation to land on a balanced position every financial year.

Our approach has been that that is about smoothing and that therefore the money is recovered later. In a couple of instances in the past—particularly with some of the island boards—we did not seek to recover funds. However, much smaller sums were involved, and those situations related to genuine one-off issues such as very-high-cost patients being dealt with off island. It feels as if the circumstances in Tayside are the responsibility of NHS Tayside and that it is accountable for them. That is why we started with the approach of smoothing the funding over a period, with the board repaying the brokerage.

The Convener: Will the Scottish Government consider waiving the brokerage? The situation is quite serious.

Paul Gray: Indeed it is. I remind the committee of the concession that we have already made to NHS Tayside that the proceeds from its asset sales will not be returned to central funds. We could take back the proceeds from the asset sales and then not ask the board to defray the brokerage, but it seems more straightforward and frankly more transparent to make that concession—it makes the process visible and is a way of supporting the board.

From my perspective, I want boards generally to understand that, when we provide brokerage, we expect it to be returned. That is part of prudent financial management. We will not let a board go to the wall simply to prove a point about its financial management, but neither will we allow it to assume that there is a central recovery fund of some kind, because there is no such fund—we plan on the basis of spending such money.

The Convener: So although brokerage has been waived before, that is not something that you want or seek. However, you are saying that it is not off the table.

Paul Gray: I think that I have made it clear that we have already made a concession to NHS Tayside, which is appropriate. From my perspective as accountable officer, I would not at this time wish to go further. Circumstances might arise that cause me to reconsider—one never says never—but I am drawing a very clear line that that is not my expectation.

Monica Lennon (Central Scotland) (Lab): You have brought us up to date on asset sales and explained that a concession has been made not to return the money from those sales to central funds. When we explored the issue in December with the witnesses from NHS Tayside, I think that they detailed savings of around £7.6 million, which is lower than the figure that Christine McLaughlin has referred to. We are concerned that the board is not having a lot of success with the properties that it is trying to dispose of. Does Christine McLaughlin have an update on any sales that have been made since December?

Christine McLaughlin: I can do two things: I can give you an update and I can send you NHS Tayside's details on the status of all its sales. I look for not just the number but what that number is made up of and where the risks are. With any sale, there is the value that sits in the books and the potential for profit, so there is uncertainty. No board could absolutely guarantee the extent of the profit on any sale. The schedule that we have includes a number of properties, adding up to 30 sites in total, so there is a lot in the board's plan.

I based what I said on the current book values and the estimates of profits over that period. However, I fully accept that there is a range within that, relating to the absolute value and the timing of sales. It is not uncommon for properties to be on the market for a number of years before they are sold and, even when they are sold, there can be various agreements about when the return on that is actually realised. I take a level of confidence from having an organisation such as the Scottish Futures Trust reviewing the reasonableness of the plans in Tayside, and it has given us that assurance.

Monica Lennon: Lindsay Bedford, NHS Tayside's director of finance, told us that the board was looking to dispose of up to 14 properties by the end of March. Given that we are now into February, do you have any idea from your up-to-date lists whether the board has managed to sell any of those properties since we were told that in December?

Christine McLaughlin: I think that the best thing for me to do is to get an up-to-date position from Tayside and come back to you, but the information in front of me says that a number of properties are currently under offer and a number have been sold. I can get an up-to-date, exact position from Tayside on the values. I am not aware of anything that is a further risk to Tayside's year-end position based on asset sales at this point in time.

09:30

Monica Lennon: We are aware that 13 of the properties had been on the market for more than a year at that time and three had been on the market for more than four years. Although not having to return the proceeds from asset sales to central funds sounds like a generous concession, we have not really heard of any properties being disposed of; in fact, the one offer that was received was considerably below market value. What confidence are we to have in this minimal update today?

Christine McLaughlin: The issue is partly to do with market forces and the sales value of the assets. I look at whether the board's estimate is reasonable, and it has significantly revised down its estimates on asset sales since 2014-15; the previous values were much higher than its current estimates, because it is trying to be more prudent. Clearly there is a timing issue with regard to the repayment of brokerage; we want to link that to the actual sales being realised. You are correct to flag up the fact that there are some difficult sites within the board's geographical area that have been on the market for some time, but the board is still actively pursuing sales on those sites and a number are under offer. I am happy to give you further details on that.

Monica Lennon: Are all the sites vacant buildings? Are any of the properties currently in use?

Christine McLaughlin: The ones that we are talking about just now are all vacant. Almost all the sites on the list that I am looking at are either vacant buildings or land sales.

Monica Lennon: I do not think that we have been given a detailed schedule. Could you provide that to the committee?

Christine McLaughlin: I will do so. I will work with the board because it will have the detail on where it is with the sales, and I will give you some information on its asset position from the Scottish Futures Trust reviews.

Monica Lennon: Lastly, on assets, are you able to give us an up-to-date figure for the current estimate of expected receipts? Has that changed since we met the board?

Christine McLaughlin: I am not aware of anything that has significantly changed the position on receipts, but I will confirm that for you. The board has flagged up nothing to me that is a further risk to the year-end position in terms of its planning for 2016-17; the point that the board was trying to make is more about the potential for future sales over the next four to five years.

Paul Gray: As I have said, I spoke to the chair and the chief executive yesterday and asset sales were not among the issues that they raised with me. I know that that is a bit of a negative resolution. They did raise other issues that were causing them concern, principally pharmacy. Had asset sales been a concern, I would have expected them to be raised and they were not. I therefore support what Christine McLaughlin is saying; at present, we have no evidence to suggest that there will be a problem with asset sales this year, to the extent that the board is already planning to make them.

I understand your concern about the concession, but it is not a one-off. The concession that we have given to Tayside applies for the period of the repayment of brokerage, so if Tayside sells properties in five years' time, it will still get the benefit from them.

The Convener: What other issues, apart from pharmacy, were raised yesterday?

Paul Gray: There was the issue of what contingency the board might then deploy. Of course, one of the contingencies that a board can deploy is to slow down the rate of treating people in some areas. That is the issue I want to discuss with the board: whether and how it will deploy some of the contingencies. Some might be appropriate, and some might not. I just want to be sure about that.

The Convener: Would that mean longer waiting lists?

Paul Gray: Well, yes. Let us not beat about the bush—of course it would mean that. It would mean that somebody who might have been treated at the end of March might not be treated until April.

The Convener: So there could be more breaches of the legal treatment time guarantee.

Paul Gray: Not necessarily. If someone was due to be treated within six weeks and the treatment was moved out to eight weeks, that would still not breach the guarantee. That is the sort of thing that I want to discuss in more detail when the board has worked through things. I do not want to speculate here, because I have given the board the opportunity to go away and consider what to do. I want to give the board the space to consider the matter and to come back to me at the beginning of March, as we have agreed.

Colin Beattie (Midlothian North and Musselburgh) (SNP): At our evidence taking in December, we received some fairly damning written submissions. The Royal College of Nursing, for example, mentioned a

"lack of long-term planning and oversight that has led to financial crisis"

and said:

"The culture within NHS Tayside has tended to be top-down and divisive ... the management has been bullying towards members of staff."

It also referred to a

"breakdown between management and staff working in partnership"

and

"a vicious circle of disengagement, distrust and disempowerment."

It does not sound very good. Is there not clear evidence of mismanagement and fiscal irresponsibility in NHS Tayside? Is the current team there capable of effecting the cultural change that you are expecting? It seems that there is an awful lot of work to be done. I think that there have been five years of brokerage support from the Scottish Government, but we are still seeking solutions. Is there not a message there?

Paul Gray: As I have said, we are providing tailored support to NHS Tayside. I have also said this morning—and I repeat—that were it my position that I did not have confidence in the leadership of NHS Tayside, I would be having a different conversation with the committee this morning.

I was disappointed to see those submissions. I entirely respect the right of those organisations to put them forward. I was at the NHS Tayside

review in 2015, when, as was widely understood and acknowledged, industrial relations were at a low point. We provided considerable support to NHS Tayside, and Norman Provan of the Royal College of Nursing was instrumental in supporting the development of a better culture between the staff and management sides of the area partnership forum. When I attended with Maureen Watt the area partnership forum meeting in 2016, which is a routine part of the annual review, I found a completely different place with a much better atmosphere. The employee director said that there had been considerable improvement; frankly, that was detectable in the room, and when I spoke to a number of staff-side representatives informally afterwards, I was encouraged by what I heard.

I think that the RCN's material was based on a survey that was taken early in the process of improving relationships in NHS Tayside, and I understand that work has been done since that submission was made and that the trajectory of improvement continues. I am not claiming that the relationship between the staff side and the management side in Tayside is absolutely perfect—it is not, as they all acknowledge. However, I think that there has been improvement and that it is being sustained. That has required considerable effort from both the management and staff sides, and I am assured that it is continuing.

Colin Beattie: However, given the evidence in front of the committee about how the finances have been handled and situations managed, do you consider these people to be up to the job? Have they not already proven that they cannot do it?

Paul Gray: No, they have not. What John Connell, Lesley McLay and others have done is to make transparent issues that were in the accounts. I point out that the accounts were given an unqualified rating each year—they have not been qualified. I believe that the way they have tackled and been transparent about issues has been the right approach, particularly in relation to assumptions that were made about the sale of two assets that were purportedly worth £22 million and had to be written down. That was quite a big hit on the books.

It is very fair of you to raise these points, Mr Beattie, and I do not object to them at all. My concern, however, is that I would not like the message to go round health boards that being transparent is going to get them into more bother than their not being transparent. I am very much promoting transparency, and I believe that NHS Tayside has sought to be transparent. That probably means more of its problems becoming visible, but that is what transparency is about. In any functioning health service in the developed world, the more transparent the service is, the more readily it fixes problems and the more readily it improves.

Colin Beattie: Transparency is to be welcomed, but it is not a box-ticking exercise to make sure that the accounts are right; there is more to it than that. Quality of management is an issue. Over a number of years, NHS Tayside has failed to make the books balance, and so many issues have been raised. At one point, it had higher costs than other health boards in almost every area. How did it allow itself to get into that situation? Surely it knew about this; after all, it has been asking the Government to put money in its cap for some time now.

Paul Gray: Not long after Lesley McLay was appointed chief executive, we had a discussion about her concerns about the state of the finances. She then took a number of steps, one of which was to undertake a process of external support and review. These things take time. The board is also working on pharmacy and culture change, which takes time, too.

What I am conveying to the committee is that I am trying to be flexible about the brokerage and its repayment so that we do not simply load further pressure on NHS Tayside and make it harder for it to institute the recovery that it needs to make. I believe that it is taking the process very seriously indeed. We are putting in considerable support, and I believe that the board has a plan that—so far—is credible. If all those things were absent, I would not, of course, have confidence in the management, but I think that, in the presence of them, I am entitled to have such confidence.

Colin Beattie: Given that the management are having to deliver some fairly eye-watering savings over the next few years, and given that, in the past, a high proportion of NHS Tayside's savings have been non-recurring, the situation is a big worry. The past history of the management does not indicate that they can deliver, so why do you think they are suddenly going to transform themselves and be able to deliver over the next few years?

Paul Gray: Because, unlike in the past, I am now seeing a trajectory of improvement. That is the key difference. If we were simply living on a further set of promises, I would be deeply concerned, but we are seeing improvement on the staffing. The board is not just hoping that it might be able to do something about pharmacy costs. For me, the fact that it is coming to ask for help when it encounters difficulties is the right approach. I am encouraging boards to do that and not to become isolated. It is an act of leadership to accept that the organisation needs help with something, instead of just battling on hopefully in anticipation of achieving a result.

Colin Beattie: It seems to have taken NHS Tayside a very long time to get round to that.

Moving on to an issue that Monica Lennon talked about, I note that as of March 2016 24 properties out there were empty. At our evidence session in Dundee, I asked the board how much it was costing to secure those properties. Can we get an update on that? There is a significant cost in that respect; after all, the properties must have to be guarded and secured, and there must be a cost involved in maintaining them to a minimal extent. Do you have a figure for that?

Paul Gray: We will certainly provide that information in the written update. Do you have anything to add, Christine?

Christine McLaughlin: I do not have it to hand, but I can send you information on the status of the buildings that are vacant, the ones that are purely land sales and the maintenance costs.

Colin Beattie: Thank you.

The Convener: Mr Gray, Colin Beattie asked you about your confidence in the management team and the board. You have already told us that you will have to go back to NHS Tayside in a couple of weeks' time because, although the trajectories are good, it is not going to meet its targets this year. How can you continue to have confidence in the board if the management have already come back to you to say that they are having problems meeting this year's targets?

Paul Gray: Convener, I want to put this carefully because I completely understand the importance that the committee attaches to scrutinising the situation appropriately. I suspect that if you scrutinised progress on any board's five-year plan once every couple of months, you would find some bumps, and things would not all be going in a positive direction. Most of them would, but some would not, and there would be contingency and recovery elements. That is the way in which any health system is managed. What gives me confidence is the existence of a plan, the positive trajectories that we are already seeing and the fact that the chair and the chief executive are openly willing to discuss the areas where they need further help.

09:45

The Convener: You say that you are starting to see positive trajectories, despite the fact that you are going back up to Tayside in a couple of weeks' time because the board is not meeting the current targets. What about the past three or four years during which the situation has been allowed to escalate? What has been your role in what has happened in that time?

Paul Gray: My role has been, first of all, to support the chief executive, with others, in ensuring that she has had the necessary resources to review the accounts. We provide external support through Alan Gall, who is now working full time for the board. My approach has been to ensure that the board has had access to our finance director and to John Connaghan as the chief operating officer, and that it has produced a plan for us to review. The board has in place a transformational plan and an operational delivery plan; those are all things that it did not have before, and it has them now—

The Convener: But that has been the case only in the past six months to a year.

Paul Gray: It was important for the chief executive to understand the scale and nature of the problem that she was dealing with before she tried to produce a plan to deal with it.

The Convener: Did she not understand it before that point?

Paul Gray: That is why she had the external support. I am not suggesting that she cannot understand things; what I am suggesting—in answer to what I think is a fair question—is that she did as I would do when faced with an issue. I, too, would want to be sure that I had got to the bottom of the issue before trying to develop a plan to resolve it, otherwise I would end up trying to resolve something that I had incompletely understood.

The Convener: What I am trying to get at—and correct me if I am wrong—is that your involvement seems to have been ramped up over the past six months to a year to help NHS Tayside get out of this situation. This is the fourth year in which NHS Tayside has had to come to the Scottish Government for brokerage. The Scottish Government was aware of the escalating situation in the board. Should there not have been much closer involvement at an early stage to prevent the board from getting into the current situation? Mr Gray, my benchmark for this is that there is no effect on patient services or jobs in Tayside. However, we have already heard today that there will be an effect on patient services, because you have admitted that waiting lists are going to lengthen. What role has the Scottish Government played in the past three or four years in preventing that?

Paul Gray: I said that that might be one of the contingencies that the board could adopt—I did not say that it would do that. As I have said, I want to discuss with the board what the options are and decide what support we should provide.

Christine McLaughlin can give you more detail on some of the support that has been provided, but as I have explained, we have a ladder of

escalation, and the ramping up is about moving up that ladder. That is why we have the ladder, and that is what we use it for. We have not simply sat by and waited; when we have had clear indications of the need for more support, we have provided it. For example, we provided support some time ago from the chief medical officer when there was a concern over A and E and other aspects at Ninewells. The chief nursing officer has been providing support, too.

I do not want to go into some kind of self-justifying speech. I understand the question that you are asking, and my response is that we have used our ladder of escalation and when we move up a step, we move up a step. That is what we have done.

The Convener: Do you think that there is sufficient financial expertise in the leadership team? I am aware that John Connell said that the finance director had been appointed recently, but the finance director has been in the organisation for 33 years. Do you think some fresh financial eyes are needed there?

Paul Gray: I think that we have provided external support on finance and if NHS Tayside requires more external support, we will provide it. Its finance director was appointed through fair and open competition, so he must have been judged to be the right person for the job. As you would expect, I discussed with the Auditor General whether she had any concerns about the capability of the leadership of NHS Tayside, based on her findings, and she reassured me that she did not.

I do not just walk past these things and hope for the best. I take them seriously, and I have done so in this instance.

The Convener: So you have confidence in the whole team and in their reaching financial sustainability by the end of year 2, as Christine McLaughlin has outlined.

Paul Gray: I have confidence that they are taking the steps to do that. As Ms McLaughlin also outlined, we are not going to press them to do something unsustainable simply for the sake of doing it by a particular point. I believe that they are on a trajectory to meet financial sustainability in year 2 and to repay the brokerage by the end of year 5, while remaining financially sustainable. If in the course of our conversations with them or in the course of time something unexpected happens, we will adjust accordingly. I am not going to say that what we agree on 31 March will be, in every detail, what happens five years down the line. I do not know of any health system that could say that.

The Convener: So they are the right team for the job.

Paul Gray: They are indeed.

Liam Kerr (North East Scotland) (Con): I would like to explore a couple of issues that have arisen from the past few questions. The external auditor of NHS Tayside said:

> "as far as I am aware, no one"

on the board

> "has been held to account for anything that has happened in the past."—[*Official Report, Public Audit and Post-legislative Scrutiny Committee,* 3 November 2016; c 30-1.]

When we heard from NHS Tayside, it was clear that it thought that the current situation had arisen because of

> "a substantial number of years of operational models that did not recognise the true financial situation that NHS Tayside was in."

NHS Tayside also said that it had balanced the books in a way that meant that although it looked as though the board was

> "in financial balance ... in fact, it was living outwith its means."—[*Official Report, Public Audit and Post-legislative Scrutiny Committee,* 15 December 2016; c 24-5.]

Have any senior staff been sufficiently held to account for the failings?

Paul Gray: I am holding the chair and the chief executive to account at present, as you would expect. It is more difficult to comment on how one might hold to account people who are not there.

Liam Kerr: Where have they gone?

Paul Gray: The current chief executive took up post two and a half years ago.

Liam Kerr: Prior to that they had been working in a very senior role in NHS Tayside, had they not?

Paul Gray: They had been working as chief operating officer. I would not hold my chief operating officer to account for the financial performance of the NHS.

Liam Kerr: And the finance director? He has been there for 33 years.

Paul Gray: He was not the finance director until about six months ago.

Liam Kerr: So he was not accountable until about six months ago.

Paul Gray: Put simply, no. I am the accountable officer for the NHS and I have been since December 2013.

Liam Kerr: Are you accountable for the situation that NHS Tayside is in?

Paul Gray: I am accountable for the whole of the NHS budget—I have said that to this committee before. I continue to be so.

Liam Kerr: Are you comfortable that whoever is accountable for the situation in which NHS Tayside finds itself has been sufficiently held to account?

Paul Gray: Well, I—

Liam Kerr: Are you unable to answer the question?

Paul Gray: I am unable to answer the question, Mr Kerr. I can hold to account those who are currently there.

Liam Kerr: But you have been looking after this since 2013.

Paul Gray: That is right.

Liam Kerr: Since 2013, what has happened to the people who were on the ground? Where are they?

Paul Gray: Do you mean the chief executive?

Liam Kerr: I mean the people who in your view are accountable for the situation in which NHS Tayside finds itself.

Paul Gray: The chief executive is the current accountable officer for NHS Tayside, as I am the current accountable officer for the health budget as a whole.

The current chief executive took up post after I did, which means that it must have been in 2014, and has since then worked to resolve the issues that are described in the accounts because of certain accounting treatment that did not fully recognise, for example, that there were £22 million of assets that were never going to realise £22 million. On the other hand, the accounts were unqualified every year.

Liam Kerr: Somebody dropped the ball at some point before the current management was in place. Do you accept that?

Paul Gray: I am thinking about your question, Mr Kerr. It is a fair question. I doubtless look a bit reluctant, but that is because I think that, if people are to be held to account, they ought to be able to answer for themselves. If the committee feels that someone should be held to account, it would need to ask to see them, I suppose. I am not trying to avoid your question.

Liam Kerr: No, that is a fair answer, Mr Gray. I accept what you say. I will ask about the current management, then. At the meeting in Dundee, we heard that an element of performance-related pay was paid to a number of senior individuals. I recall questioning that fairly closely. Given some of the issues that have been raised and some of the challenges going forward, do you have a view on performance-related pay having been paid to the current senior staff?

Paul Gray: As you would expect, I discussed that before the committee meeting with my workforce director, who happens to be sitting behind us at the moment. I will write to the committee about the way in which the pay system in the NHS operates, but I will seek to answer your question.

In the NHS in Scotland, every person in the cohort about which we are speaking could have access to two things: an annual increment and a performance bonus. Performance bonuses are not currently paid and have not been paid for some time. For someone to receive an increment, their performance needs to be at least satisfactory. That is what happened to the two individuals whom I think you questioned—the chief executive and the finance director. The board judged their performance to be satisfactory and, therefore, they received a pay increment.

Liam Kerr: Forgive my asking for clarification, but do you sit on that board?

Paul Gray: No.

Liam Kerr: Who makes that judgment?

Paul Gray: The judgment is made by the board.

Liam Kerr: Who constitutes that board?

Paul Gray: The health board has a remuneration committee. The finance director will be appraised by the chief executive and the chief executive will be appraised by the chair.

Liam Kerr: So the finance director is appraised by the chief executive of NHS Tayside.

Paul Gray: That is correct.

Liam Kerr: And the chief executive of NHS Tayside is appraised by the chair of the board on whether their performance has been satisfactory.

Paul Gray: That is correct.

Liam Kerr: Given that you have been providing tailored support—I think that those are the words that you used—to the board for some time and will continue to do so and that, as we heard from Mr Beattie at a previous meeting, a number of issues were raised about culture and relations, do you consider that arrangement to be satisfactory?

Paul Gray: You have been very fair, Mr Kerr, in your acceptance of my previous response about holding people to account. I hope that you will be fair again—I am sure that you will be—when I say that I do not conduct performance appraisals in public. I do not think that people would expect me to do so.

Liam Kerr: Did any of the nursing staff get performance-related pay or are only the senior staff eligible for uplifts for a satisfactory rating?

10:00

Paul Gray: The senior staff are part of the senior managers' pay cohort; the nursing staff are part of a different pay cohort. The chief nursing officer will be able to assist with that.

Fiona McQueen (Scottish Government): The director of nursing would be in the senior management cohort and subject to the same performance assessment as the other executives.

NHS nurses are on a pay scale. There are automatic increments to their pay scale, rather than performance-related increments. All nurses who are not at the top of their pay scale automatically receive an increment and progress up the pay scale. Those nurses who are on the executive pay scale, and certainly the director of nursing, are subject to the same performance appraisal system as the other executives.

The Convener: In December 2016, Professor Connell, the chair of NHS Tayside, told us that senior staff's performance payments are subject to the approval of a national performance management committee. Who sits on that committee?

Paul Gray: I am not going to be able to answer that from memory, but I will give that information to you. If you are asking me whether I know who sits on the committee, the answer is no, I do not.

The Convener: Professor Connell also said:

> "they will be awarded an uplift in their pay, which is reviewed and approved centrally by the ministerial committee."

Are you aware whether a minister sits on that committee?

Paul Gray: No, I am not, to be honest. I will need to write to you about that. I am not aware of pay of that nature going to ministers for a decision. Ministers set the pay policy, but they do not make judgments on individual salaries.

The Convener: I am curious about the matter. There is a huge financial deficit in NHS Tayside. We have a financial crisis—I cannot think of another word for it—and senior managers responsible for that crisis have been awarded pay increases. Those increases have been awarded not for outstanding performance but for acceptable performance. The finances are in crisis, but they have awarded each other performance bonuses, which have been signed off by a committee, presumably in Edinburgh, but we do not know who has signed that off.

John Connell said that the pay uplift is

> "approved centrally by the ministerial committee",—[*Official Report*, *Public Audit and Post-legislative Scrutiny Committee*, 16 December 2016; c 29.]

which suggests to me that a Government minister sits on the committee. Perhaps you could clarify that for us.

Paul Gray: I would be very pleased to clarify that: it is not a ministerial committee; it is the national performance management committee. I also clarify that the staff were not awarded performance bonuses. There are no performance bonuses paid in the NHS in Scotland at this time.

The Convener: Whatever the payments were called, the cost to NHS Tayside's budget was a total of £87,000—that was the evidence that John Connell gave us.

Do you want to come back in, Mr Kerr?

Liam Kerr: Not on that point. I want to move on to a specific issue. I have been asking questions of the Government and not getting answers, so this is my opportunity to do so.

The panel will be aware of the recent decision to close the Mulberry unit at Stracathro hospital. Are you aware of any other units in NHS Tayside's estate portfolio that are similarly likely to close, whether temporarily or permanently, in the near future?

Paul Gray: Again, that will be part of what I am going to discuss with the chair and the chief executive. I am not aware of proposals to close other units at this time. However, I am aware that NHS Tayside's asset footprint is substantial. As we have said, some elements are being sold. I would expect that, over time, it might want to consolidate some of the units as part of a better service to the public, frankly, particularly when looking at units that are quite old.

Liam Kerr: That is a concern. To take Stracathro hospital as an example, there is not a great deal left in it and it is an ageing asset. The direction of travel would appear to be that Stracathro Hospital might not have a future. Will you tell us—clearly—whether that is what the people up there can expect?

Paul Gray: I am not aware of any plans to close Stracathro hospital.

Liam Kerr: When the Mulberry unit was closed it was made very clear that it was a temporary closure. Temporary implies a short period, after which it will reopen. Is that the case? When will it reopen?

Paul Gray: I am not able to tell you when it will reopen but I am happy to get you that information.

Liam Kerr: I would be very grateful. Thank you.

Ross Thomson (North East Scotland) (Con): At the beginning of the meeting, Paul Gray said that NHS Tayside is experiencing a

"time lag on the necessary culture change to bring about the prescribing savings".

During our evidence session in Dundee, in relation to questions about prescribing, Lesley McLay said that there was

"national evidence that people stock up excess drugs."—[*Official Report, Public Audit and Post-legislative Scrutiny Committee*, 15 December 2016; c 44.]

Prescribers know that patients should have ample medicine to see them through a winter and that they should not stockpile it. Why are people being allowed to stock up?

Paul Gray: There are a number of reasons for that. I might bring in the chief nursing officer briefly, after I have said a couple of things. To put it simply, Mr Thomson, it is not exactly a question of allowing people to stockpile. It depends on whether people with repeat prescriptions come back for medication without having used what they have already been prescribed. I have a repeat prescription for medication, which I pick up from the local pharmacy once every two months. If I do not take anything in that two-month period, that is a choice that I have made. The issue is the point at which the pharmacist, the GP or someone else might routinely review that to ensure that I am taking the medication. I would be anxious to avoid the proposition that we were somehow allowing people to stockpile. Nevertheless, it is a question of what people do as individuals to comply with the medication regime that they are on, and the steps that we take to ensure that they are complying. The CNO may have something to add.

Fiona McQueen: Mr Gray has covered it. We encourage people to manage their own health and therefore to contact their surgery for a repeat prescription. We also encourage people to ensure that they have enough medicine to cover them over holiday periods.

As part of the Government's primary care development plan, there is a commitment to increase the number of specialist pharmacists available in surgeries. In conjunction with the GP and the practice nurse, and in partnership with the patient, those pharmacists review what medication patients are on so that the best possible care can be delivered to patients. There is an element of encouraging patients to ensure that they have sufficient medicine. Equally, though, practices monitor whether people are getting repeat prescriptions. If they feel that a repeat prescription is not appropriate, they either do not issue the prescription or they leave a note asking the patient to come into the surgery.

Ross Thomson: Thank you. Part of the change programme is to try to deliver a culture change.

In NHS Tayside, reliance on agency staff has increased by about 39 per cent. In the round-table evidence session that we held in Dundee, prior to hearing from NHS Tayside, we heard from a number of stakeholders about a "revolving door" of people who are leaving the NHS but returning as agency staff. What work are you doing to identify why people are leaving the NHS and coming back as agency staff? Why are some people applying for posts but not them taking up?

Paul Gray: I will ask the chief nursing officer to say something about that. There is some evidence that people find agency work more flexible and better paid. Set against that, there is the value that some people attach to having permanent employment, with a regular source of income, and personal development and training. Those are choices that people make. Obviously, we want employers of NHS staff in Scotland to be as attractive as possible so that people take up permanent employment with them. The CNO will have more to add.

Fiona McQueen: We are doing a number of pieces of work nationally and regionally, and NHS Tayside is doing some work locally. The national return-to-practice programme will be consolidated in Tayside so that the local university can support nurses who are living in the area and want to come back to work to be able to do so locally.

The board's nurse director and other members of the senior team are proactively looking at where people are actively leaving and at trying to keep them and getting people to come back. They recognise that, because of the geography, solutions that work in Dundee may not work in Perth, and they are looking at bespoke responses to support patient care by having the right number of nurses.

We have very flexible policies. NHS Scotland has PIN—partnership information network—policies, including annualised hours and term-time working, that support very flexible working. Again, the board has been proactive in ensuring that staff are fully supported to come in and are given shift patterns that suit not only the patients but the nurses.

We are looking at the non-contract agency staff. Working in the big urban conurbations in the central belt—

The Convener: Sorry—we are running out of time, so I ask you to keep your answer as concise as possible.

Fiona McQueen: Absolutely. We are looking both at reducing the board's reliance on non-contract agency staff—there has been a significant reduction in the past month or two—and at bringing people back into NHS employment.

Ross Thomson: I have two more questions, convener.

In answer to Colin Beattie's question on staffing and staff morale, Mr Gray said that he thought that things had been improving, based on his meetings with staff and with the minister. As a councillor, I know that when someone is at the top of an organisation and deals with politicians or ministers, it is sometimes very easy for them to operate in a bubble.

At our evidence session in Dundee, stakeholders such as Bob McGlashan told us that staff morale is getting lower and lower, that staff do not feel valued and that there is

"a big stress for the nursing family."—[*Official Report, Public Audit and Post-legislative Scrutiny Committee*, 15 December 2016; c 3.]

Raymond Marshall said that administrative staff had been an "easy target", that staff feel frustrated and constrained, and that the relationship between managers and staff is not good and has got worse. He also said that there is no trust.

If we are going to deliver cultural change, there must be confidence and trust between staff and management. What role will you play in ensuring that there is engagement with staff? How will you command the confidence of staff and take them with you in implementing what is a very challenging agenda that includes cultural change and the need to make savings?

Paul Gray: I will be brief, convener.

As I said, we have already provided support. We have had considerable help from Norman Provan of the Royal College of Nursing Scotland, and I spoke to individual staff-side representatives when I attended the most recent annual review.

I accept your point that someone at the top of an organisation can sometimes get a helicopter view and not see what is happening underneath, which is why I have taken the steps that I have described. Shirley Rogers, our director of workforce, has been in regular contact with George Doherty, NHS Tayside's director of human resources, and with Norman Provan and others, to ensure that we continue to develop.

My short answer is that we continue to take these issues seriously, because the quality of industrial relations in NHS Tayside is critical to the delivery of some of the board's plans.

Ross Thomson: My last question is brief.

The Convener: Sorry—before you go on, I have decided that the committee will not take item 3 on its agenda this morning. I understand that there are people in the gallery who are waiting for item 3, and I want to let them know that we will come back to it at a later meeting. The evidence—which is important—has run on, and we are aware that Mr Gray has to leave by half past 10, so we will not take item 3 this morning.

Paul Gray: Thank you, convener—I appreciate that.

Ross Thomson: We have talked about the past four years in NHS Tayside. However, as we heard in the evidence session in Dundee, about 15 years ago a task force produced a series of recommendations on avoiding the very financial situation in which NHS Tayside currently finds itself. I appreciate your response to Colin Beattie's question, in which you said that you want organisations and boards to be transparent. In my view, after listening to what has been said, transparency is not an option but a duty. In no way do I feel that I should be grateful to NHS Tayside for being transparent, because it should be transparent.

However, I am struggling to see where the accountability is. I listened to the responses to Colin Beattie and Liam Kerr. The situation has arisen over a number of years. It was like driving towards a cliff edge—a "Thelma and Louise" style financial cliff edge—where those in the driver's seat knew the direction of travel and pushed the accelerator knowing what the end result would be. I am trying to understand how those in the organisation who were driving the car over that period, knowing where it was going to take the organisation, will be held to account. Will you carry out any investigation into those who are responsible?

10:15

Paul Gray: I have heard clearly what Mr Kerr has said and what you have said and I will reflect on that but, as I have said, it is difficult to hold to account people who are not there and to look back at decisions that were taken, such as those about assets, that in today's economic circumstances now turn out to be wrong. We would have to reflect on whether they were wrong at the time that they were taken. I reiterate that those who are in the leadership positions now are taking their roles very seriously and are seeking to make progress, and I believe that they are doing that. However, I accept the concern that the committee has raised—I have heard it.

The Convener: We have three additional points from members. I ask members to keep their questions pointed and short, and I ask the witnesses to be brief as well.

Gail Ross: I have a small point on the prescribing issue. I have been a dispenser and worked in a number of pharmacies and I know that many prescriptions are for a brand drug rather than a generic one, and brand drugs can cost quite a lot more. Is that the reason for the rising

cost of prescribing, is it to do with the escalating cost of medicines or is it both? You might want to come back to me with the detail of that.

Paul Gray: I will be happy to come back to you on the detail once the deputy chief medical officer has had the opportunity to review that issue. That would probably be most helpful to the committee, if you are content with that.

Gail Ross: That is fine.

Monica Lennon: A short time after we went to Dundee in December to take evidence, we read newspaper reports that the board had sought external advice to prepare for a question and answer session with us. In fact, the report said that Professor Connell had invited a member of the previous Public Audit Committee to Ninewells hospital. Given that we were just asking people questions about their job and their duties, which they know better than anyone else, why would they need to get external help?

Paul Gray: I will give you three very short answers to that. The first is that you would have to ask them. The second is that I prepare for these committee meetings. There is probably not much in my job that I take more seriously than coming to a committee of the Parliament, and I would always encourage anyone in a health board to prepare properly; how they decide to do that is of course a matter for them.

My third answer is that some people find the process stressful, and they probably use whatever help they feel that they can get. This does not happen often now but, if I am being interviewed for a job, I always rehearse and I always do so in front of other people.

Monica Lennon: In that vein, in the preparations that were made in advance of our meeting in December, were Scottish Government officials involved in the preparation of the witnesses?

Paul Gray: Yes, of course, and I would expect them to be.

Monica Lennon: What was the nature of that?

Paul Gray: It involved discussing the current state of the accounts and the delivery plan and ensuring that those who were to appear in front of the committee were thinking about what sort of issues the committee might want to cover. It is a matter of respect for the committee to come along with at least some idea in your mind about what sort of issues the committee might want to raise. I would think that someone was falling short of their duty if they did not come prepared to a committee.

Monica Lennon: Were witnesses rehearsing and preparing for questions and answers with Scottish Government officials ahead of that meeting?

Paul Gray: Not, as far as I know, in terms of specific questions and answers, but they did the same as I did. In advance of the committee meeting, I spent time going through the various briefings about NHS Tayside and the current situation, and I read the *Official Reports* of the previous committee appearances, as is normal practice.

Monica Lennon: For clarity, ahead of the 15 December meeting, apart from Nigel Don—whose involvement I know of from newspaper reports—who assisted the witnesses in their preparations for the committee meeting? I am looking for names.

Paul Gray: Sure. They spoke to John Connaghan, the chief operating officer, who is part of the tailored support. They also spoke to Christine McLaughlin, the finance director.

Christine McLaughlin: John Connaghan and I talked to them. As Paul Gray says, we tried to make sure that they were focused and that they would give clear, straightforward and simple answers to questions. It did not feel an unusual thing to do. As Paul said, it is about trying to ensure that witnesses give the evidence that committees are looking for.

Colin Beattie: As an aside, I wish that the auditors had been a bit better prepared when they arrived on the scene for the December meeting.

Mr Gray, in your written submission you talk about reducing spending in areas such as agency costs for nursing. You make specific mention of that. The written submission from the Royal College of Nursing, which we looked at in December, makes the point that there were

“decisions taken not to employ agency staff which results in regular staff not being able to take planned annual leave”.

Has that been exacerbated by the board apparently driving down further the use of agency staff, or has it been compensated for by hiring staff to vacant positions?

Fiona McQueen: NHS Tayside was successful in recruiting an additional 211 new graduates over the autumn. Although our new graduates are fantastic, they need to work for several years to gain experience. It is important that there is a balance of experienced and new registered nurses delivering care.

The board’s nurse director has also been working to ensure that the allocation of annual leave is even, so that there are no peaks and troughs leading to the board needing to hire additional staff, and I expect a proportionate approach to be taken. It is important that staff take

their annual leave within the leave year, and I expect all staff, in agreement with their line manager, to be able to take their annual leave at a time that is appropriate for their personal life and their work.

I expect people to be able to take their annual leave within the leave year and I expect a reduction in the use of agency staff, because that is not best value or best for patients. The board is also being proactive and brought in an additional 211 new graduates over the autumn.

Colin Beattie: The RCN makes the point that "planned annual leave" could not be taken. You expect that not to be the case, but do you know the facts on the ground?

Fiona McQueen: I do not know whether that happened, but I assume that the RCN had the evidence to say that. I am happy to provide a written update on the current position regarding the taking of annual leave by staff.

Colin Beattie: The two key things are that the reduction in the hiring of agency staff does not impact on the patient experience and, importantly, that the nursing staff are not being disadvantaged because of it.

Fiona McQueen: Absolutely. I would expect it to lead to overall enhancements, but I am happy to provide further written evidence to confirm to you that staff are able to take their annual leave.

Colin Beattie: Thank you.

Paul Gray: Convener, in response to Ms Lennon's question, I should say that I routinely speak to every chair and chief executive before they come to a committee meeting.

The Convener: At our December meeting, Mr Neil asked about agency costs. He said that, when he was the health secretary, he sought to put an agency function inside the NHS so that any profit could be recycled within the NHS. What happened to that initiative?

Paul Gray: We have nurse bank staff, who are, in effect, our own agency staff.

The Convener: Yes. I understand that.

Fiona McQueen: I cannot say what specifically happened to the work that Mr Neil did; what we are currently doing—

The Convener: Why can you not say what happened to that work?

Fiona McQueen: Because I do not know what happened to it. I am happy to provide a written response on that.

The Convener: Do any of the witnesses know what happened to that initiative?

Paul Gray: I do not. I was not aware of it, to be honest, until Mr Neil mentioned it. As I said, my response would be that we have bank staff. In effect, that is the agency within the NHS.

Fiona McQueen: We are currently working with NHS National Services Scotland and boards to put in a national bank. Although we have local NHS board banks, one problem is that the arrangement sometimes makes it difficult for someone to work in, for example, Lothian and Fife without being part of two separate banks. We are putting in national and regional banks that will essentially do what a national agency would do.

The Convener: Okay—but that will not replace agency staff. You will still allow agency nurses to be used in NHS Scotland.

Fiona McQueen: We would expect it to replace agency staff.

The Convener: What is the timescale for that?

Fiona McQueen: I am not familiar with the timescale. The work is on-going; we can certainly give you that information.

The Convener: If you expect that initiative to replace reliance on agency staff, will there come a point at which you, Mr Gray, as the chief executive of NHS Scotland, will say, "This is working; we can no longer spend three times as much on agency nurses"?

Paul Gray: Yes. I have made it clear to NHS board chief executives and chairs, through what we call our once for Scotland initiative, that once we agree on a way that things are to be done, we will reach a point of mandating it, and this is as good an example as any.

The Convener: Okay. Do you have a timescale for that?

Paul Gray: For that specific issue?

The Convener: Yes.

Paul Gray: No, I do not.

The Convener: You said in your opening statement that you will be meeting the chair and the chief executive on 31 March to discuss—

Paul Gray: No, it is at the beginning of March.

The Convener: At the start of March?

Paul Gray: Yes, sorry.

The Convener: Okay, that is fine. I am conscious that we will be taking evidence from them on 30 March, so it would be useful if you could meet them in advance of that, but it sounds as if your meeting is going to happen in advance of the committee meeting.

Paul Gray: Certainly. I also undertook to write to the committee following that meeting with any update that would bear on the information that I gave in my initial written submission to you. I will follow that through.

The Convener: Thank you.

I want to ask a final question about NRAC funding. I think that NHS Tayside's NRAC funding has been at a higher level. You said that it was getting an extra £8 million this year.

Christine McLaughlin: That is right.

The Convener: Is that higher in percentage terms than what other boards are getting?

Christine McLaughlin: The formula is updated when there is new data. The team involved made a change to the acute morbidity and life circumstances. There is probably not sufficient time to explain all of that, but some of the conditions in the formula will change for the next financial year. That has led to a few boards changing their position on funding. NHS Tayside was not the only board that benefited; NHS Fife, for example, moved further to receive that.

That change was a one-off, so unless there was a significant population change, I would not expect a further movement for Tayside. We have told it to plan on the basis of the £8 million recurring from next year, but I do not expect there to be further movement. That would be determined purely by population for the next few years.

The Convener: Forgive me, but I am not clear about what you have said. I want to know whether Tayside's NRAC uplift is higher in percentage terms than that for other boards.

Christine McLaughlin: NRAC funding is given only to boards that are more than 1 per cent behind what the formula says that they should get. Not all boards get NRAC funding; £50 million has been put into NRAC funding for next year, and Tayside will receive £8 million of that.

The Convener: Of the boards that are receiving NRAC funding, is Tayside's the highest allocation?

Christine McLaughlin: No, it is not; it is one of the lower amounts. NHS Lothian is at the higher end for that funding. I can give you the breakdown of the boards and what they have received. NHS Tayside is getting £8 million out of the £50 million.

The Convener: In effect, the Scottish Government is giving NRAC funding to NHS Tayside to repay money that is owed to the Scottish Government; it is a bit of a cycle.

Christine McLaughlin: It is. I come back to transparency. NHS Tayside is getting NRAC funding for a purpose; the funding formula suggests that it is eligible for that funding. We are providing the funding because it should be part of NHS Tayside's baseline position in the longer term. It keeps NHS Tayside at 1 per cent below its funding level, which is consistent with the position of all other boards. Unless there is a significant population change, there is nothing that I foresee that would move it beyond the current position.

The Convener: I thank all three of the witnesses very much for their evidence this morning. I am sure that we will come back to the issue at a later date.

10:30

Meeting continued in private until 10:50.

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