

FINANCE COMMITTEE

Tuesday 22 June 2004
(*Morning*)

Session 2

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FINANCE COMMITTEE 20th Meeting 2004, 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:

Margo MacDonald (Lothians) (Ind)

THE FOLLOWING GAVE EVIDENCE:

Robert Brown MSP (Scottish Parliamentary Corporate Body)

Sarah Davidson (Holyrood Project Team)

Ross Finnie (Minister for Environment and Rural Development)

Paul Grice (Scottish Parliament Clerk and Chief Executive)

John Home Robertson MSP (Holyrood Progress Group)

Andrew Scott (Scottish Executive Environment and Rural Affairs Department)

CLERK TO THE COMMITTEE

Susan Duffy

SENIOR ASSISTANT CLERK

Terry Shevlin

ASSISTANT CLERK

Emma Berry

LOCATION

Committee Room 1

Scottish Parliament

Finance Committee

Tuesday 22 June 2004

(Morning)

[THE CONVENER *opened the meeting at 09:33*]

Scottish Parliament Building Project

The Convener (Des McNulty): Good morning, colleagues. I welcome members, the press and the public to the 20th meeting in 2004 of the Finance Committee. As usual, I remind members to switch off all pagers and mobile phones. We have received apologies from Kate Maclean; I am expecting Gordon Jackson to attend as a committee substitute for the Labour Party. Margo MacDonald is in attendance, although she has popped out for a second. Agenda item 1 was to have been an opportunity for Gordon Jackson to declare any relevant interests. However, as he is not here yet, I will ask him to do so when he joins us and before he asks any questions.

Agenda item 2 is consideration of the latest monthly report from the Presiding Officer on the Holyrood building project. We have before us our usual array of witnesses from the Scottish Parliamentary Corporate Body and the Holyrood progress group. They are: Paul Grice, the clerk and chief executive of the Scottish Parliament; Robert Brown MSP, who is a member of the SPCB; John Home Robertson MSP, who is convener of the Holyrood progress group; and Sarah Davidson, who is project director of the Holyrood project team. Members have the latest monthly report, which was issued yesterday, and a letter from the Presiding Officer dated 9 June, which follows up points that the committee raised previously. As usual, I give Robert Brown the opportunity to make an opening statement.

Robert Brown MSP (Scottish Parliamentary Corporate Body): The Presiding Officer says in his letter:

"Progress on site this month has been intensive and impressive."

Indeed, for some months there has been a sense of moving forward at a steady and increasingly effective pace. This might seem paradoxical after all the difficulties that there have been, but in many respects the on-site organisation of what has been a highly complex project has been extremely good. On behalf of the SPCB as the parliamentary authority, in what should be our last

report of this kind, I repeat George Reid's thanks to our professional team and to the Holyrood progress group, which has, with great diligence, carried out on behalf of the Parliament what I can only describe as a thankless task. In particular, I thank Sarah Davidson, who, as the committee knows, is about to leave us. She has been in the eye of the storm for quite some time and she has carried out her duties with considerable aplomb.

Given the committee's financial scrutiny role, I imagine that it is primarily concerned about the ability to finish the job within the current budget. Of course, there will be no absolute finality until the last account is settled, but the domain of the unexpected is shrinking rapidly as the building nears completion and as accounts are submitted. The use of acceleration moneys has been modest and within the proposed amounts, and the movement into construction commitment is pretty much as anticipated.

I hope that the committee will regard the two-monthly reporting schedule that the Presiding Officer proposes for the period after the recess as a suitable arrangement. The Holyrood progress group and the SPCB will, of course, continue to meet during the recess. It is important for the committee to be aware that, as with any new building, minor snagging will continue for some time after completion. Such snagging is forecast, but that does not imply that there will be any unanticipated hassle or unforeseen problems. In particular, work to finish the landscaping will continue for some time after completion—that work includes, among other things, planting at appropriate seasonal times.

The committee will no doubt want to probe a number of aspects of the report, but I conclude by saying that, much as I have enjoyed the sessions in which we have appeared at the committee, I am not unhappy that they will conclude with the anticipated completion of the project. The Holyrood project has dominated the life of the Parliament, but shortly it will be up to the people of Scotland, whose democratic forum the Parliament is, to judge and assess the result. Increasingly, the impression is that they will not be disappointed.

The Convener: I suggest to members that we leave questions about the future reporting arrangements to the end and deal first with this month's key points, particularly migration, which is an issue that the committee wanted to take forward. I kick off by asking the panel about point 2 in the report, on the movement from the risk and programme reserve into construction commitment. Last time we took evidence, you talked about a limited number of major projects having a continuing aspect of risk—from memory, I think that you indicated that there was continuing risk in relation to five major projects. Has that threshold

moved? Is the number of projects that have a risk factor decreasing?

Robert Brown: Are you talking about the construction contracts?

The Convener: Yes.

Sarah Davidson (Holyrood Project Team): Our understanding of the Parliament's financial exposure is that there is significantly less risk. The cost consultants have had fairly detailed discussions with the principal contractors—the large contracts clearly pose more financial risk—and those discussions have brought them to a deeper understanding of what the final overall cost of the contracts is likely to be. At the Holyrood progress group's most recent meeting, it was reported that the costs are within the sums that were anticipated last time the budget was reviewed. Although sums will continue to be drawn down against individual packages on a monthly basis as valuations are agreed, there is much less uncertainty about the remaining risk than there was before.

The Convener: Are there any completion issues that will affect other completion issues? The light well was obviously a barrier to the continuation of work. Are you saying that that problem has been overcome and that there are no similar problems?

Sarah Davidson: The specific issue that you raise has been discussed with the cost consultants. Even the areas in which people may have been held up are understood and accounted for in the existing moneys—the overall completion date is not affected. We are quite relaxed about the matter.

The Convener: Presumably, the number of people employed on construction-specific aspects of the project will be run down and an increasing number of people will be involved with maintenance and service issues.

Sarah Davidson: Precisely.

The Convener: Do you have an indication of the rate of rundown of construction-related staff?

Sarah Davidson: I know that at the moment the number of men on site is hovering at around 1,000. That figure will probably run down to about 200 in August, when the bulk of the snagging work will take place, prior to members and the public using the building. We hope that that work will tail off fairly significantly in September, but I do not have figures with me that indicate what the precise ratio of construction-related staff to staff involved with maintenance and service issues will be.

The Convener: Presumably, the cranes that are on site will move off site soon.

Sarah Davidson: That is right. Either one or two mobile cranes are on site at the moment. One is

continuing to work in the Canongate light well area, where scaffolding has still to come off the final tower, and it will be the last crane to go. That will happen within the planned programme.

Mr Ted Brocklebank (Mid Scotland and Fife) (Con): I have a question about snagging. Can you comment on problems with water entering certain of the roof areas, as I have noticed on a number of occasions when visiting the site? When I was last there, there appeared to be leaks and water on the concrete stairs that lead up to members' accommodation. I know that there have always been fears that the roof in that area, which has a lot of angles, will create many potential difficulties with water. Can you confirm that there have been problems of the kind that I have described? Are they included in the snagging to which you refer?

Sarah Davidson: Any water ingress at this point will be dealt with as part of snagging. In one or two areas around the site, water has come in, especially when there have been heavy rainstorms. However, the problems have not been particularly serious and adjustments to roofs have not been required. It is expected that all the problems will be picked up by the time of occupation in August. I am not aware of anything that is likely to be an on-going problem.

Mr Brocklebank: Given that we heard that water might be a problem, it is a little disconcerting to discover that even before the building is opened some difficulties with water are being experienced.

Sarah Davidson: I am not aware of anything that is a serious on-going problem. Currently, all the problems that fall into the category to which you refer are being treated as snagging items. If more severe problems are identified, they will be looked into and followed up with the relevant contractors.

Mr Brocklebank: Can you give us a clearer picture of the effects of the recent fire? I note that nine large concrete panels were damaged. How serious was the damage? Will the panels have to be replaced, or can they be fixed?

Sarah Davidson: The damage was spalling to the surface of the concrete. Although the fire was quite small, damage was done to an extensive area because the substance that was burning created intense heat. We are awaiting a full report, but we know for certain from the structural engineers that there is no structural damage. I am sure that in the long run the Parliament will want to consider whether to replace the panels. We are awaiting advice on how a cosmetic job could be done, which would involve laser-treating and painting the surface. Until the first winter in the building has passed, we will not know the extent to which the repair might be affected by frost, for example. Replacement of the panels would be a

major logistical exercise, but that does not mean that it could not be done. The corporate body may want to consider the issue next year, once we have more information about how good the repair was and everyone has had a chance to see what it looks like.

Mr Brocklebank: What would be the likely cost of replacing nine huge concrete panels?

Sarah Davidson: We have not yet received an assessment of the total cost. However, we know that any cost should be covered fully by the insurance policy.

09:45

Dr Elaine Murray (Dumfries) (Lab): My question is about the work that will remain to be done after we have all moved in. Yesterday, reports in the media seemed to indicate that work will still be on-going at the time of the official opening, which gave the impression of the Queen arriving in a hard hat. Presumably, that is not the situation. Has there been a further delay in the final work—the landscaping and so on—or have you anticipated for some time that that work will take a bit longer than the time required for migration?

Mr John Home Robertson MSP (Holyrood Progress Group): There has been no further delay. Clearly, there is an appropriate time for planting of trees. Since we decided on the end date and focused on achieving it, everyone on the team has been determined to see the project through to completion by that date. Some works are taking a little longer than we would have liked, but the plan is to have the building ready for occupation. We are on target to do that, allowing for the snagging that is inevitable in any project of this nature. As much as possible of the landscaping work will be done within the time available. It is a tall order, but we are making good progress. Thank goodness that the weather is fairly good.

Dr Murray: Do you have an idea of when the landscaping will be complete? Might it not be complete until next year, given the times that are appropriate for planting?

Sarah Davidson: Planting of trees will take place in November. The trees will be planted at the end of the landscape tails, where the landscaping meets Queen's Drive and the park. The planting should be the last part of the landscaping to be completed. It will probably take a full season for the trees to become established, but all the works should be done by the end of November this year.

Dr Murray: With any new building, there is a period during which it is necessary to look out for problems such as water coming in—that is in no

way unique to this building. For how long do you anticipate that minor snagging will continue? When will we be able to say that it is done and dusted?

Paul Grice (Scottish Parliament Clerk and Chief Executive): The work will probably proceed in phases. There will be an intense period of snagging from the beginning of August, when staff move in, ahead of the main occupation of the building by members and the public. I am certain that snagging will still be on-going in September and October. We should bear it in mind that until we start to use the building in the fullest sense—with members of the public, members of Parliament, staff and contractors—we will not pick up some snags. We are not talking just about occasional water ingress, but about the basic use of the building. In the first month or two, there will be an intense period of snagging. For the first 12 months, there are retentions against the principal contract. It is quite normal for there to be some snags in a building, but I hope that many fewer will be uncovered months after occupation. Snagging will be concentrated in the first couple of months. Although we anticipate that it will continue for some time thereafter, it should do so at a much lower level.

Dr Murray: What sums are involved in the retentions?

Sarah Davidson: Three per cent of the total. Unusually, that sum will be held for all contractors for a year from practical completion of the building, rather than completion of their work. There is a significant incentive from August and September 2004 through to 2005 for contractors to remedy any defects that may emerge.

Ms Wendy Alexander (Paisley North) (Lab): I have three brief questions. The first relates to the occupation certificate and health and safety. The letter from the Presiding Officer states:

“Arrangements are already well advanced for making sure that the requirements of both building control and the fire inspector are met by the required dates.”

When are the required dates for the occupation certificate and health and safety? Does the certificate cover the entire building, and was it always anticipated that it would do so?

Robert Brown: It is important to recognise that we are not dealing with an external building certificate in the usual sense, because of the building's Crown status. The certificate is produced by our specialists. Paul Grice will provide the committee with details.

Paul Grice: The date for which we need the occupation certificate is the beginning of August, when staff will move in. The certificate is expected to cover the whole site, but it is quite likely that at the beginning of August works will be taking place

in the odd area. I understand that normally such areas are exempted from the provisions of occupation certificates. If work needs to be done on a stair or a walk, that area will be exempted, the inspector will return a week later and, if the area is clear, we can proceed. However, the target for the principal occupation certificate is the beginning of August, to allow staff to move in.

Ms Alexander: My second question is about snagging defects and completion of works. I am totally uninterested in the timing of the planting of trees, but as a potential occupant of the chamber I am interested in the completion of works there. The letter states:

"The current programme was planned on the basis of post-fixing some timber louvered screens at lower levels at the rear of the Chamber and on Tower 4. This will probably be carried out either in the October or December recess and should have no impact on building users."

My understanding was that the chamber was the most dramatic feature of the building, so it seems slightly odd that, five months after occupation, it will not be completed. When did the fact that the chamber would not be completed until five months after occupation enter the programme, or am I reading the letter inaccurately?

Sarah Davidson: The wording is slightly misleading. The work will be carried out in an area below the chamber—below the public foyer. That has been in the programme since February and the last revision. There are two points to make: first, it was thought much easier not to put on the screens as part of the current programme of work; and, secondly, there was the question whether the staff occupants would want the louvered screens in that area because of the light levels. Leaving the screens off gives the staff an opportunity to see what the area is like before committing to additional screening from the public areas.

Ms Alexander: Snagging is inevitable, but I want clarification about the completion of trade packages, although you might want to give us the details of that in writing. It would be helpful if you could indicate how many of the trade packages were envisaged to be completed by the occupation date in the original programme and how many trade packages are now anticipated to be completed by the occupation date. The current programme will reflect the slippage in trade packages, but what was the anticipated position one year or six months ago? As I recall, there were about 90 trade packages.

Sarah Davidson: It would probably be easier to provide that clarification in writing. The second part of the question is comparatively easy, although I will have to go away and check how many trade packages will be completed by the occupation date. It is easier to say how many of them will be on-going at that time. We also have to

ask whether "completed" means that the contractors are no longer working on site or whether we have signed off a final certificate for the packages. It is harder to comment on a point in the original programme, but we can probably say how much of the work will still be live from the programme in which we envisaged completion this summer. Practically, there should not be too many packages going on other than the snagging work.

Ms Alexander: It would be helpful to clarify that. I take your point—I am looking for a completion date not for the final haggling over the minutiae of payment, but for the packages that will involve live work on site.

Jim Mather (Highlands and Islands) (SNP): Will any proportion of the snagging be work that is newly started? Will that work include the start of any new initiatives?

Sarah Davidson: It should not. The management team has carefully distinguished between snagging and anything that people decide, once they have moved into the building, that they would like to have differently for whatever reason—that is not snagging. If anything emerged that required new work, it would be dealt with separately.

Jim Mather: Do you expect any elements of snagging to have a negative impact on migration to the new building?

Sarah Davidson: No, we hope not. The migration people are working closely with the project team to understand where contractors will be working. A permit-to-work system will be operated so that people who are doing snagging work do not crash into areas where people are unpacking their boxes. Snagging should follow the business of moving in as much as possible.

Jim Mather: About a year ago, we asked for and got a schedule of cost movement on trade packages. That seems to have fallen into disuse. I understand that to a certain extent, given that we are now in a steadier state and the costs are firming up. However, I would like a commitment that a final version of that schedule will be produced at the end of the project.

Sarah Davidson: That is the intention.

Margo MacDonald (Lothians) (Ind): I add one question to those raised by Wendy Alexander. Can we have an explanation of the differences between what was anticipated—at the start of the summer, for example—and the current situation? I do not just want a list of differences; I would like some analysis of why there should be slippage.

I am interested in the timing of the project. Reporting on the project has been bedevilled by the fact that nobody has wanted to tell us terrible news if there was any. I am not suggesting that

there is terrible news to tell us now, but perhaps we could have known about the timing of certain work earlier. We know when trees have to be planted—unlike Wendy Alexander, I am terribly interested in that sort of thing—because that is already set out for us. One would think that there would be a plan and a timescale for landscaping, so it is difficult to see why that work should be taking longer than anticipated, as John Home Robertson said. What parts of the programme are still to be completed, particularly the landscaping, and why are those parts taking longer? Do you have any remedies for that?

Finally, can somebody tell me about the toilets? Nobody has mentioned the toilets and yet I see that hundreds of thousands of people will be trooping through the building. Is it correct that the public will start coming into the building before the Queen opens it officially?

Paul Grice: Of course there is a plan for all remaining works; landscaping is just another package and no different in that respect. We receive a fortnightly progress update through the Holyrood progress group. A lot of people are working on a lot of packages at the same time and sometimes there is slippage as they get on with the job. That is then fed back in, reprogrammed and considered.

The point was made earlier that our top priority is to get the building ready for occupation. The landscaping plays an important role, but it does not affect the functionality of the building. It was always envisaged—we have been clear about this in the past—that the landscaping out into the park, which is materially different from the landscaping around the Canongate area, would be the last work to be completed. It will be finished as quickly as possible, but not at the expense of jeopardising the completion of the building. Discussions about completion are going on pretty much daily between the principal package contractor and Bovis Lend Lease. The Holyrood progress group will continue to take a close interest in that, which is why it will meet throughout the summer to keep progressing those works.

Plans concerning visitors have not changed. The toilet fit-out is extremely advanced; it is part of the overall Mivan package—

Margo MacDonald: I am interested in quantity, not quality.

Paul Grice: The quantity has been fixed for a long time—there are a reasonable number of toilets. As I have explained previously, we have been working extremely closely with other main attractions down in that area, most notably Holyrood palace and Our Dynamic Earth—all the evidence is that people who visit that end of the Royal Mile, especially those who come on tour

buses, will be interested in visiting the Parliament building and we will be doing a lot of joint work with those organisations so that people who come to the area have a good visitor experience that includes the Parliament. That is the avenue that we are pursuing.

Margo MacDonald: Do you mean that they will have to go to the toilet in Our Dynamic Earth?

Paul Grice: If someone visits three buildings, they do not necessarily need to go to the toilet in every building.

Robert Brown: Not everyone will.

Paul Grice: Some people might wish to do that and I do not want to imply that there are no toilets in the Parliament; of course there are. However, it makes a lot of sense to work with other attractions in the area. We have great co-operation with Holyrood palace and Our Dynamic Earth and we will continue to develop that co-operation through survey work. However, we will not know the results until people start arriving. Much of our strategy has been about having a plan to start out with. We have to be flexible and adaptable to meet the needs of visitors and that is exactly the approach that we are adopting.

Robert Brown: We are doing that to some degree with the catering facilities, about which we have spoken before.

Paul Grice: We are not making a new point—there will be exactly the same number of toilets as planned last time anybody asked.

Margo MacDonald: That is the concern—that there are not enough of them.

Paul Grice: You assert that, but we will just have to wait and see how we go.

The Convener: When the building comes into use by MSPs on 8 September, will it also be in use by members of the public? I want to be abundantly clear about that.

Paul Grice: Yes. There are two key target dates. One is 8 September, which is the first day of business—that is a hugely important day for us all. The second is 9 October, when the Queen comes to open the Parliament formally. Those are the two dates towards which we are working.

10:00

The Convener: Members of the public who would normally be able to enter the Parliament will be able to observe parliamentary sessions and committee meetings from 8 September.

Paul Grice: The public will be able to observe parliamentary sessions from 8 September and any other parliamentary business in that week. If committee meetings take place in that week, we

expect the public to be able to attend those as normal and we expect them to have access to all the building's other facilities. The building will have a considerably greater public area and more space for public exhibition.

The Convener: Will catering and other services be operational?

Paul Grice: Yes.

Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP): I am sorry that I was not present at the beginning of the meeting; another matter detained me. However, I can state that I am not lavatorially obsessed, as other members appear to be, so I will ask about another subject that arises from the section on migration and occupation in the Presiding Officer's report. I will ask about the plans that are in place for the smooth management of visitors.

I thank Paul Grice and the staff who were kind enough to give up some of their free time to show the Highland branch of the Saltire Society around the site on 12 June. That was much appreciated. Many of the 40 or so people who saw the site arrived as sceptics and left as enthusiasts, which was perhaps encouraging.

I will ask about visitor management because a serious problem looms on the horizon. I identified it to the previous Presiding Officer to no avail, sadly. The problem is dealing with the number of expected visitors. The report says that 700,000 visitors are expected every year. I thought that the figure was 750,000; 50,000 is obviously de minimis.

The serious point is that the visitor gallery was supposed to seat 250—that was Lord Steel's undertaking as Presiding Officer. I understand that that figure has now gone down. Will the witnesses confirm how many seats will be available for the public? I have the figure of 130, but I hope that I am wrong. If 130 seats are available for the public, that contrasts with the average attendance at the General Assembly Hall at peak times such as First Minister's question time of two to three times 130.

Yesterday, I spoke to one security staff member who was distinctly unenthusiastic about being the person who will have to tell visitors—many of whom will have come from far and wide to see their Parliament—that there is no room at the inn, so to speak. Before it is too late, I raise the issue again. I have discussed it with Mr Grice privately and I have raised it through the official channels with the current and preceding Presiding Officers—to no avail with the preceding Presiding Officer, as I said. If the witnesses agree with me that our Parliament has too few seats for the public, is it too late to add seats at the back? If it is not too late to do that, I hope that each of the 129 members of the Scottish Parliament will sponsor a seat, to prevent the costs from increasing.

The matter is fairly serious. I would not want to tell 200 people a day that there is no room for them to watch proceedings in their own Parliament. I am surprised that Lord Steel did not deal with the issue when it was raised with him some years ago. However, it is not too late to deal with it—it is never too late in politics. I am interested in hearing each panel member's views.

The Convener: I think that we will hear the views of one panel member—Robert Brown.

Robert Brown: I will kick off. I am sorry that Fergus Ewing sees fit to cast aspersions on the previous Presiding Officer. The building plans on the matter that he raises have pretty much been there from the beginning, subject to the changes in the chamber's size that the corporate body made when it took over. In the gallery, 225 seats will be available, together with seats for the media. I admit that that figure is not as big as the figure in the Assembly Hall, but it is significantly bigger than the number of seats in Westminster.

Mr Home Robertson: It is much bigger than the figure in Westminster.

Fergus Ewing: Are those 225 seats for the public?

Robert Brown: I am talking about the public. It is a substantial—

Fergus Ewing: Are those seats for the general public as opposed to the distinguished public?

The Convener: I ask Fergus Ewing to let the witness answer.

Robert Brown: The seats are for the public, which gives potential for substantial attendance, to which is added the considerable amount of space in the committee rooms. The matter relates to a slightly different issue from the 700,000 expected visitors, because the building will have a series of facilities other than just the chamber. It is wrong to say that only 150 seats will be available. There will be 225 spaces, plus spaces for the media. I ask Paul Grice to elaborate.

Paul Grice: I am happy to pick that up and I am grateful to Fergus Ewing for having raised some of the matters with me. I think that 225 seats are available for the public and that 277 is the total number of seats when the media and the guest gallery are included. That figure is substantial but is not as big as the current number.

Fergus Ewing raises an important general point about visitors. We expect upwards of 700,000 visitors in the first year and we expect that figure to tail off thereafter only slightly. That will be an enormous issue for us in the last few months. We must consider the Parliament's total capacity, which includes the chamber, the committee rooms and an enormous public area in which major

screens will be placed to allow people to see proceedings. We are considering tours of the Parliament and visitor management. We are engaging proactively through VisitScotland with tour companies and we are working with the neighbouring organisations.

Visitor management is an enormous challenge for us. The best professional advice that we have had is that much of that involves managing expectations, so that people expect to book a ticket if they want to sit in on First Minister's question time. If someone turns up early in the morning or wants to see a committee meeting, they will have more chance of obtaining a ticket on spec. We will consider matters such as queue management—dealing with people who are waiting to go in.

The picture is complex and we are examining the matter. We have taken the best professional advice that we can and we will manage the issue proactively—that is the secret. It is good that demand to enter may be greater than can be accommodated, but how we tackle that is extremely important. The gallery's capacity is one constraining factor. Some time ago, the corporate body expanded the gallery as much as it could within the building's footprint, but other constraints also exist.

I do not decry the point that Margo MacDonald makes. Toilets and catering facilities are constraints. We have aimed to work within them and to find where we can work with, say, other organisations. I am confident that we will do that well. Dealing with the expected number of people will be a phenomenal challenge. We do not have to deal with such a number at the moment. The whole parliamentary organisation will have to be able to deal with that as well as continue to deliver the service to members that it currently provides. That will be one of the biggest challenges after we have overcome migration to the new building.

Fergus Ewing: I know that Paul Grice is making much effort. I have had the opportunity to discuss with him in private some matters and they are all right as far as they go, but I think that I am right in saying that Lord Steel gave an undertaking that 250 seats would be available for the public and that that will not be the figure. That is a matter of record, but I stand to be corrected by Mr Brown if he wants to contradict me—it is just a matter of looking out the press release.

I will raise again the point that I made in principle. There will be a massive excess of demand over supply and a large number of people will be disappointed when they come to see our Parliament. That is a bad thing and I would like us to do anything that we can to prevent that. I would have thought that we would all want to do that. Perhaps some people would expect me to want

that less than some of the witnesses, but that is not the case. I do not want to spend the next five years in another imbroglio over a Parliament that has not been built with enough room for the public to watch proceedings.

Each panel member will know that I have made representations on such issues to the Presiding Officer. Has it been ruled out that extra seating will be provided, perhaps at the back of the chamber, which seems to have room? Could that area not be used to provide seating for distinguished guests, so that the existing seats for them could be released for the general public? Has alteration to the seating arrangements for visitors been ruled out, or does some flexibility remain to address the general concern, which I have raised only because it is a real concern?

Mr Home Robertson: I am delighted to hear that Fergus Ewing has become an enthusiast for the Holyrood Parliament building—that seemed to be what he was saying earlier.

During the four years in which I have been a member of the Holyrood progress group—and before that—the group's responsibility has been to complete the building as designed. If at any stage we had proposed major changes that would have added to the project's cost and timescale, there would have been difficulties. I understand from what I have read on the subject that way back at the earliest design stage an assessment was made that 225 seats would be adequate, based on experience in other Parliaments. The gallery will certainly be substantially bigger than the public gallery in the House of Commons, which I think has 157 places.

We are two or three months away from completion, migration and starting work in the new building. With respect to Fergus Ewing, to start redesigning the layout of the chamber now to alter the size of the public gallery would give rise to costs and delays—there is no doubt about that. We will have a substantial public gallery that should be more than adequate, according to the analysis that was made at the early design stage. Time will tell. I have no idea whether it might be possible to change the layout in the future, but if there turns out to be a problem, it will no doubt be possible for our successors to review the situation. However, it would be silly to start redesigning the gallery at this stage.

Robert Brown: I echo that. The figure of 700,000 visitors was arrived at on the basis of survey reports and assessments by experts; nevertheless, the figure is only a prediction. We do not know how many of those visitors will want to go into the chamber, attend a committee meeting, have a cup of tea or go to the toilet.

No doubt it would not be impossible to make alterations to the layout. Nothing has been ruled out in that context. However, as John Home Robertson rightly says, the objective is to get into the building, assess how we are doing and do our best effectively to manage the visitor flows, which will be a far bigger issue than the chamber audience will be. I have no doubt that all sorts of changes will have to be made once we have seen how that works in practice.

Fergus Ewing: The prediction is that 2,000 people will visit the building every day—

Margo MacDonald: In the first year.

Fergus Ewing: That is approximately ten times the capacity. I did not suggest, as John Home Robertson implied, that the layout be changed; I suggested that seats be installed at the back of the chamber. I was pleased that Robert Brown, at least, did not appear to rule that out. In all seriousness, I hope that the matter will be considered now, rather than after we move into the building.

Mr Home Robertson: From experience in another Parliament, I can say that not everyone who visits the Parliament building will want to go into the public gallery. It would be sensible to wait and see. If there is pressure on space in the gallery, it might be possible to consider ways of tweaking it, but anything that would require an extension to the scale of the building would be another story altogether.

Margo MacDonald: I will put Fergus Ewing's mind at rest. If an overflow is needed, visitors will be able to go to Our Dynamic Earth or somewhere else.

On important public occasions, it is not unheard of for a screen to be put up to enable folk to watch what is happening from another room. The building will have big committee rooms, so I am sure that with a little ingenuity and technology—perhaps yet to be discovered—we will be able to cope with the numbers of visitors who come to the Parliament after the first year, when the novelty value has worn off.

Robert Brown: Margo MacDonald makes an extremely good point. I understand that screens will be in place at various points in the building. To be honest, it would not necessarily be a bad thing if there were to be demand to get into the building and the chamber because there was a sense of excitement about Scotland's democratic forum.

We can never manage such things precisely; no doubt there will be times when the gallery is not full and times when there is a bit of a demand for places. For what it is worth, I think that attendance at First Minister's question time has fallen off in recent months. No doubt attendance will increase when the new building is open—

Mr Home Robertson: Whoever the new leader of the Opposition is.

Robert Brown: However, the visitor numbers are only predictions at this stage.

10:15

Paul Grice: Of course, there will be different types of visitors, including citizens of this country, people from the United Kingdom outside Scotland and people from abroad, who will have different expectations. In addition, there will not be an even pattern of visits throughout the year. Fergus Ewing's sums strike me as being about right in one context but, ironically, a lot more people will visit during the summer recess when there is no parliamentary business, and visits to the gallery will be less of an issue at such times.

I echo Margo MacDonald's point about screens. People will be able to watch the business of the Parliament on the large screen that we have built in the public foyer. The situation will be complex, because on some days committee meetings or other events will be the major attraction. We must also bear in mind the fact that a visitor will not spend the whole day sitting in the public gallery; there will be ticketing arrangements and a turnover of visitors, which will also increase capacity. There is a lot that we can and will do.

As Robert Brown said, we should not rule out anything. We need to keep an open mind and be prepared to change and to adapt to circumstances, because however careful the planning has been—I assure members that it has been meticulous—there are bound to be unexpected circumstances and we must keep our minds open to suggestions about how we might improve the service that we deliver to the public. We have a good plan to get us started and it would be sensible to get that plan in place, while keeping our minds open to any need to adapt as we learn from our experience.

Mr Brocklebank: I make two brief points. First, I am definitely not lavatorially obsessed, but I follow up Margo MacDonald's point. When I raised the matter of tendering for the provision of toilet facilities, Sarah Davidson provided me with a fairly full explanation, for which I was grateful. However, I remember that I also drew the committee's attention to the fact that the cost of the toilets had escalated to three times the original estimate. I think that at that time John Home Robertson mentioned that an investigation was going on into why the cost of the toilets had tripled. Can he tell us whether there has been any progress on that?

Mr Home Robertson: The Holyrood progress group received an interesting paper that went into some detail about the evolution of those costs. I do not have a copy with me, but we found the paper quite alarming.

Sarah Davidson: The final paragraph of the letter that I sent to the convener on 6 May summarises the paper to which John Home Robertson referred. The paper provided a breakdown of the escalation in the costs throughout that package, but it did not answer all the questions, because obviously there was a big escalation in time-related costs. As I think that I said at the time, the auditors have been examining that package as part of their on-going work and we expect to receive their comments on the matter in due course.

Mr Brocklebank: My second point is more general. We know that Sarah Davidson has been under a huge amount of pressure and I am sure that she is looking forward to a rewarding break, away from all of it. Have all the necessary steps been taken to enable a deputy to take over who will have full knowledge of everything that has been going on? I assume that that is the case.

Paul Grice: I should deal with that. The short answer is yes. The new head of the Holyrood project team will be Paul Curran, who has been the senior project manager for the past four years and has deep experience of the project. Obviously, Sarah Davidson's departure will pretty much coincide with the completion of the building and there would have been a restructuring at that stage in any event. We do not need to keep on the same project team, just as is the case for the Holyrood progress group, which will wind up at the end of September or beginning of October. Paul Curran will head up a follow-on Holyrood project team—if I can call it that—the principal function of which will be to deal with matters such as the settlement of claims or defects. He will lead a strong core of professionals and a much smaller administrative team. The Presiding Officer mentioned in his letter that we will also keep on some senior expert advisers who will advise me and Paul Curran. The new Holyrood project team will be part of the technology and facilities management directorate, where it will be able to link into the implementation team and to facilities management and information technology—that is exactly where it should be. The restructuring would have happened in any event, but that is the position and the new arrangement will kick in in a week or two from now.

Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD): Constituents who have difficulty gaining access to the public gallery in the chamber or elsewhere will be welcome to watch the proceedings on the large, extravagant, wide-screen televisions that will be installed in every MSP's office.

Margo MacDonald mentioned access to committee rooms. How many seats for the public will there be altogether in the building, including

seats in committee rooms? I imagine that the number increases substantially if we include those seats.

Paul Grice: There are approximately 70 seats each in the two large committee rooms and about half that number in each of the four smaller rooms: that is about 280 in total, which more than doubles the overall capacity.

Jeremy Purvis: Given the expected visitor numbers and the fact that the majority of visitors will not spend a long time either in committee rooms or in the galleries, I would have thought that many people will be at the public entrance where the shop and cafe will be. A large number of people will be in one part of the building and will not go through to take part in the democratic process. How will that be managed? What security measures will be in place? Will you appear before the committee again to outline additional expenditure for different facilities in that area?

Paul Grice: We have examined that closely, too, and we have brought in people with practical experience of managing major tourist attractions. It is all about visitor flows. There is a lot for people to do in that area. There will be an exhibition about the Parliament and, as Jeremy Purvis says, there will be a substantial television screen. Many people will be happy just to observe what is going on in the chamber. Many people might not even come into the building, as they might just be interested in coming to look around the outside of the building—that is quite common.

The public foyer area is large, so it has a large capacity; there is a shop and a cafe in it. A substantial number of visitors will be schoolchildren who are on pre-arranged visits—there is a purpose-built classroom in the new Parliament.

There is considerable capacity in a range of areas and it is important to understand the complexity of the arrangements. This is not about thousands of people going straight to the debating chamber, although we expect that it will be a major attraction for people. There is a plan in place and we have restructured our visitor services team to deal with the situation.

There is a major reception area as people come in past security. It is hard to explain without diagrams, but I assure the committee that we have looked at the arrangements carefully. We have looked at what are called the pinch points and thought about how we will deal with those. We certainly do not intend at this point to invest in new structures; we want to deal with what we have and manage that as best we can.

We will consider things external to the building, such as signs to tell people how long they might have to queue and information for people who

have pre-booked tickets. We have learned a great deal from people who have run major attractions elsewhere; we have picked up lots of good ideas about how to manage queues and manage people who come in. That can be done. We will not be the first organisation that has had to cope with what Fergus Ewing calls an excess of demand over supply—the key point is how we do it.

Jeremy Purvis: Will those be ready by 8 September?

Paul Grice: Yes. The target date is the first day of public business, which is 8 September.

Members could have an important role to play. Many people will be pleased to meet a member of Parliament, so we have that great resource. Some thought could be given to how members might help in managing the enormous expectation. I would be happy to consider further any ideas that members have—they have a lot of experience of dealing with members of the public. If people cannot get into the chamber but they get to meet a member of Parliament, that would be tremendous for many of them. Quite seriously, that is our experience from open days. I have met members of the public at our open days and they have been genuinely pleased to meet members of Parliament; that is part of why they come. We should look to exploit that resource as far as is consistent with members conducting their daily parliamentary business.

The Convener: Margo MacDonald should be one of the tour guides.

Margo MacDonald: I have looked my wee hat out.

There are entrances on both sides. Has any thought been given—I do not mean to be negative—

Gordon Jackson (Glasgow Govan) (Lab): No.

Margo MacDonald: I do not mean to be negative. I am flagging the issue up, as I have done before. I would have thought that having all those visitors would affect maintenance costs. With such a large number of people traipsing through the place, the carpets might not last as long as has been planned. Somebody should look ahead and say, “If we have that traffic through the Parliament, there will be greater wear and tear. Greater wear and tear means that more people will be needed to service the Parliament, and that will be done at greater cost.”

Paul Grice said that the building is a resource, but I am not sure that it is a resource—it is perhaps a resource for democracy, but it costs money and the Finance Committee is the committee that talks about how much it costs.

The Convener: If the people of Scotland wear out the carpets, I can see that only as being a good thing.

Paul Grice: Such issues have all been taken into account. We have had survey work on visitor numbers for more than a year; the latest figures are an update to a previous survey. Margo MacDonald will know that in the major public areas the flooring is Caithness stone, which is well known for its durability. The cleaning plans and planned maintenance will have to take footfall into account, as there is no denying that it is a key issue; it has been factored into all the maintenance and cleaning contracts. We will have to see how it goes. Another key point is that flexibility is built into the contracts as some areas may require more cleaning and maintenance than others. However, the building is made of extremely durable materials, such as oak, sycamore, granite and Caithness slab, which are designed to cope with a high footfall. By and large, we have avoided carpets, for the reasons that Margo MacDonald mentions. The floor materials in particular are very durable and I would expect them to last for a very long time.

Margo MacDonald: If the roof does not leak, I am sure that the Caithness stone will be perfect, but if it leaks, you should think about the compensation claims.

Paul Grice: If the roof leaks, we will have to fix the leak.

John Swinburne (Central Scotland) (SSCUP): I start by congratulating the people present on nearly reaching the conclusion of the project, which I imagine has been a harrowing project for all of them—their application to it is to be commended. We must put on record the fact that, without George Reid, we could have been waiting for another year—perhaps if he had become Presiding Officer a year earlier we would have been in the building by now.

Paul Grice mentioned that some people will only look at the outside of the building. I assure him that, for the first three months that the new building is open, it will be like Hampden Park years ago—tens of thousands of people will come to see the spectacle. People will turn out in huge numbers. I do not care what agency Paul Grice goes to, we will never get the true figure for the number of people who will turn out. The building has received publicity—albeit negative publicity—for four or five years, so people will want to see what their money is buying. People will be astounded by the turnout of the public to try to get into the place—put a turnstile in place and the building will be paid for in jig time.

My question is: where is our national bard in this place? Does Robert Burns feature?

Mr Home Robertson: Among other places, there are appropriate quotes from our national bard on the Canongate wall.

John Swinburne: Are they low-profile or high-profile?

Mr Home Robertson: They could not be more public.

Paul Grice: At the edge of the Parliament that backs on to the Canongate, coming down from Queensberry House, there is what is called the Canongate wall—I think that it is a remarkable piece of architecture and design. There are quotes on it and Robert Burns features prominently.

John Swinburne: Margo MacDonald and I were victims of the lifts. As far as I can remember, there was no ventilation in the lift. Can Margo MacDonald remember there being any?

Margo MacDonald: No.

John Swinburne: Eight of us were in a lift that is designed to take 21 people—if 21 people had been in there for 20 minutes or half an hour, some of them could have expired. Will you please look into ventilation in the lifts? I will be using the stairs.

Mr Home Robertson: Honestly, I was not responsible for that—although I know various people who might have been tempted, knowing who was in the lift. No, I am sorry.

Paul Grice: I will obviously look into that.

Margo MacDonald: I will not go back in that lift unless there is a man in a boiler suit with a spanner standing beside it.

Paul Grice: On the positive front, you did a helpful piece of snagging for us.

Fergus Ewing: I hope that the quotation from Robert Burns that is displayed in the Parliament will be:

"O wad some Pow'r the giftie gie us
To see oursels as others see us!"

That might be a good start.

Paul Grice: I think that that is the quote.

10:30

Fergus Ewing: Oh, that I had such influence over other parts of the project.

I will ask about a practical matter that I have raised privately with the chief executive. At a recent meeting in Fort William, I discovered that three primary schools plan to join together to send the pupils down to Edinburgh in a large coach or, possibly, two coaches. Their thinking is to make a day of it for all the kids from a far-flung community in Scotland so that they can see our Parliament. If that thinking is replicated throughout Scotland, as I suspect it might be, so much the better.

The practical point is that, despite our being five years into the project, Historic Scotland has not yet agreed where coaches will be able to drop off visitors. Historic Scotland is not exactly known for being one of the world's sprinters, but even by its standards—I will not mention Castle Tioram—this seems to be a dismal, albeit not entirely unexpected, tale of woe. From my recce of the landscaping and various places around the site perimeter, it seems to me that we are spoilt for choice as to where a coach halt could be provided. Will the chief executive clarify the current situation and state whether permission for such a facility has been granted?

Members and non-members might doubt the seriousness of the matter, but I am sure that we all want to ensure the health of children who visit the Parliament. Given that they might alight from the bus in a state of high excitement, they should not have to cross busy roads but should be able to get into their Parliament with a maximum of ease. Having raised the issue with the chief executive last week, I wonder whether he can now give us good news. Has Historic Scotland granted permission for this fairly simple matter?

Paul Grice: Not yet, is the answer.

By way of background, let me explain that we expect that many visitors will arrive by coach, so the issue is significant. Originally, we considered using Horse Wynd, but that has proved not to be possible on the basis of police advice. A short-term solution might be to use the turning circle in front of Our Dynamic Earth. I am hopeful that we can get agreement to do that during our first six months of operation, which is Our Dynamic Earth's quieter period. The longer-term solution has to be to use the Queen's Drive spur or somewhere in the vicinity of the park. As Fergus Ewing said, that area seems well set up for such things.

I am due to meet Historic Scotland's chief executive in the next few days and hope for a sympathetic hearing. I have written to the agency about the matter, but we have not yet discussed it so I cannot give any further news so far. I very much hope that Historic Scotland will work with us to find a long-term solution for a pick-up and drop-off point—there is ample parking provision on Regent Road—so that schoolchildren and other coach visitors can be dropped off in close proximity to the Parliament. An area around the Queen's Drive spur would seem ideal, but that area is owned and managed by Historic Scotland. We will pursue the matter with Historic Scotland in the next few days.

Fergus Ewing: I am pleased with that answer, which was not entirely unexpected.

If the chief executive's view is that the answer is to use Queen's Drive, it seems to me that, instead

of talking about that as something for the long term, the problem should be sorted out before the Parliament opens. Other members will, I hope, agree that Historic Scotland should consent to that. Indeed, I can think of no reason why such a relatively simple and straightforward matter should be the subject of any delay. If the committee agrees, we should perhaps convey to Historic Scotland a clear sense of our desire to get the matter sorted out before the Parliament opens rather than let the issue linger on and perhaps raise complications. After all, it may not be convenient for Our Dynamic Earth to allow us to use its turning circle. I very much hope that Historic Scotland will not continue dragging its feet and delaying the matter. The committee will no doubt want to wish the chief executive good speed on his mission, which we hope will be successful.

The Convener: I am sure that the committee supports the chief executive's efforts to secure a rational and sensible solution.

Before drawing this evidence-taking session to a close, I want to ask two specific questions. First, given that a key aspect of the building's design was to ensure high levels of disabled access, will disabled access be provided for during the teething period of the initial months? Secondly, will visitors be given access to the chamber when it is not in use? Visitors are not allowed on to the floor of the chamber that we use in our interim accommodation. Can I be assured that visitors to the new building at Holyrood will be allowed on to the chamber floor when it is not being used by parliamentarians?

Paul Grice: I will answer your second question and Sarah Davidson will deal with the point about disabled access.

We are looking afresh at the whole regime. Obviously, some visitors will come to the gallery just to have a look at the chamber, but there will also be people on guided tours and people with members of Parliament. We aim to have in place a set of arrangements and guidelines for each of those groups. On the one hand, the key thing is to let people come and experience their Parliament but, on the other hand, we need to ensure that the voting and other equipment works when members next come to use it. A balance always needs to be struck. I can assure you that we will issue guidelines, which are currently in the process of production.

Sarah Davidson: The clear plan is that by 8 September, when the public will start to use the building, everything should be complete so there should be no particular issue with disabled access. We are aware that on-going snagging in certain areas has the potential to raise hazards that might pose a problem for people whose mobility is impaired, but a regime is in place whereby the

Parliament's health and safety manager will monitor that to ensure that there is no impact on people who use the building. Those matters are all well in hand.

The Convener: Finally, on future reporting arrangements, the progress report suggests that

"we would expect to report progress in resolving any financial disputes to the Committee in the context of the financial monitoring report."

Will you say a little more about the format that is anticipated for that?

Sarah Davidson: I have already given some thought on how that system should be put together. The process of settling final accounts will probably start in earnest from next month. Although our cost consultants have been in continual discussion with package contractors, only about £26 million of work has been finally signed off at project team level. Over the coming months, that figure will ramp up considerably. As that happens and as works are completed on site, all the remaining allocations of risk to individual packages will be made and the sums that are currently in construction commitment will become firm. In other words, moneys in construction commitment are anticipated sums and only when the Parliament has given its final signature do they become the final cost for any given package.

As it might be helpful to the committee to be able to track how that is happening, we will provide the committee with a running tally of accounts that are being settled. We will do that initially every two months and latterly every quarter. We will also provide a breakdown of what proportion of the total commitment has been concluded and what is still to be concluded. Our hope and anticipation are that, by the end of 2004, the vast majority will have been moved into concluded work and the final total figure will become fairly certain. However, that will all depend on how easily and how quickly accounts are settled.

As the current progress report indicates, the committee will receive the first of those reports in September. Once the committee has seen that, I am sure that my successors will be happy to pick up any comments that the committee has about the format and about the information that is provided.

Mr Brocklebank: Am I right in thinking that the Auditor General's report on the Holyrood project is now available?

Paul Grice: No. It is not finished, although a draft of the report is being circulated. I understand that the Auditor General intends to publish the report shortly.

Mr Brocklebank: Am I correct in my understanding that you have already seen a copy of that draft?

Paul Grice: As is normal, I have.

Mr Brocklebank: Are you happy with its contents so far?

Paul Grice: I imagine that I will discuss that matter with the Audit Committee in due course.

Fergus Ewing: Under the heading "Other post-completion matters", the Presiding Officer's progress report states that the Holyrood progress group will hold its last meeting on 29 September and will be formally wound up on the date of the official opening. The Presiding Officer goes on to state:

"The SPCB is therefore pleased that David Manson, Andrew Wright and John Gibbons have agreed to remain available to us"—

that is, the SPCB—

"and to the HPT in an advisory capacity after the building is complete."

Can Paul Grice say whether those people will be members of a committee that will perhaps have Paul Curran at its head? Further, can he say whether that committee will deal with issues that could perhaps be summarised, albeit crudely, as loss and expense? If so, will an expert in the process of adjudication be appointed to the committee?

I want to raise a second, wider issue. To be fair, it is one that I have not raised previously with Paul Grice—indeed, the question may be one for Robert Brown. After the publication of the Spencely report, the SPCB realised that the HPG would shed some of its day-to-day burden of handling the work load that had been generated by the project, albeit that it had been doing so in an advisory capacity.

Is any similar arrangement envisaged for the handling of post-completion matters? Will we see the formation of some kind of advisory or liaison body between the committee that George Reid describes in his letter and the SPCB? I am thinking of a body that would be analogous to the Holyrood progress group. In particular, I am referring to the question whether legal action should or should not be pursued.

If consideration is to be given to such a body, could the Finance Committee receive a report on the matter? If so, perhaps that report could be received at the next meeting at which we are to hear from the corporate body on the subject. As the meeting will be held after the summer recess, I assume that it will take place in the new building.

Paul Grice: Yes. If I may, I will take the opportunity to explain in a little more detail what

the Presiding Officer was driving at in the last paragraph of his letter. Paul Curran will head up the team that forms part of the executive chain of command that flows through me. We need expertise of the type to which Fergus Ewing referred. The advice that I have received, which I intend to follow, is that, rather than ask a claims expert to sit on the advisory group, we should bring that person into Paul Curran's team.

In the sense that the advisory group's job is to advise and to be available to advise Paul Curran and the corporate body, I see it as sitting off to the side. It is important that the advice that goes forward to the corporate body comes up through the properly accountable line that has me at its head. I imagine that some significant value-for-money issues will arise. We will need claims expertise and the right place for that to be located is in Paul Curran's team. The people mentioned by the Presiding Officer in his letter are included because they are all members of the Holyrood progress group.

I also intend to appoint Dave Ferguson, our senior audit adviser, to the advisory group because of the welcome experience that he brings to these matters. In this forum, I will not go down the road to which Ted Brocklebank's questions led, although I accept that audit issues are involved. It will be extremely beneficial to have Dave Ferguson on a group that is available to give advice—as necessary—to me and Paul Curran and to Robert Brown and his colleagues on the corporate body.

The corporate body has had a first look at the proposal and it will want to see how the link with its members develops. Of course, Robert Brown is the portfolio member, so to speak, and therefore he looks after all financial and audit matters. The expectation is that Robert Brown will take a particularly close interest in the new arrangements as the link person. Apart from being a lawyer, he brings with him a great experience of this forum, which gives him possibly the most detailed knowledge of the building of all the corporate body members.

That is the liaison system that the corporate body has come up with. Although I do not want to overstate the matter, it is important to stress that when the corporate body gets advice, it comes up from Paul Curran and through me. The advisory group will be in place to offer commentary on the advice that the corporate body is given, to help us to get things right and to be available to the corporate body if it wishes to discuss any issues that are less than straightforward.

The advisory group will not be as formal as the Holyrood progress group: it is not a creation of the Parliament, which, in effect, the Holyrood progress group is. It is a group of experts who advise and

help us to get the strategy right and take proper judgments on individual claims. That is an outline of the system that we intend to set up. Indeed, I hope that the first meeting of the group will take place in the next week or so. We will get the group up and running even before the building is finished.

10:45

Robert Brown: As Paul Grice touched on, it is not the job of the corporate body to manage all the work, nor is it our job to be involved in the details of claims and so forth. At the same time, we are keen to ensure that there is a bearing down. Among other things, we want to ensure that claims are not settled unnecessarily for the sake of a quiet life.

We need to keep a close handle on matters so that the corporate body is involved in any significant policy decisions before the decisions are made. The intention behind the arrangements that we have set in place is to recognise the slightly different functions of the non-professional elected corporate body members and the professional team that is responsible to us. The proper way to tackle things is for the corporate body to get the right mix. We need to be suitably informed and knowledgeable and, at the same time, try not to second guess the people who have the expertise that we do not have.

Fergus Ewing: I am broadly satisfied with both answers, for which I thank Robert Brown and Paul Grice. I was relieved to hear Robert Brown say that there is no question that any claims would be settled for "the sake of a quiet life". Some members have taken a particular interest in aspects of the project and, obviously, the SPCB has had the job of being financially responsible for the project. It will now have—it cannot shed—financial responsibility for dealing with any claims and legal actions that arise from the process. Frankly, I would be astonished if a number of claims are not made.

The point that I want to put to Robert Brown is made without any rancour, implication or innuendo. Is there not an inherent conflict of interest in the SPCB undertaking the role of judging, so to speak, in the completion phase the decisions that it made in the construction phase? In other words, in deciding whether to sue company A, B or C, is the SPCB not making a judgment on the commissioning of work that it commissioned in the first place? I could talk about specific cases at this point, but it would be wrong to do so and I will therefore talk generally. Is there not a risk of at least an inherent conflict of interest? If so, does that not raise the case for the idea—which I simply moot at this stage for the purposes of discussion—of the procedure being

supplemented in some way to ensure that the SPCB, for its own sake, is not accused of conflict of interest?

Finally, in making those decisions, the SPCB will of necessity be unable to explain fully the basis for its decisions because, almost certainly, to do so would involve the disclosure of legal advice, which it does not do. To protect the SPCB against charges of bias, influence and so forth, should not consideration be given to the need for an element of independence in addition to the technical advice of its technical advisers? Surely that is needed to take forward the process and, from my point of view, to ensure that certain claims are most certainly pursued?

Robert Brown: The corporate body is a statutory creation that was established to manage the affairs of the Parliament on behalf of the Parliament. It is, of course, subject to instructions from the Parliament—should it seek to give such instructions—on the way in which the SPCB manages its affairs. For example, the establishment of the Holyrood progress group was the result of a parliamentary decision. As a result of that decision, a number of issues arose, which I think were managed at the time. I think that the arrangement has worked out well; certainly, it has worked out better than I anticipated at the time. There has been a good spirit between the members of the corporate body and the progress group.

There is no conflict of interest in the sense that Fergus Ewing suggests. The decision-making process is no different to that of any private firm that commissions a project, for example—many decisions are made during the term of a contract. In our case, we did not have detailed involvement in most of the decisions because they were taken at a level below that of the corporate body.

Obviously, the corporate body acts on the advice that comes to us through Paul Grice and his officials. As Paul said, it is a developing process around which sit the audit arrangements of the Auditor General for Scotland and the Audit Committee. I would have thought that there were enough pressures, checks and counter-checks in all those arrangements to enable the process to go forward satisfactorily.

Much of the work will be professional and technical; I suspect that it will not involve SPCB members at all. It is difficult to anticipate where we might have to give a steer on certain decisions, but we will ensure that reporting mechanisms are in place so that major issues are brought to us for a decision. That will be similar to the way in which the Finance Committee has been keeping an eye on financial issues to do with the SPCB.

At the end of the day, it will be for the Parliament to decide what it wants to do. However, I am not sure that any other arrangement would be any more satisfactory. We have lived with the project from day one and we know the strategic decisions that have been made. I do not think that that will cause any particular difficulties as matters progress. However, if Fergus Ewing has any particular concerns—I know that he has taken a detailed interest—and if he wants to talk to us or write to us, we will be happy to consider any points that he raises.

The Convener: I am anxious to bring this evidence session to a close, but I will take a brief question from Margo MacDonald.

Margo MacDonald: Fergus Ewing's question highlights the fact that the corporate body is insufficiently accountable. As has been asked before, how can a member ask questions about the corporate body? Rather than establish another body to monitor what the corporate body is doing, members who have particular concerns should be able to ask questions. Our procedures are lacking in that respect. It might help everybody if the Procedures Committee were to take up this issue as a case study. Fergus is asking for assurance that correct decisions are being taken. Whom do we ask about that?

The Convener: The answer to that question lies in the reports that are made to the Finance Committee. If a process is in place to ensure that this committee receives regular reports, it will be open to members of the committee to pursue any issues that arise. Other MSPs can come along to our meetings—as you have done this morning, Margo—to ask precisely the questions that they want to ask. A mechanism is therefore already in place.

Margo MacDonald: I agree that a mechanism is in place, but a belt-and-braces solution might be better. Members sometimes feel frustrated because they know that time could be saved by short-circuiting that mechanism and asking questions directly. However, it is difficult to get answers quickly.

Robert Brown: There is a facility for parliamentary questions, although I accept that written replies can be limited. We should also consider the relationship between the Finance Committee and the Audit Committee. We are at a final stage and are looking backwards as well as continuing to move forwards, so we should consider the most effective way in which those two committees can relate to each other.

We are talking about reports every two months, and the corporate body will be charged with managing the matter. If other people want to be elected on to that body, I do not suppose that that

would create too much hassle, but I think that we should be left to get on with things.

Margo MacDonald: There is hassle, let me tell you.

The Convener: I thank the witnesses for coming along today. I particularly thank Sarah Davidson and John Home Robertson, who I suspect are unlikely to come before the committee again if we are moving on to consider financial monitoring. The Finance Committee has performed its scrutiny function, although I know that that is not always comfortable for the people being scrutinised. I thank you for your forbearance.

Mr Home Robertson: Thank you, convener. You have done your job and we are trying to do ours. I would like to say that Sarah Davidson has done her job very well indeed. She has been a very good servant to the Parliament.

Interests

10:54

The Convener: I crave the indulgence of members and ask the committee to return to agenda item 1, so that Gordon Jackson may declare any relevant interests. This is the first time he has attended the committee as a substitute.

Gordon Jackson: I am sorry that I was a few minutes late; I hit the horrendous Edinburgh traffic. I have no interests that I can think of that are relevant for this committee.

The Convener: Thank you.

Scottish Water

10:55

The Convener: Agenda item 3 is consideration of the Executive's response to the committee's report on Scottish Water. Members have received a copy of that response, which came out last week.

We welcome our next panel of witnesses. We have with us Ross Finnie, the Minister for Environment and Rural Development, who is accompanied by officials from the water services division: Andrew Scott, who is head of the division; Janet Egdell, who is team leader in operations and institutional governance; William Fleming, who is team leader for strategic review of charges; Andrew Fleming, who is team leader for capital, regulatory protocols and off-network supplies; and Clare Morley, who is team leader for the Water Services etc (Scotland) Bill. You are well supported, minister.

I invite the minister to make an opening statement before we proceed to questioning.

The Minister for Environment and Rural Development (Ross Finnie): Thank you, convener. I am grateful for this opportunity to address the committee and discuss the Executive's response to your report into the water industry. I am pleased that the committee agreed that the financial sustainability of the industry is key to its success, and I am pleased that a majority on the committee found that the allegations that were made by Analytical Consulting Ltd were wrong. I am also pleased that the committee felt that more detailed examination of the industry's investment needs was needed; that consultation on the principles of charging is essential; and that robust and transparent economic regulation has a crucial role to play in ensuring that the water industry becomes more efficient.

I agree with the committee that a number of changes to the current regulatory regime are necessary. As I have indicated to the committee in my letter, we propose to make changes through the forthcoming Water Services etc (Scotland) Bill. I have several changes in mind. I want to give ministers clear statutory duties to set publicly the standards and objectives that Scottish Water should achieve; I want to transfer the function of the water industry commissioner from an individual to a commission with a small board of non-executive experts and a chief executive; I want to empower the new commission to set limits on Scottish Water's charges; and I want to set out in statute a transparent process by which the commission will consult publicly on proposed charge limits.

In these opening remarks, I do not intend to revisit my response to the committee, but I will say that it included a letter on the next strategic review of water charges—a letter that was sent to the water industry commissioner and to Scottish Water at the end of May. It might be helpful if I draw the committee's attention to the main points of that letter.

We will require the water industry commissioner and Scottish Water to proceed on the basis of the provisions in the Water Services etc (Scotland) Bill, which was published on 14 June. Subject to Parliament's approval of the bill, that means that final decisions on water charges in the period from 2006 to 2010 will be made by the new water industry commission, rather than by ministers acting on the advice of the water industry commissioner.

The commission will reach its decisions by the end of November 2005, on the basis of a clear process in which the public and all stakeholder groups will have had the opportunity to be involved. Crucially, the commission will consult on all charge limits before reaching its final decision. Decisions will be made in the light of two clear policy statements from the Executive, which will reflect the outcome of the public consultation. One statement will set out what we require Scottish Water to deliver by way of water quality, environment protection and customer service standards during the period from 2006 to 2010. It will reflect public responses to the consultation process that we will launch shortly. The other statement will set out how the costs of the programme should be shared among different customer groups. It will reflect public responses to another consultation process, which will also be launched soon.

Under those arrangements, ministers will become accountable for decisions on policy for the water industry and the commission will be responsible for ensuring that Scottish Water delivers the objectives at the lowest cost and the highest quality. The outcome will be charge limits for each year of the 2006 to 2010 period. As a further strengthening of the regulatory regime, the commission's decisions will be open to scrutiny by the Competition Commission.

11:00

In terms of the context of the inquiry, we should not lose sight of how far we have come in the two short years of the life of Scottish Water, which was set up against a background of doubts about whether the existing companies could continue to deliver. While the industry has a long way to go, it is in a much better situation than it was. The merger of the three organisations, which was difficult and complicated, is resulting in

efficiencies. Customers are paying more than £1 million a week less in operating costs than they were when the three organisations were involved and Scottish Water is on track to double that saving in the next two years.

I realise that the committee's discussion focused on the period from the creation of Scottish Water until now. That was a thorough examination, but I believe that we have to start moving forward and to build on the improvements and changes that Scottish Water has made and which this committee recommended. My response indicates that we are taking up much of what the committee has put to us.

The Convener: Our report was extremely strong in the sense that it probed this area in considerable depth. Although there were disagreements in the committee about certain aspects, there was a great deal of unanimity about the core recommendations.

One issue that we highlighted was capital slippage. That came up again in a new form in relation to the end-year flexibility figure that was announced a week ago. Could you say something about the Executive's attitude to the huge sum of money that is now being freed up in borrowing terms?

Ross Finnie: Again, members of the committee will be entirely familiar with the reports that were published in 1998, I think—certainly, they predate the creation of Scottish Water. One of the many harsh criticisms of the three existing companies related to their capital procurement programmes and capital management programmes. One of the tasks that Scottish Water was charged with was to treat seriously the need to improve that position. You will be aware that the new non-executive directors, recognising the substantial investment programme that Scottish Water had to undertake, took seriously the need to improve radically the way in which capital procurement and capital management programmes were being addressed. That is what led the board of Scottish Water to go into partnership with Scottish Water Solutions Ltd, which gave it access to people with a much wider range of building construction, scheduling and managing expertise.

I have no doubt that the committee was as disappointed as I was with the speed with which that progressed and with which Scottish Water Solutions finally got under way. However, I have had conversations recently with Scottish Water and, in particular, with Ian McMillan, who is a non-executive director. He takes a lot of responsibility for this matter because of his background in power construction and he has been taking an overview of the process from a non-executive point of view. He and the board make it clear that, although the previous water companies signed up for a £1.8

billion capital programme, there is no evidence that they had any capacity to deliver that programme. We will not know for sure until we see the reports that will be produced in September, but the board is as confident as it can be that it has capacity to commit capital expenditure, in a way that a quantity surveyor would sign off, at a run rate of around £40 million a month. That would get Scottish Water to the £480 million to £500 million a year that it has to reach if it is to deliver the programme.

I am extremely disappointed that the process has taken as long as it has done, although it is difficult for me or you to be wholly critical of non-executive directors for taking their fiduciary responsibility seriously. We are beginning to show signs of getting to the point that we want to get to. There are timing differences in relation to when the money will be spent but, for the first time ever, I am confident that we are building at a run rate that approaches £40 million a month. That is the level at which Scottish Water must remain. We must ensure that the non-executive directors keep the executive directors on target to deliver that.

The Convener: I am sure that members will want to probe the issues surrounding the financial management arrangements, but I would like to raise the issue of the planning regime, which Scottish Water and other witnesses have suggested is a barrier to the commitment to investment. We have been told about the difficulty of bringing together a series of planning applications for a vast variety of projects throughout Scotland. Is there a case for having a fast-track planning system for dealing with major infrastructure projects? If so, should that system be linked with a mechanism that would allow Scottish Water to purchase the necessary land in advance of having to submit a final plan for an investment as a way of cutting through the time barriers that have prevented the timeous commitment of capital?

Ross Finnie: I am reluctant to intrude into the territory of my fellow minister, Margaret Curran, but I would say that I do not greatly favour the principle that you mention. There are procedures in place already and, in matters of law, it is difficult to obviate a due process in terms of the Town and Country Planning (Scotland) Act 1997, so I suspect that it would be necessary to have some sort of different procedure.

In the past, there has been a tendency to accept that the water industry's priorities should be ordered in relation to a situation that was largely determined by regulatory concerns to do with whether a specific water plant or sewage plant met the current regulations. I understand that the experience that has been brought into Scottish Water via Scottish Water Solutions and new non-

executives has caused the issue of how such programmes are managed in other utilities to be reflected upon. Other utilities have similar problems with planning permissions and so on and they tend to work in a way that ensures that they have a broad range of projects being worked up simultaneously. That means that, if a project hits a planning or engineering hurdle, they are in a better position to move forward with other proposals. I understand that Scottish Water is giving that a lot of thought.

It is for others to determine whether there is a need for change in the planning regime, but I would point out that, if Scottish Water were working up other proposals, it would get a little bit ahead of the game when it was applying for planning permissions rather than waiting until the only project on the go was the one that was awaiting planning approval, which would leave Scottish Water exposed if there were any difficulty.

Fergus Ewing: I read, with as much care as I was capable of, the minister's letter and the Executive's reply to the committee's report. I want to raise an issue that seems to me to go to the heart of one of the recommendations that the committee as a whole made. The Scottish Water submission in annex C shows that, for the most recent available accounts, for the year ending 31 March 2003, of the £969 million total funding that was available to Scottish Water, no less than £895 million was funded from the customer and only £51 million was funded from borrowing; other charges included working capital of £23 million.

We know that, in essence, Scottish Water is funded from two sources: borrowing and the customer. However, for the most recent accounts, the amount of funding from the customer is 95 per cent and the amount from borrowing is 5 per cent. The committee expressed concern that the regime resulted in over-tight borrowing controls. We know that the water industry commissioner got to the root of the matter in his evidence when he was asked why the borrowing controls are so tightly set and why he thinks that that is necessary. His answer is clearly available to us from his evidence to the committee:

"We were trying to bring cash-flow cover of interest payments to a ratio of 1."—[*Official Report, Finance Committee*, 2 December 2003; c 668.]

The water industry commissioner's basis for doing that was comparisons with English water companies. We dealt with those important issues in paragraph 129 of our report, which was answered in paragraph 20 of the Executive's response. I raise the matter now because nothing in your introductory statement to the committee this morning or in your letter to us—which described correctly the Water Services etc (Scotland) Bill, two consultations and all the rest of

it—touches on the central flaw. The committee agreed that the WIC was wrong to compare the financial ratio targets in Scotland with those in England, particularly the interest-cover ratio.

“There were very considerable differences between the bases on which these targets were calculated.”

That is the exact wording of paragraph 129 of the committee's report, which the committee agreed unanimously.

What would have happened had the WIC applied the correct ratio? The Cuthberts argue that, instead of revenue being raised by £150 million, there would have been a cut in Scottish Water's annual revenue of £286 million. Therefore, the error's magnitude, according to the Cuthberts' analysis at least, is £400 million a year. I appreciate that that general point is complicated, but I have tried to put it as simply as possible. The committee agreed that the water industry commissioner compared apples with pears and that that was wrong.

If that error had serious financial consequences—I challenge anyone to differ on that point—why, in responding to that serious criticism of the WIC's methodology, do you simply say that it is for the water industry commissioner to answer? First, if the error had the consequence of a price tag of £400 million a year—or even £300 million or £200 million a year—how could the Scottish Executive, in exercising its scrutiny role, not detect an error of that magnitude? Secondly, what will be done about that in future?

The Convener: Perhaps we could have shorter questions in future.

Ross Finnie: There were two questions. I think that Fergus Ewing's opening question is related.

The ratio that is brought out in the accounts is absolutely factual. I am not attempting to dispute that. Clearly, there is an issue when borrowing is available to a company and a stream of revenue income comes in week by week and month by month, and there is a serious slippage in the company's financial capital spend. Unless the company does something differently—you may be suggesting that Scottish Water should have done so; perhaps it should have, but it is too late now—it inevitably uses up the revenue that is available on a monthly basis and does not draw down its borrowing. Therefore, it ends up with a figure at the end of the year in which it is way behind in its capital spend. The net consequence of that is that the company has used up the revenue and not the borrowing.

11:15

It is my hope and expectation that getting to the £40 million a month run rate will have

consequences for Scottish Water's spend rate—the two are not exactly the same, because of timing differences. I think and hope that it is highly unlikely that the ratio will be repeated. That is the ratio that is brought out in the accounts, but it is not the ratio that will occur if Scottish Water's build rate, run rate and spend rate are in the region of £40 million a month.

I turn to the error in the methodology and the committee's view of the comparison. In the first instance, it is for the commissioner to respond. If we intend to do the work in house, we do the work in house. The committee took the view that the comparison needs to be clarified, and it is very proper that the commissioner should clarify it. If he agrees with your proposition, I will be very interested in the matter. However, it is proper that when a committee queries methodology that has been adopted by the commissioner, he should be the one to respond to that query, rather than I. We are still awaiting a response, so I do not know what the financial consequences of the issue are.

Andrew Scott (Scottish Executive Environment and Rural Affairs Department): I understand that the commissioner wrote to the committee recently clarifying his position.

Ross Finnie: I have not seen that letter. If members have not seen it either, we are at a bit of a loss. I apologise for that, convener.

Fergus Ewing: Water rate payers are paying 95 per cent of the total costs. It seems that the balance between what is borrowed and what is funded by water rate payers is wrong. You have admitted that there has been slippage under investment and that the capital investment achieved has been hugely disappointing. However, the upshot is that year after year water rate payers are paying far more than was planned and anticipated. When there is substantial EYF, it is not returned to the water rate payer. That is a general statement with which you may disagree in part or in whole. However, if we set that aside, it is undeniable that the committee has identified an error by the water industry commissioner.

You have said today that it is for the WIC to say whether he has made a mistake. Surely, before the WIC was reappointed it should have been ascertained whether he had made a serious error that goes to the root of determining how much funding is borrowed and how much is provided by water rate payers. The failure to come to a view on whether the WIC has made a mistake, as the committee has concluded, is serious. That issue should have been considered before the WIC was reappointed—not to mention the fact that the WIC has overspent his office budget by £140,000. It is extremely ironic that you should have reappointed a regulator who cannot properly run his office, never mind the water industry. Given the huge

numbers that are involved elsewhere, that could be described as a sideshow. Before reappointing the WIC, why did you not check this matter and satisfy yourself as to whether we are right or the WIC is right? That is the issue of principle.

Ross Finnie: I am not entirely sure that Fergus Ewing and I are addressing the same point. In the first part of his question, he seemed to merge two aspects of the total financial consequences of the way in which Scottish Water's finances were run. The member believes—no doubt sincerely—in the conclusions of the minority report concerning the way in which the calculations are made. I understand that.

Fergus Ewing: I am referring not to the minority report, but to paragraph 129 of the committee's report.

Ross Finnie: Yes, I understand that. However, the total financial consequences that you have drawn seem to me to meld two issues, one of which is the total costs of running Scottish Water. That cannot be seen over a number of years.

The fundamental question relates to the timing differences of the spend. At that point, there is an issue about whether a company should continue to draw down its borrowings. I am not quite sure how we do it, but I do not want a repeat of the backlog of capital expenditure.

As far as EYF is concerned, it is being maintained because it will be made available to Scottish Water. We hope that the timing differences will be eliminated over the medium to longer term and that Scottish Water will be able to access the money that is required for its major capital investment programme. I agree that, because Scottish Water did not draw down borrowing and was behind in its capital spending, the figures that came out at the end of the year to which you refer gave rise to the conclusions that you have drawn. However, as I have said, I do not think that that will be the case over the next two years because Scottish Water must invest at a rate that will deliver a £40 million a month run rate.

The Convener: I want to pick up on a couple of points that the minister has just made. Although Scottish Water is behind in its capital investment programme, it is not that far behind. The real issue that emerges from the underuse of borrowing is faulty projections about operational efficiencies. Might the WIC have miscalculated the efficiencies that could be achieved and the interest aspects that have driven down borrowing from an expected £240 million to about £42 million?

Ross Finnie: I suppose that Scottish Water has proved to be relatively more efficient than the WIC or anyone else gave it credit for. It is up to the WIC to answer that question. However, he based his estimate of the level of efficiencies that Scottish

Water might have achieved on the track record that was available when he was preparing the reports in question. Things move on, and the WIC will have to acknowledge the very real improvements that have been made within Scottish Water. As I have said, when the WIC was setting most of the targets, all that he had available was evidence about the operations of the three previous authorities.

Although I agree that that causes difficulties about how the industry should be run, I am bound to say that the targets that the WIC set demanded more of the three water authorities than they were prepared to demand of themselves. As a result, we are caught bit between the devil and the deep blue sea. Although the WIC's initial reports set targets that were much higher than those that the three individual authorities were prepared to buy into, Scottish Water itself delivered a better result than the WIC had expected. It seems to me that those efficiencies will prove in the long term to be in the best interests of Scottish Water customers.

Ms Alexander: I want to discuss Scottish Water Solutions, which the minister mentioned in his remarks. Minister, you will have seen from our report that the committee shares your disappointment at the speed with which the company was established. Nevertheless, it is now under way, and we are past the 50 per cent mark in the four-year capital programme that will be delivered between 2002 and 2006. In its first two years of operation—that is, in 2002-03 and 2003-04—what was the forecast investment for and actual investment in Scottish Water Solutions? In fairness, I think that that question is for the officials, although my follow-up question will be for the minister.

Andrew Scott: As Scottish Water Solutions did not exist in 2002-03, there was no forecast investment for it.

I cannot recall the amount of investment that was initially predicted for 2003-04, but I will write to you on that matter. The amount was subject to various revisions because of the process by which Scottish Water Solutions was established; that took longer than we thought it would take, so people's expectations of what it might have delivered in 2003-04 reduced over time.

Ms Alexander: Do we know what it delivered at the close of the financial year 2003-04, which was its first year of operation?

Andrew Scott: I am afraid that I do not have that figure to hand.

Ross Finnie: We will have to write to you about that.

Ms Alexander: You mentioned fiduciary duty, and I concur absolutely with what you said. I refer you to paragraph 5 of the Executive's response. We expressed concern about whether Scottish Water Solutions will meet its ambitious targets because the partnering agreement is a first in the UK water industry. In paragraph 5, you conclude:

"We should allow both Scottish Water and Scottish Water Solutions the four year period before making any assessment on their performance."

You might want to revisit that sentence, which strikes me as being extraordinary. There is annual reporting in the commercial sector and, more frequently, there are quarterly results that reveal figures such as that which I have just asked for. How far behind are we? I am not even asking for quarterly results; I am saying simply that this is a British first. The company did not even get set up in year 1 and it underperformed in year 2. Are we going to leave it for four years before we assess its performance? I am sure that that was not your intention.

Ross Finnie: I was thinking more of the expenditure period in relation to reviewing whether it should be done differently. We are very demanding in respect of performance assessment. I am due a response from the board about how the arrangements are proceeding and I will get clear assurances on the run rate and on the commitments. The response will address the problems that I mentioned in my opening answer to the convener about trying to have other projects in a better state of readiness, and the need for a much clearer view of the abilities of Scottish Water Solutions as it is constructed at present in its partnership with Scottish Water.

It may be that there will have to be refinements because of the delay in discovering that the massive programme could not have been delivered due to the way in which it was being managed. If there are to be fundamental changes, we might have to part company, but I was hinting that we might have to adjust the balance of skills and expertise. I was taken aback by the genuine view of the board of directors that it had taken on a job for which it did not have the capacity to deliver. That vexes the board members very much, and I am pleased that they feel that way. They think that there might have to be adjustments. However, there is a contractual relationship and if it is fundamentally not working, the failure of specific performance will apply.

Ms Alexander: I add one final observation. We all know that one of the main reasons why water was retained in the public sector in Scotland is that that would, notionally, give greater accountability. Irrespective of Scottish Water's performance, the minimum that the Scottish public deserve is transparency. The reporting requirements for

Scottish Water Solutions should at least mirror the requirements that we find in the much-derided private sector, which would include—as a minimum—speedy annual public reporting of forecast and actual investment requirements. The Executive has an obligation to enforce that at an early stage because in the past two years there has been less transparency than corporate governance demands in the commercial sector. It is clear that that was not anybody's intention when we embarked on the project, especially as there is no alternative provider of such services for most of the poor housing associations and developers out there.

Ross Finnie: I certainly agree with that. There is no question about it. On the point about corporate governance and the financial arrangements of Scottish Water, the financial memorandum to the Water Services etc (Scotland) Bill makes it absolutely clear that the company must meet the same requirements as the private sector. We will bear down on the company on the matter: no doubt you will, too. It is a major company—by turnover, it is the fifth largest operation in Scotland. It has huge public and non-public interests, so we must do that.

11:30

John Swinburne: I have read the minister's report to Des McNulty and the Executive's response to the recommendations of the Finance Committee. I am, to be frank, appalled at the cavalier manner in which the minister dismisses one quarter of the Scottish population. 1,250,000 pensioners live in Scotland and water charges have disadvantaged them. The increase in charges for a pensioner household is 5.1 per cent, but the pension went up only by marginally more than 2 per cent. Small businesses' water charges increased by 2 per cent, so you are looking after their interests. What about the quarter of the Scottish population whom you coldly ignore? You are very good at setting up quangos and if you do not watch what you are doing, Scottish Water will go down the same road as the national health service, in which there are too many chiefs and not enough Indians. There will be water rates that pensioners will be unable to pay. I could never append my name to your document when there are so many disadvantaged people in Scotland of whom there is no mention in any of your responses, which is despicable. Do you agree with that?

Ross Finnie: No I do not. The document does not mention any specific group. The committee did not ask me that question and I do not think that that was what the committee was focusing on.

On the setting up of quangos, I say with all due respect that I have reduced the number of water companies from three to one and although I do not

dispute that there has been considerable disquiet about the increase in charges, the fact is that those charges would have been 10, 12 or 15 per cent higher if we had not created Scottish Water. The previous companies would not have achieved any of the savings that have been achieved; the reports of the water industry commissioner confirm that.

On pensioners, there is no doubt that sections of the pensioner community have financial difficulties and we have to consider that as a separate exercise. I do not see that as being an integral part of running Scottish Water, but it is an integral part of the Scottish Executive's and the UK Government's responses to dealing with people in low-income brackets. However, in terms of the day-to-day running of Scottish Water, we can deal with an industry that is increasingly competitive and has a huge burden of regulations on water quality and sewage disposal only by its being run by people who have genuine business expertise and who can deliver what we are looking for.

Dr Murray: There are in Dumfries and Galloway 49 waste water treatment works at full capacity and another 35 works that are nearing capacity. You can probably, therefore, understand that there is a great deal of frustration when we see that Scottish Water and Scottish Water Solutions have not been able to use the borrowing consent that is available to them. I have been lobbied for additional borrowing consent, but I do not see much point in that if you are not spending what is available to you.

I concur with Wendy Alexander's suggestion that the performance of those organisations and their investment programmes need to be monitored. Customers and businesses whose water rates have gone up might resent that less if they felt that there was going to be investment and that some of the problems were being faced. Dumfries and Galloway is not unique; I know that there are similar situations throughout the Scottish Borders and in parts of the Lothians. It is a major issue throughout Scotland and it must be addressed.

I suppose I should ask a question instead of delivering a diatribe. You say that quality and standards will be the subject of public consultation and will seek to identify Scottish Water's investment priorities. Will you also consult on the total level of required investment? I am reassured when you say that Scottish Water is not using its EYF this year; it was handed over to the health service to help with waiting lists, but the promise was given that Scottish Water would get the money in future years. It looks as though Scottish Water will not need it this year, but you say that that money will still be available in future years.

Once Scottish Water Solutions is up and running properly, how much consultation will there be on

future levels of investment to tackle the serious infrastructure problems that face Scotland plc, and which were identified partly by the Institution of Civil Engineers? Will you also consult on the likely levels of investment over the period and on what the priorities should be?

Ross Finnie: Indeed. I do not think that you meant to do so, but you suggested that borrowing constraint was the issue. However, it has never been the issue; the issue has been the company's physical capacity to deliver.

The issue is interesting, because it focuses our minds on how we as the Executive, you as a committee and the public generally will respond to the consultation exercise that I am about to launch. If you go back and read some of the documentation that brought together the programme for the £1.8 billion spend between 2002 and 2006, you will be staggered to find—no matter whose evidence you look at—that no overwhelming body of evidence suggested that there were going to be major development constraints. That is frightening. Back in 1999-2000 we did not even say, "These are our priorities, but that is not."

The forthcoming consultation will be comprehensive. Indeed, the Executive, in conjunction with Scottish Water, has already done preliminary work to ensure that when we consult, everybody will be aware that they will have their own priorities; we must ensure that we get all those priorities on the table and that the public understand how much—in a perfect world—people would wish to spend on water.

We will then go back to the difficulties. At the end of the day, the Executive will face the difficulty of making choices. We will still be faced with the imperative to meet drinking water quality regulatory standards. We will still be faced with the need to meet ever-higher bathing water standards. If proposals on bathing water standards are approved, I will be at the environment council in Luxembourg next Monday. We will have flood water schemes that are linked to sewage infrastructure, then we will have development constraints. You can box those around in any order you like, but they will have to go on the deck.

As part of the consultation, we will examine the Office of Water Services model in respect of new-build constraints in order to establish whether we should change the ground rules so that developers pay a greater proportion of the costs. That would require adjustments to what developers pay for land, which would reflect the cost of infrastructure. There is an issue and a debate to be had around that.

In terms of the central question, Scottish Water Solutions exists only to deliver answers. Scottish

Water, the Scottish Parliament and the public consultation will decide the priorities, but we will be constrained by regulatory requirements.

Dr Murray: I did not intend to imply that borrowing consent is the problem. It was not news that borrowing consent was not needed because of capacity issues and because of not being able to get the work under way, as you said. Who does the work? One part of the equation is about what is needed, but the other part is about what is possible in terms of capacity. Obviously, what could be delivered was miscalculated in the past. Who is responsible for assessing what is possible?

Ross Finnie: The Scottish Water Solutions partnership is an attempt to bring more expertise to the construction planning process and civil engineering delivery of those projects, because we and the public will undoubtedly produce wish lists. There are other constraints that are being examined closely.

You will be aware that in purely statistical terms—although it has never quite worked out this way—delivering the £1.8 billion programme, which amounts to a run rate of £41 million a month, will account for 50 per cent of the civil engineering contracts that are placed in Scotland. There are serious constraints, I suppose, in terms of the fiscal ability in the whole of Scotland to engage. I was going to use a terrible metaphor and say that we cannot just turn on a tap of capital projects; however, my mental processes got slightly ahead of me and stopped that.

There are big issues. We all sit on other committees and in Parliament and we know that there are other capital commitments—the private sector has its own capital commitments. To have a single industry contributing that proportion of the civil engineering requirement in Scotland is significant. It might also be an issue of constraint in terms of what the industry can physically manage to build and the cost of that.

Jim Mather: Going back to the free-cash ratio error that the water industry commissioner made in both his strategic review and the evidence that he gave to the committee on 2 December, I am interested to know how the Scottish Executive did not, in exercising scrutiny, detect that error—the magnitude of which was described by Fergus Ewing—particularly given that Cuthbert pointed out, immediately after the WIC gave oral evidence, that his evidence was inconsistent with the published information on the net borrowing of the English water and sewage companies. How can a mistake of that size in the water industry commissioner's logic be uncovered without its having any apparent effect on the recommended revenue caps and charges that are emerging from the strategic review?

Ross Finnie: Let us be clear. Are you talking about the allegation of the Cuthberts' error?

Jim Mather: No, I am talking about the free-cash ratio error as enunciated by the water industry commissioner when he attended the committee on 2 December. He said:

"We were trying to bring cash-flow cover of interest payments to a ratio of 1. To put that in perspective, in the past five years only two companies in the industry—in one year each—have had cash-flow cover of less than 1."—*[Official Report, Finance Committee, 2 December 2003; c 668.]*

That was subsequently proven to be an apples-with-pears comparison in that the Scottish free-cash ratio included capital expenditure, but the English one did not. That was the subject of Fergus Ewing's earlier question about what would have happened to achieve that ratio that would have meant not a raising of charges by £150 million but a reduction by £286 million.

Ross Finnie: Could you help me with the question, Jim? I would like to give a more intelligent response to it. There is some confusion. You are not talking about the Cuthberts' error on the borrowing, are you?

Jim Mather: No, I am talking about what the water industry commissioner said. When the water industry commissioner gave lengthy evidence to the committee on 2 December, that was what he opened up with. It was his defence—his fig leaf. It was the argument that he put forward for the charges' being as they are.

Ross Finnie: Could you point me to that evidence?

The Convener: Jim Mather is referring to paragraph 129 in the Finance Committee's report. It is the precursor to the committee's conclusion about broad financial ratio analysis. I am not sure how the question that Jim Mather is asking differs from the question that Fergus Ewing asked.

Jim Mather: I am, in fact, looking for an answer to the question that Fergus Ewing asked. Why did not the Scottish Executive spot an error of that magnitude and how could such an error—which has huge implications for the revenue of Scottish Water—not have an implication for the revenue caps and charges?

The Convener: For clarification, it might be worth separating out the issues. The committee's comments were about the mechanism of the analysis that was used—as Jim Mather has said, the apples-and-pears aspect of the comparison that was used. However, I am not sure that that was necessarily the basis for the financial profile, as Jim is trying to suggest in the context of talking about errors.

11:45

Ross Finnie: I am obliged to you, convener. I was in slight difficulty because I had a note from my colleagues on a slightly different matter.

The conclusion of the committee's report does not go on to make the point that Jim Mather makes, although he is entitled to his view. He draws the conclusion that there is a huge financial consequence and he asks why we did not detect something; there is no particular reason why. We do not try to second-guess Scottish Water—we have a supervisory role and we take it in good faith that people are doing their jobs. It is perfectly reasonable for the committee to ask whether the use of non-comparable bases can be misleading, which was the committee's conclusion. However, Jim Mather goes further than that and draws the conclusion that people could have had money back from their charges. I have not seen the evidence on that and the commissioner is entitled to respond first on that. Jim Mather and Fergus Ewing make the separate allegation that there must have been financial consequences if that evidence was correct, but that was not what the committee reported.

Jim Mather: My argument is a logical extension of the defence that the water industry commissioner offered us.

I will go further. You and I have private sector experience. If you had come across a situation in which a key figure—let us say a finance director—gave evidence to an annual general meeting or to internal auditors that perpetuated an error, but that director did not subsequently admit to the error once that balloon was up, what would have been that finance director's future in the organisation? How can we justify continuing the appointment of the water industry commissioner?

Ross Finnie: It is interesting that you came to a conclusion before you asked the question—you have already drawn a conclusion about the amount. However, the amount does not form part of the committee's report—it is not one of the conclusions that the committee reached. We are back into the territory of allegations. You are entitled to make allegations but, using the same source, you made another allegation about an error in the accounting basis of Scottish Water's financial statement. It was found by a majority that that was not the case and neither the Executive nor HM Treasury shares your view. To draw a conclusion about the total quantum without having an answer to the question that was properly put by the committee is, to be frank, to go a little too far.

Jim Mather: You talk about allegations and you say that the majority of committee members have not signed up to our claim, but that is something that will give them long-term discomfort. Neither I

nor the Chancellor of the Exchequer would dissent from the well-established principle of accounting prudence that, in normal circumstances, an organisation should be run so that it covers, from revenue, the amount of resources that it consumes, including current resources and the amount of capital that is used up. That translates into the principle that revenue should cover operating costs plus depreciation plus interest payments. In the strategic review of charges, the planned revenue for the period 2002-06 exceeded the total operating cost plus depreciation plus interest payments by no less than £300 million.

When you approved the revenue caps that were proposed in the strategic review, did you ask why the planned revenue was so much higher than would be required by a conventional view of prudence, with the charges to water users being potentially several hundred million pounds too high? We all knew that that was happening because we received phone calls from business users. Why did that not suggest to you that something must have gone disastrously wrong with the arithmetic in the strategic review?

The Convener: I will make a couple of points before the minister responds, one of which is about an error on my part. I received a letter from the water industry commissioner that should probably have gone to the clerks and been circulated to members—I thought that I had done that. I will circulate that information immediately after the meeting to ensure that members have the benefit of the water industry commissioner's response.

Jim Mather: What was the date of that letter?

The Convener: It was received last week. As I said, it was an error on my part not to have sent it round.

Jim Mather raised resource accounting and budgeting. The committee dealt with that and took a view on it, so I am not sure—given that the minister is here to respond to the committee's report—that it is necessarily helpful to go back over that ground. I will let the minister respond, but I want to channel the discussion.

Jim Mather: It would be deeply embarrassing for the whole Parliament if the question was left hanging in the air unanswered.

Ross Finnie: The question is not hanging in the air unanswered. It is an interesting device to take your interpretation—to which you are entitled—and claim that it is the majority position, that position having been previously addressed and the error not having been found. Paragraph 129 of the committee's report does not make that allegation. You are making a private allegation, as you are perfectly entitled to do. I will not stop you making it, but does not accord with the

committee's conclusions nor does it accord with the question that was addressed to the water industry commissioner. If you have a separate allegation, I will be happy to deal with it. However, I say with all due respect that you are trying to raise the matter as if it had been raised and adjudicated on by the committee, which found that £400 million-odd was to be handed back to Scottish Water consumers. That was not what the committee found. If you want to make that allegation, you are entitled to do so and I will answer it. However, I would like to see that calculation, as it is not contained in the committee's report.

Jim Mather: I think that I am entitled to a response—

The Convener: I will call Wendy Alexander to speak first, in the interests of clarification. I will call you to speak after that, Jim.

Ms Alexander: It is a matter for the convener to clarify. There are two issues.

The committee rejected the wider question of whether the water industry commissioner had the right to treat depreciation, and to reach views about borrowing, as he did. The questions today have focused on a much narrower issue on which there was unanimity in the committee. The WIC addressed the matter of financial ratios in answer to a question that I asked. I exonerate the minister completely from the minutiae of this, as he had other things on his mind at the time. The committee did not share the view that the water industry commissioner had no powers to act as he did; however—Jim Mather makes a fair point—we were concerned that he had not used a comparable financial ratio analysis. Although, in broad terms, such an analysis was appropriate, the WIC did not conduct his analysis on a like-for-like basis.

It has been pretty graceless that there has been no admission of that—if there had been, the issue would have gone away. In that context it is surprising that the Executive went ahead and reappointed the commissioner without an admission that the analysis was not conducted on a like-for-like basis and that an inadvertent remark had been made in the committee. You might want to clarify the two distinct issues, convener.

The Convener: You are quite right, Wendy. That has helped to clarify the two distinct issues. I was concerned that Jim Mather was going into a different area. The issue in paragraph 129 of our report is exactly as you have set out: the committee was concerned that comparisons that were being used to provide justification for the arrangements for a specific regime were being made on the basis of a different analysis.

Jim Mather: I will leave the question that I have just posed on the table and if I do not get an

answer to it today, I will take it up in writing. We are not talking here about an allegation. To call it an allegation is grotesquely discourteous to people who have worked pro bono with me and others to open the matter up. It is a hypothesis. The term "allegation" carries pejorative overtones that are totally unworthy in that the hypothesis has so far been handled only by assertion. My concern is that, if that remains the case, then the committee, the Environment and Rural Affairs Department and the Parliament will be embarrassed when the Auditor General takes a look at the figures and agrees with the hypothesis.

Ross Finnie: I think that we have managed to exchange pejoratives. That is not your fault, convener. The question that Wendy Alexander posed, which is set out in paragraph 129 of the committee's report, leads logically to Jim Mather's question, which would have less or more force or effect depending on the answer to the question in paragraph 129.

Fergus Ewing: Logically, this point falls to be clarified, following the contributions of Jim Mather and Wendy Alexander. There are two main criticisms here. First, resource accounting and budgeting has been misapplied. There was no agreement on that in the committee. Secondly, there was agreement in the committee on the interest cover ratio. The WIC made a mistake, as is set out in paragraph 129 of the committee's report. I have read from that report. Wendy Alexander has, I think, concurred, as has the convener.

It has emerged from this morning's meeting, and from what Mr Andrew Scott has said, that the committee has received a letter from the WIC. I did not know that. I asked the convener if that was the case, and he said yes. The convener has graciously said that he has not yet had the opportunity to pass on that letter to the committee, which I entirely accept. He tells me that, in that letter, the WIC denies that he has made any mistake regarding the interest cover ratio. We will want to study the text of that letter. I do not expect the minister to provide an answer to this question this morning, but it is a matter on which the committee has expressed a unanimous view: the WIC erred. The consequence of his error determined his approach to prudent levels of borrowing. If the WIC was wrong, that has serious consequences, although we might disagree about whether the extra revenue is £400 million a year or another amount. Will the minister come back to the committee to let us know whether he agrees with the committee on the interest cover ratio, or with the WIC? Whatever the minister's answer, what consequences will there be for the future arrangements for setting the appropriate level of borrowing?

The Convener: I cannot remember the exact terms of the WIC's letter. I do not have its details in my head. We need to be clear about the extent to which the interest cover ratio was the basis on which decisions were made. That is not clear at the moment. A comparative analysis was produced, and the WIC may not have given it the weight that Fergus Ewing is implying that it should have been given. There is an issue there.

Ms Alexander: I have a final point to leave with the minister. I will try to deal with the reason why confusion has arisen over the calculations and with the lack of transparency. The reason for having water services in the public sector is, nominally, because that offers greater accountability. The exercise that has been undertaken shows an absence of transparency around financial reporting and an absence of accessibility to members of the committee.

It would be unthinkable for a public water company's accounts for the past year to be in front of us now, with details of how much of its capital investment programme had taken place. As the minister will know better than anyone, there are very clear bases for establishing ratios, including—when it comes to financial reports—reading the notes. All that will become possible if there is transparent financial reporting, which has not so far characterised the public corporation of Scottish Water. The minister has given us a clear indication that he will put in place a regime of transparency around financial reporting that will be sufficient to prevent the difficulties that have been experienced arising again.

Ross Finnie: I am grateful to Wendy Alexander for that contribution. The fundamental issue was the prospect of making a misleading comparison. The committee formed a clear view about that, in particular with regard to the use of the financial ratio analysis. We will simply have to come back to the committee on the matter—Fergus Ewing has invited me to do so. I am not sure how we will handle it. I could have a discussion with my officials and with the clerk to the committee as to the most satisfactory way of doing that. The WIC's opening sentence in response to the point in the committee's report includes the words:

"I would agree that I should have been clearer about the basis of calculation".

It might be that the commissioner has reflected on his answer. There are three and a half pages in response to that single point.

I accept that I must come to a view on the matter as well, Fergus. However, before we start to extrapolate forward as to the consequences of the application of the ratio in that instance, particularly given the fact that the committee was uncomfortable—to say the least—on the issue, the

committee should have the benefit of the commissioner's response to its deeply-felt concern about how the ratios were applied.

The Convener: The matter should be dealt with in that way.

12:00

Mr Brocklebank: I could not agree more with Wendy Alexander's analysis of the situation. We are talking about what I think is the fifth biggest industry in Scotland. Scottish Water should be examined at least as carefully as a private company would be. I think that that is something on which we all would agree. Certainly, coming from my political position, it is something in which I believe.

I welcome your pledge of more transparency, minister. I neither agree nor disagree with the tone of the comments that have been made about the WIC and his performance. However, in the interest of transparency, would you share your thoughts on how you came to the decision to extend the WIC's term of appointment? I am thinking in particular of your comments about the cost of the WIC's office and so on. Will you spell out for the committee why you felt that "on balance"—for those are the words that you used—the WIC's contract should be extended?

Ross Finnie: Yes. In operating as a stand-alone commissioner, the present WIC has made a contribution in terms of his analysis of the industry as a whole. With all due respect, as none of us was elected when the general public happily thought that the three public water companies were doing very well, we thought that there were no real problems and that the three companies should be allowed to continue as they were. Without the rigorous analysis that the WIC brought to bear on the issue, no serious question marks would have been raised about the companies' performances in a regulatory sense or their performance in a financial or any other sense.

The WIC's analysis provided a benchmark for the proposition of bringing the three companies together. The pressure with which he has borne down on the water industry has been hugely beneficial. However, it is unfortunate that, coincidental with that pressure, the water industry found that the state of play in the three companies was poorer than had been envisaged. The decision was made on balance. Although there are issues about how the present WIC communicates and deals with things, they do not relate to his performance as a stand-alone regulator.

The reason that I was able to respond so swiftly to the committee's helpful and constructive recommendation in this respect was that I had it already in mind. Having seen how things have

worked out over the past few years, I thought that it would be better if we were talking not about an individual and a clash of personalities, but about putting the singular position and view of the industry against quite a powerful board.

The question remains whether the person under discussion has demonstrated an ability to understand the industry and its operation and whether he has borne down on the inefficiencies within it. On balance, one would have to conclude that he has done so. However, the appointment procedures to the new commission mean that the WIC's full appointment as chief executive of the new commission will require the approval of the chairman of the new commission, when they are appointed. In broad terms, that is how I reached my conclusion.

Mr Brocklebank: Will the extra tenure of the WIC last at least until such time as the decision is made on who the new chief executive of the commission should be?

Ross Finnie: Indeed. I do not want it to be a long period of time. I share entirely the committee's conclusion that the office of a water industry commissioner would hugely improve the process. I am anxious that we should proceed as quickly as possible on the issue.

Jeremy Purvis: Just for the record, I am not sure whether Jim Mather was referring to the Cuthberts when he mentioned people who have worked pro bono with him and others. I was the other reporter on the inquiry and I treated them in the same way as all the other witnesses, having received questions, speaking notes or anything else that I might choose to use in meetings.

As a reporter, I am grateful for the Executive's full and extremely progressive response to the committee's report. On capital spending, we heard throughout the inquiry about individual circumstances, such as those of registered social landlords or companies that wish to invest, and about the development constraints that exist. My question is about an inherent difficulty that might become evident in the roll-out. You mentioned practical considerations in relation to the capital programme and paragraph 8.1 of your written submission mentions that the Executive, the commissioner, Scottish Environmental Protection Agency and others are working to identify the priorities. Is there not a potential difficulty with SWS being the delivery arm? If SWS has efficiency targets under the private sector model, will it not seek the efficiencies that are easiest and quickest? If it does so, it might perform well, but the investment that we seek for the benefit of Scotland's economy or local areas might not match with the priorities of what is, in effect, a commercial enterprise.

Ross Finnie: I do not think that that is the case. We have to get the structure clear. Scottish Water Solutions will be there to deliver as efficiently as it possibly can, but it will be there to deliver a programme that has been agreed by Scottish Water and approved by the minister after the consultation process. Decisions about what goes into the programme are not in the hands of Scottish Water Solutions, which is there to deliver the efficiency. After the consultation process, we will have a pile of requests from everybody and it will be for us to determine the priorities. It will not be for Scottish Water Solutions to say, "Actually, we would rather take projects 1, 152 and 166 because they are easier for us to do." That is not how the process will work and that it is not how it is laid down either statutorily or in the regulations.

Jeremy Purvis: I appreciate that clarification. It might be my lack of understanding, but if the investment round takes place over a four-year period, there will obviously be priority areas for local communities, the economy or individual businesses. Will SWS be instructed to programme its work on that basis? I will outline one fear: that the implementation of work in some investment areas over the four-year programme has higher priority than others. That would be a concern in relation to building constraints for a particular local plan that has approval and is waiting to go, whereas other capital programmes might not have the same level of urgency.

Ross Finnie: As far as possible, that will be the second, or probably the final, stage. If, having agreed the priority issues for a four-year programme, we ask about the timing of the building programme, we get into a delicate issue. I agree that we do not want those decisions to be made on the basis of what is easy—perhaps we can agree on that. I am somewhat reluctant to be over-prescriptive because we might get into the difficulty of marshalling a number of programmes so that we actually get them delivered. I would not want suddenly to find that without all the information about civil engineering, planning and other conditions we are trying to second-guess people who are better qualified to deliver the programmes. I take your point, but I assure you that it is we, not Scottish Water Solutions, who will decide the balance of the programme. As I said to Elaine Murray, the consultation will have to involve serious consideration about what we do with new development constraints and whether we switch how they are financially structured.

Jeremy Purvis: I imagine that the work that is being carried out with local authorities and others, which we heard about during the inquiry, has led to a substantial list of identified areas of constraint and potential, which could give a much larger figure than what is affordable or what it would be prudent to borrow. Within the weighting or

consideration of the capital programme, will consideration be given to the Executive's stated priority of economic development? In the first period, the quality of water was the main consideration—that obviously continues as the number 1 priority for you as environment minister—but where will the consideration of the economy come in decisions about the capital programme?

Ross Finnie: That debate will emerge. The economic development case is important. You are right that, although we are about to embark on consultation, we have a fair idea about the range of issues that local authorities will want to put on the table—one does not have to be Einstein to work that out. People with other perspectives will be concerned about capital development issues, which will also have to come on to the table. Alongside those, we will still be required to meet the drinking-water quality and discharge regulations. Of course, given that the Parliament approved the Water Environment and Water Services (Scotland) Act 2003, we will also have water-quality constraints across river beds. All those issues will have to be addressed.

In the middle of that debate, we will have to look within Scotland and at England and Wales and other European comparators to see what we can do about new build. If, to breach the economic restraints, we change to a regime whereby the vast proportion of the development costs are borne by the developer, that would have to be known in advance so that when developers acquire land, they pay a price for it that reflects the potential development cost. I have spoken to one or two developers and, in principle, they do not have a difficulty with that. We would have to be clear and open about the fact that we were considering such a regime. It is possible that such a regime might be a way of getting over the substantial economic constraints and at the same time allowing the Scottish Executive and the Scottish community to pursue improved quality of drinking water and improved sewage discharge. That is the equation. I want much greater openness and transparency in the process, much greater understanding by the Parliament and an improved ability of the Parliament to represent the community, which includes the 1.25 million people whom John Swinburne mentioned.

The Convener: I remind the minister that, on 8 January, in response to a supplementary question from me, he said that he had

"asked Scottish Water to reassess completely the provision for underinvestment and development constraints."—
[Official Report, 8 January 2004; c 4668.]

Where are we on that?

Ross Finnie: That was a horrific thing to do to Scottish Water, because it revealed that 80 or 90

per cent of the issues had apparently not been assessed. In parts of Scotland, Scottish Water has had serious discussions with the regulators—either in planning authorities or the Scottish Environment Protection Agency or elsewhere—who imposed standards that could not be met without a complete rebuild. Some of the constraints have been eased, but the figure that emerges is frightening and cannot be met. Of the £1.8 billion for investment, a lot of the new connections will assist, but only to the extent of about £200 million or £300 million of development constraints. Scottish Water simply does not have enough in its budget. That is the stark reality. Those priorities were determined by regulatory requirements. It is very difficult to say to Scottish Water that it should not be meeting the requirements of the drinking water quality regulator or the requirements on sewage discharge. That is a huge problem for Scottish Water.

12:15

Jim Mather: Jeremy Purvis was kind enough to restate the pro bono work that the Cuthberts have done. In the main, that work has consisted of published papers, evidence to the Finance Committee, letters to the press and articles in newspapers, among which is an article in today's *The Scotsman* that is entitled, "How Labour created a new tax out of Scotland's water". I suspect that Labour was put in the frame because the phrase "Scottish Executive" was too big to fit in the space. They argue convincingly that mistakes were made in the application of RAB and in the calculation of the interest cover ratio. Those mistakes meant that the amount of borrowing that was available to the water industry under the strategic review was significantly less than had been indicated by the borrowing figures that the Executive published.

The major argument that was advanced against the Cuthberts' hypothesis in the Finance Committee's majority report depends on the existence of an extra £200 million in borrowing provision, which it appears was discovered by the committee's adviser, Professor Midwinter. Even if that extra borrowing provision had existed, it could not have been used within the RAB limit. There is another problem with the £200 million: it appears that there is no written record of it and that the water industry was not notified of its existence. Can the minister confirm whether the £200 million that Professor Midwinter discovered was referred to in any contemporaneous internal or external document that the Executive produced? Was the water industry ever notified of the existence of the £200 million, and if so, when, or was that figure entirely spurious?

Ross Finnie: The borrowing that is available to Scottish Water has always been within the limits that are approved by the Parliament. Therefore, that figure was in the public domain. Before the creation of Scottish Water, the Executive made it clear to the water industry commissioner that we had separate concerns that the merger of the three water companies might result in over-runs, under-runs or additional or unforeseen expenditure. As part of the process of setting up the strategic review of charges, we indicated that we would make available the £200 million separately, but within the limits that were set out. To us, that seemed to be a perfectly prudent thing to do. The water industry commissioner had a slightly different view on when he thought that all the efficiencies that he had calculated would arise from the merger would kick in.

Jim Mather has mentioned putting finance directors under scrutiny. When I was in the private sector, very few mergers that I observed went to plan, so it seemed prudent to set aside the £200 million. The two amounts were quite separate, but they did not appear from nowhere—they related to the levels that were suggested in the strategic review of charges.

Jim Mather: How do you explain the fact that we have a letter from your department that says that none of the stakeholders was ever formally notified of the £200 million?

Ross Finnie: I think that the question was about whether stakeholders were ever notified of that £200 million separately. It was part of the overall figure. It was greater than the total amount of borrowing. The stakeholders knew what headroom they had when we notified them of the total amount of borrowing. They might have had to make a deduction, or to draw one figure from another. We did not make that available separately; it was to be part of their overall access to Government funding.

Jim Mather: Given how things have panned out and the fact that, even in 2003-04, 89.7 per cent of the capital expenditure is being funded out of revenue, has it never crossed your mind to recast the charging regime, to put in place rebates and to stop penalising the current generation of water users?

Ross Finnie: That is not the issue. Essentially, we are talking about timing differences. The moneys will be required for Scottish Water's capital expenditure programme. The essential problem is that Scottish Water has had difficulties in getting the appropriate capital programme up and running. It would not have been a sensible arrangement to have taken away those moneys and thereby put at risk the future capital programme.

Jim Mather: I am keen to reconcile two sentences that appear in paragraph 16 of the Executive's response to the committee's report. After stating that

"Scottish Water will not require in EYF any of the underspend that was generated in 2003-04",

two sentences later the minister states:

"As the committee is aware, we have an agreement for 100% End Year Flexibility (EYF) for water."

Which statement should we believe?

Ross Finnie: Both are absolutely accurate. Again, it will all be a matter of timing. Given Scottish Water's current projections, it is pretty clear that that EYF will not necessarily be required in the immediate future, but the full EYF is and will be available to Scottish Water when it requires it. The matter is one of timing. I am not cutting off those moneys, so there should never be any accusation that Scottish Water is unable to complete its capital programme as a consequence of our removing moneys from it.

Given that the timing of the expenditure is clearly going to be different, Scottish ministers collectively are entitled to use those moneys in the most effective way across the Executive's expenditure. However, that does not detract from the fact that the Minister for Finance and Public Services has undertaken to make the moneys available to Scottish Water when they are required so that the company can meet its capital expenditure.

The Convener: I want to pursue that. Let us accept the argument that the borrowing provision should be rolled over so that it continues to be available to Scottish Water. Two years into the current cycle, we are now in a position in which we have more realistic projections about what efficiencies Scottish Water will make and what its interest payments are likely to be. Is there a realistic chance that the borrowing provision that is rolled over this year will be required next year? Is that likely to be used as part of an acceleration of the capital programme next year? Is not the reality that, as the process has progressed, a significantly increased proportion of the investment is being paid for through charges than was originally projected, when a different balance between funding from borrowing and funding from revenue was anticipated?

Ross Finnie: That is certainly possible. Essentially, the issue very much hangs on what happens with the capital programme. Two swallows do not make a summer. Scottish Water and Scottish Water Solutions have reported to me that they are hitting a run rate of £41 million a month—something that they failed to do in the past. I am happy that that has been reported, but I do not take it as proof positive of anything. Like

the committee, I will want to see that level of activity being sustained. If that happens, the logical conclusion is that Scottish Water will be more likely to require a greater proportion of its borrowing requirement.

If that level of activity is not sustained, we clearly have two separate problems. One of those concerns the fact that Scottish Water will not be able to use that borrowing requirement. The other issue, as the convener has properly highlighted, concerns the balance of how that capital expenditure is funded. Crucially, we would also have the equally serious matter of being unable to deliver on the £1.8 billion programme. Going forward, that would have pretty serious consequences for the outcome of Q and S III. Some very serious issues hang on that capital delivery programme being put in place.

The Convener: There was a serious underspend on capital commitment in the first year. The situation improved slightly in the second year, but there was still a gap because the level of capital that was invested was 15 per cent below the target.

From what you said, there is an extra £205 million of borrowing headroom that could be used in the latter two years of the period, but there does not seem to be any expectation that any part of the money could be spent on, for example, dealing with development constraints or accelerating investment, or perhaps even anticipating what could come in the period 2006-10.

Ross Finnie: There are two issues there. With all due respect, no other organisation has got anywhere close to committing £41 million of expenditure a month. Acceleration might increase a little, but it is not going to increase much. After a sustained period of managing what is a much more acceptable level of capital expenditure, Scottish Water might see if it can improve on that, but around £41 million a month spent on structure on the ground would be a reasonable achievement. We need that to run for a period to be satisfied that Scottish Water can deliver the quality that we require and to see whether there are ways to increase capacity. That is one of the crucial issues that will have to be discussed during quality and standards III, because—in response to Ted Brocklebank and Jeremy Purvis—there are issues about what the constraints are in delivering a revised programme.

The Convener: In a sense, the money has been characterised as water EYF money that could be spent in the water industry in future. However, is there any possibility or likelihood that significant amounts of that money could be spent in the period 2005-06 in the water industry, based on what you know? If we cannot spend the money in that area, should we be calling it water EYF, or

should we recognise that it is EYF—it is borrowing that has not been used in the water industry, which will now be devoted, as far as we can see, to uses outside the water industry?

Ross Finnie: That is a possibility. We have been reluctant to cut off the source. We are told that the £40 million figure is the one that Scottish Water can achieve but beyond which it might have difficulty in going, so as the months go on, your proposition may turn out to be the right one. If that becomes the case, this committee, the Minister for Finance and Public Services and I will be interested in seeing how things project forward.

We want there to be greater transparency in response to questions to us and to Scottish Water, and we want the run rate to be treated differently, in terms of what is being put in on the ground. The treasury functions of managing cash flow and of managing when commitments are likely to be realised impact hugely on the level of borrowing and, looking forward, the likely level of borrowing. As you rightly said, we are getting a much better picture of that. The Minister for Finance and Public Services, parliamentary committees and I will be concerned to get a better handle on those issues, which depend crucially on the run rate.

The Convener: I want to pursue the issue one step further. There are two dimensions to this. The first is that, if borrowing is available and if the parameters of the regime under which Scottish Water operates—which you put in place and which the WIC supervises—are geared towards compliance, could some of the currently unused borrowing capacity be used over the next two years, and perhaps even be rolled forward after that period ends, to deal with development constraint issues?

Could borrowing capacity be diverted by means of a rebalancing of the regime, with money being targeted at some of the serious development constraints on businesses and local authorities in different parts of Scotland?

Ross Finnie: That would suggest that some water-type projects could be built.

The Convener: I am sure that you will find plenty of people in Scotland who would argue that such projects could exist.

Ross Finnie: I am not saying that they could not exist. Scottish Water has a bundle of projects totalling £1.8 billion.

12:30

The Convener: My argument is that those projects are largely compliance-driven projects. To pick up on Jeremy Purvis's point, there are probably other projects that have development constraints.

Ross Finnie: Your suggestion is not unhelpful, but if it were possible to build at a run rate that was higher than £40 million a month and to get rid of regulatory requirements, Scottish Water would be delighted. However, all that it has been able to do is to reach a point at which it can manage and operate a £40 million run rate. There are other constraints. If someone else could build more water infrastructure to get rid of some of the regulatory issues, I would be very pleased.

The Convener: There may be two kinds of constraint: a construction capacity constraint, which puts a limit on what we can reasonably do and means that we can build only £40 million of projects a month; and a financial and regulatory constraint, which means that, within the current framework, we can spend the £40 million a month only on things that have already been agreed. If unused borrowing is available and if the capacity exists to build additional water infrastructure and to deal with development constraints, could a change in the regime under which Scottish Water operates allow at least some of those development constraints to be addressed?

Ross Finnie: The £1.8 billion was agreed by the Executive and the Parliament for a specific purpose. The answer to your question is that that would be possible. However, you are positing that money should be spent only on dealing with development constraints and I think that there could be a serious argument about whether that would be a priority for Executive expenditure. Other people might have something to contribute to that argument.

The Convener: I agree, but £205 million has been allocated to water expenditure and, in effect, we are spending approximately only one fifth of it. If it is not physically possible to use it, the borrowing capacity should obviously be reallocated; but if it is physically possible to use it, we should be considering what constrains its use for the purpose for which it has been designated.

Ross Finnie: I was not disagreeing with the principle of what you said; I was simply saying that there might be other priorities. The nature of the expenditure would be crucial. We would have to consider whether it was different in any material way from the expenditure on construction that is in the existing programme. Our priority has to be dealing with the constraints on water quality and sewage discharge quality. There is a widespread misconception about water quality. The water is not of poor quality but, when we consider international comparisons, it needs to be a lot better.

Fergus Ewing: I agree with the convener's two classifications for constraints—one that is financial and regulatory, and one that relates to the capacity of the industry to do more work than it is being asked to do at the moment. Following a

meeting with a representative of civil engineering companies in Scotland—Mr Alan Watt—I understand that companies do not feel that they are at full capacity. Of course, many of those companies are not members of the consortium Scottish Water Solutions. Although I am no expert in this matter, it seems that there is unused capacity in the industry. Indeed, judging from the reaction of someone in the public gallery, I think that I might be right about that.

Given that we are primarily pursuing points that have arisen from our committee report, I want to pursue the issue of the £200 million. With great respect, I think that the issue, which was raised by the committee in paragraphs 94 and 95 of the report, is pretty serious. Wendy Alexander has already highlighted our concerns about transparency, but our problem was that the initial figures that we received in evidence—mostly from the WIC—indicated that there was a certain level of borrowing totalling £513.9 million. The committee sets that out in paragraph 94 of the report. However, I recall that, after we had concluded our evidence taking, we suddenly learned from our adviser in private session that—hey-presto—another £200 million was lurking around that the committee had not been told about.

As a result, the committee unanimously agreed to pursue the matter—I see the convener nodding—not just in our letter of 30 April, to which you replied in your formal response to us, but, as you know, in other correspondence. In those letters, the committee asked you to give us some more information. You have stated that the £200 million was made available following consideration in November 2001—before Scottish Water was set up—that the company might need more money. In the letter to us, it was stated that no “formal notification” was made in that respect. It does not state to whom there was a lack of “formal notification”, but we take it that it was referring to Scottish Water and the WIC.

First, was any informal notification made to Scottish Water and/or to the WIC? Secondly, as the convener asked in his letter, can we please have the documentary evidence to back up your response? By asking for that, I am not alleging any mala fides; however, I have to point out that the information did not emerge until we had completed our evidence taking. We would all have liked to have had an answer to this question before today. Personally, I would have preferred not to have spent all this time raising the point, because many other points need to be raised. I repeat: was any informal notification made that a further £200 million of borrowing was to be made available to Scottish Water and the WIC? If so, will you please supply the documentary evidence to substantiate that?

Ross Finnie: We have already said that we did not refer specifically to the £200 million. Instead, we referred to the total amount of borrowing that was being made available to Scottish Water. As I said in response to an earlier question, that total amount of borrowing was still within the limits that Parliament had approved. Furthermore, Scottish Water was aware of the amounts that the WIC was calculating.

Fergus Ewing: Why did the committee not receive that information before? Is the table set out in paragraph 94 of the committee's report wrong? I am referring specifically to the table headed

"Changing Decisions on Borrowing Provision",

which lists the WIC's provision, margin and totals. In 2002-03, that total was £199.3 million. The next line shows

"Additional Provision by Scottish Executive",

which, in 2002-03, was £60 million and, in 2003-04, which is the last complete financial year, was also £60 million. In the latter two years of the programme, the additional provision will be £40 million. That makes £200 million. If you are saying that the specific figure of £200 million was not made available, where did that figure of £200 million come from?

Ross Finnie: Under the table at paragraph 94 in the report, it says that there is a

"£610m agreed maximum for Scottish Water and £78m margin held by Scottish Executive."

If you look at the totals that we made available to Scottish Water, you will see that the margin for uncertainties and errors was £200 million. I do not think that there was any attempt by anybody to disguise anything. It was a question of advising Scottish Water of the total amounts that it could spend.

The WIC made it quite clear that he took a different view on any margins for uncertainty in relation to the mergers. We could not do anything about that if we went outwith the Parliament's stipulated level of borrowing, but we took the view that, because of uncertainties, it would be prudent for us to make an additional £200 million available to Scottish Water if the need arose. It was not a question of saying, "We want you to spend £200 million more." It was more a question of there being a prudent reserve available should that situation arise. There was no intention on our part to undermine the WIC's position by saying, "Thou shalt spend." Rather, there was a pragmatic recognition that, in those earlier years, there might be differences. We had also hoped, of course, that those differences would relate only to parts of the expenditure. We had not anticipated that there would be such an underspend in the capital

programme. That was not something that we contemplated and we had no reason to assume that one would arise.

Fergus Ewing: I take that point, but it is a slightly different point. You have stated that the £200 million was part of a larger figure, but that £200 million was the additional total that the committee adviser informed us about—a figure that had not appeared in any of the submissions from anyone, either from your department, from Scottish Water or from the WIC. In his letter to you, the convener asked whether documentary evidence could be provided. You have indicated that there was a larger figure of which the £200 million was part. Could we have sight of the relevant documentation, please? That would include the internal departmental decision plus any documentation that communicated the relevant information to Scottish Water and the WIC. If we could have that correspondence and other documentation, that might perhaps bring the issue to a close so that we could move on to consider other matters.

Ross Finnie: We shall have to discuss what further information we can provide and, if it can be provided, we shall happily provide it.

Fergus Ewing: I raised the matter because I feel that the committee was not given the full information that we should have had in the course of our inquiry. We received it only after the inquiry was over. With great respect and without inferring any malice or mala fides, I think that that is an unanswered question. It will not go away and it is obviously a question that I shall invite the Auditor General to look at if the committee cannot get the information that most of us felt that we should have had, and could have had, at the beginning of the inquiry rather than at the end.

The Convener: The minister has indicated that he will go away and have a look at the various bits of information. We have had a reasonably good crack at the issue, so unless there are any outstanding questions, we shall move on.

Jim Mather: Some questions that I raised earlier are outstanding in that they have not been answered. I take it that I shall get a written response at some subsequent point.

Ross Finnie: I shall look at the *Official Report*. Your questions related to two separate issues. Some of them related to the unfortunate matter of our not starting today from the position that the water industry commissioner had outlined. I shall look at that matter and correspond with you and with the convener on that. There may be a need for us all to reflect on what the water industry commissioner says and to consider the consequences of that, and for the committee then to pursue the questions that members have

raised, which might or might not be informed by that response.

Jim Mather: That sounds reasonable.

The Convener: It might be helpful to channel that through the clerks, so that we can conduct a proper correspondence.

12:45

Fergus Ewing: And now for something completely different, minister. Paragraph 2 of your letter states that, as part of the general response to the issues that have been raised by the committee and others, a Water Services etc (Scotland) Bill has been introduced and paragraph 17 of annex B says that the bill

“will enable third parties under licence to provide retail services to non-household premises”.

Put simply, that means allowing English water companies to bid for business customers in Scotland. My concern about that is twofold. Because Scottish Water has debts of between £2.1 billion and £2.7 billion and the English water companies do not—because their debts were written off at the time of privatisation and no comparable provision was made for Scottish Water’s predecessors—Scottish Water has one hand tied behind its back in respect of competition for that business.

My second concern can be illustrated with an example. I have read that BP has considered getting a different supplier for Grangemouth because it wants to secure a cheaper service. Do you agree that, because Scottish Water is at a disadvantage to its likely competitors, there is a danger that—even with the Competition Commission providing a regulatory regime, which I do not think makes a jot of difference to the substance of my point—we will open the door for an exodus of business customers if the provision goes through? As John Swinburne said earlier, that would mean that the burden would pass to the domestic customers—including the senior citizens whom he was sent to represent—who would face the possibility of even higher domestic charges because Scottish Water’s business customer income would be leaking massively.

Ross Finnie: I never cease to admire Fergus Ewing’s ability to conclude a reasonable question with a line of gloom, doom and despair that can have been reached only because he has not thought about what the answer to his question might be.

We are responding proactively to the competition legislation and are invoking the provisions of that legislation to enable us to regulate a public service in a way that places quite severe limitations on the extent to which

competition can take place. People will have to be licensed, which means that there will not be an entirely open door. There will be regulation. The licensing regime will ensure that people cannot simply cherry pick certain consumers because it is important that other industrial consumers and domestic consumers are not left to pick up the tab. That is why we want to have a licensing regime and will invoke the conditions that are provided in the competition legislation. If people are licensed to use the common carriage, they will have to pay an appropriate price. They will not be allowed simply to tap into the infrastructure and bleed it financially. The fundamental purpose of the bill is to place a severe constraint on free and open competition for the very reasons that Fergus Ewing outlined. However, the consequences that he saw as flowing from the bill are actually the possibilities that the bill seeks to avoid.

The issue of large industrial users does not relate only to Scottish Water. In relation to some users, there is an issue to do with whether they always need to have water supplied to them that has been through an expensive purification process. That is an issue throughout the United Kingdom and many articles on it have appeared in journals and the press. Scottish Water is fully aware of the issue and is in close contact with BP on a range of issues relating to its supply.

The Water Services etc (Scotland) Bill is designed to license and control competition, as we are allowed to do under the competition provisions, in order to prevent the situation from turning into a bit of a free-for-all.

Fergus Ewing: Why was that provision included in the bill? Was it because of pressure from elsewhere?

Ross Finnie: Do you mean the licensing provision?

Fergus Ewing: Yes.

Ross Finnie: It was the least that we could do. Under competition law, we cannot wholly exclude third parties, but we are entitled to place reasonable restrictions on a supplier dealing with domestic and non-domestic use. We have taken advantage of all the available provisions to prevent an entire free-for-all, which would have undermined the business of having a public water supplier.

Fergus Ewing: If the granting of licences to allow English water companies to come into Scotland is the minimum that is required to comply with the law, does that not mean that the existing law is in breach of competition law?

Ross Finnie: Which law?

Fergus Ewing: The existing law as set out in the water legislation that applies in Scotland.

The Convener: Is the issue not when competition requirements come in?

Ross Finnie: No. The bill is our legitimate response within the timeframe to the competition requirements that were introduced by the Competition Act 1998. I know that that sounds like it was a long time ago, but we are still within the requirements of that act; we are not in breach of it, but we still have to act to bring ourselves within its ambit. The Competition Act 1998 allows us to carry things out in a fair and orderly manner and that is exactly what we will do.

Fergus Ewing: So provisions of the Competition Act 1998 will just be coming into force at the intended commencement date of the Water Services etc (Scotland) Bill.

Ross Finnie: I am saying that we will certainly meet the requirements. We are not in breach of the Competition Act 1998; we considered that carefully when we produced the bill. We have been anxious to ensure that we have and can continue to have a publicly owned water company, but even though it is publicly owned, the company still has to respond to other legislative requirements. The Competition Act 1998 raised new issues to which we are responding with the Water Services etc (Scotland) Bill.

The Convener: No doubt that is an issue that the lead committee for the bill will consider when it—

John Swinburne: Can I ask one final—

The Convener: Let me just finish my sentence.

The lead committee on the Water Services etc (Scotland) Bill will deal with that matter, but we will consider the financial memorandum that is associated with the bill.

John Swinburne: I may have given the impression earlier that pensioners were freeloaders and that we were looking for something for nothing. We do not mind paying your increases, minister, but will you please keep them in line with the amount by which the Government increases our pensions? Unless your increases are linked to the ability to pay, you are further disadvantaging everyone of my generation.

Ross Finnie: I understand the point that you make and I am not dismissing it at all. I do not think that pensioners are freeloaders; people on fixed incomes are a matter of real concern to anyone in society. All that I was suggesting to you was that there are wider issues about the management and running of the water company and how Government interfaces with a water company that it owns to deal with matters of income and income distribution.

The Convener: On behalf of the committee, I thank the witnesses for coming today. We will be

in correspondence to deal with one or two of the outstanding issues that were raised.

The next item on our agenda is consideration of our draft report on the Prohibition of Smoking in Regulated Areas (Scotland) Bill, which we have agreed that we will take in private. I thank members of the public for attending.

12:54

Meeting continued in private until 12:55.

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