



**OFFICIAL REPORT**  
AITHISG OIFIGEIL

# Justice Committee

**Tuesday 23 May 2017**

**Session 5**



The Scottish Parliament  
Pàrlamaid na h-Alba



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**Tuesday 23 May 2017**

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**JUSTICE COMMITTEE**  
**19<sup>th</sup> Meeting 2017, Session 5**

**CONVENER**

Margaret Mitchell (Central Scotland) (Con)

**DEPUTY CONVENER**

\*Rona Mackay (Strathkelvin and Bearsden) (SNP)

**COMMITTEE MEMBERS**

\*Mairi Evans (Angus North and Mearns) (SNP)  
\*Mary Fee (West Scotland) (Lab)  
\*John Finnie (Highlands and Islands) (Green)  
\*Fulton MacGregor (Coatbridge and Chryston) (SNP)  
\*Ben Macpherson (Edinburgh Northern and Leith) (SNP)  
\*Liam McArthur (Orkney Islands) (LD)  
\*Oliver Mundell (Dumfriesshire) (Con)  
\*Douglas Ross (Highlands and Islands) (Con)  
\*Stewart Stevenson (Banffshire and Buchan Coast) (SNP)

\*attended

**THE FOLLOWING ALSO PARTICIPATED:**

Annabelle Ewing (Minister for Community Safety and Legal Affairs)  
Alasdair Hay (Scottish Fire and Rescue Service)  
Derek Jackson (Unison Scotland)  
Chris McGlone (Fire Brigades Union)  
Alexander Stewart (Mid Scotland and Fife) (Con) (Committee Substitute)  
Pat Watters (Scottish Fire and Rescue Service Board)

**CLERK TO THE COMMITTEE**

Peter McGrath

**LOCATION**

The Mary Fairfax Somerville Room (CR2)



# Scottish Parliament

## Justice Committee

Tuesday 23 May 2017

*[The Deputy Convener opened the meeting at 10:00]*

### Scottish Fire and Rescue Service

**The Deputy Convener (Rona Mackay):** Good morning, everyone, and welcome to the Justice Committee's 19th meeting in 2017. We have apologies from the convener, Margaret Mitchell, who is absent on other parliamentary business. We welcome Alexander Stewart as her substitute.

Before we begin our formal business today, I would like to briefly mention last night's horrific events in Manchester. The committee's thoughts and prayers are with those affected by the blast, especially the families of those who lost their lives. Flags are flying at half-mast at Parliament today as a mark of our sympathy and sorrow.

Agenda item 1 is an evidence session with the Scottish Fire and Rescue Service. Events such as those last night remind us of the crucial work of the emergency services at times like these in putting themselves in harm's way in service of the public. On behalf of the committee, I underline how much that work is appreciated.

The Parliament has a duty to keep under review the operation of the Police and Fire Reform (Scotland) Act 2012, which, among other things, led to the setting up of the SFRS. We are taking evidence today in furtherance of that duty.

I welcome Alasdair Hay, chief officer of the Scottish Fire and Rescue Service; Pat Watters, chair of the Scottish Fire and Rescue Service Board; Chris McGlone, executive council member for Scotland, Fire Brigades Union; and Derek Jackson, branch secretary of the Scottish Fire and Rescue Service branch of Unison Scotland.

We will go straight to questions. I will open with a general question. It is four years since the SFRS was formed as a single service. What have been the most challenging aspects of the transformation? How is it working?

**Pat Watters (Scottish Fire and Rescue Service Board):** During the past four years—we should remember that it has been only four years—we have achieved a tremendous amount in conjunction with our colleagues, the trade unions and staff. We set out on a journey to ensure that we had a proper foundation on which to build a world-class service for the safety of the

people of Scotland, and we have achieved that initial building, but it is not finished by any manner of means. There is still a journey to take, but we have the right foundations. There have been many trials during that period, including major events, that the SFRS has risen to.

By and large, it was a brave decision—and probably the right one—to set up the SFRS. That has brought our services together, and we have spent the four years of integration ensuring that we get a single service that is delivered locally. Although the service is national, it is still a local one. We have striven to achieve that.

Our communication with our partners in local authorities and elsewhere in the public sector and our partnership working with partners in the public sector are outstanding, but they could still be improved.

We have started that journey and are on our way. So far, it has been a success. That is down to our partnership and co-operation with our staff and other partners.

**Chris McGlone (Fire Brigades Union):** The Fire Brigades Union would echo what Pat Watters has said. We recognise the role that employees and our members have played in ensuring that we continue to provide a world-class, all-hazards emergency service, especially against the current backdrop of fiscal and operational challenges that are out there and evolving all the time.

A few years ago, the Scottish Government's response to the Christie commission—Pat Watters will probably remember this, because he sat on that commission—hit the nail on the head when it said:

“transformational change can be successful only with a broad base of popular consent”.

The FBU believes that that consent begins at home, with its employees. I agree that we have worked very closely with the service over the past four years. There have been very challenging times and the fiscal background has been the worst in living memory, so we understand the difficult decisions and choices that the service has had to make.

The service is now entering a new phase. We have not completed the integration of the eight former services. A fair amount of work still needs to be done on that, and I would be happy to expand on that. As the minister has indicated, we are now entering a transformational phase. It is key to bring our employees along with us, and we have a lot of work to do with them. We need to get round the table and address issues that have not previously been addressed with our employees, who are disappointed by the direction in which the service has gone, as regards their employment.

Some fantastic work, including very good partnership work, has taken place. After its first four years, the service is now entering an incredibly difficult period, but I give a commitment that the FBU is more than happy to sit round the table and continue to work in partnership with it to try to meet the challenges ahead and to identify solutions to the issues and problems that we have.

**The Deputy Convener:** Will you expand a bit on what those issues are?

**Chris McGlone:** When we took on the amalgamation of eight very different organisations, there were pressing initial issues that we had to deal with. There were huge cultural differences between the organisations and how their employees provided the service. There were cultural barriers to break down not just from the point of view of the service, but from that of the union. We are continuing to try to do that. We are looking at restructuring the union in Scotland so that it will more closely align with service delivery areas.

The biggest issue for us was the eight different sets of pay and terms and conditions, which continue to cause us problems. Far more consideration should have been given to the difficulties that were likely to be caused by bringing those sets of conditions together and to giving transitional funding to address the difficulties that the service would meet in trying to do so. There is a wide disparity in pay and terms and conditions, especially in continuing professional development, additional responsibility allowances and the raft of different allowances that had been negotiated locally through collective bargaining over the past 30 years.

That has certainly caused the union the biggest problem, and I am running out of excuses. I struggle to explain to our employees and members why we still have not addressed those issues and why, four or five years down the road, we are still squabbling over elements of them.

**Derek Jackson (Unison Scotland):** As my colleague Chris McGlone said, the process has been challenging, with eight services becoming one. The support staff have gone through an exercise to achieve new terms and conditions, which has also been challenging. We have gone through a long job evaluation process and have had people coming and going purely because of how that has affected and impacted on individuals. There has also been a strategic effect. People have been moved from one to place to another, and buildings have been closed. That has been challenging, as well. However, we still have the same issue. There are still pay disparities, even though we have gone through that job evaluation process and now have a new pay and grading system. There are people who, for the first couple

of years, were always chasing the people at the top, and they will still find themselves in that position for the next few years.

Pay protection for staff in detriment ceased on 27 February this year, and that has had quite a big impact on us. Some staff are about £9,000 in detriment. We are looking for a commitment that the service will get people out of detriment as quickly as it can. That is challenging, and there are financial constraints.

It is not easy. It has been a long, hard road so far, and the journey is not finished yet.

**Alasdair Hay (Scottish Fire and Rescue Service):** I thank the convener for her thoughts for the victims and their families following last night's tragic events in Greater Manchester, which were traumatic, albeit to a lesser extent, for all the emergency service workers. I am pleased to hear gratitude expressed for the work of front-line staff, day in and day out, throughout the country. I can only begin to imagine the horrific scenes that those staff witnessed last night.

I welcome the opportunity to discuss the progress made by the Scottish Fire and Rescue Service in the past four years, and to voice the opportunities and challenges that we face in the future. We are still a very young service—four years is not a long time. I have no doubt that the creation of the service has been good for Scotland. Many independent observers have acknowledged its creation as a public sector success story. We continue to meet the expectations of reform—they were clearly set out—to protect front-line service delivery and the outcomes from that. I am always very proud of the work of firefighters and their colleagues in support services. The number of fire deaths in Scotland for the first four years of the Scottish Fire and Rescue Service is the lowest in Scottish history—the lowest on record—which is testament to their work. The number of fire stations before reform was 356, and it is still 356. We can clearly indicate success on the journey to meet the intentions of reform.

You asked about our biggest challenges. The first has been the fiscal challenge. We have taken £55.3 million out of the cost base of the Scottish Fire and Rescue Service in the past four years—although we have been running for five years, as we had six months of shadow running with limited finance. We have delivered against our savings targets every year and presented balanced budgets, with accounts that have been approved on every occasion. That has been challenging, but we need to be proud of it.

I agree with my trade union colleagues that the past four years have been extremely difficult for people. As Derek Jackson said, if we close

premises where people have worked for 20 or 30 years, they might be asked to move only 5 miles down the road, but sometimes we ask them to move 40 or 50 miles, which is extremely challenging. We have not ducked the tough decisions on staff issues, but we have tried to be as empathetic as possible.

Money and people have been the two biggest challenges, but I agree with Chris McGlone that the biggest remaining challenge is that of harmonising the terms and conditions of service in relation to Fire Brigades Union staff. As a result of the harmonisation of national terms and conditions, it was more pressing to deal with our colleagues in the support trade unions, because there was no national arrangement and there was enormous disparity in matters such as rates of pay and leave. We have dealt with that issue.

10:15

We have national terms and conditions of service for our uniformed colleagues but, as Chris McGlone said, there is quite a lot of disparity in allowances in particular. We have not harmonised those yet, but he has acknowledged on several occasions the excellent work that has gone on in relation to harmonisation. We have a partnership advisory group, and if an issue is not progressing, it can be escalated to myself as the chief, Pat Watters as the chair, and one of our colleagues, Kirsty Darwent, the vice-chair, who is sitting behind us in the public gallery. We have acknowledged that we should try to resolve the issue as quickly as possible. It was our intention to do that before the start of this financial year, but there were challenges around the budget-setting process. That is understandable and accepted.

We have been looking to the future and to service redesign to meet the challenges that the country faces. Delivering service redesign would require a re-evaluation of the role of firefighters, which could perhaps lift all the harmonisation issues out. We have not been able to achieve that just yet, but we continue to discuss it and I assure the committee that we will now give priority to working progressively with the Fire Brigades Union to deal with that last outstanding issue as quickly as we possibly can.

**The Deputy Convener:** Mary Fee has a supplementary question.

**Mary Fee (West Scotland) (Lab):** I return to a point that Mr Jackson made about pay protection coming to an end in February this year. Can you expand on that and give us some idea of how many staff are affected? Are they clustered in a particular grade? Do you have an end date for resolving the issue?

**Derek Jackson:** As we said, the situation came about after job evaluation. The chief might clarify the figures, but off the top of my head I think that roughly 27 per cent of staff were in detriment. Pay protection ran up to 27 February this year. I do not have figures for how many staff, or what percentage of staff, are still in detriment. A few of those who were in detriment have left the service as a result. In a few directorates or key areas, we have had to introduce market allowances to try to bridge the gap when we recruit externally, to encourage people from outside to come in—and even to help us retain staff. As I say, of the roughly 27 per cent of staff who were initially in detriment, I do not know how many remain in detriment.

**Mary Fee:** Can Mr Hay give us any more clarity?

**Alasdair Hay:** I think that I can. We have to remember that we got a collective agreement on harmonisation with the support staff trade unions, which balloted their members. Union members rejected the harmonisation process on the first occasion but accepted it by a very narrow margin on the second occasion. Therefore, we have been through a proper harmonisation process, at the end of which 227 employees—roughly 27 per cent of our support staff, as Derek Jackson rightly said—were in detriment. We have a number of change management policies to support staff to perhaps move into other roles in the organisation so that they can recover some of the detriment that they have experienced.

Our staff turnover in support services sits at 2.5 per cent, which is remarkably low—I understand that the average is about 8 per cent in the public sector in Scotland and about 15 per cent across industry as a whole. I do not underestimate in any way, shape or form how difficult it is for staff who find themselves in detriment, but we seek to be an employer of choice and our low turnover is evidence of that. We are committed to trying to help staff as much as we possibly can.

**Mary Fee:** Do you have an anticipated end date for resolving the situation?

**Alasdair Hay:** For some people, we may never resolve the detriment, but we have a number of policies that are very supportive of staff and try to help them move into other roles so that they recover the detriment.

Of course, a lot depends on pay. We are negotiating this year's pay settlement for our support staff. One thing that can lift staff out of detriment is their annual pay rise. I am not trying to circumvent the negotiations in saying this but, for the foreseeable future, the pay rise looks as if it will be about 1 per cent.

I cannot give you an exact date, because a number of factors are involved in the negotiations.

However, I can reassure you that we are working with staff to try to help them where we possibly can.

**Mary Fee:** Did you consider extending the pay protection period to alleviate the detriment that members of staff are suffering.

**Alasdair Hay:** I will make one more comment before Pat Watters comes in. The length of the protection period was agreed by collective agreement; it was a part of a whole package of measures that were put on the table.

**Pat Watters:** In the negotiations, there was a clear understanding that people were in detriment—some quite severely—so a pay protection period was built in. We also gave the trade union the commitment that, where possible, we would work with it and the staff who were in detriment to find alternative employment or retraining opportunities in order to lift them out of detriment—or even to soften the detriment where it was sizeable. That process is on-going.

We do not have an end date, because it is an issue that we are trying to resolve. The agreement was to have pay protection for 18 months. That period came to an end at the start of this year. At that time, people reverted to the agreed level of pay for their job. However, as I say, we continue to work with staff and the trade union representatives to ensure that there is proper examination of opportunities that arise for our support staff.

**Liam McArthur (Orkney Islands) (LD):** Good morning. The witnesses have talked about a national service delivering locally. I think that we will come on to talk about how that is achieved and about capacity issues. It strikes me that, in setting the scene, the witnesses have talked about fiscal difficulties, such as the effect of variable terms and conditions, as well as issues related to the physical infrastructure of the service. All those issues are echoed in Police Scotland, but it appears that the concerns about the process that the fire service has gone through—both concerns that are held internally and concerns that are held more widely in the public—have not been of the same magnitude as those that we have seen in relation to the establishment of Police Scotland. Do you have any idea why that is the case? What have you been able to do that has proven more difficult to do in Police Scotland? Information technology is another example that has been cited, in relation to which issues arose in the establishment of Police Scotland that the fire service appears to have navigated more successfully and without attracting the headlines that Police Scotland has garnered.

**Alasdair Hay:** I will start off, but I know that colleagues will want to come in. We cannot speak for Police Scotland—I do not know enough about

its set-up and how it has approached the reform process. For us, there have been two key aspects. First, we followed Audit Scotland's helpful good practice guide, "Learning the lessons of public body mergers", which gave a pathway to delivering success, based on evidence from previous public sector mergers.

You mentioned financial challenges, and it was clear from the start that there would be financial challenges. A savings target was set for the Scottish Fire and Rescue Service—it was in the financial memorandum that underpinned the Police and Fire Reform (Scotland) Act 2012, so—

**Liam McArthur:** I am sorry to interrupt you but, in a sense, a savings target was established for Police Scotland, too. I have looked at the figures, and you have reduced officer and staff headcount. Did you have more flexibility in what you were able to do in implementing that best practice—flexibility that was not possible in Police Scotland because of Government commitments on police officer numbers?

**Alasdair Hay:** Again, I emphasise that I cannot speak for Police Scotland. We followed the best practice guide. We knew what savings target we had to meet. We set out a critical savings pathway that would take us up to 2019-20. We looked at the main areas in which we would be able to take cost out of the organisation, including reducing the headcount, which we had the flexibility to do, and rationalising our assets and the number of contracts that the eight different services had set up. We looked at shared services, and we streamlined processes. We were clear, for each year up to 2019-20, about what we were trying to achieve in those main categories, which set us on the right path. A factor in our success was that we followed the best practice guidance and planned systematically.

The other major success factor was—as Chris McGlone mentioned—that we built a willing coalition for change. That had to start internally, with a very clear focus for staff on what we were trying to achieve and why it was necessary. As has been highlighted, that has not been without difficulty for people. For me, the four years have gone by in a flash, but for the staff who have been directly impacted, it must have seemed like a long time, during which we have not resolved their issues.

I give credit to our staff—along with the unions, which have worked in partnership with us—for helping us to follow that best practice guidance and enabling us to take those costs out of the organisation. We have kept a very strong focus on what is important. I always say that there are two absolutes: community safety and firefighter safety. Building on what we have in common rather than



what separates us has been one factor that has helped us on the journey.

**Chris McGlone:** I am happy to answer the question from a practical perspective. The public perception of what has happened with the single fire service is different from their perception of the single police service. A lot of that is because the public are acutely aware of the problems and issues that have arisen as a result of bringing the eight police forces together—those have been played out very publicly in the press.

I have been heavily criticised since I came into post for not doing the same thing that my counterpart in the Scottish Police Federation, Calum Steele, has done. However, he is in a slightly different position from me, given my ability to sit down with the service and engage in collective bargaining.

The public perception is that we have done an awful lot of work behind closed doors. We have sat down with the service in private and resolved an awful lot of the problems that have come up but which have never reached the public domain. The perception is that we have worked incredibly hard behind the scenes. We have a “Working Together Framework”, which by and large works.

I welcome the SFRS chief’s assurances and reassurances on resolving some of the issues, especially around harmonisation of terms and conditions. Unfortunately, I have heard the same words used before. It is time for those words to become actions. If our members have made such a significant contribution to the success of the new service, as I believe that they have, we have a simple demand: their contribution, dedication and hard work must be recognised with reward and not just with a continual pat on the back.

The benefits of reform have been highlighted not only by the chief but, at a recent international symposium, by the minister. One of the benefits is equitable access to specialist resources. Issues in that respect have arisen as a consequence of some of the problems that we have faced inside the service in not being able to harmonise terms and conditions. There are many issues and problems inside the service just now that we are trying to resolve.

The problem that we have, and the message that is coming across loud and clear to us and our officials, is that the service is no longer listening—or if it is listening, it is not acting on the concerns or issues that are being brought to us, day in and day out. The FBU finds it increasingly frustrating to sit down with the service, week after week and month after month, to try to resolve problems that are not of our making. We are sitting there quietly, in private and behind closed doors, and to be

honest we are not getting a great deal of credit for that.

As I said, we are entering a new phase of the reform of the service, so those difficulties have to be faced now. We must be honest about the fact that there are problems in the background and lots of underlying issues and difficulties in the organisation. I think that, thus far, we have gone about things in the right way. It is only recently that I have spoken publicly about matters and started to be a bit more openly critical of how the organisation has handled them.

10:30

**John Finnie (Highlands and Islands) (Green):**

I concur with the view that there has been a good public response to the amalgamation, and it is clear that a lot of hard work has gone on.

I want to pick up on an issue that Mr McGlone touched on latterly—equitable access to specialist services. My understanding is that the FBU does national bargaining and there are also local arrangements. I own that I am disappointed that we are this far in but harmonisation has not happened. However, I am interested to know how that might manifest itself. For instance, I understand that water and line rescue attracted an additional responsibility allowance, which Mr McGlone referred to in his first response. My question on that is for Mr McGlone and Mr Hay. Are water and line rescue specialisms not being rolled out because additional responsibility allowances is one of the issues that have still to be resolved?

**Chris McGlone:** I am happy to answer that. The additional responsibility allowances were paid to recognise areas of responsibility that sat outwith the firefighter role map—by and large, areas that are not statutory obligations, of which specialist line rescue and water rescue are two examples. The service inherited from across the previous organisations a wide range of disparate payments for those additional responsibility allowances. We feel that it is only fair that, being four or five years into the new service, those disparities be addressed. We have been very reasonable in the requests that we have made for payments for those services, especially in the areas where we still have issues. The position is okay for firefighters across the central belt, but we have trained specialist teams in Dumfries and Galloway and in the north-east who have not been deployed because the service is not prepared to pay them the same payment for those roles as firefighters elsewhere get. We think that that is unacceptable, four years down the line.

**John Finnie:** Mr Hay, is access to those specialist services not equitable? It would be extremely disappointing if that were the case.

**Alasdair Hay:** We have created far more equitable access to specialist resources. For example, we had 14 water rescue teams at the outset; we now have 20. The situation is more nuanced than how Chris McGlone is explaining it. We have developed a collective agreement—which stands with the Fire Brigades Union, at this moment in time—on additional responsibility allowances. Until the point of harmonisation, we would pay any new team that came online the rate that they would have received from their antecedent service. We have an issue in the two areas that Chris referred to: Aberdeen and Dumfries. To be fair to the staff, they have undertaken in good faith all the training and are now ready to be deployed. However, they did not previously have an additional responsibility allowance. That matter has been raised and we have offered, as a gesture until we have full harmonisation, £250 additional allowance to acknowledge that they are taking on new work. That offer has not been accepted, but there is live negotiation on it, so we hope to resolve that as quickly as possible.

We have far more specialist teams rolled out across the country than we had at the start. We do not deny that harmonisation has not been completed, but it is a priority for the organisation. We have collective agreements that we have been able to build on, but the negotiation to finalise those is not finished yet.

**John Finnie:** Okay. For the avoidance of doubt, I am not seeking to turn this forum into a negotiating discussion. My point is more about the practical manifestation of the matter. Are there areas where water rescue and line rescue specialisms are not available to be deployed?

**Alasdair Hay:** There are two specifics. There is a line rescue team that we hope to bring online—I am sorry for using that expression—in Aberdeen, and there is specialist water rescue resource in Dumfries. However, we have been advised by Chris McGlone and his team that because of issues relating to harmonisation, they do not accept the offer that has been made. Our understanding was that we had an agreement that we would do what we were doing until we harmonise. As a goodwill gesture, we have offered payments of £250, but we know that that will not be the end of the matter. With the exception of those assets, every additional asset that we have brought into the Scottish Fire and Rescue Service is deployed and operational.

**John Finnie:** You mentioned community safety, which is of paramount concern, and I am sure that

you will redouble your efforts to reach a resolution. The issue is important.

**Alasdair Hay:** Absolutely. Of course, because we have far more specialist assets than we had under the antecedent services and there are no boundaries, we are able to deploy assets around Scotland easily and readily, as has happened on numerous occasions. We have strong evidence that benefits have already accrued to the people of Scotland.

**Douglas Ross (Highlands and Islands) (Con):** Mr Hay had some interesting facial expressions in reaction to Mr McGlone's comments about harmonisation. Does that mean that you disagree with his perception that there is a lot of talk but little action?

**Alasdair Hay:** I am surprised to hear that I had some strange facial expressions—

**Douglas Ross:** It was very overt. It was the only time that that happened during the conversation so far.

**Alasdair Hay:** I will watch the video later—

**Douglas Ross:** It is worth it.

**Alasdair Hay:** —and try to practise my poker face.

I do not accept that the service is not listening. As I explained earlier, we have a partnership advisory group. If the teams that are doing the negotiations hit stumbling blocks and cannot resolve a problem, the issue can be escalated to the partnership advisory group, at which Chris McGlone and his committee members can speak directly to the chair, the vice-chair and me, so that we can try to find ways around any stumbling blocks.

Harmonisation seems to be the big issue. If we go back to the minutes, we can see that it is clear that I was, in September last year, seeking to resolve the issues as quickly as possible—Chris McGlone has acknowledged all the hard work that had been done up to that point. We were supposed to have a follow-up meeting in November, and another subsequent follow-up meeting. However, all the meetings have been cancelled by the Fire Brigades Union, which has said that it has had no business to bring to the table. Given all that—the forums in which issues can be resolved, the suggestions that we have made for ways forward, and the follow-up meetings that have been cancelled because there has been no business to bring—it is slightly surprising to hear that we are not listening. If the forums that have been provided to bring issues to the attention of the chair have not been used, we can only assume that good steady progress is being made, which is the feedback that we have been getting.

However, as I have said, I have heard loud and clear that there is an issue: I am absolutely committed to resolving it in the quickest possible time.

**Chris McGlone:** Obviously, I completely disagree with what the chief officer just said. It is somewhat disingenuous to suggest that we have no business to take to the partnership advisory group meetings. The conclusion was that the path that we were on was not going to result in resolution of, or a conclusion to, the harmonisation of terms and conditions, and that it would therefore perhaps be sensible to seek another avenue by which that could happen. We have had various formal discussions about the service with one of the assistant chief officers in the service with regard to rolling up—for want of a better term—the harmonisation terms and conditions issue into service transformation and redesign.

It is disingenuous for the chief to sit there and say that we have failed to bring the issue to the partnership advisory group. Essentially, we have agreed on both sides of the table that the process has failed and that the issue will not be resolved in the current forum, which means that we have to seek another solution in another forum. It is clearly still a massive issue for us, and it is the biggest headache among our members. Believe me: if there was another forum in which we could resolve the issue, I would take it there.

**Douglas Ross:** Mr Hay mentioned that it was intended that harmonisation would be completed by the end of the previous financial year. You have not been able to achieve that. What is your target date now? Pat Watters may want to come in on that, as well.

**Alasdair Hay:** We do not have a target date. We want to come to the table. If we cannot harmonise terms and conditions here in Scotland, there are—as Chris McGlone said—within our national joint council dispute resolution processes to which timescales are attached. We are more than happy to come to the table as soon as possible to see whether we can finally resolve the issue. If that is not possible, we may have to go down the established routes to do so.

**Douglas Ross:** You are here today because it is part of the Justice Committee's duty to monitor and evaluate the operation of the Scottish Fire and Rescue Service. How can we do that if we do not know what the timescale is? You previously had a timescale. What should we, as committee members, now be looking at in order to determine the success or otherwise of the harmonisation project as it moves forward?

**Pat Watters:** It is extremely difficult to put a timescale on it. We are talking about an extremely

complicated negotiation on how we take forward the project.

**Douglas Ross:** I am sorry, but you previously had a timescale.

**Pat Watters:** We had a timescale within which, we hoped, we would reach a conclusion. That timescale has not been met.

I am a bit disappointed to hear the comments about the mechanism of the partnership advisory group, on which we as employers, and the employee representatives, sit. I not only chair the board; I also sit on the advisory group. This is the first time that I have heard that the group is no longer functioning and is not equipped to solve problems, as it was set up to do. Rather, to be clear, the reason why it exists is not to solve problems, but to oil the mechanism that will allow problems to be solved in the future.

The timescale is that we want to get harmonisation completed as quickly as possible. Chris McGlone is absolutely right to point out that there are, as the chief officer also mentioned, two areas coming together at the same time: harmonisation of conditions of service, and transformation of the service and how we move forward to protect the communities of Scotland in the future. There is no easy solution, and we cannot say that we will solve the issues by X date. There is an on-going discussion with our representative bodies about how we will move forward.

**Douglas Ross:** I am sorry, but I do not understand that. You had previously said that the process would be completed by X date, which was the start of the current financial year, but you have been unable to do that. How was it possible previously for you to set a date for completion, but it is now impossible for you to tell the committee, which is trying to scrutinise your work, when we should expect further action? It is a fairly reasonable request.

**Alasdair Hay:** Perhaps I was not clear enough. The target date was 31 March because we wanted to resolve the outstanding issues as quickly as was practically possible. That was our aspiration; it is clear that we did not meet it. We are not trying to be elusive. We want to get round the table as quickly as possible to have a progressive discussion and resolve the issue.

We are in danger of turning the meeting into a negotiation between me and Chris McGlone, which—as John Finnie pointed out—is not the committee's purpose. Once a discussion has taken place, we will be able to provide more clarity on the timescales to which we will seek to work.

If we cannot resolve the issue in Scotland, there are timescales by which joint secretaries and

resolution advisory panels can act, through the NJC. Let us have a conversation and see whether we can resolve the issue in Scotland. If that is not possible, we would know what the backstop dates would be for external resolution processes, and we can feed that information back to the committee and to you, Mr Ross, to give you some assurance.

**Douglas Ross:** It would be useful to get that feedback.

Everyone on the panel has spoken about the importance of staff—Pat Watters said that partnership and co-operation with staff is a priority. Why, then, has the single Scottish Fire and Rescue Service continually failed to release the results of its 2015 staff survey? Why cannot we know what the staff have said?

**Alasdair Hay:** We did not do a staff survey; we did a cultural audit of the organisation.

**Douglas Ross:** You have not been willing to reveal publicly its outcomes.

10:45

**Alasdair Hay:** We have revealed as much as we can reveal publicly. The bits of the audit that people have been pursuing us on are bits on which we promised staff and focus groups that what they said would be treated in absolute confidence. We must respect the offer that was made to staff on what they said and the context in which they said it. The questions that have been asked of us about those bits of the audit have been taken to the Scottish Information Commissioner, and I understand that the commissioner has upheld the stance of the Scottish Fire and Rescue Service.

We are not trying in any way to be elusive or not transparent. We set the frame of reference for the cultural audit and we gave staff explicit guarantees on how it would be used and the confidentiality arrangements. We have tried to respect those.

**Douglas Ross:** Do you agree that you have been less transparent than Police Scotland?

**Pat Watters:** No.

**Douglas Ross:** Police Scotland has been willing to reveal the contents of all its surveys, even when it is bad information.

**Pat Watters:** The information is not bad; it is simply the case that we gave a commitment on confidentiality to staff, which has been examined. I do not agree that we have been less transparent than the police service.

**Douglas Ross:** You would not have to say, "Douglas Ross said X"; you could say, "A number of respondents had concerns about X, Y and Z."

Surely you could do that without breaching confidentiality. I think that the public would want to know about areas of concern that have been raised by staff.

**Alasdair Hay:** I repeat that it was not a staff satisfaction survey—it was a cultural audit.

**Douglas Ross:** But staff were able to give their opinions on what they were happy about and what they were unhappy about.

**Alasdair Hay:** I am sorry, but what we are talking about is a tool for addressing the cultural differences that Chris McGlone explained earlier. We want to work with staff to do that. The intention is not to lack transparency, but to work with staff to find out what we need to work on collectively in order to create a single cohesive positive culture for the Scottish Fire and Rescue Service.

**The Deputy Convener:** Thank you, Mr Hay. I think that you have given us a clear answer. We need to move on.

**Douglas Ross:** I would like to hear from Mr McGlone.

**The Deputy Convener:** I am sorry.

**Chris McGlone:** We share Mr Ross's concerns. I requested the responses from the cultural audit two years ago, and I got the same answer. The responses were crucial because they were used to feed into the cultural plan. I am not convinced that there is great confidence in the cultural plan because nobody—including the employees—knows what the responses were.

However, in response to the situation, it is the FBU's intention to survey our members, of whom there are nearly 5,000, to find out their views on the service. We will release the results of that in full to the public.

**Stewart Stevenson (Banffshire and Buchan Coast) (SNP):** I have a comment to make before I begin my area of questioning: do not set arbitrary dates; just deal with the issues that are in the in-tray on dates that are appropriate for both parties. I am in a different place from Douglas Ross on that; he does not necessarily speak for the committee.

I turn to a matter that has not arisen so far. It goes back to the point that the staff are the important part of the fire service. We have not heard anything about how the retained staff contribute to the future development of the service. For those of us who represent areas that are quite rural, the retained staff are often the face of the service. I think that they will not be represented directly by the trade unions, although some of them might be represented indirectly by them. How do the retained staff feed into the

future development of the service? What is their future in the service?

**Pat Watters:** I will kick off, after which the chief officer will provide further information.

I take members back to storm Frank, which hit Scotland over Christmas and new year at the end of 2015, and ask them to remember how the retained staff unit in the north-east of Scotland and the units in the surrounding areas responded to that. It was not just during that terrible period for those communities that they responded; they continued to respond well into the weeks and months following that. Some of the staff who were responding were in exactly the same circumstances as the people they were trying to assist. Their homes had been flooded and their families were out of their homes, but they were still providing the service to the community. Nothing says more about the commitment of retained staff than that kind of response. They are tremendous and we could not run the service in Scotland without their commitment, which was and continues to be outstanding. Any time they are needed, they are there.

I will hand over to the chief officer.

**Stewart Stevenson:** Before you do that, I absolutely associate myself with those remarks. As luck would have it, my constituency in the north-east was relatively unaffected compared to its neighbour. The value that people in the north-east got from retained staff on that occasion, as on many others, was exactly as Pat Watters describes.

**Alasdair Hay:** I can only echo the admiration that everybody has expressed for the work that our retained colleagues do. When Steven Torrie was the chief inspector, he suggested to this committee's predecessor that the retained service was almost broken in Scotland, in the United Kingdom as a whole, and perhaps across the western world because how people lead their lives has changed entirely since the retained service was designed and set up in the 1950s. I would not go so far as to say that the retained service was broken, but it was certainly facing severe pressures.

What have we done about that? The question was about how retained staff have fed into future development. It is about listening to them. One of our recently retired assistant chief officers led a major piece of work that looked into how we can make the best of the current terms and conditions of service, and the current retained duty system in Scotland. He also looked at options for service redesign. We are still working actively on service redesign and believe that we cannot look just at the retained service or the whole-time service; we have to look at the totality of the resources that are

available across Scotland and how they can be deployed to best effect for maximum benefit to all the people of Scotland. That was one of the major things that came out of that piece of work.

On making the best of where we are at the moment, as part of the work we invited retained members to become involved and we set up a sounding board so that we could try to understand the barriers that they face, such as the fact that they had to travel for too long to access training facilities. It was impractical for them to go away from their home or business for three days. We have therefore focused on investing in our training infrastructure. We have had great support from the Scottish Government, which has given us the money to provide training facilities in Orkney, Shetland and the Western Isles so that staff can access them locally.

The staff were also concerned about the time that it took from people showing interest to them being told whether they had a job, so we have streamlined those processes. Our intention is to do that within three months. We heard some horror stories about the process taking well over a year.

We have listened to those staff and we have done all that. We have made considerable progress in the area. By the end of May, we will have 3,021 retained firefighters in Scotland, which takes us back up to where we were when the SFRS started. That will be the first time in nearly 20 years that we have seen a reversal in the reduction. That has been a huge piece of work, and it is a credit to everyone who has been involved in it.

This year alone, we have recruited 119 RDS firefighters, with another 93 coming in May, and we have more than 370 in the process. We have achieved that by listening to staff's concerns and getting support from colleagues in the service. I also want to emphasise the good financial support that we have got from the Scottish Government to improve the training facilities for the RDS. However, I do not underestimate the challenges that lie ahead. Those will have to be addressed through fundamental structural service redesign.

**Chris McGlone:** I totally agree with what Pat Watters and the chief said about our RDS colleagues, who do a fantastic job under difficult circumstances in their communities. However, I must disagree with the chief on his point about listening to employees. The chief mentioned barriers that they face. A barrier that we face is getting the service to listen to our concerns about nationally agreed rates of pay in relation to holiday pay, disturbance payments and sick pay in at least three of the antecedent services. There have been serious breaches of the Part-time Workers (Prevention of Less Favourable Treatment)

Regulations 2000. We have raised those matters time and again with the service, and they have fallen on deaf ears. Therefore, I cannot agree with the chief when he says that the service is listening to its employees and that it is acting on what they are saying, because our experience is different.

**Alexander Stewart (Mid Scotland and Fife) (Con):** Any organisation that goes through such a transformational change and harmonisation will have difficulties, and the witnesses have explained this morning what those are. The chair and the chief officer have talked about how successful the process has been, but it seems to me that cracks are beginning to show.

For me, the crux is staff morale. What kind of staff morale do you have? There have been questions about the surveys and the audits that have been carried out on how things are progressing, but there seems to be difficulty with morale. We are told that morale in the police service is at an all-time low, because of what the police have had to suffer when they went through the merger process, but the Scottish Fire and Rescue Service has been held up as a beacon of success in comparison. However, in reality, what is the state of staff morale? We have had four years of success, but it is obviously going to get much more difficult as we progress. From the reactions that I have had and from what I have heard this morning, it seems that cracks in the system are beginning to surface, and that will have a knock-on effect for service cover across the country.

**Chris McGlone:** I cannot speak for either the chief or the service, but the FBU's perception is that staff morale is at rock bottom. Those same employees whose efforts are being trumpeted and praised have gradually become despondent as the single service continues to be trumpeted as a success. They have become increasingly detached from the success story. They feel undervalued, underpaid and, in many areas of the organisation, overworked and under stress. That is the reality of the situation; that is the FBU's experience.

**Derek Jackson:** I echo some of the FBU's thoughts. The job evaluation process for support staff was seen as the holy grail that would fix everything, so that everyone's pay would be harmonised. Through that lengthy process, we have lost quite a few key staff members who had serious amounts of service under their belts. We have heard the chief's commitment today that policies and processes are in place to get staff out of detriment. The commitment is to do that if and when possible. There are various examples—even within the current process of advertising jobs, which seem to be being advertised externally

rather than internally first—when steps could be taken to relieve some of the people in detriment.

A number of our members are women. They are predominantly in the low-paid grades—grades 1 and 2. Some of those jobs are not professional ones, by which I mean that, perhaps through retraining or similar measures, people in the departments or the directorates could achieve the goal of getting out of detriment.

Morale is also pretty low among our staff. We have gone through a job evaluation appeals process, from which we have had outcomes, but people are still waiting for something that is going on in the background. They are still hanging their coats firmly on job evaluation and the pay and reward system fixing everything. For the support staff, it has just not done that.

11:00

**Alasdair Hay:** This has been a success. When I say that that has been down to the commitment and dedication of staff at all levels in the organisation, those are not hollow words—there is no doubt about that. Clearly, it has not been easy for people. As I said at the beginning, we cannot deny that a major change process will be difficult for people. Their attitude has been to their credit. Mr Stewart asked whether cracks were beginning to appear. It sounds very much as though they are. Perhaps we need to get back round the table and reflect on what has made the process successful to date and to identify exactly what the priorities for consolidation are in relation to the journey that we have been on so far. However, we must also lift our heads and look at what transformation will mean for all staff.

We are preparing to carry out a survey on staff satisfaction in the organisation. The indicators include staff turnover, which Derek Jackson spoke about. As I have already said, our staff turnover rate is 2.5 per cent, which is well below the average in the public sector in Scotland. On staff attendance, sickness levels are significantly lower than they were prior to reform of the service. Those are indirect indicators, and we will carry out the staff satisfaction survey. However, what I have heard, loud and clear, is that there are conversations that have to be underscored by action if we are not to let the great work that has happened disappear, which I understand is something that could happen quickly.

**Pat Watters:** There has been major change in the whole organisation. Has that caused unrest, and sometimes anxiety? Yes, it has. Derek Jackson rightly said that 27 per cent of people found themselves in detriment at the end of the job evaluation exercise. I want to reflect the other side of that outcome, which meant that 73 per cent did

not and were in as good a position—or better—as a result of the exercise. That does not minimise the impact on the 27 per cent, so we need to continue to work to move that forward. However, we cannot change the fact that that was the outcome of the job evaluation exercise.

There is one other figure that I would like to indicate to the committee. Recently, when we advertised for new members of whole-time firefighting staff, on three occasions we crashed the local government website that we use for recruitment. We had more than 5,000 people applying for the jobs that were there. We are an organisation that people want to work for. We are undergoing major change at the present time. Are there issues? Yes, there are. Will we deal with them? Yes, we will. Will we do so in conjunction with our trade union colleagues? Yes, we will. That is what our partnership agreement says and that is what we have agreed to do and are committed to doing. Yes, we have anxieties. There are sometimes frustrations on the trade union side and—let me assure you—on my side as well, but we will work those out together. The reason why we are in the position that we are in today is that, so far, we have managed to work things out together. That is the way forward. This cannot be done to the service; it has to be done with the service.

**Alexander Stewart:** There has obviously been a massive amount of good will so far in the whole process, which is to the credit of all parties. However, that good will may disappear—and your staff turnover may rise—if you do not tackle the situation in the short to medium term, as you have identified today. I wish you well in that process, which is not an easy one to manage.

**Mairi Evans (Angus North and Mearns) (SNP):** I have a question about the closure of some of the control rooms. When the closures were first suggested, there was a lot of concern that there would be a lack of local knowledge in some geographical areas. What has the experience of that been so far? Has it proved to be the case that there are local knowledge problems, or has local knowledge been maintained following the control room closures?

**Alasdair Hay:** The change to the control rooms was predicated on the proven model of the Johnstone control room, which covered the 12 local authority areas of the old Strathclyde region and handled more than 50 per cent of emergency calls in Scotland. Prior to the creation of Strathclyde Fire and Rescue Service, those calls were handled by five control rooms. We therefore predicated the moves that we made to create three control rooms in Scotland on a proven successful model.

Local knowledge plays a part but, in my view, the issue is professional knowledge. For example, I grew up in the south side of Edinburgh and the north side of the city is a complete mystery to me. Just because someone grows up in a particular area, that does not mean that they have the type of detailed, professional knowledge that is required to work in a control room. That knowledge is developed by staff when they join a control room and go through the relevant training programmes; and that process is underpinned by technology. Control room staff use gazetteer mapping systems. When responding to emergency calls, they consider what risks there might be and what type of resources should be deployed, and they match that to the mapping information, using their professional knowledge.

There were a couple of glitches when the system changed over, but our layers of resilience quickly picked those up. I do not want to say too much more, because Her Majesty's chief inspector of the Scottish Fire and Rescue Service has done a review and produced a report. Having spoken to him throughout the process, I can say that he has not picked up any major concerns and that he has advised us throughout of any recommendations that are likely to go public, which we have already taken action on. However, it will be for the chief inspector to lay his report before Parliament and I am sure that, at a future date, we will have the opportunity to speak to it and that it will be scrutinised by this committee.

**Mairi Evans:** Would you therefore say that the current three control rooms have the right levels of staff with the right knowledge and that they are all fully up to speed to provide that safe service?

**Alasdair Hay:** We are providing a safe service, but we are still in a transition period. We agreed with the FBU what a safe model would be. We have had some challenges in staffing up the north control room to the required levels. We have offered overtime and have switched staff from other posts to try to keep the levels up, but there have been occasions when we have not had our agreed staffing levels. However, that has never compromised public safety.

At the moment, we have 10 trainees undergoing training; five of them will go into the north control room and five will go to the other control rooms to keep their staffing levels up. However, we have also put in place a long-term succession plan for the control rooms, having anticipated the vacancies over the next 10 years and our capacity to recruit and support trainees through their training process. That is now all in train in the Scottish Fire and Rescue Service, but it has to be properly and robustly implemented.

**Mairi Evans:** Thank you.

**The Deputy Convener:** We have a few more questions, but we are rapidly running out of time. Please can we have very brief questions and answers.

**Mairi Evans:** I had another question, but I think that Mr McGlone wants to speak.

**Chris McGlone:** I welcome the chief's honesty about the difficulties that control staff have experienced throughout the process, which has been incredibly difficult and not without pain and disturbance and all the things that go with the closure of a workplace.

Our initial consultation for the single service sought assurances that improved local control and mobilisation services would maintain local knowledge in line with existing structures. The importance of that local knowledge was reiterated in a recent report that was published by the Fire Brigades Union, and by Lynda Rowan O'Neill, who is secretary of the FBU's control staff national committee. She stated that:

"Many people don't know their location when they phone in an emergency."

We take it for granted that somebody is sitting in a house or that they know exactly where they are. They could be driving along the road or in an unfamiliar area, especially in the more remote rural areas of Scotland.

"So much of the job is based on local knowledge. I know where the road that the pub you passed a few minutes ago is on, even if you don't. I know which motorway junction is nearest, based on the snippet of information you caught out of the corner of your eye on the last sign you passed. I know where the old factory is, despite the fact that it closed down several years ago. I couldn't do my job nearly as well if I were unfamiliar with the area."

Local knowledge is critically important. Modern systems are critically important to the efficient functioning of the control rooms, but there has to be resilience as well. We need some fallback when the satellite navigation does not work.

**The Deputy Convener:** We have five minutes for three questions, so they need to be brief.

**Mary Fee:** Between 2015 and 2016, 166 whole-time operational staff left the service. There were reductions in other areas, too. Can you explain the rationale behind that? Was the reduction solely down to the integration of areas? Did people leave because of dissatisfaction?

**Alasdair Hay:** The vast majority of people leave because they reach their pensionable point within the service. The number varies depending on recruitment patterns 30 years ago. Firefighters normally retire after 30 years of service; between 150 and 200 people is the normal retirement pattern. We lose about two firefighters per month who are not retiring.

**Mary Fee:** Is the staffing level across whole-time operational staff correct?

**Alasdair Hay:** We have agreed with the Fire Brigades Union resource-based crewing, which is the right number of staff necessary on fire stations to create a safe system of work. We are collectively proud that we ride five people on the first appliance and four on the second at whole-time fire stations in Scotland. We are the only service in mainland UK with that minimum—Northern Ireland also has it—and we worked hard for it.

The resource-based crewing establishment agreed with the Fire Brigades Union is 3,071 people. The figure yesterday was 3,035, so there is a small gap, but the service has a buffer built in to allow for that. We have 111 people on a holding list and we intend to run three whole-time recruit courses this year, which will keep us as close as we can to the agreed establishment.

**Liam McArthur:** I thank Mr McGlone for the local knowledge on control rooms, and we will wait to see what the inspector's report says.

On retained stations, I acknowledge Mr Hay's comments on investment in training facilities and speeding up the recruitment process. However, what specific work has been going on with other blue-light services? In the islands that I represent, for example, part of the problem appears to be that you are dividing a very small population across a reasonably wide range of services. The services do not appear to join up all the different requirements that they place upon those who are retained as volunteers. Is work actively going on to establish a more joined-up blue-light service across fire and rescue, ambulance and other services where there is a demand?

11:15

**Alasdair Hay:** There is work going on, particularly at local level. Conversations are always happening between the local senior officers within the communities and the communities to understand how each of us can be supported by the communities at times when an emergency service is required.

It is my understanding that a person cannot hold the office of constable and be a retained firefighter—that is in the legislation. There are issues around that. Something that might be of interest to you is that we have agreed to put a whole-time post into each of the three main island groupings in Scotland; there is budget for that this year. The purpose is for the postholders to work very closely with the local communities. They will also be able to respond to incidents. They will set up a young firefighter scheme in those island communities to engage the young people, who are



the most likely to stay in or return to some of the more remote parts. The young people will then understand what the fire service is all about.

Through the scheme, we are trying to make sure that people understand the value of the service to their communities and how they can be a part of it, as well as giving them transformational skills. We are looking to resolve the issues not just with the local community and their young people, but with our colleagues in the other services. That is an indication of the type of work that is going on to understand the needs and how we can best meet them.

**The Deputy Convener:** Ben—please make your question as brief as you can.

**Ben Macpherson (Edinburgh Northern and Leith) (SNP):** It was stated earlier that more than £55 million of cost savings have been made since integration occurred. However, the committee is aware that the Scottish Fire and Rescue Service, like Police Scotland, carries a VAT liability of approximately £10 million per annum, which comes to approximately £40 million since the financial year 2013-14.

From the correspondence that you have had, has there been any movement from the UK Government on that matter? In terms of enhancing the service, how would that money be spent if the liability was removed?

**Pat Watters:** There is a stock answer from the UK Government on every occasion. I have personally written to the Prime Minister, the Chancellor of the Exchequer, and every MP representing Scotland in the UK Parliament, with copies being sent to representatives in this building.

The Treasury has said, “You knew this was going to happen so you should have taken care of it—full stop. You do not meet the legislation.” That is absolutely right—we do not. However, neither did the legacy service for the London Olympics, which went to cover the whole of the UK but was only a London-based organisation. An exemption was made for that service. Equally, transport for England was a local organisation that went England-wide and an exemption was made for it. That is why we raised the matter.

Could we use that £10 million? You had better believe that we could. We could maybe deal with some of the issues that we are facing at present and some of the issues that we may face in the future.

When the people of Scotland have to provide for major emergencies, it costs them 20 per cent more than it costs anywhere else in the UK. That might be there in the legislation, but is it right? You had better believe that it is not. It is not right that it

costs the people of Scotland 20 per cent more to get the same protection as elsewhere in the UK. That cannot be right, even though it meets the legal requirements. It is not right.

**Ben Macpherson:** Thank you very much, Mr Watters.

**Alasdair Hay:** I echo that. We have received a standard letter from the UK Government and we have taken up the matter with the Scottish Government. We really appreciate the support that the Scottish Government has given us in trying to pursue the issue.

**The Deputy Convener:** I am afraid that we are out of time. I thank the panel very much for coming. The session has been useful and informative. I suspend the meeting to allow the witnesses to leave.

11:19

*Meeting suspended.*

11:23

*On resuming—*

## **Limitation (Childhood Abuse) (Scotland) Bill: Stage 2**

**The Deputy Convener:** Agenda item 2 is consideration of the Limitation (Childhood Abuse) (Scotland) Bill at stage 2. I ask members to refer to their copy of the bill and to the marshalled list of amendments.

I welcome the Minister for Community Safety and Legal Affairs and her officials, and I apologise for the short delay.

### **Section 1—Removal of 3 year limitation period in certain actions**

**The Deputy Convener:** Amendment 1, in the name of the minister, is in a group on its own.

**The Minister for Community Safety and Legal Affairs (Annabelle Ewing):** Good morning, deputy convener. Amendment 1 will ensure that there is no doubt that abuse in the form of neglect is covered by the definition of abuse in the bill. The existing definition did not exclude forms of abuse such as neglect, but the amendment will put matters beyond doubt.

I am grateful to the committee for its scrutiny of the issue and to those who gave evidence. I agree with the witnesses about the importance of being as clear as possible, and of making every effort to ensure that no survivors for whom the bill is intended are excluded from its benefits.

It is clear from the evidence that abuse in the form of childhood neglect can cause serious long-term damage and give rise to the sort of difficulties that prevent survivors of other forms of childhood abuse from coming forward to raise civil actions. At the consultation stage, concerns were raised about whether there was potential ambiguity in including neglect, and about the potential for a wider interpretation that would include negligent acts that would not necessarily constitute abuse. However, under amendment 1, only neglect will be included as a form of abuse, which makes it clear that the bill does not deal with cases in which a person has simply omitted or neglected to do a thing. At the same time, the amendment will remove doubt as to whether actions arising from childhood abuse that takes the form of neglect could benefit from removal of the limitation period in the bill.

I move amendment 1.

**Stewart Stevenson:** Very simply, I welcome amendment 1, which has been lodged in response to observations from the committee. For my part, I find it very easy to support.

**Liam McArthur:** The minister is right that an argument could be mounted to say that neglect is covered in the existing wording, but as we have discussed and as we have heard in evidence, the bill's giving clarity to survivors is absolutely crucial, and amendment 1 will deliver that. We heard that pretty strongly in the evidence—in particular, in evidence from the Scottish Human Rights Commission. I record our gratitude to the commission for that.

Like Stewart Stevenson, I will have no difficulty in supporting amendment 1.

**The Deputy Convener:** I echo those remarks.

*Amendment 1 agreed to.*

*Section 1, as amended, agreed to.*

### **Section 2—Commencement**

**The Deputy Convener:** Amendment 2, in the name of Douglas Ross, is in a group on its own.

**Douglas Ross:** Amendment 2 aims to ensure that the bill is properly resourced. The committee's report on the bill contains at paragraph 245 a recommendation that was unanimously agreed by all members of the committee. It says:

"It is important that the Bill is properly resourced to ensure both that its policy intent is achieved and to prevent any negative impact on the provision of current services by local authorities."

By agreeing to amendment 2, we will ensure that that is in the legislation.

I move amendment 2.

**Stewart Stevenson:** During the stage 1 debate on the bill, Mr Ross supported the aims of the bill. He said:

"It is paramount that survivors who have previously been unable to raise a civil action due to the time bar are not ... left frustrated and disappointed with the legislation because the Scottish Government has not ... put in place the necessary resources to support that possible increase in actions."—[*Official Report*, 27 April 2017; c 64.]

He has properly highlighted the committee's conclusion about preventing a negative impact on current services. However, amendment 2, if it were agreed to, would lay on the Government conditions that would mean that the legislation could not be commenced by regulation, because the tests in the amendment could not be met.

The first test in the amendment requires that, before commencement,

"sufficient financial and other resources have been made available to ... meet any obligations".

The effect of the bill, if passed by Parliament, will be to create an enduring right for individuals to act without limit of time. To give an unlikely but legally possible example, a person who was born in 2000

could take action under the bill in 2100. It is simply not possible to provide now the resources to support an action nearly a century hence.

The second test in the amendment is more general. It refers to

“any obligations arising from this Act”.

Unhelpfully, that captures obligations that might fall on all public bodies and all obligations, even where those arise solely from the actions or inactions of a public body that it is responsible for providing financial recompense to victims. I do not think that that is what Mr Ross seeks to do, but that would be the effect—as I read it, at least—of the words in amendment 2.

11:30

Without engaging the policy issue—I do not believe that there is any difference between Mr Ross and myself on that—I say that amendment 2 goes much further, which de facto makes it impossible to support it in its present form. It touches on the more general issue that arose in the stage 1 debate. Mr Ross said:

“The Government must put in place the necessary resources to support that possible increase in actions.”—*[Official Report, 27 April 2017; c 64.]*

The difficulty with a “possible increase in actions” is that the number could be almost anything. The minister herself pointed out that the 2,200 figure is the mid-point of a range of estimates between 400 and 4,000. It was generally accepted that we could look at the issue for as long as we like without coming up with a number that would be anything other than an estimate in an estimated range. On that basis, I find myself unable to support amendment 2 in the form in which it has been lodged.

**Liam McArthur:** Stewart Stevenson has pointed out that there is policy agreement about the concerns and that the only way in which we will provide certainty is to ensure that the financial wherewithal exists for when individuals choose to bring cases. As I would have expected, Stewart Stevenson has done his due diligence with regard to what he sees as the precise impact of amendment 2. What he suggests might well be the case. Nevertheless, the amendment highlights an area in which the bill probably needs clarification, and in which reassurance is needed for those who might be minded to bring cases. Therefore, I hope that the minister will reflect on the intention behind amendment 2 and, while not using the same wording, possibly lodge at stage 3 an amendment of her own that Parliament as a whole can consider.

**John Finnie:** I align myself with a lot of the comments that Stewart Stevenson made and I

certainly do not want to go into detail. It is entirely right that the legislation that is passed should be adequately resourced, but the essence of the bill is that the numbers are unknown. The bill is intended to give a signal of support to survivors in that it shows that there is an opportunity. It is an evolving situation and I am concerned about anything that could frustrate the progress of the bill, so I will certainly not support amendment 2.

**Oliver Mundell (Dumfriesshire) (Con):** I understand the technical points that have been raised by my colleague, but given the policy agreement, it would be advisable to include amendment 2 for the moment and allow it to be refined at stage 3 when the bill returns. I will support the amendment.

**The Deputy Convener:** I will not support amendment 2. We cannot do anything that might delay commencement of the act—survivors have waited long enough. As has been said throughout our evidence taking, it is impossible for us or for anybody to estimate what it will cost, so amendment 2 is unworkable and I will not support it.

**Annabelle Ewing:** The Scottish Government strongly opposes amendment 2. What is proposed in the amendment is completely unworkable and could end up defeating the bill. It is clear to me that we should not do anything that might delay the bill’s coming into force: as Rona Mackay just said, survivors have waited long enough for a change in the law.

Witnesses to the Justice Committee have accepted that it is not possible to estimate with any certainty the bill’s impact; and we will not know the impact of the bill until after it has come into force. Therefore, it would be premature to draw conclusions about resources. Indeed, amendment 2 would put us in a catch-22 position: the impact will not be known until after commencement, but the amendment would not allow us to commence the act until the impact was known, or perhaps until a blank cheque had been written. The conclusion must be drawn that the act might then never be commenced.

It should be remembered that the bill’s proposals would not change the law of delict and the duty of care. On top of that, as the committee will appreciate, the current law allows new claims to proceed where the court considers that to be equitable. That must be viewed, at least, as a potential liability for local authorities that already exists, even aside from the bill.

The bill is about access to justice for survivors. Although we recognise that there will be financial implications for public bodies, which is the nature of civil litigation, we should not lose sight of the importance of the basic principle of removing an

unfair barrier for survivors. Parliament has unanimously supported the general principles of the bill; amendment 2 runs the risk of derailing the whole aim of the bill. We need to respect the outcome of the interaction process and, most important, to respect survivors who have campaigned for decades for the proposed change.

Our public bodies, including local authorities, provide valued public services; I share Douglas Ross's view about the importance of maintaining those at the highest standard. Of course, we are in regular dialogue with the Convention of Scottish Local Authorities and local government on a range of issues, so it will be open to local authorities to raise, in the normal way of things, concerns about any new and unplanned financial pressures that they face that might impact on service delivery, so that we can consider together how those might be addressed.

However, the impact will not be the same in all local authorities in terms of, for example, the number of cases and the availability of insurance cover in a case. We therefore do not yet know what the impact will be—we cannot know that in advance of implementation of the bill.

I recently met the former children and young people's spokesperson for COSLA, Stephanie Primrose; it is clear that COSLA is not looking for a blank cheque. Rather, we agreed to continue the dialogue and to keep the situation under review. After a new COSLA spokesperson is elected on 30 June, I will seek a further meeting with them to discuss the issue.

Amendment 2 will not provide a constructive solution, but would end up holding the bill hostage and could potentially derail the aim of the bill, which is to remove the insurmountable barrier to access to justice for survivors of childhood abuse that the three-year limitation period embodies. I urge members to reject amendment 2.

**Douglas Ross:** I think that all the speakers, with the exception of the minister, accepted that the policy intent behind amendment 2 is not to derail things. It is unfortunate that the minister spent most of her remarks looking at that aspect; I think Stewart Stevenson and others accepted that amendment 2 has been lodged because there is a deficiency in the bill. Every member, from all the parties that are represented on the committee, accepted that there is a deficiency when we—

**Stewart Stevenson:** Will the member take an intervention?

**Douglas Ross:** No. I am sorry—I will not on that point.

We agreed at paragraph 245 of our report, as I said in my opening remarks, that it is important that the legislation is properly resourced. It is quite

clear that it is not properly resourced and that the biggest barrier to ensuring—

**John Finnie:** Will the member take an intervention?

**Douglas Ross:** I am sorry. I will not, on that point. If I can, I will continue.

The most important point in ensuring that we get it right for victims is to ensure that the legislation is properly resourced. The Scottish Government has the opportunity to do some scoping on the issue, and the Scottish Government must also take responsibility. We heard from a number of witnesses, when we met representatives from COSLA and local authorities, that there are concerns about other services being cut to pay for the impacts of the bill.

With respect to amendment 2, it is important that we highlight the deficiency in the bill. I accept the points that Stewart Stevenson and others have made, but if my amendment is agreed to today, it will become part of the bill that can then be further amended at stage 3. For that reason, I will press amendment 2.

**The Convener:** The question is, that amendment 2 be agreed to. Are we agreed?

**Members:** No.

**The Deputy Convener:** There will be a division.

#### For

Mundell, Oliver (Dumfriesshire) (Con)  
Ross, Douglas (Highlands and Islands) (Con)  
Stewart, Alexander (Mid Scotland and fife) (Con)

#### Against

Evans, Mairi (Angus North and Mearns) (SNP)  
Fee, Mary (West Scotland) (Lab)  
Finnie, John (Highlands and Islands) (Green))  
MacGregor, Fulton (Coatbridge and Chryston) (SNP)  
Mackay, Rona (Strathkelvin and Bearsden) (SNP)  
Macpherson, Ben (Edinburgh Northern and Leith) (SNP)  
Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)

#### Abstentions

McArthur, Liam (Orkney Islands) (LD)

**The Deputy Convener:** The result of the division is: For 3, Against 7, Abstentions 1.

*Amendment 2 disagreed to.*

*Section 2 agreed to.*

*Section 3 agreed to.*

*Long title agreed to.*

**The Deputy Convener:** That ends stage 2 consideration of the bill. I thank the minister and her officials for attending.

## Justice Sub-Committee on Policing (Report Back)

11:40

**The Deputy Convener:** Agenda item 3 is feedback from the Justice Sub-Committee on Policing's meeting of 18 May 2017. Following the verbal report, there will be an opportunity for comments or questions. I refer members to paper 3, which is a note by the clerk.

I invite Mary Fee to provide feedback on the meeting.

**Mary Fee:** The Justice Sub-Committee on Policing met on 18 May 2017, when it held an evidence session on governance of the Scottish Police Authority. The sub-committee heard from Andrew Flanagan, the authority's chair, and John Foley, the chief executive. The session was a late change to the committee's business in response to serious governance concerns that had been raised by the Public Audit and Post-legislative Scrutiny Committee.

Andrew Flanagan apologised for his letter to Moi Ali and told the sub-committee that he regretted not circulating the letter from Her Majesty's chief inspector of constabulary to board members. The chair and the chief executive answered questions from the sub-committee on governance issues. The sub-committee's next meeting is scheduled for Thursday 25 May, when it will consider its report on governance of the Scottish Police Authority. I am happy to answer questions.

**John Finnie:** I have more of a comment than a question. I thought that it was a useful meeting. As the sub-committee's convener, Mary Fee, has said, the purpose of the meeting was to address concerns about governance. I must say that those concerns were not allayed by anything that I heard—quite the reverse. We were told by Mr Flanagan that a copy of his letter had been emailed to Moi Ali. We subsequently learned that that had happened a quarter of an hour before our meeting commenced. It is a matter of concern to me that, although Mr Flanagan believed that he was taking appropriate action, the subsequent information about the timing of his email to Ms Ali suggested that he had not learned much at all from the incident.

**Liam McArthur:** John Finnie fairly sums up where we got to by the end of the meeting. It is also not entirely clear to what extent other board members feel able to comment publicly or to speak truth to power. Although we were offered reassurances in that regard, the evidence was less than convincing. Therefore, as John Finnie

said, it was a useful meeting, but the concerns largely remain.

**The Deputy Convener:** I echo those comments. I was left feeling not reassured that matters would change greatly. However, we will wait with interest to see how the situation pans out.

**Mary Fee:** Yes—I think that everyone on the sub-committee shares the same concerns. Andrew Flanagan appeared to be contrite and accepted that he had been wrong in some of the decisions that he had taken, but there is a difference between accepting that you are wrong and believing that you are wrong. I must say that I came away from the meeting not fully confident that he believes that he had acted inappropriately. The sub-committee will be looking at on-going issues of governance at the SPA.

**The Deputy Convener:** As there are no other comments, that concludes our 19th meeting in 2017. At our next meeting on 30 May, we will continue evidence taking on the Domestic Abuse (Scotland) Bill.

*Meeting closed at 11:44.*



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