

# **FINANCE COMMITTEE**

Tuesday 10 May 2005

Session 2

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## **FINANCE COMMITTEE**

### **13<sup>th</sup> Meeting 2005, Session 2**

#### **CONVENER**

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

#### **DEPUTY CONVENER**

\*Alasdair Morgan (South of Scotland) (SNP)

#### **COMMITTEE MEMBERS**

\*Ms Wendy Alexander (Paisley North) (Lab)

\*Mr Andrew Arbuckle (Mid Scotland and Fife) (LD)

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

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

\*Mr Frank McAveety (Glasgow Shettleston) (Lab)

\*Dr Elaine Murray (Dumfries) (Lab)

\*John Swinburne (Central Scotland) (SSCUP)

#### **COMMITTEE SUBSTITUTES**

Gordon Jackson (Glasgow Govan) (Lab)

David Mundell (South of Scotland) (Con)

Alex Neil (Central Scotland) (SNP)

Iain Smith (North East Fife) (LD)

\*attended

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

Professor Arthur Midwinter (Adviser)

#### **THE FOLLOWING GAVE EVIDENCE:**

Ian Burdon (Scottish Executive Finance and Central Services Department)

Dr Peter Collings (Scottish Executive Health Department)

Carol Duncan (Scottish Executive Justice Department)

Mr Tom McCabe (Minister for Finance and Public Service Reform)

Alex Mowat (Scottish Executive Justice Department)

Peter Russell (Scottish Executive Finance and Central Services Department)

Moira Wilson (Scottish Executive Justice Department)

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

Susan Duffy

#### **SENIOR ASSISTANT CLERK**

Judith Evans

#### **ASSISTANT CLERK**

Kristin Mitchell

#### **LOCATION**

Committee Room 1



# Scottish Parliament

## Finance Committee

Tuesday 10 May 2005

[THE CONVENER *opened the meeting at 10:15*]

### Efficient Government

**The Convener (Des McNulty):** Good morning. I open the 13<sup>th</sup> meeting of the Finance Committee in 2005 and welcome the press and the public to today's meeting. I remind members and others that all pagers and mobile phones should be switched off. No apologies have been received and all members are in attendance.

Item 1 on the agenda is further evidence on the Executive's efficient government initiatives. I am very pleased to welcome to the committee the Minister for Finance and Public Service Reform, Tom McCabe. With the minister are Peter Russell, head of the efficient government delivery group, Dr Peter Collings, director of performance management and finance in the Health Department, and Ian Burdon, from the e-procurement Scotland programme team.

The "Efficiency Technical Notes", which detail the various efficiency projects, were published towards the end of March. Members have been sent copies of those. In addition, I wrote to the minister on behalf of the committee to seek clarification of Audit Scotland's role in the process, on which we have received a response from the minister. Members have copies of both letters, together with a series of questions from and observations that have been made by Arthur Midwinter, our budget adviser; those have previously been shared with the Executive.

I offer the minister the opportunity to make an opening statement. We will then proceed to questions.

**The Minister for Finance and Public Service Reform (Mr Tom McCabe):** Thank you and good morning. I thank the convener for introducing the officials who accompany me this morning.

I very much appreciate the opportunity to come to the committee to give further evidence on the technical notes; I hope that it is the start of a process that will continue. I have said before that we are keen to share the work with the committee and to take on board as far as we can any suggestions that come from the committee.

I am, however, less keen to enter into sterile debates about what constitutes a management saving and what constitutes an efficient government saving. Our saving money for the

public of Scotland while delivering the same outputs is the kind of efficiency that the public wants to see in government. I say bluntly that if some people want to convene cheese and wine parties to discuss the semantics, then that is their business, but it will not be my business within the Executive. Efficient government is about a long-term transformation, so it is always easy for people to take pot shots in the early days. What matters is outcomes, not idle speculation at the beginning of the process.

We have said on many occasions that the initiative will not be about cuts in service, so I am happy to say on the record once again that we do not intend that it be about cuts in service. I know that some people have expressed concerns about the initiative's potential impact on jobs, so I would appreciate some guidance from the committee this morning. If committee members think that the initiative should be explicitly about cuts in jobs, I would appreciate their advice on whether any job cuts should be achieved using best human-resource practices or through compulsory redundancies.

Finally, I have to say that I was a wee bit disappointed to read in yesterday's press accounts of what our proceedings would be like today. Some of the information that was released allowed what I regard as an unfortunate interpretation to be made of some of the committee's adviser's words. The committee will be well aware that if the Executive behaved in such a way prior to Parliamentary proceedings, that would rightly be regarded as discourtesy. It seems to me to be equally discourteous when so much discussion takes place about what will occur at a parliamentary meeting before it happens.

**The Convener:** Thank you very much. On the committee's responsibility, I suppose that we are—perhaps fortunately—not accountable for what the press write. On release of information, there had been an exchange of correspondence and the committee's view was that it would be appropriate to put the information into the public domain because it would inform discussion. We will move on to questions.

**Ms Wendy Alexander (Paisley North) (Lab):** First, we welcome the technical notes. The minister's predecessor made it clear that all efficiency savings would be redeployed into front-line services. Is that still true in Scotland?

**Mr McCabe:** Yes—that is certainly our intention.

**Ms Alexander:** Thank you.

I will move on to two other questions. The good thing about the technical notes is that they confirm for the first time the planned savings; of course, the context is the promise in the spending review to make efficiency savings that are as ambitious

as has been the case elsewhere. The technical notes confirm that the plans are that there should be £1.5 billion of planned savings, albeit that half of the savings will come after the next Scottish Parliament elections. However, if we were to embark on making savings as ambitious as those in England and Wales, the figure would be £1.9 billion. If all the savings are being redeployed in front-line services, why is it right in principle in Scotland to leave £400 million in the back office when, elsewhere, that money will move to front-line services?

**Mr McCabe:** By “the back office” you mean support services. As has been recognised south of the border, perhaps the terminology that has been used has been unfortunate from day one; it has certainly caused some offence to dedicated public service workers when we have spoken about “the back office” and “the front line”. There are support services that are perhaps less evident to people who receive services, but they are nonetheless valued services that have valued members of staff. We have been responsible for importing some of that terminology, so we must be careful that we do not send inappropriate signals to people who do very good jobs in the public sector.

We are at the start of the process, but there is no doubt about the scope of our ambition here in Scotland, or about our view that we must always be aware of the size of the public sector in Scotland and ensure that it delivers the kind of services that people expect with the minimum inputs necessary to meet the ambitions of Scotland’s people. We need always to be mindful that if we are not as vigilant as we could be, the public sector could be a constraint on private sector development and expansion, which could limit us in our ambition to grow the Scottish economy. However, we are very much at the start of the process and our ambitions are not limited. We will be involved in a constant search for more efficiency and for better ways in which to deliver the same outputs in the public sector with fewer inputs.

**Ms Alexander:** I accept the minister’s point about not denigrating staff.

My second question is about cash-releasing savings, because time-releasing savings are the ones that involve staff. On cash-releasing savings, the technical efficiency notes confirm that the plan is to release just over £1 billion in Scotland over the next three years. If we were to pursue cash-releasing savings, the minister would have £450 million extra for the health service in Scotland over the next three years. I note that that sum is ten times the figure that has been allocated to the current waiting-lists initiative in Scotland. Is it right that we will have £450 million less cash to move from the back office in the next three years?

**Mr McCabe:** The position on the health service is that we acknowledged from day one that we needed a much more rigorous examination of the possibilities. That remains the case. We intend to continue to take a proactive approach to the health service in Scotland and to engage in proactive examination of the possibilities for more cash-releasing savings in order that we can transfer resources to the front line.

I stress again that we are at the start of a process. We have no intention whatever to use a lighter touch on any service in Scotland than would be expected elsewhere—there are no Cinderellas here. We are aware that the health service consumes a considerable amount of resources and that we need therefore to demonstrate to people in Scotland that they are getting proper value for those considerable resources. Therefore, our activities on efficient government will be rigorous and will continue to be so as we search for more efficiencies within the health service.

**Ms Alexander:** My final question is on a different tack. The minister hinted that much of our discussion will rest on what we mean by “efficiency savings”. A common definition is used in all aspects of financial accounting throughout the United Kingdom—the national accounts, the definitions of gross domestic product, the standard industrial classifications and resource-based accounting, for example. Why have we not adopted that common definition?

**Mr McCabe:** My definition of an efficiency saving is simply this: “the same output for less input”, which is broadly the definition that is used elsewhere.

**Ms Alexander:** We will come back to the matter, because the use of different definitions means that figures are not comparable. The committee’s adviser has made it clear that he thinks that the Executive has embarked on an approach that uses a less rigorous definition. That might not be true, but the difficulty could have been avoided if we had observed the conventions that exist in all other aspects of financial accounting.

**The Convener:** Perhaps I can pick up on the point and spin it differently. The approach that appears to emerge from the technical notes offers a mixture of what we might call conventional budget savings and Gershon-type savings. Of the savings that are identified, has the Executive calculated the proportion that falls into the Gershon category and the proportion that represents more conventional budget savings? Would it be realistic or sensible to make such a calculation?

**Mr McCabe:** Your question takes us into the territory of semantics, which I mentioned. What

matters is whether we are being more efficient and producing the same output for less input and whether we can demonstrate to people in Scotland that we are applying all our efforts to making government in Scotland more efficient.

When we announced the efficient government plan in November, we were not starting from ground zero. The announcement did not represent the beginnings of awareness in local government, central Government and the range of public agencies that consume public resources that we must get the best for the public pound. That process should always have been happening and it is continuing. That is efficient government. We can spend unnecessary time on the semantics of what is a management saving and what is an efficient government saving, but to my mind they are the same thing.

**The Convener:** You suggest that we need to move the conversation on and focus on the matter in hand. We have both been involved in local government and are familiar with the pitfalls and opportunities that exist. Does the judgment call that must be made in any efficiency exercise require consideration of the scale of savings that can be achieved without detriment to service quality? How is that consideration being included in the approach to efficient government savings?

**Mr McCabe:** That is a prime consideration. I said that I did not want to get into semantics and the thin line between what is normally expected from good management and what is an efficient government saving. Nor do I want an approach in which we simply promote cuts in service, to demonstrate that we are using fewer public resources. Such an approach would not be efficient government; it would be a blatant cut in services. As I said in my opening remarks, the efficient government agenda is not an agenda that cuts services, but one that makes services more efficient.

**The Convener:** In the past, the Finance Committee has criticised the Executive for producing too many objectives and perhaps too many programmes. In other settings in which the process has been adopted, there has been a focus not just on technical efficiencies and how to achieve back-office savings, but on rationalising programmes, which in turn means rationalising objectives. In a context in which there are too many objectives, if some objectives are not delivering as they should, their discontinuation should be considered. Do you regard that as part of the exercise? Are you engaged not merely in a Gershon-type efficiency exercise but in a broader efficiency exercise that focuses on deliverability and outcomes?

10:30

**Mr McCabe:** Absolutely. When I spoke to the Convention of Scottish Local Authorities at its annual conference earlier this year—I am conscious of the need to stress that efficient government is not just about local government, but about the public sector in general—I made it clear not only that we expect certain things of local government, but that local government should expect certain things of central Government, one of which is that we should lessen the burden that we place on local government by putting forward a diverse range of programmes. We should consider a more outcomes-based assessment of what we achieve on the ground, so it is incumbent on us to rationalise some of the monitoring of local government and other parts of the public sector, in order to ensure that we ask for relevant information and that we do not duplicate requests. All that activity is an integral part of efficient government.

**The Convener:** Should you pass on the message to some of your ministerial colleagues—in the context of some of the programmes that they promote—that they should focus on the most important objectives and be prepared, if cash is not available, to sacrifice programmes that are not delivering as they should? The question came up in discussion with one of your ministerial colleagues at the committee's most recent meeting.

**Mr McCabe:** Absolutely. When I delivered the message to COSLA I was speaking on behalf of the Scottish Executive, because a variety of Executive portfolios engage with local government. The approach must run right through the Executive. For example, we intend to examine regulatory bodies. Is proliferation of regulation and regulatory bodies imposing too great a burden? Should regulation be rationalised? Do different bodies duplicate work as they engage with local government and other agencies? It is possible that there is such duplication so we need to ensure that we rationalise the approach wherever possible.

**Alasdair Morgan (South of Scotland) (SNP):** I have much sympathy with what the minister said about not wanting to get into a sterile debate about what constitutes the right or wrong kind of saving. However, when the minister launched the efficient government plan in November, the implication was that the plan represented a new initiative. As the years go by, there will be a temptation to ask how successful the plan has been and how it has delivered savings of £X million. Therefore, the Executive should be careful not to include in the plan measures that were to be introduced anyway or that have nothing to do with Government initiatives.

For example, the first cash-releasing technical note in the efficiency technical notes relates to savings that will result from reform of the common agricultural policy. Farmers will receive the single farm payment, rather than a multitude of payments, so the new system will be simpler and cheaper to administer. However, that has nothing to do with the efficient government initiative. It would have been better for everyone if the document had addressed only the new initiatives that are being taken, rather than scraping around to find everything that could be included.

**Mr McCabe:** I am greatly encouraged by the fact that Mr Morgan has sympathy for my approach. That cheers me up no end.

Many of the savings through CAP reform will kick in later—CAP reform provides quite a good example of that. I think that the public in Scotland are interested in the totality of our approach to the use of public resources. They want to know that we are ensuring that we use resources as efficiently as we can. The efficient government plan—our launch of which Mr Morgan has noted—indicated to people in Scotland that there must be a continual and determined focus on ensuring that we are as efficient as we can be. We will move on from the date on which the plan was launched and in the future we must demonstrate to people that through the totality of our efforts, irrespective of where those efforts lie, we are getting more for the public pound and freeing up as many resources as possible to deliver services that impact directly on people's lives.

**Mr Andrew Arbuckle (Mid Scotland and Fife) (LD):** Wendy Alexander highlighted the difference between the approach north of the border and that of the UK Treasury. Is the UK Treasury happy with the relatively lower level of savings in Scotland?

**Mr McCabe:** The UK Treasury has never phoned me up to say that it is unhappy.

**Mr Arbuckle:** What would happen if it did?

**Mr McCabe:** We would have a conversation and I would explain why it should be happier with the world in general.

**Mr Arbuckle:** I simply wonder whether the Treasury has nudged you at all on the comparison between north and south of the border, if greater savings are to be made there than here.

**Mr McCabe:** I confirm that no one has nudged me. Obviously, my private discussions with my counterparts in the United Kingdom Treasury will remain private, but I am happy to confirm that I do not feel that I am under any undue pressure from my colleagues south of the border.

Right from the start, I have said that I am interested in what benefits Scotland, and that the initiative is a Scottish initiative. I fully understand people's temptation to refer to what happens south

of the border, but there are two ways of looking at that. Perhaps it is not for me to suggest this, but the committee can consider what the Public Accounts Committee down south has said. We in Scotland sometimes have a habit of portraying what we do as being not as good as what other people do, but it is healthy to consider criticisms or observations that are made of what other people have done and then to put into that context our approach.

**Mr Arbuckle:** I am the only councillor here and want to ask about the large savings—I do not know whether that is the proper word—that are expected of local government. Local authorities are the main front-line service providers in education, community care and transport and the Scottish Executive's "Efficiency Technical Notes" indicate that it is up to them to save where they can. However, does the Executive have a view on whether there are any no-go areas for local authorities, especially in the light of comments that have been made that front-line services are not to be affected? Will the Executive say to local authorities that proposals cannot affect free school meals or anything that comes under public-private partnerships, for example?

**Mr McCabe:** There are many no-go areas—I refer to service delivery points. We have clearly said that there should be no cuts in the services that are delivered as a result of the initiative, and we have sent that message to local government. The technical notes reflect our confidence in local government and our knowledge that, over time under the best-value regime, local authorities have—as they have said—saved more than £600 million. The notes reflect our confidence in local government's willingness to embrace a continuous improvement agenda and to produce savings of the magnitude that they have produced in the past. Of course, I say that against a background of local government's receiving considerable increases in public resources. It will be as alive now as it has been in the past to the potential for achieving efficiencies as it receives those resources.

**The Convener:** I want to put the question differently. You have set a considerable target for savings that local government is expected to deliver. If it fails to reach that target, will what it is to deliver still be treated as savings? How will you handle that process? Money is to be taken away from local authorities, so if they do not deliver the savings that correspond to the financial targets that you have set, how will things be handled?

**Mr McCabe:** That takes us into hypothetical areas. I have expressed our high degree of confidence in local government, which is based on its past performance, so I would prefer to reflect on the fact that we have confidence in it and on our belief that that confidence will be justified.



**The Convener:** So local government must deliver.

**Mr Ted Brocklebank (Mid Scotland and Fife) (Con):** When Mr McCabe's predecessor originally published the report on projected efficiency savings, I think that £500 million was talked about. I recollect that that went up to about £745 million when Mr McCabe took the tiller and I think that the projected figure is now £900 million. Those sums are considerable. In his opening address to the committee, the minister said that the issue is not whether there will be job cuts, but how best those job cuts will be managed. Can you quantify the job cuts that we are talking about?

**Mr McCabe:** No. There are two points to make about what Ted Brocklebank asks. We mentioned £745 million and an aspiration. Earlier, I said that there would be no limit to our ambitions, so we continue to aspire to the higher figure. Perhaps we will confirm later whether we are confident that we can achieve that figure.

When we launched the initiative, I used a phrase that I used earlier today when I spoke about our intention to employ the best form of human-resource practice. We said then that it would be inappropriate in the circumstances in which we find ourselves to talk about predetermined figures for jobs; that is still the position. A great deal of good will and co-operation would be lost if we gave an arbitrary figure for job cuts.

**Mr Brocklebank:** I think that Gershon at least mentioned job cuts for England, although I forget the numbers that were mentioned. We extrapolated that we were looking at a considerable number—thousands—of job losses in Scotland if the figures here were 10 per cent of the figures for England and Wales.

**Mr McCabe:** A figure was mentioned down south but—as I said—the exercise in question is for the circumstances in which we find ourselves in Scotland. We must be cautious about comparisons between Scotland and south of the border. A reduction of just over 84,000 in posts in Whitehall departments was the target south of the border. Some 72,000 of those posts—86 per cent—would be in departments that have wholly reserved functions. Large transactional services are involved—I refer to the Department for Work and Pensions, the Chancellor of the Exchequer's departments—such as the Inland Revenue and HM Customs and Excise—and the Ministry of Defence. No such posts are available in Scotland and therefore direct comparisons are inappropriate.

**Mr Brocklebank:** So we are not looking at anything like 7,000 or 8,000 job losses in Scotland.

**Mr McCabe:** As I said, speculation on potential figures is inappropriate. That is what I thought when we launched the initiative and that is my view today.

**Mr Brocklebank:** You talked about departments that have reserved functions and imply that if there were 70,000 to 80,000 job cuts in England, job losses in Scotland would be nothing like 10 per cent of those figures.

**Mr McCabe:** There was no implication in what I said. I tried to be explicit in saying that comparison of what is happening down south and what happens here is inappropriate.

**Mr Brocklebank:** Okay. I will follow up on other issues.

About £170 million of the projected savings have not been reflected in the budget. How can those be savings if they do not result in some budget lines' being reduced?

**Peter Russell (Scottish Executive Finance and Central Services Department):** The saving is simply recycled to the front line. If fewer resources are consumed in a support service in an organisation, that organisation's overall budget may not change, but more will be available for the front line in that service.

**Mr Brocklebank:** You seem to offer different versions when you refer to the fire service and the police service. Why are savings on fire grant-aided expenditure not in the budget, whereas savings on police GAE are?

**Peter Russell:** We will need to write to the committee afterwards on the specifics of your question.

**Mr Brocklebank:** Will you also comment on why Forestry Commission, Scottish Environment Protection Agency and Scottish Natural Heritage savings are not reflected in the budget?

**Peter Russell:** I made the point that the saving will not be a reduction in the budget, but a reduction in the costs of support services. The organisation will retain the same budget, but less of it will be consumed in its support service activity and it will have more available for front-line services.

**Mr Brocklebank:** In your report on the common police services, there is much rhetoric about "rigorous" approaches to delivering services efficiently, but no substantial savings are identified. What is the basis of the financial assumption that about £8 million can be saved?

**Peter Russell:** I understand that, for a number of years, the police service has produced an annual best-value report after the end of each year. Therefore, the police service has a track record of showing improvements in value for

money; there is every reason to believe that that will continue year on year.

**Mr McCabe:** That best-value report is produced by the Association of Chief Police Officers in Scotland, so there is a reference point for what has happened in the past. That report will contain an annual report.

**Mr Brocklebank:** If those savings cannot be delivered, will that mean that the necessary savings will fall on councils and ultimately on taxpayers?

**Mr McCabe:** That is a hypothetical question. If we consider past performance—which is fair—there will be no reason to think that the savings will not be achieved. It is obviously open to the committee to choose to take evidence from ACPOS.

10:45

**Mr Brocklebank:** I do not want to get into an argument about what is efficiency and what is good management, but why is our definition of what constitutes a saving different from the UK's definition? How can the Executive's proposals be as efficient as those of Gershon when we are using different parameters?

**The Convener:** I think that we have already had that question.

**Mr Brocklebank:** Does that not bring the whole thing together?

**Mr McCabe:** Can you give me a specific example of how we are using different parameters?

**Mr Brocklebank:** I thought that I had just gone through some specific examples. I mentioned the fire service and the police, for example.

**Mr McCabe:** You were not specific about how we are using different parameters. As I have said, our definition of efficiency is to achieve the same outputs with less input. I thought that Gershon used that definition, although I repeat that our efficiency exercise is specific to the circumstances in which we in Scotland find ourselves. If members have other definitions or want to raise specific points, we will try to respond.

**The Convener:** We are picking up the fact that there seem to be some significant differences in treatment. As Ted Brocklebank pointed out, the savings on the fire GAE are not in the budget, whereas those on the police GAE are. The savings from the supporting people fund are reflected in the budget, but those from the modernising government fund are not. We have been given no obvious reason for why those apparently similar areas are being treated differently.

There is a related issue. Are you satisfied that in each case in which you have identified scope for savings it will be possible to achieve the same outcomes? For example, several of us would question whether with the savings that have been identified in the supporting people fund, it will be possible to deliver the same outputs.

**Mr McCabe:** The example that you give of the supporting people fund is a good one. There have been a number of studies of that fund's position, both south of the border and here. PricewaterhouseCoopers, which did the study in Scotland, was specific about the potential for savings that exists. It said that more than £50 million a year could be saved in Scotland by keeping the cost of all services to within 20 per cent of average costs. It is not unreasonable to aim for such a wide margin. That assumption was made not by the Executive, but in an external study. It is not dissimilar from the results of some of the studies that were carried out south of the border, such as Eugene Sullivan's review for RSM Robson Rhodes LLP, which was carried out back in 2003. It is not a case of our plucking things out of the air; background work has been done that justifies the approach that we are taking.

**The Convener:** What about consistency in the treatment of different budgets?

**Mr McCabe:** I am not sure whether I said £40 million or £50 million; for the record, I should have said £40 million.

**The Convener:** Arthur Midwinter has a point to make.

**Professor Arthur Midwinter (Adviser):** It is a point of clarification, which we may take up at official level after the meeting. The discussion has been about comparisons of definitions of efficiency and Gershon, and I would like to clear those matters up.

Under the minister's predecessor, the first set of papers that was delivered to the committee adopted the Gershon language, which relates to the five categories of savings. The definition that the minister is using is the precise definition of efficiency: the ratio of inputs to outputs. That is the test that is used to determine whether savings have been made. In the second document that the Executive produced, "Building a Better Scotland: Efficient Government—Securing Efficiency, Effectiveness and Productivity", it is clear that the range of what I think are called work streams is different from what Gershon talked about. There are common elements and there are new elements. The process has moved on and it has been difficult to keep up.

Members have mentioned the fact that some areas of expenditure are marked down as being in the budget and some are not. In reading the Executive's document, I found a difficulty in the

fact that some departments appear to have dealt with the issue in different ways. Examples have been cited of expenditure that has been identified as not being in the budget, which has been redirected elsewhere, and some departments have said that certain expenditure is in the budget, but they have still redirected the resources elsewhere. Perhaps we can pursue that issue in correspondence. It is extremely difficult for lay members to get to grips with such matters when the documents are not as consistent as they could be.

**Mr McCabe:** That is a fair point, which I accept. I accept, too, that the process has moved on. When I took over the portfolio, I outlined the approach that I intended to take on efficiency. I am genuine when I say—as I have said before—that exchanges such as the one in which we are engaged form an important part of the process. Comments such as the ones that have just been made are instructive for us. It is important that we achieve a consistency that allows the process to be more transparent and enables not only MSPs but members of the public to understand it. When it is possible for us to take on board suggestions in that regard, we will certainly do so. I welcome the exchange of correspondence that Professor Midwinter has proposed and I hope that, in it, we will be as constructive as we can be.

**Alasdair Morgan:** I have a supplementary to something that Mr Russell said. In his opening remarks, the minister was right to say that the use of the term “front line” gives rise to problems and that people who are not employed on the front line do valuable work that is essential for the delivery of services to the public. I quite agree. However, Mr Russell talked about savings’ being redeployed to the front line. Do you feel that the use of the terms “front line” and “back office” has gone beyond the stage of being helpful and that we should focus on delivering public service, whether that is done over a counter or through the use of a computer?

**Mr McCabe:** As, I hope, I have already suggested, such terminology became less than helpful quite some time ago. We are involved in a constant search for better ways of explaining what we seek to do. If the committee can assist with that, I will be more than happy to take on board its suggestions. Although there is no ill intent behind the use of such language, there is a great danger that it could give some dedicated public sector workers the impression that somehow their work is of a lower value than that of others, when it is not.

**Mr Frank McAveety (Glasgow Shettleston) (Lab):** Would aiming for a higher efficiency savings figure make a substantial impact on jobs and services inevitable, as you suggested in your opening remarks?

**Mr McCabe:** That remains to be seen. I do not think that we ever said that our efficient government programme would be a completely neutral exercise. We said that we would do our best to retrain staff if possible, but we have acknowledged that, in some cases, there could be a natural limit to such activity, which might result in fewer people being employed in the public sector. I have said that before, including to our colleagues in the trade unions—although I am not necessarily saying that they warmly welcomed what I told them. We have never explicitly denied that, overall, the efficiency exercise could result in a smaller public sector.

**Mr McAveety:** So we could get from £700 million to £900 million to £1,200 million without necessarily having the impact that you mentioned in your opening comments.

**Mr McCabe:** I am not clear what you mean.

**Mr McAveety:** In your opening remarks, you appeared to suggest that if we were to go down the road of trying to match Gershon—I accept that it might not be possible to draw the same parallels—that would automatically have a direct impact on job cuts. Is the fact that there should be no impact on quality of service a criterion? Is that the dividing line? If there started to be an impact on quality of service, would you move back from making savings?

**Mr McCabe:** We would have to be very honest about the approach that we took. If we were aware that the result of our approach was a cut in service, that would be a cut, not an efficiency saving, and it would be incumbent on us to be up front about that. We do not want to go in that direction of travel.

**Mr McAveety:** That is helpful, but our problem is that the technical notes do not necessarily make a direct link between the savings and their effect on the stability of, or the growth in, service provision. If the purpose of the efficiency exercise is to change the dynamic of how we deliver public services and get, as you said, best value for the public pound, what measures must you take to satisfy the committee and the wider Scottish public on those issues? The technical notes give me no sense of confidence on that.

**Mr McCabe:** I take your point. We will listen to your comment and do our best to build into the technical notes more reassurance that the efficiency exercise will not result in cuts in services.

**Ms Alexander:** Will the minister clarify his use of the words “smaller public sector”? Will he help us by clarifying that there is no prospect of cuts in the public sector in Scotland or elsewhere, given that the efficient government exercise is entirely about redeploying resources from the back office to the front office both in England and Scotland?

**Mr McCabe:** The exercise is about delivering the totality of public services with fewer inputs. On some occasions, fewer inputs might mean using fewer people, but the totality of the service will remain the same.

**Ms Alexander:** Indeed. Therefore, the promise to out-Gershon Gershon was that Scotland would move more resource from the back office to the front office. The committee's query is whether that will indeed happen. We are interested not in cutting services but in whether there is more scope to move resources from back office to front office.

**Mr McCabe:** Yes.

**Dr Elaine Murray (Dumfries) (Lab):** Procurement is seen as the basis of quite a number of the efficiency savings, such as the savings of about 1.3 per cent that are assumed in the Scottish Executive's administration budget and the significant savings in the budgets of health boards and local government. How confident are you that the savings that will be possible from procurement have been assessed rigorously? Are those assessments based on what has happened elsewhere, such as in the private sector or in other Administrations?

**Mr McCabe:** I am fairly confident that some of our estimates of what we might achieve from procurement savings are conservative. It is important to point out that our approach mirrors closely the approach that was recommended some time ago by the Parliament's Enterprise and Lifelong Learning Committee. When one committee member was in a different capacity, that approach was warmly welcomed. Procurement is an important example of an area in which the Executive has taken on board the steers that came from a parliamentary examination.

We are doing a number of things that indicate to us that considerable opportunities exist for procurement savings. We are doing our best to ensure that the whole procurement process is opened up to a wider range of small and medium-sized enterprises in Scotland, for example by providing opportunities to advertise contracts above a limit of £50,000 rather than £100,000, which might bring in a wider range of potential competitors. A range of things is going on. I am happy to restate my belief that procurement presents us with considerable opportunities to make Scotland the best public environment in the world in which companies can do business with Government. That is our aim; we think that there is potential for that and that is what we are pursuing.

**Dr Murray:** I am reassured by what the minister has said. I know that there has been concern that procurement savings might favour larger operators and discriminate against small businesses. Any

steps that the Executive is taking to counteract that are certainly welcome.

How will the procurement savings be monitored? For example, in response to the committee's adviser, you have said that the procurement savings on the Executive's administration budget will accrue to a large number of cost centres across the Executive. How will you be able to monitor whether £3 million of savings was made from improved procurement methods or from other mechanisms for making savings, such as delaying the filling of vacancies?

**Mr McCabe:** We have with us an officer who deals specifically with procurement. I will hand that question over to him.

11:00

**Ian Burdon (Scottish Executive Finance and Central Services Department):** The straightforward answer is that we identify areas in which there will be a change and then measure that change. I will give two key examples of how we do that. First, in situations where there is a before and after state, we can see that the price has been reduced for one reason or another through the procurement process. Secondly, the introduction of e-procurement can streamline or telescope the procurement process or various elements of it.

In cases where we can compare prices before and after the process, we have used a tool called e-auctioning for the procurement of specific commodities. In effect, once the procurement process has identified three final bidders who satisfy the requirements for quality of delivery, such that the only thing left is price, the tenderers are invited to outbid each other downwards. Two or three such exercises have been run in the whole public sector. In the Executive, we undertook two such exercises for the provision of a refresh of desktop personal computers, in which we were able to compare the prices that we paid under the old and new contracts. In the first exercise that we ran, we saved £400,000 on the expected amount. In the second exercise, we aggregated some demand with that of the health service and we saved £800,000.

We also have examples of suppliers being able to knock their prices down by a percentage point because we have delivered cost benefits to them by reducing the procurement process. In those cases, we can do a fairly simple calculation of what a particular demand would have cost in comparison with what it actually cost. That produces a figure for the benefit or saving that has been gained. With e-procurement, we can lock in that saving by ensuring that people buy only from the approved contract.

The second example that I mentioned is improvements to the procurement process. Although the procurement process is governed by a certain amount of bureaucracy, it is a relatively simple process that ultimately involves somebody who wants something asking a manager to approve the purchase, which is delivered by somebody who is then paid for doing so. The process has accrued a huge amount of bureaucracy because the need to deal with paper meant that forms needed to be signed in triplicate and orders had to go all over the place to ensure that they were filed in the proper place and that fairly strict financial controls were complied with. However, the end result of any procurement process is that somebody matches an invoice and the finance system pays for it.

Where we have worked with suppliers to implement an end-to-end solution, a person in our office can raise on screen a requisition for an item—say, a box of pens—which goes directly to the supplier once the person's manager has given approval, which can be done by e-mail. No one in the supplier's office other than the warehouse man needs to see the order for it to be delivered. As a Visa procurement card is embedded within the system, the supplier can be paid within three days without our having to process the invoice, which is simply sent electronically straight into our finance system by Barclaycard. Through classic time and motion measurements, we can demonstrate that a process that used to cost, say, between £36 and £40 now costs only 11p. Those measurements are empirical.

**The Convener:** We run the risk of getting into some anoraky questions.

**Ian Burdon:** My point is simply that we can measure the saving that has been made.

**Dr Murray:** I will try not to be an anorak.

Will the budget document contain a line for the Scottish Executive's administration costs that will let us see what savings have been made?

**Ian Burdon:** We are trialling with North Ayrshire Council a simplified version of that system that will cover all the key indicators. If that is accepted, we will report through our website the figures for those savings, which colleagues will no doubt present in an appropriate means to the committee.

**Jim Mather (Highlands and Islands) (SNP):** I want to bring the discussion back to a marginally more macro level. The Executive is talking about making savings of £745 million. Net of the savings from Scottish Water, the expected savings are £650 million. However, I am still not totally satisfied that that number stacks up. I have not heard satisfactory answers to whether spend to save, redundancy costs and depreciation will drag that figure down further. Let us assume that the

saving will in fact be around £650 million. The people of Scotland want to know what additional outcomes they will get from those £650 million savings. Do we know what outcomes were expected before the efficient government initiative was launched? What will be different if we achieve the £650 million savings? What extra will the Scottish people get for that £650 million?

**Mr McCabe:** Fairly often, that will be for the service deliverers at the front line to decide. For instance, if we are able to employ many of the savings that we make in the expansion of certain services—if local authorities are able to decide on a different range of care services to make available to the public they serve, for example—people will benefit from the exercise.

**Jim Mather:** If we were sitting in a corporate boardroom, proposing to move £650 million from less direct spending to more direct spending to move the company forward, we would expect to be told what the money would buy. If £650 million is to be spent, at £130 a head, what will each individual Scot get out of the process?

**Mr McCabe:** The point is that we are not sitting in a corporate boardroom; we are sitting in an infinitely more complex set of procedures and interactions between the Executive and a wide range of delivery agents. The situation is not as simple as you have portrayed it to be.

**Jim Mather:** Let us turn the question round, then. Why not pivot in your seat and ask all the delivery agents what they will do for savings through increased outputs? Why not ask them what we are going to get?

**Mr McCabe:** We demonstrate that in a number of places in the document—for example, under care services. If the committee does not think that we are illustrating that well enough, that is perhaps something that we need to examine. I am happy to do that.

**Alasdair Morgan:** Let me stray back, if I dare, to the procurement issue. I have two questions, the first of which relates to the savings that are being made. I understand how savings are being made in the procurement process, and that is excellent, but I wonder about the savings on the price of things. It seems to me that, in some procurement, comparing the new contract with the old contract would not necessarily show a real saving. For example, personal computers have tended to decrease in price over the years; therefore, a new contract for PCs could be expected to be cheaper anyway, regardless of whether the procurement is being done in a smarter way. I am a wee bit anxious that we are counting such things as savings.

Let us consider non-national health service procurement, in which you are going to build up savings of £150 million, making it one of the

largest single lines in the efficient government initiative. That saving is to be spread across all the Government departments apart from the NHS. Will that be broken down by individual department? Will we be able to pinpoint where the savings have been made in each department?

**Ian Burdon:** The unhelpful answer is yes and no: yes, where a saving is localised within a department or agency; no, in the sense that one of the benefits that we are attempting to foster is agencies working together to aggregate demand where that is appropriate and to put in place contracts that serve either regionally or nationally. In those cases, the issue becomes a little more muddy. We can say that benefits have been derived, but whether we can attribute them directly to a specific agency remains to be seen. I leave my anorak on the chair, but there are probably ways of doing that by considering relative demand, or what have you. Nevertheless, there will be occasions on which it is not necessarily obvious that what, for the sake of argument, we might call cost avoidance is happening in one specific entity, as it could be shared across a number of entities.

**Alasdair Morgan:** If it is not obvious to a department that it has avoided cost or saved money, how can it spend that money on front-line or other services?

**Ian Burdon:** Let us assume that five local authorities are about to go into the market for the same commodity. That commodity could be anything, but let us say that they are looking for wheelie bins. What has tended to happen, with some exceptions, is that each local authority has gone to the market separately and run its own competition for the same commodity, probably from the same suppliers. That has meant five teams of procurement professionals—who are relatively thin on the ground—all looking for the same thing. The logical solution is to run only one competition to find the same supplier for all five authorities, thereby avoiding the cost of the exercise for four of those five teams. Those four teams do not end up twiddling their thumbs; they look for other commodity areas in which they can apply their expertise. The net effect is that the same number of people are occupied in procurement but the output is increased because the professional expertise is applied to a much broader range of subjects and duplication is avoided.

There are large areas of public sector spend that do not, at present, receive complete professional scrutiny because people are too busy duplicating what is happening in neighbouring authorities. In general, procurement expertise has been focused on only a relatively small number of commodities and has not been applied to some of the bigger areas of spend.

I am not entirely sure that I have answered your question.

**Alasdair Morgan:** You have opened up an interesting area that I suspect some colleagues might want to ask about. What are the other four groups who are no longer buying wheelie bins doing, for example? However, let us leave that to one side for a moment.

Other than by applying budgetary pressure on them, how are we going to ensure that local authorities co-operate? I know that the best of them will seek to do so, but how can you ensure that that practice is carried out? I recollect the individual local authorities setting up their separate computer systems to do exactly the same things but in their own idiosyncratic ways. How can we prevent that from happening?

**Peter Russell:** The new local government improvement service will be a key player in working with local authorities to get the right partnerships and consortia for different goods and services. Since the efficient government plan was published, there has been a new awareness of the scope for getting efficiency not just by being efficient in one organisation, but by looking for alliances and partnerships between organisations. The local government improvement service has made a fast start in getting round chief executives to look for such opportunities, and it will be a key enabler in getting better joint working on this sort of issue.

**Mr Arbuckle:** As Alasdair Morgan has highlighted, procurement policy is an area in which there is the potential to make quite large savings. In the non-NHS category, you state that you expect to make savings in 2007 of £200 million on an annual spend of £3 billion to £4 billion. You are hoping to take 5 per cent out of the procurement cost. However, I would like to explore a contradiction that is apparent to me. If you bundle the contracts up and make the saving, that seems to go against what the minister said earlier about using small, local suppliers. Such suppliers might not have the capacity to cope with the bundled-up contracts and will lose out. Local initiatives such as local food eating might go by the board. Scotland is a small country with many small-scale suppliers, and the minister said that he wanted to open the market up and make it more competitive.

**Mr McCabe:** The procurement of locally produced food is a good example. I leave it to Ian Burdon to explain one development that might give you some reassurance.

11:15

**Ian Burdon:** On the general point that you make, you are correct. Broadly speaking, in considering a commodity, an authority has to ask

whether it is appropriate to purchase it nationally, regionally or locally. Various considerations come into that. For example, as there are only two Scottish electricity suppliers, local suppliers do not come into that market.

Through e-procurement Scotland, we are currently placing orders with 4,000 suppliers, the majority of whom are located in Scotland.

One of the councils that is taking a lead on this and is pushing for it is Renfrewshire Council. I have not released this information before because I have been waiting for clearance but I have with me an internal newsletter from the council, which has been using our electronic procurement system. It deals with the subject of fruit for schools in Renfrewshire, the contract for which was won by a local supplier, Strawberry Fields, which has 17 employees and is based in Glasgow but is about to move to Paisley. The newsletter quotes its managing director as saying:

"We're not a high-tech company—our business is about delivering fruit and vegetables to our customers. So at first I was a bit sceptical about bidding for a contract using e-mail and the internet.

However, when we got down to making our application I was pleasantly surprised. The system was really easy to use and it took much less time than filling out lots of paper forms. I would encourage other small businesses to bid for contracts like this."

The Federation of Small Businesses also supports the initiative.

You are correct in saying that there is a danger that people might assume that, because they are putting together a big contract, they ought to go to a big supplier. One of the reasons why we want to foster procurement expertise is precisely to ensure that proper market discipline is applied to the issue of whether a contract is appropriate for local businesses to deal with. However, another reason is to encourage smaller businesses to have the confidence to bid for contracts such as Renfrewshire's fruit for schools contract.

**Mr McCabe:** That last point is important. In relation to our ambitions to grow the Scottish economy, one of the difficulties that we have is that companies in Scotland tend to reach a certain level and stay there. I hope that, through this initiative, we can overcome that difficulty and ensure that more companies in Scotland are prepared to grow.

**Ms Alexander:** I have a question for Peter Collings on the numbers that relate to procurement. As I understand it, there is a suggestion that there will be £750 million of cash savings. If you take out Scottish Water, that leaves us with total savings of £655 million. In those savings, we have national health service procurement savings of £122 million and non-NHS

procurement savings of £300 million, which comes to a total of £422 million. Is that right? I am just trying to get an idea of the magnitude of the savings that we are talking about.

**Dr Peter Collings (Scottish Executive Health Department):** I think that you are mixing up annual figures and figures that are accumulated over the three years. For example, the NHS savings are £33 million in the first year, which rises to £40 million by the second year and £50 million by the third year.

**Ms Alexander:** I understand. What is the figure for the NHS procurement savings?

**Dr Collings:** It is £50 million by 2007-08.

**Ms Alexander:** That means that £200 million of the total savings of £655 million will come from procurement.

**Dr Collings:** Yes.

**Ms Alexander:** That is about a third. We have been told that Audit Scotland will audit the system for delivering efficiency savings and confirm that the savings have been made. Is that still true?

**Peter Russell:** We have written to Audit Scotland inviting critical comment on the technical notes; we expect to hear from it shortly. I think that the minister wrote to the convener about that the other day. We are anxious to ensure that Audit Scotland is aware of everything that is happening.

**Ms Alexander:** The point that I am making is that, in December, we got a commitment that Audit Scotland would audit not only the savings but their deliverability. If a third of those savings will come from procurement, how will Audit Scotland confirm that they have been made? Given that procurement accounts for a third of the specified savings, has there been any discussion with Audit Scotland about whether it is possible to deliver that?

**Mr McCabe:** There have been discussions with Audit Scotland and I explained in my letter to the convener the sequence of events. Obviously, Audit Scotland was aware of the political situation that we have been in over the past few weeks. We expect that dialogue with Audit Scotland to continue and we expect it to express its view about how it will best be able to monitor, and express a view on, savings that are achieved.

**Dr Collings:** We have a programme of specific commodities in the NHS that we are targeting. It will therefore be possible for Audit Scotland to monitor the situation commodity by commodity, contract by contract and in terms of volumes and prices. The audit should not be difficult.

**The Convener:** On transport, two of the identified items are concessionary fares and rail franchise procurement. In the past, I have asked a

number of questions about concessionary fares and have received spectacularly imprecise answers. I have been given a range of anticipated costs but no breakdown of how the costs might be distributed among various operators. However, despite the imprecision in respect of the overall costs of the concessionary fares scheme, a £5 million saving has been identified, which I find hard to grasp. Can you comment on that? The figures seem to be extraordinarily speculative.

**Mr McCabe:** We gave a specific answer to the questions that you asked and have tried to deal with the points that you have raised. However, if you think that our information is spectacularly inaccurate, we will have another go at refining our answers in order to provide you with more reassurance.

**The Convener:** As far as I understand it, the Enterprise, Transport and Lifelong Learning Department is unable to identify precisely what the concessionary fares scheme will cost, but it appears to be able to identify a precise figure for the amount that it will save, which seems to be inconsistent.

On rail franchise procurement, another £5 million saving has been identified. The explanation that we have been given is that, as part of the rail franchise process, capital investment of £40 million was secured, which has been annualised to £5 million a year. Can that really be quantified as new savings or is it simply an outcome of a procurement exercise? I presume that one could have identified other outcomes of procurement exercises in the previous round. I do not think that you can stack up the £5 million that you have identified in relation to one year against a sum that did not exist the previous year. Do you think that you can? That might be a question for one of the officials to respond to.

**Mr McCabe:** One of the tests that we must use is to ask whether we would be spending £5 million more if nothing had happened. The answer is that we would.

**Peter Russell:** One product of the plan and the emphasis on efficiency might be that more public sector managers look for opportunities to take credit for efficiency savings that they make. There might not have been the same need to do that in the past.

**The Convener:** I think that there is a question about whether the public sector managers' badge of achievement corresponds to real and significant change as far as the public sector is concerned. Maybe that is an issue that we need to explore further. I would be concerned about a process wherein managers identified specific items in the budget as savings that have been achieved, without there necessarily being a corresponding

benefit. Obviously, that is part of the dialogue that we need to continue to have.

**John Swinburne (Central Scotland) (SSCUP):** I have sat here and listened to people talking about all the efficiency savings that will be made or that have been made, but I must ask whether anyone has ever thought about council tax, which is a most inefficient method of raising funds for any organisation. Of the total amount that should be gathered, 9 per cent is never gathered. Council tax collection costs 5.4 per cent of the total amount that is raised whereas income tax collection costs only 1.4 per cent of the total that it raises. That has an effect on anyone who pays council tax. Many people of my generation are finding it increasingly difficult to meet council tax increases, which are the result of inefficient government. Do you agree that a system of local income tax would be better than the council tax system?

**Mr McCabe:** The member raises a number of points in that question. I will start by reassuring him that council tax is regularly in my thoughts; we think about it quite often.

As we have said before, the rate of collection in Scotland is disappointing when compared with that in other parts of the United Kingdom, so we need to find out why. I have already had a number of discussions with local authorities throughout Scotland on whether collecting the council tax along with water charges is an inhibitor or an encouragement. Some people think that it is a good idea; others think that it is definitely a drawback. We are considering how to test that. As we speak, the Executive is discussing with local authorities how they can improve their rates of collection.

It will be for different people to present their different points of view on a local income tax. Some people presented a very strong point of view on a local income tax during the recent general election but, according to some of their spokespersons, they may now be considering whether or not that was a good idea.

**Mr Brocklebank:** I do not want to disappoint Alasdair Morgan by failing to come back to the redundant wheelie-bin procurers before we finish. Will the panel spell that out to me again? I think that you said that the redundant wheelie-bin procurers moved on to procure other things somewhere in the system. However, if the overall efficiency target is to make cuts in many areas and not only in wheelie bins, I presume that people will be redundant in other departments as well—there will be redundancies.

**Mr McCabe:** Potentially, yes there will.

**Mr Brocklebank:** Potentially?



**Mr McCabe:** Yes—potentially. We will not have any more wheelie-bin procurers than we need. I would like to reassure people in Scotland about that; I am sure that they will sleep easier tonight now that they have heard that.

**Mr Brocklebank:** Was not the idea that the guys who were released from wheelie bins would go on to procure something else?

**Mr McCabe:** Yes—if it can be achieved. We have said that we will retrain staff whenever we can. However, as I said earlier today and as I have said before, there will sometimes be natural limits on that.

**The Convener:** We have the political correspondents but not the sketch writers with us today, but I think that we might read some comments about wheelie bins.

I thank the ministers and his colleagues for coming along this morning. In the interests of proper scrutiny, we will continue this process; it is a major process for the Executive and for the committee. We will be looking for a number of things from the Executive: first, a clear summary of the savings that have been made in each budget; secondly, a clear identification of appropriate budgets for comparisons with savings; thirdly, a clear summary of the growth in public service provision that has been facilitated by efficient Government savings; fourthly, a clear explanation of how procurement savings will be monitored; and finally, a summary of posts that have been lost through the exercises. The answer to the final point should be concrete and should not include vague concepts such as natural wastage. Our receiving information on all those points would aid transparency greatly. It would also reassure the Scottish public that real progress is being made in delivering what the Executive has set out to achieve.

With that, I thank you again for coming along today.

**Mr McCabe:** I reassure the committee that the information that the convener has asked for does not cause us concern. Things are sometimes easier to say than to achieve, and considerable work will be required, but I am very happy for our officials to work with the committee and its adviser to look for ways of providing the information.

**The Convener:** Thank you.

11:29

*Meeting suspended.*

11:31

*On resuming—*

## **Family Law (Scotland) Bill: Financial Memorandum**

**The Convener:** The second item on our agenda is scrutiny of the financial memorandum of the Family Law (Scotland) Bill. The bill was introduced on 7 February by Cathy Jamieson, the Minister for Justice. The committee agreed to adopt level 2 scrutiny of the bill, which involves our taking written evidence from organisations on which costs could fall, and oral evidence from Executive officials.

We have received submissions from the Crown Office, the Scottish Court Service and the Scottish Legal Aid Board.

Today we have with us Executive officials from the bill team. Carol Duncan is the bill team leader, Moira Wilson is the bill team manager and Alex Mowat is a bill team member. I welcome you all. If you wish to make a brief opening statement, you may do so. We will then move to questions.

**Carol Duncan (Scottish Executive Justice Department):** I have a short opening statement, after which we will be available to answer questions, if appropriate. It will be easier if committee members initially direct their questions to me so that I can field them.

We are grateful for the opportunity to appear before the committee this morning to address any points that members may raise on the financial implications of the Family Law (Scotland) Bill. The bill reflects ministers' commitment in the document "A Partnership for a Better Scotland: Partnership Agreement" to

"reform family law for all of Scotland's people."

In common with many other countries, Scotland has in recent years undergone significant social change. Family formations are more varied than they were a generation ago, but the legal framework that supports families and which protects vulnerable family members has not progressed at the same pace. The purpose of the bill is, therefore, to bring the law into line with the way adults—especially adults with children—form and maintain relationships.

The guiding principles that underpin the reforms are: safeguarding the best interests of children; promoting and supporting stable families; and updating the law to reflect the reality of family life in Scotland today.

The Family Law (Scotland) Bill will introduce measured reforms, as opposed to making wholesale changes to the existing legal framework. The limited nature of the reforms is reflected in the relatively modest costs that are

detailed in the financial memorandum. We have estimated short-term costs of £4.25 million for the first two years, and £3.19 million annually thereafter.

In preparing the financial memorandum, the bill team consulted a range of agencies to identify where costs were likely to fall. Because we concluded that costs would fall largely on the public purse in respect of court costs, we liaised closely with the Scottish Court Service and the Scottish Legal Aid Board with the aim of working up clear and reliable cost figures. In some instances, we could find no directly comparable statistics, so we elected in those instances to estimate figures rather than leave gaps in the overall projected sum. The financial memorandum shows where estimates have been used and gives reasons for our assumptions.

Throughout the exercise, our approach has always been to err on the side of caution—we have elected to estimate costs at the higher end of the spectrum. We aimed to produce a comprehensive, transparent and robust financial memorandum.

**The Convener:** We are broadly content with the financial memorandum, although we have a relatively limited number of technical questions.

**Mr Arbuckle:** The bill will be major new legislation that will modernise family law, but you have not included anything in the budget for a public information campaign. Why? How much would a public information campaign cost and how would it be organised? Is it worth including the cost of such a campaign in the bill's potential costs?

**Moir Wilson (Scottish Executive Justice Department):** I have a couple of points on the information campaign. First, research in the lead-up to the work that we have done showed that, throughout Scotland, there is a woeful ignorance about existing family law. We will introduce a package of measures to complement the proposed legislation, which will also need an information campaign to support their introduction. As the legislative changes will be only one element of a much wider campaign, the campaign will therefore not be a direct result of the bill, which is why we did not include the costs of the campaign in the financial memorandum.

Secondly, the Scottish Executive is not the only organisation that provides information to the public on the issue. We aim to work with our partner organisations to build on and co-ordinate the information that already exists, perhaps through more effective signposting. Rather than start from scratch with a major information campaign, we will add to what already exists and look for best value. Over and above our baseline sum, we have allocated an additional programme budget for

publicity and information of about £200,000 for that complete information campaign.

**Mr Arbuckle:** Will the campaign be aimed at the public or the legal system? How will the information be put out? You said that the campaign will be linked to other measures, but will it be aimed at the public?

**Moir Wilson:** Through research, we have discovered that people have a great number of misunderstandings about their present legal rights and responsibilities to one another, so the campaign will be aimed largely at the public, although it will also need to inform the legal professions about the changes. As is often the case, members of the public want to access information on such matters only when they have an absolute need to do so. Therefore, we cannot simply have a one-burst campaign; we must try to ensure that the information is available whenever people need it.

**Mr Brocklebank:** The reduction in the periods that are required for divorce will have a financial impact. The financial memorandum states that the bill is likely to result in an immediate increase in the number of divorce cases that the courts handle. It goes on to say that the Scottish Court Service will need to redeploy existing staff and take on additional casual staff and that the additional staff costs in the first two years will be in the region of £272,000. In addition, legal aid costs will increase as a result. What provision has been made in the current funding for the Scottish Court Service and the Scottish Legal Aid Board for the expected short-term increase in the number of divorce cases?

**Alex Mowat (Scottish Executive Justice Department):** No specific provision has been made, but it is important to make a couple of points about that. First, after the bill has become an act, it will be implemented about a year from now. Therefore, there will be only about one year in which the Scottish Court Service and the Scottish Legal Aid Board will have to find provision from within their current budgets before the next spending review. The additional costs that we are talking about will be about 0.2 per cent of the Scottish Court Service's current budget and about 2.3 per cent of the Scottish legal aid fund for last year. Therefore, we do not anticipate that those organisations will have difficulties in the first year of operation in handling any consequentials that arise from the bill. Thereafter, it will be for those bodies to bid for additional funding in the next spending review.

**Mr Brocklebank:** Is not it the case that the largest increase in applications for divorce will occur in the first year, which means that expenses will be the greatest then?

**Alex Mowat:** Cases will come forward in the first year, but they will not all be handled in the first

year. We have discussed the matter with the Court Service and the Legal Aid Board, which are confident that they will have no difficulty in coping within existing resources for the first 12 months.

**Mr Brocklebank:** Can you give a breakdown of the £272,000 of additional staffing costs for the Scottish Court Service?

**Alex Mowat:** I am afraid not. The Court Service is conscious of the average case costs for divorce and it supplied us with the figure. Obviously, if the committee wants a breakdown of that figure, we can get one and write to the committee with that.

**The Convener:** There is a lack of information on the impact of the measures on matrimonial interdicts—only four of the eight police authorities gave figures on that. What assumptions did you use to determine that those measures will have no additional costs to the police and that savings can be made on current expenditure in relation to matrimonial interdicts?

**Alex Mowat:** That is a difficult question. We wrote to all eight Scottish police forces and got pretty similar responses from them all. Unfortunately, statistics on the issue are not collected centrally, so we had to get them from each individual constabulary. All the forces, even those that could not provide us with specific figures, are confident that the numbers will be low. Furthermore, they all feel that the provisions on matrimonial interdicts, which will extend interdicts beyond the home, will if anything lead to a decrease in activity for officers. The reasoning is that, at present, if an incident occurs at a parent's place of work, police officers have to mediate between the two parties, but cannot make an arrest—at least not under the matrimonial interdict provisions. Officers often have to attend several such incidents, but the extension of interdicts to places of work and schools will make it easier for them to effect an arrest on the first occasion when they attend and will therefore lead to a decrease in work and paperwork. Not all the forces could give figures, but all eight forces feel that, if anything, there will be a slight consequential decrease in expenses.

**The Convener:** The financial memorandum assumes that 10 per cent of cohabitants whose relationship dissolves will end up in court to arrive at a financial settlement. What is the evidence base for that figure?

**Alex Mowat:** Of all the provisions in the bill for which we produced figures, it was most difficult to do so for those that relate to cohabitants. It was fairly straightforward to calculate the additional costs of the provisions that relate to divorce because the Scottish Court Service can say precisely how many divorce cases are handled each year and how much each case costs.

However, we did not have that luxury with the

provisions that relate to cohabitation, which will introduce new rights. Therefore, we worked with the relevant agencies, particularly the Court Service, to try to make a best estimate of the costs. The Court Service was able to say that 55 per cent of divorce cases had a financial settlement element, so that was our benchmark. We are not extending the same kind of rights to cohabitants as exist for married couples because cohabitations are generally shorter in duration and couples do not have the same amount of time to become so financially intertwined. We therefore know that we will not get anything like the same numbers of cohabitants going to court on separation to seek financial settlements.

11:45

I agree that the figure of 10 per cent is a best estimate. We knew that it was not going to be anything like 50 per cent. We discussed the matter with our partners and 10 per cent seemed to be a reasonable figure given the provisions on cohabitation. The percentage might turn out to be lower than that. As Carol Duncan said in her opening statement, we have opted for higher rather than lower figures throughout the memorandum. That was the most difficult figure to estimate, but we still believe that it is our best estimate.

**Mr Arbuckle:** The memorandum states that only a small number of unmarried fathers will have recourse to voluntary bodies for mediation or counselling, so the cost of that will be negligible. What is the basis for that statement?

**Alex Mowat:** We spoke to a contact in the National Family Mediation Service who said that, at present, small numbers of unmarried fathers seek help from the service. We relied on that advice. We gave the service the financial memorandum; its opinion was that the bill will have no impact that cannot be met out with existing resources.

**The Convener:** Thank you for coming along. We have exhausted our questions and we will put together a report based on the evidence that we have received and submit it to the lead committee.

I normally ask members whether they have any particular issues that they want to be included in the report, but from the contents of the questions, I assume that members are quite content for the report to be a technical exercise.

**Members indicated agreement.**

**The Convener:** We now move into private session to discuss the draft reports on the financial memoranda on the Environmental Assessment (Scotland) Bill and the Housing (Scotland) Bill.

11:48

*Meeting continued in private until 11:49.*



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