



**OFFICIAL REPORT**  
AITHISG OIFIGEIL

# Local Government and Communities Committee

**Wednesday 8 January 2020**

**Session 5**



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**Wednesday 8 January 2020**

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**LOCAL GOVERNMENT AND COMMUNITIES COMMITTEE**

**1<sup>st</sup> Meeting 2020, Session 5**

**CONVENER**

\*James Dornan (Glasgow Cathcart) (SNP)

**DEPUTY CONVENER**

\*Sarah Boyack (Lothian) (Lab)

**COMMITTEE MEMBERS**

\*Annabelle Ewing (Cowdenbeath) (SNP)

\*Kenneth Gibson (Cunninghame North) (SNP)

\*Graham Simpson (Central Scotland) (Con)

\*Alexander Stewart (Mid Scotland and Fife) (Con)

\*Andy Wightman (Lothian) (Green)

\*attended

**THE FOLLOWING ALSO PARTICIPATED:**

Aileen Campbell (Cabinet Secretary for Communities and Local Government)

Brian Howarth (Audit Scotland)

Monica Lennon (Central Scotland) (Lab)

Christopher Lewis (Audit Scotland)

Fraser McKinlay (Audit Scotland)

Graham Sharp (Accounts Commission)

**CLERK TO THE COMMITTEE**

Peter McGrath

**LOCATION**

The James Clerk Maxwell Room (CR4)



**Scottish Parliament**  
**Local Government and**  
**Communities Committee**

*Wednesday 8 January 2020*

*[The Convener opened the meeting at 09:45]*

**Decision on Taking Business in**  
**Private**

**The Convener (James Dornan):** Good morning and welcome to the first meeting in 2020 of the Local Government and Communities Committee. I remind everyone present to turn off their mobile phones.

Agenda item 1 is consideration of whether to take agenda items 5 and 6 in private. Item 5 is consideration of the evidence that is heard today on the Period Products (Free Provision) (Scotland) Bill, and item 6 is consideration of the evidence that is heard from the Accounts Commission. Do we agree to take those items in private?

**Members** *indicated agreement.*

**Period Products (Free Provision)**  
**(Scotland) Bill: Stage 1**

09:45

**The Convener:** Agenda item 2 is an evidence session on the Period Products (Free Provision) (Scotland) Bill. I welcome Aileen Campbell, the Cabinet Secretary for Communities and Local Government, and Dr Elaine Moir, who is the Scottish Government's team leader on access to sanitary products and social innovation partnerships. I also welcome Monica Lennon MSP, who introduced the member's bill. She will have the opportunity to ask a couple of brief questions once committee members have finished asking theirs.

I invite the cabinet secretary to make a brief opening statement.

**The Cabinet Secretary for Communities and Local Government (Aileen Campbell):** Thank you, convener. Good morning and happy new year, everyone. I welcome the opportunity to set out the Government's views on the bill. The Scottish ministers fully believe in the principle of ensuring that everyone who needs to access period products can do so. I am proud that we have taken significant—world-leading—action on the issue in the past two years, and that other countries, both within and outwith the United Kingdom, have sought our advice and what we have learned in considering their own actions.

It is clear that we are in the early stages of policy delivery and that we are in a rapidly developing situation. Innovative practices across sectors are evolving and, as a result, we are learning and changing what we and delivery partners do.

We need to remember that passing the bill would mean that the responsibility for the provision of period products would fall entirely to the state, which would make such products the only material item that the Scottish Government had a legal obligation to provide. We must consider carefully whether legislation is the best way of achieving the desired benefits.

I believe—and many of those who responded to the committee's call for written evidence agree—that, before we consider whether legislation is needed, we should fully assess the outcomes, successes and shortfalls relating to current activity. That is one of the reasons why, when the opportunity was there in March last year, we did not commit to introducing our own legislation on the policy.

Throughout the bill and the wider supporting documents, Monica Lennon points out that she

has given the Government flexibility in how to deliver on the requirements of the bill. However, the result of building in that flexibility is, unfortunately, a bill that contains little detail or clarity on the true policy intent, which makes it difficult for Parliament to assess. I know that many of those who support the principle of legislation are strongly opposed to the preliminary procedure for delivery that is proposed in section 3. Had the Scottish Government introduced a bill with such a provision, Opposition parties would have criticised the lack of clarity. Due to the vagueness of the provision, it would have been almost impossible to undertake our duty to carry out a statutory impact assessment, which is a task that members are not required to undertake for their bills.

We consider that it would be extremely challenging to meet the timeframes for putting in place a universal scheme, particularly given that there is little detail about how that could be done within 12 months of the bill receiving royal assent. As committee members noted in the first evidence session on the bill, the Scottish Government would have to conduct extensive consultation and planning before regulations could be drafted, let alone before any scheme could be implemented. All those things have not been done already because the bill provides that the detail of the universal scheme be set out in regulations rather than in the bill.

We consider that the proposed costs are underestimated. That is based on our estimation of the costs of the products that would be used, the delivery of a rights-based scheme and the uptake. I covered some of those issues in my letter to the committee, and I know that the committee raised some of the issues when it took evidence on the bill last month.

If Parliament passes the bill at stage 1, the Scottish ministers will be expected to introduce a financial resolution that commits to meeting the costs of implementation. I would have to introduce the financial resolution before the scheme was set out in regulation, but it is clear that the nature of the scheme would fundamentally impact on the cost. The lack of clarity poses significant challenges to understanding the likely cost to the public purse and, by extension, the level of future spend to which the Scottish ministers would be committed by introducing such a resolution. Although stage 1 is primarily for consideration of the principles of the bill, which we think are underdeveloped, the committee and the wider Parliament should consider the potential cost at this point.

To be clear, it is not that the Government disagrees with the need to ensure that period products are available to all women who need them; in fact, we have made huge progress in the

past few years in meeting that aim. Around the country, almost 400,000 school pupils and college and university students are now benefiting from products that we fund, as are almost 60,000 people who are on low incomes. Products are being made available—again, through our action—by more than 20 public bodies and in public spaces such as libraries, community centres and sports clubs. The private sector is also beginning to act—without the need for legislation—with football clubs, pubs and even construction companies making products available for staff and visitors.

Guided by the principle of dignity, we have focused our efforts on those who would struggle to access products if we did not make them available. As a minister with responsibility for poverty, I consider that that is hugely important.

We know that there are still improvements to be made, and the policy continues to evolve, but we are beginning to see a culture change. There is a risk that introducing legislation now would encourage people to meet only minimum standards, when organisations in the public, private and third sectors are going above and beyond such standards.

Let me be clear: championing the need to ensure that period dignity exists across the country are not just warm words from me or the Government. We are delivering and investing in that right now without legislation. Through existing means, we can get further faster and achieve better outcomes for those who most need our help.

I look forward to your questions.

**The Convener:** To a great extent, you have answered my question about whether there is a need for the bill. Is there nothing in the bill that the Scottish Government needs to achieve in the near future, or is it more appropriate that you wait to see how the existing provisions work?

**Aileen Campbell:** Over the past couple of years, policies have adapted and become much more reflective of needs. They now respond to the needs of pupils in schools, for instance. You might suppose that the best way to deliver the policy would be to make products available in school toilets, but some children and young people said that they would rather not have that. Over the past two years, we have had to adapt and evolve what we do and how we do it.

There is more to do, and the Young Scot report that came out today points to areas in which we need to make improvements. We are not saying that what we have done is the end point or that we have finished making improvements. We continue to adapt, push and promote the policy.

Forby all the things that I have outlined today, we are engaging and working with international partners, including in Malawi and Rwanda. We are trying to do much more than the bill sets out as we meet the needs of women around the country and follow the principle of dignity.

**The Convener:** You mentioned that flexibility is at the heart of what you are doing. If the bill was passed, there would be lots of different methods for getting access to the products. Would that add hugely to the cost?

**Aileen Campbell:** As the bill is drafted, the card is a potential option, but it would end up being far too prescriptive. There has been benefit in our working with partners to develop, co-produce and see what works. That flexibility has been valued, which can be seen in the submissions to the committee and from the evidence that you have taken from folk. Flexibility is fundamental and underpins how we are working on this issue. We want the policy—underpinned by the principle of dignity—to meet the needs of the people who require the products, and for it to be delivered flexibly and without barriers. We have co-produced the guiding principles so that we have a framework that ensures all that.

**The Convener:** Do you want to make any comments on—

**Aileen Campbell:** The official reporters have asked for my speaking notes, but I would like to make sure that I can refer back to them. I will keep hold of them for now and make sure that they get my notes at the end, if that is okay.

**The Convener:** We want you to do it without any speaking notes at all. [*Laughter.*]

**Aileen Campbell:** I just want to have my record of what I said, in case somebody asks me a question about that.

**The Convener:** Do you have any comments on the letter that Monica Lennon sent in response to your submission?

**Aileen Campbell:** I met Monica Lennon to discuss the bill, and we were in agreement about a lot of it. As I said in my opening remarks, we agree that we should ensure that all people who are currently unable to access such products can do so. We are continuing to evolve and adapt our approach, and we are working on and co-producing our policy with groups, organisations and individuals, but the bill would not enable us to continue on that basis. We have been flexible, innovative and imaginative in developing our existing policy and there is a risk that that would be lost.

Obviously, the committee must decide how to proceed, but I point out that the costs of Monica Lennon's approach are significant. We need to be

mindful of that if we are to change our approach and adopt the proposed universal system. Our system has not been designed to be universal. We have already invested in putting products into schools and education settings, which is an approach that has been rolled out and is universally accessible by students in schools. We have also done work on targeting provision at people who require additional support. Again, I stress that the proposed legislative approach risks losing that flexibility and costs would increase.

However, I do not want to rule out the possibility of there being appropriate legislation in the future. At the moment, we consider that the bill is a bit premature, coming as it does at a time when we are continuing to adapt and evolve our policy. There is momentum behind that and the culture is changing. The danger is that, by imposing legislation, such progress would retreat, resulting in a lesser offer than we currently have.

**The Convener:** I have one last question, after which a couple of my colleagues want to come in. Why is there such a huge discrepancy between the sets of costings?

**Aileen Campbell:** Our assumptions have been made on the basis of there being a higher product cost, which is a much truer reflection of the current actual cost. Another reason for there being increased costs is the fact that our age range is wider than that which is used in Monica Lennon's assumptions. Also, for education settings such as schools, our calculations have not been done on the basis of school terms or on the day lasting from 9 o'clock till 3 o'clock; instead, they are on the basis of ensuring that young people have access to such products 24 hours a day, seven days a week, over the course of a year. Our current approach, which is low on bureaucracy, is about ensuring that people can have direct access to products; it does not have additional bureaucratic or postage costs attached.

Taken together, those factors start to make the costs creep up, which is why they suddenly escalate in the way that we have pointed out. As a Government, we have to work through the costs and financial implications of any piece of legislation by making assessments and assumptions. Such an approach has formed the basis of our submission to the committee and that is why we have said that the costs stand to be much higher than those included in the financial memorandum attached to Monica Lennon's bill.

**Kenneth Gibson (Cunninghame North) (SNP):** I just want some clarification. We all know where you are going with this policy, cabinet secretary. Do you consider the bill to be unnecessary because of all the innovations that are taking place at the moment? Alternatively, is it premature? Perhaps it would be inappropriate to

progress legislation at this time and the matter should be delayed for a couple of years. In addition, is the bill too rigid in its approach, or does it lack detail or focus?

**Aileen Campbell:** At this point, the bill is premature. Over the past two years, a lot has been quickly gained through our existing policy approach, which has involved working in partnership, co-producing, and listening and responding to the needs of individuals. The flexibility, momentum, drive and innovation that has come out of that good work are at risk.

Also, our policy is continually evolving, so people are still adapting what they do in order to respond to need. The risk is that the bill's approach would be far too rigid. We would lose the flexibility that I have mentioned and the bill would not deliver on its aims, many of which Monica Lennon and I ultimately share. I do not want to rule out legislation in the future. However, at this point, we are better to continue to test, innovate and adapt what we do so that we can be surer of what works for people across the country. We can also ensure that we do that with the principles of dignity on which we have worked with partners to produce.

10:00

**Kenneth Gibson:** On the issue of the financial memorandum, there is a disparity between the suggested costs for the products. If the costs associated with the bill were at the higher end—the £25 million or so that your submission suggests—what impact would that have on other budget areas in your portfolio?

**Aileen Campbell:** That is the risk. It is also important to remember that they are not one-off costs; they are recurring costs that could increase over time. Young women and girls coming through school would be used to having access to the products and the associated promotion could lead to increased uptake. That is not wrong, but we have to take those considerations into account.

As we have outlined to the committee, given our assumptions and costings, which are a truer reflection of the current costs, the risk is that the bill costs could increase significantly. The money has to come from somewhere. We would need to make tough choices in the budget decisions that we take as a Government.

That is a difficult issue for us in Government. The work that Monica Lennon has done on her member's bill and its principles—some of which we share—are to be welcomed. However, as the Government minister, I have to make budget choices; I have to make the budget stack up. I need to make sure that committee members are

clear that we consider that there is a risk that the costs of the bill will increase significantly.

**Kenneth Gibson:** One of the suggestions in the bill is that people can receive the products on demand by post. How concerned are you about that proposal? It seems open ended. What might the costs be in relation to that? Conversely, if people are getting the products by post on demand, will there be an impact on, for example, small retailers who sell the products?

**Aileen Campbell:** The Government has to take account of such matters. Before introducing legislation, we have to do business impact assessments. We would need to make sure that we factored in that aspect. We consider that the postage costs would be significant.

Again, we currently have a system with a low level of bureaucracy that delivers products directly in places where people can access them. It does so with innovation and flexibility and it meets the needs of many women. That does not lose sight of the fact of our need to make improvements and make sure that women, girls and anyone who requires the products can access them.

The cost of postage costs is another financial consideration that we need to factor in and we need to determine whether they are proportionate. That is especially true given that the proposal is for a rights-based universal scheme and the current system is not designed to deliver products on that basis.

**Kenneth Gibson:** That is point that I was going to make. Paragraph 5 of the bill's policy memorandum states that one of the three underlying policy aims is

"to ensure that period products are made available free of charge on a universal basis".

My original understanding was that it was a period poverty bill, to help people who could not afford to buy the products. There seems to be confusion over whether the bill is to provide for anyone and everyone to get the products as required or whether it is to assist people who are in period poverty. What is your view?

**Aileen Campbell:** The lack of clarity makes it difficult for us to think about how we would implement it in the ways proposed, given that we know from practice that those are not how people want things to be delivered.

Again, I do not dispute Monica Lennon's ambitions to make sure that people can access products with dignity—I share those, too—but there are problems with the legislation as drafted and we need to understand the financial implications. The big risk is that we would lose the good practice that we have quickly developed with



partners over the past two years. That would be a big loss.

Ultimately, the flexible access to products that 400,000 pupils already have could be eroded and the support that 60,000 people in poverty get could be lost. There are a whole host of ways in which we might backtrack and detract from the good work that has been done so far in pursuit of legislation that might be too rigid.

**Graham Simpson (Central Scotland) (Con):** Cabinet secretary, I am a little confused. You said that the bill is “premature”, but legislation might be required in the future. You did not say it would be required, but that it might be required. Under what circumstances could you envisage it being required?

**Aileen Campbell:** I said that because we cannot rule out legislation in the future—it might be that it becomes necessary. I was making the point that it is not the principle of legislation that we are against. What we are against is the fact that the way the bill is drafted would not enable us to continue with the flexibility and innovation that we currently have. It could be that we will never need legislation if the current momentum and culture change continue and we continue to adapt provision.

The point is that we are not against legislation per se: rather, we feel that the principles and detail in the bill lack clarity. The bill does not have the right financial assumptions and has universal application, which we think might erode the current flexibility and innovation.

**Graham Simpson:** So, you are not against legislation.

**Aileen Campbell:** I am just not ruling legislation out. I would not want to rule it out; that might not be for me to decide. What I am saying is that we have a system that is developing and evolving, and which is innovative and flexible, and is delivering for people. We would not want to lose that through a bill that could, as drafted, erode that system.

**Graham Simpson:** Let me summarise what I think your view is, then you can tell me whether I am right. You think that there is a lot of good work going on, which there is. There is no doubt about that. Given that that good work is going on in the public sector and in the private sector, you think that there is not, at the moment, a need to legislate because things are happening anyway. Is that a fair summary?

**Aileen Campbell:** Yes—absolutely. There is lots of great work—not just in the public and third sectors, but in the private sector—in terms of culture change and the momentum behind it, and in driving the change forward with innovation,

flexibility and responsiveness to individuals’ needs. The work continues to adapt and evolve.

At this point in time, if we lost that flexibility, what would we be legislating for? At the moment, we have to change what we do, so we might have assumed, as I said, that the best way to deliver the initiative is through toilets, but we know that some young people in schools have said that they do not want that. We have to respond to their needs, which is why we continue to test, co-produce and work out better ways to make sure that we get the products to people who require them.

At this point, that would potentially be lost with legislation that could be too rigid and lacking in flexibility. It could, ultimately, cost a lot of money and not deliver as well as we are currently delivering through the good work, partnership and sense of duty that many people are showing in order to ensure that Scotland can claim to be a world leader on the issue.

**Graham Simpson:** The bill would get a Government minister to set regulations that would mean that public sector bodies, including councils and schools, would have to operate a scheme. There would be a cost to them that the Government would have to fund, under the bill. Are you aware of any other legislation that has created a cost for public bodies that the Government must fund?

**Aileen Campbell:** No, I do not think so. That is where we think the financial memorandum is flawed. The assumptions in the financial memorandum are not correct and the cost stands to be significantly higher than what is outlined. We are currently working with our partners across the public and third sectors—we are supporting them financially and delivering for people. The question of proportionality needs to be considered. If we increase the cost and do not deliver the outcomes that we currently deliver, is legislation the right approach to the issue? At this point in time, I do not think so.

**Graham Simpson:** I, too, think that the bill is pretty unique.

You mentioned that the drafting of the bill is quite vague in parts: it is. We can explore that with Monica Lennon next week.

Section 8, which is entitled “Payments by Scottish Ministers”, says:

“The Scottish Ministers may make such payments as they think appropriate to the councils, bodies, persons and education providers obliged by or under this Act to make period products available free of charge.”

That is all very vague. It means that any future Government could change its mind about what it thinks is appropriate. I am simply making a point that you can respond to, if you like. As the bill is

currently written, a scheme could be set up and the Government could decide not to fund it. Do you agree with that?

**Aileen Campbell:** Yes.

**Graham Simpson:** That is also how I read the bill.

**Aileen Campbell:** The fundamental point that I have made many times is that we are currently delivering a huge amount; we are delivering positive outcomes. The culture is changing and there is momentum behind that. It would be a real pity were that to be lost in pursuit of legislation that could erode a lot of what has been done and cost a lot more.

**Sarah Boyack (Lothian) (Lab):** Is that about the design or the principle of the bill? You think that the bill is far too tightly designed and far too detailed, but you have made financial comments about the difficulty of predicting how much the bill would cost and its not being detailed enough.

**Aileen Campbell:** Some of the financial costs are wrong—they do not reflect the current situation. We believe that the 9p unit cost should be 17p, so we can quickly say that that is inaccurate and does not reflect the current cost of delivery.

We can point to other problems. The c:card scheme has been mentioned: people who have given evidence to the committee have said that they would not like to see a similar scheme in place, and submissions that the committee has received say the same.

The bill has come at a time when we are evolving and adapting what we do to respond to needs, and so that we can be much clearer and more certain about delivery mechanisms that respond to individuals' needs. A scheme has been suggested that probably would not work. In other matters, it is left to the Government to come up with a scheme. There is not the detail on that that is needed in the bill. Under the bill the Government would have to come up with a flexible scheme that delivers, but we are currently doing that. We are delivering products with flexibility and innovation to people who require them in the here and now.

I responded to Graham Simpson's question about legislation. The bill is not required at this point in time. If there is to be legislation at any point in the future, it would be far better to ensure that we know what we are doing and that we understand clearly what works and where we can ensure that flexibility is maintained, and then—

**Sarah Boyack:** I am trying to tease things out. It is clear that you think that, in principle, the bill is premature.

**Aileen Campbell:** Yes. I think that it is unnecessary, at this point in time.

**Sarah Boyack:** So, the bill is not needed, at the moment. I am trying to tease out the principles relating to the balance of the top line of the bill, and noting the fact that the Scottish Government would be required to regulate and decide the details so that the bill would give the flexibility that you are keen to have in terms of outputs, rather than inputs.

**Aileen Campbell:** The bill includes a universal scheme, based on rights, so taking away the universal element or some of the other proposals would change the bill dramatically—in fact, it would wreck it. If flexibility in the delivery of products is what is being asked of Government, that is what we are providing.

10:15

**Sarah Boyack:** As flexibility is, localism is a key issue—

**Aileen Campbell:** We are delivering localism, too.

**Sarah Boyack:** Localism enables various organisations to do work on the issue at different levels. Again, that is up to the current players, so that could stop at any time.

**Aileen Campbell:** Yes, but what we are seeing at the moment is not a retreat but an expansion, with more organisations doing more than has ever been done before. There is a real drive to deliver products and to do so in a way that meets the needs of individuals, which is long overdue. That is what is at risk of being lost.

We are being asked to ensure that the products are delivered flexibly, with localism, in a way that enables organisations to adapt what they do. That is what is happening currently. I guess that the question is this: what is the legislation adding, and is the cost proportionate? At the moment, the bill will cost far more than is set out in the financial memorandum, and much more than we are currently spending, but will not deliver as much as is being delivered at the moment.

**Sarah Boyack:** Is there anything in the bill that you think would be worth legislating on, or is that a debate that you would rather have in the future?

**Aileen Campbell:** Again, I go back to the point that, at the moment, we are developing and evolving policy approaches, and we are delivering for individuals here and now, with flexibility. That is at risk of being lost, so I do not think that I can support the bill.

**Sarah Boyack:** Could you support any aspects of it?

**Aileen Campbell:** We do not object to some of Monica Lennon's policy ambitions. We have talked about it and we share much of that aspiration. However, the bill, as drafted, would erode the good work that is happening already.

**Andy Wightman (Lothian) (Green):** I have a number of questions on the principles. All the witnesses who have spoken to us support the bill and feel that there is a need for legislation. You will be aware that you are representing the executive branch of the Government and that we are a committee of the legislature, and that our job is to pass laws for the people of Scotland. The work that you are doing is commendable and has been widely welcomed. However, the point of legislation is to guarantee to the people whom we represent that Government will do certain things, and that they have certain rights. Therefore, I want to question you further on the need for legislation.

Everyone who has given oral evidence supports the bill. Do you not therefore see that there is a benefit to be had from underpinning in law the principles under which you are currently delivering, and from guaranteeing that the work that you are doing will continue and will not be abandoned, irrespective of which Government comes in after the 2021 elections? Do you see that there is a case for giving a legal guarantee in that regard, so that young girls will know that, when they leave school in 10 years or whatever, the provision will still exist?

**Aileen Campbell:** Again, I say that the provisions in the bill risk losing the flexibility that we are delivering at the moment. The danger is that the good work that you have commended—the co-production, our responsiveness to individuals, the fact that our approach is building momentum that is encouraging a culture change across Scotland—will be lost, and we would regress back to a baseline that is not as flexible.

We have committed to baselining the funding to local government. I do not think that the situation that Andy Wightman described is likely to arise. We might have to legislate in the future, but I think that we have, at this point in time, an opportunity to ensure that we can work out the best ways to deliver effectively through working in partnership without the need for legislation. We want to ensure that the policy is something that the country can feel proud of and will continue to deliver.

The fact that all that has been done without legislation is valuable. I do not want to risk losing the flexibility, good will and partnership in order to pursue legislation for legislation's sake.

**Andy Wightman:** No one is pursuing legislation for legislation's sake. You suggest that that is happening, but I do not think that it is. The purpose of the bill is to give statutory underpinning

to a scheme that provides period products to people who need them.

**Annabelle Ewing (Cowdenbeath) (SNP):** That is an opinion.

**Aileen Campbell:** However, people do not want the suggested mechanisms.

**Andy Wightman:** That is fine: we can talk about how the bill could be amended. You mentioned that you have guaranteed that the funds will be baselined, but you cannot make any guarantees beyond the next election. We have asked ministers who have appeared before the committee to make such guarantees, and they have said that they cannot. Do you not understand how a young woman at school would benefit from the Parliament giving her a guarantee that in 10 years the scheme that currently provides period products will still be in operation? *[Interruption.]* Excuse me. Otherwise, she must live with the risk that, at the ballot box—when she does not yet have a vote—a Government is returned that does not continue to support the scheme.

**Annabelle Ewing:** Legislation can be repealed, as you well know.

**The Convener:** Annabelle!

**Aileen Campbell:** We have a system that has been developed without legislation, through partnership working, good will, good work and engagement. I believe that that will continue, and that it has fundamentally changed the culture in Scotland. Young people who are coming through school will experience the current access to products. That will continue to grow and will not go the other way that Andy Wightman has described. The legislation will erode the flexibility and destroy some of the localism that members have said is important. I would prefer to work on the basis of partnership—co-producing with women and people across the country, to ensure that what we deliver works for them—than to be wedded to legislation that is too rigid and does not have flexibility.

The non-legislative route delivers better outcomes, quicker and faster. Over the past two years, my focus has been on delivering now to the young people whom Andy Wightman talked about, without the requirement for legislation. In doing so, we are changing culture, attitudes and minds—so much so that people in other countries around the world are looking to Scotland to see whether they can use the same approach.

**Andy Wightman:** I will focus on flexibility. You made it clear that you consider that the bill would erode the flexibility that you currently have to deliver the scheme.

**Aileen Campbell:** Yes.

**Andy Wightman:** Given that the bill would mandate ministers to introduce a scheme, there should be plenty of flexibility on how it is designed. The bill would give ministers the power to create a scheme, and they would be free to make that scheme as flexible as they liked, so which bits of the bill would inhibit your flexibility?

**Aileen Campbell:** Section 2(1) asks us to “make a scheme .... to set out and regulate”

how period products will be delivered. That would inhibit some of the flexibility that we have.

**Andy Wightman:** How?

**Aileen Campbell:** The bill asks us to set out in regulation what we want to do. If the way in which something is delivered flexibly in a particular area does not meet the needs of the bill, that would inhibit what people might want to do.

**Andy Wightman:** Plenty of schemes that are flexible in how they are delivered come through Parliament in secondary legislation.

**Aileen Campbell:** The bill asks us to set out in regulation what we need to do. Our doing that before we have tested and worked through the different approaches that schools and organisations are taking might stop some of the creativity.

**Andy Wightman:** If you are saying that the bill asks you to set the scheme out before you undertake it, that is a separate question.

**Aileen Campbell:** If we were to prescribe the scheme within regulation, that would limit the actions that we could take.

**Andy Wightman:** Yes, but that would also provide a guarantee that users will have a scheme.

**Aileen Campbell:** Okay—we can agree to differ. If the current ask of the Government is to deliver a scheme flexibly, that is what we are doing.

**Andy Wightman:** I understand that.

I want to move on to the question of rights. Do you agree that everyone who needs sanitary products should have access to them as of right?

**Aileen Campbell:** Everyone understands—as a woman, I understand—that not having access to such products inhibits young people from going to school to get an education, which inhibits their rights to access education and have a decent standard of living. The rights issue is particularly pertinent. The First Minister’s advisory group is trying to look at rights much more strategically and some of this might be more appropriately handled through that approach. At this point in time, we are taking a rights-based approach to working with

women and other individuals to understand how we can meet their requirements.

Alongside that, we are also trying to make sure that those who cannot afford to access products are supported and do not have the indignity of going without because of poverty.

**Andy Wightman:** I am not clear whether that was a yes or a no. Do you agree that everyone who needs to use period products has the right to have them free of charge? Do you or do you not agree that they should have that right?

**Aileen Campbell:** At this point in time, we are taking a rights-based approach and focusing—

**Andy Wightman:** I know that you are saying that you are taking that approach. What I am asking is whether you believe that people should have that right.

**Aileen Campbell:** We are trying to target our work appropriately so that women who cannot access products have the right to access them—

**Andy Wightman:** I understand what you are doing, but—

**The Convener:** We are going around in circles here. You have asked the same question three times.

**Andy Wightman:** I think that I am entitled to an answer.

**Aileen Campbell:** The ability to interact, to go to work, to be educated and to have a decent standard of living can be inhibited if people are unable to access and purchase products. We are funding and supporting people who are in poverty to get access to these products. We are taking a strategic rights-based approach through the First Minister’s advisory group.

**Andy Wightman:** Okay. I do not know whether you believe that people should have the rights that I am asking about. However, I point out that Scottish National Party policy says:

“SNP council therefore believes every woman should have access to sanitary products, as of right.”

At least we know what the SNP position is, even if we do not know what the Scottish Government position is.

You talk about the difficulties of a universal scheme and say that if it requires a specific opt-in, it is not really universal. What do you mean by that?

**Aileen Campbell:** That was our response to the potential to deliver the scheme using a c:card-type mechanism. The opt-in would have caused a barrier to universal access. I know that Monica Lennon stepped away from that as a potential

mechanism. That was why we said that in our submission.

**Andy Wightman:** You believe that, in general, an opt-in scheme is not a universal scheme.

**Aileen Campbell:** We made that point in relation to the proposed c:card-type mechanism that was outlined in the bill. We did not agree with that because we did not think that a universal scheme could be delivered through an opt-in scheme. That did not make sense to us. Such a scheme would create additional barriers that would inhibit people's access to products. That was the point that we were making.

**Andy Wightman:** Okay, so your point relates only to a c:card-type scheme—that is fine. Is the Scottish Government's baby box scheme a universal scheme?

**Aileen Campbell:** Yes.

**Andy Wightman:** Is it not the case that that scheme requires a specific opt-in?

**Aileen Campbell:** People can get a baby box but they do not have to take it.

**Andy Wightman:** People are offered it, but some people do not receive the offer because they do not attend antenatal classes, for example, and may miss the opportunity.

**Aileen Campbell:** Or they do not take up the offer.

10:30

**Andy Wightman:** Indeed. There is an opt-in, so entitlement is universal, but the scheme is not universal. Do you accept that the bill proposes to provide universal access to a scheme that is based on the principle of a universal entitlement to period products?

**Aileen Campbell:** What is set out is not clear. I go back to the point that the scheme that we are already delivering is not based on universal access. I accept that the bill will provide for universal access. However, we are taking a more targeted approach to deliver universal access to people in education settings with a flexibility that I do not think that the bill provides.

**Andy Wightman:** I move on to costs. In response to Graham Simpson, you mentioned that there would be the obvious recurring costs, and that demand may increase those costs over time. However, is that not the case with your scheme? The public sector is incurring costs, and expectations have been created that the products will be available broadly in broadly the same way. No doubt, people will want the products to continue to be available, and uptake might increase. Is there any difference between the

existing scheme and the scheme as envisaged in the bill with regard to the fact that costs may increase over time?

**Aileen Campbell:** Yes, there is a difference. The financial memorandum figures are based on a low unit cost, which does not reflect—

**Andy Wightman:** That is a separate point. I am asking about the increase, whatever the costs are now—

**Aileen Campbell:** And my response is that the costs will increase. They have already increased, because the cost that the financial memorandum sets out is too low—

**Andy Wightman:** That is not my question. The answer that you gave to Graham Simpson was that the cost to the Scottish budget is not one-off but recurring. Let us set aside the actual cost—I understand that you have a different view on that point—and look at whether it would increase over years. What is the difference between your scheme and a scheme under the bill? Surely there is the potential for costs to increase over time under both schemes?

**Aileen Campbell:** Yes. They would increase—

**Andy Wightman:** That is fine.

**Aileen Campbell:** —but we also—

**The Convener:** I ask Andy Wightman to draw his questioning to a close, as he has heard more than enough.

**Aileen Campbell:** There is more to say. When we work in partnership, there is more control. Also, we want women and girls, and anyone who requires products, to be able to access them. The issue is not that we want to limit access.

The committee needs to consider ensuring that uptake is assessed financially, so that the correct assumptions are made in order to meet the costs. The costs are recurring, and the unit costs are a factor because they are currently set too low; they will be higher in comparison with those that have been set out in the financial memorandum. The scheme is universal, so further bureaucracy would be attached to it. There is a host of ways in which the recurring costs, such as postage costs, would increase.

Our scheme involves low levels of bureaucracy. It delivers directly to schools and other areas that are used by the public in a way that responds to what people have told us they require. The costs of what we are doing may increase, but under the scheme in the bill, we would not have the control that we have at the moment. We would need to do a bit more work on that, and the committee would need to give a lot more consideration to the costs.

**Andy Wightman:** My final question—

**The Convener:** Very briefly.

**Andy Wightman:** When you talk about the costs, are you focusing on the costs that are to be placed on the Scottish Government?

**Aileen Campbell:** Yes.

**Andy Wightman:** The bill provides for education providers, for example, to provide free products, but it does not say that the Scottish Government must pay for them.

**Aileen Campbell:** The evidence to the committee suggested that the costs would have to be fully funded.

**Andy Wightman:** The evidence might have suggested that, but I am talking about the bill. As Graham Simpson noted, section 8 states:

“The Scottish Ministers may make such payments as they think appropriate”.

Ministers are not mandated to do so, but the bill places a duty on education providers, for example—[*Interruption.*] I wish that other members who want to make comments would do so in their own time.

**Annabelle Ewing:** We would, if we had some time.

**The Convener:** Can we stop this nonsense and have fewer comments from off-stage, please? I ask Andy Wightman to draw to a close.

**Andy Wightman:** I just want some clarification. The bill appears to say that Scottish ministers may provide such payments as they consider appropriate to support the schemes, but it also places a legal duty on education providers, for example, which they will have to pay for if the Scottish Government does not contribute any funding. Do you agree that that is what the bill says?

**Aileen Campbell:** I think that, in reality, those costs would land on the Government.

**Andy Wightman:** I am not asking about the reality—I am asking you what the bill says.

**The Convener:** Thank you—that is enough.

**Annabelle Ewing:** I will pick up on some of the issues that have been raised. This morning, *Holyrood* magazine’s daily news round-up highlighted the report on the Young Scot survey on the availability of period products. It found that almost 84 per cent of the two thirds of young women and girls in Scotland who had received free period products from their school, college or university in the past year said that the initiative had had a “positive impact”. Almost nine in 10 said that, as a result, they were

“less worried about having their period.”

Given that such a response is what we all want—keeping in mind the bigger picture, irrespective of the detail—that is a tremendous accolade for the Scottish Government’s work. It is about delivering for people and not getting bogged down in the process stuff.

However, I turn now to the process stuff, as we must. I raised some of these points in a previous evidence session in December. First, it strikes me that the bill appears to outsource key provisions that we would expect it to contain, such as a proposal for the delivery mechanism or scheme that is to be employed. The bill suggests a voucher scheme, but that is not going down well with stakeholders; that type of scheme seems to be a no-no and has been discredited.

We have the proposed legislation, but there is no heart to it. That might cause a lot of problems with regard to how we envisage what will happen and estimate the costs—I will come to that in a minute. Cabinet secretary, is it your understanding, from your experience of dealing with all manner of legislation, that we are looking at a bill that has no core because the key provisions are outsourced?

**Aileen Campbell:** Yes. Again, I highlight that the bill stands to undo some of the good work that we have already done. We can see evidence of the results of that work in the Young Scot report, in which young women talk about the positive impact that it has had on their experience in education and on their mental health, which has allowed them to continue with their day-to-day activities.

The bill would not enable us to deliver as we are currently doing, which raises the question of what its purpose is. We need to think in particular about the costs that are associated with the bill, and about whether it is worthwhile progressing with an approach that involves higher costs and potentially stands to deliver poorer outcomes, as opposed to progressing with our current approach, which is—as has been emerging from studies such as the Young Scot report—delivering positive outcomes for people across the country.

**Annabelle Ewing:** The technical and cost issues arise from the bill’s initial provision, which was referred to earlier. Section 1 states:

“Everyone in Scotland who needs to use period products has the right under this Part to obtain them free of charge.”

In the light of what has been said, it appears that the Scottish Government’s current approach is—as we hear from Young Scot—delivering on the ground, day to day on the broad objective that the bill seeks to achieve. I understand from what the cabinet secretary said that the Scottish Government’s approach targets those who need help with the cost of such products or in accessing them through the school roll-out. That seems be

the key difference in approach. The Scottish Government's approach is to look at those who need help vis-à-vis access or cost.

In contrast, the bill's approach is to say that, as a matter of law, every person in Scotland who needs to use period products can have free access. There is a fundamental difference between a targeted approach to delivering those products on the ground and a general statement that everyone who wants such products can access them whenever they want to—including, as we have heard, by post; we might come to that in a minute.

**Aileen Campbell:** Our approach is far more targeted. Free period products are accessible to pupils and students in schools; that provision is not means tested in any way. We also work with local authorities to make period products available in specific public places, on the understanding that they will be accessible to people who need them more. We have invested in the FareShare scheme, which targets people in poverty, to support individuals who struggle with day-to-day costs more generally and those who struggle to meet the cost of buying period products specifically.

**Annabelle Ewing:** Setting out those important parameters leads us to the fundamental issue of the estimated cost. As has been mentioned, the financial memorandum states that the cost is about £9.7 million per annum. Monica Lennon made some revisions to that figure in her recent letter to the committee, but it is in the financial memorandum that is before us. In response, the Scottish Government has said that, taking into account the actual unit cost and the purchase and sourcing of the products, together with other additional costs, it would be looking at a total estimated cost of £24.1 million per annum rather than £9.7 million per annum. There is therefore already a huge divergence in cost.

I would like some clarification. My understanding is that, in addition to the Scottish Government's estimate, we are looking at set-up costs—we do not know what those are—as well as the on-going cost of postage, which has been mentioned. As a direct result of the language used in section 1 of the bill, which I quoted earlier, there would have to be a mechanism to ensure that that so-called "right" could be enforced. There would also have to be an appeals procedure—I speak as a lawyer; I cannot help it—so that people who felt that their right was not being respected could challenge that. Cost estimates would have to be written in for that process as well.

My understanding—correct me if I am wrong—is that the Government's estimate of £24.1 million per annum is probably quite a bit lower than the amount that would actually be required, at least

during the first few years as the scheme was set up and everything was sorted out. On-going costs are on-going costs, whatever baseline you start from. If we start by underestimating the costs by at least 50 per cent, if not more, the on-going costs will be considerably higher than if we got the baseline right at the outset, Mr Wightman—

**The Convener:** I remind members that we should direct our points to the cabinet secretary.

**Annabelle Ewing:** Even the figure of £24.1 million is an underestimate of what the total cost would be.

**Aileen Campbell:** That could potentially be the case, given the additional factors that you outlined. We certainly believe that the estimated annual running cost of £0.9 million is not an accurate or true reflection of the actual costs. As I have said, our experience of delivering these products in schools has shown that the actual costs are higher than the suggested unit costs. In addition, our assumptions would need to be based on a wider age range, and we would be delivering access 24/7, 365 days a year, rather than limiting provision to school terms. We are delivering far more flexibility that responds far more to people's needs than the scheme that is envisaged in the legislation. As awareness of the scheme increases, so will uptake, which will increase costs.

In our assessment, if there was a 5 per cent increase over the next session of Parliament, the total cost could be around £80 million.

**Annabelle Ewing:** I am sorry—can you say that again?

**Aileen Campbell:** The potential cost could be around £80 million, assuming a 5 per cent increase each year. I have to caveat that as only an assessment of the potential cost, based on our estimate of £24.1 million as a reflection of the true cost, but a 5 per cent increase in uptake every year over the next session of Parliament could lead to a cost of £80 million. That is just an example of how the costs could escalate.

10:45

**Annabelle Ewing:** I want to pick up on some other points that have already been raised. My understanding of the evidence that the committee has received is that the Convention of Scottish Local Authorities has made it clear that it would expect the proposal to be 100 per cent funded by the Scottish Government. Is that your understanding?

**Aileen Campbell:** I took great notice of what was said in evidence to the committee. It is anticipated that the Government would be expected to meet the costs.

**Annabelle Ewing:** Those costs are already much higher than £9.7 million per annum. Because of the slightly confused approach of the bill, it seems that, at this stage, there is no way of fully estimating what the costs could rack up to be.

**The Convener:** Can we have a question, please, Annabelle?

**Annabelle Ewing:** In asking my final question, I want to go back to a point that was raised earlier. Even if we took a figure of £30 million, which we could arrive at by adding to the £24.1 million figure the set-up costs, the cost of an appeal mechanism and so forth, where would that money come from in your budget? Where would money be taken from in the next budget to allow that £30 million to be spent?

**Aileen Campbell:** My budget is not as big as those of many of my Cabinet colleagues. We have a fairly low resource departmental expenditure limit budget. To put things into context, we have £50 million to deliver the child poverty action plan over the years of that plan. Given that we are talking about a one-off cost of £24 million, that shows the level of ask and demand across my budget and suggests that things might need to be looked at. I am not saying that that is where the money would come from; I am just providing a bit of context by pointing out that £50 million has been attached to the delivery of the child poverty action plan over the years of that plan, and here we are talking about a one-off cost of £24 million, along with recurring costs every year.

**Annabelle Ewing:** So—

**The Convener:** That was your last question, Annabelle.

**Aileen Campbell:** It would be a tough and difficult choice. The money would have to come from somewhere. If the aim of the bill is to deliver local flexibility, we are already doing that.

**Sarah Boyack:** Given witnesses' concerns that, without legislation, the current funding could be removed, what are your plans to ensure the longevity of your current policy of free provision?

**Aileen Campbell:** As I said, we have baselined that into the funding for local government.

**Sarah Boyack:** You said that it was your preference for the bill not to proceed and that you could continue to develop your current programme through innovation and flexibility. Rolling forward from the work that you have done so far, what are your current plans for the next phase of analysis over the next few years? Have you identified any particular groups of people who are not getting access to period products because of cost and so on? Where are the gaps in the current provision?

**Aileen Campbell:** We intend to do analysis and assessment work in March to understand what impact the community element of the work that we are doing is having and how that is developing. That will give us a far better understanding of what more we need to do. Today's Young Scot report talks about some of the improvements that are required and some of the areas that we need to concentrate on.

On developing the policy more generally, we are working with Hey Girls to develop an app to ensure that people understand where they can access products. We will also launch a campaign very shortly that is about tackling the stigma around periods. Those are illustrations of what we are doing.

We are proud of what we are doing, but it is not the end point. We continue to push on what we can do on the issue of poverty and use that as a hook to articulate some of the challenges around the stigma associated with poverty. That is why we are undertaking the campaign and why we are continuing to work with Hey Girls on the app to ensure that people can access the products.

**Sarah Boyack:** A key issue in the evidence that has been given to us is that, although there is lots of innovative work and lots of provision in schools and in further and higher education, there are still major challenges for people on low incomes.

**Aileen Campbell:** That is why we have provided funding for local authorities, to ensure that people can access the products in public places such as libraries. The products have also started to be made available in workplaces, and we have engaged with our public bodies to ensure that they meet the requirements of the policy intent. However, I accept that more work is required. That is why we will assess the position in March, why we continue to look at the impact in education settings and will publish a report on that, why we continue to work with Hey Girls to ensure that people have a keener sense of where they can access products, and why we will undertake a campaign around period stigma.

Another element of that work is that, along with Marine Scotland, we funded Zero Waste Scotland to do work on reusable products to ensure that they are available, accessible and understood. I think that I mentioned that we are also working in Malawi and Rwanda, with which we have international development relationships, to ensure that women there can access products, too. The issue is therefore far bigger and broader than the legislation. In any case, regardless of the outcome of the discussion on the legislation, we will share the assessment and reporting with the committee.

**The Convener:** Thank you.



**Alexander Stewart (Mid Scotland and Fife)**

**(Con):** Cabinet secretary, although lots of matters have been discussed this morning, the opening gambit was about where we are, what we want to achieve and how the bill might or might not support us to create the provision that we want. You talked about your current scheme's accessibility and flexibility, but you also talked in your opening statement about the risk of "minimum standards" compared to the current scheme's provision of a range of quality products, with which the majority of people are happy. We have discussed the likelihood of costs changing and the possible effects on the quality of products if the scheme had a larger scope. If the bill ensured universal provision, do you envisage cost increases affecting the quality of products?

**Aileen Campbell:** There is every chance of that happening, which would be regrettable. When I visited the University of Edinburgh, I saw a variety of well-known brands of products alongside reusable products that are new to the market. The intent of that provision is to ensure that people can shift towards those newer products—for example, Mooncups and reusable pads—although they have higher, one-off costs. That variety of products is already being distributed across many different institutions. In many respects, it would be a pity if that variety was lost because of the cost issue.

**Alexander Stewart:** The variety could well suffer as an incidental consequence of our trying to broaden the horizons and create more access. None of us wants to see that, because we want the quality and the process to be there. When we took evidence from Hey Girls and others, they talked about the reusable products and told us that, although there is not a high uptake at present, if and when people start to use them that dimension will change and they will be content to deal with that.

Nevertheless, there needs to be some kind of process to ensure that there is an understanding across the piece, so that individuals feel comfortable in moving to such products. You have identified that some people are trying to do that through sharing experience, for example, or through a scheme that provides some understanding. Although the provision that is available may continue to cause barriers, changing and trying to enhance the provision might also jeopardise some of the process.

**Aileen Campbell:** I think I recognise the risk that you are pointing out, and the committee will need to consider that risk when it deliberates on the legislation. As I said, we are working with Marine Scotland and Zero Waste Scotland to amplify the messages around the reusable products and the need to think more sustainably

about which products are used. That is good work, although it sometimes jars for people who are living in poverty, for whom that might not be an immediate consideration. We are having to do a number of things at the moment. We are trying different things, working with various partners and really exploring what more we can do, which is why the flexibility that we currently have and the culture change that we are beginning to see are really valuable. We can start to share that good practice and understand that knowledge.

**Alexander Stewart:** Are you saying that elements of the bill jeopardise some of that?

**Aileen Campbell:** I would say so, yes. Potentially, the flexibility and all of those things could be undermined. I do not think that that is the intention, but that is what could happen.

**Alexander Stewart:** That could be a consequence. Okay. Thank you.

**Kenneth Gibson:** Cabinet secretary, if the delivery of period products to those people who most need them could best be secured through legislation, would the Scottish Government, with the resources that are available to it, not have introduced its own bill, given its continuing work in the area?

**Aileen Campbell:** As I said in my opening remarks, we decided not to adopt the bill because at the time we thought that it was better to work through some of the delivery models and different partners that we could work with, to ensure that we have the flexibility to use different products and to work through the range of different policy areas in terms of sustainability, dignity and all those things. We decided not to adopt the bill because we felt that the flexibility—the parameters that we can work within at the moment—is far more valuable.

**Kenneth Gibson:** So, legislation is inappropriate at this point, whether it comes from the Scottish Government or from anyone else.

**Aileen Campbell:** I would say so, given the risks that I have outlined and the cost implications, which are significant and will not necessarily deliver better outcomes. I think that we all share Monica Lennon's aspiration and recognise the huge amount of work that has been done by so many organisations and individuals across the country, which enables Scotland to say that it is currently a world leader in this policy area. However, we have done that without legislation and we have delivered positive results, as has been articulated through the Young Scot report today. That does not take anything away from the fact that we need to do more and that there are other areas that we need to work on. Nevertheless, in a short space of time we have delivered a huge amount and have achieved a

great deal with investment, and we are tackling some issues that other countries have not faced up to.

**The Convener:** Monica Lennon would like to ask a couple of questions.

11:00

**Monica Lennon (Central Scotland) (Lab):** Thank you, convener. It has been a helpful session. I have a couple of questions and then some remarks for the cabinet secretary.

Although there has been fantastic progress—I am glad that the cabinet secretary is committed to that continuing—other members have touched on the fact that there are gaps out there and people still find themselves in period poverty.

I will pick up on the education settings, because what we have heard about today is universal access for anyone in education. We know from the evidence that we have heard that not only pupils and students but staff and visitors to campuses can access the products. The cabinet secretary said that she intends that access to be provided on a 24/7 basis—we know that there are holiday packs and that people can get products outwith term time. Is it fair to say that what we have currently in the education sector is a universal scheme?

**Aileen Campbell:** In an education setting.

**Monica Lennon:** So, anyone in school, college or university benefits from universal entitlement.

**Aileen Campbell:** Yes, they can access the products if they want to.

**Monica Lennon:** Thank you.

**Aileen Campbell:** We know that there are probably schools that require more support, which is why there is a requirement for us to continue to share good practice and to work with authorities in school settings to make sure that all young people are able to have that access.

**Monica Lennon:** Does anyone in Scotland benefit from a legal right to access period products?

**Aileen Campbell:** There is provision in prison settings. There is legislation for that, which I think the committee discussed at one of its sessions.

**Monica Lennon:** You are correct in saying that prisoners have a legal right of access to period products. If that is well established in the prison setting, why would a transition from the current scheme for people in education to a scheme that gives them the same legal right not work at this time?

**Aileen Campbell:** I do not think that the bill is necessarily about that; it is about universal provision beyond education settings. I think there is provision in the bill—

**Monica Lennon:** I am referring to the part of the bill that deals with education. The universal scheme is different from the duty in education settings.

**Aileen Campbell:** Sure, but there is provision at this point without legislation, through flexibility.

The bill also talks about having products in toilets. We know from some pupils that they do not want to have access to products through toilets at this point, although that situation might change as cultures change and awareness develops. I understand the point that you are trying to make.

You have also underestimated the cost implications. We understand the intent, and we know that it is sometimes tough to draft members' bills, but the costs that you have put estimated are not reflective of the actual costs.

At the moment, we are delivering access to pupils and students in education settings without the need for legislation. We are delivering positive outcomes, as outlined in the Young Scot report that was published today. We are doing all of that in partnership and in co-production with young people, education partners and local authorities.

**Monica Lennon:** Do you accept that the bill is trying to future proof that right and to lock in all that good work for the future?

**Aileen Campbell:** Potentially, it would lock in an inflexible system.

**Monica Lennon:** I did not say that the current system is inflexible.

**Aileen Campbell:** No, but the bill could potentially erode some of its flexibility, such that it could lock in and future proof an inflexible system that would not deliver the outcomes that we are delivering within the current cost envelope. We are delivering a huge amount without the bureaucracy and red tape that the bill could end up delivering.

We do not dispute the aspiration of the proposed legislation, but I do not think that it would deliver what you have articulated, and I think that it has the potential to lock in a system that is inflexible.

**Monica Lennon:** I do not have a lot of time in which to ask questions, so I will move on.

The bill is meant to alleviate period poverty not just for people in education but for anyone in Scotland who experiences financial barriers or is affected by period poverty. Evidence was taken from people who have health conditions such as endometriosis. Some women find that their need

for products changes during the perimenopausal phase, so they might need temporary assistance and not just a monthly supply. How do current schemes help women in that situation?

**Aileen Campbell:** That goes back to the point that, when we assess the community part of our actions, we can assess good practice. Some authorities are delivering block supplies, so people can access more than a couple of products at a time. There is really good practice that shows that that is working. Again, we might need to do a bit more work on that, but that is why, in March, we are carrying out an assessment of the community element of what we are delivering. We want to understand and share good practice so that we continue to meet the needs of individuals who might require more products at particular times.

**Monica Lennon:** Does the Government intend to do more to ensure that people who need a monthly supply can be provided with one, whether it is just some of the time or more frequently? Are you working towards that as part of the Government's commitment?

**Aileen Campbell:** There are good examples of local authorities providing that service already, and we might need to share that good practice. Women and other people are being supported in accessing more than just a couple of products now and again, because there is an understanding that there is sometimes a requirement to access more than that.

**Monica Lennon:** There has been a lot of discussion about what people perceive the bill to do and not do, and about the desire for maximum flexibility. Does the cabinet secretary agree that the bill would give ministers maximum flexibility in how they would set up the statutory scheme? The voucher scheme has been talked about as an s:card scheme or as being based on the c:card model, which Andy Wightman pointed out was SNP policy from 2016. Do you agree that the bill does not mandate such a scheme? That idea was put forward as an option, but it could easily be taken out of the bill by amendment.

**Aileen Campbell:** We have been asked to deliver flexibility and to allow for local discretion in how that might look, and that is what we are doing currently. I understand what you are saying: that the c:card scheme—or whatever we want to call the voucher scheme—could be taken out of, or amended in, the bill. However, fundamentally, that is what the legislation that is before us articulates, and it is not what folk want.

**Monica Lennon:** I have one final, very brief question—

**Aileen Campbell:** The SNP might have passed a motion a number of years ago with good intent, but that might have been done without the

experience and knowledge of working and co-producing with women and without understanding the barriers that might be put up. That is why that is not our chosen route and why we have not done that. It is regrettable that the bill includes that provision, which women do not want. I do not think that there is any dispute about the aspiration and vision, but, ultimately, because of the way in which the bill has been drafted, it will not necessarily deliver in the way that we are delivering for people across the country in the here and now.

**Monica Lennon:** I have one last question—I know that the committee needs to move on. I note the shift away from universalism, but are there any circumstances in which the Scottish Government could support the bill following further amendments and discussion? We are trying to get to the same place, as we want to alleviate period poverty and improve access to period products.

**Aileen Campbell:** I do not think that we disagree on the aspiration and on what we want to achieve. However, the bill would not deliver the outcomes that we are currently delivering for people across the country. There are real risks that we would undo some of the good work and that the costs are likely to increase significantly. Such decisions will be for the committee to consider, but those are real risks.

I need to decide whether to support a bill that would cost us more and not deliver the outcomes that we are currently delivering or to continue to progress with the action that we are taking and the investment that is delivering results, as is outlined in the Young Scot report. On balance, I do not support the bill, because we are delivering better outcomes for people across the country.

**The Convener:** Cabinet secretary, I have one question and one ask for you. You talked about a 5 per cent increase perhaps leading to a cost of £80 million—

**Aileen Campbell:** I would caveat that. If there was a 5 per cent increase in uptake, year on year, over the next parliamentary session, that would—

**The Convener:** I was just wondering whether we could see those workings.

**Aileen Campbell:** Yes.

**The Convener:** If you could send them to the committee, that would be helpful.

You talked about period products being made available in places such as libraries and community centres. What sort of publicity will go with that? Are you intending to ramp that up?

**Aileen Campbell:** We are going to run a more general campaign to tackle stigma. That is the premise of our working with Hey Girls to develop the app so that people can understand where they

can access products. There will be lots of local work. For example, I am aware that, in my constituency, the local authority is promoting and highlighting where things are happening. That is why we are going to embark on work with Hey Girls around the app so that people can understand where they can access products.

**The Convener:** Okay. Cabinet secretary and Dr Moir, thank you very much for attending today's evidence session on the bill.

I suspend the meeting to allow a changeover of witnesses.

11:11

*Meeting suspended.*

11:15

*On resuming—*

## **Budget Scrutiny 2020-21**

**The Convener:** Item 3 is an evidence session on the Accounts Commission's report "Local government in Scotland: Financial overview 2018-19". This session forms part of our overall budget scrutiny in relation to the local government budget. I remind members that the theme of our scrutiny this year has been the long-term financial sustainability of Scottish local government.

I welcome Graham Sharp, chair of the Accounts Commission, who is accompanied by colleagues from Audit Scotland: Fraser McKinlay, controller of audit; Brian Howarth, audit director; Christopher Lewis, senior auditor; and Lisa Duthie, senior auditor.

I invite the chair to make a brief opening statement.

**Graham Sharp (Accounts Commission):** On behalf of the Accounts Commission, I welcome the opportunity to discuss our 2018-19 local government financial overview report with the committee. Our report this year highlights the continued financial challenges that are being experienced by Scotland's councils and integration joint boards.

Since 2013-14, Scottish Government funding to councils has decreased by 7.6 per cent in real terms. However, in 2018-19, Scottish Government funding to councils was relatively stable, with a 1.1 per cent cash increase, which is equivalent to a 0.7 per cent reduction in real terms. This stability continued into 2019-20 with a 2.9 per cent cash increase.

Councils' overall income in 2018-19, including £9.8 billion of Scottish Government funding, increased slightly to £17.7 billion, but that increase has not kept pace with the changing and increasing demands on services.

Councils planned to manage a funding gap of 3 per cent primarily through savings, but a shortfall in achieving those meant that more of the funding gap was met from reserves than had been planned. The net draw on reserves was £45 million. Two thirds of councils have reduced their general fund reserves over the past three years rather than maintaining or building them. Although I am pleased to report that no council is currently at risk of eliminating its reserves in the next three years, continued use of reserves to manage funding gaps is not sustainable in the longer term.

Councils have experienced several years of tightening budgets and have already made savings through restructuring and efficiencies.

However, with further funding reductions forecast and the demands and pressures on services continuing to deepen, councils need to do more to redesign how they deliver and fund services so that they can continue to provide effectively for the needs of their communities.

The commission is particularly concerned about integration joint boards, which continue to face very significant challenges. In our report, we highlight that they need to do more to address their financial sustainability. Overall IJB budgets increased by 3 per cent to £8.6 billion. However, the majority of IJBs struggled to achieve break-even in 2018-19, with 23 of the 30 IJBs recording a deficit or relying on additional funding from partners.

Having clear, complete and detailed agreed budgets is a fundamental governance tool. We note in the report that 14 IJBs did not manage to agree a budget for the start of the 2018-19 financial year and just under half of IJBs had budgets that included some unidentified savings.

The pace of progress with integration is slow. We have yet to see evidence of a significant shift in spending and services from hospitals to community and social care.

We also note in the report the continued high level of turnover of senior staff in IJBs, with over a third changing during 2018-19. The instability that that brings inevitably impacts on leadership capacity and on the pace of progress.

The commission continues to emphasise the value of medium and long-term financial planning. In this overview report, we encourage IJBs as well as councils further to improve and develop their approaches to financial planning in order to support effective decision making and financial management.

My colleagues and I are happy to answer questions.

**Graham Simpson:** Mr Sharp, I welcome you and your colleagues, some of whom have not previously been before the committee. I also thank you for preparing a very thorough report, as you always do. Your reports contain recurring themes, which I am sure my fellow committee members will explore.

I want to ask you about a very current matter that affects Scotland's councils. The United Kingdom Government has announced that its budget will be delivered on 11 March. Of course, that date is significant for Scottish councils because it is the last date on which they can legally set their own budgets. If the UK Government's budget is to be set on that date, it is difficult to see how the Scottish Government will be able to set its budget before then, so our

councils certainly would not be able to set theirs by then.

I am not asking you to comment on the political aspects of that situation, but perhaps you could give us a sense of the challenges that it might present for Scottish councils.

**Graham Sharp:** Clearly, the situation is problematic. I suppose that the good news is that everyone has identified that fact and is trying to work around it. However, as you say, the timing and the need for legislation on the setting of a rate, which should be based on a balanced budget, simply do not cohere with the delivery of a UK Government budget on 11 March. I know that everyone here will be working on the Scottish Government budget process. For our part, we would be very happy to participate in and contribute to that.

From a governance point of view, each council will need to take advice from its monitoring officer and section 95 officer on exactly what its position is, and what action it will need to take within the relevant timescales. I know that a number of options have been floated, but I do not know what will happen on those over the next few weeks.

I invite Fraser McKinlay to comment further.

**Fraser McKinlay (Audit Scotland):** As Graham Sharp has said, this is a problematic and unprecedented situation, as many of the committee's members will know if they have sat around council tables in their previous roles. There are also issues for the Scottish Parliament, the Scottish Government and everyone else who is involved in the budget process here. As the chair has said, we would be very happy to contribute to discussions on how we might manage that over the next few weeks.

As ever, and as the chair has just described, our interests are in achieving good governance and ensuring that councillors are given the right information and advice, especially from their statutory officers. It is possible for councils to set their council tax rates without approving their overall budgets. Clearly, though, that is not ideal from the point of view of good financial management. However, given the evidence that, these days, councils' medium-term and longer-term financial planning is in pretty good shape, I would say that they are probably better placed to do so now than they might have been, say, five years ago. The work that councils have already done on such planning will stand them in better stead if that should turn out to be their position.

As the chair has said, we will closely watch the discussions and the options that might be presented. However, as things stand, it is very difficult to see how councils might set fully considered and balanced budgets within the

required timescales. As committee members will know, the date of 11 March has not been plucked out of the air. It will also have practical implications for getting council tax bills printed and sent out to council taxpayers so that they know what they will have to pay.

The final practical implication is that, in the past few years, the scope for councils to set their council tax rates has been part of the local government settlement. There is a bit in there that says that councils are allowed to increase their rates by 3 per cent plus inflation, which works out as being by 4.79 per cent or so. The local government settlement comes out as part of the Scottish Government's budget process, so there would be a bit of an issue there even if some councils were to want to set their council tax rates before 11 March, in advance of setting their budgets.

Therefore there is a lot to work through. However, as the chair has said, there is a strong sense that everyone recognises that there is an issue here. As you have said, Mr Simpson, we will keep clear of the politics of the situation, but if we can do anything practical to contribute to those discussions, we will happily do so.

**Graham Simpson:** You mentioned that there are options. If the date of 11 March does not change, what options will councils have? I cannot envisage any council setting its council tax rate without knowing how much money it would be getting—that is just not going to happen. What other options might there be?

**Graham Sharp:** I was referring to the fact that I have seen options being mentioned in the press when people have reacted to the UK Government's announcement. If we look at the options logically, the first one is anything that the Scottish Government can do with the information that is available to it, and the second is what councils can do if there is no Scottish Government budget. Under existing legislation, 11 March is the council tax date. There are practical reasons for that and it is not just a statutory requirement. As Fraser McKinlay has said, councils need to get bills out and the council tax should be linked to a balanced budget. However, in exceptional circumstances that might have to be looked at in another way and something might have to be done to work around it at a practical level.

**Fraser McKinlay:** The only circumstances in which a council might be willing to set the council tax would be where it had already decided to set the increase at the maximum level. Some councils have done that in the past and some councils will have set a three-year budget as well as a medium-term financial plan, so some of them will have factored into that an assumption that they would go for the full 4.7 per cent. If that is their plan

anyway, they might feel able to do that in the absence of agreement on the whole budget. However, as I said, there needs to be clarity about what the settlement says about the parameters around council tax.

**Brian Howarth (Audit Scotland):** This year's report does not say very much about timing issues and setting budgets, but we talked about those quite a bit last year. Exhibit 12 in the report puts matters in context, because it shows that council tax has been only part of the solution to closing budget gaps; a much bigger part of that has been savings plans. It is the time for that aspect that probably gets squeezed, because councillors need enough time to properly consider savings plans that are put before them in order to achieve a balanced budget.

A couple of matters probably mitigate the effect of the timing issue. As Graham Sharp and Fraser McKinlay mentioned, many councils have medium-term plans in place. Those will include a range of scenarios, so some preparation should already be in place in councils to consider a range of settlements. The council tax is therefore not the only solution, because the main way in which councils have closed the budget gap is through savings plans, which should be in train and should take into account a range of scenarios for the settlement. However, that would only mitigate the risk of a late settlement.

**Graham Simpson:** That is all very true, but councils still need to know how much money they will have. Councils will have a range of scenarios, but they will ultimately need to know which one they are facing. If they do not know that on 11 March—

**Graham Sharp:** It is the setting of the council tax that is the critical issue for that date. If a council's rate is up at the cap and the council knows that the cap is remaining, which is another piece of information that it needs to know but does not have at the moment because the settlement has not been published, it might be able to use that to get over that issue. However, that does not solve the problem of the annual budget, which needs to be put in place as quickly as possible.

**Graham Simpson:** I have a final question on something that is important for the work that this committee does. If there is no change to this, is it possible for councils to do month-by-month budgets based on the money that they have had previously?

**Graham Sharp:** It depends on what exactly you mean by "no change".

**Graham Simpson:** I mean no change to the date of the United Kingdom budget.

**Graham Sharp:** First, councils have to know what the cap is in order to be able to set a rate on 11 March, come what may; otherwise, I just do not see how they can do that. That is a very specific issue.

In relation to the Scottish budget, whether councils could rely on their medium-term planning for an interim period, having set a rate based on that and knowing what the cap is, and then set a budget later would need some thought and working through.

**Fraser McKinlay:** From our perspective, we are happy to be involved in the discussions, but it will be important for COSLA and the Scottish Government, with potential assistance from the commission and Audit Scotland, to provide some guidance. I stress, though, that it is ultimately for councils to decide how they want to deal with the situation, which is where I come back to the advice from the monitoring officer and the section 95 officer being critical.

The legislation—I think that it is the Local Government Finance Act 1992; I was reminding myself of that last night as I could not immediately bring it to mind—says very clearly that there is a requirement to set the council tax by 11 March. However, an interesting part at the end of the relevant subsection suggests that, even if the council tax is not set by then, it is not invalid. We are not lawyers, but I think that more work and careful consideration of what the requirement is are needed. As I have said, we are happy to be involved in that, and what we can bring is a sense of what we would expect good governance to look like and how it can be accounted for.

11:30

**Sarah Boyack:** I found the report incredibly useful. We are going to come back to IJBs, which were the last point that Fraser McKinlay mentioned in his introductory remarks. The convener is going to pick that up in detail, but I will give some context.

We have been looking at the long-term issues and challenges for local government funding and budgeting, such as demographic changes. One of the challenges is that, although the bulk of local authority spending is not ring fenced, in education and social care, which are the top two spending areas, there are a lot of Government requirements and commitments, which makes it very difficult to make savings in those areas. It would be interesting to hear about best practice and about where local authorities have been able to deliver the same level of service with less money.

The effect of that is that there is a focus on making savings in other services, which then do not get the same attention. I would be interested to

hear some views on the savings that local authorities have made and on what those savings constitute on the ground—do the savings result in fewer services or fewer people providing the same service? What is best practice in those situations, when there are difficult decisions to be made?

**Graham Sharp:** The report is focused specifically on finance. The report that will be published in March or April this year will look at services.

The report that was published in March last year looked at services and it dealt directly with the issue that Sarah Boyack has raised of the gearing effect of squeeze on non-protected services. As local government funding comes under pressure and certain large areas of spending within their budgets are protected, either directly or indirectly, that means that much smaller areas of spending are bearing the brunt of the cuts and there are much bigger cuts to those areas.

Last year, in the performance and challenge report, we highlighted a number of cases where there had been cuts of 20 per cent or more in certain areas, such as planning. The areas that get cut tend to be less high profile, in that they are not in the public eye as much, such as regulatory services, but they are still very important. There may also be cuts to areas that do get attention, such as road maintenance. That means that they come under more pressure, and that is something that we have pointed out in the past.

Good practice is the responsibility of individual councils. Each council has a different set of operational challenges to meet, a different set of resources to use to meet those challenges, and its own priorities. There are examples of good practice as well as a general move forward; everyone has now signed up with the digital office and is focusing on that to reform and redesign services, which is a good thing. We share good practice directly when we can and we also share it through the Improvement Service, which takes our work and looks into what is done. My colleague can give some examples.

**Fraser McKinlay:** There were a couple of things in Sarah Boyack's question that relate to the tools that are available. The local government benchmarking framework, which the committee has looked at in the past, is an important tool for councils. A lot of that framework involves cost indicators and how much it costs to provide a particular service. If some councils are delivering something more cost effectively, particularly within their family groupings, our expectation is that other councils would look at that. There is evidence that that is beginning to get a bit of traction. There are some quite active networks in particular service areas.

The Improvement Service is closely involved in that and, in the past 12 months, it has launched a new bit of work specifically on the sharing of experience on what it calls “transformation”. We try not to use that word too much, because our experience is that some of the transformation plans are not actually that transformational, but we know what is meant. It is about redesigning services.

On your question about the nature of the savings, I think that there is a real mix. There is no doubt that for many councils—for all councils, probably—there is a timing issue. Most councils need to deliver savings in the year quite quickly, and the way of doing that is quite often to reduce a service, cut a service or reduce the number of people who are providing it. That is the way in which councils manage to release cash savings quite quickly, but of course it can have unintended consequences.

The challenge is for councils to make bigger service design changes that are not only a bit longer term but, in many cases, require some investment in the first place. The challenge for councils is to make the shift from just cutting and reducing services to identifying areas that they need to invest in that should deliver efficiencies in time but are more about improving services and outcomes for communities.

As you know, I do best-value audits across all 32 councils on behalf of the commission. If the committee is interested in specific examples, you will find them in those reports. We tend to pick out specific examples where councils are doing some different or innovative things around efficiencies and savings and transformation.

**Sarah Boyack:** That is really helpful. You talked about taking a longer-term perspective and making savings from the redesign of services, but another way for councils to balance their budgets is for them to increase income from fees. Are there any interesting trends in that regard? What is the variance in fee income across our local authorities? Are they looking at one another to identify different types of fees? Is any work being done on the impact of that on residents?

**Graham Sharp:** In general, local authorities are looking at introducing or increasing fees and charges as a way of supplementing income. As we point out in the report, fee income is in the order of 10 per cent of income, so it is never going to provide the solution; it will only ever contribute.

We have not carried out a specific piece of work on the subject, which would be required in order to look at it comprehensively. However, it is clear from what we know, which is based on the audit work, that there has historically been a wide range of charges by authorities. We note that in the

report. When authorities are in that position, they are going to look at their peer group and at the private sector to see what others charge for and at what level, and they are going to look at where they can raise income without having too adverse an effect on behaviour.

As we pointed out in March last year, in the report “Local government in Scotland: Challenges and performance 2019”, when authorities look at fees and charges, they need to take account of the effect on citizens, particularly vulnerable citizens, and the local economy. In the case of retail, how will charges affect patterns of shopping? It is not a straightforward thing to do, but it is an area that all the authorities need to look at, because they need to diversify their sources of funding.

**Brian Howarth:** A couple of years ago, most of the councils took part in a benchmarking review of charges that was done by a consultancy firm, so most councils are aware of how they benchmark against others in terms of fees. There are a wide range of fees, and one of the practical difficulties for us is how we keep tabs on all the fees across the 32 councils. Basically, we look at a basket of fees and charges each year to try to get a flavour of the general direction, and we try to relate that to you.

There is scope for us to look at the subject more, but it is important to note that, as Graham Sharp pointed out and as we say in the report, fees and charges account for only 10 per cent of total income. A budget gap of 1 per cent overall would require a 10 per cent increase in fees and charges to balance it; they are only part of the solution and not the whole solution to closing financial gaps.

**Sarah Boyack:** That is very useful. I suppose that local authorities have some agency in regard to fees and charges and can choose to increase income through increasing council tax or fees.

The wider pressure, however, is on Scottish Government funding, which accounts for the vast bulk of the money that comes to local authorities. Can you give a bit of background on your total figure for Scottish Government funding to councils? What is included and not included in that figure?

**Graham Sharp:** Are you referring to the 55 per cent of Scottish Government funding on non-domestic rates plus direct funding?

**Sarah Boyack:** I am looking at the total figure.

**Graham Sharp:** Is it £9.8 billion?

**Sarah Boyack:** Different organisations take different approaches to what they consider to be Scottish Government funding and how much it is. Some things are ring fenced and some money is general funding that comes straight to local



authorities. Exhibit 4 shows quite interesting variations in the amount of Scottish Government funding that goes to different councils. I just want to go below the headline figures.

**Fraser McKinlay:** I will perhaps ask Chris Lewis to help with that. I am looking at exhibit 2 on page 10, and I want to check that we are talking about the same headline. Members who have been on the committee for a while will know that, every year, we have a conversation about whether the figure has, in effect, gone up or down. We hoped that we had got past that this year, but we have not, for completely understandable reasons.

In simple terms, we set out what is included in the 1.1 per cent cash increase, or the 0.7 per cent real-terms reduction, in paragraph 7 and exhibit 2. That is our focus on the money that comes from the Scottish Government directly to councils, as part of the settlement. Some of the numbers that the Scottish Government has cited subsequently have included capital, so the whole lot has been added together. However, when we come up with the headline numbers, what I have said is what we come up with.

**Christopher Lewis (Audit Scotland):** Our source for the total in exhibit 2 is the finance circulars. We have split the total into revenue grants and NDR. Revenue grants can be split further into the general revenue grant, which makes up the bulk of the money, and the specific revenue grant, which is what the Scottish Government refers to as being ring fenced. For exhibit 2, we used indexing from the Office for National Statistics to get the real change. That is how we moved from the 2 per cent cash increase to the 0.2 per cent real increase.

**Andy Wightman:** Thank you for coming in. I have a few random questions. Thank you for your report, which provides a very useful insight into what is going on and includes a lot of rich information.

I want to look at the question of reserves. One of the key messages in part 2 is that

“Twenty-three councils have reduced their general fund reserves over the last three years. No council has a position where this rate of depletion would eliminate the total general fund within three years.”

In paragraph 32, it says that, at the current rate, Moray Council’s general fund will be depleted within five years. Back in 2017, the Accounts Commission said that three councils—Moray, Clackmannanshire and North Ayrshire councils—were at risk of depleting their general revenue reserves within three years, but it now reports that none is at risk of that. What lessons can we learn? What changed to result in the three councils that were at risk in 2017 now being in the clear?

**Graham Sharp:** The story is probably slightly different for each of them. I will ask Fraser McKinlay to go through them.

11:45

**Fraser McKinlay:** I might not be able to give the story for all three of them. For example, to be fair to North Ayrshire Council, I remember that it was not delighted to be in the three, because its pattern of reserves use was for quite specific purposes. Its argument was that it was making investments, so that it was not necessarily accurate to say that it would continue to use reserves at that rate—although the description of reserves being used was correct, in that sense.

There were different reasons across the board. The councils have changed the patterns of use of the reserves, which has meant that they are not in that boat any more.

With regard to the committee’s interest in long-term sustainability, reserves are an important measure. The fact that all councils now have a reasonably good cushion seems to me to be an important measure from which we can take some comfort. However, as the commission’s chair said in his introduction, we will continue to bang the drum that the issue is not just how much of the reserves are used but what the reserves are used for. If they are continually dipped into just to top up and plug a gap every year, that is not sustainable. They can be used only once, which I think councils understand, and that is why we continue to bang the drum for medium-term financial planning. It is legitimate to use reserves for a year or two as long as it is part of a longer-term plan to get back into balance and to replenish the reserves.

The pictures are slightly different across the piece, but for me the issue is about ensuring that reserves policies are absolutely integrated with medium and longer-term financial planning. We have seen some good examples of that, such as a reserves policy that is risk-based, with the amount held based on a pretty thorough understanding of what is coming up, whereas some councils still just say, “It’s 2 per cent” and go with 2 or 3 per cent. The more sophisticated we can become, the more assurance we can give the commission and the committee about how reserves policies are being implemented.

**Andy Wightman:** In paragraph 32, you spoke about Moray Council identifying that

“a further £3.7 million draw on reserves will be required to balance the 2019/20 budget ... The council’s budget papers clearly recognise that this approach to financial management is not sustainable”

and it

“will need to be funded from savings, which have not yet been identified.”

Is it fair to say that Moray still faces some significant issues and problems?

**Brian Howarth:** The panellists are looking at me because one of my other responsibilities is as auditor to Moray Council. It would be fair to say that it faces some significant issues. I will come back to the technical issue about changes over the years, but we have recognised for a number of years that Moray needs to get to a point at which it takes some quite difficult budget decisions in order to set itself back on a track that would mean that it would not use reserves at its current rate.

There is a technical reason why the situation has changed from two years ago. The technical definition changed last year, when we reported that no councils were in the risk categories of running out of reserves in less than five years or less than three years. As you pointed out, paragraph 32 said that Moray Council planned to use £3.7 million. However, we were finding that what councils planned and what actually happened were often different stories, so we moved away from looking at councils' plans for reserve use to looking at the more traditional audit area of historical use. The graphs now look at average use over the past three years, to get away from the difference between what councils plan to use and what they actually use.

That slight technical change, over two years, of how we measure reserve use does not get away from the fact that some councils use reserves up at significant rates, which is not sustainable in the long term. In some cases—Moray Council, for example—it is not sustainable over the medium term and some difficult decisions have to be made.

**Graham Sharp:** As we have dealt with Moray and North Ayrshire, I will finish the story. As you probably know, we had a best-value report on Clackmannanshire two years ago that said that it was not really addressing the issues. Our follow-up report a year later showed that that council had moved on significantly; it has addressed the issues and it has a plan. There is still a significant delivery challenge, but that is different from the position that it was in before, when it was not approving plans to deal with the issue. That is how things have moved on in Clackmannanshire, which explains the different perspective on reserves there.

**Andy Wightman:** Thank you.

In the report, you talk about commercial services and express concern that councils must be careful about getting into that area, in relation to staff, skills and risk. Are there specific examples of councils that have implemented successful commercial operations over the past 10, 20 or 30 years?

**Graham Sharp:** The experience in Scotland is limited, compared to England. In the south of England, there has been extensive commercialisation of different sorts, particularly in councils around the London area. There have been small-scale successful projects in councils, but I do not know whether we can point to anything significant.

**Fraser McKinlay:** I might be dancing on a pinhead, but there is a difference between a commercial service and commercialisation. As Graham Sharp said, we have seen that more significantly in the south. There is the famous story of a small district council buying a shopping centre 200 miles away for £400 million as an investment. They borrow cheaply through the Public Works Loan Board and buy the property purely to generate income. The good news is that Scotland never got into that business. There have been no examples of that at scale. The Chartered Institute of Public Finance and Accountancy in the UK is clear that that is not a good idea, so the guidance in the profession is clearer that that is not a good use of public money. It is highly risky. Scottish councils are interested in commercialisation, because they are interested in finding other sources of revenue, but probably not to that scale.

When it comes to commercial services that turn a profit that can be reinvested, we might look at arm's-length organisations that councils have set up. We could argue that Lothian Buses is a commercial service that does a good turn for the City of Edinburgh Council every year. There are other successful examples. Tayside Contracts has been around for a long time as a shared service that is run on commercial terms. It can be done. If councils are going to do it, they need to be clear that they have the right people and the funding for it. For us, it is important that it does not divert attention away from other things. The risk/reward debate needs to be clearly understood. If councillors are signing up to those things, they must understand the inherent risks.

**Andy Wightman:** I have two more questions. One is on council tax and one is on non-domestic rates. In paragraph 17 of the report, you say:

"As identified in our report *Challenges and performance 2019* all councils increased council tax rates by the maximum allowable three per cent".

I question your use of the word "allowable". Councils have a statutory power to set the council tax as they see fit. The "allowable" is the Scottish ministers saying, "If you don't do this, we will cut your grant." I wonder why you used the word "allowable", because councils are allowed to increase or decrease it by as much as they wish.

**Graham Sharp:** That is fair.

**Fraser McKinlay:** That is correct.

**Andy Wightman:** Do you understand my point?

**Fraser McKinlay:** We will take that. We understand that. That is a loose bit of wording.

**Andy Wightman:** “Allowable” is a political word.

**Fraser McKinlay:** Understood.

**Andy Wightman:** The Non-Domestic Rates (Scotland) Bill is going through the Parliament. At stage 2, this committee agreed an amendment to the bill to repatriate the rate-setting powers to councils. Most European countries never got away from that; they still have local taxes that are set by local councils and municipalities. I am not sure that any of you were there at the time, but the Accounts Commission was established in 1975, so it was auditing—or looking at or whatever work it was doing—for 20 years before rates were centralised. I invite you to dig into your archives and draw to the attention of this committee any reports or work that the commission did on councils, their performance, setting the rates or issues that were raised and so on. Would you be able to do that?

**Graham Sharp:** I cannot tell you what is available, but we can have a look.

**Andy Wightman:** Thank you.

**The Convener:** I thank Andy Wightman for being able to give the Accounts Commission into trouble for something. Very nice. [*Laughter.*]

Kenny, do you want to come in on that?

**Kenneth Gibson:** Yes, I also have a question on non-domestic rates. Since amendment 9 to the Non-Domestic Rates (Scotland) Bill was agreed to, the major concern that has been expressed to a number of us by organisations ranging from the Union of Shop, Distributive and Allied Workers, the Federation of Small Businesses, Scottish Chambers of Commerce and the Scottish Retail Consortium, is about the loss of rate reliefs worth more than £300 million. What are the financial implications for local authorities if that amendment is not either reversed or replaced by something else to allow local authorities to provide those reliefs?

**Graham Sharp:** Our position is that it is for policymakers to decide what they want to do in that area. Our interest is in how that regime works in terms of how it distributes funding across councils. As you know, Scottish Government funding currently reflects disparities in locally collected non-domestic rates, so in effect, we look at the two together, because they move together and it is an aggregate figure. If that continued, whatever the detailed changes were, from our point of view there would not be a great deal of difference in how we looked at the funding. However, if there were disparities in the user

experience of non-domestic rates that affected behaviour, that could be a significant impact and would be something that would need to be taken into account by policymakers when changing the regime. That is a policy matter. Brian Howarth may want to add something on non-domestic rates distribution.

**Brian Howarth:** We have not done any work on the specific point on the loss of rates relief to be able to comment on it. Obviously, it affects the total available to the pool and therefore the total available that is distributed. As Graham Sharp pointed out, the ability for councils to have an element of their own rates and benefit from that is a policy issue.

What would be interesting is how that rolled out in practice and how councils benefited individually. There are some complications, in that some councils collect a lot more in non-domestic rates than others and may benefit more from that. There are also complications in that, as I understand it, South Lanarkshire Council is in the top three of rates collectors and collects utilities for the whole of Scotland. So there are some complexities in how a regime would roll out in practice that we would be interested in. The decision to take the steps that have been taken is a policy decision that we will look at in terms of its effect.

**Kenneth Gibson:** I am clearly not trying to ask you to say whether it is a good idea or not, which would be straying into the political realm—it is just about the practicalities. If the bill were implemented, what mechanisms are in place to allow local authorities to reinstate local reliefs in a short to medium-term timeframe? That is the kind of thing that local businesses will look at. If the small business bonus scheme disappears, for example, how soon in practical terms could it be replicated by a local scheme?

**Graham Sharp:** You would have to start with the intention of the legislation change and the policy behind that. For example, is the intention to have local authorities bear the benefits and disadvantages of the actual rates that they collect in their area? Are they responsible for setting those rates, which might be different from rates in another local authority? Is that the environment that policymakers wish to create? You would need to look at how that would work.

There would be some anomalies. Brian Howarth referred to the case of South Lanarkshire, which, because of Scottish Water, gets the benefit of non-domestic rates from the whole of Scotland. How do you deal with that? That does not seem equitable. Those are all policy decisions to start with, and then we would have to look at the mechanics of how that worked in practice. You need to start with what sort of environment you are trying to create at a policy level.

**Fraser McKinlay:** The only thing that I would add to what the chair of the commission has said is that I think that most people would agree that, because the non-domestic rates system is such an integral part of how the funding works, it needs to be looked at in the context of everything else that happens in local government funding. Mr Gibson's questions are good examples of that.

**Kenneth Gibson:** That was exactly what I was going to ask you about next.

12:00

**Fraser McKinlay:** It is important to take such an approach, and I am sure that, when stage 3 of the bill comes along, the Parliament will do that. To an extent, the debate about the implications of doing one thing or the other has started. However, we would certainly agree that, if there were to be significant changes to any part of the system, those changes would need to be looked at in the round and the effects on different parts of the system would need to be understood.

On your point about timing, one consideration would be the timeframe in which any changes would be made. I presume that, with such a significant change, the changes could be made over a period to ensure that there was time to put in place other mechanisms. For what it is worth, we would encourage you to ensure that you look at the issue in the round.

**Kenneth Gibson:** Are there any comparable international examples of where local control has either boosted competitiveness or led to additional or higher rates burdens? One reason why we have universal rates is that businesses were concerned that some areas were charging excessive rates. Are there any international examples of how devolution to local community or local authority level has worked positively, or not, as the case may be?

**Fraser McKinlay:** As Mr Wightman mentioned, there are lots of places where local business rates are devolved to councils and—

**Kenneth Gibson:** Indeed, but what is the impact?

**Fraser McKinlay:** The short answer is that I do not know, because we have not done work on that. However, we can certainly see what we can do. In England, a change was made some years ago so that local authorities now keep the rates that are raised in their areas. That has had a pretty varied effect, depending on geography and other matters. I have not studied the issue closely, but it seems to me that the English experience is an example that shows the need to look at the issue in the round. The system of local government funding in England was already fairly different from

what we have in Scotland. We need to be sure that we are comparing apples with apples.

**Kenneth Gibson:** In Scotland, might we have to look fundamentally at the whole distribution formula for local government as part of the process?

**Fraser McKinlay:** As Mr Gibson will know, the commission has said in the past couple of years, even before the debate on non-domestic rates came up, that we think that the distribution formula is probably worth a look, given how the situation has evolved over the years. The commission said that in its previous two financial overview reports. We know that that would not be easy. As I said, if you are looking at non-domestic rates, you need to look at how that bit fits with everything else.

**Graham Sharp:** That is correct. On comparisons, I reiterate that, if you are looking at other countries, you need to understand how their whole taxation system works for businesses as well as public funding to see how it fits in that framework.

**Kenneth Gibson:** So we cannot really look at models from other countries specifically; we can only get allusions.

To move on, I have a question about debt. In paragraph 45 of your report, you touch on the Treasury announcement in October last year that interest rates on new Public Works Loan Board loans would rise from 1.81 per cent to 2.81 per cent. You said:

"This will make new ... borrowing or refinancing of debt for councils more expensive."

What are the long-term implications of that change for our local authorities?

**Graham Sharp:** Clearly, that is a significant increase in the interest rate that is charged, albeit that Public Works Loan Board debt is relatively cheap. As we have said, to the extent that councils need to draw on that money, it will be more expensive. There is around a 50 per cent increase in the rate. We are not privy to the reasoning behind that, but I note that, whereas in Scotland the use of Public Works Loan Board debt has been relatively stable—I think that there was a 5 per cent increase in use last year—in England, the situation was quite different, with a 75 per cent increase. There was a significant increase in demand, and attempts to deal with that may have been a factor in the increase in pricing. I do not know whether demand will continue or abate but, as things stand, the cost of borrowing will increase significantly.

**Fraser McKinlay:** That requires councils to look at the affordability of existing loans and—this is almost more important—to look at their plans to assure themselves that, with the change in rate,

PWLB debt remains sustainable. I know that councils are already doing that.

**Kenneth Gibson:** Is your instinct that the rate has been increased to reduce borrowing down south and that Scotland has just been collateral?

**Graham Sharp:** As I have said, we have no information on that. I am looking at the issue at a basic economic level. If the usage is increasing dramatically, perhaps the way to deal with that is to increase the price.

**Brian Howarth:** I refer to paragraph 37 of the report. It is worth noting that the vast majority of capital expenditure in Scotland is funded from Government grants. My understanding is that the position south of the border is different. If there has been an increase in PWLB borrowing, it may be related to the availability of Government grants down south. Although the PWLB is an important factor, it is not the main source of funding in Scotland.

I also understand that, although PWLB rates have increased for new loans, that brings the rate back to the rate that there was only a year or 18 months ago. It reached a low point and then increased to a point that is consistent with recent rates over the past couple of years. There has been an increase, but it is not a major one. In recent history, there have been similar rates and, as I said, the PWLB is not the main source of current borrowing.

**Kenneth Gibson:** My understanding is that, in 2017, the rate varied from about 0.7 per cent to 2.79 per cent and that the rate was set according to the risk of the capital investment that was being looked at.

Fraser McKinlay talked about commercial loans. You will know that, a couple of years ago, North Ayrshire Council had what was, in my view, a ludicrous plan to spend £72 million on a 47-year-old shopping centre. Thankfully, the plan was defeated in the council by 17 votes to 16. The council had been told that it would have to pay the maximum Public Works Loan Board rate.

I appreciate what Mr Howarth has said about grants and so on, but debt for local authorities increased by £300 million over the year, and any borrowing from the PWLB will be significant if the rate has increased. I just wondered what the impact will be.

**Graham Sharp:** Clearly, a significant increase in the rate will impact on behaviour to a degree. Public Works Loan Board funding has traditionally been a cheap form of funding. Fraser McKinlay referred to a council buying a shopping centre using PWLB money. That raised competition issues, because the authority used below-market rates to compete with commercial companies.

**The Convener:** We are running a bit short of time and business in the chamber will start early today, so people should make their questions and answers concise, please.

**Alexander Stewart:** The commission has focused very much on the benefits of medium-term financial planning—you have gone into all of that. You believe that that should be at the core at the strategic planning level in councils. Councils have taken that on board over the years and the majority—if not all—of them are now doing that quite successfully. However, there is a vast variation in approaches among councils, and that in itself can cause concern in relation to what they see as their priorities. It would be good to know what the key elements of medium-term planning are to ensure that financial planning and management improve. Why is there still that variation, as the commission has advised councils on best practice? That advice has still not been completely taken on board by all councils.

**Graham Sharp:** I will briefly give some context.

It is not that long ago—maybe three years—since councils said, “You can’t expect us to have medium-term planning when we get only a one-year settlement.” There has been a process, and we have now got to a position in which everyone is carrying out medium-term planning. In a public sector context, that is a good thing.

We are continuing to raise the bar by looking more closely at what councils are putting into their medium-term plans. They will be different, because councils are different. Councils have different challenges and priorities, so it is reasonable that the plans are different. Councils also have different ways of going about budgeting. The ways in which they allocate specific reserves, as opposed to unidentified reserves, are different, and the ways in which they look at risk are different. Therefore, the plans will not always be the same, but we are trying to raise the bar and to continue to spread good practice, and to do the same with longer-term scenario planning.

**Alexander Stewart:** There are definite challenges for the longer-term planning scenarios, and they have been identified. Once again, you have been supportive with suggestions on how councils should manage them.

In some councils, it comes down to how confident the councillors are with the advice and support that they are given by the officials. I know that lots of training and support mechanisms have been put in place for the elected representatives, but there is still some way to go. It would be good to get your views on how we can ensure that they have that confidence. In the long term, that affects the good will in the process and the efficiency and running of the council.

**Graham Sharp:** We emphasise that councillors' training and knowledge are essential. It is a two-way street, and it is not just for the council to provide that. There are councils that should do more to provide training, but individual councillors also have a responsibility to be satisfied that they have equipped themselves to do the job.

**Fraser McKinlay:** As the chair of the commission said, we now have a good baseline in that everyone has a medium-term financial plan of up to five years, and we will keep banging the drum about the longer-term stuff. That involves a more challenging conversation about a qualitative assessment of the process that is involved in those plans—for example, to what extent have communities been engaged in the discussion, or has the plan been drafted in the office of the director of finance and presented? It is also about the quality of the plan. Is there simply a worst-case scenario, an expected scenario and a best-case scenario and the numbers are crunched, or does the plan really take account of what the place and communities will be like in the next five to 10 years and what that means? That is the stage that we are at in the process. We will continue to play our part in that. We continue to engage with the directors of finance on the quality of the process, and we are always willing to help with the training and development of elected members in order to help them play their part.

**Alexander Stewart:** As we discussed earlier, the Government's initiatives, policies and priorities have an impact on what a council can achieve. We have looked at things such as IJBs, where councils have had significant difficulties. What councils set out as their plan and what they might have seen as their options have changed and become much more difficult to manage, because of the financial differences and the balances between what they want to achieve and what they can achieve. That has had a knock-on effect on reserves and everything else in the process. They have set out with a plan, but they have not been able to achieve it because of the circumstances that they have found themselves in as a result of population dynamics, for example. All that comes into the equation. That makes it even harder for councils to quantify and make the plan a reality.

**Fraser McKinlay:** I absolutely accept that it is not easy. Councils are big and complex organisations. Glasgow City Council's budget is about £1.3 billion. It is reasonable for us to expect rigour in financial planning and strategy because public money is involved, and that delivers services for some of the most vulnerable people in our community. We have never said that that is easy, but we will continue to press the case for why it is important.

**The Convener:** A third of IJBs were struggling to agree a budget for this year. What are the key barriers to that? What is causing them to have difficulty in doing that?

**Graham Sharp:** Fraser McKinlay has been meeting them recently.

12:15

**Fraser McKinlay:** That is an excellent question, convener, and I am not sure that we have a simple answer to it. That issue will almost certainly form part of the work for the next year, because properly getting under the skin of what the barriers are is definitely an issue for us.

Anecdotally, the different budget cycles of the partner organisations have been cited as an issue. Councils and health boards budget on different cycles. IJBs try to set a budget in March, and NHS budgets are not finalised until June. That is one practical thing that people have cited.

However, there are more fundamental issues—Brian Howarth, as an auditor of some of those organisations, will want to come in on that. The integration schemes set out, among many other things, what happens when there is a variation in spend—either an underspend or an overspend—in an IJB. We increasingly see that as a point of contention in some places. As real life begins to kick in for the IJBs—overspends tend to be the more difficult issues—that can get in the way of agreeing how much money each partner will put in for the following year.

There are probably some common themes, but there will also be quite a lot of specific issues in individual places.

**The Convener:** Before Brian Howarth comes in, I have a question. In putting the IJBs together, was there not a system in place to say how overspends will be divided?

**Fraser McKinlay:** Yes—all the IJBs have that.

**The Convener:** So, what is the problem?

**Fraser McKinlay:** The problem is that when the overspend actually happens in real life, money has to change hands.

**The Convener:** It worked well on paper [*Laughter.*]

**Fraser McKinlay:** That was a really simple way of putting it, Convener—I did not mean to be flippant.

All the integration schemes have a way of dealing with such circumstances. They vary—some just split the overspend 50:50 and some split it 70:30, or in line with overall funding. There are different ways of approaching it. However, in real life—this is a hypothetical example, but we hear of

such things happening—a health board will say, “Wait a minute. That overspend is all on social care, so why are we picking up 70 or 80 per cent of the tab?” Or a council will see that an overspend has been on medicines and will say, “We know what the scheme says, but it doesn’t seem right.” When both partner organisations are under real pressure in their finances, that becomes quite a tricky conversation. We see that conversation happening across the land. Many of the schemes are up for review, so a lot of this stuff is already being looked at.

**Brian Howarth:** We know that timing is an issue, although we do not understand exactly the reasons why. That is something that we will pursue in the coming year.

We can say with some certainty that the problem is not systemic. We looked at one health board area: not every IJB in that area is late with its budget, so it is not a systemic issue.

The other thing to bear in mind—exhibit 14 in the report is a good example—is that even if an IJB’s budget is agreed, it might not be fully balanced. There might be a large element of unidentified savings. There is more work for us to do on that, to establish exactly the reasons why.

Going back to earlier questions, the announcement of the Westminster UK budget coming late this year might exacerbate the position. We want to get to the bottom of why budgets are not being agreed on time, and we want to know the nature of those budgets—whether they are truly battered down, or why there are large elements of unidentified savings.

**The Convener:** Does that gel with what you said earlier, about finding that organisations had not done what they promised to do, so you looked at their accounts for three years back? Are they saying that they can make savings, but they are unidentified so you do not know where the money is coming from, or whether the savings are really going to happen?

**Brian Howarth:** That is a good general point, and the evidence is in the report. I am sorry for not giving exact figures, but I think that about eight IJBs recorded a deficit, two broke even and a much larger number—I think about 19—would have recorded deficits had they not been bailed out at the year-end by the two partner bodies. That is symptomatic of the fact that they did not think that they would have that position when they set out their budget at the start of the year. Nine or so would have thought that they would be able to break even, but they could not do that. There is a difficulty in terms of budget expectation and budget reality at the end of the year, which we see in microcosm in the number of IJBs that had to be

given additional year-end funding from the partner bodies.

**The Convener:** Okay—thank you for that. Another key issue is the significant turnover of senior staff in IJBs. Is there a common theme in that regard? Do you have any suggestions on the reasons for that?

**Graham Sharp:** Again, we do not have detailed information on that; what we have is more anecdotal. Colleagues might want to comment on this. When I was at the committee’s round-table discussion, I commented that turnover in leadership might not be only a cause of difficulty at a time when it is necessary to manage a lot of change, but could also be a symptom of a structure that individuals are finding it difficult to live with, and would rather not live with.

**Fraser McKinlay:** The situation will be different in different places, but there is no doubt that the job of the chief officer is a difficult one. They are accountable to the chief executive of the council, to the NHS board and to the IJB itself, so there is a pretty complicated accountability structure, and they are working in quite tricky circumstances. There is no doubt that there are places where churn and turnover have prevented quicker progress. It is hard to make big difficult decisions when there is not sufficient stability in the senior team.

It is difficult to say exactly what is happening in all cases, but something is definitely happening. We hope that, as we move into whatever year of the existence of IJBs we are now in—year 6 or 7—we will see a degree of flexibility. We hope that turnover will, after the amount of change last year, begin to tail off. We will continue to keep an eye on it.

**The Convener:** If you do more work on IJBs, will you speak to senior officers to find out whether there are common threads in why they left?

**Fraser McKinlay:** There are a few points to make on that. First, as part of the annual audit work that we do on IJBs every year, there is routine engagement with chief officers and chief finance officers in particular, so we have a reasonably good sense of why changes have been made.

Secondly, we have a third national report on integration lined up for the next couple of years, in which we will begin to look at outcomes. We have done two reports for the commission and the Auditor General, and we will address in the third report what difference has been made to services and outcomes.

Thirdly, as a heads-up I can tell you that the commission has asked me to think about what best-value auditing would look like in IJBs. That

will not kick off for 18 months or so, but we are beginning to develop an approach that will allow the commission to focus more sharply on the integration authorities' best-value duty. Once we get into that work, we will be able to unpick more of the specifics of what is happening in each of the 31 integration authorities.

**The Convener:** It seems that there are different approaches to managing shortfalls; I hear that some IJBs rely on funding injections during the year, for example. Are you concerned that that undermines the transparency of IJB funding?

**Graham Sharp:** As Brian Howarth said, the situation is a reflection of the difference between budget setting and what actually happens, and of how partners work together with an IJB's management. Transparency comes down precisely to how that is managed. Perhaps Brian Howarth wants to comment.

**Brian Howarth:** It is hard to generalise. The partner bodies might take the attitude that the IJB should try to deliver a challenging budget in the year and will not fully fund budget gaps. However, if it turns out that, in reality, the IJB is unable to manage because of demand pressures or other things, that will inevitably mean that both partners have to fund it. In effect, they will be funding it anyway, because fund flows in IJBs are notional—the overspends occur in one of the partner bodies.

Although about 20 IJBs have underlying deficit issues, we have not seen systemic overspends in the partner bodies. That is probably because partner bodies are managing to offset overspends in the IJBs' work against underspends in other areas of their budgets. National health service boards will do that against underspends in acute services and councils will do it against underspends in services such as education and corporate services. As long as that underlying deficit continues, we face the risk that host partners will end up being affected, and that they will increasingly return deficit positions, if the situation is not managed within the IJB services.

**The Convener:** If extra money was being put in by the health service or the local authority, would you get information about where that money came from or would that normally be done just to cover a deficit in the IJB?

**Brian Howarth:** We try to collate information from local auditors across all 31 IJBs. We are particularly interested in how much additional funding has been received during the year and when. That gives us our figures on whether IJBs have been deficit funded at the year end. We are interested to know whether they have received further funding during the year. We might not always know the ultimate source of that additional funding—for example, if it has come from Scottish

Government additional budgets for the NHS—but we are very interested in that and are reliant on the quality of the data that we are given by local auditors.

**Annabelle Ewing:** Good afternoon, gentlemen. It has been interesting to look at your report and the consequences that it identifies.

Paragraph 108 of your report says that, in 2018-19,

“over a third of IJBs ... experienced turnover in their chief officer or chief finance officer”.

That is quite remarkable. What happens in such circumstances? Do the individuals in question go back to local government, the NHS or the Scottish Government? Do they get a pay-off? Where does financial scrutiny of that come in? If that is the case across the public sector, it is an alarming statistic. Where is the scrutiny of that, given the amount of public money that is involved?

**Graham Sharp:** That is clearly a significant statistic, which is why we highlighted it. The high turnover has an impact on how IJBs can operate. There will be a variety of specific circumstances, because the ways in which staff are provided vary significantly among IJBs.

**Fraser McKinlay:** I will kick off, then Brian Howarth can talk about the detail. Scrutiny comes through the annual audit work that we do on every public body in the land; in this case, we are talking about IJBs. When a senior person leaves, it will always be part of the audit work for that year to look at the nature of that departure and at whether any payments were made.

I cannot promise that this is the case, but I think, off the top of my head, that the vast majority of such leavers have gone to different jobs, either in another IJB or elsewhere, in which case no payment would have been attached. Also, a good number have retired; we would expect normal processes to apply in those cases. Auditors look at and report on such cases in their annual audit reports. If there was anything untoward in IJB-land, I would report that to the Accounts Commission. That is how the scrutiny process works. Is that fair, Brian?

**Brian Howarth:** Yes. I am a local auditor for five IJBs, five councils, two NHS bodies and a pension fund. Across my five IJBs, three out of 10 chief officers and chief financial officers left during the year. When we can, we hold exit interviews with people who are willing to talk to us about their reasons for leaving—although whether they are fully candid with us is another matter. We also look at the terms under which they left. Of the three officers who left my IJBs, one retired, one moved to a different job and one got a redundancy package, which we looked at as part of our normal



audit of the host body by which the individual had been employed. We carry out such local scrutiny routinely. In the remuneration report that we have just done, we look at the approval process and the business case for any senior officer leaving.

**Annabelle Ewing:** Are the positions that are vacated filled reasonably quickly? Are those senior positions unfilled in a number of IJBs?

12:30

**Fraser McKinlay:** That is a good question. A good number of IJBs have ended up having in place interim staffing arrangements for quite a long time, so that is definitely an issue.

There is no doubt, if you look across the board, that there are a lot of important senior jobs to fill from a relatively small pool. Only yesterday, Brian Howarth and I were in a meeting with an IJB. There were six people from the IJB in the room, because there are three chief executives and three directors of finance for that one area. Backfilling such posts when someone leaves is quite challenging. The Auditor General has reported on the challenges of recruiting to senior posts in the NHS and we have reported in the past about the challenges of recruiting in some councils.

The interim arrangements can be an issue, which is why we raise that in the report. That is to do with turnover, but more important is what it means for the pace of progress. In some places where there has been churn in key roles, the issue is not that they have had to start from scratch, but that when someone new comes in a bit of reworking and resetting is inevitably required, which can get in the way of progress.

**Graham Sharp:** Turnover at senior level will not only affect an IJB's ability to execute change. When we are talking about budgets not being agreed on time and savings not being identified, that will affect day-to-day business and be disruptive to the whole organisation.

**Annabelle Ewing:** Sure. I understand that Fife Council was in that position. I am sorry—I should have said, "Good afternoon, gentlemen and Ms Duthie", when I greeted the panel. Please excuse me.

Fraser McKinlay mentioned that you would be moving to best-value auditing and explained what that would look like. I welcome that approach. However, IJBs have been in place for some time. Why are we moving so slowly in getting such processes in place? Should such auditing not already be in place? If it is not, we will not know what value we are getting from IJBs.

**Graham Sharp:** Auditors have been reporting on best value. The reports have tended to be short

and have simply stated whether an IJB is meeting the best-value criteria. As IJBs have developed their role, there is increased opportunity to expand the audit, in a proportionate way, to examine best value. If an IJB is not doing much, resource will not be spent on putting in people to audit stuff that is not happening.

As Fraser McKinlay said, we want to expand what is looked at in the next set of audits. A lot of scrutiny goes on in IJBs. There is not just audit scrutiny—other inspectorates do a lot on work in scrutinising IJBs. Fraser McKinlay's work for the Accounts Commission is to look across the board at all the scrutiny that is done, consider how we can utilise that and identify gaps. It is not the case that no scrutiny is being done. We look at IJBs' work through the lens of best value, because that is a statutory requirement. Until now, as I said, there has not been a case for doing more scrutiny: going forward, we will do more.

**Fraser McKinlay:** Annabelle Ewing is absolutely right that IJBs should be carrying out best-value auditing. They have a duty to secure best value, which we check on now and will check on in the future.

To be fair, it is worth mentioning that the duty of best value and, therefore, the auditing of best value need to look quite different in IJBs, because, as organisations, they do not employ their own people or have their own buildings, as a council does. Therefore, the nature of their best-value duty is quite different and needs a bit of thinking. In effect, they are strategic commissioning bodies that get services from the council and the health board.

How IJBs are audited has required a bit of thought on their part. Our approach has been consistent with our approach to best value in the past. When the duty was first introduced, we started with councils and then went to the police and fire authorities that existed then. It was reasonable to let IJBs get their feet under the table: they have done that—or should be doing it now—so we are looking at the next phase of best value.

**Graham Simpson:** Brian Howarth mentioned one case—there are probably more across the country—in which a senior officer was made redundant, presumably with a hefty pay-off. What would be the circumstances under which someone would be made redundant in an IJB? That person should not have been replaced, but were they replaced in some way?

**Brian Howarth:** This does not apply just to IJBs: senior officers would normally be made redundant if there was a major restructuring of the senior management team. That might involve a change in services. In the case that I was involved

in, there was a major change, in that children's services were removed from the IJB and taken back into education services in the council. Therefore, the role changed drastically—there is still a chief officer of the IJB but it is a different role. That redundancy resulted in a payment. We examined the business case for that and the payback period.

**Graham Simpson:** Was the person a chief officer?

**Brian Howarth:** Yes.

**Graham Simpson:** But there is still a chief officer.

**Brian Howarth:** Chief officers of IJBs also have other roles within the council, which is a difficulty. They do not always have only their responsibilities as chief officer of the IJB, but can also have responsibilities within the council. The nature of the IJB changed in my example, because the integration scheme had changed. The nature of services in the integration joint board changed drastically because children's services were taken away from it completely. Adult services remained.

**The Convener:** We are short of time.

**Graham Simpson:** I know, but the debate has opened up a whole new can of worms.

**The Convener:** We will have to do some work on IJBs, anyway.

**Kenneth Gibson:** We have just heard how difficult it is to replace chief financial officers and chief officers, but because one aspect of their job changes, they get redundancy payments and they move out, and boards are left with the disruption of having to find someone to replace them, and of dealing with the impact on front-line services. How can that be justified?

**Fraser McKinlay:** I will come in briefly on that. I do not mean to sound flippant, but it is not for us to justify that. The justification for the decision rests with the IJB and its employing authority. It is important to remember that one of the unique things about IJBs is that their chief officers are employed normally by the health board or the council. Therefore, reorganisation need not be just about the IJB—it can be in the council or the NHS.

As Brian Howarth described, our job is to look at the business case. There will be a payback period. Savings have to be made in order to justify any payment that results from restructuring, and it has to be ensured that it is regular and in line with policies.

**The Convener:** Okay. The committee will probably look at that further.

I thank the chair and his colleagues from the Accounts Commission for attending. It has been useful.

12:37

*Meeting suspended.*

12:40

*On resuming—*

## Petition

### Fire Safety (Stay-put Policy) (PE1719)

**The Convener:** Agenda item 4 is consideration of PE1719 from Rachel Gibson on behalf of Cartcraigs Road tenants association. It calls on the Scottish Parliament to urge the Scottish Government to review the current stay-put policy as it applies to the fire strategy for existing multistorey residential buildings. The petitioner has provided for our consideration a short update, which is attached to the public paper.

I refer members to the note by the clerk, and I invite comments. There is a recommendation to keep the petition open and to raise issues that are relevant to the petition with the Minister for Local Government, Housing and Planning at our evidence session on building regulations and fire safety on 22 January. We can consider next steps after that.

Are there any comments?

**Annabelle Ewing:** It would be interesting to hear from the minister on the general issues, but my understanding is that the stay-put advice is an operational matter for the Scottish Fire and Rescue Service, so it is unlikely that we will get to the nub of the issue without speaking to the service.

**The Convener:** The Scottish Government is aware of that and there is the option to discuss that point at a later meeting.

**Annabelle Ewing:** Ok.

**Andy Wightman:** From the evidence that has been submitted to the Public Petitions Committee on the petition, it is clear that the stay-put policy remains the operational principle of the Scottish Fire and Rescue Service and the National Fire Chiefs Council. One of the workstreams of the Scottish Government ministerial working group was a review of Scottish fire-safety regimes for domestic high-rise properties. Several recommendations were made by that group, one of the most valuable of which was that better fire safety guidance should be provided for residents, which is very welcome.

I note that the petitioner lives in a high-rise building. I have no doubt about the anxiety that must have been induced by the Grenfell Tower fire and the associated publicity, so I have a lot of sympathy with the petitioner. Having looked at the evidence to the Public Petitions Committee, I am not convinced that there is any evidence that the stay-put policy should go; it is a default position

that can be—and is—departed from by the fire services when they consider that to be necessary. It is a default position that has been established for many years.

The second part of the Grenfell inquiry has still to be concluded. There will always be incidents of a policy that has been adopted not being properly implemented. There is no doubt that there will be errors and mistakes made by all public services now and again. That does not, in and of itself, justify changing the policy. I do not see evidence that suggests that it needs to be reviewed. However, I am happy to defer such questions until the meeting with the minister later this month.

**Sarah Boyack:** I broadly agree with that. The points that are made in the petition and the additional comments in annex A flag up people's concerns about whether buildings are compromised, either because of external cladding faults or lack of fire-safe doors. Those are the things that sit as a framework behind the stay-put policy. We need to raise those particular issues about the integrity of buildings and the fire safety policy with the minister when we speak to him next.

**The Convener:** Okay. Is it agreed that we can discuss the points that have been raised with the minister?

*Members indicated agreement.*

**The Convener:** Cartcraigs Road is in my constituency, so I am very keen to get a suitable response from the minister.

12:44

*Meeting continued in private until 12:45.*



This is the final edition of the *Official Report* of this meeting. It is part of the Scottish Parliament *Official Report* archive and has been sent for legal deposit.

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