FINANCE COMMITTEE

Tuesday 9 September 2003
(*Morning*)

Session 2

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FINANCE COMMITTEE
5th Meeting 2003, Session 2

CONVENER

*Des McNulty (Clydebank and Milngavie) (Lab)

DEPUTY CONVENER

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

COMMITTEE MEMBERS

*Ms Wendy Alexander (Paisley North) (Lab)
*Mr Ted Brocklebank (Mid Scotland and Fife) (Con)
*Kate Maclean (Dundee West) (Lab)
*Mr Jim Mather (Highlands and Islands) (SNP)
*Dr Elaine Murray (Dumfries) (Lab)
*Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD)
*John Swinburne (Central Scotland) (SSCUP)

*attended

COMMITTEE SUBSTITUTES

Mr Adam Ingram (South of Scotland) (SNP)
Mary Scanlon (Highlands and Islands) (Con)

THE FOLLOWING GAVE EVIDENCE:

John Ewing (Scottish Court Service)
Jackie Robeson (Scottish Children's Reporter Administration)
Philip Shearer (Scottish Legal Aid Board)

CLERK TO THE COMMITTEE

David McGill

SENIOR ASSISTANT CLERK

Jane Sutherland

ASSISTANT CLERK

Emma Berry

LOCATION

Chamber

Scottish Parliament

Finance Committee

Tuesday 9 September 2003

(*Morning*)

[THE CONVENER *opened the meeting at 10:33*]

Item in Private

The Convener (Des McNulty): I welcome everyone to the fifth Finance Committee meeting of this session. I welcome members of the press and the public, as well as our witnesses. I remind members to turn off their pagers and mobile phones in case they go off during the meeting. We have not received any apologies as yet.

The first item is to seek the committee's agreement to take its draft report on the evidence on the Vulnerable Witnesses (Scotland) Bill in private at a future meeting. The draft report is likely to be considered on 23 September after we have heard evidence from the Executive next week. Are we agreed?

Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP): We should consider the general principles of conducting debates in private, although not this morning. At the end of the first session of Parliament, there was a substantial body of criticism from groups not allied to any political party that far too many of the Parliament's proceedings are conducted in private.

I, for one, fail to see why I would be willing to say in private something that I was unwilling to say in public. It is important that people can see the conclusions that we reach when we are compiling our reports and the factors that have led us to those conclusions.

I know that the issue is complicated and is not one that we want to debate in detail at the moment because we have witnesses waiting. However, we need to set aside some time for members to consider the issue and perhaps also take advice from the committee clerks, Elizabeth Watson and others. Simply to decide to follow the same patterns and slip into the same habits as we did in the first session without a debate would be letting down the principles of openness, transparency and accountability to which we all, I am sure, subscribe.

Kate Maclean (Dundee West) (Lab): Although there is an issue to be debated, it is unacceptable that Fergus Ewing has raised it in such a manner. We have witnesses waiting and that means that other members of the committee are not able to indulge themselves in the way that Fergus Ewing has done. We should have an item on a future agenda to allow us to discuss the issue, but the way in which Fergus Ewing has raised the matter today is absolutely unacceptable.

The Convener: If there is a debate to be had about how committees in general deal with draft reports, that debate affects all committees and not just the Finance Committee. If Fergus Ewing has a particular concern, I suggest that he raise it with the Presiding Officer or with the convener of the Procedures Committee in the first instance.

Fergus Ewing: I am quite happy to do that. To say that my remarks were self-indulgent is simply wide of the mark. We should have less playing of the man and more playing of the ball in the Parliament.

Kate Maclean: You should take your own advice.

The Convener: Notwithstanding that, can we agree that, in line with the existing procedure, we will consider our draft report in private at a later meeting? It is necessary for us to proceed in that way at this point. Are we agreed?

Fergus Ewing: What exactly are we agreeing to?

The Convener: We are agreeing to consider in private our draft report on the financial memorandum for the Vulnerable Witnesses (Scotland) Bill before it goes to the relevant justice committee.

Fergus Ewing: Yes, but we have not decided to do anything in private at the moment. We are going to come back and consider the issue of privacy later. Is that the situation?

The Convener: I am asking you to agree to deal with the draft report in private at the meeting after next.

Fergus Ewing: No. I do not agree to that.

The Convener: In that case, we will have to take a vote. May I see all those in favour of the proposal that we agree to consider in private the draft report at the committee meeting on 23 September?

Fergus Ewing: You are saying that the report should be considered in private. That is what I am objecting to.

The Convener: Yes.

Fergus Ewing: I object to that.

The Convener: What are you proposing?

Fergus Ewing: I have already said what I am proposing but I will reiterate. I propose that we

should have a proper debate during which all members can contribute and with the benefit of information from the other committees, as you said. Arguably we would be setting a precedent that could affect other committees as well. It has been pointed out that the Procedures Committee is considering the matter. If that is the case, it would seem to me to be premature for us to pre-empt the decision of the Procedures Committee. I am proposing that we revisit the whole issue at a later date, after having consulted the appropriate authorities, including the Presiding Officer, the Procedures Committee and anyone else who might be interested in the matter.

Kate Maclean: I am not clear about what Fergus Ewing is proposing. He said that he wants to have a debate, but what does he want the committee to agree? Is it that we should have a debate about whether to discuss the item in private before taking a vote on it and then discuss the item in private or in public as a result of that vote?

The Convener: We have to deal with the item that is on the agenda. It is difficult for us to deal with an item that is not on the agenda. If there is a debate to be had about how committees—or indeed this committee—deal with draft reports, it must be put on an agenda and discussed in the appropriate way.

Fergus Ewing: That is what I suggest.

The Convener: That might well be. However, we must deal with the proposal that we examine the draft report.

Dr Elaine Murray (Dumfries) (Lab): Surely the production of the report imposes a time constraint on us. For us to change the procedure would pre-empt the decision of the Procedures Committee. I have nothing against discussing the item in public, but it would be more appropriate for the Parliament to decide whether it wants to change current procedures. As that decision has not yet been taken, I suggest that we adhere to the Parliament's normal procedure at the current time because we must produce a report for the Justice 2 Committee.

Mr Ted Brocklebank (Mid Scotland and Fife) (Con): For the benefit of those of us who are new to the committee, will the convener give us a brief explanation of why meetings have been held in private before?

The Convener: The reason was to enable a proper flow of argument among members of the committee on matters of disagreement. In my time on the committee, I cannot remember a time when there has been disagreement among committee members in debates on financial memoranda, but meetings might be held in private to allow members to raise issues that are not fully incorporated in the draft. Members might want to propose items for inclusion or they might want to engage in discussion with the clerks or with members of the committee to seek clarification. Such matters have always been discussed in private by our committee.

Private discussion of the drafts of major reports has also been customary on other committees. Reports are always released in a co-ordinated way so that the committee agrees and issues its reports for publication on a particular day. Any disagreements are reflected in the text of the report. Were we to engage in a public discussion of draft reports, there might be confusion about the views of committee members before they have arrived at a conclusion.

Significant difficulties are involved in discussing draft reports in public. It could impede the committees. Other members might have different views, but all committees must consider the matter further. This is not a narrow discussion for the Finance Committee. Elaine Murray is right: the procedure in the past has always been for committees to consider draft reports in private. The Finance Committee then sends a report to the relevant subject committee, which is the Justice 2 Committee in this case.

Mr Brocklebank: What are the time-scale restraints?

The Convener: We are obliged to make our report in time for the lead committee to question the minister. I understand that the Justice 2 Committee has a session on the bill with the minister on 30 September. Our timetable is to complete consideration of the draft report by 23 September. We will take further evidence next week.

Fergus Ewing: That is in two weeks' time.

The Convener: Yes, I am quite clear, Fergus, that 23 September—

Fergus Ewing: You said that it was one week away; in fact it is two weeks away.

The Convener: I said that we are taking further evidence next week. The clerks will need to prepare the draft report for us to examine and agree on 23 September, so that it is available to the Justice 2 Committee in time for it to consider the approach that it wants to take.

John Swinburne (Central Scotland) (SSCUP): I move that we make progress and agree to continue in private for the moment, but that we meet as soon as possible to discuss Fergus Ewing's very legitimate proposal.

The Convener: The proposal is that we agree to consider in private our draft report on the financial memorandum of the Vulnerable Witnesses

(Scotland) Bill at our meeting of 23 September. That would be in line with previous procedure. Is the proposal agreed to?

Members: No.

The Convener: There will be a division.

FOR

Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
Maclean, Kate (Dundee West) (Lab)
McNulty, Des (Clydebank and Milngavie) (Lab)
Murray, Dr Elaine (Dumfries) (Lab)
Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
Swinburne, John (Central Scotland) (SSCUP)

AGAINST

Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
Mather, Mr Jim (Highlands and Islands) (SNP)

The Convener: The result of the division is: For 6, Against 2, Abstentions 0. The proposal is agreed to.

Vulnerable Witnesses (Scotland) Bill: Stage 1

10:45

The Convener: Item 2 on our agenda is consideration of the Vulnerable Witnesses (Scotland) Bill, which was introduced on 23 June by the Minister for Justice. To assist our consideration of the financial memorandum that was published to accompany the bill, we have witnesses from the Scottish Children's Reporter Administration: Ed Morrison, who is director of finance, and Jackie Robeson, who is head of practice. From the Scottish Court Service, we have the chief executive, John Ewing, and Cliff Binning, who is the head of operational policy and planning. We also have Philip Shearer from the Scottish Legal Aid Board. You are all welcome. Thank you for coming.

We will take evidence from the Scottish Court Service and the Scottish Children's Reporter Administration first, and then from the Scottish Legal Aid Board. If you wish, you may make brief introductory remarks. If you do not, we will move straight to questions.

John Ewing (Scottish Court Service): We do not wish to make an opening statement.

The Convener: Has the Scottish Court Service been consulted fully on the costs that are set out in the memorandum? Are you generally content with the details that it sets out?

John Ewing: The answer to both questions is yes. As an executive agency of the Scottish Executive Justice Department, we were involved in discussions with Justice Department colleagues during preparation of the financial memorandum and understand the background to the estimates that are included in it.

The Convener: Paragraph 110 mentions that only nine of the current 52 courthouses in Scotland have closed-circuit television and gives costs for equipping a further 10. Where does the figure 10 come from? Is it sufficient? Who will decide which 10 courthouses are given CCTV and what criteria will be used in making the decision? Do you think that, ultimately, CCTV should be rolled out to every courthouse in Scotland?

John Ewing: It is important to understand that the distribution of business is not even and that we have tried in the past to ensure that we have equipment where it is required. There are 49 sheriff courts in Scotland, which vary in size from Glasgow to Lochmaddy. They also vary in the amount of business that they transact. Nineteen of our courts handle 80 per cent of all court business. For that reason, it seemed reasonable to aim to

expand CCTV provision to 19 courthouses, in order to maximise coverage. We want to develop the use of the technology so that we are able to have mobile facilities. If a case had to be held in one of the more remote courts and it was not appropriate to transfer it to a larger centre, we would then be able to respond to that need.

The Convener: Do you think that the sum of £55,000 for CCTV is sufficient? What run-on costs for training and maintenance are involved? Are those costs recognised adequately in the memorandum?

John Ewing: The run-on costs are not recognised in the memorandum because they are not additional to the provision that the legislation enacts. We already provide CCTV facilities for child witnesses in a number of courthouses. We bear the costs of maintaining that service and training staff to operate it within our normal overall budget.

The figure of £55,000 is an estimate, which we prepared, and includes a combination of the cost of the equipment and the cost of any adaptations to court premises that might be needed to allow it to be used effectively. As it happens, we have begun to test the market to see what is available. We may be able to deliver CCTV for less than £55,000, but at the moment that is the planning figure to which we are working.

Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD): My question arises from paragraph 111 of the financial memorandum. How did you estimate the number of notices and applications, the time taken by the judiciary to consider them in chambers and the implications for staff salaries of supporting judicial consideration of notices and applications?

John Ewing: One of the difficulties in making such estimates relates to the fact that the legislation is supposed to change the culture and the use of facilities. We are building on facilities that already exist but which are not used to the extent that the Executive feels is appropriate. When projecting forward, there is a limit to how much one can rely on the historical database. The figure of 9,000 notices and applications a year is based on fairly reliable information on the likely take-up for the most serious cases in the High Court and for solemn business in the sheriff courts. The extrapolation with regard to summary business is the most questionable area. We will examine that with the Crown Office and the Justice Department as the process of phased implementation rolls out. The figure is our best estimate at the moment of the maximum end, but we will have to continue to consider the procedures.

We are used to judges and sheriffs handling a broad range of applications. Based on experience, we estimate that it will take 15 minutes to process each application, but the time will vary from case to case and it will probably take longer initially, until sheriffs become familiar with the process. The work is done in the sheriffs' chambers, so the amount of staff time involved in its preparation is relatively small, which is why we have focused on the judicial cost rather than the overall cost.

Kate Maclean: I am sorry to jump out of sequence, but I would like to ask a question that is supplementary to one of the convener's first questions.

If only 19 courthouses are to be equipped with CCTV and other measures, will any revenue implications arise from the need to move cases and witnesses to those courthouses? I note that you said that support would be available for remote areas.

John Ewing: I do not think so, given the pattern of cases for which the facility tends to be needed. However, we will have to monitor the situation and the take-up rate.

The centres will be selected in discussion with the Crown Office and Procurator Fiscal Service and Victim Support Scotland. We hope that that process will result in our being able to target the majority of cases, which would keep to a minimum the number of cases that need to be transferred.

Jeremy Purvis: On the use of special measures, the estimated costs in paragraph 115 are quite low. We have heard about the proposal to have mobile facilities. Why is the estimate for the number of courts that will be able to use the special measures so low? What costs might be associated with using the mobile facilities in rural areas?

John Ewing: The provision addresses situations in which it is necessary for witnesses to be remote from the courthouse when they give evidence. At the moment, our child witness facilities are designed so that the child goes into a separate room in the court building, which is linked directly to the courtroom by CCTV. The proposals in the bill would allow the child, in certain cases, to give evidence from a remote location, such as a social work department. That is one of the issues that we need to work through in the implementation. The court might require a member of court staff to be present at the remote end of the link; that has informed our approximate estimate of the cost. Similarly, if the court chooses to take evidence on commission, it sends people out to do that, in which case the presence of one or more members of my staff might be required. We do not expect that to occur in many cases and, in any case, that is part of the kind of work that staff already do.

Jeremy Purvis: What about the mobile facilities?

John Ewing: We already use some mobile facilities. As part of our investment in technology, we have wired up courtrooms so that we can plug in systems that would allow the mobile facilities to work with minimal disruption to the courts. We are working towards that. We do not anticipate that the mobile facilities will incur significant extra cost. We would expect to run with them anyway.

Jeremy Purvis: I have one final question on the assumptions that you make in paragraph 114. Are you confident that they are robust in detailing the average costs and the number of hearings that you expect?

John Ewing: They are robust in the sense that those are the average costs that we use when we estimate what the cost in the courts will be. The assumption about the total number of hearings is less robust. As I explained, part of the difficulty is in extrapolating to summary criminal proceedings, which is the area in which the number of hearings could vary significantly in practice. There, we have made quite a big leap. We are more confident about the figures that are quoted for the High Court and for solemn business. The figure for the summary business is very much an estimate, and it could easily be out by 1,000 cases either way. However, that is as close as we can get on the evidence that we have.

Jeremy Purvis: If the bill is implemented, when will be the earliest opportunity for you to review the figures?

John Ewing: We will continue to monitor the situation and we will discuss with the Crown Office and Procurator Fiscal Service ways in which we can collect better data on the possible use of the facilities in summary cases. We assume that the Executive will want to set up an implementation group fairly soon to work out the detail. Assuming that Parliament passes the bill, we are working towards a target of 1 April 2005 for the first-stage roll-out. We cannot settle on the final implementation programme until we have a clearer steer about what Parliament will decide the legislation should consist of. If we get the figures wrong, the normal spending review process will give us the opportunity to raise any concerns with ministers and seek additional funding if it is required.

Fergus Ewing: I understand that this is an extremely difficult exercise. The main determinant of cost seems to be the assumptions that underlie the calculation of the number of vulnerable witnesses. We hope that the costs of providing CCTV and so on will be one-off costs. As a former practising solicitor, it seems to me that the approach among defence lawyers might be to make an application whenever they are in doubt, especially when it is unclear whether the client may have a mental disorder that would entitle them to be treated as a vulnerable witness under section 1 of the bill.

The Scottish Legal Aid Board deals daily with solicitors' work and what they do, and has expressed serious doubts about the robustness of the figures. Principally, it argues that the definition of a vulnerable witness in section 1 is extremely wide. I assume that you have read its paper. Do you feel that that criticism is valid? If so, given the uncertainties, would not a more reasonable approach be to provide a range of expenditure? The total of £3.95 million might well be a considerable underestimate, and our core responsibility is to probe the assumptions regarding future public expenditure in any bill. I, for one, am concerned that the costs could be double or treble the amounts that you have cited simply because of the tendency among defence solicitors to explore every avenue for fear of letting their clients down.

John Ewing: I have not seen the SLAB paper, and I would be interested in having a look at it. Past practice suggests that it is not defence solicitors who are likely to use the legislation but the Crown, as the legislation is focused on vulnerable witnesses, who tend to be led by the Crown. As you will be aware, in practice, the Crown leads the majority of witnesses in a case. The option will certainly be available to defence agents but, judging from our knowledge of past cases, I do not think that many defence agents will be beating a path to our door to use these special measures.

The figures are a projection—an estimate. It will be for the Finance Committee to decide whether to tell the Executive that it would prefer a range of figures. The Executive has given its best available estimate. I feel that the estimate is probably towards the top end of the range; rather than being doubled or trebled, it could be halved or thirded. It is worth keeping in mind the fact that, in 2002, we handled about 95 cases in which special measures were used, predominantly for children. Historically, the bottom-end figure is quite low, so this estimate is quite a big change. It will have to be monitored carefully.

11:00

Fergus Ewing: A moment ago, in response to the previous questioner, you said that your estimate could be out by 1,000 or so.

John Ewing: It could be, in relation to summary business. However, the phased implementation that the Executive wants will focus resources initially on the most serious cases involving the

most vulnerable witnesses. We will be able to gain experience of the way in which the culture of the courts will change and we will be able to collect better information on summary criminal business. That will allow us to have a better estimate. If the estimate turns out to be wrong, the spending review process will give us opportunities to raise the issue with ministers. Matters would then come to the committee when it considers justice funding.

John Swinburne: Section 20 sets out a wide range of possibilities for the commencement of the bill. What steps can you take to budget for the financial impact of the bill? Do you support the wide discretion that is given to ministers on commencement, or could that be problematic for your organisation and for individual courts?

John Ewing: We regard that provision as essential to allow the phased introduction of the measures required and, as I explained, to allow us to test how the new measures are operating in practice. We have still to discuss that with the Scottish Executive Justice Department and other interested agencies. We envisage that, initially, we will concentrate on problems in the High Court and then move on to the sheriff and jury courts. After that, we will consider the implications of the measures on sheriff court summary business. That will allow us to gain better information and experience before moving to each subsequent phase of implementation.

John Swinburne: Do you expect that there will be implications for other capital projects in the Scottish Court Service, given the obligations that are likely under the bill?

John Ewing: There will be some implications for staff training and making people familiar with the measures. However, things will not be radically different. The main change will be in the width and extension of the application of the measures; we are already familiar with the principles behind the special measures.

John Swinburne: Over and above increases in staff training, will there be an upgrading of staff wages—to cover the additional knowledge that they will have to accrue—that you have yet to consider?

John Ewing: No. Staff are trained to handle a whole range of business in the courts. Their skills are rewarded in our usual pay system. Paragraph 114 of the explanatory notes mentions a possible additional cost of £92,000 to the Scottish Court Service in terms of staff costs. That has to be set beside the total salary bill of around £20 million to £21 million. The figures are absorbable in the resources that are available to us.

Dr Murray: Paragraph 145 suggests that the main capital costs could be

"spread over a number of years"

and that additional facilities would be developed

"as capital budgets of the implementation partners allow."

Could that skew your capital programme? Will the implementation detract from other aspects of the capital programme?

John Ewing: That is always a possibility, but the effect will not be significant. The bulk of our capital programme is spent on large capital projects and court refurbishment. We think that the cost implications are, relatively speaking, affordable from within our available resources. Equipment will probably be the least expensive element. Changes to the court estate may be more costly. However, such changes would be made as part of a general refurbishment process. We may want to stage the changes, so we do not anticipate any significant pressures.

Mr Brocklebank: I share some of Fergus Ewing's concerns about the potential problems identified by SLAB—it is regrettable that you have not seen some of its comments. The board refers to evidence taken by a commissioner and talks about the commissioner being entitled to "reasonable professional remuneration" for the time spent on the task. It accepts that there will be a cost involved in attending and travelling to a commission, but it does not consider that the figure of £500 is an accurate reflection of the true cost of a commission; it believes that the costs are likely to be considerably higher. How do you respond to that?

John Ewing: Without having seen the papers, I do not know what estimate the board has built its comments around. On the face of it, the board seems to be assuming that the commissioner will be an advocate or somebody appointed specifically to undertake the commission. It is quite possible that a sheriff will choose to make that journey, in which case the cost is already covered in the judicial salaries bill. There are areas to be explored in the estimates. The proportion of cases when evidence will be taken on commission is one of the unknown variables. The Executive has made an estimate in the figures. We have no basis on which to challenge that estimate.

Mr Brocklebank: SLAB also queries the costs in relation to the so-called supporters. It says:

"The Board is concerned that if the Fund has to bear the cost of a supporter to a defence witness, how these costs will be calculated. There would also appear to be nothing to prevent the supporter being a person in an expert professional capacity, such as a psychologist".

How are such people to be funded? Have you estimated that?

John Ewing: That is not a question for me; it is a question for the Executive. It sounds to me as

though the board is focusing on the possibility, which Mr Ewing raised, of defence agents commissioning special measures for agents, in which case there would be an associated cost. The bulk of the costs have been calculated on the basis that, in the majority of situations, the bill's provisions will be used in relation to Crown witnesses. SLAB's concerns will tend to fly off in relation to that part of business.

Mr Brocklebank: That is despite the fact that, apparently, no provisions have been made in the financial memorandum for costs associated with supporters.

John Ewing: Again, that is not a matter for me.

The Convener: We will have the opportunity to raise that question with the Executive next week.

We move on to questions for the Scottish Children's Reporter Administration.

Mr Jim Mather (Highlands and Islands) (SNP): To what extent was the SCRA consulted in relation to the financial memorandum? Are you broadly content with the implications of the financial memorandum for the SCRA?

Jackie Robeson (Scottish Children's Reporter Administration): There was consultation with the SCRA; two meetings were held with us and we are broadly happy with the predictions.

Mr Mather: The Executive is clearly responsible for making the payment. What is your understanding of the measurable benefits that it seeks? What will the SCRA contribute to the delivery of those benefits?

Jackie Robeson: There will be an improvement in the quality of evidence and the support measures that are available to vulnerable witnesses. We certainly have a role in supporting those measures to improve facilities for witnesses at court and we are behind them.

Mr Mather: Aside from the fuzzy, intangible matter of quality of evidence, do you believe that there is an expectation that there will be a higher level of conviction or other tangible benefits?

Jackie Robeson: We will obviously have access to measures in relation to witnesses—particularly vulnerable witnesses who are not children—that were not available before. Clearly, we will have access to evidence on commission, which is a facility available to us only on petition to the nobile officium. For our purposes, there will be much better access to facilities for witnesses.

Mr Mather: How was the estimate of 200 hearings on special measures reached and how realistic do you think it will be?

Jackie Robeson: It is our best estimate of how many hearings we can predict. We have been careful in looking at our historical data. As John Ewing indicated, our expectation is that there will be a change in culture and that, as the implementation is phased, there will be clarity about the measures that are available.

Mr Mather: What steps could be taken over time to limit and reduce the cost of the bill or increase its effectiveness?

Jackie Robeson: The process will be a lot quicker after the initial stage of implementation. After that, we will be clear about the criteria for the measures, as indicated by the courts, and things will have settled down. Ultimately, delay will be avoided.

Dr Murray: I am aware that, like our previous witness, you might not have seen the submission from SLAB. However, the board is concerned about the children's referral proceedings because the legal aid that is available to parents and children cannot be recovered from judicial expenses. The board fears that that will put pressure on the legal aid fund. Do you agree with the board on that issue?

Jackie Robeson: There exists the potential for that to happen. Again, it would depend on the response to the application for measures.

Dr Murray: Further to that, paragraph 127 of the explanatory notes says that the SCRA has estimated that implementation of the bill's proposals would result in additional costs for it of £200,000. However, no indication is given of any of the assumptions on which that figure is based. Are any of the staff and resources costs that are involved in making applications and arrangements not covered in the figure?

Jackie Robeson: The figure reflects our best estimate of staffing costs. We looked carefully at the measures that we take at present, the measures that we will be able to invoke and the effect that those will have on our organisation. The figure is the best estimate that we can give. The major costs relate to our ability to use measures for vulnerable witnesses who are not children, as those measures have not been available to us before. We predict that the most substantial costs will arise in that area, given the nature and range of our cases and the vulnerability of the witnesses involved in them. The figure reflects preparation time, making applications and staffing time in court.

Dr Murray: This question might better be asked of the Executive, but can you give an indication of the range of the costs? I understand that the figure is your best estimate, but do you have an idea of what the upper limit might be?

Jackie Robeson: No. It would be difficult to give a breakdown. The figure is a reasonable estimate

based on what is available. We want to be part of the process of phased implementation. It is clear that some cases overlap with the criminal process. We need to be clear that the costs are not reflected twice and we have tried not to do that.

Kate Maclean: I have a small supplementary question about the additional staff costs. Will those costs be incurred through staff training and regrading or through additional staff?

Jackie Robeson: The money would not be spent on regrading. Like the Scottish Court Service, we feel that our staff can deal with the measures. The costs relate not to regrading but to the additional staff capacity that is required to take on the work.

The Convener: Thank you for your evidence. I suggest that the witnesses from the SCS and the SCRA stay on for a wee bit in case any supplementary questions arise out of the next part of our evidence taking, in which we will hear from Philip Shearer of the Scottish Legal Aid Board. Philip, as I said to the previous witnesses, you have the opportunity to make an opening statement if you wish.

Philip Shearer (Scottish Legal Aid Board): I am happy to proceed straight to questions.

Jeremy Purvis: I want to return to the line of questioning that we followed with previous witnesses. You have expressed your concerns about the Executive's methodology in estimating the likely number of cases in which vulnerable witnesses might be involved. Can you explain why you have those concerns and why you are not satisfied with the assumptions that we heard about from John Ewing?

Philip Shearer: The assumptions are based on Home Office research in England and Wales into the total number of vulnerable adult witnesses and on information from the witness service in respect of child witnesses. We were not clear from the financial memorandum whether the figures included defence witnesses, as opposed to just witnesses for the Crown. Equally, we were not clear about how the figures relate to civil proceedings. We are also concerned that consideration should be given to the potential for witnesses being cited, both in civil and criminal cases, as opposed to just the people who actually give evidence. I appreciate that that is somewhat speculative, but we are concerned about whether the financial memorandum takes into account the total number of people for whom such applications could be sought.

11:15

The Convener: Was SLAB consulted on those estimates?

Philip Shearer: As far as I am aware, the board was not consulted. The board is a non-departmental body, not an executive agency of the Scottish Executive.

Jeremy Purvis: Are you saying that, if the legislation is implemented, there will be an increased desire to use the special measures?

Philip Shearer: That comes down to the issue that members raised earlier about a future litigation culture. For example, as Fergus Ewing pointed out, defence agents may wish to obtain expert reports to counter what is said by the Crown. The Crown may find that there is an increased use of such measures in civil proceedings. In contested and acrimonious custody disputes or in contact or residence actions, there could be an increased demand from clients to use special measures.

Jeremy Purvis: We heard from John Ewing about the review process. Would that be a robust way in which to see how the bill is implemented? Would SLAB want to take part in that process?

Philip Shearer: That gets into questions that are really a matter for ministers. Obviously, we will monitor within the demand-led service that we fund.

Jeremy Purvis: Finally, as Fergus Ewing has mentioned, the total figure presented in the financial memorandum is £3.95 million. We have been told that that estimate is at the top end. Do you agree with that figure or would you not support it because the assumptions are flawed?

Philip Shearer: We can consider only the areas that we have highlighted in our submission, which gives an analysis of the possible legal aid implications. It would not be appropriate for me to comment on the Executive's estimates for the totality of costing.

Fergus Ewing: Of course, the total annual running costs are estimated at just under £4 million and the one-off costs at £1.2 million, which makes a total of £5.2 million.

I must admit that I am amazed that the Scottish Executive did not consult SLAB when it did the detailed work required to produce the costings. That seems a serious omission, which must now be put right. I hope that the witnesses from the SCS and the SCRA will receive SLAB's detailed comments and have an opportunity—although not today—to give us the benefit of their views. I know that this is short notice, but perhaps it will be possible for us to have those before the next meeting, when we are to quiz civil servants. The detailed criticism contained in the SLAB submission merits proper consideration, so it would be helpful to have the first witnesses' response to it.

What has led SLAB to believe that the estimates are insufficiently robust? Does that come from particular experience or is it just from some general, inchoate feeling?

Philip Shearer: We have attempted to analyse the bill in detail to pinpoint where we think there could be implications of a litigation culture developing. In our day-to-day business, we are—as Fergus Ewing will be aware from his professional practice—used to dealing with, for example, requests for authority to obtain expert reports and to undertake unusual steps, such as commissions, in civil and criminal cases. We have tried to look at how that links into our experience of litigation culture and how it interacts with the legal aid family of funding. That is where our concerns arise. We have pinpointed areas where we think costings might be slightly on the light side. There would be implications if, for example, a litigation culture develops in which there is greater demand for expert reports.

Fergus Ewing: Does the problem lie in the definition of a vulnerable witness, which your submission says is "extremely wide"? Are you saying that the definition is too wide?

Philip Shearer: That is a political question for ministers in this Parliament. All that we can identify is the fact that the definition is very wide and would cover a very wide range of witnesses giving evidence in our civil and criminal courts.

Mr Brocklebank: I seek your thoughts on two particular questions. First, why do you think that the fees are not sufficient where evidence is to be taken by a commissioner?

Philip Shearer: You have to look at the procedural steps for commissions as a package. For example, a lot will depend on who the commissioner is. If it is the judge, it may be a different matter, but there will be attendant costs. A solicitor may require to attend if a sheriff court proceeding is involved. If a High Court proceeding is involved, the solicitor will still need to attend, but he will instruct counsel or a solicitor advocate, and costs for shorthand writers and transcripts will be involved. It is suggested that video evidence will be taken. We can imagine the litigation culture developing in such a way that a solicitor will want to review the video evidence to ensure that the transcript matches up. At the end of the day, there will be a client who will wish to test the evidence that a witness has given.

You have to look at the issue in the round. The figure that is given, especially in legal aid terms, for evidence on commission focuses only on the cost of a lawyer attending. We have tried to view the situation more as a package of all the attendant costs, such as travel and transcribing, as they are often involved in any major procedural step in litigation.

Mr Brocklebank: You also seem to be concerned about the vagueness of the role of supporter and the fact that no costs seem to have been allocated to that. Can you expand on that?

Philip Shearer: Yes. We were concerned that the memorandum suggests that various costs would potentially fall on the fund. The supporter has a wide role, but the financial memorandum does not suggest whether there will be any cost implications. That requires clarification.

John Swinburne: Do you look on the bill in the way that many members of the general public view it? They feel that, while it is a necessary step, at the end of the day it will just be an extension to the lucrative gravy train that is legal aid.

Philip Shearer: I would not describe legal aid as a gravy train. I am afraid that I simply cannot answer that question.

Jeremy Purvis: I have a quick point of clarification on consultation. Did you take part in the consultation on "Vital Voices: Helping Vulnerable Witnesses Give Evidence"? Were you consulted on the Executive's policy statement that arose out of that consultation? We heard that you have not been consulted on the financial memorandum.

Philip Shearer: In answer to your first question, the board was consulted, and I understand that it submitted a response to the Executive in that exercise. However, I am not aware of any input into the policy statement. As far as I am aware, we were not consulted on the financial memorandum.

Mr Mather: I do not know if you know the answer to this question, but I would be interested if you could take a stab at it. How does the bill compare to international best practice? Do we have any case study material that supports the methodology that is outlined in the bill?

Philip Shearer: That goes beyond my role as an officer of the central funding authority for legal aid. I am not aware of the legal aid implications of such a step in other European or Commonwealth jurisdictions. You are asking a question that goes beyond matters on which I could possibly comment.

Mr Mather: I have a brief supplementary question. Given that people in other sectors in public life and private enterprise attempt to benchmark themselves against international comparators, do you not think that that would be a sensible thing to do?

Philip Shearer: That question should really be directed to the Scottish Executive and ministers.

Dr Murray: You and other people have expressed concerns that in various areas the financial memorandum does not adequately reflect

costs. What would the Executive need to do to make that situation more acceptable? Should the Criminal Legal Aid (Fixed Payments) (Scotland) Regulations 1999 (SI 1999/491) be amended or could something be done within the budget lines that are available to SLAB?

Philip Shearer: In general, it is important to understand that legal aid is a demand-led service. As a result, the ultimate cost of the legislation to the legal aid fund and any administrative resource implications will very much depend on the demand that is placed on the fund in the new litigation culture.

As for the question whether any steps can be taken, ministers could in due course examine and address in subordinate legislation issues such as prescribing fees for work for summary criminal legal aid or for counsel or solicitor advocates in the High Court, the sheriff court or the Court of Session.

The Convener: Will you be a bit more specific about the pressure on fixed payments? I appreciate that SLAB finds it difficult to manage a demand-led and pressured budget. However, you will need to make more specific arguments about the areas where you feel that the Executive or other parties have not adequately identified particular issues. What are the specific pressure points in this matter?

Philip Shearer: As far as fixed payments are concerned, if we have a high number of summary criminal cases that have more procedural steps than at present and therefore more attendant costs, there might well be pressure to submit a request to the board to treat some cases as exceptional. That would mean lifting them out of the fixed payment regime and into the more expensive regime of detailed fees. However, until we see what happens in practice, we will not know what such pressure would be. At the moment, we can simply flag up for Parliament the potential for any additional procedural steps to mean additional work for a solicitor and therefore an increase in the potential cost of a case. That might persuade some solicitors to see a particular case as exceptional.

The Convener: Has SLAB carried out any work on anticipating the criteria against which it might make judgments about circumstances in which it would consider applications for special treatment sympathetically or maintain the fixed payment ceiling?

Philip Shearer: We are already dealing with—and will continue to deal with—requests to treat cases as exceptional, although such cases amount to a relatively small number out of the whole cohort of grants for summary criminal legal aid. Obviously, we will also deal with any new challenges or issues that arise from other justice sector legislation as it comes along.

The Convener: I suppose that I am asking you to be specific about the provisions in the bill that will generate such issues. I appreciate that, in general, any additional legal steps or hurdles could give rise to the problems that you have identified. However, can you quantify specifically the implications of the bill's provisions or are your concerns in that respect more general?

Philip Shearer: It is a general issue. For example, a contest over whether the court decides that a witness is vulnerable might well mean an additional hearing. That in turn might mean that a solicitor will have to sit down and decide whether the case will take a much more expensive route and involve a lot more procedure and work. We can highlight that kind of general issue.

The Convener: But you cannot really give us a specific example. Could we resolve the matter through the better judicial management of special cases that involve vulnerable witnesses?

Philip Shearer: The judicial management issue is completely separate from that of the fund. We will be dealing administratively, as we are at present, with the potential for requests to treat cases in a different way. The issue is parallel to that of how cases are dealt with judicially.

11:30

Fergus Ewing: I apologise: I should have declared earlier a possible interest, namely that I am a member of the Law Society of Scotland. My court days are over, however, and if there is a gravy train, I have no ticket and am not a passenger. Any cross-examination that I will be doing will be here and not in any court.

I wish to ask about the part of SLAB's written submission that deals with civil proceedings. I understand from the estimate before us that there will be zero legal aid cost in civil applications. You have pointed out that a majority of applications in relation to vulnerable witnesses or child witnesses might arise in family actions where, contrary to what we were told by the previous witnesses, judicial expenses are not awarded very often. Can you provide us with an estimate of what the annual legal aid bill for civil proceedings might be in respect of the bill?

Philip Shearer: It is difficult for me to give an arithmetical estimate, as it will depend on the extent to which agents and clients wish to take advantage of the steps available. As we have said, in family actions there is a culture where people tend not to seek costs from each other in order to resolve disputes. Moreover, the court might not make awards of costs against the unsuccessful

party. That being the case, less money will come into the fund to offset the total cost incurred, although money will still come into the fund that is available to offset the cost of the measures to some degree. Our concern is that the most likely involvement of vulnerable witnesses might arise in family actions as opposed to personal injuries actions.

Fergus Ewing: So some estimate should be available. The column for legal aid has an entry of zero against "Applications (civil)" in the table on page 22 of the financial memorandum. There should be some provision, but you are not able to provide us with an estimate.

Philip Shearer: If an expert report cost £250, that would perhaps be an additional £250 cost to the fund.

Fergus Ewing: I would have thought that there must be an estimate of such provision.

I have a final, general question. Do you believe that the difficulty of making estimates that we have heard about and which we all accept justifies a different approach, using a range of possible expenditure rather than the specific estimates supplied to us?

Philip Shearer: That is rather difficult for me to answer. The question should be aimed at the Executive.

The Convener: Thank you for your evidence. I again thank all the witnesses from whom we have taken evidence this morning. There will be an opportunity to refer to some of the issues that we have discussed today when we take evidence from the Executive next week.

Jeremy Purvis: I was wondering whether there will be an opportunity to question representatives of the Scottish Court Service on its consultation and to consider that evidence together with the financial memorandum, if appropriate. We have heard that SLAB was not consulted, and I would be interested to know who was consulted.

The Convener: The consultation was done by the Executive.

John Ewing: The Executive is responsible for the consultation with external bodies, including SLAB, that was carried out in preparing for the bill. The Scottish Court Service would not have carried out the consultation.

Jeremy Purvis: I was referring specifically to the financial memorandum. Should we take up the issue with the Executive?

The Convener: Yes, it should be brought up with the Executive. It might be useful if the Scottish Court Service or the Scottish Children's Reporter Administration could make some comments once they have a chance to read SLAB's evidence. If the Scottish Court Service wished to give us information next week, that would be helpful to us.

John Ewing: We would be happy to do so.

Budget Process 2004-05

11:33

The Convener: Item 3 is consideration of options for meeting outwith Edinburgh during our consideration of the draft budget. Members will note from the paper that has been provided that meetings outwith Edinburgh were held by our predecessor committee and proved to be very successful. The paper seeks our agreement to a date and format for the meeting, as well as suggestions as to preferred locations. The clerks have identified the most convenient date, having regard to the pattern of work involved in responding to the draft budget. I suggest that we agree the date that is suggested in the paper—namely, Monday 10 November.

Ms Wendy Alexander (Paisley North) (Lab): I am sorry, but I want to make an observation on the evidence that we have taken. The Executive will give evidence next week and I am keen that we should have a moment—perhaps next week—to feed back to the clerks what we think the terms of our financial memoranda should be. The committee faces issues of judgment. SLAB presented a case that gets to the heart of our role. As well as ensuring that there is accuracy in costings, there must be due recognition of efficiency considerations.

John Swinburne suggested that we should be careful not simply to respond to all the restrictive practices of the day. The evidence that we have just heard led me to think about the situation in other professions, such as surgery. When a surgeon changes their technique from traditional open surgery to microsurgery, the same amount of time is involved but the tools of the trade change. Surgeons do not expect a significantly large payment for keeping up to date. Similar issues arise in the context of the bill and, although I am happy not to pursue them now, I think it would be an error if we were to say to the clerks, "Please sum up the evidence that we have heard", and to reach a judgment on that basis. It might be appropriate to discuss that next week. I register my view that it would be helpful to have a five or 10-minute discussion without witnesses about how we want to approach the trade-off between accuracy of costings and securing efficiency for the public purse in the handling of the bill. I am happy to leave the issue on the table until next week.

The Convener: It would be most appropriate to deal with that in a structured discussion, which we could incorporate in next week's agenda.

Can we agree to meet outwith Edinburgh on 10 November, which seems to fit in with the arrangements?

Fergus Ewing: I want to clarify something. Wendy Alexander was right to go back to the previous item on the agenda. Will we hold the proposed discussion in public?

The Convener: Yes—I do not see why not.

Fergus Ewing: Very good.

The Convener: Is 10 November agreed?

Members *indicated agreement*.

The Convener: The format that has been used at previous meetings is set out in paragraph 7 of the paper on the budget process. I add for the information of new members of the committee that the afternoon session usually gives us the opportunity to quiz the minister directly. As well as matters that arise from the draft budget, we can raise issues that have been raised with us in the morning sessions, which tend to be workshop sessions. In the past, a successful feature of such meetings has been the ability of organisations that have made points to us in the mornings to watch the committee try to carry through some of those issues into the discussions with ministers in the afternoon session. Does the committee agree to adopt the format that the paper suggests?

Fergus Ewing: I support the broad thrust of the paper, but in relation to choice of location, paragraph 10 says:

> "The Committee met latterly in remote areas and it may be that this Committee would prefer to meet in an urban area on this occasion."

Paragraph 6 states that the previous committee met in Orkney, Skye, Kirkcudbright and Perth. We are all in favour of the Parliament's committees going around Scotland, provided that there is a reason for them to do so and that the financial basis for such visits is prudent. My view is that we should seek to visit places that have not received a visit before; consideration of whether they are rural or urban would seem to be secondary. Some of the best-attended meetings that I have been to as a member of other committees were in very rural locations, where a visit of a parliamentary committee is perhaps more of an occasion. It was certainly my impression that visits to such places enhanced the Parliament's reputation. Is it necessary to exclude rural or remote areas? Can we consider places that have not been visited before and exclude, or not tend towards, places that have been visited before?

The Convener: Before we get on to the location, perhaps we can deal with the format of the meeting. Are members content with the format of morning workshops followed by a ministerial session?

Kate Maclean: I am happy to delegate the format and location of the meeting to you and the

deputy convener. It is possible to spend a lot of time in unnecessary discussion of such issues during committee meetings. It might be better for one or two members to decide on such matters, if others are happy with that.

The Convener: Wendy, did you have a suggestion?

Ms Alexander: I am happy to give way in favour of Kate Maclean's suggestion.

The Convener: Are we agreed that Fergus Ewing and I be delegated to consider a location?

Kate Maclean: We can moan if we do not like it.

The Convener: Yes, you can. Are we agreed?

Members *indicated agreement*.

Fergus Ewing: I am not in favour of moaning, as you know.

The Convener: We will report back to the committee next week with our suggested location.

Correspondence

11:39

The Convener: Item 4 is consideration of Executive correspondence. In July, I wrote to the Minister for Finance and Public Services seeking information about the Executive's policy on the relocation of Executive units or agencies. The minister responded on 25 August and that response is before the committee. Obviously members will want to consider the issue, but I was going to suggest that we flag up the subject to the Minister for Finance and Public Services as something that we want to discuss with him at the next meeting, when he is before the committee.

Kate Maclean: I would be interested in the committee considering the matter more closely. The Executive's response is very worthy and, although I am speaking only from a selfish and parochial Dundee point of view, I do not believe that there is any evidence that the criteria to be considered as part of the decision-making process are necessarily adhered to. Dundee has a smaller percentage of civil service jobs than any other city and many other, smaller towns. When we consider the criteria used to arrive at final rankings in the minister's response, I suggest that Dundee meets 100 per cent of the weightings, yet there has been no significant location of civil service jobs to Dundee.

Before we speak to the minister, it would be worth while getting the Scottish Parliament information centre to do some research for us, to find out how many new or existing civil service jobs have been relocated and to where, and a more detailed analysis of whether the criteria that the Executive's response suggests it uses have been applied. I would be interested to see a more detailed analysis of the situation and we might want to question the minister about it.

I suppose that I am being self-indulgent in the way that I accused Fergus Ewing of being earlier, because the issue is of particular interest to Dundee. However, I suspect that it is not of interest just to me and Dundee, but to many other MSPs as well.

Ms Alexander: Although there is merit in reviewing the policy position and how that has been operationalised in the past four years, I would be unhappy if the committee got into reviewing individual cases. We could spend the next four years doing that; those are matters for subject committees.

It is appropriate to take an interest in whether the policy guidelines as set out in the Executive's response are right, and also in Kate Maclean's point about how those policy guidelines have been

operationalised. However, we have to draw a clear distinction and say that it is not for the Finance Committee to review individual decisions taken under that general policy heading.

Dr Murray: I would like to see the minister because the south of Scotland is fairly sore about not getting any of those civil service jobs either. I have a written question in to the Executive at the moment about the way in which jobs have been distributed through the various constituencies. The answer to that will be of interest to many of us.

Like Kate Maclean, I thought that the Executive response was very worthy but I also felt that it was rather woolly. I did not really know how it could be translated into practice. Although I do not want to review the decisions, I would like the Executive to give us some illustrative examples of how decisions that were made in the past have correlated with the criteria set out in its response. If we could ask the Executive before we speak to the minister we would have a bit more information as to how those criteria were used to inform past judgments.

Jeremy Purvis: I endorse that. It has been interesting to see the Executive's approach in black and white. However, on considering some recent decisions against the criteria set out in the Executive response—such as that on Scottish Natural Heritage and Inverness—I would say that some of those decisions are questionable.

I would depart slightly from what Wendy Alexander said. We have a duty to review how the Executive's policy is implemented. Substantial public money is spent on relocation, and if we now have published criteria for those decisions, it is right to ask strongly why the Executive has not implemented a policy based on those criteria, but has instead taken other decisions.

11:45

Fergus Ewing: As the member for Inverness East, Nairn and Lochaber, I obviously supported and argued for the transfer of SNH's functions to Inverness. I also welcome the fact that Forest Enterprise's headquarters is coming to Inverness, and I supported that move and made representations in its favour.

I agree with what Dr Elaine Murray and Jeremy Purvis have said, but perhaps not so much with what Wendy Alexander said. If we are going to have the minister along to discuss relocation policy, it would be ridiculous if we could not ask him about SNH. The relocation of SNH is a controversial issue and, as has been said, it is hard to see how that decision can have been taken if the criteria set out in the paper, woolly as they may be, were actually applied. If we agree that it would be a good idea to have the minister along, we would look slightly absurd if we could not address the big picture. It would be a case of the emperor's new clothes if we were to skirt around what everyone knows to be true and avoid the main issue.

Taking forward Jeremy Purvis and Elaine Murray's excellent points, I suggest that we ask the Executive, prior to coming along to explain how the criteria were applied in relation to SNH, to provide us with documents showing the ranking and, in particular, the application of the weighted values of business efficiency, sustainable transport links, property suitability and availability, and socioeconomic factors. Availability of property is an important point. It is not clear to me exactly where the SNH headquarters is going to go in Inverness. There are possible candidates, but if that has not been sorted out in advance, it casts some doubt on how that criterion was applied in that case.

To sum up, my suggestion is that we should consider specific examples in a measured way, but to help us to do that in an analytic way we should have a full and frank disclosure of all the documents from the Executive. I know that many other members of the Executive parties have expressed widespread concern on those issues and would welcome an open and candid approach.

Mr Mather: Looking at the process that triggers the relocation reviews, I note a sentence in the paper that states:

"Relocation reviews are initiated by a number of triggers."

However, a careful count tells me that there are just two. There might be a case for suggesting to the minister that other triggers could be included. Such triggers might include budget pressure within a department, recruitment problems, high staff turnover, material head count, increase in office congestion or new technology being installed and therefore creating a break point. That list could be expanded.

As Kate Maclean said, it could be helpful to look at some numbers for the period from 1999 to 2003, year by year, to see how many reviews were carried out each year, how many relocations resulted from that and how many people were relocated in the process. We could also move on to the issue of relocating sub-departments or components of departments, rather than the entire entity. New technology allows that, and having outreach into the Borders or into the Highlands would add to the relevance of the work that many departments carry out.

Mr Brocklebank: I support what Fergus Ewing and other members said, and especially what Kate Maclean said. However, although I am delighted that the new information commission for Scotland

is to be sited in St Andrews, where I happen to live, I am not at all sure that any of those criteria work in terms of siting that commission there. St Andrews has very poor transport links, with no railway coming into the town, housing is extremely expensive and office accommodation is extremely short. If you went through the socioeconomic breakdown, you would start to question why the new commission, with its 30 or 40 valuable jobs, has gone to a place like that, which is patently not in a difficult situation in relation to jobs. Although I am delighted that it is there, siting it there does not seem to match up to any of the criteria.

The Convener: I will try to summarise where we are going. There are two patterns of suggestion that we can combine.

Ms Alexander: If there is a finance risk, it would be inappropriate not to ask about SNH. However, there is a wider issue of the sponsorship of relocation policies. I want to avoid creating the impression that the Finance Committee is the only committee that examines relocation decisions. That is a point for clerking.

There are two issues. First, other committees must be able to examine the judgments that are made. Perhaps sponsor ministers, rather than the Minister for Finance and Public Services, should argue the case for relocation. There must be clarity about where ownership lies in the Executive and in committees. From members' comments, I understand that there is a widespread commitment to relocation on a continuing basis—and not just for new jobs. If those relocations are driven by the Finance and Central Services Department and are not sponsored by individual departments, there will be fewer of them and they will be more controversial. In any discussion that we conduct, we must make it clear that sponsor committees have the right to pursue these matters and that departmental ministers, rather than the Minister for Finance and Public Services, may have to answer for the decisions that are made.

The Convener: Other committees will want to hold individual ministers to account for decisions that they make, which may include relocation decisions. The Finance Committee's interest is first in the substance of the policy—whether we believe it to be correct—and secondly in the correct application of the policy.

In that context, we should consider doing two things. First, Kate Maclean suggested that we ask the Scottish Parliament information centre to do some research into the previous application of the policy. That would provide us with a sketch of the relocations that have taken place and of how the process has been conducted. Secondly, Elaine Murray and Fergus Ewing suggested that we ask the Executive for exemplars of the application of the policy, illustrating the shortlisting process and how the criteria were used. Once we have that information, we will be in a good position to quiz the minister about the policy and implementation issues.

I suggest that we take the two preliminary steps that I have outlined. We should commission some Scottish Parliament information centre research and seek exemplar information from the Executive. Once we have that information, we should seek to shape the process by which we hold the Minister for Finance and Public Services to account for the overall thrust of the policy, which is his responsibility.

Fergus Ewing: I agree entirely with everything that the convener said. Presumably, SNH will be one of the exemplars on which we ask the Executive to comment specifically.

The Convener: The exemplars for which we will ask are all the major relocations.

Fergus Ewing: That is fine.

The Convener: Is that agreed?

Members *indicated agreement*.

Mr Brocklebank: I do not know whether it is competent for the committee to consider this matter, but I raised it with the convener after last week's debate on the Scottish economy. I was irked, not so much by Fergus Ewing's claim that I opposed our holding an inquiry into the Scottish water industry, but by the fact that I was not able to respond to it in the debate. If Fergus Ewing examines the minutes for our meeting of 24 June, he will find that I did not oppose our holding an inquiry into Scottish Water. In fact, I opposed the time scale that he was advocating for that inquiry. I would have made that point if I had been allowed to speak in the debate. I was scheduled to speak, but because various members overran I did not have an opportunity to do so. I would like to make the point now. Along with five other members, I voted against the time scale of Fergus Ewing's proposed inquiry, not against holding an inquiry into the water industry per se.

The Convener: Fergus Ewing may respond briefly, but I do not want members to squabble about this issue here.

Fergus Ewing: I thought that Ted Brocklebank should have had the opportunity to make his comments last week. He has made them now and I hope to work with him. Is he now in favour of conducting an inquiry into the water industry?

Mr Brocklebank: Eventually, yes.

The Convener: That is not an issue at this point. We must stick to the agenda.

Meeting closed at 11:54.

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