

AUDIT COMMITTEE

Tuesday 21 November 2006

Session 2

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AUDIT COMMITTEE

16th 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

Mr David Davidson (North East Scotland) (Con)

Marlyn Glen (North East Scotland) (Lab)

Eleanor Scott (Highlands and Islands) (Green)

Mr John Swinney (North Tayside) (SNP)

*attended

THE FOLLOWING ALSO ATTENDED:

Mr Robert Black (Auditor General for Scotland)

Nick Hex (Audit Scotland)

Nicola Hudson (Audit Scotland)

Barbara Hurst (Audit Scotland)

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 21 November 2006

[THE CONVENER *opened the meeting in private at 10:36*]

10:43

Meeting suspended until 10:44 and continued in public thereafter.

Decision on Taking Business in Private

The Convener (Mr Brian Monteith): I open in public the 16th meeting in 2006 of the Scottish Parliament's Audit Committee. I welcome members of the committee to the meeting, as well as the Auditor General for Scotland and his team, members of the public and the press. We have received apologies from Susan Deacon, who is not well and is unable to attend. I remind everyone to turn off their pagers and mobile phones so that they do not interfere with the public address system.

Item 2 is to decide whether to take items 6, 7 and 8 in private. Item 6 is consideration of the arrangements for our inquiry into the relocation of Scottish Executive departments, agencies and non-departmental bodies. Item 7 is consideration of the arrangements for taking evidence in our review of community planning partnerships. Item 8 is consideration of our response to the briefing that we will receive shortly from the Auditor General on the Scottish Qualifications Authority. Is the committee agreed that we will consider items 6, 7 and 8 in private?

Members *indicated agreement.*

"Performance management in the Scottish Qualifications Authority"

10:46

The Convener: Item 3 is a report on the Scottish Qualifications Authority. I invite Barbara Hurst, on behalf of the Auditor General, to brief the committee on his report entitled "Performance management in the Scottish Qualifications Authority".

Barbara Hurst (Audit Scotland): The report comments on the extent to which the SQA has recovered from the difficulties that it faced in 2000. The committee will remember that that was when problems in processing exam results led to incomplete and inaccurate results affecting around 17,000 candidates. We found that, not only has the SQA recovered from 2000, it has gone well beyond that and is demonstrating a clear commitment to continuous improvement. The confidence of key stakeholders in the SQA, such as schools and colleges, has been successfully restored as a result. The report covers two main areas: developments in the SQA since 2000, including expenditure trends; and the SQA's performance management framework and its use of performance information.

After 2000, the SQA developed a clearer understanding of the systems and processes underlying its core functions. As a result, its approach to managing the cycle of activities leading to the issuing of exam certificates has improved significantly. It has carried out reviews of its staffing, its portfolio of qualifications, and the performance of its business areas. The principles of good governance are clearly evident within the SQA, although it could do more to develop its management of risk.

That recovery has been led by the board and the executive team, who developed a hands-on approach to management following 2000, with detailed monitoring of and involvement in all stages of activity. That was understandable, given the circumstances. However, now that confidence in the core functions of the SQA has been restored, it is probably time for the board to step back a bit and take a more strategic role.

The SQA's expenditure has risen by 69 per cent over 6 years, from around £30 million in 1999-2000 to £52 million in 2005-06. Income that is generated by exam entry charges has increased by 50 per cent over that period, and Government funding has increased significantly, although it has fallen from a peak in 2003-04. That increase in expenditure reflects not just the costs of recovering from the problems of 2000 but other

factors such as additional assessment costs arising from the more diverse range of qualifications that is now delivered by the SQA. The continuing modernisation of its processes could offer some opportunities for efficiency savings.

The second area that the report covers is performance management. The SQA has put in place a sound corporate planning process that has supported the development of clear objectives. Current performance indicators, however, give an incomplete picture of the SQA's performance, and more work is needed in that area. In recognition of that, the SQA is developing a balanced scorecard approach, which is due to be presented to its board later this month. Although over the past few years the organisation has made progress in costing its activities, there is still scope for further development to enable it to understand better its cost base; to benchmark its performance more effectively; and to have better information for the setting of charges for qualifications.

The organisation has already undertaken some limited benchmarking with the Qualifications and Curriculum Authority in England. As part of the review, we also carried out a high-level benchmarking exercise that compared the SQA with similar organisations elsewhere in the UK. It is fair to say that the exercise gave rise to some difficulties. However, the different bodies clearly have an appetite to share information and good practice.

In conclusion, the SQA has made significant progress since 2000. That said, some areas could be improved and our report is aimed at helping the SQA to identify them.

We are happy to take members' questions.

Robin Harper (Lothians) (Green): I am sorry; I have not been initiated into some of these terms. What is a balanced scorecard approach?

Barbara Hurst: I apologise for using such jargon. A balanced scorecard approach attempts to get a rounded picture of performance not by focusing on only one set of indicators, such as cost, but by taking in a whole range of indicators that might also include service quality and customer satisfaction.

Again, I apologise.

Robin Harper: That is okay. I did not mean to be critical.

Mr Andrew Welsh (Angus) (SNP): The report says that there is a need for "strategic level thinking"—in other words, the SQA has not been able to see the wood for the trees. However, its management has needed to be hands on in order to solve specific problems. You seem to be saying that although the SQA is doing its overall business

better, it is still not clear about its overall direction. Who should oversee the organisation's overall direction and how should that happen?

Barbara Hurst: I hope that my team will bear me out on this, but I think that what has happened is understandable. The SQA faced significant problems in 2000 and, as the board wanted to get things right, it took a very hands-on approach. We now feel that the board should take a step back, take a more strategic view and try to formulate a vision for the organisation. That is not to say that it should take its eye off the ball with regard to the processes, but that is a job for managers rather than for the board.

Nicola Hudson (Audit Scotland): It is worth stressing that, in the past few months, the board has issued papers in which it recognises that it needs to take a more strategic approach. We need to encourage it to have the confidence to move further in that direction, even though we appreciate that its response in 2000 was understandable and necessary.

The Convener: Given that the SQA's chief executive has now moved on, is it fair to expect the board to step back? Instead, would we not expect it still to keep a close eye on how the organisation is managed until a new chief executive takes up the post and beds in?

Nicola Hudson: The organisation is in a very much stronger position and is certainly not dependent on one individual. As all the systems are in place and operating effectively, we are not at all concerned about the change in chief executive.

Nick Hex (Audit Scotland): I should also point out that an interim chief executive, who was part of the original management team, has been put in place.

The Convener: That is reassuring.

Margaret Jamieson (Kilmarnock and Loudoun) (Lab): I find it very encouraging that, for once, a board saw that it could play a role in turning round an organisation. Are you satisfied that, once the board cuts its ties with the day-to-day operation of the organisation, an abundance of senior managers will continue to guide it properly and link aspects such as performance management back to the board's key objectives?

Nicola Hudson: The point that we were making is that the day-to-day running of the business is so much more secure than it was in 2000 that specific individuals are less critical to it. Part of the issue in 2000 was that the processes were very dependent on those individuals. Now the business is able to operate successfully without key individuals. Leadership is important, but the body of the

organisation runs itself and processes are much more effective.

Barbara Hurst: It is fair to say that 2000 was a traumatic experience, both for the students and for the organisation. I do not think that the SQA would willingly put itself back in that situation.

The Convener: It is a new board, much reduced in size.

Mr Welsh: I heard one of you use the word “modernisation”. My question is about forward thinking and change. How well equipped is the SQA to meet the needs of wider society and the economy by providing new subjects for examination, for example?

Barbara Hurst: Nick Hex will deal with that question, as he knows more about the detail of the subjects on offer.

Nick Hex: In the report, we point out that the increased expenditure relates partly to modernisation of the processes and partly to the fact that an expanded range of qualifications is on offer to schools and colleges in Scotland. We have reported that there is confidence among stakeholders and users of the qualifications that the SQA is providing a good service and is able to address their needs.

Nicola Hudson: We have referred to the portfolio of qualifications. It is not always a question of adding qualifications—the SQA also examines whether all the existing qualifications need to be delivered. There are opportunities for savings, if qualifications are no longer considered necessary. The SQA is also looking at new ways of delivering services. Radical options that are being considered include online assessment.

The Convener: We have no further questions on the SQA. Under item 8, the committee will decide how it intends to dispose of the issue. I thank the team from Audit Scotland for answering our questions.

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

10:58

The Convener: Item 4 is consideration of a response from the Scottish Prison Service to the Auditor General’s section 22 report on the service and a letter that we sent to the service. The response is from Tony Cameron, the chief executive of the SPS, and has been circulated to members. I invite members to comment on the response. This is a continuing issue and members may feel that we have had enough exchanges of letters on it. I will take members’ advice on the matter.

Margaret Jamieson: We have got as much as we hoped to get out of the SPS at this stage. However, we may want to flag up the issue in our legacy paper, because it will not go away in this financial year.

Mrs Mary Mulligan (Linlithgow) (Lab): I agree. We have received a deluge of information on the matter, but any future committee will want to take an interest in outstanding issues such as compensation and the building of new prisons. I am sure that we will come back to those issues in the future.

The Convener: The fact that no members wish to comment shows that they welcome the response that we have had, which provided the further information that we sought. Nevertheless, there will be other issues to consider, given that court settlements are pending. Naturally, the committee will want to keep an eye on those issues and we might include comments or ideas on them in our legacy paper at the end of the session.

Post-legislative Financial Scrutiny

11:00

The Convener: Item 5 is post-legislative financial scrutiny. I draw to members' attention the letter from the previous convener of the Finance Committee, Des McNulty, on the Finance Committee's concerns about post-legislative scrutiny and, in particular, the financial memoranda that accompany bills. The letter suggests that such memoranda are not provided in a way that allows the Finance Committee to bottom out the costs and that unless there is some form of post-legislative scrutiny further down the line, there is no incentive for the Scottish Executive departments to make them accurate.

That matter falls partly within our remit, because Audit Scotland is involved in the scrutiny of expenditure and service delivery following legislation. I did not know that the letter was coming to us, so I can only presume that the Finance Committee's intention is to involve the Audit Committee, which has a direct role in post-legislative scrutiny, in work to ensure that the financial memoranda that are produced before legislation is passed are adequate.

The letter proposes that the Audit Committee be a joint sponsor of a seminar to discuss these matters. I invite comments from members and Audit Scotland.

Margaret Jamieson: I would have thought that the Finance Committee would have enough to do without considering the work that is, quite properly, within the remit of the Audit Committee. We should refer it to some of the reports that we have produced during this session—we could even direct it to our report on the McCrone agreement, which we discussed this morning. We make recommendations following on from the Auditor General's work in all Executive department areas. It is clear to me that the Finance Committee has not paid due attention to those reports. The theme that runs through them all is that we do not believe that any of the Executive departments makes its calculations on an appropriate basis in the first place.

I have read the *Official Report* of the Finance Committee meeting at which the issue was discussed. The Finance Committee might have issues with the way in which it was treated by the permanent secretary, but it should not drag us into its fight; it should deal with the matter itself.

We need to make it abundantly clear that the Audit Committee is set up for a specific purpose, which should remain as it is. We should not get

embroiled in other aspects of the Parliament's work. The convener used the phrase, "Their tanks are on our lawn."

The Convener: Not today.

Margaret Jamieson: No, but previously. We have to clarify the role of the Finance Committee and the role of the Audit Committee.

Margaret Smith (Edinburgh West) (LD): The suggestion is being made by some members that, instead of considering a specific piece of proposed legislation from the Education Department, we should perhaps look at one from the communities portfolio. I agree with Margaret Jamieson's comments about the committee's remit. I suggest that the convener takes the matter to the new convener of the Finance Committee for discussion.

I would not like the baby to be thrown out with the bath water. The letter touches on the whole area of post-legislative scrutiny. Those of us who have been here from the start are now beginning to appreciate the need to engage seriously in post-legislative scrutiny in the third session. Some committees have only just started to do that. It is good that they have started to do so, but it is ongoing work for the Parliament in its third and subsequent sessions. It would fit in quite well to undertake a piece of work to consider how financial memoranda are put together and to examine the wider financing issues in relation to post-legislative scrutiny.

I suggest that the matter could be discussed further by both conveners. Perhaps a more joint approach could be taken, with things coming out from discussions between the two committees' conveners and members, so that we do not experience a sense of being summoned, which is the effect of the approach that has been taken. I feel positive towards the general idea, however.

We should highlight to those of us who might be returned in the new session, particularly those of us who might become business managers, that we need to allow the Parliament and its committees the proper amount of time to engage in post-legislative scrutiny. That could impact on the production of new legislation. We should perhaps ensure that we are happy with the laws that we have produced so far—especially as we do not have a second chamber. Instead of always feeling that the job of the Parliament is to create new legislation, we should have the time required to scrutinise properly the legislation that we have produced so far and ensure that it has been doing the jobs that we intended it to do. We should be listening to the voices of the people who have had to deal directly with the legislation that we have passed so far.

We in the Health and Community Care Committee sometimes flagged up concerns about resourcing during our scrutiny of bills. I am sure that we were not the only committee to have done so. The Regulation of Care (Scotland) Act 2001 immediately comes to mind. The Health and Community Care Committee was also concerned about the Mental Health (Scotland) Bill—which became the Mental Health (Care and Treatment) (Scotland) Act 2003. There is almost a hunger among MSPs to ensure that we carry out post-legislative scrutiny properly and that we have the time to do so. It should not be seen as just an add-on. From the third session onwards, it should be seen as integral to the on-going work of this institution.

Robin Harper: I add my support to everything that Margaret Smith has just said. By the end of this second session, we will have pushed through 80 or 90 pieces of primary legislation. Post-legislative scrutiny will be thrust upon us, I would say, and we must be ready for it. I do not object in principle to the idea of having a joint seminar with the Finance Committee. That could be very productive. The idea of committees working together at certain times in the year or in the session is very good. However, I also listened to what Margaret Jamieson had to say.

Mr Welsh: Post-legislative financial scrutiny is an extremely important issue that deserves cool and careful thought. I am concerned about the standard of information provided in financial memoranda, which are fundamental to any piece of legislation, and the apparent lack of monitoring of the costs of implementing a bill. That is fundamental to how the Parliament and Government work. The issue is worth pursuing.

Parliament tends to pass bills with the financial memoranda as almost an afterthought. It comes at the end of a long debate and is just whipped through. Their results then come before the Audit Committee as a fait accompli that we investigate with hindsight.

I would like dynamic monitoring to be introduced. There is a gap in our proceedings. Scrutiny is worth investigating, and it could introduce a dynamic into a static situation. In Westminster, financial provisions go through on the nod on the simple premise that once Parliament has voted, the Government automatically gets its money. I believe that financial memoranda should be the start of a scrutiny process rather than its end. Post-legislative scrutiny has more to do with the Audit Committee than the Finance Committee. We need to think carefully. If we could give that legacy to the Parliament in the next session, it would be a very important democratic tool to ensure economic effectiveness and efficiency.

Mrs Mulligan: I want to speak only briefly, as Margaret Jamieson and Margaret Smith made strong points that, I am sure, we will all take note of.

There is clearly a role for committees to scrutinise legislation after it has been passed and, with the Parliament going into its third session, this is the right time to start thinking about that. It will be important that time is available to committees to do that, and I know that committees that I have been on have been exercised about not being given enough time. Perhaps that scrutiny was tried too early. The Audit Committee clearly has a serious role to play in financial scrutiny and it will undoubtedly continue to play it.

However, I must say that the thought of committing time to hosting a joint seminar at this stage of the parliamentary session fills me with dread. I cannot imagine anybody who does not have lots of things to do before the end of the session. Considering the work that would be necessary to host such a seminar, I think that this is the wrong time. The new Parliament will have to decide how to proceed with post-legislative scrutiny, so it is appropriate for the new members to consider it more fully.

I would not have a problem, convener, if you and the Finance Committee convener wanted to make proposals about how that could happen in the next session, but it is the wrong time for us to get involved in a seminar. Many of us would find it difficult to play the full part that we would want to.

The Convener: Thank you all for those helpful contributions. I will respond before inviting the Auditor General's observations.

There is no doubt in my mind—there seems also to be consensus in the committee on this—that there is support across Parliament for post-legislative scrutiny. That covers a number of areas, including scrutinising the effectiveness of acts in delivering what the Executive said they would deliver and whether the actual costs reflect the original estimates. Margaret Jamieson's points were well made about the themes from our reports. We have continually found that, whether it is a bill or ministerial statement that leads to Government spending, there is a lack of resources in Executive departments to make accurate estimates in the first place. That is probably the most serious issue for the Executive. There is also concern about service delivery from legislation. There is a need for post-legislative scrutiny.

11:15

The issue of the timeliness of post-legislative scrutiny arises in the sense that such scrutiny could not have been relevant in Parliament's first session. That there is a need for it dawned on

members early in the second session, for example in relation to provision of free personal care, on which the Auditor General has done a body of work and which the committee has investigated. It might be the case that that work has not yet been acknowledged as being post-legislative scrutiny, partly because of the added complication that some free personal care is delivered by local government, which rather muddies the waters when one is gathering information. True lines of accountability are of keen interest to members who create legislation, but who pass over its delivery to other bodies that are not accountable to them.

There has been some post-legislative scrutiny and it is fair to say that there is no doubt that the committee that is both tasked and best equipped to deal with post-legislative scrutiny from the perspective of finances and service delivery is the Audit Committee. There is no getting away from the fact that that is our area of responsibility, which is probably why the Finance Committee felt that it had to write to us.

By the same token, it is clear that the Finance Committee has responsibility for examining financial memoranda. It seems to me that the roles of the two committees are linked, in as much as the Finance Committee believes that its consideration of financial memoranda must have some relevance to what happens subsequently. There is much discussion to be had in that regard, but because of the time lag, the significance of post-legislative scrutiny in the current session is only beginning to develop because there needs to be legislation to scrutinise and that legislation needs to be applied. It is only now that the importance of post-legislative scrutiny is becoming clear. It is right that we consider lines of accountability, which committees are responsible for what and what that means for the relationships between committees and how we work. I have no difficulty about addressing such matters with the Finance Committee.

The Audit Committee examines baseline reports, financial reports, reviews of service delivery and section 22 reports, most of which are not directly to do with legislation. Even our work on the McCrone agreement arose from a ministerial statement rather than from legislation. I have no doubt that in the next session of Parliament there will be more post-legislative scrutiny for our successor committee. I am second-guessing a future committee, but it would not surprise me if it wanted to revisit free personal care and to examine the effects of acts related to mental health, civil contingencies and co-ordinated learning plans, which are beginning to have an impact.

I share Mary Mulligan's concern about holding a seminar, especially at the proposed time. It could be a fairly cumbersome and demanding approach, so the suggestion needs to be explored further. My take on the Finance Committee's letter and our response to it is that there is an issue to discuss with that committee. Notwithstanding what the Auditor General might say, I would like us to explore matters with that committee—at this stage, I would like us to do so informally, which is how I think the proposal should have been raised with us in the first place.

Mr Robert Black (Auditor General for Scotland): I will offer a few comments under the headings of financial memoranda and post-legislative scrutiny, if that will be helpful to the committee.

At various points over the years, I have commented on the need to improve financial memoranda. As, I am sure, Andrew Welsh and Margaret Jamieson in particular will recall, the issue first arose as a result of a limited piece of work that we did on mainstreaming special educational needs. I was struck by the fact that the financial consequences for local authorities were not made at all clear in the financial memorandum that accompanied the Education (Additional Support for Learning) (Scotland) Bill. That was the first sign that there was an emerging problem. At subsequent points over the years, I have taken the opportunity to suggest that improvement of financial memoranda should be considered.

I would welcome anything that the Finance Committee could do to promote good dialogue with the Executive and the principal accountable officer on how financial memoranda might be further improved, and on the related issue of accountability. If financial memoranda are to be improved, the costing of amendments will have to be considered, which came up in the early report on mainstreaming special educational needs. There is an issue about who is accountable for doing the work well and about allowing time for it to be done well before Parliament finally considers whether to enact a bill as amended.

If financial memoranda were strengthened, it would help Audit Scotland's work enormously because we would then have good baselines—namely, the full cost estimates attached to legislation—against which we could evaluate what subsequently transpired. As members of the committee are all too well aware, the problem starts with poor cost estimating at the outset. If that process were more robust, it would be more possible for us to do good post-legislative evaluation.

It has always been my intention that I would at some stage suggest to Parliament that we do some work on post-legislative scrutiny but, as

members of the committee have indicated, there is an issue about timing. After a bill is enacted and implemented, we need to allow time, after which it will be appropriate to examine the legislation's financial impact and its impact on the quality and range of services that people receive: for example, before this past year it would have been too soon to do much on free personal care. Some people argue that such work is still slightly premature and, as the convener indicated, we might well come back to it.

We have done some work that could be badged as post-legislative scrutiny, such as the report on mainstreaming special educational needs that I mentioned. Our work on free personal care certainly fits that description, and I would say that our work on community planning is also post-legislative scrutiny. The convener mentioned some of the topics that we have included in our consultation plan. We have not badged those as post-legislative scrutiny, but they include significant projects to which we are about to commit in our programme—I look forward to discussing the programme with the committee in the future—and which are, to all intents and purposes, post-legislative scrutiny.

The Convener: Thank you very much. That was helpful. If members have no further comments, I will make a proposal. Taking members' comments and the Auditor General's comments together, I suggest that we defer our decision on a formal response to the letter from the Finance Committee convener pending a discussion between me and that committee's new convener to enable us to flesh out what might be developed and to allow the Finance Committee convener to take this committee's comments into account. I suggest that I report back, possibly with a paper, at a future meeting so that we can work out the best approach to take and respond formally. Is that agreed?

Members *indicated agreement.*

The Convener: Very good. That concludes our consideration of item 5. We now move on to item 6 which, as with items 7 and 8, will be discussed in private. I suspend the committee meeting until 11.30, when we will reconvene in private.

11:24

Meeting suspended until 11:34 and thereafter continued in private until 11:55.

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