

# **FINANCE COMMITTEE**

Tuesday 11 November 2003  
(*Morning*)

Session 2

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## FINANCE COMMITTEE

### 13<sup>th</sup> 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)

\*Jim Mather (Highlands and Islands) (SNP)

\*Dr Elaine Murray (Dumfries) (Lab)

\*Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD)

\*John Swinburne (Central Scotland) (SSCUP)

#### COMMITTEE SUBSTITUTES

Mr Adam Ingram (South of Scotland) (SNP)

Gordon Jackson (Glasgow Govan) (Lab)

David Mundell (South of Scotland) (Con)

Iain Smith (North East Fife) (LD)

\*attended

#### THE FOLLOWING ALSO ATTENDED:

Professor Arthur Midwinter (Adviser)

#### THE FOLLOWING GAVE EVIDENCE:

Jane Dalgleish (Scottish Executive Environment and Rural Affairs Department)

Wilma Dickson (Scottish Executive Justice Department)

Tom Fyfe (Scottish Executive Justice Department)

Sharon Grant (Scottish Executive Justice Department)

Duncan Isles (Scottish Executive Environment and Rural Affairs Department)

Alan Stewart (Tayside Police)

Jeff Watson (Scottish Natural Heritage)

#### CLERK TO THE COMMITTEE

Susan Duffy

#### SENIOR ASSISTANT CLERK

Jane Sutherland

#### ASSISTANT CLERK

Emma Berry

#### LOCATION

Committee Room 1



# Scottish Parliament

## Finance Committee

*Tuesday 11 November 2003*

*(Morning)*

[THE CONVENER *opened the meeting at 10:02*]

## Nature Conservation (Scotland) Bill: Financial Memorandum

**The Convener (Des McNulty):** I welcome the press and public to the 13<sup>th</sup> meeting of the Finance Committee in session 2. I remind members and everyone else that all pagers and mobile phones should be switched off.

The first agenda item is consideration of the Nature Conservation (Scotland) Bill, which was introduced on 29 September 2003 by Ross Finnie. To assist our consideration of the financial memorandum that accompanies the bill, we have two witnesses from Scottish Natural Heritage: Jeff Watson, who is director of strategy and operations, north, and Alan Hampson, who is national strategy officer. We also have with us Alan Stewart, who is a wildlife and environment officer from Tayside police.

I remind members that our focus for consideration is not the bill's policy issues but its financial memorandum. As we must deal with the bill within a short time scale, we will take evidence from the Scottish Executive immediately after we have heard from our first witnesses. At the end of our evidence-taking session, I will give members an opportunity to discuss the key points that they would like to see incorporated in the committee's report.

Members have a copy of the written submissions from SNH and from Alan Stewart. In addition, we have received submissions from the Scottish Land Court, the Crown Office and Procurator Fiscal Service, the Scottish Court Service, the Advisory Committee on Sites of Special Scientific Interest, Registers of Scotland and the Convention of Scottish Local Authorities.

I hope that we will finish the first bit of evidence taking before 11 o'clock, but I indicate to everyone that it is my intention to hold a two-minute silence at 11 o'clock in recognition of remembrance day.

I invite the witnesses to make an opening statement, unless they want to go straight to questions.

**Jeff Watson (Scottish Natural Heritage):** Scottish Natural Heritage warmly welcomes the bill

and its objectives of securing better protection of nature conservation assets and wider public support for biodiversity conservation.

For the biodiversity duty and the measures to deal with species protection and wildlife crime, we do not expect that significant new work will fall to SNH. We envisage modest amounts of new work for SNH over the short term as we prepare for enactment of the changes to the sites of special scientific interest system.

We expect the major requirement for new work to arise during the six years after April 2005, when SNH responds to the provision in section 6 for the review of operations requiring consent for the 1,450 existing SSSIs and the associated consultation with the 10,000-plus owners and occupiers of those sites.

**Dr Elaine Murray (Dumfries) (Lab):** I want to relay one or two comments on the financial memorandum that have been made by RSPB Scotland and the Scottish Wildlife Trust. Those organisations welcome the bill but they have asked about the move from the negative management of SSSIs—which basically means that we pay people not to do things—to a system of positive management, whereby people are paid to manage SSSIs in a beneficial fashion. The organisations felt that the funding streams were not absolutely clear. The suspicion was that a financial burden would be associated with the move. It was not quite clear how much would come from the natural care programme, how much would come from the rural stewardship scheme and how the budget streams that are to be associated with positive management are to be identified.

**Jeff Watson:** We have identified a forward programme under the natural care strategy that will reach the predetermined target of about £7.5 million from the SNH budget by about 2008-09. That is in our forward projections. We also hope that, as well as other contributions to natural care, there will be an increasing contribution from the rural stewardship scheme and the Scottish forestry grants scheme. However, we are confident that the moneys that will come from our contribution are accounted for in the budget.

**Dr Murray:** As a matter of interest, will you advise us what percentage of SSSIs are farmed and what percentage are not farmed?

**Jeff Watson:** I cannot give a clear answer on that today. Large areas of upland are farmed to a low intensity because of sheep management. Obviously, there are large areas of deer cover that are not farmed. I am afraid that I cannot give an immediate answer to your question, but I could come back to you on it.

**Mr Ted Brocklebank (Mid Scotland and Fife)**

**(Con):** From a financial point of view, many of the bill's provisions appear either to be relatively cost neutral or to involve increases that are not particularly significant. However, I am interested in the paragraph in the financial memorandum about compensatory management agreements. The memorandum states:

"SNH estimates for ongoing agreements are £1,010,000 in 2003/04, dropping to £740,000 by 2005/06."

Why do those figures appear to be dropping?

**Jeff Watson:** Those figures are for compensatory management agreement payments. It is our intention that, as agreements come to an end, we should encourage people to enter into the positive management schemes that are available under the natural care scheme. In so far as the bill deals with established management and provides the opportunity for people to continue with compensatory arrangements, that is clearly something that would need to be considered at the time. However, as we hope that the majority of people will move into the positive management schemes, the amount of money that is set aside for compensation will drop as current agreements come to an end.

**Mr Brocklebank:** I remember the rather famous case of a landowner—in Lochaber or somewhere like that—who had an SSSI in his grounds and who was paid large sums of public money to protect a particular wildlife species. Are you saying that, because agreements are coming to an end, such cases will be less likely in the future?

**Jeff Watson:** Absolutely. As I understand it, the intention is that the availability of compensatory management agreements will be much more circumscribed under the bill than under the current arrangements.

**The Convener:** I want to ask about the extra responsibilities for the police under the bill and about the remit and work load of wildlife liaison officers. Is Alan Stewart content that what is required can be met within the costs that have been identified for the bill?

**Alan Stewart (Tayside Police):** I think that the bill will have little financial implication for us either on the practical enforcement side or on the training side. We are very much going down the road of trying to ensure that people comply with the law. Many of our activities are directed at training, giving talks and ensuring that people are aware of the law and understand it. If such preventive measures are successful, I hope that we will have relatively little enforcement to do. That is the road that wildlife crime officers take to try to prevent crime.

We hope very much to work a wee bit more closely with SNH, particularly in relation to SSSIs,

to try to prevent crimes from happening and to ensure that, where there is evidence, gross breaches of the legislation are reported to the procurator fiscal. Most of those matters are non-urgent and can be dealt with as and when officers become available. Again, I foresee the proposed changes having little financial implication.

**Mr Brocklebank:** Your submission indicates that police officers take on a lot of the work without any remuneration—they get days off and that kind of thing, but little overtime is involved. That is creditable and I am impressed. However, it is suggested that, under the bill, you will also have responsibilities for policing the trade in eggs and the theft of eggs in relation to non-European Union countries. If you investigate cases that arise outside the United Kingdom, will that require extra expenditure?

**Alan Stewart:** That is always an unknown quantity. I think that such cases will be relatively uncommon, although they could happen. If we are investigating a case involving eggs that are taken from other countries, the chances are that those eggs will have been recovered in this country. Some inquiries abroad might be required, but we have good links through the national wildlife crime and intelligence unit, which can facilitate most of those inquiries. It is always difficult to foresee what expense might be involved, but I cannot think of any cases that would cost a lot of money.

**Jim Mather (Highlands and Islands) (SNP):** Paragraph 356 in the financial memorandum states:

"A key financial effect of the new provisions in the Bill will be to ensure that existing resources can be deployed more efficiently and effectively, producing improved results for the same input of resources."

How will SNH measure the results? What targets will be put in place? What will change? What will be done more effectively? What added value will be delivered through the process?

**Jeff Watson:** I would start from the policy intention of "The Nature of Scotland", which discusses the need to make the current, bureaucratic system of SSSIs more user friendly and, by so doing, to secure a wider public commitment to the protection of nature, particularly from the people who live and work on the sites. The mechanism that we envisage being used will reduce the number of occasions on which people require consultation with SNH and the length of the list. That is a significant piece of work for us, but we believe that it will enable us to measure greater support for the SSSI system from owners and occupiers and more positive management of the sites, including greater uptake of the natural care programme.

We will measure the effectiveness of the system in two ways. One relates to the way in which

people take up natural care and are involved in positive management and the other is through our periodic customer surveys of owners and occupiers of SSSIs, through which we can gauge—as we have already done—the changes in attitude towards the sites.

**Jim Mather:** Beyond those surveys, who else should we look to for corroboration of that information after the event?

**Jeff Watson:** In relation to SSSIs, we will be under scrutiny from organisations that have a particular interest in nature conservation, whether those be non-governmental organisations or parts of the Executive. Questions will undoubtedly be asked of us from time to time about how effectively we are looking after the sites and about the incidence of damage on the sites—if the incidence of damage is reducing, that will be another positive measure.

10:15

**Jim Mather:** You mentioned damage, which is tangible, but public perception of SNH is very much more intangible. Is that as far as it goes in terms of producing improved results?

**Jeff Watson:** No. We must look at the issue from both perspectives. We must ensure that we have adequate ways of measuring the benefits for nature and the nature conservation interest directly as a result of the intervention, in particular as a result of the natural care management scheme, because that involves significant sums of money. We are also aware that one of the difficulties that we face is that, as a result of the complexity of the existing system, there is a lack of public support. Although that is intangible, it represents a constraint in delivering the appropriate management.

**Jim Mather:** What mechanisms do you have for measuring public support?

**Jeff Watson:** We have undertaken one comprehensive survey of owners and occupiers. That has been revealing. Although it indicated a positive outcome across the board, it showed that there are areas of difficulty, which we are looking to address. People have indicated how they would like us to relate to them. As a result of that, we have, in anticipation of the bill, produced site management statements, which are a means of articulating the best management for the site. We are now looking to agree those statements with owners and occupiers. Rather than leave everything to chance and waiting for people to contact us, we are being more proactive.

**Ms Wendy Alexander (Paisley North) (Lab):** My question is about the implications of part 3 of the bill, which concerns wildlife crime. The policy

memorandum mentions the additional functions that you mention, including objectives to

“respond to public concern about the misuse and abuse of snares ... enhance the protection available to birds at a European Union level ... provide additional protection to the endangered capercaillie ... improve the protection enjoyed by ... whales, dolphins and porpoises”

and

“extend in a consistent manner the existing measures ... to target employers who ‘cause or permit’ wildlife offences.”

Anybody who reads that would think that some additional resource will be required to fulfil all those functions, yet the assumption in the financial memorandum is that all of it will be integrated in the remit and work load of the existing wildlife liaison officers and be balanced out by the deterrent effect. Is there really no need to increase the number of wildlife crime officers or the number of people in the police service who are specially trained in those matters? The policy memorandum sets a pretty high bar for a new set of functions, so not to have set aside money for more officers or more training might seem slightly imprudent.

**Alan Stewart:** It is down to each chief constable to decide whether to have more police officers specially trained. There are more than 1,000 officers in Tayside and there are considerably more than that in a force such as Strathclyde. All those officers have the knowledge, through their general training, to deal more or less with any type of crime that they encounter, with a wee bit of specialist help. In the Northern Constabulary, for example, the wildlife crime officers seldom deal with such cases alone; they offer assistance to other officers who might have arrived on the scene first. It is not always the wildlife crime officers who deal with a particular offence. They offer assistance and advice to their colleagues and they know where to get other specialist help from, for example, RSPB Scotland, SNH or a museum.

**Ms Alexander:** I take the point that it is for chief constables to allocate their resources appropriately. However, I am slightly uncomfortable with the fact—I will probably leave the issue on the table, because it may not be a matter for you—that the financial memorandum does not state that the police will need, within current resources, to find more time to train their officers, especially as the range of functions mentioned implies a slightly larger volume of work that will involve a slightly greater number of people.

As I said, the issue may be one for chief constables. However, although the financial memorandum suggests that the improved measures will be a deterrent—which will mean that there will not be resulting additional costs, either to the wildlife police or to the courts—I am not sure that that captures what will happen. That

is a danger, but I simply leave the issue on the table.

**The Convener:** On that note, I thank the witnesses for their written and oral evidence, which has been helpful to us in considering the financial memorandum. We need to deal with the bill quickly and get our report through the system to the Environment and Rural Development Committee.

We will now take evidence from Scottish Executive officials. I welcome Jane Dalgleish, who is the head of the wildlife and habitats unit; David Reid, who is the head of the finance division that is responsible for rural affairs; and Duncan Isles, who is the bill team manager. I invite the witnesses to make a short opening statement—if they do not wish to do so, we will proceed straight to questions.

**Jane Dalgleish (Scottish Executive Environment and Rural Affairs Department):** We are happy to proceed straight to questions.

**The Convener:** Will you pick up on the point that Wendy Alexander has just made?

**Duncan Isles (Scottish Executive Environment and Rural Affairs Department):** We appreciate Wendy Alexander's point and I refer members to Alan Stewart's answer. Relatively minimal additional work will be required to produce significant additional results. As Alan Stewart said, the additional work that police officers will be asked to carry out will, in essence, be the work that they carry out at present but with mechanisms through which they can make a difference. For example, police officers are aware of incidents involving harassment of cetaceans, but at present they can do relatively little formally to address such situations. However, as a result of the bill, they will be able to take more concrete action.

As Alan Stewart mentioned in his written evidence, the Executive provides support for training in addition to the funding for training that normally flows to the Scottish Police College and to chief constables. For example, £15,000 has been provided for the training CD-ROM that Alan Stewart mentioned in his written evidence. Police officers can also tap into support through the partnership for action against wildlife crime, which the Executive assists.

**Dr Murray:** The bill will introduce a new exceptional mechanism—the land management order. You have calculated the costs of those orders on the basis that they are expected to be extremely rare and be made only once every five years. Given that the mechanism will be new, on what basis did you estimate the costs and the frequency of use?

**Duncan Isles:** The estimated costs are based on the experience of nature conservation orders. While LMOs are a new mechanism, we see them as being akin to the current NCOs. In particular, LMOs will have to be registered and a certain amount of administrative work will be involved. It is difficult to estimate how often LMOs will be required. Our estimate that there will be one LMO every five years balances our knowledge of NCOs, which, until now, have occurred on average once a year—that figure will drop as a result of the bill to perhaps once every two or three years—and the much more unlikely scenario of compulsory purchase orders, which, for the purposes of the financial memorandum, we estimated as occurring once every 10 years. We assumed that the frequency of LMOs will sit somewhere in between, at once every five years. We hope that they will in reality be required even less frequently than that, but that was our assumption for the purposes of the financial memorandum.

**Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD):** The written evidence from COSLA states:

"The Scottish Biodiversity Strategy underpins the entire Bill and its absence at this crucial consultation stage does create a difficulty for COSLA in assessing the Bill's full financial impact."

Will you comment on that point? I presume that you do not agree with it.

**Jane Dalgleish:** That is a fair point from COSLA because, obviously, it would be helpful to have the Scottish biodiversity strategy in a more finalised form. However, COSLA is fully involved in the on-going consultation on the strategy. Under the strategy, the participants will sign up to activities in which they will be involved through the implementation plans that will accompany the strategy. The strategy will be used to develop work on biodiversity, but that will be done voluntarily—the bill will not compel organisations to do such work.

**Jeremy Purvis:** We are tasked with considering the bill's financial memorandum. Is it fair to say that the strategy—which will, in effect, implement the bill—could have financial implications and that, because we are unable to scrutinise the strategy, we are in the difficult position of being expected to scrutinise either obligations or non-obligations on local authorities?

**Jane Dalgleish:** It is probably not quite fair to say that because we do not see the strategy as implementing the bill; we see it as standing on its own but guiding public authorities in their implementation of the biodiversity duty under the bill. Public authorities have a choice: they must look at sections 1 and 2 and consider how to implement the biodiversity duty.



**Jeremy Purvis:** Paragraph 389 in the financial memorandum states that respondents from local authorities to the consultation raised the question of resourcing for local projects, but that, because they did not give specific examples, it is difficult to quantify the cost involved. Will you give us a little more information about that? What kind of responses did you get from local authorities on the resources that they felt they needed to implement such projects?

**Jane Dalgleish:** The authorities were keen to have more stable funding for local biodiversity officers, although SNH has been improving its contribution to that for some years. The need for central co-ordination of local work on biodiversity was also raised. We are interested in that issue and want to discuss it in more detail with COSLA, although it does not arise as a direct consequence of the bill. Co-ordination might help to promote the implementation of the bill, but it is not an essential part of the implementation.

10:30

**Jeremy Purvis:** Paragraph 388 of the explanatory notes states:

"The biodiversity duty is expected to be cost-neutral for local authorities".

Are you saying that the duty will not be cost neutral, but that the money to support the local authorities is expected to come from SNH?

**Jane Dalgleish:** The money already comes from SNH to support them. I think that, in its evidence to the Environment and Rural Development Committee, COSLA said that it expected the bill to be broadly cost neutral. That was the picture that we reflected. We hope that the bill will enshrine current good practice. In an awful lot of local authorities, there are local biodiversity officers who do terrific work. The bill offers a framework for, supports and encourages that work, which we hope will continue.

**Jim Mather:** A recent RSPB report makes the point that a recent study shows that the overall health of many SSSIs is declining and that less than half the sites are in good condition. Will the budgeted costs be sufficient to remedy that?

**Duncan Isles:** You heard Jeff Watson talk about SNH's spending on natural care being increased. Over the next couple of years, something in the order of £16 million will be spent on natural care programmes, which encourage land managers—the people responsible for SSSIs—not only to keep sites at the existing standard but to do positive things beyond that. As we discussed in relation to the financial memorandum, the bill also contains a compensatory management component: where, for one reason or another, changes need to be made to something that is

being done on a site and those changes affect the established management practice, money will be provided. The existing system and the one that the bill will bring into effect contain quite a lot of money that will allow positive action to be taken.

**Jim Mather:** Are you aware of the criteria that the RSPB applied when reaching its conclusions about many of the SSSIs?

**Duncan Isles:** I am afraid that I am not able to answer that. It is more a question for SNH colleagues to respond to.

**Jim Mather:** I will leave you to pass it on to them.

**The Convener:** I thank the witnesses for giving evidence. I do not think that we were going to fire any questions at them by e-mail, but we will have to reach a rapid conclusion in our consideration of the financial memorandum.

Do committee members wish to highlight any key issues that they wish to be incorporated into the draft report on the financial memorandum? We will have to produce it to a tighter time scale than we usually do, but I give members a brief opportunity to highlight anything.

**Jeremy Purvis:** We have difficulty in scrutinising when we are considering a bill that it is part of an overall strategy or when other work is being done that is crucial to the implementation of a bill that we are considering. Such work inevitably has an impact on the financial memorandum, which we are unable to scrutinise, especially when a large strategy is already being implemented, as is the case with the Nature Conservation (Scotland) Bill. It would have been better if the financial memorandum could have contained more information about the strategy's progress. I expect that we will hear the same about the Criminal Procedure (Amendment) (Scotland) Bill.

**The Convener:** That is a fair general point but, as you know, we are in discussion with the Executive about the shape and format of financial memoranda. It would be fair to admit your point as a general issue.

**Ms Alexander:** We cannot assume that all chief constables care about wildlife crime and will do the right thing. Therefore, we should flag up the fact that we cannot believe that the bill will be cost neutral if all the functions in it are pursued. That should be noted.

My other point links to what Jeremy Purvis said, and I am happy to submit a couple of paragraphs to the clerks on it. The financial memorandum is accurate as far as it goes in establishing the costs that are associated with the precise measures in the bill. However, understandably, it does not get at the implications of the culture change that the bill tries to bring about, away from compensating

for bad management towards proactively rewarding good management. That is obviously about the speed of resources that come from the common agricultural policy and about moving to more agri-environmental measures. In fairness to the bill team, those are not really appropriate for the bill, but they are important for the committee's scrutiny of the issues. Perhaps I could suggest to the clerks a couple of questions that the subject committees could use to probe the bill team further.

**The Convener:** I am content with that.

**Mr Brocklebank:** I do not disagree totally with Wendy Alexander's first point, but my experience suggests that the police are extremely good at allocating resources—particularly in the outlying parts of Scotland—where there is evidence of wild birds' nests being disturbed or rare species' eggs being seized. My experience suggests that they make the personnel available and do not necessarily have to wait until a wildlife specialist comes from Tayside or Inverness. I have been involved in a number of cases in which fairly senior plain-clothes police in the islands have dealt with such matters and have managed to cope with them extremely effectively. Their biggest complaint has always been that they do not have the powers—which, I hope, the bill will give them.

**The Convener:** That is useful. Another issue is that we would not want the Finance Committee to be viewed as encouraging witnesses or anyone else to make bids for additional resources that are attached to bills. The committee has been hard on that with previous groups of witnesses, so a balance needs to be struck.

## **Criminal Procedure (Amendment) (Scotland) Bill: Financial Memorandum**

10:37

**The Convener:** Agenda item 2 is further consideration of the financial memorandum for the Criminal Procedure (Amendment) (Scotland) Bill. I welcome to the committee Wilma Dickson, who is head of the Scottish Executive Justice Department's criminal procedure division, Tom Fyffe, who is a bill team member, and Sharon Grant, who is from the community justice services division.

Committee members have before them a copy of the submission that we have received from the Law Society of Scotland. I remind the committee that, as with the Nature Conservation (Scotland) Bill, I will ask what key issues members wish to be incorporated into the committee's report.

Do the witnesses wish to make a brief opening statement or do they want to move straight to questions?

**Wilma Dickson (Scottish Executive Justice Department):** We want to move straight to questions because you identified some of the things that you wanted to talk about last week.

I am a bit deaf, and, although I should be okay because of all the microphones, it is helpful if people look at me when they talk to me, because I have to lip-read a bit.

**The Convener:** We will do our best.

**Dr Murray:** I will kick off on value for money. I was a bit perturbed to hear from last week's witnesses that sums of money are being set aside as retainers for solicitors to make themselves available. Did the Executive consider undertaking value-for-money studies with organisations such as the Scottish Court Service, the Scottish Legal Aid Board and the Crown Office and Procurator Fiscal Service prior to considering the policy proposals?

**Wilma Dickson:** SLAB is suggesting that it might be worth making a payment to ensure that a counsel does not engage himself in business that might overrun. Waste of court time, which might happen if a counsel has double-booked through no fault of his own because a previous engagement has overrun, is a waste of judges', prosecutors', witnesses' and jurors' time, as well as a cause of huge inconvenience to witnesses and victims. It is fair to say that no final decisions have been taken on the form of the legal aid payment, but such a payment might be a small price to pay to ensure that trials start on time. It is

important to say that the details of the form in which such payments would appear in regulations have still to be worked out but, on a risk assessment basis, it might well be better to invest to save further down the line.

Is it fair to say that one of the issues on best value that came up last week was consideration of the criminal justice system as a whole and the extent to which we should attempt to look across the system and see whether best value is being delivered by the system working together?

**Dr Murray:** Yes.

**Wilma Dickson:** It might be worth flagging up to the committee the fact that the first meeting of a criminal justice system board that will bring together the stakeholders will be held on 1 December. The purpose of the board will be to examine management information across the system, to identify the blockages and the problems and to find ways forward. Although that is primarily about efficiencies in the system, not about saving money, it is a first attempt at addressing value for money.

I reiterate the points that witnesses at last week's meeting made. It is difficult to consider the criminal justice system as a system, because of the necessary constitutional independence of a number of the main players. No one can tell the Lord Advocate whom to prosecute and no one can tell a judge what to do in a case, nor should they be able to. When we bring stakeholders together, it is about taking a consensual approach to considering whether we have a common diagnosis of where the problems are and what we are going to do to fix them.

**Dr Murray:** In a sense, it might turn out that some of the costs that are identified as being associated with the bill are costs that will be incurred in modernising the system.

**Wilma Dickson:** Yes. One of the difficulties is that the bill is the core of a wider modernisation programme. The issue of what is in the bill, what is out of it and what is on its margins was discussed last week. I repeat what last week's witnesses said, which is that, to make the reforms in the bill fully effective, it is necessary to make some of the changes that are in the white paper, "Modernising Justice in Scotland: The Reform of the High Court of Justiciary", but not in the bill, such as those on disclosure. The committee might want to discuss that.

**The Convener:** One of the issues that came up in evidence last week was that, although organisations involved in the administration of the criminal justice system could each exercise some management control over their budgets in their own areas, they do not make the key decisions that affect costs. I am well aware of the

constitutional issues, but could not the Administration have gone further in seeking to find a framework that encourages the people who make the key decisions—who are primarily judges—to work within a financial framework that would allow more control to be exercised than is the case in the present system? The impression that last week's witnesses gave us was that they have very little control over the costs of the system. The present financial management system does not seem to be a good one.

**Wilma Dickson:** The Executive acknowledges that we need a cultural change to a more managerial approach. The white paper underlined the fact that the court and all the lawyers before it need to see themselves as being individually responsible for the efficient administration of justice, so that is recognised.

There are some difficulties when we get down to the nitty-gritty of particular cases. For example, one could not reasonably say that the defence does not need an expert witness because it has already had lots of money. When it comes to dealing with particular cases, there is an overriding priority of fairness for the accused, so I am sure that the committee appreciates that matters are not entirely straightforward.

That said, it is not the case that the Executive can do nothing about cultural change. I will give a few examples. In parallel with the bill, a number of strands of implementation are being worked up. One of those strands is getting the legal aid proposals into detailed regulations. It is obvious that providing the right balance of incentives and sanctions for early preparation of cases is critical, so there is an influence at that point. On legal aid, there are other on-going discussions about a more sophisticated graduated fee scheme for counsel and on payment for solemn legal aid. Many parallel discussions are going on about how we make legal aid deliver better. The committee will be aware that the minister has just announced an overall strategic review of legal aid. From that point of view, it is possible to build in some managerial incentives.

Although, constitutionally, we cannot give guidance to judges, we are talking to the Judicial Studies Committee, which is responsible for the training of judges, about the kind of training that will be required to deliver the change of culture that the bill envisages. We have already met the committee and we will meet it again shortly. The process is judicially led and it is for the Judicial Studies Committee to determine the form of the training.

10:45

**The Convener:** The parallel with the medical profession occurs to me. Although no one would

tell a doctor how to treat their patients, over the past 10 years, the national health service has done considerable work to establish a system in which doctors take some responsibility for management of budgets within their area, as well as for the professional decisions that they take. When I read the financial memorandum to the bill and Lord Bonyon's report, I was struck by the refusal to engage with that issue. The Finance Committee finds that very disappointing. Although we would not want the Executive to ask the judiciary to set aside its constitutional independence or constitutional role, we would want it to say to judges that the decisions that they make must bear some relation to budgets in the same way that everyone else's must do. It is very disappointing that the bill does not seem to address that issue.

**Wilma Dickson:** As far as the parallel with the medical profession is concerned, a consultant's independence is contractual—there is not the same overriding constitutional issue as there is with the judiciary. I am quite familiar with that area, because I used to deal with such matters when I chaired the general practitioner pay negotiations in my last job.

**The Convener:** Although I might be ignorant of legal issues and legal etiquette, I do not accept that the constitutional role of judges necessarily means that they should not be subject to controls over the expenditure of public money. We are responsible for properly safeguarding the expenditure of public money and for ensuring that that money is spent in a value-for-money way. It can be argued that that is of equal importance to any constitutional role that the judges might point to. I suggest that the idea that a system can continue to operate without elementary financial controls is not an acceptable proposition and needs to be taken back to ministers.

**Wilma Dickson:** I am happy to do that.

**Jim Mather:** I accept what you said about cultural change. What plans do you have to ensure that the Scottish Court Service, the Crown Office and SLAB work more closely together to eliminate or minimise cost and delay?

**Wilma Dickson:** Are you talking about the High Court in particular?

**Jim Mather:** Yes.

**Wilma Dickson:** The process of implementing the bill involves the members of the multi-agency group who worked together on the bill's preparation working together on its implementation. A number of work streams are under way—for example, on legal aid and on evaluation and monitoring. One of the critical aspects of that is the development of a good baseline of information, which means that, once

changes are introduced, they can be measured. Would the committee be interested to hear how we are going to do that?

**Jim Mather:** Yes.

**Wilma Dickson:** We have a group that involves the Scottish Court Service, the Crown and our researchers, which is establishing what the key variables are. Some of them are obvious—the number of adjournments and extensions and the occasions on which people plead guilty are critical to measuring the efficiency of the system. The idea is that we should agree on those variables and build them into people's electronic management systems for 2004-05—the year before implementation—so that we will have a good, robust, recent baseline against which to measure change once we get to implementation. That is the kind of thing that the committee will wish to consider.

There is also a wider issue about the whole system working together, which is partly addressed by getting people to come together at national and local levels to consider what they can do to solve the problems. That is essentially what we are doing through national and local boards.

**Jim Mather:** Going beyond getting people together to discover where costs in terms of delays and money are incurred, what plans do you have to ensure a proper level of benchmarking, external audit and rejustification of the total resources that are employed?

**Wilma Dickson:** That goes a wee bit beyond the bill team's remit. We are now addressing system blockages, and that will have economic benefits, although the implementation that we are carrying out is not directly focused on saving money. It is beyond my remit to say what I think the Executive should do in the way of benchmarking and external audit. Audit Scotland recently produced a report on youth justice and the matter of time intervals is now being addressed, although it is for the audit folk themselves to decide what their priorities are.

**Jim Mather:** I wonder whether there is a serious omission there. In any other sphere of activity, particularly commercial activity, there would be an expectation that any change that was being mooted, with money being put in, would sweat out additional savings.

**Wilma Dickson:** The witnesses who appeared before the committee last week pointed out that the High Court does not operate in a static context. There is an expectation that the number of the kind of cases with which the High Court now deals will continue to rise. Among the relevant factors in the system are the minimum five-year sentence for firearms offences and the increase in the capacity of the Scottish Drug Enforcement

Agency, which will increase business. When Lord Bonyon considered why the number of High Court indictments had risen so much and to what that was attributable, two thirds of the reason was to do with an increase in the number of serious drugs cases.

There are many factors in the system that will increase the demand on the High Court. We are not saying that the proposals will mean lower costs at the end of the day. It is very difficult to isolate certain factors from all the other pressures on the High Court. High Court judges also do civil business and, as the committee might be aware, there is also huge pressure on the civil side. Furthermore, there is huge pressure on criminal appeals.

We are not saying that the changes will save money—it would be unrealistic to say that it will cost less to run the High Court in two years' time. We are saying that we will have a more efficient system, which should liberate resources to deal with some of the other pressure points. It is more about putting a lid on further increases; given the other factors involved, it would be idle to pretend that the court will cost less to run. The area covered by the bill is in fact relatively small in relation to all those factors.

**Jim Mather:** Are the measurements in place to identify those efficiencies and ensure that they are made?

**Wilma Dickson:** The evaluation monitoring framework will cover that. Efficiencies in legal aid cases are fairly straightforward. As far as efficiencies elsewhere are concerned, we would measure reductions in the number of adjournments and extensions. Those are a proxy for finance; they are not in themselves a matter of finance, although it is possible to assess how much the costs for them are. In effect, the efficiencies would be measured, but that is a proxy for financial management.

**Mr Brocklebank:** One of the bill's provisions concerns the remote monitoring of individuals. Will there be any additional costs to the police in apprehending those remotely monitored individuals who breach their bail conditions?

**Sharon Grant (Scottish Executive Justice Department):** The increased costs to the police will be marginal. If someone was released on bail and breached their conditions, the police would have to apprehend them. Electronic monitoring makes it more visible that the person has breached bail, and the police should be able to respond more speedily and apprehend the offender for breach of the condition.

**Mr Brocklebank:** You appeared a little uncertain in saying that. Are you saying that the remote monitoring provision will broadly be cost

neutral, or are you saying that the speed with which the police will be able to react—

**Sharon Grant:** The speed of response will, of course, be entirely down to the police, taking into account their operational priorities. At the moment, the police might not be aware of someone breaching a bail condition right away and it might take some time to apprehend the offender. Under the new measures, the electronic monitoring company will be able to notify the police of a breach quite quickly. The police will then be able to take a decision on when it is appropriate to apprehend the offender.

**Mr Brocklebank:** What about the costs associated with undertaking assessments for the purpose of movement restrictions?

**Sharon Grant:** Undertaking assessments is a matter for local authorities. We estimate that the cost for 100 orders during the pilot period would be about £12,500 across all the local authorities, which works out at roughly £125 per assessment.

**The Convener:** The bill provides for preliminary hearings. At the end of our evidence-taking session last week, the witnesses seemed to recognise that a hearing as such might not be required in all cases, although the bill provides formally for that. Instead of having to take up expensive court time, with judges and everybody else in place, it might be possible to get the business done through a managed meeting, or possibly through another mechanism that might not involve a meeting of any kind. That will not apply in all cases—indeed, it might apply to only a minority of cases—but that could potentially lead to significant cost savings. Was that given consideration?

**Wilma Dickson:** There are two answers to that, a policy one and a practical one. The key purpose of the bill is to deliver justice better in the most serious cases. The judicial management of cases is critical to the bill's aims. That picks up the points that have been made about a culture change. Critically, the court, rather than the Crown, will set the trial date. At the moment, the Crown decides when a case comes to court. To avoid wasting its time, in future the court will do so, on the basis of the full evidence, showing where the parties are at.

There is provision in the bill for the court to dispense with the preliminary hearing if both parties lodge a written submission saying that they do not require it. I think that you are suggesting that the burden of proof could be turned round, in that it should be for the court to demand the preliminary hearing, rather than for the parties to ask for a dispensation. The difficulty with that is that the court will not have papers on all the cases that are under way unless it is going to do

something about them. Therefore, in order for such arrangements to be made, the court would need to obtain a full written statement from the parties. That is not provided routinely.

On balance, our view is that the preliminary hearing should be the norm, but there should be every scope for the flexibility of dispensing with it. That is partly because judicial management is critical and partly because it would be quite difficult to do things the other way round. The court would have to be given a lot of information about the case to make a decision on whether to proceed with the hearing. It would not have such information to hand routinely. Also, the court might want to ask questions about the case.

11:00

**The Convener:** I will stop you at that point, Wilma. We indicated earlier that, as a mark of respect for remembrance day, we would hold two minutes' silence at 11 o'clock. That time has arrived, so I ask everybody to stand.

11:02

**The Convener:** I am sorry to have interrupted you.

I will expand the point slightly. In the civil courts where judicial management was pioneered and has been in operation for some time, mechanisms exist to allow judges to determine issues such as time scales for trials and various other arrangements without necessarily going through the process of the formal hearing. Are we putting in place a mechanism for serious criminal cases that creates an expensive default when a provision could be framed differently to allow more flexibility than the present format of the legislation permits or encourages?

**Wilma Dickson:** I understand the point. There is clear provision in the bill for the court to dispense with the preliminary hearing without any need to hear the parties.

**The Convener:** How the bill is drafted makes that situation seem exceptional. If the bill were drafted differently, dispensation of the hearing could operate as a more appropriate choice.

**Wilma Dickson:** The critical point is that the bill is drafted in such a way that both parties have to agree to dispense with the hearing. In relation to other matters, one party could say, "I would like to bring this forward or back". The philosophy behind the bill is that judicial management is important—although you might not agree—and all the evidence is that if we invest early on in the process, not only will we save money later on, we will save a great deal of anguish for witnesses and victims in particular.

One of the other questions that came up last week was, why introduce another layer into the process? The answer to that is that nature abhors a vacuum. At the moment, in a large number of cases the trial becomes a procedural hearing because a procedural hearing is necessary; there is nowhere to clear the ground. In a large proportion of cases, everyone is assembled so the trial turns into an expensive and disruptive procedural hearing.

I realise that you will come back to me on the point and I am wrestling with how we can turn it round, given that the court does not sit with papers in front of it for all its pending cases. One would have to give the court a full explanation of why a hearing was not required.

**Tom Fyffe (Scottish Executive Justice Department):** You are trying to tie up criminal procedures with civil procedures. However, in civil cases, and in commercial cases in particular, each side would already have put its arguments before the judge before that judge could make a judgment on it. Likewise, notwithstanding that a managed meeting would not be completely necessary and that matters could be dealt with through discussions, the court would have to be satisfied with the written submissions that the preliminary hearing was not necessary.

We must factor in that one of the important things about the preliminary hearing is that it gives the accused the opportunity to plead guilty. They will not have that opportunity to plead guilty if only written submissions are used. We hope that, with the use of preliminary hearings, pleas of guilty will be tendered to reduce the number of trial diets that are fixed.

**The Convener:** I am not a judicial expert, but as somebody who has looked at a number of processes, I think that it seems possible to give the accused opportunities to plead guilty before they get to court. It has been a tradition that that is done in a court setting, but that is not absolutely necessary. Has there been a root-and-branch thinking through of the procedures or are we faced with an adaptation to take account of the requirement for a procedural hearing without thinking about one or two more radical solutions that would avoid the need for court time to be used for that purpose? You seem to admit the possibility that in some cases a preliminary hearing might not be necessary. I am pushing you a wee bit further to ask whether we can look beyond this and see whether there might be more cases where such hearings might not be necessary. The cost savings might be considerable.

**Wilma Dickson:** We recognise fully that in any case where the defence and the prosecution are prepared and ready to go for trial, there should be no need for a procedural hearing because they will

be able to satisfy the judge by written submission that that is the case. I stress again that one of the critical factors in making the process work is giving the court the power to set the trial date and ensuring that the court is fully informed about what stage the cases are at before it does that. If that is not done, the process will not work.

It is also true to say that the bill is slightly more flexible than what Lord Bonyon recommended. He recommended a formal, face-to-face managed meeting before every preliminary hearing. We have made matters more flexible so that the discussion can take place in any way between prosecution and defence as long as there is a clear statement of their position as they come out of it.

To return to your suggestion, I am still wrestling with the fact that, in order to give the court a role at all—against which I do not think that you are arguing—one would need to give the court a substantial amount of information. In a civil case, the court would have that information as routine because that is part of how it works. I am not sure that one would save all that much, given that one would have to give the court all the information and that the court might then have questions to ask. I am not sure how much one would save by shifting the onus of proof because one would still need to invest a lot of effort in giving the information to the court so that it could take a view.

**John Swinburne (Central Scotland) (SSCUP):**

Do you agree that, from the public's point of view, the big disappointment in the bill is the fact that nothing has been stated about how efficiencies, cost savings and reductions can be made in the huge part of the budget that goes to the legal profession? The public do not feel that they are getting true value for the money that goes into the judiciary generally. Do you agree that there should be a department or someone responsible for driving down costs in your areas?

**Wilma Dickson:** One of the key concerns relates to legal aid and the payment of lawyers for appearances in the courts. Because lawyers are individual practitioners and are not managed by the Crown Office in the way that, say, procurators fiscal are, the mechanism for quality improvement and cost savings is at the point of contact between the public and private sector parts of the legal system, which is the fee that is paid and the terms by which it is paid.

The minister has just announced that there will be a strategic review of legal aid to examine how the Scottish Legal Aid Board and the other players operate and what can be done to improve efficiency and effectiveness, particularly in criminal cases. I am not certain that this is a matter for the bill, which focuses on a relatively narrow area

relating to the most serious crimes. Only around 1 per cent of cases are tried in the High Court, although, of course, they account for a much higher proportion of the legal aid spend than that.

In the legal aid field, there are a number of mechanisms, particularly the strategic review, that are addressing the issue that you are particularly concerned about. I am not quite sure what more I can say about the expenses of the judiciary.

**The Convener:** That is probably an issue for ministers in a different setting.

If there are no further questions, I thank our witnesses for attending.

Members may take this opportunity to identify issues that they would like to be incorporated in the committee's report. I have highlighted one such issue, that of fundamental management controls over budgets in the court system.

We should perhaps flag up to the Justice 2 Committee the issue of whether the procedural issues go sufficiently far to realise the best economies. That is a specialist committee and is perhaps in a better position to make such judgments. I think that the proposals that are being brought forward for the streamlining of the court procedures should face some sort of best-value test. If that is not going to be imposed by the judges, it should be imposed by the Parliament. We should ask the Justice 2 Committee to consider that with some rigour.

**Mr Brocklebank:** The public feel quite serious disquiet when they see published the sums of legal aid money that are paid to particular Queen's counsel. Without going too deeply into the matter, I note that one MSP earns three times his parliamentary salary from legal aid, never mind what he gets from his private clients. The public are, rightly, extremely concerned about the vast sums of money that go to QCs, no matter how eminent they are. I do not know whether our committee has a role in dealing with that or drawing it to someone's attention.

**The Convener:** There was a suggestion that there would be a strategic review of legal aid. I presume that the relevant committee will deal with that. We have some purchase in relation to court procedures and the number of times that QCs come before the courts. We might like to explore whether there is a way in which we can control that more effectively.

## Budget Process 2004-05

11:15

**The Convener:** The third item on the agenda is further consideration of the budget process 2004-05 and specifically stage 2 reports from the subject committees.

I invite Arthur Midwinter to take members through his paper, which analyses the subject committees' reports.

**Professor Arthur Midwinter (Adviser):** I formally thank the committees for the expeditious way in which they delivered the reports despite the pressure on their time. I would also like to thank our clerks for their work in Motherwell yesterday, when we finished this paper after the committee meeting. I am sorry that the committee has to come to this document cold, as it were, but that was unavoidable.

There were three strands to my approach to this paper. If any of the issues covered in the reports could be regarded as purely functional—that is, if they are matters that the subject committee should pursue with the appropriate minister and department—I have not commented on them, as I did not think that they were consistent with this committee's role. Understandably, given the limited scope for change in the budget, a few reports raise issues relating to the redistribution of money within portfolios, but I have not summarised them in the way that I did in relation to additional spending proposals last year.

The other strands to my approach to the paper concern two broad themes that are directly relevant to the committee's work. In part, that reflects the lack of focus on budget choices due to the limited scope for change. The first theme relates to the fact that a number of committees have made recommendations regarding the structure of the budget, the information that is in the documentation and even provision for inflation. I have highlighted those recommendations because I believe that they are matters for the Finance Committee in its co-ordinating role, as we do not want to have an inconsistent set of information across the departments.

The third theme relates to a number of issues regarding what we can only call recurring problems in the budget process, some of which are said to have been raised in the first report on the budget process in the first year of the Parliament, such as priorities, targets and cross-cutting themes.

A general point is that, perhaps because of the truncated process this year, committees clearly felt that they were under pressure. Only two

comprehensively responded to the issues in the guidance that we gave them, some said that, under pressure of time, they would consider one or two issues in detail and others did not respond in relation to some of the issues. That makes it difficult to have an unbiased, overall view of the process.

I welcome the positive comments from the Equal Opportunities Committee, which has, in past years, not been particularly happy with the Executive's performance in relation to information on equal opportunities in the budget documents. The committee approved of the new equalities section and the amounts of money that are highlighted in it. That section provides a model for the other two cross-cutting priorities.

I am worried that there is still a tendency for committees to ask for information that is available in other documents to be put into the budget document. In part, that is to do with the fact that committees have changed their advisers and new people have come in who are not fully aware of the system, but it is important to realise that the budget document is not a place where policy is made but a place where the cost of policy is detailed.

A number of the committees wanted changes in the format of the information that comes to them. The justice committees would like what they call a programme budget, which details not only the spending of the Justice Department but any spending that is in another portfolio that relates to crime. Similarly, the Local Government and Transport Committee wants to have an integrated local government budget that will detail not only the elements that are in the relevant minister's portfolio—the broad revenue support grant, the aggregate external finance figures and the capital allocations—but all the other spending by the functional departments that relates to initiatives that are delivered by local government, such as money relating to education-specific initiatives. I think that those are sensible recommendations from a policy perspective, but they are problematic in terms of the mechanisms for ministers being accountable to the Parliament.

As a contrast, the Education Committee took almost the opposite view. It said that it cannot find where the money is being spent on education because it is included in a vague way in the local government budget. Another recommendation was made by the Enterprise and Culture Committee, which wanted not only its committee budget figures but also the

"cross-cutting budget figures for spend aimed at economic growth",

which we discussed yesterday. The committee concluded that



"accounting practices and reporting mechanisms need to change to more accurately reflect it."

The minister replied that that was not possible at the moment.

Finally, the Environment and Rural Development Committee said that it was looking for the spending not only on its own programmes but on all other programmes that seek to promote rural development. Perhaps we need to have a corporate discussion with the other conveners about that.

I suggest that all those recommendations, which are ad hoc recommendations about specific budgets, ought to come to the Finance Committee for an overall look. Perhaps they should also be discussed with ministers when we look at how we can refine the process.

Another related issue is the Local Government and Transport Committee's desire for a specific inflation assumption to be built into the documentation. The committee said that it was worried about "wrongly estimated" inflation. However, inflation is always an estimate and it is always wrong. Wherever we go, there is a problem in that respect. That committee was concerned that "wrongly estimated" inflation might lead to recruitment problems or a reduction in services to fund pay increases. My view on the subject, which is stated in paragraph 16 of my paper, is that, given the committee's responsibilities for sound finance, that is not a line that the committee should sign up to. As the Local Government and Transport Committee's paper notes, there is a danger that these things can become self-fulfilling. My memory of days gone by is that the negotiations began when the inflation figure was stated. The inflation figure was the lowest point that any union would take when settling with the Executive, COSLA and so forth.

Although I understand the Local Government and Transport Committee's desire to have an inflation assumption built into its budget, the Finance Committee should not sign up to anything that suggests that, if inflation rises above a figure, we should continue to buy the same volume of local services.

Paragraph 18 notes that the Local Government and Transport Committee's third recommendation is for a

"consolidated statement of support through all funding mechanisms".

We discussed something like that with the minister yesterday when we talked about getting a table that includes all the capital expenditure sources. We talked about a table that has not only the sources that are in the table at the moment but the capital grants, public-private partnership capital elements and so on. The proposal has merit not

only for the Local Government and Transport Committee but for every committee.

I move on to paragraph 19, under which I address recurring issues. A number of committees asked for a consistent time series of spending data, which we have requested. The Education Committee in particular said that it found it difficult to trace trends in education spending because of the way in which the information is presented.

The Education Committee also said that it found it even more difficult to relate longer-term trends to outcomes, which is an issue that we are going to discuss further with ministers. I think that there is an agreement in principle, but we need to get to the detail of what ministers can and cannot provide. As an aside, Wendy Alexander mentioned the "Government Expenditure and Revenue in Scotland" report yesterday. My recollection of the GERS dispute is that it was almost all about the tax side and not about the spend side.

**Ms Alexander:** Indeed.

**Professor Midwinter:** The debate was nearly all about attributing tax assumptions rather than spending assumptions. As the Treasury has recorded the spending levels for years, the problem is not insurmountable. It might be that the more detail we ask for, the more costly it becomes to generate it. If we were to ask for level 1 detail, that would be fine, whereas level 2 would be a maybe and level 3 might become problematic. That is that.

I move on to address recurring problems. In the guidance, we spoke about the problems of setting priorities, objectives and targets and about cross-cutting issues. Despite the progress that there has been in the past, a number of committees regard all of those as problematic. We acknowledged that issue with the Deputy Minister for Finance yesterday.

This is my third budget round. I feel that we are now getting to a stage where problems are becoming repetitive and committees are getting frustrated. Committees are at best dissatisfied and at worst almost disillusioned about their inability to get information in a form that would be useful to them. That is partly to do with the model and ministers need to rethink that.

In the past, we have said that there are too many priorities for them to be meaningful. When we went through the subject yesterday, it became clear that nearly every single department has something that it can claim is a priority. The position has been further confused by the recent statement that economic growth is now the top priority. The priority tends to vary according to which minister is before which committee. We need to rationalise that.

**The Convener:** Committees are unlikely to get a minister in front of them who says that his or her portfolio is low priority.

**Professor Midwinter:** Yes. We need to look at the question of priorities and also at what we can expect if something is called a priority.

Under paragraph 22, it is noted that the justice committees make a clear statement about the meaning of priorities. If a committee is getting less than the average increase, how can its portfolio area be a priority? If ministers want to say that there is another way to determine what a priority is and how it should be reflected, they should be clear about that. Ministers should do that rather than say that the committees are being too simple about the issue and that they also have to look at cross-cutting spending. At the same time that ministers say that, they admit that they cannot monitor cross-cutting expenditure. This is a big problem and we need to look at it in the review of the process.

The Education Committee's report made clear recommendations about the comparisons between the equalities section and the closing the opportunity gap and sustainable development sections. It said that the last two are "too vague", with no "reference to spending". That committee also said that that comes across as a "statement of intent", which is not something that should be found in a budget document.

The comment that I find most interesting of all, given the stress on health inequality that is at the centre of the Executive's policy, is the Health Committee's statement that

"the sums of money were relatively small at £49m or 0.6% of the health budget".

I move to paragraph 24, which takes us on to the discussion that we had yesterday on the continuing concern about identifying the spending for economic growth and economic development. Perhaps we are going as far as we can with that subject until we get into our own cross-cutting review. However, the Environment and Rural Development Committee noted:

"many of the recommendations made in the previous paragraphs have been made in every previous report on the budget."

Frustration is growing.

I will move on quickly to address objectives and targets under which similar arguments are made. Because of time, I will skip quickly through the comments rather than look at them in detail. The same theme emerges: committees are unhappy about the quality of targets and about whether they

"adhere to the SMART principles".

Under paragraph 28, it is noted that the Communities Committee asked for outturn figures to be included. If I understood the Deputy Minister for Finance's letter, that is probably what is going to happen as part of the proposals for reforming the budget process. If that is the case, it would certainly take us forward. On the basis of those kinds of recurring issues, it is pretty clear that the committees are approaching disillusionment with the process.

I will quickly address the block allocations. The document that I held up yesterday was provided to the Local Government Committee last year. The main concern is about two large blocks of money, one of which, according to the Health Committee report, accounts for 25 per cent of the entire Scottish budget. It is not possible to see the policy and financial assumptions that underlie changes as the money is passed to the health authorities and local government as a block grant. However, I found the document helpful and it would be useful if the clerks could check with their colleagues to see whether anything similar was produced this year on local government and on health. It was agreed with us that such documents would be produced, but I cannot see anything in the existing documents that suggests that such back-up information has been provided.

To summarise, the reports raise a series of concerns about budget structure and documentation, which are properly the preserve of the Finance Committee. I suggest that consideration of those concerns should be included in the Finance Committee's remit and considered as part of its co-ordinating role. I suggest that the committee note the significant problems with transparency that arise in relation to priorities, targets and block allocations. Progress has been made over the past three or four years, but we must take a serious look at the issue, and at how to proceed, with the Executive.

11:30

**The Convener:** I thank Arthur Midwinter for synthesising the information, which must have involved an immense amount of work. He has given us a comprehensive summary. We are presented with a significant challenge and we need to move on several steps from our current position; we have made some progress on transparency and the quality of documentation, but committees are asking for significantly more.

**Ms Alexander:** I thank Arthur Midwinter. I ploughed through all the reports and thought what a nightmare it would be to try to make headway with them as he has done.

Most members of the committee agree that the real contribution that the committee can make in

the second session of Parliament is to rationalise and restructure the budget process. If we are remembered for nothing else, the achievement that will stand the test of time is our being a financial issues advisory group mark 2, with four years' experience, and getting things right.

A clear agenda comes from Arthur Midwinter's paper and there are three things that we will definitely want to take on. To raise the temperature, I will suggest a process through which we might do those things. As we all know, parliamentary committees work best when they get cross-party agreement and I believe that there can be such agreement on this agenda. There are even ministers who would be happy for us to pursue the agenda; they find it difficult to pursue it internally, because things have always been done in certain ways. We got a flavour of that yesterday from Tavish Scott. I will suggest the first three areas and then offer three further, more difficult areas; we need to decide how much to bite off. I will then suggest how we should progress, perhaps with external consultation or conferences, in order to move the issues up the agenda.

First, as we have established, we absolutely need time-series data. Until we have that, we cannot be the stewards of the process and have integrity. What have we done in the past 10 years? There is no point in recutting everything that is spent on crime when we cannot tell how much the Justice Department spent five years ago and how much it will spend in two years' time. We must rise above other committees' frustration. We must have time-series data to rationalise the budget process and return the accountability that people want.

The second issue is capital spend—how much do we spend on current consumption rather than on investment for the future? The third issue is performance measurement—that is the issue that the convener always raises and it was touched on in Tavish Scott's letters. We should restructure the budget process so that phase 1 is concerned with whether we have met targets.

The three issues that I have mentioned are unarguable and the conveners of all the committees and the old financial issues advisory group would agree that they are essential. They are different from our inquiry about what counts as growth—that is a side issue. Three further issues come out of Arthur Midwinter's report, but I will take counsel from other members about whether the areas that I have discussed are sufficient for the committee to have consensus around. If they are, we can make them the monument to our achievement this year through a process that enshrines them for ever after.

The other three issues are more problematic. After we have addressed time-series data, capital

spend and performance measurement, should we also take on the issue of the number of targets, which is more directly political? It is up to the Executive to decide how many targets it wants to set, but we should indicate what we think are the shortcomings of having too many targets.

The fifth item is the block allocations that are made. A quarter of the Executive's spend now goes to health boards, where there is no transparency whatever. The Education Committee raises the same issue in its report, in relation to schools. Do we want to touch on the question whether it is right that we should never have an idea of what the £3.8 billion that is allocated as grant-aided expenditure for schools and the 25 per cent of the budget that is allocated to health are spent on?

The final issue is the risk that dishonesty is creeping into the budget process because of the verbiage concerning sustainability and closing the gap. As a result, all discussion of the health budget is devoted to less than 1 per cent of that budget—even though we think that much more should be spent on preventive rather than curative care.

Our monument should be how we rationalise the budget process. We should deal with issues relating to time-series data and capital spend. We need a new process that includes a report back on performance every year. Optionally, we could also examine targets. We could say that in the long term it is not credible for us to have no idea how health boards spend a quarter of the budget and how local authorities spend their allocations. Finally, we could observe that there is much verbiage on less than 1 per cent of the health budget and that that is dishonest to people who view the document first and foremost as a budget document.

Those points have been made, on and off, for a couple of years. This is not a matter for the committee to consider now, but would it be possible for us to hold a brief conference in the new year involving the conveners of the Parliament's subject committees and the original members of FIAG? FIAG did a good job five years ago, but times have moved on and we have learned a lot. We could ask the members of the group how the Executive could present its spending plans in a way that would meet the criteria of accountability and transparency that people wanted. Could we organise a seminar that allowed us to focus on that issue?

At the moment, we have an opportunity to achieve unanimity in the Parliament and the wider community on such matters. If we let that opportunity slip in the first year of the session, it will be hard for us to recover it. Yesterday, we received a strong sense that Tavish Scott is under

pressure from officials who say, "We have not done it this way before. This is a lot of work." We have an obligation to put the issue on the agenda and to say that the founding principles of FIAG—transparency, accountability and discussion of the 50 per cent of public spending in Scotland that is under the Parliament's control—should be revisited. A half-day seminar with the right participants might help to give the issue the sort of push that is needed.

**The Convener:** I will make a couple of comments to supplement what Wendy Alexander has said. She has put her finger on a number of the matters that we need to consider. I will add two issues to those that she mentioned and highlight a problem associated with one of them.

As the Finance Committee, we should try to ensure that the budget for the Executive and other organisations contains a mechanism for driving efficiencies. There should be a framework of management that encourages more efficient delivery. I am talking not just about performance measurement, but about creating a management or administrative culture that encourages the generation of efficiencies—perhaps including rewards for efficiencies—so that people who do things more efficiently do not necessarily lose resources as a consequence, which is often the way in the public sector.

Another issue is funding streams. Organisations outside the Executive continually highlight the complexity of bidding for and trying to secure resources, because of the different ways in which funding streams operate, the short time scales for bidding and so on that are often put in place and the time that people are given to ensure that the money is spent. We need to pick up on that issue.

The complexity that I think we should highlight is the issue of mixed accountability. One issue that emerges from the subject committees is that they want to scrutinise the budgets over which they formally have some policy responsibility. A difficulty is that those budgets are often managed by other bodies that have their own mechanism for accountability.

To my mind, there is a question over the appropriate method. Should a policy framework be set at the top that then guides the use of resources further down, in an ever more controlled way? That would be a centralising agenda, if you like. Alternatively, should we have a devolved budget agenda, whereby when management responsibility is handed over to a health board or local government mechanism that has its own system of accountability, the process for financial scrutiny is, to a certain level, also handed over to that agency? Those two models may be extremes and we will probably find that there is a mechanism in the middle that would be more

acceptable, but we need to be clear about how we deal with mixed-accountability issues. We will perhaps need to be clearer than either we or the subject committees have been up till now.

On the process that we should use for taking forward the discussion, I agree that we should end up by taking the issue back to some kind of conference of people who know about it. That would probably be a good way forward. Right at the start, when I first became convener of the Finance Committee, we went through an exercise whereby we invited the FIAG members back for a useful discussion about how things were going. We have put in place some of the useful suggestions that emerged from that discussion—the most significant of those suggestions is probably the process of scrutinising financial memoranda, which is dominating our present business.

However, if we were to hold such a conference now, it would just be about problems. Before we have the conference, we need to have some ideas about solutions. I think that we are in a much better position to do that now, but we need to be able to say what we think we might do and to test that out with people. There is a balance to be struck. We need to consider the best time to hold such a conference and how to go forward. Perhaps we need to build on the paper that Arthur Midwinter has provided and do a bit more work about the direction that we want to go in before we see whether we could use the consultation with other agencies as a means of driving that forward.

**Jim Mather:** I commend Wendy Alexander on the two sets of three points that she made. They were really crisp and I think that she will justifiably get the support round the table that she is looking for.

The need for time-series data is fundamental. Without those, the work and credibility of both the committee and the Parliament will be pretty much totally undermined. Frankly, I do not think that it is an option to continue to let the Executive off the hook on this issue, as that would undermine the Parliament's credibility.

Two issues strikes me about the need for measurement. For the block allocations, I agree that there should be a permanent process of value audit, benchmarking and external scrutiny. We should have all the processes of recognition and reward for those who have proved to be successful in squeezing out cost, retaining budget and doing other things to maximise throughput in their objectives. We need to make heroes and heroines of such people.

In addition, if we consider the issue from a proper macro perspective, instead of having cross-cutting review after cross-cutting review, there is a

need for a mechanism that will allow all departments to work together to play a part in a small number of national objectives, such as growth, life expectancy or population decline. People need to be asked what part their budget spend plays in contributing to those national targets and what part the spend of other departments contributes to their own portfolio objectives. However, there is the danger, which Arthur Midwinter pinpointed, that there could be an element of double accounting—

**Professor Midwinter:** At least.

**Jim Mather:** Yes—it could be triple, quadruple or multiple accounting. If we can interrogate on the basis of how well portfolio objectives support national objectives, and evaluate through on-going mechanisms to what extent portfolio objectives are being met, we will have something real, tangible and understandable that does not require such a volume of paper that it could not be assimilated even by Einstein—and I am not Einstein.

11:45

**Dr Murray:** I have a lot of sympathy with the convener's points. We heard a strong message yesterday about timelines, and the inability of partner organisations to work together efficiently because of the different regimes that are imposed on them—sometimes by the Executive and sometimes by others—which prevent them from pooling resources and working together efficiently. Further analysis of that problem and the production of solutions would make things on the ground work a lot better than they are working at the moment.

We all want to see time-series data. We also need to examine the level of expenditure that is required to get meaningful results. Level 1 time-series data might not tell us what we want to know. There would then be problems about how much we could dig down to other levels to find out what we wanted to know.

There are issues around the block allocations and the fact that much of the budget goes elsewhere. We should not manage that from the top down. That would go against the philosophy of local government and against a lot of what we said when the Scottish Parliament was established about the importance and credibility of local government, and the fact that we and the Scottish Executive should not be telling local authorities how to spend every last penny that they are given.

The fact that we do not hold the data does not mean that the data are not there. The data on education spend must be within the budget documents of each local authority. The data on health spend must be within the annual reports of health boards. Other data are available from the

work that is done by the Accounts Commission. It is a research issue. We can bring together the data to get a nationwide picture of health spend and education spend. It is not that the data are going down a black hole and we cannot find them. The issue is whether we want to commission work to find the data and bring together all the sources of data to establish what is happening at a local level.

**Professor Midwinter:** On a point of information, health data are more problematic than local authority data. Information on local authorities is gathered and published, and it is just a straight research job. However, as we know, the way in which the health data are recorded cannot tell us how much is spent on different diseases. If cancer or heart disease is a priority, we cannot monitor that. We get data on how much is spent by hospitals and how much is spent in primary care.

**Dr Murray:** In that case, there might be a message for the Executive about its requirements on health boards and the way in which they publish data, so that information can be made more accessible.

**The Convener:** A consistent system that used information technology to record data would be helpful.

**Jeremy Purvis:** The adviser's report and the reports from the various committees make profoundly depressing reads. There has been a fundamental breakdown in communication between this committee and the subject committees if only a very small minority of them actually provided answers to the questions that we wanted answered, which were to do with alternative spend and other issues. Wendy Alexander's suggestions are good, but we have to focus on practicalities and how we make progress.

I am more relaxed about time-series data, which are great for satisfying curiosity about how many Sir Humphreys have been successful over the past 10 years in their department areas, but I have a serious problem over whether such data accurately reflect the effectiveness of Government spend in some areas. That leads to looking at block allocations. I agree with what Elaine Murray said about education. However, the information on health exists to a certain extent. Every Clinical Standards Board for Scotland report on a particular area considers the effectiveness of local health boards.

I am not sure about the doctrine that equates effectiveness in public services with the size of the budget. Some of the best evidence that we received was from Andrew Walker, who said that it is far better if issues such as early interventions are focused on. Less money might be spent differently and outcomes might be much better.

We have become obsessed with thinking that a large budget equals an Executive priority. The Executive might establish a priority in an area, but the focus should be on the most effective outcome rather than the biggest budget, otherwise we could get caught up in chasing the wrong targets.

I agree entirely with what has been said about capital spend. Linking in with local government is crucial. I suppose that performance measurements are also a failing of the committee. We have found out only this week about some mechanisms by which the Executive and the finance department interact with other Executive departments in determining performance. I would like the committee to consider such matters in more detail with the policy and delivery unit. What mechanisms exist to hold other departments to account? What annual discussions are held when the budget document is being put together? Departments can determine whether Governments are effective. If we are separate from the process, there will be parallel universes and people could sit there happily chuckling away to themselves, as we are asking all the wrong questions.

The convener was right to mention efficiencies. That takes us back to studying the next steps agencies under Mrs Thatcher. Certainly, there was a big agenda for driving through efficiencies. Some scope has been lost. I do not know about equivalents in Scotland. Are we scrutinising such matters?

On bidding for resources, the evidence that we heard yesterday from the Deputy Minister for Finance and Public Services about how agencies are linking in to the time frame in putting together budgets and bidding programmes, especially with local authorities, is important. We must ensure that the Executive is putting together the budget properly—I think that we are doing that—and consider whether our task will be to determine the effectiveness of the spend and whether services are being improved. I do not think that we have got the mechanism right, or that we would learn much more from another seminar than we have already learned from witnesses who have appeared before the committee over the past six months.

We should do more work on how the Executive decides whether it is reaching its targets. Fundamentally, if we are going to influence the effectiveness of Government spend, we should scrutinise the work of Executive officials who are already making such decisions and ensure that there is public accountability in such matters.

**Mr Brocklebank:** I speak as a newcomer to the Parliament and to the committee, and as somebody who is so economically naïve that it is unbelievable. Having said that, I have sat through many meetings and I think that yesterday's meeting was something of a watershed in that we

have finally started to get to grips with matters. Since May, we seem to have been bombarded with facts that never interrelate. Everybody talks about their version of the truth, but nothing seems to link up with an economic philosophy. That is why I am encouraged and persuaded by Wendy Alexander's view that, whatever one's political philosophy, there must be a set of figures somewhere by which one can say what has been achieved. For example, we should be able to look back to the end of Maggie Thatcher's era and over a 10-year period and say, "That's what was achieved."

What has been achieved in those 10 years and how can we measure such achievements? How can we in the Scottish Parliament judge whether what has happened over the past four or five years has been effective unless a set of targets is set out at the beginning and we look at them four or five years down the road and say, "That's what has been achieved against the targets that have been set"? There should be not only transparency, but real transparency.

We should know what the honest targets were and be able to see what has been achieved against those targets. We can then ask whether our way of making the economy work is better than that of our predecessors or whether we are failing. I do not believe that we are in a position to make any of those judgments. That is why I am persuaded by Wendy Alexander and Arthur Midwinter. How can an accountant or anyone else pass judgment on a set of accounts unless the targets are clearly defined and there is a trail that takes us to where we are today? That would give every member a chance to ask whether the Executive has done what it said it would do. That is how we should progress the debate.

**The Convener:** I do not think that Wendy Alexander was suggesting taking us back to the days of Mrs Thatcher.

**Mr Brocklebank:** She was.

**The Convener:** I think that she was talking about figures at the time of John Major.

We should not beat ourselves up too much. There is a sense that there are areas of dissatisfaction, but it is fair to say that significant progress has been made in casting light on areas of British Government that have long been hidden. Although we have a big task to get things more as we would want them, we should not beat our breast too much over the whole exercise.

**Ms Alexander:** It is crucial that we walk before we run. It is almost unheard of for a parliamentary committee in Scotland to set a positive agenda that goes anywhere—that is what we are trying to do. We are trying to be the ones who elicit the information on how much we spend, how much we

are investing for the future and what are the efficiency mechanisms. It will be a triumph to manage that.

I want to be really precise about the limits of what we are trying to do. We have a dysfunctional budget process so there is not a snowball's chance that we are going to be able at this stage to fix the really difficult issues of effectiveness of spend. I agree with Jeremy Purvis; I do not believe that effectiveness necessarily equates to total spending. However, until we know how much we are spending, how much we are investing in the future and how we are attempting to measure that, we will not manage the rest.

I will use an example from Westminster. On the day that the Chancellor of the Exchequer arrived in the Treasury, he probably knew that the existing effectiveness measures were screwy and inadequate but he decided that he would give the Bank of England its independence, that he would create the new deal by taxing the utilities' windfall profits and that he would stop the double taxation of dividends. He thought that all that would set the tone and that the rest would follow on from it.

I have listened to Andrew Walker, and no one in Scotland is better than Kevin Woods on the difficulties of effective performance management and how to get top-down and bottom-up processes. We will not solve that problem in the next eight weeks, but that is not our first duty or responsibility. Our first duty is to get a clear view of the dysfunctional aspects of the budget process. Let us not try to claim that we can solve the problems with efficiency or effectiveness, or indeed, that we can resolve the question about top-down versus bottom-up. I do not believe that producing time-series data, finding out how much the capital spend is and being clear about the performance measurement regime will prejudice our being able to tackle the difficult issues for years 2, 3 and 4 that were mentioned by Elaine Murray, Jeremy Purvis and Des McNulty.

I contend that if we do not know how much we are spending and how much we are investing in the future, and if we do not have a procedure for reporting back on performance, there is no chance of our being able to get a handle later on those genuinely complex issues. We should have the honesty to say that we cannot fix the problem now and that our first responsibility is to get some transparency on spending.

We can get to the time-series data. The victory will not come when the Executive does that once; the matter should be high enough up the political agenda that those data are produced regularly and in such a way that we solve the problem of committees' not knowing what is happening in the areas in which they are interested and in capital spend.

On performance measurement, we need to create a public forum in which the Executive is asked how it thinks it is measuring efficiency before we get to questions about whether the system is too top-down or too bottom-up. We need transparency. Yesterday, we were told that the policy and delivery unit was doing performance measurement, which astonishes me given that that has historically been the role of the analytical services division, which does the numbers. No one knows who is meant to measure effectiveness.

If we did those things, we would make life immeasurably easier for committees next year and we would set an agenda that would allow us to tackle the much thornier issues—which even Scotland's best cannot resolve—in years 2, 3 and 4. My contention is that, until we sort out the first set of problems, we will fail to tackle the second. I am mindful of the pressure on the committee and of all the things that we have to do, but the issue is not just about time-series data, capital spend or performance measurement; rather, it is a question of how to enshrine those in the process and in the public mind in such a way that they form part of the constitutional fabric of Scotland, just as we tried to do with the social justice report by saying that it would be published every year so that no one could hide from what was happening in relation to poverty. My view is that it is not about having a private chat on the tough issues; it requires a very public discussion about what is possible and what should be happening and an admission that we should leave the more difficult stuff until later.

12:00

**John Swinburne:** I find the whole subject to be very interesting. I am only six months into politics—if that is what we are doing at the moment is called—and everyone says that the Finance Committee is the most important committee of all. I am inclined to agree with everything that Wendy Alexander says. I am as naive about finance as most ordinary people are and the thing that frightens me about my encounter with politics and everything associated with it is the amount of inefficiency and waste. Even though public money is being poured down a drain, everyone stands by and says, "We've always done it that way; let's keep it that way, because we're all comfortable. Let's not rock the boat. We don't want change; everyone's frightened of change." As a country, we will go under if we do not start to do things as efficiently as possible.

All my working life, I have had to struggle to make ends meet financially. Anything that was done had to be accounted for, right down to the last farthing, which was a quarter of a penny in old

money. I have no doubt that Arthur Midwinter will be able to tell us what percentage of a real penny that is. Seriously, however, without efficiencies, we are nowhere.

We should look at ourselves; we should look inward. With all due respect to every civil servant who works for the organisation that we are currently employed by, what is their first priority? Is it efficiencies? Are three people doing the work of four, or rather are three people doing the work of two? That does not come into the calculation at all. We are talking about the protection of a system that needs not a shake-up, but an explosion under it to shake it to its very foundations, in order that we can start from scratch and build up a proper picture. Let us please include efficiencies.

Look at the people who were here this morning: the legal system is a gravy train. I wish that someone would give me the job of erecting the buffers along the line to stop them running away with public money. To carry on in the manner in which we as a Parliament are carrying on is totally unacceptable. I think that we, as the Finance Committee, have a say on 1.8 per cent of the spend; the other 98.1 per cent is just going out on the gravy train and no one is trying to stop it.

**Jim Mather:** I am keen to persuade Jeremy Purvis on the time-series data, because I honestly think that that is the best and only way to get effective control of current and historic spending. It is also the best way of refocusing spending on different priorities as we move forward in the longer term. An example of that is moving new money from intervention towards prevention in the health service. Without such data, we risk becoming almost a laughing stock, because our scrutiny will be as much a function of anecdote, conjecture and opinion as the defence that spending departments give us. We are likely to achieve a stand off that will bring us all into disrepute.

I am looking for a mechanism that allows us access to proper data at macro level that we can measure against macro targets, and a mechanism that gives us the ability to drill down at departmental level so that we can see the data and the impact that the spend has had over time on departmental targets and achievement. When we have that framework, we can go to work much more meaningfully.

**Jeremy Purvis:** If John Swinburne continues to make statements like those which he made today without bringing examples to the table, we will not move forward in any meaningful way. If John Swinburne's evidence had come from a minister, we would have ridiculed him.

Jim Mather talked about trying to find areas in which there are no efficiencies. I have regular

meetings with the health board, the local council and the enterprise body in my area in which we go through line by line the work that they are doing. As Professor Midwinter and Elaine Murray said, the difficulty is in collating that information centrally so that we can see it. That is crucial; the practicalities are important. If three civil servants are to do the work of four—or of two—I would prefer their time to be spent on getting information about current and future spend, than on getting information about what spend was 10 years ago, which can serve only an academic or a constitutional argument, neither of which I have much interest in.

**The Convener:** Notwithstanding that, there is a broad basis of consensus on the kinds of things the committee wants to happen. Professor Midwinter's report summarises a number of issues and the discussions that we have had about moving from a line-by-line approach to a more strategic approach to the budget show that that is an area into which we would like to move.

Three strands emerge from our discussions about how we can progress. One includes the issues that we would like to raise in the context of our stage 2 draft report—we should aim to incorporate some of the issues and approaches into the stage 2 draft report. When it comes to the debate in Parliament on that report, I would like the committee to present some kind of co-ordinated view about how we wish the report to be implemented, although there might be differences of emphasis or priority.

The burden of incorporating those issues falls to Professor Midwinter for now, in that he will be involved in drafting the stage 2 report with Susan Duffy, the clerk. We probably want to see a summary paper before we debate the stage 2 report—that includes at least the highlights of the issues that have been discussed today. I do not request a lengthy paper, but a relatively brief outline paper that would allow us to advance. I am giving you work to do, Professor Midwinter.

**Professor Midwinter:** What is the timetable? Are you looking for a summary paper in advance of the stage 2 report?

**The Convener:** Stage 2 begins in two weeks today, so I suppose that what we are looking for—

**Professor Midwinter:** The report has to go to you on a Thursday, so Susan Duffy will have to work at the weekend.

**The Convener:** We might have to work before that. We will have to discuss what we can achieve with Susan Duffy and Professor Midwinter. I ask members to indulge us in trying to work out what we can do. If the report cannot go through the stage 2 process, there is additional time before the stage 2 debate, so we could present a



supplementary paper in that context. Let us work on the mechanics of that and see how we can implement it.

Wendy Alexander's suggestion that we should perhaps have a conference in the new year is a good one. The utility of such an event will depend on how clear we are about what we want to do, so if members are agreeable I would like to take some soundings on that and to examine any issues that might arise with regard to bidding for resources for that.

The third point is about how we carry the arguments forward into our consideration of the spending review, because the first application of what we want to do is likely to be in that context. There are issues that we need to address. Is that a fair summary of how we might like to proceed?

**Members indicated agreement.**

**Professor Midwinter:** Wendy very usefully divided up the two sets of issues, on one of which there is almost common agreement. I disagree with Jeremy Purvis about time-series data. We cannot seriously evaluate whether a Government has met its priorities if we do not have trend data. The matter is not, as far as I am concerned, about the constitutional argument if we are seeing what has happened and whether or not health has been a priority. We can do that only with real-terms data over the period.

It seems to me that the first three points that Wendy Alexander raised—time-series data, capital spend and performance reporting; let us call it that rather than performance management—do not need to be in the seminar. They are on the agenda now and we just need to push the matter. As Wendy said, cross-party support for their inclusion will put great weight behind us in persuading the Executive. After yesterday's meeting with Tavish Scott, I feel that we are pushing at an open door on that issue.

The other points about how many targets there are and about block allocations are more problematic and could be aired later at the conference.

Jeremy, did I hear you say that you studied under Mrs Thatcher? That took me aback—it took me 10 minutes to work out that you were actually studying next-step agencies rather than studying under her.

**Jeremy Purvis:** I was in primary school.

**Professor Midwinter:** The committee has never discussed the best-value studies. They are the only things that I know of that the Executive does that might be similar to what Jeremy Purvis was asking about, but those reports are never in the public domain. As I understand it, a comprehensive review goes on annually. I have

seen one document privately; it would be useful to get some kind of report from the minister at some stage on how those reports operate. I was concerned by what I read in the papers over the weekend, but I am delighted by the positive way in which the committee is responding to make sure that the process is driven forward. We now have a way ahead.

**The Convener:** Are members content to proceed along the lines that I suggested and according to the prioritisation that Arthur Midwinter highlighted? We might be able to move forward on those three fronts quickly and on the next three fronts a bit less quickly but nonetheless determinedly. Is that agreed?

**Members indicated agreement.**

**The Convener:** When will we be considering the draft report?

**Susan Duffy (Clerk):** We intend to look at the draft report on 25 November, which is two weeks today.

**Professor Midwinter:** Last year, it took us about 10 days to pull it all together and get it into shape, just with the mechanics of thinking about drafting and getting it ready. I am not sure whether you want a summary in between, which is what I thought you were suggesting. I would prefer to have next Tuesday to work on the report. Were you looking for something next Tuesday?

**The Convener:** Further clarification has helped us to identify where we should go so, if members are agreeable, rather than go over remnants of this discussion again next Tuesday we shall let Arthur Midwinter get away and do his work, and we shall have a report to consider the following Tuesday. Is that agreed?

**Members indicated agreement.**

**The Convener:** I thank Arthur Midwinter and the clerking team for all the work that went into that debate.

## Reporters

12:13

**The Convener:** The fourth item on our agenda is to seek the committee's agreement to the remits for our reporters' investigations into relocation policy and into Scottish Water. At our meeting last week, we agreed to appoint Jim Mather and Jeremy Purvis as reporters to investigate the issues around Scottish Water. The remit and time scale for their work is in front of members. Do members agree with the proposal?

**Members** *indicated agreement.*

**The Convener:** At our meeting on 28 October, we agreed that Fergus Ewing and Elaine Murray should be appointed as reporters to investigate relocation policy. Again, a remit and time scale have been produced for their work. Do members agree with the proposal?

**Members** *indicated agreement.*

## Items in private

12:14

**The Convener:** The fifth item on the agenda is to seek the committee's agreement to consider the draft reports on the financial memoranda to the Criminal Procedure (Amendment) Scotland Bill and the Nature Conservation (Scotland) Bill in private at our next meeting. Do members agree to that?

**Members** *indicated agreement.*

**The Convener:** I thank members for attending and I close the meeting.

*Meeting closed at 12:15.*

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