

AUDIT COMMITTEE

Tuesday 9 January 2007

Session 2

£5.00

© Parliamentary copyright. Scottish Parliamentary Corporate Body 2007.

Applications for reproduction should be made in writing to the Licensing Division,
Her Majesty's Stationery Office, St Clements House, 2-16 Colegate, Norwich NR3 1BQ
Fax 01603 723000, which is administering the copyright on behalf of the Scottish Parliamentary Corporate
Body.

Produced and published in Scotland on behalf of the Scottish Parliamentary Corporate Body by Astron.

CONTENTS

Tuesday 9 January 2007

	Col.
POST-LEGISLATIVE SCRUTINY	1963
SECTION 22 REPORTS	1965
“RELOCATION OF SCOTTISH EXECUTIVE DEPARTMENTS, AGENCIES AND NDPBs”	1966

AUDIT COMMITTEE

1st Meeting 2007, 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)

THE FOLLOWING GAVE EVIDENCE:

Ross Finnie (Minister for Environment and Rural Development)

CLERK TO THE COMMITTEE

Shelagh McKinlay

SENIOR ASSISTANT CLERK

Joanna Hardy

ASSISTANT CLERK

Clare O'Neill

LOCATION

Committee Room 1

Scottish Parliament

Audit Committee

Tuesday 9 January 2007

[THE CONVENER *opened the meeting at 10:04*]

Post-legislative Scrutiny

The Convener (Mr Brian Monteith): I open the first meeting in 2007 of the Scottish Parliament Audit Committee. I welcome committee members; the Auditor General for Scotland and his team from Audit Scotland; members of the Irish Committee of Public Accounts, who are visiting the Parliament today; and members of the media and the public. We have quite a busy agenda today. We have received no apologies. I remind members to switch off mobile phones and pagers so that they do not interrupt the public address system.

We have two relatively small items before we move to item 3 and our inquiry into the relocation of Scottish Executive departments. We are joined today by Ross Finnie MSP, the Minister for Environment and Rural Development, who will give evidence on item 3.

Item 1 regards post-legislative scrutiny which, as members will be aware, we have discussed previously. We have before us a paper that summarises the meeting I had with the convener of the Finance Committee, Wendy Alexander, about that committee's interest in post-legislative scrutiny. I draw members' attention to paragraph 11 in particular. Members will realise that the Finance Committee no longer proposes to hold a seminar on post-legislative financial scrutiny prior to dissolution, but it will continue with its intention to have two informal seminars—one on the budget process and one on financial memoranda and scrutiny of legislation's financial implications.

The paper reflects the approach that the committee wanted to be taken. We will therefore address the issues in our legacy paper. Do members have any comments?

Susan Deacon (Edinburgh East and Musselburgh) (Lab): I have one. Although I accept that we can come back to this matter in the legacy paper, I am concerned that post-legislative scrutiny, which I feel strongly about, is much wider than just the financial considerations. While the Finance Committee might, understandably, be particularly concerned with the financial side, it is important that this committee makes it clear that there are much wider questions about implementation, such as having the skills, the capacity and the people in place to implement

policy. With that caveat, I am happy to agree to the paper on the basis that we can touch on that issue in our legacy paper.

The Convener: It is apt that we should address the issue then. I share Susan Deacon's views about the scope of post-legislative scrutiny—her points are well made. We will return to the issue when we discuss the committee's legacy paper at a later date.

Section 22 Reports

10:07

The Convener: Item 2 is consideration of responses from the Scottish Executive, Highland NHS Board and Greater Glasgow and Clyde NHS Board in relation to the section 22 reports on the 2005-06 accounts of Highland NHS Board and Argyll and Clyde NHS Board. Members have various papers before them. It is my view—for what it is worth—that while many of these matters are important, they might be picked up in the audit process and monitored that way. I invite the Auditor General to make any comments to the committee.

Mr Robert Black (Auditor General for Scotland): Thank you, convener. We are keeping the matters under review in the audit of the current financial year, which will be reported on later in 2007. I have had informal conversations, particularly with Tom Divers of Greater Glasgow and Clyde NHS Board, and I am conscious of the amount of serious work that is going on in the area. It will be appropriate to report the final numbers as part of the audit later in the year.

The Convener: There being no further points, I suggest that the committee notes the responses. Is that agreed?

Members indicated agreement.

“Relocation of Scottish Executive departments, agencies and NDPBs”

10:10

The Convener: We move to item 3, and I welcome the minister, Ross Finnie, to the meeting. It may be helpful if I make a few points of clarification before we proceed to our questions. This is the second evidence session on our inquiry into relocation. Today, we will concentrate on the final part of our remit, which I remind those who are attending or listening to the meeting is to consider and report on

“The Executive’s role in determining the relocation of the headquarters of Scottish Natural Heritage, including the issue of a Ministerial written authority under section 15(8) of the Public Finance and Accountability (Scotland) Act 2000.”

This is the first time that the committee has taken evidence from a minister on the matter, therefore there is merit in my setting out, for the benefit of those who are observing the proceedings, the background to the issue and the focus of the committee’s interest.

It is worth clarifying that it is not for the committee to question matters of policy; rather, our role is to examine the implementation of policy. We therefore normally invite senior officials or accountable officers, rather than elected members, to give evidence in the course of our inquiries. I make it clear at the outset that our invitation to the minister to attend the committee does not signal a decision to depart from that convention; rather, it reflects the particular circumstances of the inquiry. Specifically, it reflects the fact that a ministerial written authority under the Public Finance and Accountability (Scotland) Act 2000 was issued in relation to the relocation of Scottish Natural Heritage. That authority was sought by the then accountable officer of the Scottish Executive Environment and Rural Affairs Department in view of the fact that he did not feel able to defend to the Audit Committee as representing value for money the decision to relocate SNH’s headquarters to Inverness.

It is important to emphasise not only that accountable officers have the right to seek such authority, but that ministers have the right, on occasion, to take a different view from that of their senior officials. It is not the purpose of this inquiry to question that right. However, when such decisions are made, the process of holding to account must reflect the decision-making process, hence our decision to invite the minister here today. The focus of our questions to the minister will be on what informed his decision to issue the written authority. In performing our scrutiny role,

we hope to support and strengthen the written authority process. That is an important issue for the committee in conducting its inquiry.

I have pleasure in inviting the minister to make an opening statement.

The Minister for Environment and Rural Development (Ross Finnie): I am grateful for the opportunity to participate in the inquiry. I am also grateful to the convener for his opening statement and for the fact that the clerk wrote to me yesterday to advise me and to help to define more clearly the particular line that the committee wishes to pursue this morning.

We are not dealing with policy—that matter has been well set out, and the position has been set out by us. I made a written submission to the committee in response to the specific issues that it raised previously. I am conscious, therefore, that the committee wants to focus on particular matters in the lead-up to the accountable officer calling for a ministerial instruction and for my giving that instruction. Rather than trying to anticipate the line that you wish to pursue, I am happy to put myself at the disposal of the committee and to respond to the specific questions that you wish me to address.

The Convener: Thank you. In that case, we will move to questions.

10:15

Mrs Mary Mulligan (Linlithgow) (Lab): Good morning, minister. In the letter that you have provided to the committee, you refer to

“consideration of the cost factors but also the wider potential benefits of relocation.”

What were those “wider potential benefits” and how were they identified?

Ross Finnie: That question—not surprisingly, coming from this committee—gets right to the heart of the matter. I am sorry, but I am going to have to go back a bit to answer the question properly.

When the then accountable officer, John Graham, made it clear to me that his fiduciary responsibilities under the Public Finance and Accountability (Scotland) Act 2000 meant that he was unable to conclude that the relocation represented best value, that concentrated my mind and the minds of my fellow ministers on how best to proceed. We had to consider the policy objectives behind the proposal for dispersal, the question whether the particular organisation that was under consideration lent itself to being located in a less central location, and the question whether any or all of the choices that were available to us properly met the policy objectives. There was a real concentration of thinking on whether the

policy would be better delivered by choosing one of the other options in the DTZ report, and we inclined towards the Inverness location. It was entirely professional and proper for John Graham to approach me with his concerns as the accountable officer whose role was to discharge that fiduciary responsibility strictly under the terms of the 2000 act.

That brings us to the interesting question of value for money. Value for money is not always provided by the cheapest option—that is borne out by several examples across many of our functions. It becomes easier to define value for money when more objective criteria are built into the system. As the committee will be aware, the number of objective criteria that apply to this policy area has been increased over time and was increased following the SNH decision. Our aim was broadly to deliver the policy of achieving a serious dispersal and relocation of jobs appropriate to the organisation that was under consideration.

Mrs Mulligan: I accept what you say about the issue being not just the cost of the move, but I am still not sure what other potential benefits you took into account in making your decision.

Ross Finnie: It was a very fine judgment. On the issue of finding an appropriate location, there was much discussion of Perth as well as Inverness. There was also the issue of the appropriateness of the location for an organisation that deals with the natural heritage, and there were questions about whether, if a decision to relocate was made—after all, the status quo was in the frame as well—the policy of dispersal would really be delivered by selecting Inverness. My view, and the collective view of ministers, was that that was the case.

Mrs Mulligan: Do you feel comfortable with the weighting that you gave to those other considerations as opposed to the cost?

Ross Finnie: As I said in my earlier answer, following the SNH decision the policy was further refined and other objective criteria were further specified. You will know that the policy, as it now stands, is much more clearly defined. I was comfortable with it at the time, but I accepted—as one does in relation to a policy that evolves—that further development had to take place. If one considers what was stated in black and white about the criteria that were to be applied, there is no doubt that what has happened subsequently has been very helpful in setting out more clearly the weightings that are to be given to factors other than finance, for example socioeconomic and other factors that are now clearly stated in the policy.

Mrs Mulligan: Do you feel that departmental officials, DTZ—which prepared the report—and

SNH understood the wider potential benefits and agreed with the weightings that you gave to them?

Ross Finnie: In the same way that Sir John Elvidge was careful not to put himself into the minds of ministers when he gave evidence to the committee, I had better be careful not to put myself into the minds of civil servants. In trying to assess the fiduciary responsibility that is placed on officials, I can assume only that the absence of the other objective criteria that we have now might have been one of the reasons why the then accountable officer came to a narrower view about not meeting the value-for-money criteria.

Although you would have to test this assertion against others, it is now much easier to consider value for money, because the policy carries a range of objective criteria and weightings. You can test ministerial decisions against those weightings and reach a conclusion about value for money. The way in which the policy is now written lends itself to that much more clearly. I can only surmise that, at the time, the relocation decision was taken in the absence of such clear guidance and a narrower view was taken of the financial aspects of value for money.

Susan Deacon: I want to probe further some of the points that my colleague Mary Mulligan raised about the decision-making process. In your submission, you refer frequently to John Graham, who was the senior civil servant who headed the Scottish Executive Environment and Rural Affairs Department at the time, but you make little reference to SNH. We are not talking about a Scottish Executive department or even an Executive agency; we are talking about a non-departmental public body. Will you clarify the nature of the communication channel with SNH, given that the Executive was clear in one of its press statements that it was responding to requests from the SNH board when it issued its direction? It is important that we understand the relationships.

Ross Finnie: In the final stages of the decision-making process, there were discussions between my officials, senior officials of SNH and its chairman and between me and the chairman and chief executive. Those discussions were important because, as Susan Deacon rightly says, we had to be clear about the views of the board, the chief executive and the chairman when taking a decision. That is what we did—we met and discussed matters with them and exchanged correspondence, although the meetings were more crucial.

We were conscious of the position. Clearly, there were different views. The overwhelming view of the board was that it did not support the decision to relocate SNH headquarters to Inverness, and there were different views on

elements of the decision. The chief executive and chairman had responsibilities across the whole range of issues, particularly in relation to certain staff issues, which they took aside. However, they recognised that, at the end of the day, given existing legal structures, ministers could take that decision. We did not take it without a lot of discussion between me, my officials, the chief executive and the chairman, John Markland.

Susan Deacon: I suspect that the minister recalls, as I do, that a few years back there was at least one occasion on which there were significant problems within a non-departmental public body and ministers were asked to intervene with their power of ministerial direction. However, they steadfastly refused, on the basis that that would be the nuclear option. Significant emphasis was placed on the fact that a non-departmental public body was just that, with a separate board and chief executive, which therefore had a bearing on the relationship with the Executive and ministers.

I seek to establish whether in deciding to overrule the advice that was given to you, you had particular regard to the relationship with the non-departmental public body and to the fact that it had its own board, chief executive and governance structure. How did that influence your decision?

Ross Finnie: There are two elements to consider. First, you have to go back to the policy decision at the outset. With respect, if we had followed the line that Susan Deacon has quite properly advanced, we might not have included NDPBs in the policy. The logic of that argument suggests—

Susan Deacon: I am not advancing any argument; I am trying to clarify ministers' position.

Ross Finnie: And I am not trying to put words in your mouth. You emphasised the independent nature of NDPBs and asked about the material that we used to make the decision. Irrespective of the relationship with ministers and the structure of such bodies, NDPBs and others were brought within the mischief of the policy. There could be no question or doubt that a relocation could be triggered by any of the factors, such as the expiry of a lease, and that that policy would impact on NDPBs. That is the starting point. As regards delivering the policy, in the final analysis, ministerial direction, the board's views and trying to achieve the policy were, of course, all taken into account.

With respect, it did not necessarily help that the board's strong wish was for SNH to remain where it was. That was not a serious option under the policy.

The Convener: Does Susan Deacon want to carry on?

Susan Deacon: I am conscious that we want to ask about other things, but it is important that we understand the relationships. In many other instances, ministers put considerable weight on the fact that the boards of such bodies ought to take operational decisions. Does the minister regard the decision to relocate SNH as an operational decision? Given that you raise the wider point that NDPBs are included in the scope of the policy, but the question has been raised that perhaps they ought not to be, has the line been drawn in the wrong place?

Ross Finnie: That was the policy decision and I defend the policy.

We are looking informally to the policy. You raise a separate issue in terms of the policy. If the policy were to exclude all NDPBs, the opportunities for conducting a relocation policy would be very much reduced. Susan Deacon raises a legitimate debate, but we did not enter into the SNH relocation discussion on that basis. The discussion was triggered by SNH's lease coming up for termination because, like all other NDPBs, SNH came within the mischief of the policy.

The Convener: It is not within the scope of the committee to look at policy, so we will move on. However, I pick up on an aspect related to Susan Deacon's questions. I refer the minister to page 41 of the Auditor General's report "Relocation of Scottish Executive departments, agencies and NDPBs", where it states:

"The organisation submitted its review report to ministers in October 2002. The review ranked West Lothian, Stirling or Perth as the best options, if Edinburgh was not acceptable. The SNH Board rejected the Inverness option on grounds relating to its 'position in the SNH office network, distance from key partners and the proportion of staff that would leave'. Further work was requested by ministers and this was coordinated by the sponsor department. The organisation was not given the opportunity to comment on the cost figures upon which ministers based their final decision and disputes the rationale behind some of the assumptions."

How and to what extent did ministers take SNH's view into account after they received the further work that they commissioned?

10:30

Ross Finnie: As I said in response to Susan Deacon, throughout the whole of that period my department and I had exchanges with SNH officials, including its chair and its chief executive. We had conversations, both by telephone and in meetings, in which the only issues that we discussed were the materials that were produced as a consequence of our further request and the views of senior SNH officials and SNH board members. The whole point of those conversations

and exchanges was for us to receive those views so that we could assess and consider them.

Mr Andrew Welsh (Angus) (SNP): Minister, we have a common cause in searching for value for money. You said:

"Value for money is not always provided by the cheapest option".

You also said that the department now has "a much clearer definition", involving "factors other than finance".

People in local government tell me that the requirement to achieve value for money often means that they are required to accept the cheapest solution and the lowest tender. Have you now created a blueprint that applies more generally?

Ross Finnie: I think so. I do not wish to trample on other people's toes, but I cannot recall from my 22 years in local government—I know that Andrew Welsh was also involved in local government—that best value was about purely the cheapest option. I am quite clear that that was not the case. If Andrew Welsh is asserting that it is now the case, I am not in a position to respond.

Mr Welsh: I am interested in that answer. Can we be assured that the Executive has a detailed and comprehensive cost-benefit analysis of the relocation policy? Where can that analysis be found?

Ross Finnie: Do you mean for the relocation policy as a whole?

Mr Welsh: Yes. You said that value for money is defined such that it is not always about the cheapest option because various categories need to be looked through. Are you satisfied that the Executive now has a sufficiently comprehensive view of value for money to deal with other relocations?

The Convener: I think that we need to be careful. Our questions must be about the specific written authority rather than the application of the policy across the whole Executive.

Ross Finnie: I do not wish to fall out with Andrew Welsh—my purpose is to be constructive—but we start from different premises. My understanding is that value for money permits other factors to be taken into account, but Andrew Welsh has clearly asserted that that is not the case. That places me in very real difficulties. I crave your indulgence on the matter, convener; I need someone to clarify the issue.

The Convener: The difficulty with Andrew Welsh's question is that it would be better put to the minister with responsibility for relocation rather than to the minister who is before us.

Ross Finnie: That responsibility lies with the Minister for Finance and Public Service Reform. It seems to me that I must have been harbouring a complete misapprehension during my 22 years in local government if value for money meant that I could select only the cheapest option. That is certainly not what happened in my authority or in any authority, other than, perhaps, Andrew Welsh's authority.

Mr Welsh: I assure the minister that it is not my intention to embarrass him or to act in such a fashion. I was simply trying to clarify exactly what process is now involved.

Let me move on to my next question, which is on long-term efficiency gains. The minister's response to parliamentary question S2W-213, which is repeated in his letter to the committee, states:

"The co-location of the two current Scottish Natural Heritage (SNH) headquarter buildings to a single site away from the extremely competitive Edinburgh labour market will realise significant efficiency gains in the long term."—*[Official Report, Written Answers, 3 June 2003; S2W-213.]*

Can the minister tell us what those efficiency gains were?

Ross Finnie: For the relocation of the SNH headquarters, the efficiency gains were the general efficiencies involved in running an office. Where the SNH headquarters should be located was a secondary issue; the primary issue was that the two SNH headquarters buildings should be co-located. That principle was not disputed by any part of SNH. The fact that the headquarters were spread over two sites was generally regarded by SNH as an accident of history. One would certainly not have begun with such a set-up in locating an organisation's headquarters.

On costs, although in certain circumstances there are undoubtedly many and several advantages to being located in Edinburgh, the location brings with it the attendant disadvantages of its labour market costs. Taking account of the need to achieve the co-location of the headquarters and the other benefits involved, I believe that there are efficiency gains to be accrued from the relocation.

Mr Welsh: Would the beneficial long-term efficiencies not have been provided by the other possible relocation sites, such as Stirling or Perth?

Ross Finnie: That is possible. That is why those locations were considered. On balance, across the range of issues, our view was that the policy objectives would be best achieved by relocating the organisation to Inverness.

Mr Welsh: The minister mentioned the general efficiencies involved in running an office. Can he define that more specifically?

Ross Finnie: The general efficiencies come from the co-location of the offices. Not even SNH argued for anything other than that. The specific efficiencies are about labour market and other operational costs.

Mr Welsh: How long term are those long-term efficiencies? What timescale was envisaged for achieving them?

Ross Finnie: I do not know. I think that we were looking at a period of 10, 20 or 50 years, although the figures that were before us did not go that far. The initial figures went to 10 years and beyond that to 15 years. We believe those to be longer-term efficiency gains.

Mr Welsh: The written answer to parliamentary question S2W-213 referred to

"significant efficiency gains in the long term."

I am just asking what that means.

Ross Finnie: We believe that we could achieve those efficiencies over the piece, given the combination of factors and the way in which the office would operate. That was our view.

Margaret Smith (Edinburgh West) (LD): My question is also about those efficiencies. "Efficiencies" is a word that is often used to cover a multitude of sins. Like several committee members and many others, I share the concern that is raised in the written evidence that has been provided by the accountable officer for the minister's department and, indeed, by the chief executive of SNH. My concern is about the impact that the loss of so many experienced members of staff has had on the organisation's efficiency. Clearly, that impact was also on the mind of the SNH board when it first raised concerns about the relocation.

Despite the substantial cost of redundancies and the impact of those staff departures—which, according to the figures in our papers, involved significant numbers of senior staff at higher executive officer level and above—is the minister content that those staff changes have not had a negative impact on policy development and on the organisation's efficiency? The accountable officer for the minister's department suggests that the staff losses could possibly have led to "poorer financial control". Is the minister content that, going forward, those staff losses have not had a detrimental impact on the service provided by the organisation or on its efficiency and financial control?

Ross Finnie: I am certainly not aware from recent discussions that I have had with the chairman and those that my deputy minister has had with the chairman, the chief executive and members of SNH that the move has had any deleterious effect on SNH's delivery of its

functions and achievement of its targets. I am certainly not aware of any difficulties with its financial controls. I do not think that the accountable officer said that such difficulties existed, although he might have referred to the possibility of difficulties.

Margaret Smith: The written evidence that we received from the accountable officer contained a summary of the relevant options, comments, risks and benefits that were put to ministers before the decision was taken. One significant risk that was identified was

"The impact of staff departures on the scale identified by ... DTZ".

In reality, I think that we are into that area. The evidence is about what might have happened. I am simply asking whether you are content that the risks have not materialised.

Ross Finnie: I repeat that in recent meetings between me, my deputy minister, officials and SNH's chief executive, chairman and members, we have had no report that SNH cannot deliver on its programme or meet its targets or that any financial difficulties have accrued.

The Convener: Did Robin Harper try to catch my eye? Is his question on that point?

Robin Harper (Lothians) (Green): My question was not on that point but on a previous point, so I will leave it.

The Convener: Members have no more questions on that subject, so we will move on to the potential synergies of Highland relocation.

The response to parliamentary question S2W-213 says:

"SNH already has over 200 staff based in the Highlands and Islands and 50 staff located in Inverness. The move would therefore allow potential synergies to be explored."

What work was undertaken to identify those potential synergies before the decision was made? Were those synergies likely to release savings or result in more effective working?

Ross Finnie: I am clear about the fact that in our discussions with SNH, we were well aware of the nature of the jobs that the relevant members of staff undertook, their respective qualifications and so on. Given that, we could discuss with SNH the potential for synergies, which we believed existed. That conversation was obviously slightly difficult, because although SNH agreed that the move was a possibility, it was not SNH's preferred solution. Nevertheless, the conversation was held, so we explored the matter. We did not assert that simply because an office was in Inverness, synergies would exist. Much more consideration was given to the personnel and their qualifications and the

matter was discussed seriously before the assertion was made.

The Convener: Did the relatively high number of SNH staff already located in Inverness weaken the case for further dispersal of SNH jobs to Inverness as opposed to another location?

Ross Finnie: No. One factor was the nature of the jobs—their level, responsibilities, type, scope and spread. In achieving a spread at any level, we considered the opportunity to locate in a place such as Inverness posts with a broader range of responsibility in natural heritage. We believed that, irrespective of the number, the range of jobs that was undertaken in Inverness would be substantially widened by giving effect to the policy.

10:45

Margaret Smith: The response to question S2W-213 also says:

"due to the profile and nature of its work, SNH is a better candidate than other organisations for location in the Highland area."

That implies a specific aim of relocating public sector jobs in the Highlands. Was a decision taken to relocate jobs to the Highlands as a priority?

Ross Finnie: Not that I am aware of. The answer that you quote was given in response to a question about why Inverness was chosen. No sub-policy existed. There was a presumption against relocation in Edinburgh, but the policy was not refined. I refer to my earlier remarks about where it is appropriate to locate an organisation such as SNH.

Margaret Smith: Why was that reason, rather than the synergy issues on which the convener questioned you, cited almost as justification for moving SNH to the Highlands?

Ross Finnie: Natural heritage sites are found throughout Scotland, which is a great feature of the Scottish landscape. There is no question but that the Highlands have a substantial proportion of those sites, so location of such an enterprise in the area is appropriate. The remark was not intended to imply that a sub-policy of direction to a particular area existed; it merely concerned dealing with the appropriateness of a location in each case on its merits.

Susan Deacon: The answer to parliamentary question S2W-213, to which Margaret Smith referred, says:

"SNH is a better candidate than other organisations for location in the Highland area."

If that comment does not represent a sub-policy—I use the minister's term—to relocate in the Highlands, does it instead imply that, because of its role and functions, SNH was best placed to go

to the Highlands? That is how I read the comment. The counter-argument that I have heard widely put by people in the environmental field, senior people in SNH and a former environment minister is that it is wrong to reinforce the assumption that Scotland's environmental body is predominantly for Scotland's rural and Highland areas rather than being a body that protects the natural heritage of the whole country. Did that issue concern you?

A counter-argument to the argument that seems to be expressed in the written answer and which ministers have deployed retrospectively to justify the decision to go to Inverness is that going to Inverness could send out the wrong messages. What does the reference to the "profile and nature" of SNH's work mean when SNH is a national body?

Ross Finnie: I am not tempted to go down the line of extending that argument to say that all national bodies should be located in Edinburgh. I am sure that that was not in the member's mind as she developed her articulate and cogent argument, but I say respectfully that that might be its logical conclusion. As the policy presumption is against relocation to Edinburgh, that is a difficulty.

To be serious—

Susan Deacon: Much as I am enjoying this exchange, I would like to understand—

Ross Finnie: I understand perfectly. It cannot be said that natural heritage is the exclusive domain of rural Scotland. Major natural heritage and environmental issues exist in the heart of every city. Nevertheless, the aim was to move location. Let us be clear: the first port of call in the DTZ report was the status quo, but it was not the policy objective to maintain the status quo. There are some bodies that it would be inappropriate to move out of Edinburgh or Glasgow, but it was not inappropriate to locate SNH in Inverness; SNH would not be particularly disadvantaged by operating in a rural setting. Nevertheless, it was not our intention to imply in the written answer that SNH could operate only in a rural location.

Susan Deacon: Having heard the answer to my question and to my colleague Margaret Smith's question, I am still confused about what the Executive meant in its response to parliamentary question S2W-213 by stating that SNH was

"a better candidate than other organisations for location in the Highland area."

I stress that I am not putting an argument; other committee members and I are simply trying to understand why ministers took the decision and why they expressed that view in the answer. What does it mean? Why was SNH a "better candidate"?

Ross Finnie: There are other organisations that we decided not to relocate because their particular circumstances and organisational profiles meant that it was inappropriate to move them. Not everything is relocated—there is an assessment process. For bodies that are being moved, the question is whether it is appropriate to take them out of the city centre to a much more rural location. There was nothing inappropriate about a natural heritage organisation having its principal offices in Inverness and the Highland area.

Mr Welsh: The written answer to parliamentary question S2W-213 states:

"due to the profile and nature of its work, SNH is a better candidate than other organisations for location in the Highland area."

Does that relate not just to the environment but to the workforce? How can the expertise of key staff who do not transfer be replaced? Are you satisfied that that can be done without bringing in consultants? Is there something specific about the Highlands that would allow that to happen? Is the expertise available?

Ross Finnie: I understand from SNH that its relocation to Inverness has not impeded its ability to recruit staff, although the relocation impeded certain people's ability to move with the organisation.

Mr Welsh: There has been no loss of expertise.

Ross Finnie: That is my understanding.

Margaret Jamieson (Kilmarnock and Loudoun) (Lab): I seek clarification of the statement that the "profile and nature" of SNH meant that it was suitable for relocation to Inverness, which causes me a difficulty. In the initial terms of reference for DTZ, did you express a view on its considering suitable areas for the relocation of SNH?

Ross Finnie: SNH sent a specification to DTZ, which arrived at its conclusion of Inverness on narrower financial grounds. Inverness was included in the assessment.

Margaret Jamieson: Surely DTZ's assessment and your final decision were based on different sets of criteria.

Ross Finnie: DTZ was not taking the decision; it was providing advice.

Margaret Jamieson: Yes, but it was making a recommendation.

Ross Finnie: It provided advice.

Margaret Jamieson: So what was the point in expending that time, effort and public money?

Ross Finnie: It was perfectly proper to do so. The committee is properly exploring what other

issues ministers would take into account on receiving advice, whether that is external professional advice that is paid for or advice from civil servants. We do not always take such advice, but we have to be clear about the grounds for not doing so. This case gave rise to issues of ministerial direction.

The Convener: We will move on to issues of guidance on written authority.

Robin Harper: We asked the permanent secretary whether

"the then PAO was informed of the then Accountable Officer's intention to request a written authority in relation to the relocation of SNH to Inverness; and whether he gave advice to the Minister or the Accountable Officer."

In his reply, dated 4 January, the permanent secretary said:

"The relevant papers confirm that the PAO was notified, as required, of the accountable officer's request for a written instruction with reference to the relocation of SNH to Inverness, but there is no indication that he was asked, or considered it necessary, to provide formal advice to the Minister or Accountable Officer about the proposed instruction."

That carefully elliptical language suggests that the principal accountable officer might or might not have provided advice and, although he might not have provided formal advice, he might have provided informal advice. It can be noted from the timeline for the relocation that the announcement of the relocation to Inverness was made before the accountable officer's letter requesting a written authority. How and when was the minister made aware that a written authority would be requested, and what guidance was he given on the implications of such a request?

Ross Finnie: I am in absolutely no doubt that the then accountable officer, John Graham, made it clear to me that if ministers were minded to select Inverness, his professional judgment was that, in relation to his fiduciary activities as accountable officer, he could not say that the best-value criteria were satisfied. That caused me to have regard to what the statute said and to have a discussion with officials and others to be clear in my mind about the ramifications of his position. My response was to take what he said very seriously.

As I understand it, accountable officers have duties that fall into two broad categories. One is to consider whether there is impropriety in relation to a ministerial decision for which there might be a direction. Any minister that gave a direction in such circumstances might want to think about that. However, that was not the issue; the issue was value for money. We had to decide whether that was a sufficient ground to stop and reconsider the matter or whether we were prepared to say that we respected that professional view, but, given the broader policy as a whole, we remained of the

view that we wished to proceed with relocation to Inverness. I had discussions about that and conveyed the views that were expressed to my Cabinet colleagues.

The process then became more formal. After we proceeded with the decision, John Graham entered into the formal process of notification. The process is perfectly sound as it involves notifying the Audit Committee and the Auditor General for Scotland. It is a public process, and ministers must be clear that it is not a matter that they can shuffle because there is a serious issue to be addressed and the matter is clearly in the public domain—and properly so.

11:00

Robin Harper: I am asking about the timeline. Were you made aware of the possibility of a request for a written authority before or after the announcement of the move to Inverness?

Ross Finnie: Before.

Susan Deacon: Minister, you said that the process through which the ministerial direction was issued was perfectly sound. None of us would question the statement that it was a perfectly sound process, but it is highly exceptional—I think that I am right in saying that only three other ministerial directions have been issued in the eight years of devolution. Some of us are still struggling to understand what balance of forces led you to exercise a power that is used so sparingly elsewhere. I find it particularly difficult to understand why, although the senior civil servant said, "Don't do it," the chief executive or chairman of the board said, "Don't do it," and an independent report said, "Don't do it," and ranked the Inverness option fifth and although warnings were given that three quarters of the staff would not relocate if the Inverness option was implemented—broadly speaking, that proved to be the case—you decided to take full responsibility for the expenditure of more than £20 million of public money. It is important for the committee to understand why the decision to relocate SNH to Inverness was felt to be so important that you had to take that exceptional decision and use that exceptional power.

Ross Finnie: First, DTZ did not say, "Don't do it." Let us be clear that advice ranking is not the same as saying, "Don't do it."

In a sense, the relocation policy starts from a proposition that we are asked to do something different from what we might necessarily want to do. After all, if we had followed DTZ's advice, we would have elected to maintain the status quo. The policy, in which we are seeking to intervene and relocate, is very difficult, because we are consciously taking a decision to impose a location

that is not necessarily one that the body concerned or anybody in it would have gone for.

In the case of SNH, we were clear that Inverness was the preferred location for the reasons that I set out in my original letters. Obviously, the issue of the ministerial direction was the big consideration. That is not to diminish the role of the board. These matters were discussed at an earlier stage but, at the point at which the ministerial direction was issued, the issue was purely whether the accountable officer's determination on value for money overrode ministers' view that the policy was better delivered by relocating to Inverness. After long and careful consideration, we came to the conclusion that it would be better delivered by relocating.

As I said in my response to Mary Mulligan, I have reflected on the singular nature of the decision. It is my view that the fact that the wider criteria were subsequently much more clearly defined—not just in ministers' opinions but by being committed to writing—has greatly helped accountable officers to arrive at wider judgments on value for money. However, you would have to ask accountable officers about that. At the time of the decision to relocate SNH, John Graham had to take a narrow view on the financial and fiduciary responsibilities that he was perfectly properly carrying out. I have never had any quibble with the judgment to which he came, but he had to come to it on a fairly narrow ground. If there was a failure at the time, it was that, although the wider criteria existed, they were not as explicitly stated as they are now and could not be tested in terms of the judgment at which the accountable officer had to arrive. That is why, moving forward from the SNH decision, committing those criteria to writing has hugely improved the operational effectiveness of delivering the policy and officers' ability to have a view on and comment on it.

Susan Deacon: Given your unique experience in that regard, what lessons do you think could be learned for how to handle such a decision-making process in future, bearing in mind the committee's remit and interest?

Ross Finnie: It is like many issues that have developed as the thinking of the committee and ministers has evolved. I hesitate to say it in the presence of the Auditor General, who is occasionally somewhat critical even of the purely financial criteria that we set, but we have developed criteria for other objective measurements. We were slow to develop those in parliamentary terms and, much more specifically, in Executive terms.

That is exemplified by the relocation policy. Ministers clearly had in mind a range of criteria that would be applied in assessing a particular relocation in a particular circumstance but,

although they set out the broad financial measures, they did not specify the other criteria. In other, not entirely analogous spheres, the committee has sought greater specification of other criteria so that the public, the committee and everybody else can see a more objective assessment of how decisions arose. To be fair, the Auditor General has made the same point on a number of policy areas.

Those are the lessons. If we have a policy that is driven not only by financial considerations but by socioeconomic and other factors, we must try to specify the latter more clearly. That can be developed. It is possible to consider where we are now and ask whether we have the right answer. Specifying other factors is difficult but essential, because it allows us to get out of the real conundrum with which my fellow ministers and I were faced at the time. We knew what the policy was but, if we were asked to specify the factors in writing or to state what weightings we were giving to them and whether those were agreed, it was clear that they were not as well specified as they are now.

Susan Deacon: Are you implying that, had the current process and criteria been in place then, the welter of independent advice and opinion would have been materially different? Am I reading too much into your response?

Ross Finnie: It would not necessarily have been different, but it might have been easier for accountable officers and everybody else to understand the decision with greater clarity because they would have been referring to a specific document and specific evaluation criteria that had been laid down in writing.

The Convener: Are you saying that if the better definition had been available, the written authority might not have been required?

Ross Finnie: I am now in danger of getting into the principal accountable officer's mind, just as Sir John Elvidge was reluctant to get into my mind when he gave evidence, for which I was duly grateful on reading the *Official Report* of that meeting.

To go back to what constitutes best value, it is more helpful to take a slightly broader view in assessing best value and testing the financial return against the criteria if the criteria are set. Therefore—I stress that this is my personal opinion—I surmise that subsequent to that development it has been easier for accountable officers to make a judgment, because they are not left in a void in which they have to say, simply, "As the accountable officer, all I have to go on are the strict financial parameters that are set out, so if a proposal does not meet those criteria, I am professionally bound by statute to express that

view and I discharge my fiduciary responsibilities by doing so." I wholly respect John Graham for taking the position that he took and I would not wish to suggest that he might have come to a different decision. As the accountable officer, he made the right decision on the basis of the evidence that he had.

Mrs Mulligan: I am trying to understand the process. I am not sure whether it would have been appropriate for you to do this but, when you received the accountable officer's report, did you seek to clarify with him the wider parameters and implications that you were taking into account? If you did, did your clarification have an effect?

Ross Finnie: The decision-making process was entirely shared with Mr John Graham in his capacity as head of the Environment and Rural Affairs Department. However, I am bound to say that it was not for me to suggest that, in discharging his particular and defined responsibilities, Mr Graham ought to have taken account of wider criteria that are not in the Public Finance and Accountability (Scotland) Act 2000. I respected his professional judgment. If our roles had been reversed, I would not have expected him to tell me how to interpret the statute.

The absence of specification of the wider criteria was unhelpful, as I suggested to Susan Deacon, but it was not for me to suggest to Mr Graham that he should take account of those criteria. I proceeded on a slightly different basis: I accepted Mr Graham's judgment and I accepted that it was his job, as accountable officer, to advise me that, according to the terms of his post, he could not recommend the course of action that was proposed, as he said clearly in his letter. I did not attempt to negotiate with him. That would have been wholly inappropriate and quite improper.

Mrs Mulligan: In that case, and given the number of relocations that have taken place, are you surprised that the situation that arose in relation to the SNH relocation has not arisen in other instances?

Ross Finnie: In a sense I am surprised, because there is a risk of such a situation arising when we pursue a policy of intervention to secure an outcome that is different from the outcome that might normally occur. However, as I have said repeatedly, it is my view that because the policy has evolved and is much more clearly set out, so that it is much easier to weigh the financial cost of relocation against socioeconomic and staff considerations, it is easier for politicians and accountable officers to make a judgment. That is my view and I would not want to anticipate the view of an accountable officer, but I think that the clear setting out of the policy has helped the process and lessened the likelihood of the situation arising again.

Of course, other lessons have been learned. Margaret Jamieson asked about the instruction that was given to DTZ. I think that the Executive has specified matters more clearly and I hope and like to think that we learn lessons from the processes that are followed in coming to all the decisions that we make.

11:15

Robin Harper: I want to be absolutely sure about this. You said clearly that you were made aware of the possibility that there would be a request for a written ministerial instruction well before the move to Inverness was announced. How were you made aware of that possibility? What guidance were you given and by whom in the period between being made aware that a written instruction would be sought and the making of the announcement?

Ross Finnie: I was notified by John Graham, who made clear to me what his professional position would be if ministers were minded to support the move. I was aware of the provisions of the 2000 act, but I wanted to refresh myself on precisely what they meant, so I sought guidance. It might interest members to learn that I was interested in the ramifications of a request for a written ministerial instruction.

It was my understanding that, in the context that we are discussing, a written ministerial instruction would be issued on the premise that the accountable officer was not content to proceed without it. I also understood that all the accountable officer's existing responsibilities would remain extant after he was instructed to deliver the project—in this case, the SNH relocation to Inverness. The fact that, without any shadow of doubt, the political responsibility for issuing the direction and, as always, the ultimate responsibility for the policy rested with me did not absolve the accountable officer from his responsibility to achieve best value in the delivery of the project within the redefined envelope. I therefore had discussions with Mr Graham and others—I cannot instantly recall with whom, but I think finance officers were included—and I sought to be clear in my mind about the ramifications of the approach. Members should be in no doubt that it was clear to me that the decision to issue a direction was a serious one.

Susan Deacon: I want to clarify something that you said in response to a question that I asked, because it is an important point. You said that if you had taken the advice of DTZ, you would have opted for the status quo. However, that is not an accurate reflection of the position. In his letter to the committee, the accountable officer of the Environment and Rural Affairs Department said:

"Combining the financial and non-financial analysis, DTZ concluded that, leaving aside the status quo (ie staying in the present Edinburgh offices), the 3 front-runners for relocation were West Lothian, Stirling and Perth. DTZ then recommended that SNH should keep the 3 shortlisted options in the frame and proceed to the next stages of property/site identifications within those areas."

It is important that we establish for the record that there were several other options and that the advice that the Executive received was such that it could have gone ahead with relocation, thereby remaining true to its policy, as the minister said, without relocating SNH to Inverness. Is that an accurate reflection of the advice that was given?

Ross Finnie: In answer to the question that you have just asked, that is right. However, I think that your earlier question related to the likelihood of ministers arriving at decisions that might require them to issue directions. In my answer to that question I tried to make the point that the very nature of the policy was such that DTZ could leave aside the status quo. Why was the status quo left aside, given that it is the best financial option? It was left aside because the policy dictated that it had to be left aside because there is a presumption against being in Edinburgh.

I am not at all arguing that the ultimate DTZ report did not suggest a range of options. I am sorry if I gave that impression.

Susan Deacon: Basically, though, we can agree that there were three other non-Edinburgh locations that ranked higher than Inverness and which you could have chosen.

Ross Finnie: In purely financial terms.

Susan Deacon: No, not in purely financial terms, actually. The head of department makes clear that the ranking was a result of the combination of the financial and non-financial analysis.

Ross Finnie: I am not denying that.

Susan Deacon: Were you provided with any indication by the principal accountable officer that if you had opted for any of those other three locations, he would have found it necessary to seek ministerial direction?

The Convener: That would be the accountable officer.

Susan Deacon: Yes, I beg your pardon.

Ross Finnie: In his response to you, Sir John Elvidge tended to comment on decisions that ministers had made rather than decisions that ministers did not make. In saying that, I think that I accurately recall his evidence.

Susan Deacon: With regard to the decision-making process, you helpfully clarified to us that, before you announced your decision, John

Graham had made clear to you that, were you to opt for the Inverness option, he could not support that in terms of value for money. I am asking a purely factual question about whether you were told that if you opted for any of the other options, he would have reached a similar view.

Ross Finnie: No. The matter did not quite arise in those terms. It arose in the context of the emerging understanding that ministers were minded to make that decision. As soon as that became clear to John Graham, he very properly said, "If ministers are so minded, I must make you aware." That was the chronology in which the matter arose. Other locations had been discussed. I presume that he would have taken the opportunity to do what you suggest had it been necessary, but it did not arise.

The Convener: Having gone through this process, do you feel that the guidance that you were given with regard to the repercussions of your receiving a letter from the accountable officer seeking ministerial authority was adequate, in the circumstances?

Ross Finnie: I think that it was. I think that the matter was handled properly. John Graham ultimately wrote the letter, but he made clear to me, in a conversation that was not of a casual nature, that he was not having the conversation in his role as head of the department but that he was wearing the hat of the accountable officer and that he was drawing my attention to his inability, in the terms that he subsequently used in his letter. Because I was conscious that the matter was serious, my immediate response was to seek—either from him or from others—clarity about what exactly that meant. As I said earlier, I refreshed my knowledge of the statute and considered the ramifications. I also wanted to be clear about the grounds on which John Graham was arriving at that decision. I was well satisfied about the professional nature of the way in which the matter was put to me. It allowed me to give full consideration to the ramifications.

The Convener: After the request had been made and you had given ministerial authority, was there any need for you to have any further guidance as to what might follow from that—including, in a sense, your appearance before this committee?

Ross Finnie: No, I do not think so. As I said to Robin Harper, one of the issues that I wanted to clarify related to the effect of having to give that guidance. Clearly, the issue was to do with whether there was a possibility that, by taking this action, ministers were putting themselves into the shoes of the accountable officer. That was a matter that I wanted to have clarified. It was made clear to me that the professional position of the accountable officer was, "That is my position. I

need an instruction if you want me to proceed. If you give me an instruction, then you, minister, take responsibility for issuing that instruction and the Audit Committee and the Auditor General will be made aware of that.” However, in terms of the specific duties relating to the delivery of the new premises in Inverness, the accountable officer was not prevented from proceeding on the basis that he had received an instruction. That was an important point for me as it was one of the material considerations with regard to where a minister ended up after having issued such an instruction.

Robin Harper: How much freedom of action did you have? Yours was not the only ministry that was involved in the decision and you were not responsible for the policy. Who was calling the shots? Was the decision taken in Cabinet? Was it entirely your decision or, in the end, were other ministers involved in taking the decision?

Ross Finnie: In a decision of this nature, particularly given the potential for there being a need for a ministerial direction, the decision was taken with collective responsibility. However, I am the minister responsible for the department and I take responsibility.

The Convener: The Auditor General's reports are agreed documents. In respect of this report, John Elvidge was the key accounting officer with regard to getting agreement on the report, which would have been agreed with the central relocation unit and SNH, as appropriate, but not necessarily with your department. You are effectively saying that SNH was given the opportunity to comment on the further work that was done, but that does not tie up with the agreed report—

Ross Finnie: No. I cannot quite remember the precise question, but I was not suggesting that SNH commented in the sense that it was asked to comment on the finished piece of work before it was finalised; I was saying that SNH was not excluded from the process and that there was engagement with SNH's chief officials. If they say that they were not formally asked to comment, that is correct. However, I am saying that there was a continuing engagement between me and my officials, and the chief executive, chairman and members of SNH.

The Convener: Okay. That concludes our evidence-taking session. I thank the minister for his time. I hope that our report will be able to clarify the process and help to strengthen the written-authority process, which adds value in terms of public accountability.

Meeting closed at 11:29.

Members who would like a printed copy of the *Official Report* to be forwarded to them should give notice at the Document Supply Centre.

No proofs of the *Official Report* can be supplied. Members who want to suggest corrections for the archive edition should mark them clearly in the daily edition, and send it to the Official Report, Scottish Parliament, Edinburgh EH99 1SP. Suggested corrections in any other form cannot be accepted.

The deadline for corrections to this edition is:

Tuesday 16 January 2007

PRICES AND SUBSCRIPTION RATES

OFFICIAL REPORT daily editions

Single copies: £5.00

Meetings of the Parliament annual subscriptions: £350.00

The archive edition of the *Official Report* of meetings of the Parliament, written answers and public meetings of committees will be published on CD-ROM.

WRITTEN ANSWERS TO PARLIAMENTARY QUESTIONS weekly compilation

Single copies: £3.75

Annual subscriptions: £150.00

Standing orders will be accepted at Document Supply.

Published in Edinburgh by Astron and available from:

Blackwell's Bookshop

**53 South Bridge
Edinburgh EH1 1YS
0131 622 8222**

Blackwell's Bookshops:
243-244 High Holborn
London WC1 7DZ
Tel 020 7831 9501

All trade orders for Scottish Parliament documents should be placed through Blackwell's Edinburgh.

Blackwell's Scottish Parliament Documentation
Helpline may be able to assist with additional information on publications of or about the Scottish Parliament, their availability and cost:

Telephone orders and inquiries
0131 622 8283 or
0131 622 8258

Fax orders
0131 557 8149

E-mail orders
business.edinburgh@blackwell.co.uk

Subscriptions & Standing Orders
business.edinburgh@blackwell.co.uk

Scottish Parliament

RNID Typetalk calls welcome on
18001 0131 348 5000
Textphone 0845 270 0152

sp.info@scottish.parliament.uk

All documents are available on the Scottish Parliament website at:

www.scottish.parliament.uk

Accredited Agents
(see Yellow Pages)

and through good booksellers