AUDIT COMMITTEE

Tuesday 23 January 2007

Session 2

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AUDIT COMMITTEE
2nd 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:

Caroline Gardner (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 23 January 2007

[THE CONVENER *opened the meeting at 11:05*]

Decision on Taking Business in Private

The Convener (Mr Brian Monteith): We can now start the second meeting in 2007 of the Audit Committee. We have five items on our agenda, and we have received no apologies from committee members. Bob Black, the Auditor General for Scotland, is currently appearing before the Finance Committee and will as a result be late, but Caroline Gardner is here.

Agenda item 1 is for the committee to decide whether to take in private item 5, which is to consider the content of our report on relocation of Scottish Executive departments, agencies and non-departmental public bodies and the evidence that we heard. Such items are normally discussed in private.

Do members agree to take item 5 in private?

Members *indicated agreement*.

"Performance management in the Scottish Qualifications Authority"

11:06

The Convener: Item 2 is on the Scottish Qualifications Authority. We have circulated to members a letter from Tom Drake, the interim chief executive of the SQA, in response to the Audit Scotland report "Performance management in the Scottish Qualifications Authority". Members will recall that we wanted to seek responses rather than to institute inquiries on a number of the Auditor General's reports—this was one of them.

I draw the committee's attention to paragraph 3 of the SQA's response. On the authority's deficit, the last sentence reads:

> "We currently estimate this will rise to around £5m per annum by 2015."

We suggest that that should be checked, because it was anticipated that the deficit would be £17 million by 2012.

Caroline Gardner (Audit Scotland): The figures that we had were that the gap was around £12 million in 2005-06, so we have not been able to reconcile that figure with the statement that it will rise to £5 million in 2015.

The Convener: The deficit was £12 million in 2005-06, so we are not clear whether that is an additional £5 million, whether the word "to" should be "by", so that the sentence reads "will rise by around £5 million", or whether the projections are that by 2015 the £12 million will have reduced but then increased again to £5 million. There is dubiety about the figure, so we will seek to clarify it. That is for members' information.

Robin Harper (Lothians) (Green): Is not there a proposal to reduce the number of examinations that pupils have to sit at age 16? Has that been factored into the calculations? If the total number of examinations were to decrease, the SQA would not be setting as many exams, which would reduce its costs. The price is kept up because the numbers go down, which means that the money that the SQA receives depreciates, but the expenses for setting exams and commissioning marking schedules stay the same. Surely reducing the number of examinations that children aged 16 have to sit will have a considerable effect on reducing the SQA's costs.

Caroline Gardner: In principle, that is right. The letter suggests that only demographic changes have been taken into account. However, you will need to ask the SQA about what underlies its

calculations and the extent to which it has taken into account the proposed changes.

The Convener: We can include that point in our request for clarification.

Mr Andrew Welsh (Angus) (SNP): I really do not know what to make of the response. The process that has been outlined involves various "assumptions on income", including "an estimate" on which a balanced budget is agreed. The real problem is the "widening gap" between expenditure and income. Although we now doubt whether the figure that the SQA has given us is accurate, its estimated deficit in 2005-06 is £12 million. Its response to the situation is to flatline its costs and to look for "commercial opportunities".

However, we also have X—the unknown. According to the SQA's response,

"the projections do not take account of the Curriculum Review which could have implications"—

whatever "could have implications" might mean—so, in other words, the authority is relying on an expanding income to cover its big deficit, even though the curriculum review is hanging over it. I also note that the response is from the interim chief executive, which suggests that some sort of reorganisation is going on.

I am interested in finding out the extent and significance of the estimated "commercial opportunities", because they will have to be quite spectacular if they are to cover the extra millions in the predicted shortfall. Moreover, has the SQA received any indication that it should be concerned about the curriculum review? Will the review have a significant impact, or will it simply shuffle around the various costs and opportunities?

I feel that we are being asked to agree a very unclear response. How will the various doubts be addressed? To what extent will the "commercial opportunities" that are mentioned in the response be harvested to make up the deficit?

The Convener: It is certainly within the committee's gift not only to seek clarification of some of the figures in the letter but, as Robin Harper has requested, of some of the assumptions on which those figures are based.

However, I remind members that we previously agreed not to have an inquiry on this issue. As a result, I am working on the assumption that we are simply seeking further information, which we will discuss and put to bed at a subsequent meeting. I am not looking to go any further than that—had we wanted to do so, we should have agreed as much in our previous discussions.

Robin Harper: I am sure that not only we but the SQA would find it useful to indicate a range of reactions to the outcome of the curriculum review. For example, if the review reduced the total number of examinations that children aged 16 have to sit, things might look a little bit more optimistic for the organisation. It should at least be able to say the steps that will need to be taken in that case and in the worst-case scenario of things carrying on as they are. I believe that what we have in front of us is the worst-case scenario and that things could be a lot better.

The Convener: Although flatlining its operating costs might well have been an achievement for the SQA, if the projections show that the potential business is going to shrink considerably, is such an approach a sufficient and proper reflection of what its operating costs should be? I am sure that the organisation is asking such questions, but the answers are not in the letter.

Mr Welsh: Enough red lights are flickering in respect of the response to make it clear that the problem is serious. Perhaps we should at the very least alert the appropriate minister to the response. In the end, if the matter is not dealt with, it will come back to a successor Audit Committee. We have been warned that the current process is neither financially nor organisationally healthy.

The Convener: We are not yet in a position to alert anyone. However, if we get the information that we seek, we can alert Parliament to our concerns. I think that that is the proper route.

Mr Welsh: I am happy with that.

The Convener: As there are no other comments, do members agree that a letter be drafted on the committee's behalf, seeking clarification on the points that have been discussed?

Members *indicated agreement*.

Transport in Scotland

11:15

The Convener: Item 3 is consideration of a response from the Scottish Executive on the Auditor General's report entitled "Scottish Executive: an overview of the performance of transport in Scotland". Members will recall that we decided not to hold an inquiry into the report, but wrote to Philip Rycroft at the Enterprise, Transport and Lifelong Learning Department. We have his reply. Would members like to comment on the letter?

Robin Harper: It might be useful to know more about how the Executive is monitoring the national concessionary travel scheme by means of the overt and covert attention of the bus surveyors. In other words, what percentage of buses are tracked over the year? There are auditing theories about looking for and concentrating on weakest links. I would like to see more detailed information on the scheme, because it seems that it will be quite a long time before smart cards are introduced.

Mr Welsh: Here we go again. We are told that claims under the monitored national concessionary travel scheme will be checked for "reasonableness", rather than for accuracy. We are also told that

"the scope for fraud … will diminish significantly when the smartcards can be brought into full use, hopefully by the end of this year."

Smart cards may, in 11 months, have been introduced; I presume that the Executive will in the meantime proceed by means of guesswork and sampling.

We asked

"whether and when research will be commissioned into the economic effects of the scheme".

Philip Rycroft replied that it

"is expected to be started in 07-08",

if funding for such research is secured. There are many unknowns in the air and much uncertainty about finance. If the scheme does not work, it will end up being quite expensive for the public purse. That is most unsatisfactory. Who is in charge, and what is happening? There is far too much vagueness in the answers we are getting.

Robin Harper: The Executive has not established any baselines. I presume that to assess the economic effect of the measure it needs to know how many older people have and have not been taking advantage of the national concessionary travel scheme, what they are doing at the moment and what they will do in the future. The scheme could provide quite a boost to the tourism industry, but we do not know about that. If we have not established baselines, what is the point of commissioning research two or three years down the line? The buses on which I travel using my senior person's bus pass are very full. It seems that it is almost too late to engage in reasonable research, but I would like to hear researchers' opinions on that.

Mr Welsh: Time and again we find that policies that are being advanced have no baselines or figures, which does not come to light until later. We are talking about policies that are agreed by Parliament. Financial resolutions tend to be tagged on to legislation, but they should be at the forefront of implementation of policy. We are dealing with a fundamental problem of good and efficient government that we encounter in one area after another. I am making a general point, rather than a specific party-political point—it applies to any Government. The problem must be dealt with.

Margaret Jamieson (Kilmarnock and Loudoun) (Lab): My point is about the relationship that is being struck with the Office of Rail Regulation to benchmark new Scottish rail infrastructure projects. Given that a significant number of those projects exist—some of us have been involved in committees to ensure that those projects happen—I would have thought that such work would have been done since devolution. I seek clarification on that.

The Convener: What members have said suggests that there is enough interest in seeking clarification on many issues, not least in respect of the responses to questions 1 and 4, to which Margaret Jamieson referred. Caroline Gardner has a comment on question 4.

Caroline Gardner: We thought that it might be useful to point out that question 4 refers only to rail projects. Road projects are clearly separate from rail. It is worth highlighting that the Scottish Executive has much more experience of managing road projects than rail projects over a long period. We understand that it regularly meets the Highways Agency to share good practice and so on.

The Convener: We certainly consider roads to be included in the phrase

"major public transport infrastructure projects",

so that consideration is important.

Do members have other points? From the tone of comments, it is clear that we seek further clarification of several assumptions or remarks in the letter. Are members content for me to draft a letter, which they will be able to see to ensure that it covers their concerns?

Mr Welsh: Yes—with the footnote that we are yet again seeking clarification of what was supposed to have been clarified. If the Executive made matters clear when we asked straightforward questions, that would help.

The Convener: To be fair, we are seeking the Enterprise, Transport and Lifelong Learning Department's response when we have not taken evidence or produced a report. At this stage, it is fair to seek clarification of the department's response. You are being a little unjust on the department, even though it may well deserve that.

Mr Welsh: I try not to do that, but the issue is important.

The Convener: The committee agrees to write to the department to seek further information and clarification in response to the letter.

"Implementing the NHS consultant contract in Scotland"

11:23

The Convener: Item 4 is a response from the Health Department, in the name of Kevin Woods, to our report on the consultant contract. I invite members to comment before Audit Scotland's representative makes points.

Robin Harper: Towards the end of the response, Mr Woods admits to contract mistakes. However, he says that patients have benefited from reforms and he highlights the move to day surgery in Dumfries, more efficient use of operating theatres and waiting time reductions. Those changes are not patient outcomes but administrative efficiencies. The patient outcome is how successful an operation is or how many people left hospital better than they were when they entered. Such patient outcomes are not registered for us to examine. Surely the outcome of the services that is provided is the most important matter, not whether patients were treated within two weeks or five weeks.

Margaret Jamieson: That raises a question. The difficulty is that the contract does not talk about outcomes. Perhaps that is a problem that some of us feel should have been overcome in the contract and perhaps we want to flag that up.

Mr Welsh: Page 13 of the response quotes from our report, which states:

"The Committee is of the view that current monitoring arrangements are not sufficient, particularly given the very substantial amount of public money involved. Currently it is not possible to demonstrate whether intended benefits from the contract are being met."

The response disagrees with that.

All the monitoring that goes on should make things easy, however. The issue is summed up in the Executive's disagreement with our report. It mentions, for example, the

"linking of consultant related productivity to the achievement of the HEAT targets, annual ISD collection of information of the breakdown of Pas within consultant job plans and inclusion of Pay Modernisation Plans and Performance against HEAT targets in the Annual Review Process."

That is a jargon-riddled response, which reveals something about the organisation. I find that the NHS has a tendency to use jargon, rather than to give practical answers. It was a fair point that we made and I disagree with the Health Department's disagreement. Its answer points to part of the problem. It obscures the truth, rather than getting to it.

The Convener: Anything from other members?

Margaret Jamieson: If I may just get to this; I am not going to go through—

The Convener: If I may first make a more general point, I am concerned about the extent to which many of the responses from the Health Department start with "Noted", rather than "Agreed" or "Disagree". There are 19 "Noted"s, in fact. It would be far more helpful for the committee if the response said "Agreed" where there was agreement and "Disagree" where there was disagreement. The department should have had the honesty to say why it disagrees with the committee. We could have agreed to differ or we could have sought further evidence, for instance. I will not say that it is disrespectful to the committee or Parliament, but to have so much of the responses starting with "Noted" is not helpful for our role in ensuring scrutiny and accountability, which this committee in particular was set up for.

I hope that the committee will agree to our sending out a message to the effect that we would have respect for departments that disagreed and said so. Departments that disagree with our findings are obviously at liberty to say that—it would make the process easier if we could discuss that. To have so many instances of "Noted" almost suggests that the response has been put together rather late in the day instead of its having been given the full consideration that I would have hoped for. I may be wrong—I hope that I am—but the number of times we read "Noted" is cause for a bit of concern.

Margaret Jamieson: As well as there being a high number of instances of "Noted", there is also a mixture of "Not agreed" and "Disagree". To me, those alternative wordings indicate that a number of different people have compiled the response.

I have a comment on the future of the consultant contract, which was covered in paragraph 84 of our report. We said that the

"wider service benefits from the considerable investment in the consultant contract are not being demonstrated."

The response to that is given in the form of appendix A. I will not go through every single detail, but I draw members' attention to the first page, where the department indicates that the consultant contracts have been used in Dumfries and Galloway

"to increase use of Laparoscopic surgery".

The department goes on to mention

"Use of the consultants contract being made to revise labour ward on call sessions"

and a

"Reduction in number of limited value operations".

I do not know what that means—perhaps we could get clarification. The response goes on to say that "theatre utilisation rates" have been agreed using the contract. When I was with the health service, such things were on-going and it did not require a truckload of cash for individuals to change how they worked.

Further down the page, other areas are mentioned. Highland NHS Board

"permitted opening of an additional theatre"

and identified areas where patient needs can be met by general practitioners with special interests, and in radiology it aims

"to reduce waiting times for diagnostic services."

Grampian NHS Board

"has identified areas where other practitioners can carry out work"

and is engaged in service redesign.

This is not rocket science. Those reforms are part and parcel of change that has been generated from within. Other professions in the health service did not get a truck load of cash to get them to change. I would have expected a developing service to be making such changes automatically and I am disgusted with that response.

11:30

The Convener: It has already been drawn to my attention that the response mentions changes that might have been achieved anyway.

Margaret Jamieson: Other health boards did it.

Susan Deacon (Edinburgh East and Musselburgh) (Lab): I have some sympathy with the comments that Margaret Jamieson just made. Although I accept that many of the examples of good practice that are listed have been brought about by the new contract—in other words, the contract has been used to lever those changes—many groups within the health service and other sectors could reasonably ask why it required such a substantial and costly change in terms and conditions for that staff group to bring about changes and improvements in practice that are, in some cases, quite marginal. That remains one of the big, overarching questions about the reform.

On whether the Health Department has classified recommendations as "Noted", "Agreed" or "Disagree", the number of times that a recommendation is "Noted" registered with me too. I am intrigued by the frequent use of that non-committal term and am not sure how to interpret it, to be honest. However, it leapt out at me how few of our recommendations were disagreed with. That is very striking. We should welcome the fact that some of the shortcomings of the process have been acknowledged explicitly—more so in some cases than others—and that some indication has

been given of improvements that will be made in future, such as the drawing up of a clear protocol for any United Kingdom-wide negotiations. It is unfortunate that two of the biggest reforms—the consultant contract and the GP contract—have already been done but, nonetheless, the changes that have been made to the process should be noted.

One point caused me particular concern because of what it tells us about what the NHS in Scotland has signed up for. In paragraph 20 of our report, we commented that we were not persuaded that the contract fully takes into account

"the differing characteristics of and challenges facing the service in Scotland such as; higher staffing levels; greater remoteness and a smaller independent health care sector."

The department noted that comment and I note that its response says:

"The size of Scotland's staffing levels and independent health care sector could not compromise the requirement to agree consistent levels of pay and working hours across the UK, without which the profession would have refused to agree a contract."

That strikes me as a tacit acknowledgement—if not, indeed, an explicit one—that Scotland paid over the odds for the contract. Although it has been widely accepted by the committee, the Executive and the staff representative bodies that it remains in the best interests of the NHS in Scotland—and elsewhere in the UK—to have UK-wide contracts, the department's comment raises a question about the extent to which, despite all the rhetoric to the contrary, there was any willingness on either side of the negotiating table to take meaningful account of Scottish needs. It is a particularly telling remark.

The Convener: It is irritating that, with many of the issues on which the response is "Noted", when one reads what the department says, it is clear that it should have said "Agreed" but for some reason felt unable to. The department could have agreed with our concern and pointed out an explanation. For instance, the response to paragraph 9 states:

"We acknowledge that the initial cost model did underestimate the overall costs. Subsequent estimates were however significantly more accurate."

That is arguable, because the second estimate was £32 million out and the third was £11 million out. In the scale of NHS costs, those figures might not seem huge, but in relation to other costs of Government, they are still large amounts. At least the department acknowledges the issue that we raised. However, I am not sure why it says "Noted" rather than "Agreed", given that we drew attention to the issue and said that it was not good enough. It may sound as if I am splitting hairs, but there seems to be a reluctance to agree or disagree with us. That needs further explanation.

Susan Deacon also mentioned the Scottish aspect to the contract negotiations. On that issue, she echoed a concern about the contract that the committee has had all along.

Margaret Smith (Edinburgh West) (LD): I will pick up on two issues. Now that we have done the work and received the response, the question is whether, at a gut level, we honestly feel that there would be significant differences if the department went through the process again. The significant point for me is the one that Susan Deacon made, which is that, as long as we take the basic line that all NHS contracts should be negotiated for the whole United Kingdom, we will have a problem, as the differences between Scotland and the rest of the UK will always be seen as peripheral to the major issue. The consultant contract is probably the most extreme example of that, because there are significant differences in relation to private sector involvement for consultants.

I would be much happier if we had a more robust response from the department saying that it was going to consider how it can better reflect Scotland's needs in future negotiations. From the response, it seems that we are in a slightly better situation, as some of our points have been accepted, and some of the department's comments are reasonable but, overall, I do not get the sense that the department shares the committee's concern that the department should be doing further work. I sense a slight complacency. Perhaps I am being harsh on the department, but I would have liked a little more robustness in the response.

I will be slightly parochial and talk about the examples of good practice from NHS Lothian that are in appendix A, which are the sort of issues that I hear about locally. Two of the four examples are basically about freeing up consultant time by giving a job to somebody else. Did we have to pay consultants a lot more money so that they could give their job to somebody else? Their workload was reduced and their pay packet was increased, which is a pretty good contract if you can get it—most of us round the table would love to have that. The question that must be asked is how many of the examples that are given in appendix A could not and would not have been achieved without the consultant contract. What we have in appendix A is a complete load of fluff. It lists all sorts of good measures in the NHS throughout Scotland that we all support and applaud because, to a large extent, they show the flexibility of other staff in the NHS. I am not saying that the things in appendix A are not good things, but how many of them could not and would not have happened without the consultant contract? If we looked into that, we

would probably find that the answer is a minority of them.

The Convener: I draw your attention to paragraph 81, on the pay structure, and paragraph 84, on the future of the contract, where we mention aspects of evidence. We are justified in asking questions in cases where the Executive disagrees that there is evidence. Paragraph 69, on monitoring arrangements, is relevant as well. The Executive has attached appendix A to its response, but we were specific in our recommendations and conclusions. We mention

"the impact on private practice work … being achieved across Boards and across services".

We asked for specific information, but that is not coming through. We are in disagreement with the Health Department. We asked not for general evidence but for specific evidence.

Mr Welsh: We are touching on matters that are fundamental to the work of the Parliament. We are talking about the accuracy and applicability of the data and information on which decisions have been based—or in this case, perhaps, the lack of such data. The committee's role is not just to criticise but to support and encourage good practice. It is therefore important to be clear about what the Executive agrees and disagrees with and for that to be explained to us so that progress can be made.

The bottom line is that the deal cost an extra £235 million and four times the original estimate. It is the committee's duty to try to find out why—not necessarily to criticise, but hopefully to learn lessons. However, we can do that only if we are treated fairly and given accurate information in response to our questions.

The Convener: There are seven areas in which the department agrees with us. Members are free to comment on those as well.

Margaret Jamieson: Andrew Welsh commented on the accuracy of data. Forgive me for focusing on the Executive's comment on the health board in my area but, under the heading "NHS Ayrshire and Arran", the response states:

"The consultant contract has underpinned the development of a one stop cataract service which is giving a 'total journey' waiting time of 20 weeks."

Susan Deacon will remember that, when the Parliament started, the one-stop cataract service was held up as the way for the NHS throughout Scotland to go. Why is the consultant contract, which has not been in place for long, being given the credit for that service? Is it just because it has "underpinned" the service?

My understanding is that a small amount of money was provided for rewarding opticians so that they could make a direct referral. No consultant was involved. I would like further clarification of that. I would not like to think that the department was looking for things in drawers to fill up bits of paper to give to the committee, but that is what it looks like to me.

Mrs Mary Mulligan (Linlithgow) (Lab): I agree with many of the points that have been made. I will not repeat them. I am a little concerned that the Health Department seems to be justifying the contract by putting on the table everything that has happened, rather than just what has happened because of the contract changes, which is a different thing. It is clear that there have been improvements, but we need to separate out the two to justify the increased public expenditure. The money that has been spent on the consultant contract could have been spent on something else in the health service, or on other services generally. That is why we have a duty to ensure that the money was spent effectively.

I will not repeat everything that has been said, but I just have a point to make on the response to paragraph 81, on pay structure. We said:

"The Committee recommends that in responding to this report the Executive confirm whether consultant recruitment and retention targets have been met."

Yet again, we got a "Noted" in response to a recommendation to which it would have been simple for the Executive to say yes or no.

The Convener: That is because it has stepped aside from the target.

11:45

Mrs Mulligan: Yes. Although the detailed response that is provided about advertising and follow-ups is fine as far as it goes, I would have expected something in it about the development of doctors into consultants, to fill the gaps in the service. It takes a long time for somebody to become a consultant. If there is no clear plan, it is not possible to respond overnight to the gaps in the service. In some areas, there have been problems with recruitment and services have had to be redesigned because not enough forethought was given. I would have expected the Health Department to take the opportunity to say how much of the investment in consultants is being used to plan for the future. It is unfortunate that it did not do so.

The Convener: It is noted that the Executive's answer to our recommendation in paragraph 81 is that it stepped aside from a target of 600 and achieved an increase of 389.

Susan Deacon: Notwithstanding the comments and criticisms that we have all made, it is important for us to make wider comments and not to lose sight of the big picture. There are echoes

of discussions that we have had about the McCrone deal and the overarching aims of some of the big pay reforms in relation to recruitment and retention in the longer term.

I make it clear that the committee is cognisant of the need to see the big picture. We are certainly not throwing the baby out with the bath water in anything that we have said or done to date in recognising the need for reform and improvement in relation to NHS consultants. That is all the more reason why I am disappointed by what the department said about how it will monitor effectiveness over time. In paragraph 87, we said:

"It is important therefore that the impact and effectiveness of the contract is kept under review."

The department explicitly agreed with that, but all that it said in response was:

"The impact and effectiveness of the contract will be kept under review through the Pay Modernisation Plans and Annual Review process."

I am not quite sure precisely what is meant by "Annual Review process", because the NHS is littered with annual review processes of different sorts. What concerns me is that the department will not be able to monitor the impact and effectiveness of the contract over time by any annual review process, no matter what it is. What we said gave the department the opportunity to take a wider look at how it would assess effectiveness in the longer term, but there is no indication of that. That is a legitimate point for us to underscore again, not least because there are echoes of what happened in relation to some of the other big public sector pay deals.

We recognise that we cannot measure all the benefits of changes in a year, two years or even five years, but we should look to be reassured that the department is monitoring the effectiveness of the contract at a bigger, strategic level. I mentioned recruitment and retention, but it could also assess whether it is helping to develop better clinical leadership in the health service and accelerate the pace of reform overall. Those are the bigger questions. Nothing in the department's response shows the big picture perspective.

Robin Harper: A theme that has run through all our comments is that there is a lack of willingness to get to grips with the problems. I want to go back to Margaret Jamieson's first concern and nit-pick a little at what is said in the third bullet point about NHS Dumfries and Galloway in appendix A of the Health Department's document. I suspect that the "limited value operations" in ear, nose and throat are tonsillectomies—so why does the department not come out and say that? Also, what exactly is meant by "improvements in clinical effectiveness"? Time has been freed up so of course there will be improvements in clinical effectiveness, but what is meant by that? The document does not say. That kind of imprecision and unwillingness to come straight out and say things runs all through the document.

The Convener: I invite Caroline Gardner to respond on behalf of Audit Scotland.

Caroline Gardner: Two broad points are worth making. On the issue of looking ahead and learning lessons from the consultant contract, we are pleased about the acknowledgement that better baseline information will be needed in future and that there was not good baseline information this time. Also welcome is the agreement of a protocol for how Scotland's interests and needs will be taken into account in future.

For Audit Scotland, the most significant issue—and this reflects the committee's discussion—is probably to do with monitoring the benefits from the contract. The department's response to paragraphs 67 and 69 of the committee's report does not focus on the most important issue. A lot of monitoring is going on and a lot of information is coming back, but the key issue is whether the department is focusing on getting systematic evidence of what the contract itself is helping to achieve—that is, what is being achieved through the new flexibilities that the contract puts in place. The department is providing examples of changes that might have been happening anyway. In some cases, changes have been under way for a long time. The monitoring of what is happening as a result of the contract seems to us to be the most important area of disagreement between the committee's report and the department's response to it.

The Convener: Now that we have all commented, the next question is how we respond to the department's response. Obviously, we could draft a letter to raise a number of points. That letter might be lengthy. We could also invite the accountable officer to the committee so that we can ask him further questions on our concerns.

Our next meeting is on 13 February and another is scheduled for 27 February. The meeting on 27 February might well be our last before the election, so if we wanted to invite Dr Woods, we would probably invite him to the meeting on 13 February. Our work programme tells me that that meeting is likely to be similar to today's meeting: no evidence gathering is scheduled, but we will discuss responses. On 27 February, we will hear evidence from the Accounts Commission. We have not firmed up any meetings beyond that date, although slots are available should we need them.

Those are the options. What would members like to do?

Mr Welsh: At the very least, I would like a response to the comments that have been made

about how the committee's reports have been reacted to. I believe that they have been reacted to with obfuscation rather than clarity.

The general points that have been raised are important to the good working of the committee and to our relationship with those who give evidence to us. The alternative would be to deal with the specific points that have been raised, which could almost make a report on their own. The people who take the decisions should certainly have read our comments and understood them. The issue is how the committee can function as effectively as possible on the best information that is given to us from those who give evidence. Those are general points that have to be addressed; otherwise, we will just continue to get reports that we find unsatisfactory because they do not make it clear where there is agreement or disagreement and how we can make progress.

Mrs Mulligan: It is important to ensure that the Health Department is aware of our concerns about the response. We should note both the points where the response has been helpful and the points where it has clearly not been. However, I wonder whether there is much value in having an evidence session with the head of the health service. I think that this is a longer-term issue and something to which our successor committee will return, regardless of who is on that committee. Given that we have not only the consultant contract but the GP contract and the on-going delivery of the agenda for change, it would be highly unlikely that a future Audit Committee would not return to the issue, and it would be helpful for the committee to be able to spend more time on it. Therefore, although it would be helpful for the convener to write to Kevin Woods, making it clear how strongly we feel on the issue—I hope that some of us will be here to pursue it in the future—there are other things that we could be doing that would be more productive than spending a session having that discussion.

The Convener: Is the committee agreed that I should write to Dr Woods in the strongest possible terms? Also, given what Andrew Welsh has said about the broader issue of how responses come to the committee—which I detected in Mary Mulligan's concerns, as well—would it be in order for me to copy that letter to John Elvidge in order to raise that issue across departments?

Members *indicated agreement*.

Margaret Smith: I have a small point to make on the back of what Mary Mulligan said, which I totally agree with. There is a terrible temptation, at this point, to fling everything into legacy papers. However, it is perhaps worth saying formally that this is an issue that we will put into our legacy paper. One of the big issues that arises from what we have been talking about this morning is the need for review. There is a temptation to think that this is something that happens only infrequently and that, therefore, it is not something that the committee or its successor will want to keep coming back to. However, we should send a clear message that it is. It is not just about the consultant contract; it is also about the GP contract and the other staff contracts that are going through.

The key questions are whether the consultant contract is the best use of public money and what it has achieved. With the best will in the world, it is difficult for us—or anybody, at this point—to see exactly what it has achieved, in many cases. It would be much easier for our successor committee to return to the matter a year or two down the line and say, "Okay. Put the fluff to one side. What has been achieved?" Issues to do with recruitment and retention, for example, should certainly have firmed up by then.

We should signal a clear intent that this is a matter that we will make strenuous efforts to have our successor committee return to.

The Convener: That is what legacy papers are for. It is a point well made. Is the committee in agreement with that?

Members *indicated agreement*.

The Convener: I will draft a letter with the clerks and will circulate it to members before it is sent. We may be able to get a response by 13 February but, if not, we will get one by 27 February.

11:59

Meeting continued in private until 12:57.

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