

AUDIT COMMITTEE

Tuesday 26 September 2006

Session 2

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AUDIT COMMITTEE

13th Meeting 2006, Session 2

CONVENER

*Mr Brian Monteith (Mid Scotland and Fife) (Ind)

DEPUTY CONVENER

*Mr Andrew Welsh (Angus) (SNP)

COMMITTEE MEMBERS

*Susan Deacon (Edinburgh East and Musselburgh) (Lab)
*Robin Harper (Lothians) (Green)
*Margaret Jamieson (Kilmarnock and Loudoun) (Lab)
*Mrs Mary Mulligan (Linlithgow) (Lab)
*Margaret Smith (Edinburgh West) (LD)

COMMITTEE SUBSTITUTES

Chris Ballance (South of Scotland) (Green)
Mr David Davidson (North East Scotland) (Con)
Marlyn Glen (North East Scotland) (Lab)
Mr John Swinney (North Tayside) (SNP)

*attended

THE FOLLOWING ALSO ATTENDED:

Mr Robert Black (Auditor General for Scotland)
Caroline Gardner (Audit Scotland)
Mark MacPherson (Audit Scotland)
Tom McCabe (Minister for Finance and Public Service Reform)
Stewart Stevenson (Banff and Buchan) (SNP)

CLERK TO THE COMMITTEE

Shelagh McKinlay

SENIOR ASSISTANT CLERK

Joanna Hardy

ASSISTANT CLERK

Clare O'Neill

LOCATION

Committee Room 2

Scottish Parliament

Audit Committee

Tuesday 26 September 2006

[THE CONVENER *opened the meeting at 09:47*]

Items in Private

The Convener (Mr Brian Monteith): Good morning and welcome to the 13th meeting of the Audit Committee in 2006. I am pleased to welcome the Auditor General for Scotland and his team, committee members, members of the public and the media. I am also pleased to welcome Stewart Stevenson, who is attending to listen to consideration of agenda item 3 and possibly take part in it. We have received no apologies.

Agenda item 1 is for the committee to agree to take in private agenda items 9, 10 and 11. Item 9 is consideration of our approach to the Auditor General's report on the relocation of Scottish Executive departments and his 2005-06 audit of the Scottish Prison Service. Item 10 is consideration of the evidence taken on the teaching profession at a previous committee meeting. Item 11 is consideration of a draft report on our inquiry into the Audit Scotland report on the national health service consultant contract. Do members agree to take those items in private?

Members *indicated agreement.*

“Relocation of Scottish Executive departments, agencies and NDPBs”

09:48

The Convener: Item 2 is a briefing from the Auditor General on the report “Relocation of Scottish Executive departments, agencies and NDPBs”.

Mr Robert Black (Auditor General for Scotland): My report on the relocation of Scottish Executive departments and agencies was published on 21 September, and examines the implementation of the policy and the outcomes that have been achieved. As I am sure the committee will recall, the Finance Committee published a report on this subject in June 2004. The new Audit Scotland report complements the Finance Committee's report by providing more detailed analysis of the costs and outcomes of relocation decisions up until May this year.

The Executive's policy has evolved since it was introduced in September 1999, and it currently has three objectives: first, to ensure that government in Scotland is more efficient and decentralised; secondly, to provide cost-effective delivery solutions; and thirdly, to assist areas with particular social and economic needs. A general presumption against selecting Edinburgh as a final location underpins the policy. There are three possible triggers for asking organisations to review their location: a break in a property lease, a merger or reorganisation, or the creation of a new organisation. When a review has been completed, ministers select the final location.

The Executive estimates that 34,000 posts—approximately 6 per cent of the public sector in Scotland—are eligible for consideration under the policy. Since the policy was announced, 38 organisations and almost 4,700 posts have been subject to a location review.

Relocation has resulted in significant dispersal of posts away from Edinburgh. By May this year, more than 1,600 posts had been or were due to be relocated from Edinburgh. In addition, more than 1,100 posts had been established in new or reorganised organisations. Although individual organisations and units have been dispersed throughout Scotland, around 60 per cent of the posts have been located in Glasgow.

In most cases in which organisations have relocated, the majority of staff have not chosen to relocate. Almost half of the posts that have not been filled by existing staff have been filled by people who were previously employed by another public sector organisation. In other words, there

has been a movement of people from other public bodies to the organisations that have relocated. The Executive has plans to evaluate the impact of the policy, but little has been done to date. There is some limited evidence that relocation has produced efficiency gains, but wider benefits have not yet been measured.

The costs of moving organisations can vary significantly. Although some of the variation can be explained by differences in the size of organisations, significant variation can be the result of other factors, for example organisations having to run their operations in parallel at two sites for a period to maintain performance and continuity of services.

In my view, cost per job should be regarded as one of the key measures of the policy's effectiveness. As information to assess cost per job was not readily available when Audit Scotland started its work, we prepared estimates from a sample of six cases, on which we worked closely with the organisations concerned and economists in the Scottish Executive. Based on that small sample, Audit Scotland estimates that the cost of relocation ranges from a saving of £33,000 per job to an additional cost of £45,000 per job. I should mention that those estimates do not include the cost of any redundancies that might be involved.

Relocation is expected to deliver socioeconomic benefits, but little has been done to evaluate systematically whether such benefits have been achieved. However, as I have mentioned, the Executive plans to publish evaluation material before the end of the year, which it has told us will cover analysis of the benefits to date, benchmarking of decisions against other accommodation decisions and comparative analysis of relocation in other countries.

Triggers for reviews are not linked directly to policy objectives, but relate to changes in the status of organisations. It appears from the evidence that reviews have not always been carried out entirely consistently. I say that for four reasons. First, only two out of the 38 organisations that have been reviewed so far identified relocation as an option as part of their own business planning processes.

Secondly, although the organisations generally followed similar criteria to assess potential locations, there was some variation in the weightings that they applied, the reasons for which were not clear.

Thirdly, there is no evidence to show that the choice of final location was always made consistently. The final decision on location is made by ministers who, as well as considering the outcome of the review process, may take into account other factors. For example, in reaching

their decision to relocate the Scottish Public Pensions Agency to Galashiels, ministers considered the impact of foot-and-mouth disease on the Borders economy. However, in some cases the reasons for choosing a location that had not been rated highly during the review exercise were not clear.

Fourthly, the time taken to complete reviews and reach decisions varied substantially. Delays can prolong the uncertainty that the prospect of relocation throws up, which can affect staff morale and performance. However, there is evidence that, in general, the process of moving was well managed by the organisations involved, which consulted staff on their preferences and on the shortlist of options during the review process and kept them informed of progress. We know from some of the cases that we examined that organisations generally support staff who move and who choose not to move.

It is important to recognise that the Executive approach to relocation has evolved since the policy was announced in 1999. In June last year, the Executive published "The Relocation Guide" and strengthened the support to organisations that are involved, which should help to reduce inconsistencies. However, I suggest that more could be done. In part 4 of the report I set out several recommendations on strengthening the strategic framework, improving the assessment of costs and benefits and adopting and sharing best practice.

As ever, my colleagues and I will try to answer the committee's questions.

Margaret Smith (Edinburgh West) (LD):

Where do I start? I suppose that I should declare an interest as an Edinburgh MSP who has commented on relocation. I will try to consider what I believe relocation was meant to be about, which Mr Black has touched on. That includes matters such as efficiencies in government, which are an issue for the committee and for Scotland as a whole.

On the basis of the report, I have several concerns. It is clear from the Auditor General's report—it is peppered with such comments—that

"no routine mechanisms"

are

"in place to monitor the potential efficiency or productivity indicators for bodies that have relocated",

that there is an

"absence of a clear process for relocation"

and that, of the bodies that have moved or are relocating, the trigger for moving only two of them was efficiency issues and how their business

would work. Further to the Finance Committee's work, has any of that improved?

Mr Black: The publication of "The Relocation Guide" by the Scottish Executive last summer and the strengthening of the team at the centre in the Executive to support and guide public bodies that face relocation have been significant developments. I remind the committee of what I said a moment ago: the management of relocation has generally been well handled. Quite a number of relocations have taken place recently, but no evidence to date has shown a decline in the performance of any public body that has been affected. As I mentioned, some evidence—although it is limited—shows that some bodies have experienced benefits in the form of lower staff turnover and less sickness absence. A key conclusion of the report is that more could be done to evaluate those factors systematically, to reinforce public confidence in the policy.

Margaret Smith: You said that the Executive has said that it will publish by the end of the year an evaluation report that examines the benefits to date. Some of us might think that that is a slightly one-sided way to approach an evaluation report. You talked about the evidence on what has happened to service provision, which is obviously sketchy, because the general sense that emerges from your report is that the background data checks and background information are not available to provide a baseline.

I am concerned by paragraph 36 of your report, which states:

"We found that most current staff did not transfer from the original location"

and that

"just over a quarter ... of staff had transferred from the original location."

Can we be sure that, after losing that amount of trained and experienced staff, the services provided by the various bodies have continued and have not diminished? The Scottish Public Pensions Agency in the Borders might have seen an increase in people staying put, but if only a quarter of the original staff have stayed with organisations at the point of transition, that represents massive staff turnover.

10:00

Mr Black: The report did not examine the impact on individual organisations' performance. As I am sure the committee will appreciate, we are talking about a diverse range of organisations and experience. The general comment that I made a moment ago might be relevant: we have no evidence of performance being adversely affected, and in limited cases there is some evidence of

improvement in sickness absence and staff turnover. The experience of individual bodies will vary quite substantially. The report is a general examination of the implementation of the policy, not an examination of the impact on individual organisations.

Margaret Smith: The Finance Committee asked the Executive to provide clearer reasons for its reaching decisions, but your report highlights the fact that there still does not seem to be any more clarity about the decisions that have been taken, although obviously you have been able to consider only a certain number of them. The Executive should provide clearer reasons, in accordance with the Finance Committee's recommendation. Is there any sense in which you see the Executive doing that?

Mr Black: The current situation is as I have described it. We encourage ministers to think carefully about whether they can say a bit more about their reasons when they are announcing decisions on relocation. In response to the Finance Committee's report on relocation, the Executive indicated that it would issue statements highlighting the main reasons behind the decisions.

Margaret Smith: But it has not done that for the decisions that your report covers that have been taken since the Finance Committee made its recommendation.

Mr Black: The decisions on four of the 12 reviews in our sample were announced after the Executive's response to the Finance Committee.

Margaret Smith: Did the Executive give any more information about why it had taken those decisions?

Mr Black: We are unaware that any further information was provided.

Margaret Smith: I have one final question about the position of accountable officers. Your report highlights one of the key differences between the way in which this policy is being implemented at the United Kingdom level and here. At the UK level it is for the accountable officer to make the final judgment and decision with reference to their particular responsibilities, whereas in Scotland it is a decision for ministers, and it could be argued that they have a different way of considering the issue. Would there be any benefit in moving towards the accountable officer making the decision, or would that cause problems?

I am aware of the situation with Scottish Natural Heritage. I am also aware of other behind-the-scenes issues, where accountable officers feel that they are put into difficult situations by ministers making decisions that they do not believe stack up or benefit their organisation's

business. Could that be a faultline running through the implementation of the policy?

Mr Black: The duties of an accountable officer are clear in this case. Where an accountable officer considers that a minister's decision is not supported by clear evidence that it will deliver value for money, the accountable officer may request from the minister a written instruction to implement the decision. We are aware of that happening in only one case, when the SNH accountable officer—the chief executive—requested a direction from the board, which in turn made a request to the minister, in relation to the decision to relocate from Edinburgh to Inverness. The minister gave such an instruction. We are not aware of any other examples.

Margaret Jamieson (Kilmarnock and Loudoun) (Lab): I make no apology for trying to get some information about East Ayrshire from the Auditor General. Your report indicates that Ayrshire has made six appearances on the case study location review shortlists, yet it has received only one relocation, and five of the locations were in North Ayrshire. Nowhere in your report do you comment on the fact that particular areas have continued to appear on shortlists or on whether weightings or scorings are changed when a body relocates to an area. Would you like to comment on those points?

Mr Black: As we record in our report, nine local authority areas featured on at least half of the shortlists that were provided to ministers in the cases that we examined. Ten local authority areas did not feature on any shortlist. There is a pattern of certain areas tending to appear more frequently than others. One might expect that to happen. There is no reason why relocations should be distributed randomly, because decisions are taken according to the circumstances of the body concerned.

Margaret Jamieson: You make no comment on whether weightings are altered once a relocation has taken place. It appears as if that is not factored in.

Mr Black: In the report, we simply report the facts. In some relocation decisions, weightings changed quite a long way into the process.

Margaret Jamieson: I want to ask about relocation packages being altered midway through the relocation process. I cite the example of the Accountant in Bankruptcy, which decided midway through the process that it needed larger premises, but did not go back to the basic criteria in order to allow new bids by authorities.

Mr Black: As I mentioned a moment ago, we did not look in detail at individual relocations, although in appendix 3 we record some basic information

about individual bodies. May we say more about the issue to help the committee?

Mark MacPherson (Audit Scotland): I can expand slightly on the appendix. We were aware that there were some challenges to the way in which the AIB examined specific locations once it had selected the general location of Ayrshire. The evidence that we saw suggested that there was a robust exchange between the Executive and the organisation about what had been done. We did not challenge every detail of the process or review it, as the organisation and the Executive appeared already to have reviewed it.

Margaret Jamieson: I am trying to make a point about the transparency of the system. If an organisation changes the square footage of its premises midway through the process, it should go back to basics so that everyone is on the same wavelength.

In exhibit 6, you indicate that the regional office of Her Majesty's Inspectorate of Education has been relocated to Ayrshire. Can you advise me where in Ayrshire it has been relocated to?

Mark MacPherson: We say in the appendix:

"Moves to Ayrshire were agreed but have not yet been implemented."

We did not seek to establish the location to which it will move.

Margaret Jamieson: So we do not know whether it will go to North Ayrshire, South Ayrshire or East Ayrshire.

Mark MacPherson: Presumably, the organisation or the Executive will be able to advise you whether a final decision has been taken.

Mr Andrew Welsh (Angus) (SNP): You said that wider benefits have not been measured so far. Is there a reason for that? Is it difficult to measure such benefits?

Mr Black: We recognise that measuring the socioeconomic benefits of a relocation is extremely challenging. My colleagues and I do not suggest for a moment that every relocation should be subject to an extensive evaluation, but we believe that more could be done than has been done in the past. We include in the report a case study of the evaluation that was undertaken of the relocation to Galashiels of the Scottish Public Pensions Agency, which should give a lot of reassurance to the Parliament and the public, as it indicates that the move was successful. For that reason, one of the key recommendations in the report is that the Executive should think about whether further evaluation of the more significant moves in particular could be undertaken.

Mr Welsh: We would obviously like the cost per job and so on to be calculated as accurately as

possible, so why is there such a wide range of estimates? How difficult is it to estimate savings and costs?

Robert Black: In my opinion, it is reasonable to expect that the Executive, working with the agencies, should be able to provide a robust costing of the implications of relocation and of the outcome, after the event. Unfortunately, that has not been the case so far, which is why one of the report's recommendations is that the Executive should consider preparing firmer costings with the agencies involved.

It is fair to say that it was quite challenging for the Audit Scotland team to procure the costing information for the small sample that we included in the report. We were grateful for the support of Scottish Executive economists in doing that in line with Treasury green book guidance on how the figures should be calculated.

Mr Welsh: I have great difficulty with this, because it looks as though the cart was definitely put before the horse—perhaps even before the horse existed. It sounds as if the removal service worked, but not much else seems to have been planned properly or thought through. The policy seems to have been introduced on a somewhat ad hoc basis, without safeguards or measurements of efficacy.

I am concerned about the criteria for identifying potential sites for relocation being introduced late in the process. I am also concerned about the ministerial authorisation letter, which looks to me like a blank cheque, with no real direction involved. Was that letter a standard one that was available to all departments? Did it use standard, formal wording, or was it a one-off for the particular circumstance?

Mr Black: For clarification, are you referring to the direction to Scottish Natural Heritage?

Mr Welsh: It is Ross Finnie's letter authorising the official to take

"such actions as you consider the Department has to take to proceed with the relocation of Scottish Natural Heritage."

That strikes me as either being a blank cheque or a safety device for the official. Was that a standard letter?

Mr Black: The Executive would be better placed to answer that question, but it strikes me that the formal, administrative wording of the letter is typical of what one might expect to see in a ministerial letter to an accountable officer authorising the officer to proceed.

Mr Welsh: It sounds as if what transpired was a reshuffling exercise, in which half the transfers came from other public organisations. Would that be a correct assertion?

Mr Black: It is certainly true that a significant number of posts were not filled by people transferring with the organisation and that quite a number of those posts were filled by people from other public bodies. We make the point in the report that that might have had consequences for those other public bodies through the loss of key staff and the need to advertise and fill their posts. However, it is possible—and, indeed, probable in some cases—that the consequential filling of vacancies meant that there were socioeconomic benefits for the receiving area generally. Unfortunately, there is little evaluation evidence to say what happened one way or another.

Mr Welsh: I just get the queasy feeling that a policy decision was taken without the consequences being thought through, hence the difficulties that have transpired. If the way in which decisions were made represents a general approach by departments or a general approach to government, it is not a good form of decision making. I am deeply concerned that the processes were not gone through and the analyses were not performed before the policy was implemented. If that is the case, it is extremely worrying.

The Convener: That is not really a question, so you do not have to answer.

Mr Black: If I may respond to the comment, I ask the committee to bear in mind that there has been only one request for ministerial direction so far. The implication is that accountable officers in charge of other public bodies were not concerned about the relocation policy to the extent that they felt it could not be delivered in a way that achieved value for money.

10:15

Susan Deacon (Edinburgh East and Musselburgh) (Lab): I have a number of questions for the Auditor General. I read his report with interest and have listened to his briefing. I will declare a dual interest in the matter. The announcement on the policy was made seven years ago, at which time—in a previous life—I was involved in drawing up the policy. Indeed, in deciding to locate the new Food Standards Agency Scotland in Aberdeen, I took the first decision under the policy. Since that time, I have followed the matter with considerable interest and have continued to support the principle that underpins the policy. It is therefore a matter of some disappointment to me that I have become one of the most vocal critics of the implementation of the relocation policy.

I seek clarification on a number of points. First, as the Auditor General pointed out, specific issues arise in respect of the SNH relocation decision. I understand that the ministerial decision to relocate

the agency to Inverness was made against the advice of the accountable officer and the relevant Executive head of department. Also, I understand that it was taken contrary to the independent advice of consultants who put Inverness fifth in a ranking of possible locations. Am I correct in saying that?

Mr Black: The organisation submitted its review to ministers in October 2002. That review ranked West Lothian, Stirling and Perth as the best options. The SNH board had rejected Inverness on the grounds of its position in the SNH office network, its distance from key partners and the proportion of staff that the board felt might leave the organisation. Ministers requested that further work be done, which was co-ordinated by the sponsor department. The organisation was not greatly involved in the costings and analysis that were undertaken before the final decision was taken and it has not fully accepted the rationale on which some of the assumptions were based.

As the committee is aware, in March 2003, ministers announced that Inverness would be the new location for SNH. At that point, at board and chief executive level, the organisation sought a ministerial direction on the move because of concerns that it would not represent best value for money. In May this year, the organisation began operating in its new offices: 55 staff members who were based in Edinburgh have either moved or will move to Inverness and staff from other locations in Scotland have also moved to Inverness. The organisation has relocated only recently, but we have no evidence thus far that the relocation process has led to an adverse effect on performance.

Susan Deacon: Thank you. I seek further clarification on the device of ministerial direction. Over the years, in other contexts, ministers have described the use of a direction as the “nuclear option”. How frequently is a ministerial direction sought or required because an accountable officer has said that a decision does not represent best value for money?

Mr Black: A ministerial direction is not frequently sought. Where an accountable officer has sought and been given a ministerial direction, the legislation provides for the direction to be copied to the Auditor General for Scotland. In that way, I am made aware of the situation in order to determine whether any value-for-money considerations result from the decision. My office has seen hardly any such directions. Although they are not completely unknown, they are infrequent.

Susan Deacon: Thank you. I move on to address a wider point about the length of time it takes—or has taken in the past—for the decision on a relocation to be reached. You spoke earlier

about the impact that such delays can have on staff morale and organisational performance.

While acknowledging that the agency did not come within the scope of your report, I will base my next question on the Registers of Scotland, which is located close to the Parliament. I think that I am correct in saying that five or six years have elapsed since that agency, which employs 1,000 people, was first identified for review. For the moment, I ask you to leave to one side the outcome of the review. In your view, is it acceptable that an agency and its staff must wait such a length of time to find out where they will work from in the future? What impact do you think that such uncertainty might have on organisational performance and staff morale in the interim?

Mr Black: Organisations that are subject to review have to go through a clear and explicit process relating to their own circumstances. A number of factors may affect how long the process takes and what the outcome is in terms of the choice of location. It would be unrealistic to expect there to be a standard timescale for that process because of the need for careful and sometimes time-consuming assessment. We have not identified a standard timescale and it might be difficult to establish a one-size-fits-all timescale, given the wide variation in the size, structure and roles of individual bodies.

Our analysis—in particular, exhibit 20 on page 32 of the report—confirms that the elapsed time can vary widely between six months and 34 months. As I may have said earlier, that may have an effect on staff morale. In the narrative, we say that the average time that was taken was 17 months. The shortest time was six months and the longest time was 65 months. The Executive might attempt to achieve greater consistency by reducing the average time and doing something about the wide variation in the timescales that have been involved in the past.

Susan Deacon: The Registers of Scotland is an example of an organisation in which there has been considerable external and internal assessment of the possible costs, benefits and consequences of relocation—two sizeable appraisal studies have been conducted. In ploughing through those reports, I have felt that the cost of conducting the appraisal studies must in its own right be not insignificant. Have you examined that issue in considering other relocations? In other words, have you examined the cost of the appraisal and assessment process, and do you think that it represents value for money, especially if at the end of the process a political decision is taken that appears not to have been made on the basis of the independent advice?

Mr Black: We have not looked at the case of the Registers of Scotland because it has not yet been decided and it was not one of our samples. I apologise that we cannot help the committee with information on that.

In some of the significant relocations, searching for options and making recommendations must be time consuming for management and must involve costs, but we have not analysed those issues specifically. I return to the point that we found no explicit evidence that the performance of organisations has dipped during the process. It is to the credit of the organisations that have been involved that, in every case we have examined, the move was implemented smoothly and efficiently.

Susan Deacon: I would like to pursue the issue that Margaret Smith raised earlier regarding the explaining of decisions. I realise that you cannot comment on something that is live but, given what you have said in your report and what the Finance Committee has said previously about the need for decisions on future relocations to be justified—including the decision regarding the agency to which I have referred—is not it right and proper, if not essential, that in making any announcement about an agency, the Executive should be transparent about the reasons for its decision? Does not the fact that appraisal studies—such as those for the Registers of Scotland—have shown that there are significant costs and risks even in partial relocations make it all the more important that the Executive justify its decision if it acts against the independent recommendations?

Mr Black: I agree with Susan Deacon. Particularly in cases of ministerial choice in which a high-ranked location was not selected, it is important to encourage the Executive to give fuller details of the reasons for its choice than have been given in the past. One of the recommendations in my report is that the Executive could do more to improve transparency by ensuring that the reasons for choosing a particular location over others that were on the shortlist are articulated clearly at the time of the announcement.

Susan Deacon: Finally, I have a couple of questions on the overall policy. Your report makes it clear that the Executive has no overall targets for the number of posts that will be relocated or considered for relocation. Given that we are seven years into the policy, that the decisions have affected more than 3,000 jobs, and that more than 4,000 jobs are under review, would it be appropriate for targets to be established sooner rather than later so that we know when the relocation process may stop? Of course, that assumes that the Executive wants to achieve an

appropriate balance between Edinburgh and other locations throughout the country.

Mr Black: If I may say so, that is getting close to a policy matter on which it would be inappropriate for me to comment. We make the point that the policy in England includes a target for dispersal of jobs and that explicit guidance and criteria have been issued there on the areas to which jobs should be relocated. However, I acknowledge that the circumstances in Scotland are different. The general concern that Susan Deacon expresses would be addressed best by the Scottish Executive.

Susan Deacon: In your work, have you found any evidence that the Executive is investigating fully the scope for relocation within its set criteria, but within Edinburgh and the Lothians? One of the criteria relates to social needs and deprivation. Of course, many parts of Edinburgh and the Lothians have significant concentrations of deprivation: I would be interested to see, for instance, a proposal for a relocation from Charlotte Square to Craigmillar. Is the Executive considering such options, which would fulfil several of the criteria while involving considerably less cost and disruption, as the movement of staff would not be so great?

Mr Black: As the committee will know, we examined only a sample of relocations. The only relocation in our sample that relates to Susan Deacon's point is that of VisitScotland, for which ministers have selected the regeneration area of north Edinburgh. We have a limited amount of evidence that the Scottish Executive is sensitive to that issue.

Robin Harper (Lothians) (Green): I express my sympathy with the concerns that Susan Deacon has expressed.

I will be brief—I have a general observation for the Auditor General and a question. The general observation is that, since I became a member of the committee, I have felt that our work is too often obstructed by the fact that we do not have the reliable statistics that we need to come to reliable conclusions on the subjects that are before us. My question is this: do you have evidence that the Executive has some kind of pro forma modus operandi that should, or does, apply to all departments on the gathering of statistics before work starts on a new strategy, and on the maintenance of the statistics while the strategy is rolled out so that proper evaluations can be made?

Mr Black: If I may say so, that question is wider than the scope of the study that we are discussing. If I heard the question correctly, Mr Harper is asking whether the Executive's general approach

is to have a structured framework within which it acquires and uses information.

Robin Harper: Yes.

Mr Black: I cannot give an assurance on that one way or another. I am sure that practice in that regard varies enormously in the Executive.

Robin Harper: It would be interesting to know more about that.

10:30

Mr Black: On the relocation policy, the new framework that was established by the guidelines that were produced last year is more robust than anything that existed previously. In exhibit 8, we attempt to summarise the guidance that the Executive put in place, which includes the provision of a range of information on staff costs and accommodation and property costs.

Mrs Mary Mulligan (Linlithgow) (Lab): We are having a morning of confessions, so, like Susan Deacon, I confess to having been involved in relocation decisions. Margaret Jamieson referred to Ayrshire; it is also the case that very few public sector jobs have come to West Lothian. It is interesting that Stewart Stevenson is attending the meeting, because the areas that he and I represent regularly compete to have the lowest figures—perhaps with the exception of the islands. Therefore, I am interested in the figures.

In response to questions from Margaret Smith and Andrew Welsh, the Auditor General referred to evidence that the Executive considered the availability of skills and expertise in areas that were being considered for relocations. Will you expand on that? How was such information weighted in relation to other elements that were being considered?

Mr Black: Mark MacPherson will help us by talking about exhibit 16.

Mark MacPherson: In all cases, a broadly similar process was followed and similar criteria were used, as we said. In exhibit 16, we show the extent to which organisations considered access to labour and access to stakeholders. In some cases, there was a combined assessment of those factors and consideration was given to access to key contributors to the organisation's business. Exhibit 16 shows that there was variation in the weighting that was given to such factors.

In the report we talk a little about what might influence a decision and the extent to which we might expect variation. I think that we also say in the report that the reasons for variation are not always clear. The Scottish Building Standards Agency said that it had to think about how it could access the technical expertise that it requires of its

staff. It was clear that the agency wanted to retain staff, so staff retention was given a greater weighting than was access to the labour market in the area to which it might relocate. The agency knew that it needed a very select group of people.

Mrs Mulligan: It is interesting that you should use that example. We will move on.

In paragraph 92, you say that at various points in the report you make comparisons with the United Kingdom approach to relocation. Did you think that the UK Government and the Executive discussed on-going and future relocation plans to ensure that there would not be competition for the same staff in a particular area?

Mark MacPherson: In our most recent discussions with the Executive's relocation policy team, we were told that the team had had more meetings recently but had always kept in contact about developments. We did not examine the extent to which such discussions influenced the Executive's strategic approach to relocation, so I cannot tell you much more about that. The Executive is undoubtedly better placed to offer you more detail.

Margaret Smith: I am looking at exhibit 11, on running costs and savings. I might be missing something, because I can see only what is in that exhibit, but it strikes me that it shows running costs and savings in detail in relation only to relocations to Dumfries, Tiree, Inverness, Galashiels and Ayrshire. However, we are not looking at any running costs or savings associated with relocations to Glasgow, which your report says account for 60 per cent of the relocations.

Anybody would agree that you would expect savings in running costs if people are moved from Edinburgh to Tiree, but it might be more difficult to prove that such savings were caused by a move from Edinburgh to Glasgow, especially if the move was from a building that is owned by the agency to one that is not—I do not want to mention any names, but I am obviously talking about sportscotland.

Do you feel that your report is as comprehensive as it should be, given that it does not seem to consider the issue of running costs and savings for 60 per cent of the relocations?

Mr Black: As I mentioned when I was introducing the report, one of the major problems that we had in our analysis was to do with the general absence of reliable cost information for any of the relocations that have taken place so far. The Audit Scotland team attempted to get a sample of organisations for which the information might be available. The six organisations in exhibit 11 were chosen principally because they were the organisations that could provide us with some information. We would have much preferred to

have used a larger and more representative sample, but we found that difficult to do. Mark MacPherson can expand on that.

Mark MacPherson: We selected a sample that would be as representative as possible of the time involved, the size of the organisations and so on. When we considered the base information that was available, we noted that two of the organisations for which we had information had relocated in Glasgow. One of those was Learning and Teaching Scotland, which is located in Dundee and Glasgow. It moved its Glasgow location from one place in the city to another. The other organisation was NHS Education for Scotland, which has not finalised its decision about which building it is going to use, which means that there is no cost information about it yet. In a sense, we had a limited palette from which to work. We had identified Glasgow locations to use as part of our sample but the information was still incomplete by the time we performed the analysis.

Margaret Smith: One of my concerns is that 60 per cent of the relocations go to one place. Because of the changes, 50 per cent of the criteria will now be based on socioeconomic factors, which means that it is likely that the trend for relocating bodies in Glasgow will continue. However, at the moment, we still have no data about whether relocations to Glasgow have represented value for money.

Mr Black: That is correct. It is for that reason that we are encouraging the Executive to improve the information that it gathers and reports in relation to future moves.

Margaret Smith: Can I ask about exhibit 17?

The Convener: Do you have many more questions?

Margaret Smith: I have just a couple.

Coming from a layperson's point of view as opposed to an accountant's point of view, I would like to know about the question of the cost of redundancies not being taken into account in the costings of relocations. Exhibit 17 says that the appraisal of the cost must be conducted in accordance with the Treasury's green book. I am sure that that is the case, but I would like to know how that enables us to see the true cost of the policy. How can the question of maintaining the status quo—or, as Susan Deacon mentioned, relocating bodies within Edinburgh to areas such as Muirhouse in my constituency—be given a fair hearing if the cost of redundancies is not taken into account?

Mr Black: As I said, the treatment of redundancy costs is not the easiest factor to explain. As Margaret Smith pointed out, when

calculating the cost per job, the cost of redundancy payments are—in line with Treasury guidance—excluded. That is because, at the level of national accounts, a redundancy payment is treated as a transfer payment. For pure economic analysis, it is not a true cost.

However, exhibit 8 on page 17 of our report summarises the guidance and instructions in the Executive's relocation guide, and under the heading "One-off staff costs" members will see that the guide says that redundancy costs, if applicable, should be included with an estimate of the "total redundancy payments". The point, of course, is that redundancy costs affect the bottom line for individual organisations.

In our report, we have tried to capture the Treasury's policy and relate it to the Executive's relocation policy. However, in accordance with Treasury guidance, our report does not include any redundancy payments in the estimates of cost per job.

Margaret Smith: How do redundancies fit into the decision-making process? Do they not fit into it at all, because of Treasury rules?

Mr Black: The Scottish Executive produced its relocation guide last summer. The Executive clearly says that the one-off set-up costs of a relocation should be assessed—that is, the costs that occur in the months following a move to a new location but which are not expected to recur. Those costs might include redundancy payments. The approach strikes me as entirely reasonable.

The Convener: This session has taken some 21 minutes longer than I had anticipated. I appreciate that members are very interested in the issue, but I ask that we wait until agenda item 9, when we will consider our approach.

Before I ask the Auditor General one final question, I suggest that we do not have our comfort break between the public session of the meeting and the private session. However, if members wish to leave the room for any reason—including the making of phone calls—I will look kindly on that. Members may wish to take that opportunity after they have asked their particular question during other agenda items.

I want to ask the Auditor General about letters of authority. When an accountable officer writes to a minister to seek an instruction, does that trigger any publication by the minister of the reason why the accountable officer must proceed? The minister must write to the accountable officer—this committee sees such letters—but as far as I can tell the letter does not have to say, "This instruction is justified by value-for-money reasons and other reasons that I, as minister, have taken into account."

Mr Black: You are correct to suggest that ministers and accountable officers are not required to give reasons at that point. However, there is a statutory requirement to inform the Auditor General so that I, in turn, may inform Parliament that a direction has been made. As a result, the direction is in the public domain and is transparent. Any party could ask questions if they so desired.

The Convener: I thank the Auditor General for giving us a briefing and for answering our questions. I also thank Mark MacPherson for his help. As I have said, we will consider our approach to this issue under item 9.

“The 2005/06 Audit of the Scottish Prison Service”

10:44

The Convener: We move to item 3 and I invite the Auditor General to give us a briefing on the section 22 report entitled “The 2005/06 Audit of the Scottish Prison Service”.

Mr Black: I am sure that committee members will recall that in both 2003-04 and 2004-05 I issued reports on the accounts of the Scottish Prison Service to inform Parliament on the provision and the contingent liability arising from the potential costs of settling court cases relating to prison conditions.

The report describes the position as it was in the previous financial year, so there are no new issues in it. Members will recall that we had quite an extensive question-and-answer session last September, when the previous report came before the committee.

The Scottish Prison Service now has better information on the potential numbers of prisoners affected and on the likely settlement values, and that information has been used to adjust the provision and the contingent liability. The 2005-06 accounts show that the provision, including related costs, now stands at £58 million and the contingent liability stands at £27 million. Last year, the Scottish Prison Service put in place an alternative dispute resolution scheme, aimed at providing a faster and cheaper way of settling personal injury cases that have been caused or exacerbated by slopping out in Scottish prisons.

The day after the section 22 report was laid in Parliament, the Scottish Prison Service issued a press release outlining proposals to settle claims involving slopping out in shared facilities. With respect to progress in upgrading the prison estate, I am aware that the Scottish Prison Service wrote last December to the Audit Committee describing the position as it was then. Slopping out continues to affect a number of cells at Polmont and at Peterhead. New accommodation is being built at Polmont, which will replace the affected cells at that facility by the end of the year.

Margaret Jamieson: I seek a point of clarification in relation to the letter of 20 December 2005 from the chief executive of the SPS, Tony Cameron, in which he indicated that there would be a further update. I would like to know whether we have had anything since then. As we have heard from the Auditor General, significant issues have been made public since the committee raised them in 2005, so the least that we could have expected is a letter from the chief executive

to keep us up to date, given that the SPS was aware that the Auditor General would be issuing a section 22 report.

The Convener: We did receive a letter from Tony Cameron, but we have not received anything since then.

Margaret Jamieson: I am thinking not only about the contingent liability aspects but about the progress that has been made at Addiewell, Polmont and Peterhead. It would have been helpful if we had had that information today. Perhaps we could gently remind Mr Cameron of his obligations.

Stewart Stevenson (Banff and Buchan) (SNP): I am obliged to members of the committee for allowing me to attend today's meeting.

It would be useful if the Auditor General were able to clarify for me and for other members his understanding of the policy that the Scottish Prison Service, in drawing up its accounts and budgets, applies to the division between provision for the consequences of the Napier case and the contingent liability, which is, of course, off the balance sheet and therefore not part of the budget.

Caroline Gardner (Audit Scotland): I suspect that my answer will not fully satisfy Mr Stevenson, but our understanding is that the auditors have looked at the way in which the Scottish Prison Service has used its developing knowledge about the likely scale of claims, and the likelihood of those claims turning into liabilities, in making the split between the provision and the contingent liability. The auditors are content both with the process that the Scottish Prison Service has gone through and with the resulting statement in its accounts. The purpose of the Auditor General's report is to update the committee on progress in that area. You will see that the figures are still changing, but at a slower rate than before, which we understand relates to the growing certainty about what the final cost to the Prison Service and to the public purse is likely to be. However, it is still founded on some uncertainty and the situation will continue to evolve.

Stewart Stevenson: Caroline Gardner has mentioned the cost to the public purse. Will the introduction of the alternative dispute resolution process mean a reduction only in the cost to the Scottish Prison Service? I understand that legal aid costs fall due to the Scottish Prison Service only if it loses a case. Given that the alternative dispute resolution process will mean that no court case will be found against the Scottish Prison Service, will that in effect transfer the costs from the Scottish Prison Service budget to the Scottish Legal Aid Board budget? Therefore, will any savings that might be made be rather less than

would appear just by looking at the SPS accounts?

Caroline Gardner: We would need to look again at the overall figures on which the section 22 report is based to be able to answer that properly. However, I think that the answer in broad terms is that the use of alternative dispute resolution has the potential to reduce the cost both to the public purse as a whole and to the Scottish Prison Service by reducing the amount of legal aid costs that might be imposed against the service in a successful claim by a prisoner. However, we can look again at the matter if desired and provide in writing a bit more information and background.

Stewart Stevenson: I broadly accept that the approach that is being taken is likely to reduce costs, but it would be useful to receive that information in writing. Has Audit Scotland formed a view as to whether the new approach will make a substantial reduction in the legal costs that are associated with such claims, especially those that fall to the litigant rather than the defender? If it has not formed a view, does it intend to do so? Clearly, the settlements are likely to be more modest than they might otherwise have been.

Mr Black: It is certainly true to say that, in the initial Napier case, the SPS incurred significant costs of up to £1.5 million, which included almost £1 million in respect of the legal aid that Mr Napier received in bringing his action. There must be a very strong prospect that the total cost to the public purse will be reduced by the alternative dispute resolution procedure.

Stewart Stevenson: Has the SPS given any indication as to the scale of the reduction? Clearly, £58 million represents a quarter of the direct running costs of the service and 17 per cent of the overall cost. If, per misadventure, the contingent liability were to crystallise as a true cost, those proportions would rise.

Mr Black: The answer to that question would depend on key assumptions about the number of prisoners and former prisoners who would be likely to make claims under the procedure. It would be speculative for me to answer that. I suggest that the question would be more appropriately answered by the Scottish Prison Service.

Stewart Stevenson: Thank you, convener, and thank you, Mr Black.

Susan Deacon: I seek clarity on some of the timescales. In paragraph 9 of the section 22 report, the Auditor General summarises the progress that has been made in improving conditions and reminds us that the practice of slopping out has been eliminated except at Peterhead and in one hall at Polmont. Is the Auditor General in a position to clarify when we might expect to see that position change? Do we

know when the new accommodation at Polmont will be provided?

On the accommodation at Peterhead, I note that the report states:

"A consultation exercise has been conducted on the future of prisons in the north-east of Scotland, the next stage of which involves consultation with the new Community Justice Authorities."

Knowing how long consultations can last, and knowing that some difficult decisions will need to be taken at the end of that process, does the Auditor General have any concerns about how long it will take to reach those decision points? Is there an issue with the Scottish Executive's continued exposure to risk if it takes a considerable time to reach those decision points and thereafter to implement whatever changes are required to the prison estate?

Mr Black: I suggest that those questions would be best answered by the Scottish Prison Service, which has undertaken to update the committee from time to time on these matters. The best that I can offer the committee is to say that we have been advised by the service that the new accommodation at Polmont that is mentioned in the letter of 20 December should be completed and available by the end of this year. The future of Peterhead prison will be influenced by the outcome of the consultation exercise on prisons in the north-east of Scotland that is under way. We have no information on how long that is expected to last.

Mr Welsh: I have great difficulty clarifying what we know as opposed to what we do not know. You say:

"The Scottish Prison Service has been ... dealing with the large volume of litigation ... The majority of cases have been suspended pending the outcome of a number of 'illustrative cases' through the court system to clarify the law and the potential liabilities for the Scottish Prison Service."

I take it from that that no one knows what the cost will be. You go on to say:

"Most of the actions raised are funded by legal aid ... The Scottish Prison Service has discussed with the Scottish Executive Justice Department the means of resolving disputes between prisoners and the Scottish Ministers and concluded that appropriate arrangements are in place, but that the position should be kept under review."

Will you explain that? Is that a reference to the alternative dispute resolution procedure, or is another scheme being considered? We are looking through a glass darkly. It is difficult to get clarity, especially as we have not received information from Tony Cameron.

Mr Black: If the committee wishes to pursue these matters, I would encourage it to obtain the most up-to-date and reliable information that it

can, the source of which must be the Scottish Prison Service.

The Convener: I remind members that, under item 9, we will discuss our response to the report, so it will be possible for members to propose that we write to Tony Cameron.

Mr Welsh: I have difficulty clarifying what is happening. It appears to me that public money is being spent through legal aid to chase the consequent spending of public money. Court decisions are awaited, but the problem will not be solved until the new prisons are built. The situation seems to be an absolute mess.

The Convener: I do not think that the Auditor General can add to what he has already said.

Stewart Stevenson has another small point.

Stewart Stevenson: I just want to make the committee aware that it is my understanding that last week the SPS wrote to the community justice authorities, which came into being only on 1 September, about the north-east prisons consultation. The purpose of the letter was not to consult the community justice authorities—the local authority criminal justice and social work departments had already responded to the consultation—but to seek their views on a timescale to November for the implementation of any recommendations that derived from the consultation. The community justice authorities are not being consulted formally. The committee may wish to confirm that this Opposition member's statement is correct in every detail and take its own view, but that is my understanding of the situation.

The Convener: Thank you for that briefing.

We have finished all the questions on item 3, so I thank the Auditor General for briefing us on his section 22 report.

“Scottish Executive: supporting new initiatives” and “Leadership development”

10:58

The Convener: Item 4 is consideration of the Executive's response to our report on its “How Government Works” publications “Scottish Executive: supporting new initiatives” and “Leadership development”. I invite comments from members.

Margaret Jamieson: The response is not as concise as the one that we commented on at our last meeting—it goes on a bit. I had hoped that someone would have got the message that we wanted responses to be concise. Perhaps I am being uncharitable, but I think that in some areas the Executive has just cut and pasted its responses. That is how the document read to me.

Mr Welsh: I find the Executive's response and the beautifully obscure English in which it is written absolutely disgusting. In our report, we stated:

“The Committee considers that the Executive lacks a clear set of criteria, common to all Executive departments, for the use of initiative funding.”

In its response, the Executive stated:

“We are committed to evolving all aspects of the way we do business”.

It says that it is aware that regular reviews are needed and talks about engaging in a wide range of activity, which includes strategy, review and piloting. In other words, the Executive describes a continuing process of development, but does not commit to providing the assessment criteria that we asked for. The response contains beautifully obscure English, but it gets us nowhere.

I could make similar observations on the rest of the response, because it is of a piece.

11:00

Susan Deacon: I will make a positive observation first. Given that we explored the subject at length when taking evidence, it is important to note that the Executive has decided to commit to the Scottish Leadership Foundation additional funding of £1.5 million between 2006 and 2009. At one level, that is not a huge sum, given the expenditure on training and development generally, but it could have a significant impact by leveraging greater activity throughout the public sector. I would be interested in pursuing that—if that is how we proceed—to try to find out what impact the Executive and the Scottish Leadership Foundation expect that additional resource to have

and how it might be used to lever further activity and investment by public sector bodies.

On a slightly less positive note, I am bound to say that the continued exchange and discourse on the issue are Orwellian at times. Much of the process that is described is the antithesis of what we recognise good leadership practice to be. If the best that the Executive can point to as a way of pursuing effective leadership throughout the public sector is yet more dialogue events, which I presume relate to the reform agenda, it does not strike me that we will achieve the momentum, the dynamic or the outcomes that we would like. When Tom McCabe made his statement on public sector reform, I asked about leadership. The response was perfectly positive, but I am still left asking, “Where's the beef?”

Mr Welsh: A straightforward question is how the Executive judges outcomes. The Executive says that it consults on policy funding, but that forces me to ask where the assessment criteria or measurements of outcomes against resources are deployed.

The Convener: I must draw your attention to the point at the foot of page 2 of the response, which says:

“The creation of a formal set of criteria for the use of initiative funding, even assuming that were possible, would be of no real assistance in the decision making process.”

Mr Welsh: I was coming to that.

The Convener: Good.

Mr Welsh: That statement raises the question why not.

The Convener: The Executive says that it does not think that criteria would be of any use.

Mr Welsh: The fundamental question of what constitutes an initiative in the context of Scottish Executive business has never been resolved, which leads me to wonder what on earth is going on.

The Executive mentions objective setting. If objectives are set, surely a way of measuring whether the objectives have been met and at what cost must exist. That is what we asked about.

I return to outcomes. In response to our recommendation that key staff should have the necessary knowledge and skills, the Executive talks about professional skills for government, skills for success, better policy making, facilitation skills for stakeholder engagement, analytical services divisions, the centre of expertise and so on. I am forced to ask why, with all that, the system does not work wonderfully.

The Executive says that its

"Guide to Policy Evaluation strongly recommends the publication of the results of evaluation."

We recommended that the results should be made public, but the Executive only recommends publication. All that we want to know is whether we are obtaining value for money. That should be clearly set out. We asked a straightforward question and got a great deal of waffle back, which is totally inadequate.

We are talking about the advisers to our policy makers. If whoever is in government is not well advised by advisers, we will have bad policy. The lesson is that our whole system must sharpen up to ensure that ministers are given the best advice to allow them to make decent policy. We have seen examples of failure to achieve that.

Robin Harper: Sections 12 and 13 of our report were on delivering objectives. When the Executive talks about pre-expenditure assessments and

"the embedding of PEAs in the Executive's policy making process",

I think of princesses and mattresses, but I do not think that they are going to be particularly uncomfortable because the whole thing is so vague. I go all the way through it and do not see the word "statistics" anywhere. Evidence gathering is mentioned, but there is no evidence of any structure being imposed in that section. That is just a comment.

The Convener: Auditor General, do you or your team have any observations to add?

Caroline Gardner: Members might find it useful to know that the Executive's leadership development course for senior staff is being developed as we speak. We have had the opportunity to do some joint work on that with the Executive, so we have direct experience and feel that it is developing very well at the moment.

The Convener: Thank you.

Now, we have to decide how to respond to the Executive's response. I sense that members would like to draft a letter articulating our concerns and possibly include a copy the *Official Report* of this meeting. Is that sufficient for members at this stage? Obviously, once you have seen the letter, you can tell me or the clerks whether it is adequate.

Margaret Smith: I have an observation to make. Reading the Executive's response, we can clearly see where two of our agenda items have come from. The first one is the relocation report that we have just considered, which says that there is no clarity about what the Executive is trying to achieve and how it is going about achieving it, and that there does not seem to be any monitoring of

changes. The second one is the national health service consultant contract; I appreciate that there is a United Kingdom dimension to that but, in essence, the problem is the same.

Why is that the case? The answer is contained in this document. I hope that the committee's response will reflect the comments that members have made because I believe that we are genuinely concerned. That concern might be expressed in a certain way at committee, but behind that is a genuine concern that the people who are supposed to be driving the civil service forward are going round and round in circles.

Mr Welsh: It goes to the heart of good government. We now have a Parliament, but unless it has good back-up and our ministers are well advised, Scotland will not have the good government that it should have. It is a very important question that has to be answered.

Susan Deacon: I have a practical point to make. Recently we had an example from the Education Department in relation to the McCrone—

The Convener: Are you not thinking of the response to our report on Inverness College?

Susan Deacon: I stand corrected. I recall that we found the response to be very helpful. It was concise but focused and it addressed the issues about which we asked. Sometimes the responses that we get cause problems because of their style. Perhaps they are in danger of masking some of the progress that Caroline Gardner has highlighted, for example. I concur with Margaret Smith. We are genuinely concerned that there should be progress in these areas. I wonder whether something could be done to feed back the view that we have received responses from the Executive that we are comfortable with. However, we have received others in a range of different policy areas in which, even if the Executive is not setting out to be woolly and unspecific, that is certainly how it comes across to us—that is in nobody's interests.

The Convener: I take on board what you say. It had occurred to me and, indeed, Margaret Jamieson mentioned it at the outset. To be fair, given that this response was signed off on 11 August, its layout could not have been affected by our discussion of the Enterprise, Transport and Lifelong Learning Department's response to our report on Inverness College.

Nevertheless, it is important that, once a committee receives something that it likes and thinks is the way that something should be done, that should be encouraged as best practice. That is a job for the committee to consider not just as a legacy issue, but before the Parliament is

dissolved. We can discuss the matter at another time, but you make a fair point.

Can I have the committee's agreement that we will draft a letter in response to the Executive's response?

Members *indicated agreement.*

“Tackling waiting times in the NHS in Scotland”

11:10

The Convener: Before we move on to agenda item 8 in order to accommodate the minister, I am keen to take agenda item 5, which is consideration of the Executive's response to the committee's report on “Tackling waiting times in the NHS in Scotland”. I invite members to comment.

Margaret Jamieson: At the risk of repeating myself, I note that there are a number of areas in which there has been agreement with the committee's recommendations, and I wonder whether there needs to be a running commentary on why that agreement exists. There may have been an overlap between the production of the responses that we are considering today and our saying that we liked the new style of response, but we need to get a bit sharper about how Executive departments communicate back to us. That might reduce the amount of paper that each of us has to read through.

The Convener: That is a point well made. Are there any further comments from members?

Members: No.

The Convener: Are there any comments from the Auditor General and his team?

Mr Black: We have no comments to make.

The Convener: Okay. Do members agree to note the response?

Members *indicated agreement.*

Subordinate Legislation

Construction Contracts (Scotland) Exclusion Amendment Order 2006 (Draft)

11:12

The Convener: We move on to agenda item 8. We will take agenda items 6 and 7 afterwards.

Agenda item 8 is consideration of the draft Construction Contracts (Scotland) Exclusion Amendment Order 2006. Members have copies of the draft order, the accompanying explanatory note from the Executive and the relevant report from the Subordinate Legislation Committee. I welcome to the meeting Tom McCabe, the Minister for Finance and Public Service Reform, and his officials. Lawrie Anderson is a senior policy adviser and Andrew Caskie is a senior project adviser; both are from the Finance and Central Services Department.

For the benefit of members of the public and the press, I will explain how the draft order will be dealt with. I will ask the minister to introduce it and will then ask members whether there are any issues relating to it that they wish to clarify before any formal debate begins. Members are asked to note that that is the point at which they should ask any technical questions on the draft order in order that officials can respond, as officials cannot participate in any formal debate. I will also invite the Auditor General to raise a point of clarification in relation to the Auditor General's relationship with the draft order.

Once clarification has been given, or if members do not have any questions, I will ask whether any member wishes to debate the draft order. The minister will open any debate by moving motion S2M-4735, that the committee recommends that the draft order be approved. Finally, I will put the question on the motion.

I welcome the minister and ask him to introduce the draft Construction Contracts (Scotland) Exclusion Amendment Order 2006.

11:15

The Minister for Finance and Public Service Reform (Mr Tom McCabe): Good morning. Thank you for giving me the opportunity to come along and say a few words on the draft order. I ask the committee to support the motion and therefore to recommend approval of the draft order, which amends the Construction Contracts (Scotland) Exclusion Amendment Order 1998. If the draft order is approved, the change will bring consistency in the arrangements for the construction industry and will align the

arrangements in Scotland with those that are already in place south of the border.

The Housing Grants, Construction and Regeneration Act 1996 requires construction contracts to include provisions to ensure the prompt payment of contractors and speedy adjudication of disputes. Section 106 confers powers on the secretary of state to exclude, by an order, certain categories of contract from the operation of that act. Following devolution, that power is now exercisable by the Scottish ministers. We consider that we need to revise the definition in article 4(2)(c) of the Construction Contracts (Scotland) Exclusion Order 1998—which sets out the public bodies that are excluded—to ensure that the definition reflects the current accounting and audit arrangements for Scotland.

Sub-subparagraphs (ii) to (iv) of article 4(2)(c) exclude bodies by reference to the accounting and audit treatment of those bodies. However, following devolution, the accounting and audit arrangements in the public sector generally were altered so that the National Audit Office no longer dealt with the accounts of Scottish devolved bodies. The intention of the draft order is that all such contracts that public sector bodies in Scotland award should be excluded from complying with the requirements in part II of the 1996 act. The exclusion for bodies in the Scottish public sector will be achieved by adding to article 4(2)(c) those bodies whose accounts are audited by auditors who are appointed by the Auditor General for Scotland.

The draft order is technical. I ask the committee to support the motion to introduce parity of approach for the construction industry.

The Convener: I invite the Auditor General to make any comments.

Mr Black: In essence, the draft order uses the audit arrangements for contracting parties as one way in which to define excluded contracts. There is no impact whatever on my auditing powers. Therefore, the proposal seems entirely reasonable and I have no difficulty with it.

Susan Deacon: I have no difficulty at all with the proposals, but I have a general question. As the minister is here, I will draw upon his knowledge. I am curious about why the draft order has come before us now, as there must have been earlier stages in the devolution process at which similar changes were needed to reflect the changed arrangements.

Mr McCabe: That is absolutely right. In essence, the issue was missed at devolution. The anomaly that I have explained came to light during the on-going review of the construction contracts

arrangements. We felt that we should correct it as soon as possible.

The Convener: As there are no more questions, do members wish to debate the draft order?

Members: No.

The Convener: Okay. I invite the minister to move motion S2M-4735.

Motion moved,

That the Audit Committee recommends that the draft Construction Contracts (Scotland) Exclusion Amendment Order 2006 be approved.—[*Mr Tom McCabe.*]

Motion agreed to.

The Convener: I thank the minister and his advisers for their time.

Scottish Executive (Progress Report on Committee's Recommendations)

11:18

The Convener: We now move back to agenda item 6, which is on the Scottish Executive's progress report on the committee's recommendations. I will give members a chance to find the papers for this agenda item—I say that because I cannot find mine, having jumbled them all up.

We have before us a report that the Executive has submitted on its progress on a range of the most significant recommendations that have resulted from the committee's inquiries during session 2. The report is extensive. The aim in seeking such a report was to capture the impact that the committee has had and to begin to consider how that can be evaluated. The request was linked to the possibility that we might at some stage have a debate in the Parliament, although that is now unlikely.

Susan Deacon: The clerks are to be commended for having compiled the report, never mind all the other work that went on around it. It is interesting for us as members to remind ourselves of the range of areas that we have covered.

My only specific comment is that there is still more that we could do, and more that the Executive could do in responding to us, to push questions and answers towards outcome measures. We have done that successfully in some areas, but we could still do more.

The Convener: If members wish, the progress report could become part of our discussion on the committee's legacy paper. It could also be covered at our forthcoming away day.

Does Audit Scotland have any comments to make?

Mr Black: No.

The Convener: Fine. We will note the progress report and move on to the next agenda item.

Audit Scotland (Study Programme)

11:21

The Convener: We have a paper on the study programme, to which members have made a number of contributions. Members will notice that there are question marks next to some of their suggestions for study topics. It might be helpful for members who have made suggestions to elaborate on them or give us some sense of priority if they have made more than one.

Susan Deacon: Given that we have submitted suggestions, it might be helpful to hear from Audit Scotland.

The Convener: We will do that, but I just wanted to check that members who have contributed to the document had nothing further to say about their suggestions. If not, we will move to the Auditor General.

Mr Black: I invite Caroline Gardner to respond.

Caroline Gardner: I want to outline the process that we are following. As well as asking the committee for its views on our future study programme, we have consulted widely across the public sector and further afield over the summer. That consultation period is drawing to a close, and we are pulling together people's comments with what the committee has suggested. We are also having meetings with people such as Sir John Elvidge and other key players to ensure that we have an informed debate.

We would like to take the comments that the committee has usefully provided to us, perhaps follow up on a couple with individual members to get under the skin of the particular concerns and then play all of that into a draft proposal for the programme. We will ask the Auditor General and the Accounts Commission to approve that proposal in late October or early November, which will allow time for the work to be done.

If members are content, we would like to reserve the option of coming back to them to get a more detailed understanding of the thinking behind their comments and to explain how we might be able to take account of them in designing the study proposals and programme as a whole.

The Convener: Thank you.

Mr Welsh: Two study topics that stand out for me are the NHS dental service and affordable housing. Those topics cover major and practical problems that I have had to deal with in my constituency. If practical solutions could be found to those practical problems, it would be of great assistance to many people.

Mrs Mulligan: I do not disagree with any of the suggestions, because each has its merits and covers an issue that we as MSPs are aware of locally and in Parliament.

I want to comment briefly on Susan Deacon's suggestion for a themed study on investment in children, families and early years. It caught my eye because so many different avenues would lead into it. Many different departments and people outside the Parliament have a role in that area and use public funds to provide services, but there does not seem to be any way of pulling that together to set targets, invest in them and monitor the results.

I suspect that, if we get into the issue, such a study would take years rather than months because so much is involved. However, if we are serious as a Parliament about making life better for people in Scotland, this issue must be at the heart of that. I congratulate Susan Deacon on pulling her suggestion together.

The Convener: Do members have further comments?

Margaret Smith: I want to give my backing to two or three of the topics that Susan Deacon suggested, particularly the one on affordable housing. I also want to back up what Mary Mulligan just said about investment in children and families, which I think is an important issue and probably one of the difficult ones to tackle because much of the payback will be in the medium to long term. I do not know whether that would make it difficult to deal with the issue in a report, but we should consider it in some way.

I also want to pick up on Susan Deacon's suggested topic of regeneration. I know from my constituency that that is a fraught issue that has different strands, one of which is people's perception of regeneration. Communities perceive regeneration as the delivery of local jobs to local people and so on, which might not be Government's view of regeneration. The task is to consider regeneration in practical, outcome-based terms and to assess what has and has not worked.

Regeneration is an area in which we can go round and round—I was going to say round and round the houses, but we have to build them first, and that is regeneration. We can talk a lot of warm words about it, but not really achieve anything. Therefore, it is a good idea to focus on what has and has not worked, and on what has been done practically to get around issues that affect regeneration. For example, at the weekend I attended a meeting about regeneration in north Edinburgh, which we discussed earlier. One issue that cropped up is how we get local jobs for local people there when the biggest regeneration in

Scotland is taking place on their doorstep. The area has not achieved as much as other places have, such as Dundee, which has done good work on regeneration.

There are examples of best practice around the country, but they do not seem to have been shared. That means that five years down the road in a project, people could turn round and go, "Oh, well, we haven't actually got to where we wanted to be." A lot of work could probably be done to share good practice on what is an important issue for many of our communities.

Robin Harper: Three of us suggested reducing reoffending as a study topic. The issue is not just about prisons; it is about the operation of and investment in all the alternative programmes and about assessing the value for money of what happens inside and outside prisons to try to reduce reoffending. The issue is a big one and there is huge potential for making genuine progress in reducing reoffending and saving money. I would like the issue to be regarded as at least a medium priority rather than its being left out in the cold. We could do an across-the-board consideration of all the programmes for reducing reoffending that take place inside and outside prison. We could make an interesting analysis of best value.

The Convener: I have not heard the word "holistic" for a long time, though I sensed that it was about to be spoken. Are there any further comments or points?

11:30

Susan Deacon: I just want to say for the record that, as nice as it was to be credited for coming up with some of the ideas, they were actually Audit Scotland's proposals, to which I responded. However, of the topics that I suggested, I am pleased to hear colleagues speak positively about the idea of doing something about investment in children and early years. However, I note that nobody commented on my other suggestion, which was a new suggestion about whether work should be done on the cost of democracy and regulation. I will leave that suggestion hanging for now; the only other thing I want to say about it is that it ties in with a comment in the main body of the Audit Scotland document and that I feel strongly about it.

Ensuring that people are not overaudited, inspected and regulated is a big issue. I know that the Auditor General shares that view; I have heard him give a thoughtful examination of the issue—you have also done that, convener. It is worth putting on record that this committee is sensitive to the issue. I think that all of us want any audit process to add value and knowledge to the

organisations concerned. I worry about crossovers between, for example, NHS Quality Improvement Scotland and HMIE with regard to the number of times that people are asked to fill in forms and answer questions about their work and so on.

Caroline Gardner: I have two brief points to make. First, I think that several members put their finger on the work that we are trying to do just now, which is to identify areas to look at that are broad enough to have an impact but which are also manageable. That would allow us to come up with something concrete rather than make broad generalisations that are not of much practical help.

Secondly, I thank Susan Deacon for the reminder about joint working across the world of scrutiny. We are committed to that already. We think that our proposals take account of the work that other bodies have planned. Forthcoming studies, such as that on hospital catering, will be done jointly with NHS QIS. We seek to keep the issue of joint working in mind when planning all our work.

The Convener: Good. I think that that has proven to be a useful discussion of the Audit Scotland future study programme. I thank members and Caroline Gardner for that.

We have made up significant time, to the extent that members can now have a comfort break. We are about to move into private session, which was planned for 11.45—look how well you have done. I must thank the minister in particular for helping us with that. I suspend the meeting and we will reconvene in private session at 11.45.

11:32

Meeting suspended until 11:46 and thereafter continued in private until 12:52.

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