

# **FINANCE COMMITTEE**

Tuesday 12 March 2002  
*(Morning)*

Session 1

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# CONTENTS

Tuesday 12 March 2002

Col.

<b>SCOTTISH PARLIAMENTARY CORPORATE BODY (FINANCIAL PERFORMANCE REPORT)</b> .....	1894
<b>SCOTTISH PARLIAMENTARY CORPORATE BODY (BUDGET SUBMISSION)</b> .....	1900
<b>HOLYROOD PROJECT</b> .....	1905
<b>BUDGET PROCESS 2003-04</b> .....	1929
<b>PRIVATE FINANCE INITIATIVE/PUBLIC-PRIVATE PARTNERSHIP INQUIRY</b> .....	1933

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## **FINANCE COMMITTEE**

### **5<sup>th</sup> Meeting 2002, Session 1**

#### **CONVENER**

\*Des McNulty (Clydebank and Milngavie) (Lab)

#### **COMMITTEE MEMBERS**

\*Brian Adam (North-East Scotland) (SNP)

\*Mr David Davidson (North-East Scotland) (Con)

\*Mr Tom McCabe (Hamilton South) (Lab)

Alasdair Morgan (Galloway and Upper Nithsdale) (SNP)

\*Mr Jamie Stone (Caithness, Sutherland and Easter Ross) (LD)

\*attended

#### **THE FOLLOWING ALSO ATTENDED:**

Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP)

Ms Margo MacDonald (Lothians) (SNP)

Professor Arthur Midwinter (Adviser)

#### **WITNESSES**

Roy Beggs Jnr MLA (Finance and Personnel Committee, Northern Ireland Assembly)

Robert Brown MSP (Scottish Parliamentary Corporate Body)

Sarah Davidson (Holyrood Project Team)

Stewart Gilfillan (Scottish Parliament Corporate Affairs Directorate)

Paul Grice (Clerk and Chief Executive, Scottish Parliament)

Francie Molloy MLA (Finance and Personnel Committee, Northern Ireland Assembly)

#### **ACTING CLERK TO THE COMMITTEE**

David McGill

#### **SENIOR ASSISTANT CLERK**

Terry Shevlin

#### **ASSISTANT CLERK**

Gerald McNally

#### **LOCATION**

Committee Room 2



## Scottish Parliament

### Finance Committee

*Tuesday 12 March 2002*

*(Morning)*

[THE CONVENER *opened the meeting at 10:07*]

**The Convener (Des McNulty):** I open the Finance Committee's fifth meeting of 2002 in public and welcome everybody who has come along. I apologise for the late start and remind people to turn off mobile phones so that we are not interrupted.

We have apologies from Alasdair Morgan, who is unwell. Elaine Thomson has said that she will step down from the committee, so I place on record our thanks for her work as a committee member. She was an original member of the committee, so she has been a member for a considerable time. I would like that to be in the *Official Report*.

Fergus Ewing and Margo MacDonald have said that they will attend the meeting and I presume that they will join us in due course. I welcome Professor Midwinter.

At our previous meeting, Jamie Stone declared his membership of the Holyrood progress group. As a result, he will absent himself from agenda item 3. He has also decided to take no part in items 1 and 2, as they could involve issues that are connected with the Holyrood project. He will join us later.

We have three agenda items for which the same four people are witnesses. For the press and the public, I will make clear our business. The three items are separate. There may be some overlap, especially between items 1 and 2, but I ask members to confine their questioning to the item that is under consideration.

## Scottish Parliamentary Corporate Body (Financial Performance Report)

**The Convener:** With those caveats, I move on to item 1, on the in-year financial performance report of the Scottish Parliamentary Corporate Body. The corporate body agreed last year to provide the committee with a financial performance report on a six-monthly basis. In front of us is the first such report, which covers the period from April to September 2001. Some parts of the report include updates covering the period to the end of December 2001.

Before I ask members to raise any points that they may have in connection with the report, I invite any of the witnesses—Paul Grice, Robert Brown MSP, Stewart Gilfillan and Sarah Davidson—to make some points at the outset.

**Robert Brown MSP (Scottish Parliamentary Corporate Body):** I would like to make a few points by way of general introduction. As we have said to the committee before, the development of the Parliament has meant that the SPCB estimates and budgets have been a bit more speculative in previous years and have become a bit more realistic as time has gone on. That process has been shown through the more precise figures that we have now. The underspend that is predicted for this year is a bit less than it has been for previous years. That confirms the fact that the Parliament is now pretty fully into its stride in its current buildings, and that things are becoming a bit more predictable year by year.

Having said that, a underspend of £4.9 million is predicted at the half-year stage, heading towards something more like £4.6 million as the present stage develops. That comprises two or three main elements. One relates to the freedom of information commissioner allocation, which was given to us by the Executive. That was really a transfer of resources and, given that the Freedom of Information (Scotland) Bill is not yet through Parliament, spending there will be of only marginal relevance this year. The amount involved is about £600,000.

The second element of underspend is to do with staffing. There is, for various reasons, an element of underspend of about £1 million on wages and training. The third element, which amounts to about £2.6 million, stems from the fact that we have not had to draw down on any contingencies, which is good news. As for the other main element, a modest underspend on members' allowances is indicated for the end of the year. The underspend will be rolled over, as it has been in previous years under end-year flexibility

arrangements.

The comments that we have made relate to revenue. The capital position is, obviously, skewed by the Holyrood project and reflects the year of spend. I do not think that we can say much more about the project under this agenda item; it may be covered more adequately under subsequent items.

Those are the main comments that we wish to make to the committee by way of introduction to the six-monthly report.

**Brian Adam (North-East Scotland) (SNP):** You indicate that some of the underspend is underspend on staffing costs. In view of the fact that we have had some difficulties in getting all the services that the Parliament requires, are there plans to get up to establishment? Do we have the proper establishment? Has that been sorted out for the future? Those questions may stray into agenda item 2, but have we got it right, or were there some unique circumstances this year that meant that the staffing budget has been underspent?

**Robert Brown:** That is always a developing position. I will ask Stewart Gilfillan to answer that in detail.

**Stewart Gilfillan (Scottish Parliament Corporate Affairs Directorate):** That is, as Robert Brown said, always a developing situation. In the course of this year, we have still been getting things up and running to an extent, and we have been carrying a large number of staff vacancies. We are now doing much better, however. The complement is 480, and we are up to 450 staff, so we are still 30 short. There is always an assumption of vacancies in any organisation—when staff leave or move around, vacancies are always carried—but we plan to improve on that figure of 30 vacancies out of 480.

**Brian Adam:** Do we have any idea what the recruitment and retention position is? Are we finding it easy enough to recruit suitably qualified candidates? Are we retaining those whom we are training? I am aware that expertise in such areas as drafting legislation cannot simply be bought off the shelf. Are there any such areas?

10:15

**Paul Grice (Clerk and Chief Executive, Scottish Parliament):** We, like the Executive, have been having trouble in finding lawyers with the appropriate skills in the preparation of legislation, so that is an issue for us. We have a relatively small legal team, but it is fair to say that that is a pressure area.

I would not say that there are any particular types of person with whom we have a problem

across the organisation. We have a slight problem at the junior professional or lower middle management grade. The salaries at that level are not especially competitive, and we have had evidence of difficulty in attracting people there. After this meeting, the SPCB will be considering a final report from officials on the pay settlement on which we have been negotiating with the trade unions over recent months. We are certainly looking to address that issue so that we can offer slightly more attractive wages at that level.

That said, retention has been good. We have relatively low turnover rates. Recent boards in which I have been involved have shown that we have been getting a large number of applicants of a high quality. I am pretty optimistic that things will continue to improve in that regard as they have been doing.

**Brian Adam:** Is the reason for our 30 vacancies that we have not attracted the candidates or that we have not advertised the posts yet?

**Paul Grice:** The posts are mostly in the process of being filled. The figure equates to about 7 per cent. That is not an exceptionally high figure and it is gradually closing. Most of the posts are out to competition at the moment. The position is reasonably good, but I would like the number of vacancies to be lower still. With the recruitment in train, the current retention rates and what I hope is an improved pay settlement coming through, I am optimistic that, a year from now, the position will be better still.

**Brian Adam:** When do you think that you will reach the point where the underspend—or overspend, if that happens to be the case—will be in single figures, or at least very small?

**Robert Brown:** We are about to move into the flitting-to-Holyrood phase, which will in itself put additional uncertainties and pressures on the budget. There will be a period of time when people will be working both here and there. Extra work is involved in the flitting operation, so a projection for extra staff during that period has been made. After we have moved into Holyrood, it will take a year or so before the new levels of expenditure, which reflect the cost of the Holyrood building including rates, settle down. There will be a temporary bulge in expenditure as we get rid of the current premises and the constraints—

**Brian Adam:** So that will take another two or three financial years?

**Robert Brown:** Yes, probably.

**Mr David Davidson (North-East Scotland) (Con):** As Elaine Thomson has moved off the committee, I am the sole survivor from the Finance Committee's original membership. I am beginning to understand why we were given a medal in

advance.

Let me turn to another area that Mr Brown raised: that of the underspends in the line headed "MSP Office, staff and accommodation costs". The variance shown is quite large. It would be helpful to the committee to know how that came about. Where does the underspend come in? Is it a question of MSPs having been frugal? Is it a matter of their not having been able to get staff or not spending much money on staff? In which areas has that lump of money been wrongly estimated, as it appears to have been?

**Robert Brown:** The brief answer is that that is not the current position. We are estimating a modest underspend of perhaps £100,000 at the end of the year. The expenditure heading is very much a calendarised one, and depends heavily on the individual decisions taken by the 129 MSPs. The position at the earlier part of the year is not the same as the present one.

**Mr Davidson:** So you are effectively saying that there is a health warning on those figures, or that we should not take them to be particularly accurate—that they are nothing more than an in-term position.

**Robert Brown:** They are accurate as at September 2001, the end of the six-month period covered, but this is now March 2002 and we can be more up to date on the position.

**Mr Davidson:** But the question still remains. At the time of that snapshot, where did the underspends appear to be, and why is the situation different now?

**Stewart Gilfillan:** As the letter from Sir David Steel says, we were then doing our in-year budgeting on a fairly unsophisticated basis. We were simply dividing the annual budget by 12 and spreading it across the year evenly. Since that time, we have moved on to more sophisticated profiling methods. We showed a monthly budget across the year, and the figure included the two months of the summer recess, when members were, in the main, not spending as much on some items as they would at other times of the year. Since we started taking account of that variation in the monthly profile, we have come up with a more accurate prediction. As Robert Brown has said, members' allowances will probably be underspent by around £100,000.

**Mr Davidson:** I presume that the fixed costs of running offices and having staff are taken as constant throughout the year. Those costs would be predictable. We are therefore talking only about distance and travelling, and so on.

**Stewart Gilfillan:** Yes.

**Mr Davidson:** It is helpful to hear such explanations alongside the information that we are

supplied with.

Apparently there has been a delay in information technology implementation, particularly with the renewal of laptops. Is that reflected in the figures?

**Paul Grice:** No. I think that that has slipped in the current year. We have always considered carefully when we should do any IT capital refresh, bearing in mind the fact that we will be moving premises. Clearly, we want to do that refresh at a sensible time so that that money is not weighted. The laptop refresh is a separate project that is running a little late. It will be spread between this year and next and it has had some impact, but it is a relatively modest area of capital spend.

**Mr Davidson:** Mr Brown spoke about flitting to Holyrood. He was talking about figures that are a reflection of the past. Is there a firm date for moving?

**Robert Brown:** The target date is May 2003. A number of unpredictable things will happen along the line, and no doubt we will talk about them later.

**Mr Davidson:** Is that date taken into account in your cost estimates?

**Robert Brown:** Yes.

**Mr Davidson:** You were saying that the underspend from earlier in the year is no longer there. Will there be any forecast underspends, specifically on MSP costs?

**Robert Brown:** The suggestion is that we are heading for an underspend of perhaps £100,000 on MSP costs.

**Mr Davidson:** Are you fairly confident that you are almost at break-even point and that your budget will roll out to be virtually 100 per cent committed?

**Robert Brown:** You must remember that it is mostly a capped budget, apart from the travel budget and other bits and pieces. Office costs and so on are capped and cannot go above a certain maximum level.

**Mr Davidson:** That is fine.

**The Convener:** Stewart Gilfillan made the point that we are moving towards a more structured and sophisticated in-year budgeting system. May we have a note to indicate how that is likely to work in future years? That would give us a useful reference.

**Stewart Gilfillan:** Yes.

**The Convener:** The forecast underspend has been a steady feature year on year. Would it be possible to amplify Stewart's point on the Holyrood flitting costs—and the bulge of expenditure that that will involve—and the method by which budget projections following the move to Holyrood will be

put together? It would be useful for the Finance Committee to get a note about that before the next time we go through this process. We would like to know your estimates of the scale of the bulge and we would like to know what will happen to the budget process—matching the estimates and the actual expenditure—after the settling-down period.

**Robert Brown:** A lot of preparatory work for the flit is being done by various groups. That will give us clearer indications and we could easily supply that information next time round.

## Scottish Parliamentary Corporate Body (Budget Submission)

**The Convener:** We can now move seamlessly to agenda item 2, which is the provisional expenditure plan for the coming financial year. The Finance Committee has not taken evidence before on the SPCB's provisional plans so this is a first step for us. Would Robert Brown like to add anything to the paper that we have received?

**Robert Brown:** It is perhaps slightly odd to jump from financial year 2001-02 to financial year 2003-04; it is perhaps not quite seamless to have a missing year in between.

The issue can be divided into revenue and capital aspects. There is nothing terribly new on the revenue side. In the paper, members will see, under resource costs, some increases in the forecast expenditures in 2002-03 and into 2003-04. Those largely reflect the changes as we move over to Holyrood. For example, an estimate of about £3.5 million is shown under the rates heading. That has yet to be firmed up but is obviously quite a substantial part of the change. In a sense, it is a bookkeeping entry, because the rates go round in circles and come back into the Scottish block. In real terms, that aspect is a bit more neutral. I do not think that the bottom-line figures show any significant change from what we have shown you before.

I am not quite sure how you would like us to deal with the capital aspects, which are, of course, predominantly to do with Holyrood. The paper we are discussing reflects the total Holyrood figures for the year in question as opposed to the details of how we arrived at the current projections of figures and programme. Members may want to deal with revenue first and then come back to capital.

**The Convener:** We will deal with the issues that relate to the building project in the next item, so we will deal with capital in that context and with revenue in the context of this paper.

**Brian Adam:** In the material that the committee has received, it is pointed out that the information relates to level 1 funding, so the paper does not tell us an awful lot other than the global sum required. However, there seems to be a very large difference between the provisional expenditure plans for 2003-04 and the actual outturn in 2001-02. It is a 25 per cent increase. It will include an element of inflation, but that is running at a fairly low level and I am not sure that there are exceptional inflationary pressures on the resource side.

What proportion of the 20-odd per cent of the



difference comes from new burdens such as those to do with the freedom of information commissioner? How much relates to the fact that we have been gradually building up the staffing levels? The 2001-02 figures clearly indicate a significant underspend on what was allocated for that.

**Stewart Gilfillan:** I can give you a breakdown of the increase. The first item is staff pay. The build-up that we talked about earlier, and the effects of the pay and grading deal—which we have negotiated with the unions but which has yet to be ratified by the SPCB, although we have to budget for it—explains £1.3 million of the year-on-year increase. We have also to budget for an increase in MSPs' salaries, because of the recommendations of the Senior Salaries Review Board. The Parliament has yet to vote on that, but we have to make estimates.

There are also inflationary increases on MSP office costs, the relatively modest amount of £0.2 million, and there is the increase to do with the coming in of the freedom of information commissioner.

As a good employer, we want to ensure that staff get the training that they need, so there is an increase of £0.2 million in staff training budgets. There is also an increase of £0.3 million in staff travel budgets, which includes travel to training courses and other staff-related travel.

However, by far the single biggest item, as we enter a fairly uncertain year, is the £2.6 million that we are putting aside for contingencies. The move to Holyrood will involve uncertainties.

**Mr Davidson:** The committee has received fairly cryptic reports, of which there was not a lot of notice. The papers arrived only at the weekend. It would be helpful to have a briefing such as the one that Mr Gilfillan gave us. His run-through of areas of assumption was extremely helpful. In the Finance Committee, we have to look forward, as opposed to the Audit Committee, which looks backward. If we are to look forward, we have to know what the assumptions are and how figures have been arrived at. If we could extract a promise from the panel of witnesses to consider that, or even to give us those explanations now, it would be very helpful.

10:30

**Robert Brown:** From the Finance Committee's perspective, these level 1 figures are for relatively small amounts in total, if one compares them with the Scottish Executive's departmental estimates for health and so on. There is no difficulty in providing further information, but more detail is usually provided slightly further on in the committee's process.

**Mr Davidson:** The information that Mr Gilfillan has provided would probably cover only two thirds of a page of A4, but I did find it helpful. Having said that, we will examine the revenue details that have been provided and leave the capital side for agenda item 3. I note that some costs are being moved into another area, but what concerns me is whether the costs of delays at this stage are being funded from revenue expenditure. Have you managed to move all those costs into the capital expenditure part of the plan?

**Stewart Gilfillan:** The costs of delays are certainly not included in the revenue figures. As I indicated on a previous occasion, the revenue figures allow for the fact that we are budgeting for some parallel running. For example, we are budgeting for the costs of running the interim accommodation for six months after the date in May that Robert Brown mentioned.

**Mr Davidson:** Thank you for that answer, which points in exactly the direction that I was heading.

**Stewart Gilfillan:** It has always been the case that parallel running would be required, because the move will take some time.

**Mr Davidson:** Have you varied the allowance for those costs at all? I know that I am repeating a previous question, but have you considered the costs of any projected overrun? Have you conducted any negotiations about renting the current premises in parallel with the new project?

**Stewart Gilfillan:** No. However, we have prudently budgeted for retaining the premises for some time. We will not be able to divest ourselves of the parliamentary headquarters building and get rid of it overnight. It will take some time for us to empty the building, so we are budgeting for six months to do that. That has not changed.

**Mr Tom McCabe (Hamilton South) (Lab):** The increase over those years is significant. It is important that more detailed information is provided for increases of that magnitude. Those figures could be easily—or purposely—misinterpreted. Frankly, I think that you should cover your back a bit better by explaining the reason for the increases, instead of leaving it for interpretation and for questioning by the committee. It would be far better if we had much more detailed information in future.

The £2.6 million figure for contingencies is fairly significant. If those contingencies do not materialise, will we see a consequential reduction in future budgets?

**Stewart Gilfillan:** Yes.

**Brian Adam:** I was intrigued by the implication that the level 2 and level 3 budgets are constructed after the level 1 budget has been arrived at. I always thought that budgets were built

from level 3 figures and up through level 2 to get to the level 1 figures. Will you clarify how the level 1 figures are arrived at? Do you decide how much money you want and then decide how you want to spend it? I assumed that the process worked the other way round.

**Robert Brown:** In fairness, I think that that is a slight misunderstanding of what I said.

**Brian Adam:** I give you an opportunity to clarify what you said.

**Robert Brown:** At previous meetings of the Finance Committee, we have discussed what the role of the committee should be at this stage and how that compares to the role that it will have later on. The level 1 figures do not just come out of the blue. With the help of year-on-year experience, the finance officials build up the figures in some detail. The table shows a summary of the position at a particular point.

**Brian Adam:** The level 2 and level 3 figures must be available to you, as you have constructed the level 1 figures from them.

**Robert Brown:** Yes.

**Brian Adam:** Have you chosen not to publish those figures now because we are not at the appropriate stage?

**Robert Brown:** It is not that we have chosen not to publish those figures, but that we have done what we were asked to do. We are more than happy to take on board the point that we need to provide more detailed information about significant changes. There is no particular secret about the figures. There is no problem of that sort.

**Paul Grice:** The key point is that we know the figures. Brian Adam is right that the figures are built from the bottom up. However, the corporate body also takes a view from the top on what it thinks is reasonable. Tom McCabe made a fair point about the need for more detail—which, of course, we will provide—but there is also a question of certainty. This far out, there is greater uncertainty but, as we get closer to 2003-04, there will be more certainty, so we will be able to report more detail with greater confidence. For example, even in Stewart Gilfillan's explanation, there were several things that have not been decided by the corporate body or by the Parliament.

We have taken the point and will ensure that, ahead of the next meeting, we will give at least the same level of breakdown as Stewart Gilfillan has provided.

**The Convener:** The core assumption is that the additional costs will be met from this year's underspend and, presumably, from next year's projected underspend. That is why no additional revenue funding is being sought for next year. Is

that assumption solid?

**Paul Grice:** Yes.

**The Convener:** What mechanisms are involved in dealing with the underspend? Will 75 per cent of the underspend be retained, as with Executive departments, or will you bid for 100 per cent of the underspend?

**Stewart Gilfillan:** Under a previous agreement with the Executive that was endorsed by the Finance Committee, we have been assured that we will be entitled to 100 per cent of our underspend. We are budgeting on that basis.

**The Convener:** Thank you. If there are no further questions on that item, is the committee content to note the provisional plans at this stage?

**Members** *indicated agreement.*

**The Convener:** We will return in the autumn to the detail of the expenditure plans.

## Holyrood Project

**The Convener:** For item 3, we consider the third report that the committee has received since the Parliament approved the motion last year that the corporate body keep the Finance Committee informed about inflation and risk associated with the Holyrood project.

I again invite our witnesses to make a preliminary statement.

**Robert Brown:** I suspect that the implications of this report will be of more interest to the committee.

Apart from providing the quarterly reports, we exchanged information with the Finance Committee in December last year, when we reported on the up-to-date position on Holyrood. Let me first deal with the report in the round. On previous occasions, I have explained how the figures are made up from tender contracts, for which we have figures for elements of risk and inflation and so on.

The risk exists in theory at the beginning of the process and then gradually materialises or does not materialise as the process develops. In addition, the risk materialises at present-day prices, so we need to take account of the effect of changes in value as we go along.

In December 2001, the position that we reported showed a total cost for all those elements of £261.6 million. That figure included a prediction that £2 million would be needed to cover the then developing situation with Flour City Architectural Metals (UK) Ltd. There have been a number of changes since then. The prediction for Flour City has gone up from £2 million to about £3.8 million. Obviously, that figure is becoming firmer as time goes on.

Paragraph 10 of the quarterly report refers to several bits and pieces of particular contracts. In effect, they have been reported to the committee before, with the exception of item iii, which is for assembly cladding and roofing. That item contains three packages and has gone up by approximately £1 million since our report to the committee in December. There is also a minor item for signage, railings and miscellaneous bits and pieces, for which another £0.7 million has been provided. When those figures are grossed to include fees and VAT, the total increase since December is £7.37 million. That produces a total of £266.4 million.

Remember that we are dealing with elements of risk that may or may not materialise. The £266.4 million figure is not a prediction of the final cost, but a prediction of the best estimates that we can

give. Obviously, those estimates will become firmer as time goes on.

I should also tell the committee that the figure includes two relatively technical changes. First, recoverable VAT is now deducted and included in the figures that are presented. That is a real cash advantage to the Parliament. On the other hand, that is broadly offset by inflation on the risk, which has now been added in. The figures to compare are £261.6 million in December and £266.4 million at present.

We have talked about the May 2003 target date. Obviously, the main contractors are constantly reviewing the position in that regard. We reported to the committee previously that we would consider the possibility of certain acceleration measures later in the year—probably around September—when those become necessary. Part of the figure for risk—£4.3 million—is against the possibility of certain measures that might be taken at that time. The corporate body will not reach a view on that until later in the year.

The Flour City matter, which has been the subject of fairly extensive press and other coverage—not least as a result of Mr Ewing's efforts—is the subject of an audit report. In paragraph 16 of our quarterly report, we have dealt with some of the background to the recovery of costs. For fairly obvious reasons I would not want us to be drawn too much on that matter now. It is not exactly sub judice at this stage, but clearly there is a legal background to it. We feel that that would be prejudiced if we went into too much detail at present. In paragraph 16, we give information on the inquiries that are being made and the objective that we seek. We seek as far as possible to recover the Parliament's outlay in relation to the Flour City difficulty which, I stress again, resulted from the insolvency of the organisation and not from anything over which the Parliament had direct control.

**The Convener:** I wish to clarify a couple of things. You mentioned £266.4 million as the current outturn price. You also mentioned £7 million as the amount by which it had gone up. The figures of £261 million and £7 million do not add up to £266.4 million. Can you clarify that?

**Robert Brown:** The difference is due to the £2 million from Flour City that we accounted for in the December figure. The figure for comparison is £259.6 million, if we exclude Flour City, or £261.6, if we include the £2 million.

**The Convener:** The inflation projection in the report is £6 million gross in relation to the packages still to be tendered. Is that taken account of in the figure that you have now provided?

**Robert Brown:** Sorry; to which figure are you referring?

**The Convener:** The inflation figure in paragraph 3 is £6 million gross. That would be added to the cost plan value of the packages remaining to be tendered. Is that potentially a figure above and beyond the £266.4 million?

**Robert Brown:** No.

**The Convener:** Is that figure covered by the £266.4 million?

**Robert Brown:** Yes.

**The Convener:** That is a useful clarification.

David Davidson has been our reporter on Holyrood, so it is only fair to let him ask the first question.

**Mr Davidson:** We need for the record an outturn figure that we can feel confident about, which allows for the worst case scenario as far as Flour City is concerned. I presume that that is the basis on which you are operating the budget. I think that Mr Brown expressed it in that way earlier in relation to Flour City. Will you include within that figure all costs associated with the project, including landscaping, regardless of whether they come from your budget? It is about time that we had a clear indication of the total cost of the project. We can then dig down into the bit for which you are responsible within your budget. You act on behalf of the Parliament's interests in the matter as a whole, regardless of whether the money comes from the Executive or through the corporate body budget. It would be helpful if we could start the discussion by setting the scene with that.

10:45

**Robert Brown:** I have given the total figures as we see them at the moment. However, until the project is finished, the predicted outturn cost will not be accurate. There is a substantial risk element, which is identified in the paper and which may or may not materialise. I ask the committee to be fairly cautious with the final figures. We have given the best estimate that we can at the moment, given the stage things are at. Risk is theoretical at the beginning. It then goes through a firming-up process as the contracts come in and the various eventualities do or do not happen, until the final position is reached.

The landscaping work has always been reported separately. For the purposes of comparison, it is useful to retain that distinction.

**Sarah Davidson (Holyrood Project Team):** The figure for landscaping that was transferred from Scottish ministers to the Scottish Parliament's budget was £8.1 million.

**Mr Davidson:** Is that the total overall? Is that to the end point, not just this year?

**Sarah Davidson:** That is the total overall of the bit that was transferred, but there were other costs, such as road realignment costs and so on—that had already been borne by the Executive and the council—that did not transfer to the Parliament's budget.

**Mr Davidson:** I am trying to set the scene—it does not matter where the money comes from. What are the total outturn costs of the project, including roads and landscaping costs? I accept that you are not responsible for part of that budget.

**Robert Brown:** The corporate body is knowledgeable only about the matters for which it is responsible—the £266.4 million, and the £8.1 transfer for the landscaping.

**Mr Davidson:** The figures in paragraph 10 include some delay costs. What is in the risk management folder for other potential delay costs that would add to those figures?

**Sarah Davidson:** The total remaining in the risk register against delays and overrun costs is £19.1 million. As the committee requested, that figure is broken down, in paragraph 17, into three different components. You are correct that some of the items in the table in paragraph 10 are examples of areas where costs have been incurred against delays rather than areas where costs are being prefigured.

**Mr Davidson:** Your budget submission indicates that there is another £39.9 million on the capital side to cover additional Holyrood capital costs and related capital charges. That is interesting, because that is what the Parliament was supposed to cost in the first place. That aside, is that a firm figure? That has been extracted from your figures. You are quite comfortable that that is the figure for additional capital costs and capital charges?

**Paul Grice:** That is comparing the previous report to the Finance Committee. Since then, we have had the discussion on the previous quarterly report. That figure is as firm as the £266.4 million that Robert Brown has already discussed with you. The figures are consistent, if that is what you are asking.

**Mr Davidson:** Yes it is. You have not had any cause to change them since the last time you were here?

**Paul Grice:** Only in as much as Robert has already explained to you.

**Mr Davidson:** Thank you.

**Brian Adam:** You use an interesting phrase in the second line of paragraph 20, where you talk about

“the inherent fluidity of the cost plan”.

What do you mean by that? It strikes me that the costs flow only in one direction, and it is certainly not downwards.

**Robert Brown:** In fact, the costs do not flow only in one direction. Within the overall figures there are contracts that come in below budget and contracts that come in above budget. As we have discussed, we are also subject, as the project continues, to the effects of inflation and other such factors. That is really just a comment about the particular construction management method that we inherited from the Scottish Office prior to 1999. It is characterised by the risk being taken on by us as opposed to being put into the private sector, which results in a higher price to start with. It is a question of the best way to place that. We can have a long argument about the ins and outs of that method. However, the bottom line is that it does not proceed on the basis of a fixed price contract, but on the basis of a developing situation, with the risk register and so on, as we have been discussing.

**Brian Adam:** The box in paragraph 20 deals with quite a few of those matters. You referred to the particular way in which the contract is managed, but the total of the figures in paragraph 20 that relate to the fees, plus VAT, comes to more than £40 million out of the total sum of £220 million. That means that 20 per cent of the costs are for administering and drawing up the plans, which seems excessive to me. Given that most of the management of the site has been done professionally—the management costs were £20 million when we first started to discuss the project—will there be consequences for how those who have been managing the project on our behalf deal with future projects? I know that, ultimately, responsibility lies with the SPCB on behalf of the Parliament, but we have involved professionals who are getting an awful lot of money from the inherent fluidity of the cost plan. Will the professionals accept some responsibility—particularly financial responsibility—for the inherent fluidity of the cost plan? I presume that they have been advising you all along, and they seem to have been paid rather well.

**Mr McCabe:** May I seek clarification of the previous answer before Robert Brown answers that question, convener? Brian Adam places particular emphasis on the

“fluidity of the cost plan”,

but I understood Robert Brown to say earlier that that phrase is not a clever way of saying that costs continually increase. Rather, it is a way of expressing the fact that some packages come in below estimate, while others come in above estimate.

**Brian Adam:** I do not think that many packages come in below estimate.

**Robert Brown:** No—quite a lot of packages come in below estimate. As I said, the figures gradually firm up as all the contracts are let, bearing in mind the fact that some are let later than others, by which time there has been a general rise in price that has nothing to do with Parliament.

**Brian Adam:** Perhaps you would deal with my substantive point that fees make up about 20 per cent of the cost. Irrespective of where individual packages come in, the overall costs have increased and it strikes me that those who advise and manage are benefiting substantially from those increased costs.

**Robert Brown:** I will make a simple observation before I ask Paul Grice to address that point. By all accounts, the project has been very complex. A substantial amount of professional work has been done by the professional advisers to the Parliament, and that work is related to the price of the contract—we have always known that. There are always comings and goings on what causes, or is the background to, delays. I ask Paul Grice to address that element.

**Paul Grice:** I endorse Robert Brown’s comment. We are not paying just for a bit of design work—the fees cover the management of the project. Of course that involves a huge amount of design work, but the running of the project is also a substantial task. The Auditor General confirmed in his review that the fees for contracts that the Scottish Office let in the first place were reasonable by industry standards. We inherited those contracts and we are running with them.

As Robert Brown said, we will take action to protect the Parliament’s financial interests if we need to. That has been our position throughout and I am not sure that I can add to that response at this stage. If, in due course, we have reason to believe that fees are not merited, we will consider that and take the action that the SPCB believes is in the Parliament’s financial interests.

**Brian Adam:** Paragraph 21 indicates that the outstanding risks still stand at around £40 million. I find that hard to understand, given that the uncommitted money for packages that are still to be let amounts to only £35 million. Are you saying that the packages that are still to be let are likely to double in price? It may be the case that I have lost the technical point. The box in paragraph 20 says that the subtotal of uncommitted expenditure is £34.8 million and paragraph 21 says what the risks are. If the risks relate to uncommitted money, you seem to be saying that those risks are greater than the amount of money that is still uncommitted. I may be completely wrong and I am quite willing to be corrected.

**Robert Brown:** Sarah Davidson has spoken

about that issue before, but I will ask her to clarify the position.

**Sarah Davidson:** It might be helpful if we were to go back to the breakdown of the components that make up the £39.6 million. The money that is still in the risk register and that relates directly to those unlet packages is the £2.2 million design risk. That is the risk that the unlet packages cannot be let for the money that is set against them. Therefore, the amount of money in the risk register that directly relates to the £26.2 million of unlet packages is £2.2 million. The other money that is still in the risk register is broken down into two components. The first is £8.5 million for contingency—that is, for example, work on site that does not go entirely according to plan because of problems with the weather. Construction projects traditionally have a contingency. That component relates to packages that have been let already and to those packages that have yet to be let. That also applies to the second component, which is the £19 million for costs that are associated with delays. Some of that money may be associated with packages that have been let already and that subsequently become more expensive because of contractors' claims for delays that are outwith their control, so it may also be associated with packages that we have not yet let. However, that £19 million is spread evenly across the entire contract.

**Brian Adam:** You mentioned the £19 million for delays and acceleration measures. I understood that the intention at the beginning was to complete the project by December 2002, but we are now talking about a completion date of April 2003—in fact, we have been talking about April 2003 for some time. Why are such substantial sums being set aside for delays and acceleration measures, given that the time scale of the project has not experienced substantial slippage?

The management contract is rather unusual but surely we could have included appropriate wording in the specification for each of the packages that has been tendered since we went through the process of deciding how to manage the contract. We could have said, "You are getting a fixed price for doing the work, and if that work has to be done at night or during the weekends, or if you need more staff, that is your risk." Under the risk arrangements, the SPCB takes the risks. However, why does the SPCB still appear to be taking the risks when it lets individual packages?

**The Convener:** We went through the financial provision for risks at our previous meeting on the Holyrood project. Today, we are interested in the new information that we have in the form of the breakdown of the £20 million. We do not need to keep going over the same argument that we had at our previous meeting.

**Brian Adam:** I do not think that we had that argument on the previous occasion, but I defer to you, convener.

**The Convener:** I invite our colleagues to respond to your point.

**Sarah Davidson:** On the first part of Brian Adam's question, a great deal of clever reprogramming on the part of Bovis Lend Lease (Scotland) Ltd underlies the overall increase in the programme. Therefore, some contractors, through no fault of their own, may have suffered a delay to their programme that is more than the four months between December 2002 and April 2003, while other rescheduling work has enabled the overall effect of those delays to be less than that period. The matter is not as straightforward as simply saying that the impact on all contractors is as short as 12 weeks—it is more complicated than that.

**Brian Adam:** I understand that point but, given that we are stuck with the unusual way in which the contract is being managed—that is the arrangement that was arrived at—the tendering of individual packages is under the SPCB's control. As part of the specification for those packages, why were those who tendered for those packages not made responsible for the risks?

11:00

**Sarah Davidson:** The short answer is that a great deal of money would have to be paid to enter into such a contract. We might still pay that money in some instances because of delays, but not every contractor has been delayed. I do not think that the Parliament would have wanted to take on additional costs willy-nilly against the risk of delay. On Bovis's advice, we have taken the option of different speeds of working on some packages so that the Parliament retains some decisions about whether to accelerate. However, there is no doubt that we are paying a premium for doing that.

**Robert Brown:** It is fair to say that that has happened against the background of the pressures on the programme that we now know exist, as opposed to those that we did not know existed earlier.

**Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP):** Flour City Architectural Metals (UK) Ltd was awarded the £7 million MSP building cladding contract. Am I right to say that Bovis Lend Lease recommended that Flour City be given the contract?

**Paul Grice:** Bovis advises us on all the contracts that relate to the building, so the answer is yes.

**Fergus Ewing:** At that time, did Flour City UK have assets of £2? Am I right to say that it never

traded and that it therefore had no financial standing?

**Sarah Davidson:** Those are matters that the auditors are examining. The first point that Fergus Ewing made does not conflict with what I understand to be the case.

**Fergus Ewing:** Was the contract awarded substantially because Flour City International was deemed—in what I think is Sarah Davidson's description—to be a mega-player?

**Sarah Davidson:** The advice that Bovis gave us would have been based on its knowledge of Flour City and Flour City International.

**Fergus Ewing:** If the contract went to FCUK on the basis of Flour City International's standing, why was Flour City International not made a party to the contract?

**Robert Brown:** We are beginning to run into the problems that I expected. Such matters will be covered by the audit investigation and the SPCB is examining the legal aspects. I do not want to cut off questions unnecessarily, but there are limits to what we can reasonably be expected to answer and to what is to the Finance Committee's advantage, when other inquiries and activities are occurring.

**The Convener:** I am aware that we need to be careful about the boundary, but Fergus Ewing is entitled to ask some questions about budgetary aspects, on which we are obliged to report.

**Fergus Ewing:** The matter is not sub judice, so standing orders do not prevent the issue from being raised. Why was Flour City International not made a party to the contract, which was awarded to its subsidiary shell company only on the basis of the parent company's financial standing as a mega-player?

**The Convener:** I am not sure whether that is a question for us. You are perfectly entitled to ask questions about budgetary arrangements in relation to Flour City, but I am unsure whether we are the appropriate committee for asking what might be interpreted as an audit question, as I am sure Fergus Ewing is aware.

**Fergus Ewing:** With respect, I am trying to work out why we face a possible loss of £3.9 million. The figure has doubled since December and has not been broken down. I am trying to work out how we arrived at the present position.

I will move on if no answer is to be given to my previous question. I understand that part of a condition of the completed contract with Flour City UK was that the company had to provide a performance bond to protect the taxpayer to the extent of 10 per cent of the contract value. The contract value was £7 million, so a bond should

have been provided for £700,000. That was to have been part of the full contract, which was not completed until August. Before that, there was an interim contract, in terms of which all the payments to the value of £854,000 were made.

Given that we paid out £854,000, why was not it insisted upon that the performance bond—which would have provided the protection that was supposed to have been provided—be a condition of the interim contract? If that had been the case, the taxpayer would at least have had a fallback of £700,000 protection. The performance bond was not provided at the outset, so the interim contract should have provided that not a penny piece was paid until the performance bond was in place. In short, why did the interim contract not include an obligation on Flour City UK to provide the performance bond to protect the taxpayer?

**Paul Grice:** The first point to make is that all the £854,000 was paid out for work that was done. That is an extremely important point to put on the record. The failure by Flour City UK to provide a performance bond was what led to the termination of the contract. As Fergus Ewing said, the aim was to get the 10 per cent performance bond. What we ended up with instead was a parent company guarantee that covered the full cost of the contract, which is the current position.

When people run projects such as this one, they constantly make judgments that are based on assessments of risk. We must weigh up a number of factors and the project must be completed within a tight time scale and to a high quality. That is what the Parliament required of us. Cost is the other issue. Those are the principal factors that we must consider. We must constantly make judgments about the appropriate way forward. It was judged at that time that it was safe to move forward on the basis of the interim contract. I stress again that money was paid only for work that had been completed.

We have sought performance bonds in the case of some contracts and parent company guarantees in the case of others. The failure of Flour City UK to provide the performance bond led us to terminate the contract, although a parent company guarantee for the entire value of the contract, not just 10 per cent, was in place. That is the current position.

Robert Brown has said that those matters are subject to consideration by our lawyers and auditors. If our auditors want to draw lessons to our attention, we will consider them carefully in due course.

**Fergus Ewing:** Thank you for that answer, although I am not sure that it responds to the basic point that a performance bond should have been in place before any money was paid out.

Otherwise, there is no point in having a performance bond; that is the point of such bonds, which are absolutely basic in building contracts.

I will move on. On what date was the guarantee granted by the parent company in respect of the debt?

**The Convener:** Again, you are straying from the territory that the Finance Committee is interested in and into Audit Committee territory. I do not want to stop you asking legitimate questions—

**Fergus Ewing:** My point will become obvious in a moment. I understand that the date of the guarantee was about the end of September or the beginning of October. Is that right?

**Sarah Davidson:** I do not have the date to hand, but it was about that time.

**Fergus Ewing:** Are you aware of the last accounts that Flour City International lodged with the US Securities and Exchange Commission for the quarter ending 31 July 2001, which were signed by Mr Tang on 2 October 2001? In those accounts it is stated that Flour City International at that time had no working capital and that its losses for that quarter were \$16,923,000. It stated in its accounts that it had defaulted on all debts to several banks. As of 1 March, the company's shares were worth six cents. It is in serial breach of the rules of Nasdaq—the secondary market that is much favoured by dotcom firms. Although we would love full recovery, it seems that the chances of recovering any money from Flour City International must be close to zero. Is that the case? If I have got any of that wrong, perhaps you could enlighten me.

**The Convener:** We are entering the Audit Committee's territory. As the witnesses have made clear, a legal process is attached to the matter. I am a bit uneasy about the road that you are travelling down.

**Fergus Ewing:** All the information that I have read out is public information, which I have obtained from the internet. If I have the information, the world has it. I am surprised that the Parliament would consider for one moment that we should not put to the witnesses questions on information that is in the public domain. I will cut across all the details that I have mentioned. Do you agree that, much as we would like a full—or even a partial—recovery from Flour City International, the chances of recovery must be very close to zero? The Finance Committee must be concerned about that. Is not that how you read the situation?

**Robert Brown:** We are not prepared to comment on that. We have received legal advice from our advisers on the matter. We have gone into considerable detail on the potential for

recovery and the individual details of what the claim would be. The matter is progressing. It would be no advantage to the public interest to have a pre-run before we have followed through that course and it would be prejudicial to the Parliament's interest to answer questions of that sort.

**Fergus Ewing:** I am totally at a loss to understand how anything that we say in this room could prejudice the prospects of recovery, if such prospects exist. Either one can recover money from a debtor or one cannot. If the debtor has no assets and no capital, is being pursued by all its banks, cannot even pay its listing fee on the Nasdaq index, has not lodged its accounts for the period that ended on 31 October 2001—in spite of being a public company—the prospects do not seem to be too good. I wonder how anything that I say could affect the practical issue of how we effect a recovery. Will Mr Brown explain how anything that is said in this room can affect the prospects of the people getting some money back?

**The Convener:** I do not see how anything that Mr Brown were to say on any of the matters that you have raised would shed any light. I presume that the matter will be the subject of a legal process of insolvency. The point of view of individuals on that would be difficult—

**Brian Adam:** Anything that Mr Brown said would be relevant. Paragraph 16 of the report that has been submitted states:

“We are currently seeking advice from US solicitors about the financial and corporate status of Flour City International and will proceed on the basis of that information.”

The fact that Mr Ewing has brought such information to the committee must be highly relevant. I understand Mr Brown's position in that that information might not correspond with the detailed advice that he has received from his legal advisers. However, the report that is before us—which is what we are discussing—implies that there is a reasonable prospect of exploring the possibility of recovering some of the money.

Given that it is already in the public domain that the principal company, Flour City International, has virtually no assets, it is quite reasonable to ask on what basis we will pursue the matter. We might well spend even more money on legal fees on both sides of the Atlantic, with little or no prospect of recovering our money. We are talking about recovering our money, not about the reason for what has happened or other such audit matters. It is reasonable for us to invite the witnesses to explain why although Mr Ewing has the information, they do not—or have not shared it with us in the report or in an update at this meeting.



**Mr McCabe:** We are danger of going from the ridiculous to the sublime. With no disrespect to Mr Ewing, we are assuming that all the information that he has supplied to the committee is accurate information. We do not know that. It would not be unnecessarily hopeful to assume that if the Scottish Parliamentary Corporate Body received legal advice that there was absolutely no chance of recovering any money, it would not expend unnecessary sums on pursuing a hopeless case. Is that the case?

**Robert Brown:** That is absolutely the case. Various matters might be in the public domain. Not to beat about the bush, the public domain is vast. I have read in the press some of the things on which Mr Ewing commented. All credit is due to him for making those inquiries. When they have completed their inquiries, I am sure that our lawyers will report on all the issues that have been raised. No doubt they will take on board the inquiries that Mr Ewing has made, but the fact remains that all that is premature. We must wait to see what advice and guidance we get. Once that is available to us, we will act prudently.

11:15

**Paul Grice:** I would like to make another point that will be of interest to the Finance Committee. We have proposed a figure of £3.8 million to cover what we consider to be the full costs of the insolvency of Flour City UK. We are considering whether that figure might be reduced in due course. We have included in the budget the full figure and are reporting to the committee that it is possible that some of the money will be recovered, subject to the caveats that Robert Brown has just given. We will proceed on the basis of the detailed advice that was referred to only if we think that there is a realistic chance that money that was secured for the Parliament would exceed any outlays in legal expenses. That is stating the obvious.

**Ms Margo MacDonald (Lothians) (SNP):** The witnesses will be delighted to hear that I would like to raise another matter. Before I do so, I would like to ask the committee in its report to instruct or to recommend—I am not sure what the protocol would be—that the corporate body and the progress group should have a cost estimate done of the effectiveness of pursuing Flour City International for the recovery of the money.

Even if the information that Fergus Ewing has given us is only half correct, which we should be able to verify very quickly—this afternoon, for example—it must occur to most people that it would cost more than £3.8 million to pursue Flour City International in order to reduce the loss. It might be more sensible to look elsewhere to recover the money. We could look, for example, to

the company that advised—against all the industry's expectations—that the contract be awarded to Flour City Architectural Metals UK, a company with £2 of assets and two directors who had never been to Scotland and who did not bring from America any of their claimed expertise to work on the Scottish Parliament project. Why is the SPCB not considering suing Bovis Lend Lease (Scotland), which gave advice in a professional capacity? Bovis served as a consultant and adviser to the Holyrood progress group, which I presume acted on that advice in best faith.

**The Convener:** To be fair, in paragraph 16 of the report the corporate body states its

“intention to pursue all avenues to recover the additional costs associated with the insolvency of Flour City UK.”

**Ms MacDonald:** Does that include suing Bovis, which struck the terms of the Flour City UK contract?

**The Convener:** The report states that all avenues will be explored. I presume that that statement is made on the basis of legal advice. The SPCB is not yet able to provide us with further information.

**Ms MacDonald:** It can tell us whether my suggestion has been ruled out.

**The Convener:** I do not think that that is reasonable. I presume that the corporate body is seeking advice. Is that the case?

**Robert Brown:** Yes. We do not rule out any options. If there are options that can be usefully pursued with a view to the protection of the Parliament's interests, we will undoubtedly pursue them. That is the purpose of seeking legal advice and of the background inquiries that are being made.

**Ms MacDonald:** The committee might feel, in the interests of the good stewardship of public money, that it might be advisable for the SPCB to consider the option of suing Bovis. According to the report, a fair amount of money—more than £39 million—is allocated to “Outstanding risk”. Those who advised the SPCB on that figure are the same people who advised it to take on Flour City UK. Perhaps the quality of the advice might be sharpened if it were felt that some sanction would be deployed by the Parliament when it was judged that bad advice had been given.

I move now to the matter that I wanted to ask about. The report refers to

“Assembly cladding and roofing—*specialist design development by Trade Contractor after contract award*”.

The budget for that is £4.5 million. I am intrigued about why that cost should have been incurred after awarding a contract. The figure seems to relate to something quite basic.

**Sarah Davidson:** The item refers to three separate packages that have been brigaded for the sake of simplicity. They are: the package for the roof of the foyer in front of Queensberry house; the package for the specialist glazing on the debating chamber; and the package for the roof of the debating chamber. I am afraid that I do not have to hand a breakdown of the total figure for the three packages.

All three are highly technical and specialised packages and two of them involve specialist glazing work. Therefore, contracts were entered into with the specialist contractors with the intention that work would be carried out by our design team and the contractors' specialist designers to finalise the design. That was done partly to find cost savings or economies where possible, because a specialist contractor might have a proprietary system or might suggest to our designers ways of making things simpler or having fewer different patterns and so on, so that the design could be made more efficient. That work with the trade contractors did not happen accidentally; it was entered into positively to get the benefit of their expertise.

**Ms MacDonald:** That still does not answer my question. I presume that, as the design went out to competitive tender, you had some idea about the price range of the three packages. I cannot understand why a contract was given on the understanding that the design was going to cost more than the agreed price on that contract.

**Sarah Davidson:** An interim contract would have been entered into. That would have involved discussion about the price, but would have acknowledged that a final price could be agreed only when the final design was delivered and complete understanding of all the components was provided. In most cases, that would also be the stage at which a finalised programme would be available, because that would depend on the specialist contractor's having a very detailed understanding of what had to be done. It is not always possible for such a programme to be obtained in the first instance.

**Ms MacDonald:** I presume that before a contract is submitted and a tender allocated, the specialist contractor and the general contractor must demonstrate their competence. How can they demonstrate their competence and effectiveness to you if they do not know how much it will cost or how long it will take them to complete the redesign?

**Sarah Davidson:** We would not consider it a redesign. The contractors all tender on a like-for-like basis and on the basis of the designs that are made available by the design team. Detailed discussions and pre-tender investigations are carried out on our behalf by Bovis, prior to the

letting of an interim contract, as are discussions with contractors about their ability to complete the contract and about indicative price.

**Ms MacDonald:** I would like to register my total bafflement—after what has gone on with all the other packages and considering that we are talking about a considerable amount of money—at the fact that we are still telling contractors that it is acceptable for them to be allocated a contract without our knowing what the end price is.

**The Convener:** The construction management system is partly responsible for that situation.

**Mr McCabe:** We are in danger of oversimplifying the issue. The project is extremely complicated. We have been informed by professionals that the design of the roof is extremely complex. It is not rocket science to know that it is not unusual to award a contract on the basis of a developing design. That happens not only on this contract, but on contracts throughout Scotland, the UK and the world. It is not happening here for the first time. We are in danger of talking ourselves down simply because Margo MacDonald does not understand the way in which such things are handled sometimes. That is her problem—it is not a reflection on the professionals who are involved, or on the project.

**Ms MacDonald:** I am querying the way in which the contracting has been handled. I think that it has been handled badly.

**Mr Davidson:** Let us turn to the *Official Report* of the previous meeting at which the witnesses gave evidence. I asked at that stage whether the building had been designed completely. The answer that I got was that it had been. Was that statement made before or after the comment that is made in paragraph 10 (iii) of the quarterly report, about specialist design development? If that development were known about, it would have been helpful if the answer that we have just heard—about there being a growing design brief—had been given at that time. I am confused about the date on which I asked that question and the information that was held by the witnesses at that time.

**Paul Grice:** I shall need to check the *Official Report*. I am sure that we said that the building was substantially designed out. We cannot say that it is designed out to the last line. We said—and this was true—that it was substantially designed out.

This development reflects the completion of a tender process. As Tom McCabe recognises, it is a very complex building. It is common—especially when there is a programme to meet—for contractors to be taken on board. That gets the process moving and they often have the real design expertise. In areas such as specialist

glazing they are the real experts, and they are brought into the process to ensure the best design. There is also a value-for-money advantage, because we are often thinking about using patented and existing systems that tend to be cheaper. That issue can also be developed with contractors.

**Mr Davidson:** I take your point. Indeed, I have had similar experiences in building projects in which I have been involved. However, in the interests of clarity, could we have a note that refers back to that previous *Official Report* to ensure that the Finance Committee and the Audit Committee have the same information and that they are not working in parallel?

**Paul Grice:** I would be happy to let you have that note.

**Mr Davidson:** We have received evidence about paragraph 17 in the quarterly report, which contains a breakdown of the substantial sum of £19.08 million for design and construction programme overruns. However, nothing in that paragraph or that we have heard in evidence this morning suggests that, if anything goes wrong with the project and we cannot get into the new Parliament building in 2003, you have made any provisions or have laid any money aside as a risk sum for having to retain the Assembly Hall and the offices up the road. Will you clarify that point?

**Robert Brown:** In fairness, the issue has a number of implications. In itself, all a delay will do is move things forwards or backwards. Although a longer stay in temporary premises will obviously incur extra costs, we will also have fewer costs because we will not have to pay interest on the capital if costs are incurred later in the procedure. The question is not simple to answer unless—and until—we reach that position. We are budgeting on the target entry date of May 2003.

**Mr Davidson:** The question is simple enough because, when you have been before the committee, you have constantly mentioned the risk register. However, it appears that that risk has not been entered in the register. I am asking for details of what you have entered in the register to allow for that risk. I accept that it might not happen; I also accept that, if it does happen, it might not cost any money and that there might even be savings. My question is whether there is a budget line in your risk register to meet that eventuality.

**Robert Brown:** That is a different issue, which has nothing to do with the contract. It might or might not have implications for the Parliament's revenue budget, and relates more to contingencies at that level. However, it does not affect the contractual price and the cost of the Parliament building as such.

**Mr Davidson:** I beg to differ. If delays are caused by contractors failing to complete contracts, we will have to enter into another recovery programme. Have you allowed for that eventuality? It does not all come down to what you wish to happen. You could have great contingencies for earthquakes and goodness what else; however, one key contractor who fails to deliver can hold up all the others. What have you built in for risk if there is a delay that takes us past 2003?

**Robert Brown:** We had some discussion of the risks that we can take account of and risks that no sensible planning can realistically take into account when we talked about the Flour City experience. Perhaps Sarah Davidson will remind us of the different categories of risk that we are dealing with.

**Sarah Davidson:** As paragraph 14 of the quarterly report sets out, from the point of view of trying to budget sensibly and having a sensible discussion with the Executive about the money that we might be putting aside for the project, it is just not practical to put in money against an earthquake or whatever. Either you put in a huge sum—which would be the money that you would need if something like that happened, but which would otherwise just sit there and make a mess of everyone else's budgets—or you assess the likelihood that that will happen and take a small slice of the total cost. However, that amount would never be enough to cover you if something did happen. Again, it would just sit there in a slightly redundant way and would probably be spent on something else, which is also not a good way to budget. We recognise that, in such a major capital project, very bad things can happen for which there is no advance provision and that, if they do happen, you just have to handle them at that time.

**Mr Davidson:** As I said, I accept the earthquake argument. However, if a contractor falls down, holds things up and causes an overrun, what element have you built in to cushion the blow and to come back and seek the recovery of additional costs?

**Sarah Davidson:** Some of the £8.5 million within the total risk relating to traditional site contingencies might cover, for example, something going wrong with an individual contractor. Similarly, the £19.1 million is intended to cover particular delays to any package that might be caused by problems with contractors.

**Mr Davidson:** So that figure falls within the contingency figure, which is not a part of the risk register.

**Sarah Davidson:** It is a part of the risk register.

11:30

**Brian Adam:** I seek your guidance, convener. Today, we have asked some questions that lie on the boundary between the remits of the Audit Committee and the Finance Committee. Many of the Holyrood project difficulties are to do with the nature of the contract management. The people who are giving evidence to us this morning have responsibility for that, but Bovis is managing the contract.

Can you advise me whether Bovis is to give evidence to Audit Scotland about some of the matters raised earlier? Can you assure me that if, as a consequence of any audit inquiry, matters of interest to the Finance Committee arise that are not otherwise covered to our satisfaction, we will have the opportunity to talk to the appropriate people at Bovis? It strikes me that a number of our questions have put the present witnesses in an invidious position and that those who have the answers may well be from Bovis.

**The Convener:** The Finance Committee's remit covers anything that has an impact on the Scottish consolidated fund, so we could consider any such issues legitimately. We are also mindful of the fact that the Scottish Parliament Audit Committee and Audit Scotland have specific defined responsibilities, which are not the same as ours.

On the resolution, I draw your attention to our remit, as noted under item 1. It is separate from an audit process. We are not the Audit Committee and we cannot take on its role and functions. If, however, there are budget implications, those are areas that we may legitimately consider.

**Brian Adam:** In that case, I take it that you would be quite content for us to invite representatives of Bovis to come and talk to us about some of the matters that we are discussing.

**The Convener:** We would need to be convinced that there was a legitimate reason for doing so. I do not necessarily accept that that is the case at present, but the committee may discuss such issues separately.

**Mr Davidson:** I wish to be helpful, convener. As deputy convener of the Audit Committee, might I suggest that you enter into discussions with the convener of the Audit Committee about the division of duties, about which committee is responsible for what and about whether this issue should drop into the hat of one or other of the two committees at an early stage, and then report back to this committee as soon as possible?

**Brian Adam:** I think that that would be the best way to proceed.

**The Convener:** We can certainly identify which issues should sit where. There is a genuine separation of functions between the Finance

Committee and the Audit Committee of which we must be mindful. I cannot tell the Audit Committee what it should or should not do.

**Mr McCabe:** However, equally—as I understand the process—the people here today are well able to come to the committee and give evidence and their views on performance in various aspects of the project, including the performance of Bovis or anyone else. I do not think that the people here today would necessarily come here and accept the blame for someone else if they felt that there were serious discrepancies in any aspect of the project. We need to bear that context in mind.

**Robert Brown:** It is worth reiterating what Paul Grice said earlier: the Scottish Parliamentary Corporate Body—apart, obviously, from managing the project and, in association with the progress team, carrying out its own checks as it proceeds—will take on board and deal with anything that arises later in connection with any audit issues. That is a proactive matter. We are not sitting back doing nothing and allowing events to flow past us. The officials will examine all aspects of the situation as it develops and as matters arise for any legal or other implications—and there often are such implications for contracts of this magnitude.

**The Convener:** I think that that is what we would expect.

**Fergus Ewing:** I am pleased that consideration will be given to parliamentary scrutiny by one of our committees of the background to taking on Flour City in the first place and of all subsequent events. I hope that it is clear that if Bovis had not recommended Flour City, the taxpayer would not be facing a bill of £3.9 million. I hope that an inquiry will examine that issue, because the answers that we have received today have been far from satisfactory. It behoves us to find answers.

Surely in this Parliament we should have a full and open inquiry, at which all the documents that have not been disclosed by the Presiding Officer are made public, so that the taxpayer can see why a shell company with no assets, no skills ability, no record and no UK directors was given a £7 million contract, and why the taxpayer is now facing a bill of £3.9 million. If we cannot hold an inquiry into that, one wonders what the point is of having committees in the Scottish Parliament. I am pleased that we have had a positive response—at least initially—from you, convener.

**The Convener:** Let me be quite clear. The body that is responsible for building the Parliament is the Scottish Parliamentary Corporate Body. It is the responsible agency. The representatives of the SPCB who are before us have indicated that they are pursuing all avenues to recover the additional

costs. They are taking legal advice and have not completed that process, as I understand it. Presumably, due process will be associated with the attempt to recover the costs from Flour City, and there will be matters to be resolved about the position of that company.

Fergus Ewing has given us his interpretation of information based on what he has received from the internet but, as Tom McCabe has made quite clear, that is different from due process, which I presume will need to take place in the courts. Anything that we do as parliamentary committees—and in particular anything that the Finance Committee does—is governed by the remits of the committees, and not by what Fergus wishes as an individual member of the Parliament. If it is appropriate for other committees such as the Audit Committee to become involved, that is a matter for them to decide.

I am sure that the Audit Committee will consider the circumstances once further clarification has been received from the SPCB, but I am not sure whether at this stage we can launch investigations on behalf of other committees or make the kinds of commitments that have been suggested. It would be entirely inappropriate to do so.

**Brian Adam:** Mr Davidson made the constructive and positive suggestion that the convener should discuss the concerns that have been raised today with the convener of the Audit Committee, with a view to determining the best way to deal with the concerns. I accept that the SPCB has a responsibility, on behalf of the whole Parliament, for overseeing the Holyrood project and that it will take the steps that it considers appropriate. As members of the Finance Committee with responsibility for overseeing expenditure, we have raised genuine concerns about how the money has been spent. It may be the case that a further investigation would be dealt with more appropriately by the Audit Committee.

I am happy to endorse or formalise Mr Davidson's suggestion that the convener hold discussions with the convener of the Audit Committee to see how matters can best be dealt with in terms of parliamentary scrutiny. The SPCB has a responsibility to the Parliament to manage the Holyrood project, but we have a responsibility to the Parliament to scrutinise the project. The Audit Committee might take an interest in the matter. I believe that Audit Scotland has taken an interest, but that is not to say that a report will be sent to the Audit Committee.

It would make a lot of sense, as the committee that has responsibility for scrutinising expenditure, when we have concerns on matters that relate to audit, for us to discuss them with the Audit Committee at an early point to determine how we can make progress. It may be that we will not wish

to seek a formal inquiry at this point. We have not got to that point yet, because the SPCB has not had the chance to deal with its matters.

However, as far as the Parliament's committee structure is concerned, we have a responsibility to scrutinise what is going on. We have tried to scrutinise the finance today, and it has been difficult trying not to go into audit areas. I have had the privilege of serving on the Audit Committee, and I understand how it works. A discussion with the convener of the Audit Committee would be useful at this point.

**Mr McCabe:** Convener, a discussion between yourself and the convener of the Audit Committee would never be unhelpful. As convener of this committee, you are obliged to have that discussion and to take professional advice on the best way forward, but it is important to establish that that is where we are at the moment, and that we have gone no further. Mr Ewing may have given the impression that we decided to go slightly further than we have—I am sure that that was unintentional. I see no problem with the convener discussing the matter with the convener of the Audit Committee and taking the appropriate professional advice. I am sure that he will then bring the matter back to the committee.

**The Convener:** I can certainly speak to the convener of the Audit Committee about—

**Ms MacDonald:** Can I get back to the money, please?

**The Convener:** Let me finish my sentence, Margo.

**Ms MacDonald:** Sorry.

**The Convener:** I will consider how we might address the matter procedurally and bring that information back to the Finance Committee. The area is complex and a legal process is under way. We must be mindful of the balance between the legal process and the scrutiny process and try to move matters down the correct channels.

Right. Back to the money, Margo.

**Ms MacDonald:** I will move on to a completely different matter. The figures in paragraph 20 cover the

“Construction project: current status of works packages, fees etc”.

I note that the estimate for the fit-out, which is £19.5 million, has barely moved since the inception of the project. The building has almost doubled in size since then and today we have heard your estimates for inflation in the industry, so I am intrigued by how you have managed to keep estimate for the fit-out at almost the same level.

**Paul Grice:** I am grateful for Margo MacDonald's positive comments. We have worked very hard to keep—

**Ms MacDonald:** I will not be positive until I hear your answer.

**Mr McCabe:** You were positive, Margo. You just did not mean to be.

**Paul Grice:** I am looking for crumbs.

My first serious point is that that estimate was produced much more recently and therefore the inflation risk is less. Sarah Davidson will keep me right, but I think that the fit-out estimate was carried out after the SPCB took the decision, which was endorsed by the Parliament, to increase the size of the building. The estimate came much later in the process.

My second point relates back to Robert Brown's earlier comment that some contracts come in below estimate, while some come in above estimate. The building contracts, which are immensely complex in engineering terms, that have come in above estimate have tended to be for difficult tenders in which there was relatively little interest from contractors. Tender prices for those contracts have been higher than expected. There was better competition, and therefore lower prices, for more standard contracts, such as electrical or plumbing contracts.

Much of the fit-out falls into that category, as the contracts for that work are more standard. For example, one would expect good prices for contracts for floor finishing. Work is still under way but, for those reasons, I have been reassured by the people who are going through the process that the £19.5 million remains, so far, a good, firm estimate. The news about the fit-out is better, relatively speaking.

**Ms MacDonald:** You are not going for cheap stuff, such as tatty carpets, are you?

**Paul Grice:** No. We have obviously been listening. The serious point is that the Parliament, in its resolution, instructed the SPCB to have regard to quality in the completion of the project, and I assure you that that is what we are doing. There is a balance between cost and value for money, but I assure you that I have not come across anything to do with the building that is cheap.

**Mr McCabe:** I think that we should put on record the fact that Margo MacDonald wants only the best of quality in the building.

**The Convener:** And no tatty carpets.

**Ms MacDonald:** Naturally. However, I would like consultants to give us cheap information on where the best quality can be found.

**The Convener:** As there are no further questions, I thank our four witnesses. We look forward to seeing you again in three months' time.

## Budget Process 2003-04

**The Convener:** We invite Jamie Stone to join us as we move to agenda item 4, which is the 2003-04 budget process. At our previous meeting, we discussed the possibility of undertaking some cross-cutting reviews. A paper has been drawn up jointly by Professor Midwinter and David McGill. Does Arthur Midwinter have anything to add to paper FI/02/5/4?

11:45

**Professor Arthur Midwinter (Adviser):** No. As David McGill did the final draft, he might want to say something.

**David McGill (Clerk):** There is not a great deal to add. The committee might want to be aware of a few points. On the timetable, we are looking at completing the review by the end of the year to give the Executive the opportunity to factor the committee's findings and recommendations into the budget for the following year.

The subjects that we have expanded on in the paper are all subjects that committee members have suggested in the past. At the end of the paper, we look for a steer from the committee as to how to proceed. It might be worth thinking about whether we run with one or two reviews this year. It has been suggested that there may be merit in having more than one review this year. Before we discuss the subjects that members want to proceed with, it may be better to address the issue of whether we should have one or two reviews.

**The Convener:** Before I open the discussion to members, I say that I think that it is possible for us to examine two topics. If we decide to go down that route, I want us to put in train the building blocks for conducting the two reviews in the next six months. It might be possible for us to identify other subjects and get the ball rolling on them, so that when we undertake the work some of the advance work has been done on our behalf and we can make progress.

David McGill and Arthur Midwinter have tried to work out what can be done that will achieve a meaningful outcome. In that context, they have identified the review on children in poverty as the first option to go for and the more targeted review on the voluntary sector, which would examine the ways in which voluntary organisations deal with regeneration, social justice and social inclusion issues, as another review that can be delivered. The review on drug-related problems would be very worth while, but it would require more work to be done so that it could be taken forward. That was the reason for the prioritisation of the options.

**Mr Davidson:** Given the current political interest in the voluntary sector and certain happenings, shall we say, in Fife, I do not think that we should examine the voluntary sector in the short term. When we examine the voluntary sector, we will have to review the impact of the decision making that is attached to matters such as the new opportunities fund. Such work would require liaison with Westminster on taking evidence.

The review on expenditure in rural areas is important and I make a plea that it is not pushed into a period when it may become politicised during an election campaign. The blows that rural areas have suffered in the past two or three years—this is not just about what has happened in the past year—warrant that review being fairly far up the list.

A lot of information is available for the review on drug-related problems. I do not agree that it is difficult to get information on that matter. There is enough information coming out of different national organisations to allow us to get involved in such a review quite quickly.

I am not totally convinced about the intention of the review on children in poverty.

**The Convener:** The intention is to feel our way into the process of cross-cutting expenditure reviews. The review on drug-related problems is perhaps not the first one that we should do—it should be done after we have had a trial run—because it is complex and draws together issues from many different areas of Executive expenditure. Traditionally, those areas have not been considered together as much as they might have been. Drug-related problems is a worthwhile topic to consider, but we want to set the template for the cross-cutting reviews before we tackle that problem. That review is a high priority, but it should not be the first exercise.

The review on children in poverty was suggested because it is a fairly containable issue and a lot of evidence is available.

**Professor Midwinter:** The case for the review on children in poverty relates to the fact that the Executive has highlighted the matter as a priority. The review would mean that we would scrutinise the Executive at a strategic level, which we do not do in the conventional subject-area budget. The review would give the committee and the wider world the opportunity to quantify the scale of the resources that are committed to dealing with the problem of children in poverty. It would also allow us to examine the balance between the different programmes and whether there is scope for rationalisation and achieving value for money. That review is clearly manageable and is related directly to the committee's role. We tried to find topics that would allow us to scrutinise seriously

the Executive's financial strategy as well as its spending on subject areas.

**Mr Davidson:** There is a difference between the reviews on children in poverty and drug-related problems. Major agencies of the Executive are involved in the drugs issue and for the past few years the evidence of their spending—or lack of it—has been fairly quantifiable. That evidence has been available since the Parliament began.

**Professor Midwinter:** There is no difference between the topics. We took the view that the review on children in poverty was more manageable. Also, the Executive has carried out a study on the drugs issue.

**Brian Adam:** We must make a decision. I am aware that other witnesses are waiting.

As far as I am aware, the committee did not raise the possibility of a review on children in poverty. It is an interesting topic and I accept Professor Midwinter's point that it would provide proper scrutiny of an Executive priority. I have no problem with such a review and I am more than happy to proceed with the recommendations in the paper from the clerk.

I raised the possibility of reviewing work on the voluntary sector, but what might or might not happen—or might have happened—in Fife is not related to the cross-cutting approach, which was supposed to consider how finance affects the voluntary sector. That is nothing to do with recent events in Fife; they were not on my mind when I raised the issue.

All the projects are worth while and I am content to go along with the recommendations, but I plead with members not to spend any more time debating what we are going to do; we should just do it.

**Mr McCabe:** I have no objections in principle to our working on the voluntary sector, but, as David Davidson said, we might easily be pulled off-track on that issue, both now and further down the line, which would be unfortunate.

One often finds oneself involved in subjective valued judgments about the worth of expenditure in the voluntary sector and how it complements other programmes. If we were to find ourselves in that position, we could get into trouble. I have no objection in principle, but I would like to define tightly our work in that area, so that we do not get pulled into side roads and lose our way.

**The Convener:** The second paragraph of the proposal on the voluntary sector is an attempt to do that. We are interested in access to the different funding streams, how use is made of them and whether that makes sense in budgetary terms.

**Brian Adam:** My initial reason for the suggestion was to do with the challenge-funding approach, how we go about making decisions about which projects are funded, how they are funded and how organisations go about applying for funding. The suggestion is aimed at the Executive level, rather than at a council level, which Mr Davidson and Mr McCabe were concerned that we might stray into.

**Mr McCabe:** I was not concerned that we would stray into that area—you were trying to take us there.

**Brian Adam:** That was not my intention, even though that might be enjoyable.

**The Convener:** David Davidson's comments notwithstanding, there seems to be general acceptance among members that we go with the recommendations, as Brian Adam said. David Davidson's point that we should ensure that other topics do not disappear too far down the agenda is worth bearing in mind. We might want to look at the drugs issue pretty seriously.

**Mr Davidson:** Forgive me, convener. At an early stage in our discussions on the budget, Keith Raffan, who was then a member of the Finance Committee, raised that issue when we came to the first budget round. The drugs area was a prime topic in those committee discussions. I refer the clerks to that. The issue is not new—the committee has already considered it.

**The Convener:** You mean that we would just be advancing the work of the committee.

We will adopt the recommendations in the paper. David McGill can work on a more detailed remit for putting in place the first two recommendations. We can ask for resources for advisers on both topics and get an application into the system, if that is required. David McGill and Arthur Midwinter can have a discussion about how we will conduct the process. We should get under way on those matters as soon as possible. Is that agreed?

**Members indicated agreement.**



## Private Finance Initiative/Public-private Partnership Inquiry

**The Convener:** I apologise to our guests for the delay in speaking to them. We are delighted to welcome our colleagues from Northern Ireland to the Scottish Parliament and to the Finance Committee. I am pleased to welcome Francie Molloy, the chairman of the Finance and Personnel Committee of the Northern Ireland Assembly, along with his colleagues Sheila McClelland, Roy Beggs Jnr and Alan Patterson. I hope that this heralds the start of productive and mutually beneficial contact between our two committees and our two institutions. Because of similarities in our founding legislation, we have much in common. Clearly, there are also many differences. I hope that we can assist each other as we continue to find our feet.

The Finance and Personnel Committee of the Northern Ireland Assembly kindly offered to assist us in our inquiry into the private finance initiative. We are pleased to accept its kind offer. I invite Mr Molloy to address the committee.

**Francie Molloy MLA (Finance and Personnel Committee, Northern Ireland Assembly):** Thank you very much for the opportunity to present our report of the public-private partnership inquiry. On behalf of the Finance and Personnel Committee, I welcome the opportunity to address members of the Finance Committee.

We undertook such an inquiry because there were obvious signs in Northern Ireland of underinvestment in capital projects. Many hospitals and schools are in poor condition. Our regional transport system—including the key transportation corridors—requires major investment. We were told that limited resources were available for capital spend and that, although the various departments had many projects, they did not have the resources to fulfil the need.

Recent figures suggest that, at present, the Northern Ireland departments require funding for capital projects in the region of £4.5 billion to £6 billion. There are question marks over whether that is the total requirement at this stage. The figure depends on the range of requirements and projects that are proposed.

The Finance and Personnel Committee began its inquiry into PPP in March 2001. At the time, our overall aims were: to examine ways of financing investment to address the public sector infrastructure deficit, including conventional public finance, bonds, tolls, not-for-profit bodies and public-private partnerships; to examine the performance of PPP projects to date and their effect on the users; to consider the value for

money that has been achieved through PPP and the effects of committing money to PPP projects on a long-term basis; and to establish from emerging patterns and trends the areas and types of projects that would be suitable for PPP.

The methodology behind our inquiry was to consult all the key stakeholders. We identified the relevant stakeholders as being the sponsors, users and partners involved in the public services in which PPPs could be used or promoted. We placed public notices inviting submissions and wrote to local and central Government in Britain and the Republic of Ireland. We wrote to trade unions, academics, major building contractors and legal and management consultants. We also engaged with as wide a group of people as would offer us views about PPPs, because there had been a lot of concern about PPPs and the various different forms of financing.

12:00

As part of our examination of ways of financing the infrastructure deficit, the committee sought the views of stakeholders such as the European Investment Bank. Academics, trade unions and transportation strategy groups were also available to provide comment to the committee on alternative forms of financing—for example, concessions, tolls, joint ventures and non-profit distributing bodies.

The Northern Ireland department of finance and personnel is responsible for distribution and overall co-ordination of resources based on decisions made by the Executive Committee. The department liaises and negotiates with the Treasury and interfaces with other Government departments. It sets the rules for types of investment and spending by departments. Those rules are based on Treasury guidelines. Because our inquiry considered the rules, the Minister of Finance and Personnel and the department were key to our examination of the ways in which capital investment could be addressed.

In examining the performance of PPP projects currently in operation, the committee considered examples of PPP in Northern Ireland. Most of the projects that we have are young and so it was difficult to evaluate anything other than, for example, the evidence of new buildings. Nevertheless, we took evidence from the project sponsors—the departments—the users, including education authorities, health authorities and trade unions, and private sector partners.

The committee went further afield and visited Dublin and Leeds to hear views about on-going projects. It was difficult to find any project that had been in operation for a significant period of time. The absence of long-term examples of projects

posed problems for the committee in evaluating how successful PPP has been in achieving value for money and the long-term effect that ring-fencing resources would have on public service provision.

The committee learned about different types of PPP, including design, build, finance and operate, or DBFO, and its variation—design, build and operate, or DBO, where private finance is not included. In contracts for the provision of schools, hospitals and other health authority premises, we were told that, other than capital provision, the main changes involved provision of support services by the private partners.

In Northern Ireland, large-scale PPP contracts have been used in the education sector. We heard from the Belfast Institute of Further and Higher Education about campuses in Millfield and Springvale. I am also familiar with the contract for Drumglass High School in my constituency. Those contracts are mostly for new-build large schools and colleges, but PPP contracts have been proposed for smaller schools where a process of bunching or packaging a number of schools will be used.

Such an arrangement will make the proposal more attractive to the private sector and ensure that smaller schools with more pressing needs are included in rebuilding programmes. However, such packaging of smaller projects has often not been successful—that came out in evidence that we heard. The geographic dispersal of rural schools in Northern Ireland and difficulties with collaboration between the maintained and controlled education sectors present their own problems, but the arrangement goes some way towards addressing cherry-picking by the private sector.

When my committee began its inquiry, there was uncertainty about the difference between PPPs and PFIs—I think that there was a public relations problem with how things were presented. We found that PPPs had become a generic term that encompassed PFIs and that the term PPP had evolved with the change of Government.

Social, economic and political issues surround PPPs. For example, the contracts for building some of our new schools involved the transfer of excess land to private sector partners who then used that land for property development. Some were successful, but some were not. We were told that the developers had received planning permission despite objections from local residents—that was one of the main concerns raised in the consultation. In addition, the arrangements were not available to the Northern Ireland departments under the conventional procurement methods. Obviously, that raised questions about the drive by Government departments for PPPs without public debate.

A working group set up by the Northern Ireland Executive Committee noted that various definitions of PPP are used throughout the world. We understand that the working group is likely to recommend in its report to the Executive that there should be a definition that is suitable to the needs and circumstances in Northern Ireland. The Scottish Parliament may want to consider that issue, too.

The committee's report formed the principal part of the evidence for consideration by the working group and the committee will consider carefully how the working group responds to the report when it produces its consultation document.

I would like to turn to the committee's recommendations in the report and try to explain the rationale behind them, using examples of evidence presented to us. I will also refer to developments in Northern Ireland since we presented our report.

We recommended that the Northern Ireland Executive Committee should establish a unified, service-wide investment strategy to ensure that historical underspending on health, education, housing and the infrastructure deficit is financed and managed. We also recommended that a co-ordinated programme of strategic projects should be drawn up and a social partnership established—that is one of the main areas on which we picked up, in particular in the Republic.

Social partnership is important in the development of PPP plans. Our 10 Government departments have their own budgets and there are 10 separate investment plans and strategies—I understand that the system in Scotland is different. The growth in the number of departments potentially worked against a corporate Executive strategy. We saw that as the silo approach to resource allocation and expenditure—each department would look at itself and not at the broader aspects. We flagged that up as needing to change and thought that other departments and the wider community should be involved.

The social partnership that the committee recommended was addressed by the Northern Ireland Executive's working group when it examined PPPs. The working group includes representatives from the community and the voluntary sector. The trade unions initially declined to participate, but their representatives have now joined. The working group will highlight to the Executive Committee any areas in its report where consensus has not been reached. It is important to distinguish between the social partnership in the south and what is happening in the working group. The trade unions are participating in the working group, but the social partnership in the south is more about developing PPPs at an early stage; the input is not simply at the report stage.

As part of its terms of reference, the working group has considered the scope and scale of the infrastructure deficit. It has also been examining a range of strategies and different forms of investment that could be employed to address that deficit. The group will present its report to the Northern Ireland Executive in April 2002. A period of public consultation will follow.

It is envisaged that, following the consultation, the Northern Ireland Executive will present its PPP policy to the Northern Ireland Assembly in September. That could have an influence on the draft budget and the programme for government, which are due to be presented at around the same time. My committee will monitor developments as it approaches its scrutiny of the budget process for 2002.

The issue of PPP has moved into the public arena. We recommended that a specific minister be appointed with responsibility for driving the strategy forward. As I said before, the silo approach exists in the different departments of the Northern Ireland Executive, and such a minister would have to achieve partnership between departments to ensure a commonality of approach. Although the Northern Ireland Executive working group has not adopted that recommendation, it has been considered.

We recommended that a time-bounded working group under the minister should be set up immediately to help the minister to drive the strategy forward. One of the issues on which it would advise the minister would be the most appropriate investment and procurement methods to be used in the short and long terms. It could also begin the development of a strategy and processes. That concept appears not to have been adopted. My committee recognises that the PPP working group has been set up and is reporting to the Northern Ireland Executive, but there appears to be a problem with the evolving proposals for investment in capital projects. We have seen evidence of projects being considered without referral to the working group.

In our recommendations on the establishment of the working group, we anticipated that the working group's role would extend to ensuring a sustainable and manageable flow of projects. We had concerns that, if a full-blown investment strategy was not developed and managed in a co-ordinated fashion, there could be a danger that the construction industry and its subcontractors would not be able to cope with the demand, for example. We were also concerned that if there was a gap after a flow of contracts, some contractors could go to the wall. The working group could target social issues by ensuring conformity with the new targeting social need policy set out in the Northern Ireland Executive's "Programme for Government".

We have impressed upon the Minister of Finance and Personnel the need to pursue and target social need in areas of deprivation proactively and positively through the investment strategy and procurement policies.

Another key role that we identified for the working group was that of identifying an appropriate skill base in the public sector in Northern Ireland. We believed that that was necessary so that there ultimately would be cross-fertilisation and utilisation of information, knowledge and skills in the public sector to help us to achieve our goals. We recommended that, before the investment strategy was agreed, departments should consult the minister responsible and the Executive before committing significant resources to PPP projects. Overall accountability for committing resources lies with the departmental minister—who is also accountable to the public for the way in which public services have been delivered through his or her department—not with the investment strategy minister. The departmental minister must be satisfied that each project is suitable.

Our recommendation to establish a longer-term central investment or procurement body was built into our findings so that, as there was a scarcity of expertise in the public sector, expertise, best practice and appropriate knowledge and skills could be brought together and dispersed throughout the various departments. During our inquiry, we met the Department of Health's PPP team. That team had developed a centre of excellence within its department. The team provided advice, expertise and standardisation to health boards and national health service trusts, which reduced the duplication of effort in the health service and substantially reduced the consultancy fees associated with each project. A significant point is that the Department of Health employs external consultants full time as part of its PPP team.

Finally, the Finance and Personnel Committee recommended that a review should be conducted of the powers and responsibilities of the Northern Ireland Executive to establish whether those powers are compatible with the committee's recommendations.

12:15

I conclude by stating categorically that the Northern Ireland Assembly's Finance and Personnel Committee did not view PPP as the only game in town. We stated clearly that public finance was our preferred source of finance, because generally, public finance can be provided at lower interest rates and its use ensures that accountability for public services remains in the public sector.

We took the pragmatic view that, because public sector finance is unlikely to cover the extensive need and infrastructure deficit in Northern Ireland, PPP had a part to play and could be a valuable tool and means of investment, when used in the right circumstances. However, we emphasised that care needs to be taken in how, where and when PPP is used. Departments in Northern Ireland will be expected to use a mixture of conventional capital investment, PPP and other innovative ways of financing public service infrastructure. If PPP is to be used, full consideration must be given to the impact of committing significant amounts of resources to what is, essentially, a 20 to 30-year mortgage. There is a fear that committing more and more money in that way will eat into the Executive's room for manoeuvre if a reprioritisation of resources or a review of administration are required, for example.

The Finance and Personnel Committee would need to take another serious look at the situation if it were proposed to extend PPP arrangements to service provision in clinical health services or education, for example. The committee had serious concerns—and serious concerns were expressed to us—about that issue.

That concludes my formal presentation. I will provide members with a copy of my speaking notes and they should not hesitate if they wish to raise questions. In the meantime, I thank members for listening to me.

**The Convener:** I thank you for your comprehensive overview of what was obviously a detailed inquiry. We have been engaged in an almost parallel process of considering PPP over the past four months. Some members of the Finance Committee are looking at three specific types of project in Scotland, in the areas of education, health and infrastructure, so many of the points that you raised were familiar to us. We are interested in the recommendations and suggestions that arose from your committee's findings. I invite members to indicate whether they wish to ask questions.

**Mr McCabe:** I have two brief questions.

I appreciate Mr Molloy's point that it is too early for the public to make an objective assessment of the level of public services that are delivered. However, in general terms, were the public less concerned about the method of procurement, and more delighted, if you like, that the facilities had been provided?

I think that Mr Molloy said that his departmental minister had ultimate authority and accountability for projects. He also mentioned an investment strategy minister. Can the investment strategy minister overrule the departmental minister, or

does the investment strategy minister have no say?

**Francie Molloy:** I will deal with the second question first. In our report, we proposed that a minister should be appointed to spearhead PPP projects and to make decisions in a co-ordinated way with other departments, but the working group has not taken that line. However, we thought that that approach would be beneficial in the future.

At present, each department in the Executive has its own budget and each minister is responsible for their own budget. The Minister for Finance and Personnel, in conjunction with the rest of the Executive, makes the budget allocations. As members know, the block grant that we receive under the Barnett formula is guaranteed and the block grant has an effect on budgets.

On the provision of services, there were no long-term projects in place, so we could not assess projects' viability in the long term or whether they provided value for money.

We talked to users of services and to people in Leeds who were running a new mental health unit. They found that the services, maintenance and back-up that were being provided were important to how the unit was developed. Having come from the dingy buildings that had been used in the past, they had a good new building. They found that they had a good service agreement with the developer for the maintenance of the buildings. If there were defects in the building, they had a manager within the area to deal with that and to deal directly with the developer's personnel manager. There was a direct line of communication, which took matters out of the hands of the nurses and doctors and let the management deal with them. The quality of services there was very good.

We also looked at a schools project. The key person who was tied in originally with the contract on behalf of the developer stayed on as a manager after the project got up and running. That person was in direct contact with the principal of the school. The principal gave the developer a list of defects. If a room was not available, the developer did not get paid for it. If the room was not clean or if there were faults, it was not paid for.

What came across clearly in Leeds and Dublin was that the maintenance of the contract was a key factor in whether to go for PPP or the traditional procurement method. The people from the department in Dublin told us that they had the money to use the normal procurement method, but they went for PPP because they and the users found the maintenance contract more beneficial.

**Mr Jamie Stone (Caithness, Sutherland and Easter Ross) (LD):** The convener killed off my

first question. My second question perhaps reflects the situation in the six counties in comparison with that on this side of the water. The method of service delivery and the structure—from local authorities right up to health and social work departments—are different in Northern Ireland from how they are here. I am asking you to surmise, but do you think that the structure in Northern Ireland has made PPP easier or more difficult than we have experienced it to be here, bearing in mind the fact that local authorities have more power here? Perhaps you would also comment on whether co-ordination and cross-cutting is a plus or a minus.

**Francie Molloy:** One of the things that we found in Leeds was that the local council, various departments of which were dealing with health and education, could put together a project team to deal with all the PPP projects. We talked to people who were dealing with a project on a hospital and on a school. Working on those projects had enabled them to build up expertise.

We picked up clear evidence that a centre of excellence had to be put together so that expertise would not be lost from one contract to another. If there was co-ordination from an Assembly point of view, so much the better, because that would bring in expertise. The key point is that the contract is the essential part of the project. If a developer who was working on a school knew exactly what was wanted, could clearly set out what was needed and could price and maintain the contract accordingly, that expertise in putting together the contract could be transferred for use in building a hospital or any other type of public building. The same issues arose in most of the situations that we saw.

The difficulty in Northern Ireland is that we do not have a remit for education and health at local council level; that goes to the Assembly. There is the opportunity for the Assembly to do what local councils do here. That is why our report proposes that we should put together a centre of excellence and expertise from all the different departments, instead of the education department, for example, having all the expertise in building and contracts and putting that together.

That should happen in all the departments to ensure that there is expertise for putting together an overall Executive Committee strategy for dealing with PPPs and that each department does not reinvent the wheel. Otherwise, there is a danger that the health department, for example, will duplicate what the education department does, with each department employing consultants in different ways. That would cause duplication all over.

**Roy Beggs Jnr MLA (Finance and Personnel Committee, Northern Ireland Assembly):** In

Northern Ireland, boards and quangos, which have little public representation and involvement, make investment decisions on new buildings in schools and hospitals. The boards and quangos are more remote than local authorities and much less accountable. In that situation, it is much easier to decide on PPP than it is in Scotland, where local government and elected politicians take such decisions. There might be some resistance to PPP, but it is important to focus on the quality of service that the public ends up getting.

**Mr Stone:** I have a quick supplementary question, to ensure that I understand the matter. My wife comes from Armagh. When you talked about centres of excellence, was your point that Armagh City and District Council, for example, could build up expertise, not just to build such a place as the Navan Centre, but to distribute expertise to other agencies, such as those that deal with health and schools?

**Francie Molloy:** No. We cannot operate in that way, because our council system is different from yours; our council system does not have the remit for education and health.

**Mr Stone:** I know that.

**Francie Molloy:** The Northern Ireland Executive Committee, however, could have an overall expertise and centres of excellence.

An issue that we noted in most of the schools projects, particularly the one in Leeds, was the community use of such a project. The community was involved in the design and in putting together the uses that it would need. For example, a community can use a gym from five o'clock in the evening, and the community can use a theatre space, or its equivalent. Community access was not to the school, but to the buildings, which meant that they were used more. For example, the buildings could be used in the summer months, when school was out. That was a beneficial aspect of the projects.

**Brian Adam:** The Chancellor of the Exchequer has indicated that he will have a more relaxed approach to capital consents. Local government structure is a little different in Northern Ireland. Changes are coming in Westminster that will give more authority to English local authorities and we anticipate that something similar will happen in Scotland. If Northern Ireland also gets a little more freedom in capital consents and a genuine choice becomes available between public and private finance, is the popularity of PPP likely to decrease?

**Francie Molloy:** I went into our inquiry totally opposed to PPP and PFIs. However, the inquiry indicated clearly that contracts, and terms and conditions, could be put together for a school or a hospital project that would benefit the community

and the developer. However, the size and scale of the project was a important factor in deciding whether to use PPP or traditional methods. For example, it might not be as suitable to use PPP for primary schools as for secondary schools, in which the project has greater size.

In another example in the south, where there were resources to undertake a project by the normal procurement method, it was decided to use PPP, because of the maintenance aspect. Again, the key issue was the contract. Throughout our report, we emphasised that if one set up the right terms within a rigid contract, one could then decide on the best method of resourcing a project.

In our situation, because of the neglect of infrastructure and the lack of spend, particularly over the past 30 years of direct rule, there is still a need to use PPP. Enough capital money will not be available to do otherwise. There are alternatives that some departments would like to look at, such as not-for-profit companies and bonds, which would provide more flexibility in terms of how projects are brought together, would not be tied to a long-term mortgage arrangement, and would provide more flexibility with resources.

12:30

Another issue that arose in our report was land. When it was written into projects, land was a difficulty, because it became a bargaining chip for developers. The land was devalued, because the developers said, "We have to deal with the land and the old buildings that are on it." The information from Dublin was that land and old buildings should be taken out of the equation completely and set aside, and that only the contract and the maintenance of the contract, not the liabilities that are attached to old buildings, should be dealt with. Leeds found the same situation.

The 2002 spending review may throw a different light on that issue, but the indications are that the Exchequer is more likely to cut back on the amount of money that is available for capital projects and for the legislative Assemblies, and that it will switch on to how the Assemblies can raise their own resources. The issue is the availability of money and the ability of Assemblies to borrow in their own names, rather than having to go through the chancellor on every occasion.

**Brian Adam:** You mentioned a number of other potential vehicles, including not-for-profit trusts and bonds. In terms of the procurement board, where you were trying to concentrate expertise, did you think of aggregating a number of projects in order to get better private finance terms? Rather than giving your procurement board powers to investigate the financial support for bids, did you

consider using it as a not-for-profit vehicle that would allow an overall sum of money to be borrowed, for example, for two primary schools in one area and two in another, thereby saving money?

**Francie Molloy:** Our proposal was not just that there should be investigations into how budgets could be put together. We also investigated how the Executive Committee, which is minister-led, could put together an overall budget—for hospitals, schools, and other facilities—to maximise the total package to bring on board the number of contractors that would be required to deliver the projects, and to get better value for money. It was envisaged that the centre of excellence would not just put together individual contracts; the total number of contracts and the expertise that would be available would bring on board other important issues.

One of the problems that was raised, in particular in Leeds, was that the total amount of money had to be substantial to make such arrangements viable. The amount of consultation and development that is required to do one primary school on its own means that the project is not worth while, but for 10 primary schools, it is feasible. In that situation, a similar design could be used, or a similar contract could be used.

The question was also asked, if there are too many projects at one time, could the contractors cope with the amount of building? One of the points that was made was that European investment would come in. The fact that all contracts have to be advertised Europe-wide would mean that the big contractors would be prepared to come in. That would also help the sub-contractors. The local sub-contractor would still be subbing a lot of the work from the main contractor, which might be a European contractor. There would be benefits in pooling everything together and an opportunity for small contractors to start developing or building one school, while different local contractors might have been working on a different school. The arrangement would present opportunities.

Just in case there is a wee danger that we seem to be saying that PPP is the be-all and end-all, I should talk about a number of other points that we picked up in the course of the inquiry. Care had to be taken on how the contracts were put together, whether they involved one project or 10, and expertise had to be held together. In many cases where a council had done just one project, there were major drawbacks and problems in the project's development. In cases where councils had put together a number of projects and had developed expertise, the same contract work could often be built into the next project. There was benefit in that process.

**Mr Davidson:** There are obviously differences between our political systems, in that we go for a much more decentralised system under which local authorities and health boards make decisions. You have given us a number of reasons why you have gone down the route of central control, and you have highlighted the fact that the public sector skills base is not wide. There may be pockets of excellence, and you are trying to set up a form of national institute.

All that links back to your budget process, to which you in the Assembly have an eye. But why do you want to have another minister in place? You seem at the moment to be heading for a situation where everything will drop into the lap of your Minister of Finance and Personnel, with whom other ministers negotiate to get a budget. Is it the long-term view that you will stick with that central control, or are you looking instead to have a central unit that will be able to give expertise, while allowing people to make bids from their respective localities using the central system and thereby helping them get their contracts right?

**Francie Molloy:** Our proposal was for this to be minister led. We did not wish to bring in a new or additional minister, and the Finance and Personnel Committee suggested that the Minister of Finance and Personnel should be the driving force. That minister would not necessarily take the lead in the majority of education and health projects, for example, but the general view was that the Executive Committee had to appoint one minister as the lead minister.

The purpose of putting together the expertise in a centre of excellence was to advise other departments, instead of having each department having to put together its own pool of expertise and getting all its answers there. The centre of excellence was to advise the various departments, and also to give advice at a local council for any relevant projects. That would ensure that contracts were not being duplicated, that we were not reinventing the wheel every time there was a new contract and that the expertise, including that in actually drawing up contracts, would be there for others to use across the board.

**Mr Davidson:** You mentioned earlier that, because of a shortage of contractors, PPPs were of interest. I am not sure what the difference is. I am not certain whether there was a problem in buying something via the normal procurement route. You also spoke about better control of lifetime costs and maintenance when using a PPP. Did that come about because you have proved that the public sector failed to deliver on those aspects, as opposed to the way in which you are approaching PPP? Is that a local Northern Ireland problem?

**Francie Molloy:** There has been underinvestment over the past 30 years, and it has been clearly indicated that there is a major need for investment because of the poor state of school buildings, hospital buildings—and poor maintenance within those buildings—and the road infrastructure. Not only has there been a limited capital building programme over the past 30 years, but the maintenance that public departments provided in those buildings was poor. The buildings have got into a very bad state. If that had been under PPP, there would have been a contract to ensure that maintenance over a period. Also—and this has come up in a number of different areas—if the building were no longer required within that area at the end of the PPP contract, we would not be tied to that building.

Government agencies have sometimes adopted unsuitable buildings for a particular project—for example, hospitals in buildings that are unsuitable for modern needs. However, if a hospital or a school were no longer required in an area, a new PPP contract in a different area could provide that service where it was required and the original developer could use the building for some other purpose. In Leeds, the mental health building that we visited was designed and could be used for other purposes, such as an ordinary hostel. If needs within the area changed, the building could easily be transformed.

I was not saying that the package could not be achieved through normal procurement, but that to make PPP contracts worth while and viable projects must have scale. When we put that scale together, the main problem would be the number of contractors available to do that. The response that we received from the people we consulted was that the European contractors that were bidding for the larger-scale projects were in a position to deal with the scale of those projects and to take on board the smaller contractors, which may not be able to bid even for one project, such as one school, on its own.

**Mr Davidson:** I accept that, Mr Molloy. To take you back to how you decide whether a project should be traditionally procured or whether it should be PPP, what are the three key parameters around which you base that decision?

**Francie Molloy:** The key areas that we as a committee reported on were value for money, the risk transfer—how we transfer that risk on to the developer—and the quality of services. We highlighted throughout the report that the quality of service had to be better than that which could be achieved through public procurement. If that were not possible, we would not go for PPP. It was key in putting together the contracts that the risk had to be transferred from the public purse to the contractor.

In the south, road toll contracts had "Review every five years" written into them to ensure that, if the Government were not getting returns from the road, it could review the situation and try to take a larger share. For the first five years of one project the contractor broke even, which meant that for the next five years the contractor would be into good profit. The Government had written a five-year review into the contract, which meant that it was able to take 50 per cent of the profits. The Government is probably now able to take double or treble that amount because of the increase in the predicted volume of traffic on that stretch of road. That was a method of ensuring that not only was the contractor repaid but the Government received resources that it could use for other projects.

**The Convener:** The traditional method of funding allocation, certainly in Scotland, is based on need. The maintenance quality of buildings and population requirements are considered, and the various public agencies have to choose which schools or hospitals are funded for refurbishment or rebuilding. Refurbishment is generally chosen, because the cost of rebuilding schools and hospitals is so high. It occurs to me, from the evidence that we have taken, that new projects are not necessarily matched to needs in every case throughout the system. Decisions are more or less based on whether a project appears to be a good proposition. Has Northern Ireland considered how projects are chosen and the matching between the choice of projects and the actual level of need for public investment?

**Francie Molloy:** The committee's advice was that the working group should set up PPP projects only after examining whether social need was being targeted. Both communities have concerns. The unionist community is concerned that, for instance, the new schools programme does not include enough schools in traditionally unionist areas. Nationalists are concerned at the number of mobile classrooms outside schools and argue that, as such areas had no school in the first place, their needs should be targeted.

12:45

The working group must establish a structure that promotes equality and is based on the assessed need of each area. For example, the working group would need to decide whether a mobile classroom is sufficient for the modern teaching methods that schools use. It would also need to decide whether to replace an existing crumbling school building instead of building a new school in an area whose population has increased.

We envisaged that the working group would deal with such situations by using a cross-departmental

approach to decide how the budgets are spent. The Assembly's three priorities are health, education and infrastructure. From our inquiry, I learned that those targets need to be prioritised by one centre of excellence with a cross-departmental overview. That would mean that decisions would not be made only from the point of view of education or health or infrastructure. An overarching view is needed so that the budget money is distributed to follow area needs.

**The Convener:** Is there a need to reconcile educational priorities, financial criteria, such as the requirement that projects be good value for money, and traditional political considerations about the balance of advantage? Is your difficulty that you have to meet needs in so many different contexts?

**Francie Molloy:** The big problem is how to assess need. That is where the difficult decisions need to be taken. There also needs to be equality across the board. The services that are provided must be of good quality and must be accessible to the community. As was said earlier, our inquiry learned that better value resulted when the buildings could be used all year round by the local community as well as by the school-going community.

**The Convener:** If there are no further questions, I thank the witnesses for giving us the opportunity for today's exchange and for providing us with a copy of their completed report, which will help us with our work. Once we have completed our inquiry, we will be happy to pass on our findings. I hope that we will find issues of mutual interest that will help us develop our inquiries in the future. I thank you on behalf of all committee members.

**Francie Molloy:** Thank you.

**The Convener:** I remind members that there is a lunch with the members of the Finance and Personnel Committee in room F1 in Cannonball House.

*Meeting closed at 12:48.*



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