

# **FINANCE COMMITTEE**

Tuesday 22 November 2005

Session 2

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## FINANCE COMMITTEE

27<sup>th</sup> Meeting 2005, Session 2

### CONVENER

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

### DEPUTY CONVENER

\*Mr John Swinney (North Tayside) (SNP)

### COMMITTEE MEMBERS

\*Ms Wendy Alexander (Paisley North) (Lab)  
\*Mr Andrew Arbuckle (Mid Scotland and Fife) (LD)  
\*Mark Ballard (Lothians) (Green)  
\*Derek Brownlee (South of Scotland) (Con)  
\*Jim Mather (Highlands and Islands) (SNP)  
\*Mr Frank McAveety (Glasgow Shettleston) (Lab)  
\*Dr Elaine Murray (Dumfries) (Lab)

### COMMITTEE SUBSTITUTES

Alex Neil (Central Scotland) (SNP)  
Iain Smith (North East Fife) (LD)  
Janis Hughes (Glasgow Rutherglen) (Lab)

\*attended

### THE FOLLOWING GAVE EVIDENCE:

Stephen Birmingham (Office of the Commissioner for Children and Young People)  
Angela Campbell (Scottish Executive Health Department)  
Malcolm Chisholm (Minister for Communities)  
Elizabeth Foster (Office of the Commissioner for Children and Young People)  
David Henderson (Scottish Executive Finance and Central Services Department)  
Kathleen Marshall (Commissioner for Children and Young People)  
Alisdair McIntosh (Scottish Executive Development Department)  
Colin Reeves (Scottish Executive Education Department)  
Julie Wilson (Scottish Executive Office of the Permanent Secretary)  
Frances Wood (Scottish Executive Health Department)

### CLERK TO THE COMMITTEE

Susan Duffy

### ASSISTANT CLERKS

Kristin Mitchell  
Merrin Thompson

### LOCATION

Committee Room 4



## Scottish Parliament

### Finance Committee

*Tuesday 22 November 2005*

[THE CONVENER *opened the meeting at 10:09*]

### Items in Private

**The Convener (Des McNulty):** Good morning. I open the 27<sup>th</sup> meeting this year of the Finance Committee by welcoming the press, the public, the minister and his colleagues. On a matter of housekeeping, I ask that all mobile phones and pagers be switched off. I have received apologies from Mark Ballard, who will arrive a little late as he needs to make a brief appearance at another committee meeting.

For the first agenda item, I ask members to consider whether to take in private item 6 to allow us to have a preliminary discussion about what should be in our stage 2 budget report. Are members agreed?

**Members indicated agreement.**

**The Convener:** I also propose that we take in private consideration of our draft stage 2 report at our next meeting and, if necessary, at any subsequent meetings. Are members agreed?

**Members indicated agreement.**

**The Convener:** I propose that, at next week's meeting, we consider in private issues that have arisen from our deprivation inquiry. After all, we will no doubt discuss our preliminary views about what should be in the draft report. Are members agreed?

**Members indicated agreement.**

**The Convener:** Finally, I seek members' agreement to take in private our draft report on the financial memorandum to the Police, Public Order and Criminal Justice (Scotland) Bill at our next meeting. Are members agreed?

**Members indicated agreement.**

## Cross-Cutting Inquiry into Deprivation

10:11

**The Convener:** Having cleared that ground, we move to our second agenda item, which is another evidence-taking session in our cross-cutting inquiry into deprivation. I welcome to the committee the Minister for Communities, Malcolm Chisholm. He has offered to give evidence on behalf of the Minister for Finance and Public Service Reform and the Minister for Health and Community Care, whom we had originally invited to the meeting. Given that we are likely to ask questions that will concern different departments, the minister has brought with him a number of officials. They are: Alisdair McIntosh, head of the regeneration, fuel poverty and supporting people division; David Henderson, head of local government finance division; Angela Campbell, economics adviser at the health economics unit; Frances Wood, head of health improvement policy; and Julie Wilson, senior statistician at the Scottish Executive's analytical services group. I welcome you all to today's meeting.

As is customary, I ask the minister to make a brief opening statement, after which we will proceed to questions.

**The Minister for Communities (Malcolm Chisholm):** I will try to keep my comments brief, although I should point out that I have to cover a very large area. As you said, convener, you invited other ministers to the meeting; however, in their wisdom, they have decided to send me into the fray alone but—I think—well armed.

Ministers thought that I should come and give evidence partly because I have some overarching responsibilities in this area, especially as chair of the closing the opportunity gap delivery group. Perhaps, by way of introduction, I should say something about that role. At the end of last year, I announced 10 specific targets for closing the opportunity gap, which have served to focus the attention of the Executive and its partners on what we believe to be the most pressing and important poverty and deprivation issues including worklessness, health inequalities, low educational attainment, access to rural services and community regeneration of our most deprived neighbourhoods.

I make it clear that those targets and the resources and work behind them focus on individual and area deprivation. I know that the committee has discussed those two areas, which I believe are complementary. It is a question not of addressing one or the other issue, but of working across the Executive and with our public sector,

private sector and voluntary sector partners to tackle both.

As much of the committee's discussion has focused on promoting the community regeneration of the most deprived neighbourhoods, I should say something about that. Members who have read the Executive's recent publication "Social Focus on Deprived Areas 2005" will know that the most deprived neighbourhoods fare significantly worse than the rest of Scotland on nearly all socioeconomic indicators. The committee has also heard from a range of people evidence that concentrations of deprivation compound and reinforce each other. The Executive agrees with that view.

We also know that it will be difficult to achieve our closing the opportunity gap targets if we do not make significant progress in the most deprived areas. For example, about one third of the lowest attaining 20 per cent of secondary 4 pupils live in the 15 per cent most deprived areas. Clearly, we must have an impact on those areas if we are to have any impact on Scotland. The "Social Focus on Deprived Areas" report consolidates and updates the evidence base for inequalities, which confirms that we were correct in our thinking on closing the opportunity gap.

As a result, targeting the most deprived areas is the right—but not the only—approach. The community regeneration fund aims to be a catalyst for that not only by funding important services and projects in its own right but, more important, by using the regeneration outcome agreement to focus the efforts and resources of community planning partners on the most deprived neighbourhoods. Although the CRF amounts to £318 million, I am under no illusion that it will tackle all the problems of deprived neighbourhoods. It will make a difference, but the big budgets for local government, the health service and others must also play their part. That is what we are trying to deal with through the new regeneration outcome agreements.

10:15

The committee has reflected on the important subject of the big amounts of money that go into local government budgets. The distribution of that money is another issue that has arisen; David Henderson is here as the expert on that. Eight years ago, I was the minister with responsibility for local government in Scotland, so I have experience of, an interest in and knowledge of the matter.

Adjustments for deprivation in the grant-aided expenditure methodology are now made to 18 GAE sub-services that are linked to just over £2 billion from a GAE total of £8.7 billion. Those sub-

services relate mainly to education and social work; they include the lines for school meals, the child care strategy, services for the home-based elderly, homelessness and enhanced debt-advice services. The committee may wish to ask more about that.

I have more recent experience of working in the health portfolio. Members will know that account is taken of deprivation through the Arbutnott formula, which was the first subject that the Health and Community Care Committee, of which I was a member, discussed in 1999. That formula was acknowledged as being a step forward. However, another review is being conducted by the national resource allocation committee. Members may be interested to know that it is exploring the potential of data zones, which the committee has discussed, in its review of the Arbutnott formula.

An interesting issue that crossed my desk when I was Minister for Health and Community Care was the extent to which a formula that is based on the use of health services is adequate. The concept of unmet need came very much into play. We set up pilot projects on unmet need. Members probably noticed in the papers this morning a development in relation to anticipatory care, which was a key recommendation of Professor David Kerr's report. The ideas of unmet need and anticipatory care, which are closely related but conceptually different, are progressive notions in health spending. They will further ratchet up our attempts to focus health expenditure on the sickest and most deprived communities.

Apart from those in health and local government, many other funding streams relate to the committee's inquiry. We sent the committee a table that lists the various funding streams that impact in one way or another on the most deprived areas. Members will probably remember that we divided the deprivation criteria into four categories. I will not go through all the funds, but the table touches not only on the community regeneration fund, but on the affordable housing investment programme, pilot studies for unmet need in health—to which I have just referred—the working for families fund and the supporting people programme, which includes an allowance for deprived areas in its distribution.

Over and above that list of funds that relate to deprived areas, many funding streams deal with multiple deprivation, but not on an area basis. For example, sure start Scotland is targeted not at areas of multiple deprivation, but at vulnerable families with children who are aged from nought to three. That involves a not inconsiderable budget of £170 million over three years.

A complex situation of mainstream funding and specific funding streams applies. We are always looking to ensure that such funds work together

better. We look forward to the committee's report as a contribution to our continuing attempts to meet deprivation needs more effectively.

**The Convener:** It might be useful if I make two or three comments before we start the questioning. First, we have heard interesting evidence from the witnesses whom we have seen. Also, we are to have a report on a day that committee members spent in Glasgow last week. In a sense, those activities have generated the questions that members are likely to ask.

Secondly, we are interested in solutions rather than in the process of mapping out deprivation and the policy focus. We want to know what is working in tackling deprivation, which is an issue because there is much more evidence and information about the problems than there is about how the solutions work.

The third issue in which we are particularly interested is the complexity of the funding that is linked to deprivation and the problems that people have both at the Executive end and at the local authority and other organisations end—the receiving end—of making sense of the funding streams. We are also interested in whether there are opportunities for refinement, streamlining and consolidation and in how those areas might be developed. Those are the issues on which we are trying particularly to focus.

I will kick off the questioning on a general issue that has arisen. In your judgment, have we got the balance right between people-focused interventions and place-focused ones? Obviously, a range of interventions are going on, some of which are area-based and others of which focus on issues such as worklessness and which are not narrowly place based. Have we got the balance right between the two strands and are they articulating properly?

**Malcolm Chisholm:** I would not claim that the situation is perfect, but I think that we have a reasonable balance between the two. We are also trying to get beyond a hard separation between the two because we want, in the regeneration outcome agreements, to target the most deprived areas of Scotland. You referred to worklessness—we are trying to connect what is happening in the most deprived areas with wider economic issues. Perhaps one of the failings of area-based funding in the past was that it focused exclusively on what was happening in particular areas. However, through the regeneration outcome agreements, we are trying to connect what is happening in the deprived areas with the wider context of our work.

I do not think that there is a hard separation between area-based and issue-based interventions. We believe that there is a place for targeting areas of multiple deprivation because

they have particular problems, but we must connect that work with the wider issues, particularly in relation to worklessness. I am very impressed with how Glasgow, for example, is focussing strongly on worklessness—it is also focusing on addiction—which is a strong focus for the community planning partnerships. We are trying to join up the regeneration outcome agreements and opportunities in specific areas of need with the wider economic opportunities that are now available more widely in Glasgow.

As I said, I think that we have the balance about right between the two strands, but we are trying to get beyond a hard separation between the two.

**The Convener:** I can see that you might argue in principle that those things can be blended. However, I have an example that arose in our discussions in Pollok last week. The Pollok area did not qualify for urban regeneration funding from the early 1990s onwards. It was brought into the loop probably when you were the Minister for Local Government and Transport in the late 1990s. Pollok lacked a local infrastructure of organisations, which had been stripped away because of earlier underfunding. It then used different organisations such as One Plus, Barnardo's and the Wise Group, which are still active in the area, to develop initiatives on health, child care and so on.

Pollok is now looking to generate local organisations to develop the initiatives. There is an implicit logic in that because in a place-based system people will try to create place-based organisations to develop initiatives that will give them ownership, where national or regional organisations might intervene. The Wise Group raised that point in its evidence. It regards the focus on community ownership of community regeneration as being antithetical to its involvement.

What you are saying might work in theory, but it clearly does not work in practice.

**Malcolm Chisholm:** You have highlighted some potential problems. I am a great admirer of the Wise Group and I read its evidence with interest.

The fact of the matter is that when it comes to our meeting targets on closing the opportunity gap, we are considering reductions in worklessness across the whole of Glasgow and in six other local authority areas. That illustrates that we are not focusing all our efforts just on the 15 per cent most deprived areas.

There is no definitive answer along the lines of saying that all projects must be based locally or no projects should be based locally; projects can be managed well or not well. That is why we tried to introduce more performance management. I know that some members of the committee have found

that controversial; however, we are trying to make sure that the local area plans are better and that they focus on outcomes.

If the Wise Group is the best way of delivering the outcome of reducing worklessness and of promoting work and training opportunities, it should be used. Equally, we all know of very good projects in our constituencies in which that sort of work is done well at local level. I do not see the issue as being about having to choose one or the other. I accept that David Nicoll has identified a potential problem in people thinking only locally but, as I said in my last answer, we are trying to ensure that the 15 per cent most deprived communities connect with the wider economic opportunities around them. If that has not happened sufficiently in the past, then we would like to correct that. That is another reason why there should be some kind of national oversight of this controversial step. It would be ludicrous if on principle the Wise Group were not used because local groups were being used.

**The Convener:** I do not want to focus on the Wise Group particularly, but on the general issue. You will be aware of some of the problems associated with the urban aid funding programme and the fact that projects were not strategic in that they did not interact with one another. Every area had its own group of projects that evolved for historical reasons to do with that particular community and the people who were involved in the projects. That is not necessarily a bad thing; it was characteristic of the urban aid approach.

Another approach came through the new life for urban Scotland initiative which, as we heard from Alan McGregor and others, did not work in Castlemilk or in the other three areas in which it was implemented. What have we learnt from the mistakes of urban aid and new life for urban Scotland? How will the new regeneration approach be better?

**Malcolm Chisholm:** The fundamental difference is that now we focus on outcomes rather than on projects. The other thing that I should have said in response to the previous question was that not all the money—even from the community regeneration fund—needs to be spent in the 15 per cent most deprived areas. Twenty per cent of the money, although it could be more in some places, can be spent thematically on projects that operate across a local authority area.

However, the main point that I would like to make in response to your question is that we have recognised that some spending in the past did not focus on outcomes but on supporting particular projects. No doubt many of those projects were worthy, but the whole exercise of regeneration outcome agreements has helped to concentrate people's minds on achieving specific objectives.

Whatever method is best in reaching the objectives is the one that should be adopted.

**The Convener:** My question is: which objectives are most crucial? Are they place-based objectives or people-based objectives? What weighting do you give to each of them?

**Malcolm Chisholm:** It depends. If we are talking about an objective for regeneration, then it is what is happening in an area that is important. However, that is only one of 10 closing the opportunity gap objectives and it is not a question of choosing one or another. It is important that we make progress in areas where there are concentrations of deprivation. That is not the Executive's only—or even its overarching—objective.

The first closing the opportunity gap objective concentrates on the local authority areas that have the highest levels of worklessness. The objective is targeted, but it is targeted in a different way. We are examining worklessness across the whole of Glasgow so that we can reduce it. That is not incompatible with saying that we want a particular focus on the most deprived areas.

First, to reach the overarching targets we have to make progress in the most deprived areas. That is equally true of health inequalities and educational attainment objectives. Over and above that, our particular problem is where deprivation and poverty are concentrated; therefore, it is absolutely legitimate to target them with specific initiatives. However, I do not see it as an either/or situation. It is an important part of the attack on poverty and deprivation, but it does not take away from the wider objectives.

10:30

**The Convener:** I have two more follow-up questions, after which I will let other members in. One thing that was impressive about Steven Purcell was that he said that priorities must be chosen, and Glasgow chose drug addiction and worklessness. I am not convinced that the Executive has chosen what it wishes to do. Maybe it is not possible to have a clear choice, because you must attend to a range of matters, but I am not clear how the Executive is prioritising, targeting and handing over resources in a clear way to address a well-defined set of outcome objectives.

You say that you are keen to move forward on outcomes, but given the complexity of regeneration outcome agreement forms and the lack of a clear view from the Executive on which matters are most important, there is a question about whether clear choices are being made. That impression is reinforced by the vast number of different channels of money and initiatives that come from the Executive, of which Steven Purcell was critical.



**Malcolm Chisholm:** I will be interested to read the report of the committee's inquiry but, from the evidence, I see two contradictory strands. On the one hand, people say that there is too much national supervision and that we should leave it to local arrangements. On the other hand, you suggest that there is not a clear enough national steer on the number 1 priority. There has to be a balance.

We have clear national priorities. Sticking with regeneration outcome agreements, we have clear national priorities on work, education, health and strong, safe communities. However, we are leaving a bit of local discretion in how to prioritise within those priorities. Glasgow has made its choice, as you said. Such judgments are difficult. One might say that at national level we should set two main priorities and everything else would be subordinate, but that would not necessarily be the best solution, given local variations.

That said, there is a strong steer on worklessness at national level, not just through all the initiatives that the committee has examined, but through the forthcoming employability framework, which will give further impetus. I suppose that if there is one overarching priority, worklessness comes through strongly. It is dangerous to be over-prescriptive from the centre because we would be told that there was no local flexibility whatsoever.

**Mr John Swinney (North Tayside) (SNP):** The convener's point, which comes out of the evidence consistently, is that the issue is not the degree of national direction, but the degree of national focus on activities. By the time the message gets down from the Scottish Executive through Communities Scotland and into the multiplicity of different agencies, the focus has dissipated. Does not the Government need to address that challenge more directly?

**Malcolm Chisholm:** As I say, I am keen to examine the evidence for that. When the committee questioned Communities Scotland you seemed to suggest the opposite—which was that in some way people should be left to make decisions locally about community planning. You seemed to question whether a national agency representing the Government should have a role.

**Mr Swinney:** My question to Communities Scotland was to ask what value was added by it. I cannot get an answer.

**Malcolm Chisholm:** That is precisely the point that I am making. Communities Scotland is an agency of the Scottish Executive, and it is ensuring that the national priorities are reflected to a satisfactory extent in regeneration outcome agreements. The convener suggests that we should go further and have an even clearer

hierarchy of national priorities. We are making it clear that regeneration must address work, health, education and strong, safe communities, but the details of how local partnerships do that ought to be subject to some local discretion.

Glasgow has chosen to focus on worklessness and addiction. Those issues might need to be addressed in Glasgow but it may be that in other parts of the world the focus needs to be slightly different.

**Mr Swinney:** In the context of health, education, strong, safe communities and all the rest of it, I am still left wondering what added value Communities Scotland offers. I can understand what a local authority brings to the party and the resources that the Scottish Executive brings to the party, but I am at a loss to understand the added value that Communities Scotland provides.

**Malcolm Chisholm:** Communities Scotland has a range of roles. It sets national standards; it has an assessment role; it is a link between national policy and local services; it is there to develop and share best practice; and it is there to ensure that communities are engaged in the process. Part of the confusion might be about what Communities Scotland is as distinct from the Executive. Communities Scotland is no longer a non-departmental public body; it is an executive agency. In that sense, it is not separate from the Scottish Executive.

What is the role of the Scottish Executive/Communities Scotland? Should it be just to produce funding and let local bodies do what they like with it, or should it have a role over and above giving funding that includes performance management elements and ensuring that, while allowing for local discretion, national priorities are adequately reflected in local outcome agreements? It seems to me that there is an important role there and that the Parliament will feel that it has an important role in overseeing what happens locally. Communities Scotland is just an agency that performs that function.

**Mr Swinney:** I can understand the accountability trail that a local authority must follow and the accountability role that the Executive must perform, but Communities Scotland appears to me to be in the middle, in that, in effect, it encourages local organisations to face both ways—local accountability and national accountability. In that mix, much of the focus of the policy is lost.

**Malcolm Chisholm:** I do not know what you are suggesting. Are you suggesting that there should be no national accountability? In so far as there is a need for national accountability, Communities Scotland is the body that ensures that it takes place. You could ask, "Why do you need Communities Scotland? Why not just come

straight to the Scottish Executive?" You can make that argument if you want to. I presume that that would mean bringing Communities Scotland within the Scottish Executive, which I do not necessarily think would change the world fundamentally.

**Mr Swinney:** A lot of money is tied up in the interface between the Executive, Communities Scotland, other agencies and local authorities. My question is: where is the added value in all that? It looks like there is a tremendous amount of complexity in a central part of the Government's programme, which is to improve people's opportunities locally in a wide variety of communities. I question the added value that the creation of Communities Scotland and the bureaucracy that goes with it can bring in trying to get more out of local authority community planning partnerships or health board activity.

**Malcolm Chisholm:** I listed some of Communities Scotland's roles. We could get into a discussion about its status. Communities Scotland used to be an NDPB, but Wendy Alexander changed that. No doubt someone else could argue that it should be part of the Executive, but that does not change the fundamental fact that there must be a national role in the agenda and the matter should not be left to local bodies. Contrary to what others argue, we accept that there is an important role for local decision making, utilising local knowledge and all those dimensions. We can argue about who should perform the important role nationally, in so far as it exists, but we need someone who carries out all the functions that I described to ensure that national priorities are reflected in the local agreements and to manage performance and ensure that work happens more successfully than it has done in the past.

To some extent the approach recognises that previous programmes such as urban aid were not good enough. We are trying to focus on outputs and to ensure that the programmes that people come up with deliver outcomes. We will monitor that work and performance manage it. We also want to ensure that the outcomes are based on national priorities. That seems to be a reasonable proposition.

**Mr Swinney:** What incentives are there for the people who are involved in delivering a regeneration outcome agreement to achieve its objectives? What happens if they do not achieve them?

**Malcolm Chisholm:** The outcome agreement will be performance managed, and I will get regular reports about progress on the agreed outcomes. The same question could be asked about other outcome agreements, which are becoming common in different portfolios. They will be performance managed and if there is a problem, ultimately, funding can be sanctioned, but the objective is to avoid that.

**Mr Swinney:** That is scrutiny after the event, once the—

**Malcolm Chisholm:** No; it will be on-going. We will not scrutinise it in 2008; we will watch progress over the three years.

**Mr Swinney:** Does that mean that, after the first year, if performance against the expectations of the agreement is failing, the Executive will question the project's funding, or perhaps withdraw it?

**Malcolm Chisholm:** That is another answer to your question about the point of Communities Scotland. Obviously, it would draw such a failure to ministers' attention. In the first instance, the Executive would intervene to ensure that something is done to correct the situation. Ultimately, funding could be withdrawn, but we would neither want nor expect matters to get to that stage. However, performance management is an important part of the process, which is why Communities Scotland, among other organisations, has an important role.

**Dr Elaine Murray (Dumfries) (Lab):** We are focusing on particular funding, and you made the point that a number of other funding streams already exist to tackle deprivation. The community regeneration fund is targeted at the 15 per cent of communities that are considered to be the most deprived under the Scottish index of multiple deprivation. We heard evidence from either Glasgow City Council or West Dunbartonshire Council that that figure should be narrowed to 5 per cent, to allow a focus on the most deprived communities. However, we also heard evidence from Fife Council that the figure should be broadened to 25 per cent, which would catch more of the people who live in deprivation and would possibly reflect the situation in rural communities, where deprivation is more diverse. What was the logic behind the figure of 15 per cent? And what was the reasoning behind the decision that 20 per cent of funding could be more widely spread within a local authority area?

**Malcolm Chisholm:** Obviously, different local authorities would benefit from different cut-off points. However, the objective reason for the 15 per cent figure is based on the graphs, which show that that is the level at which many of the socioeconomic indicators begin to get substantially worse—there is a gradual rise that increases significantly from the 15 per cent point on. That was the basic objective justification, but other cut-off points have been used. Indeed, when I was Minister for Health and Community Care, 10 per cent was used. That meant that most of the money for unmet need went to Glasgow. I accept that the case for different cut-off points for different indicators can always be made; but the graph got steep at the 15 per cent point for these particular indicators, which is why that is the cut-off point.

The decision about the 80:20 split was made before I became minister, so I cannot speak with any final authority about why that decision was made, but the balance seems reasonable. The thinking behind the community regeneration fund is that it will focus on the most deprived areas. However, bearing in mind the convener's point about connecting with wider issues and not necessarily focusing only on local projects, which I accept, we wanted a thematic basis for the fund as well. Again, we can argue about the precise proportions, but the thinking was that although we wanted to support areas in particular, we accepted the need for wider, thematic projects.

**Dr Murray:** Rural areas probably do not show up in some of the statistics. I am interested in the work that Glasgow is doing on worklessness and on addiction, because addiction is a significant problem in Dumfries and Galloway; it has the fourth-highest level of heroin abuse through injection. The issues seem to be the same, although the regional background is very different. How do you balance such people issues, which are perhaps linked not specifically to geography but to history and location?

10:45

**Malcolm Chisholm:** Obviously, many examples could be given and different portfolios will pick up different issues. We are mindful of the different issues that exist in rural areas. One of the closing the opportunity gap targets is specifically about improving access to services in disadvantaged rural areas and a programme of work is being developed around that. Perhaps the witnesses from the Scottish Executive Health Department will comment on the specific example you gave of substance misuse in rural areas, but I imagine that individual portfolios would pick up such issues.

**Dr Murray:** In Glasgow, the problem has been identified as one that must be tackled through the community regeneration fund. How does that then link in with what is happening in health and other portfolios? There has been criticism of the different funding streams and targets because of the hoops that people have to jump through to get funding from different sources. How is all that brought together?

**Malcolm Chisholm:** Glasgow made the decision about drugs through its community planning partnership, but it is not specifically related to the CRF. In general, there are encouraging signs of the different agencies working well together in Glasgow. The drugs issue is a particular example and the same community planning arrangements should apply in your area. If the partnership wants to focus on drugs as a particular priority, there is no reason why it should not do so.

I do not need to remind the Finance Committee that over and above all the funding streams that we are being questioned about, community planning partnerships can use the big allocations to health and local government in accordance with their priorities. There are specific funds for dealing with drugs, but the issue could be picked up by community planning partnerships anywhere in Scotland. That is what happened in Glasgow, where the community planning partnership decided that addiction, along with worklessness, would be the priority. Partnerships throughout Scotland could utilise mainstream resources and other specific funds alongside them.

**Dr Murray:** However, people complain that they have to hit different targets for different funding streams, which adds to the bureaucracy and ties up time that could be used to deliver the outcomes that everyone wants to see.

**Malcolm Chisholm:** We are mindful of that. The regeneration outcome agreements offer the potential to bring more funding streams together. We are looking to see whether some of the new funding streams can be dealt with and monitored through regeneration outcome agreements to ensure that there is a strategic fit and less bureaucracy.

We are at the first stage of regeneration outcome agreements, which have the potential to build in more funding streams and more mainstream funding. The main reason why we moved to community planning from social inclusion partnerships was to ensure that mainstream funding complemented specific funding far more effectively than it had done in the past. In some ways, the key to making progress on regeneration is to tap into mainstream budgets for health and local government. I am not saying that we have got there yet, but the regeneration outcome agreements and the focus on community planning are the important building blocks for doing that and that is where I see progress being made.

**Jim Mather (Highlands and Islands) (SNP):** You spoke earlier about the role of assessment and accountability. I am pleased to see a senior statistician on your right-hand side today. What stage are you at in the process of understanding what the baselines for the 10 targets were and what progress has been made? That is what I would call statistical control.

**Malcolm Chisholm:** There are probably 10 different answers to that, and Julie Wilson is the person to answer in more detail, which she will do in a minute. Historically, there was a lack of data in some areas but, where that was the case, we are ensuring that we get the necessary data and we have established baselines for our targets.

**Julie Wilson (Scottish Executive Office of the Permanent Secretary):** The targets are underpinned by the latest available evidence base. We will be tracking that through the Scottish neighbourhood statistics, which are the small-area data that fed into the SIMD.

Earlier, there was a debate about the fact that one cannot use relative measures to track progress over time. It might be helpful to explain that, obviously, if one has a fixed pot of money, one needs to use a relative measure to divvy it up between the local authorities, the CPPs and the health boards. However, the raw data that we have established in the neighbourhood statistics will be used to track outcomes over time, so the process is transparent, accountable and measurable.

**Jim Mather:** I hear the words that you are saying. However, if you were making that speech to Tom Farmer, Jim McColl or Brian Souter, they would be glazing over, as I almost was.

**Julie Wilson:** Sorry.

**Jim Mather:** We are talking about deprivation. It would be interesting to know how you are tracking the absolute number of people of working age who are in work in deprived areas. Are you doing that?

**Julie Wilson:** We look at unemployment at data zone levels. We look at the number of people—

**Jim Mather:** I was talking about employment. Do you look at the number of working-age people who are in work in deprived areas?

**Julie Wilson:** We look at the number of working-age people who are not in work. From that, one can deduce the difference.

**Jim Mather:** I put it to you that it might be a better indicator of success if we were watching increases in the number of working-age people who are in work in those areas. Would not that be a nice, crisp, simple measure with which to manage performance?

**Julie Wilson:** Yes.

**Malcolm Chisholm:** The recent "Social Focus on Deprived Areas 2005" report shows that we have detailed knowledge about all of the various elements that go into the formula for deprived areas. We can track each of those elements over time and I was surprised to hear that Arthur Midwinter suggested that we could not. We can track all of the different elements of the SIMD over time and much of that information is included in the report. We did not have that before. We can track detailed information on employment, health, education and other key indicators.

**Jim Mather:** From a Finance Committee standpoint, I would say that the simple measure that I spoke of would create a feedback loop that

would enable us to say that, as a result of the money that is being spent on Communities Scotland projects, there are more people in work, fewer people on social security, more taxes being collected, more people with money in their pocket and, therefore, less likelihood that people will be in ill health, because they will be able to make better choices. Would it not be useful to have that crisp measure and to publicise it frequently?

**Malcolm Chisholm:** That is one of the outcomes that I will be most interested in when I get reports about the progress that is being made.

**Mr Frank McAveety (Glasgow Shettleston) (Lab):** You mentioned the allocation of budgets in relation to health and local government. The CRF will be £380 million over three years, compared with the big, dominant spends in health and local government. Have you ever put a paper to the Minister for Finance and Public Service Reform about changing the deprivation formula in either of those two areas?

**Malcolm Chisholm:** I do not think that the Minister for Finance and Public Service Reform deals with the health issue but, obviously, your question could apply to two ministers rather than one. I am certainly interested in the issue that you raise but I have not done what you suggest I might do. There is on-going work in this area. David Henderson might want to talk about that and I know that you will know a lot about it already, because of your background.

The issue is complex. Julie Wilson is involved in the area and can give you objective reasons for decisions relating to the distribution of local government money. Obviously, there are contentious issues around the question of how much weight should be given to deprivation.

When I was the Parliamentary Under-Secretary of State for Scotland with responsibility for local government, I was interested in that area but I have not been directly involved in my present position.

**David Henderson (Scottish Executive Finance and Central Services Department):** The local government formula is complicated. It has grown up over time and has been in place for many years. It breaks down a block of funding into 98 funding lines, of which around a quarter are allocated using the deprivation indicator. Around a third of the block budget is allocated using the deprivation indicator, sometimes directly and sometimes as a secondary indicator. The total for deprivation is substantial. Ninety per cent of just over £8 billion is unhypothecated; it is up to local government how to spend it. That goes back to the issues that were raised at the start of the meeting about local decision making and accountability.

**Malcolm Chisholm:** In health, the national resource allocation committee is considering

building on and, if possible, improving the Arbutnott formula and is considering the use of the deprivation data zones in its review to see whether we can do even better at distributing money on the basis of deprivation.

**Julie Wilson:** I am glad that you raised the point, because I was keen to follow up Wendy Alexander's conceptual point about the extent to which it is right for the Executive to consider deprivation in different ways. I was involved in loan charges support for GAE from 1994 to 1997, which was the reorganisation period, I introduced the first level-playing-field support for private finance initiatives, I project managed the Arbutnott review and produced the technical report and now I have inherited the SIMD, so I have been around these issues.

We are doing the right thing. We must start from the philosophical basis of what the funding formulae were set up to do. The aim with SIMD is to consider area-based concentrations of deprivation, which is why the formula is constructed in the way that it is and is targeted using the data and the work that we do on them. The defining principle of Arbutnott was equality of access for those in equal need, which was the defining principle of the national health service when it was established back in 1948. With GAE, we are considering what each of the local authorities would spend if they were providing a similar level of service at a similar level of efficiency. In each big block, we are seeking to provide for a different philosophical basis.

Over time, the best available data and methodologies have grown up in support of those bases. When I conducted the Arbutnott review, there was limited small-area data, although there was a lot more than there was in the original Scottish health authorities revenue equalisation formula, which was set up in the 1970s. There was only health-board level information and a lot of judgment was required. We used the best available data in postcode sectors, because we did not have data zones. On that basis, we examined the strength of the link between deprivation and ill health.

Now that the data zones have been developed, the national resource allocation committee review can consider the potential for that type of geography, with far more small-area information than we had at the time of the Arbutnott review back in 1999.

The data in the analysis should follow the policy objective. We should not use the data to drive things or say, "Now that we have SIMD, let's use it for everything." We should consider our objective in delivering funds. We can seek to modernise the formula as periodic reviews come up.

On the point about complexity that John Swinney raised at the start of the meeting and partly to answer to Mr Chisholm's satisfaction Wendy Alexander's point about the methodology, I have set out everything you wanted to know about the three funding formulae in 20 slides. These things are as complicated as people require them to be. If members of the committee and Professor Midwinter wanted a follow-up session on the techie stuff, Angela Campbell for health, David Hurst for the GAE and I would be quite happy to work through techie issues with you. I know that the time today is intended for quizzing Mr Chisholm.

**The Convener:** Wendy Alexander wants to follow up on techie issues. I will bring in Frank McAveety.

**Mr McAveety:** I am a real enthusiast for techie issues—haud me back.

**Ms Wendy Alexander (Paisley North) (Lab):** I agree that it was the right issue to ask about, Frank. I will follow it up for you.

**Mr McAveety:** I want to ask about two things. First, we have only to look at local government funding in the past 40 or 50 years in whatever part of the United Kingdom to know that everybody throws up their arms and says, "It's really complex and difficult. I don't know how to shift it." It is a consistent problem. One of the advantages of the Parliament is that we might be able to shift some of that ground a bit; the committee could consider that. Before I move on to my second point, am I right to say that, in essence, 90 to 95 per cent of funding is distributed in the historic way, rather than according to deprivation?

11:00

**Malcolm Chisholm:** That leads on to the techie stuff; I do not know whether you want to get on to that now.

**Mr McAveety:** No; I am trying to get at how we shift funding towards the areas that need it.

**Malcolm Chisholm:** I must be careful not to tread into the area of local government, which is not in my portfolio, but I see an interesting distinction between the areas, for which there are lots of good technical reasons. In health, the Parliament and the Executive made the decision and restructured the funding, whereas in local government, beyond the technical formula, everything is done in partnership with the Convention of Scottish Local Authorities. I imagine that COSLA would say that that is a good thing and it is part of our relationship with local government; nevertheless, it is different from what happens in health. An interesting distinction arises from that complication in local government

funding, although I do not want to go too far in that direction.

The facts are as I stated at the beginning. In a number of local government lines, deprivation is a factor, and people might want to make it a bigger factor. There are technical issues and political judgments to be made.

**Ms Alexander:** I thank Julie Wilson for admirably anticipating our possible interest in this area. The best thing would be to let us have an electronic copy of the slides. If we want to return to the matter, we can then do that.

I also ask for some further information in writing. You helpfully defined the policy objective in local government as a similar level of service at a similar level of efficiency. That is the policy objective that underlies the formula at the moment. In correspondence, can you please clarify whether that objective has changed in the past decade or whether it is a long-standing one? Does the provenance of that definition, like the Scottish health authorities revenue equalisation—or SHARE—formula, go back to the mid-1970s? I do not know. Can you please clarify whether the policy objective for GAE allocations has changed in the past 10 years? Also, is that policy objective shared by local government throughout the UK? Does the definition of a similar level of service at a similar level of efficiency apply in England and Wales?

One also needs to get hold of a certain amount of the techie side of things in order to plunge into this minefield. Can you clarify for us the changes that have been made in the GAE allocation mechanism in the past 10 years and the rationale for those changes? I am not asking whether the data have become more sophisticated; I am asking whether there has been any policy change in GAE allocation in the past 10 years and, if so, what the rationale for that was. I choose the 10-year time horizon because, as you say, things settled down after reorganisation in 1996-97. That reflected one political outlook, but then there was a change of Government. For those reasons, a 10-year time horizon is appropriate. If you could tell us whether there has been significant change in the mechanism in the past 10 years and what the rationale for that has been, that would make for more informed observations by the committee about what represents the art of the possible—or the not possible—in this area.

**The Convener:** In addition, is Julie Wilson able to tell us what the evidence base was for any shifts—or non-shifts—or whether evidence has contributed to the change of direction?

**Ms Alexander:** I asked for rationale, which is always easier to come up with than evidence.

**The Convener:** Evidence would be helpful.

Julie Wilson also talked about the SIMD and the best formula for the best arrangement. I have a question on the inclusion of rural indicators in the SIMD. Much of the evidence that we have received has been that the indicators point in the opposite direction from urban areas and that the political bolting-on of rural deprivation issues distorts what we are trying to measure, which is multiple deprivation in urban areas. Therefore, if we want to give money to rural areas for access issues, we should do so by a different mechanism. Do you or your colleagues have any comments on that?

**Julie Wilson:** I would be happy to comment. I will also pick up on the point about the historic spend, if there is time.

The access domain in the SIMD points in the opposite direction—the techie term is that it is negatively correlated. Our philosophical base is that deprivation has many facets, all of which we want to cover. Access difficulties and barriers are a social exclusion concept that we seek to measure in the SIMD. That is the rationale for their inclusion.

**The Convener:** Can I just pause you there? To consider the issue from an analytical background, does that not mean that your concept of deprivation is too wide? Historically, the SIMD was produced to measure multiple deprivation. The analysis of urban deprivation led to indicators that allowed us to measure it. It seems to me that the concept was then politically widened to take account of rural issues. Is that correct?

**Julie Wilson:** No. The concept that we try to pursue is that of deprivation. It just so happens that many of the indicators allegedly pick up the more urban angle. Many people with a rural interest are concerned that there is a bias against rural areas. One controversial issue was the question of car ownership in the census, which fed into the Carstairs index. Specific indicators of rural deprivation are the analytical holy grail, but we are trying to find them. The methodology for the SIMD, which was developed for us by the University of Oxford, is a UK-wide concept.

We recently sent the index to a group of academics in Glasgow for an independent health check. The results of that, which were published earlier this month, restate that the index is fit for purpose. The access domain is valid for some of the more deprived areas at the margins, where we consider the peripheries of settlements and catchment areas. However, the SIMD differs from the health system, which makes a separate adjustment for remoteness. That ties back to the fact that, under the Arbuthnott formula, if we seek to fund equality of access for those who are in equal need, we must estimate the potential workload and make a further adjustment for the

diseconomy of scale that means that it is more expensive to provide for a smaller workload in a rural area.

In short, no, it was not a political decision to include rural issues.

**The Convener:** I just think that there is a mixture of different issues in the SIMD. We seek greater transparency and clarity. As you said, we have three different approaches—the GAE approach, the Arbutnott approach and the SIMD. The Arbutnott formula allocates on the basis of deprivation, but distributes on the basis of health need, which is not necessarily aligned with deprivation. When Greater Glasgow NHS Board allocates its resources, it does not put them into deprived areas; it just provides hospitals.

**Malcolm Chisholm:** That is a different question, which I always used to be asked when I was the Minister for Health and Community Care. The distribution formula and what happens are two different matters. The same question exists in local government. The extent to which local authorities skew money is another interesting issue—that obviously happens in education, for example, in relation to pupil to teacher ratios in deprived areas.

I suppose that that question is secondary to the issue of the overall distribution of money. The committee needs to consider to what extent it wants to have national oversight. I notice that some of the expert witnesses from whom the committee took evidence called for more national oversight of how local bodies spend money within their boundaries. It would be interesting for us to consider whether that is desirable. I do not know whether we have the detailed information that we would need in order for there to be such oversight. Earlier I spoke about making regeneration work effectively by bending the spend. The amount of information that we have is an issue. We have tended to adopt the approach of evaluating spending purely on the basis of whether it delivers particular outcomes.

I hesitate to tread into the area of local government funding, but in health I was struck by the fact that unmet need was not being captured by formulas. An attempt has been made to deal with that issue. I wonder to what extent the same phenomenon exists in local government. Conceptually, the issue is interesting. Equal access on the basis of equal need is fine, but does that deal with unmet need? With anticipatory care, the Health Department is going even further. The notion of unmet need is based on the principle of equity of access, but one could argue that the ultimate principle should be equity of outcome. In that case, it is necessary to go further than dealing with unmet need and to make specific efforts, as is being done in particular areas with anticipatory

care. One could argue that the same principle would apply to education in deprived areas and so on. That could change things a great deal. It is an interesting area, if we are serious about dealing with deprivation and poverty.

**The Convener:** I suppose that the issue with which we are particularly concerned is consistency—the appropriateness of the mechanism that is being used for the use to which it is being put. As Julie Wilson put it, is every funding mechanism perfectly adapted to the requirements that have been placed on it, or does the diversity of funding mechanisms in health, local government and regeneration suggest that there is not appropriateness or fitness for purpose in each case? Do we need to look at having common funding mechanisms?

**Julie Wilson:** Nothing is ever perfect. The analysis that was carried out when SHARE was set up was the best that could be done based on the available information. If the Arbutnott team had been meeting back in the 1970s, it would probably have done the same. I have with me a graph that I hope answers the convener's question. The majority of GAE for education is allocated on the basis of the number of pupils in an authority. The deprivation adjustment seeks to redistribute some of the funding. That is where the criticism regarding past levels of spending comes in, because the calculation is based just on the data that are available in local government. There is not the same information on supply that was available to the Arbutnott committee, so that adjustments could be made for that. The majority of the education block is awarded on the basis of pupil numbers. Health, by contrast, is a universal service for all age groups; its population base is not restricted to people of school age. Because the population bases are different to start with, we could never have the same funding formula for health and education. I do not know whether that addresses the question that was asked about past spending.

**Mr McAveety:** Your comments are welcome. However, I asked about how we can shift our energies and emphasis. Anyone who has been a minister will recognise that it is possible to become caught up in the minutiae of process, rather than consider the big issues of principle and the questions about how we want to shift things. It strikes me that a great deal of energy will be expended on getting 32 local authorities to be reasonably consistent in their regeneration outcome agreements. That alone is a big challenge. A further issue is the size of regeneration budgets compared with overall annual spending on education, on local government more generally and on health. It is about pulling together the energies of the Executive—both ministers and the civil service—to

shift things. Although this resource allocation is welcome, I am not sure that it is the sort of critical work that we should be doing.

The critical work should be about shifting some of that statistical analysis so that we can change the way in which we arrive at conclusions and perhaps face up to the difficult political choices that need to be made. We must at least engage in that in a rigorous way to try to make the kind of shift on some of the problems that we know exist primarily in very poor parts of Scotland.

11:15

**Malcolm Chisholm:** The distribution of money is obviously an issue, but regeneration outcome agreements would still be the right approach, however how much money was shifted. As they develop, regeneration outcome agreements will be able to pull in more and more mainstream funding. Presumably, the more mainstream funding that is pulled in, the more ambitious the potential outcomes can be. For me, that is the way forward. Regeneration outcome agreements are already beginning to capture different funding streams, but the more that they capture mainstream funding, the more ambitious they will be able to be.

**Mr Andrew Arbuckle (Mid Scotland and Fife) (LD):** How rigorously does the Executive check the efficiency and effectiveness of its expenditure in areas of multiple deprivation?

**Malcolm Chisholm:** Sorry. Will you repeat the question?

**Mr Arbuckle:** We are putting a lot of money into those areas. How rigorously do you check the efficiency of that expenditure?

**Malcolm Chisholm:** That is related to what I have been saying about regeneration outcome agreements and performance assessment more generally. As I said earlier, such checks are obviously a key part of what Communities Scotland does through its performance management of the community regeneration fund and the regeneration outcome agreements that are part of that. In a way, you have simply given another reason why performance assessment is important.

**Mr Arbuckle:** The regeneration outcome agreements apply only to a particular fund. Are other funding streams checked with the same rigour?

**Julie Wilson:** As was apparent from his evidence to the committee, Professor Sutton has an interest in where the outturn spend is allocated in different areas and the extent to which different boards target funding appropriately once they receive it. That issue feeds into the work of the national resource allocation committee—or

NRAC—on unmet need. We are aware of that issue and we are considering it.

Having been involved in setting up the performance assessment framework for health, I know that we have adopted a methodology for the big public health targets that charges each board with making its contribution to tackling inequalities in its area. For example, on the target to achieve a 50 per cent reduction in coronary heart disease, rather than just rank boards on rates for premature mortality from coronary heart disease—that would be pointless as we would just have one board at the bottom and one at the top—we adopted a methodology whereby each board is asked to deliver a 50 per cent reduction from its own baseline. The target will be met only if boards tackle the inequalities in their areas and put in the spend where it matters.

**Mr Arbuckle:** Given that the Executive is aware of the problem and is doing something about it, when can we expect to see outcomes on issues such as those that you have described?

**Julie Wilson:** You will be able to trace the outcomes through the small-area data and neighbourhood stats that we are providing.

**Mr Arbuckle:** Is that information available now?

**Julie Wilson:** You will be able to see the baseline. The “Social Focus on Deprived Areas” report should give a baseline for the information so that we can then track developments over time.

**Angela Campbell (Scottish Executive Health Department):** On health targets, I should flag up the fact that the recent report from Professor David Kerr placed a lot of emphasis on tackling health inequalities. The Executive has set specific targets to increase the rate of improvement for the most deprived areas in six indicators, including coronary heart disease—as Julie Wilson mentioned—and cancer mortality. Again, those issues will be tracked carefully. The targets are required to be met within a specific time period.

**Jim Mather:** How frequently will the Executive report on that?

**Angela Campbell:** I am not sure. Perhaps Frances Wood will be able to clarify that.

**Frances Wood (Scottish Executive Health Department):** Annually.

**Malcolm Chisholm:** That example is interesting because I set those targets when I was Minister for Health and Community Care. At the time, we did not have a baseline but we have a baseline now. The first reports on those targets are coming through—I do not know whether they have been published yet—and they provide some interesting figures on where improvements are taking place. We set targets for improvements in the most



deprived areas, but the difficulty in measuring improvements in health inequalities is that improvements in deprived areas may be matched by greater improvements in more affluent areas. However, that is an example of a target for which we had no baseline when we set it and, having set the target, we now have a baseline against which we can report at regular intervals.

**Jim Mather:** The beauty of that mechanism, especially if the information is reported as time-series data, is that all the silos of Government will take a sense of ownership in the outcome and the entire population of Scotland can start to be conscious of the measures that we should all be working towards.

**Malcolm Chisholm:** It is a good example. The two indicators that we picked—premature mortality due to cancer and coronary heart disease—are the simplest and starkest indicators of health inequality so we are tracking those in relation to the target on closing the opportunity gap. We now have the baseline and we will be able to track progress during the next three years and beyond, so it will be absolutely clear whether the target for improvement is met, exceeded or whatever.

**The Convener:** What is your response to the Audit Scotland report “Scottish Executive: supporting new initiatives”? It suggests that there is scope for greater clarity in the setting of objectives and measures of success for the community regeneration fund.

**Malcolm Chisholm:** I read that report and I suppose that I was pleased that none of the projects that were benchmarked against the good-practice principles was found to have a significant degree of unmanaged risk overall. Obviously, the report focuses on the processes that the Executive uses to establish and operate projects. We will certainly consider the scope for improving the guidance and encouraging consistency and compliance. We want to learn lessons from the report, which will also be considered by the Parliament’s Audit Committee.

**The Convener:** There have been criticisms of the community regeneration fund but there is also an aspiration to move into mainstreaming and consider regeneration outcome agreements as a mechanism through which we can drive a greater thrust of mainstream funds. How robust are the mechanisms and how realistic is that objective?

**Malcolm Chisholm:** One of the criticisms of the CRF relates to your point about the need for a clear national picture due to the local variations in priorities. Given our general approach of combining national and local priorities, it is perhaps difficult to achieve what Audit Scotland asks for, but we are certainly happy to take on board what it said. The other thing about the

regeneration outcome agreements is that they took longer to develop than Audit Scotland would have wished, but it was important that there was some to-ing and fro-ing between Communities Scotland and the local community planning partnerships so that they got the agreements right. That is why they took a bit longer to develop and did not meet the April 2005 deadline.

**The Convener:** We have heard slightly contradictory views on ring fencing. On the one hand, Steven Purcell said that ring fencing represents a constraint on local authorities’ freedom of action and he mentioned the complexity of the audit and bidding requirements of different kinds of funding. On the other hand, Glasgow clearly benefits from ring-fenced initiatives. Again, have we got the balance correct?

**Malcolm Chisholm:** We are seeking to achieve a balance. There is a perennial tension. In general, local government lobbies for less ring fencing. David Henderson might want to comment on the thinking on that, but in general there is a move towards outcome agreements. The intention is, no doubt, that some funds that are ring fenced can be un-ring fenced—or whatever the word is—when we have more effective outcome agreements.

From our point of view, ring fencing serves an important purpose in driving national priorities. Sometimes, it is short-term ring fencing. When we can use outcome agreements, that is fine, but ring-fenced funding is useful for certain initiatives, not least those that are targeted at deprived individuals or communities. The community regeneration fund is an example of that. It is intended to draw in mainstream budgets but it is targeted at the local level. Some people say that that means that we do not trust local authorities, but we have national responsibilities. What Andy Kerr said yesterday about anticipatory care and the funding for that is really over and above all the decisions that health boards make. He was saying from the centre that money will go to particular community health partnerships to pilot the new work on anticipatory care that was recommended in Professor David Kerr’s report. In the short term, there is certainly a role for ring-fenced funding for our new directions and policies. In the longer term, that might turn into outcome agreements.

**David Henderson:** One thing that probably has changed over the past 10 years is the amount of money going from the Executive into local government in ring-fenced funding streams. The amount is now £1.8 billion out of a total of just over £9 billion.

There are two ways in which we want to make progress in the coming year or two. First, we want to merge the number of funding streams to reduce

complexity. Secondly, we want to move towards outcome agreements and to focus on what is achieved locally rather than on the process.

The GAE funding formula gets a lot of attention but it is just a means to an end. It is not 98 different funding streams; it is one funding stream and a distribution methodology. It is still important to get the amount right, so that local authorities get the right amounts, but we have to focus on what they do with that money. We are moving into that territory and are streamlining the bureaucracy. Merging the funding streams will cut the amount that is spent on the process.

**The Convener:** Does national performance accountability conflict with local priority setting? When ministers allocate ring-fenced money, they are held accountable for the extent to which that money delivers their priorities; but you are arguing for local flexibility to decide priorities. Is that position consistent or inconsistent? How can it be made more consistent?

A second question also arises. We can talk about two types of ring fencing: tight ring fencing and slightly looser ring fencing. The latter would apply to programmes such as the supporting people programme, in which an overall allocation is distributed among different local priorities. How on earth can ministers' policy priorities be identical to local policy priorities when there is a tension at policy level and at management level?

**David Henderson:** The Executive would set the overarching targets and it would then be up to local authorities to decide how to achieve those targets. That is the only way to do it; you cannot have both sides setting different, conflicting targets.

**The Convener:** Many of the Executive's funding streams are specifically targeted. Is that consistent with what you are saying?

**David Henderson:** Depending on how we move ahead, the focus will move away from process and towards outcomes. However, we will need to be able to monitor what happens.

**The Convener:** At one level, Alisdair McIntosh might be more open to the question than David Henderson. David is talking about local government but there may be more of an issue in the areas that are not covered by GAE.

11:30

**Alisdair McIntosh (Scottish Executive Development Department):** We are as one on this, as you would expect. The way to manage the tension or to bridge the gap—if there is a gap—is by establishing a framework of outcomes. At the high level, we have to identify what the Executive wants, but that has to link to a series of more

specific outcomes that make sense locally. That would allow us to move away from the need to measure activity or to count outputs; instead, we would be able to focus on the big picture in terms of outcomes.

In relation to the community regeneration fund, we are trying to ensure that the outcomes that were identified in the fairly broad framework that informed the negotiations on regeneration outcome agreements link up with and make sense in the context of the health improvement framework for national outcomes, the work that is being done on antisocial behaviour and related outcome agreements and the work that will follow on from the employability framework, for example. We are trying to ensure that the foundation of the ROAs can be built on by colleagues who work on different portfolios, so that, down the track, we can consider much broader outcome agreements.

The convener mentioned the supporting people programme, under which we are working with health portfolio colleagues to identify joint outcomes, particularly for older people, because that portfolio supports some interventions and the supporting people programme supports others. If we can achieve clarity on joint outcomes, perhaps we can develop the mechanisms to deliver them.

Through the ROAs, we have a good starting point, but the answer to the question of how far we can go will depend on building meaningful outcomes that are measurable, make sense at national level and feed into more specific outcomes that local authorities and their partners can deliver on.

**Malcolm Chisholm:** That could be one way to get round the problem of separate funding streams not coming together. A good example is the supporting people programme joining up with work on health, whereby we can put together funding streams that have traditionally been separate. A whole agenda of joint budgeting and so on relates to that. That could deal with some of the problems that the committee has highlighted in its deliberations.

**Frances Wood:** I will give a little more information about what we are doing in health, where we are moving towards local delivery plans and are trying to focus on several targets that are more about outcomes than outputs. In health improvement, we have tried to tie together joint health improvement plans with regeneration outcome agreements. We are developing a joint outcomes framework that we hope community planning partnerships will be able to use to direct their local investment in tackling deprivation and health inequalities and in community regeneration. We are tying together all those matters around outcomes, which will become jointly owned by local government, the NHS and wider partners in the community planning structure.

**The Convener:** It might be useful if you provided us with examples of action that the Executive is taking to ensure a more consistent approach to the co-ordination of funding streams and the measurement of outcomes and outputs. Perhaps we could have that in writing.

**Malcolm Chisholm** *indicated agreement.*

**Jim Mather:** In any sphere, the movement towards achieving consistent improved performance involves what we have discussed: worthy aims that lots of people will understand and which are under statistical control, so that the measurement can be seen to be progressing. The other component links to the key word “variation”, which the minister used. What steps are being taken to understand the causes of variation in different areas, to model them, to document them and to address those reasons?

**Malcolm Chisholm:** Variation in what regard?

**Jim Mather:** Variation in the intensity and nature of deprivation.

**Julie Wilson:** Is that not partly what the SIMD seeks to do by having 31 indicators that feed into consideration of the multifaceted nature of deprivation?

**Malcolm Chisholm:** Are you talking about tracking variation over time?

**Jim Mather:** No. I am talking about understanding why area A is different from area B and what factor impinges on deprivation in area A but not in area B and about comparison even with areas that have little deprivation. I am talking about what is different—transport difficulties, housing difficulties, education difficulties or a lack of jobs. Can we identify that and be seen to be addressing it?

**Julie Wilson:** Yes, we can do that. We have all that information and we are working with our regeneration policy colleagues to develop that understanding. The information can be used to see the extent to which outcome agreements tie up with the issues that the data say are underlying problems.

**Jim Mather:** In the Highlands, where can I look at a social inclusion partnership area and understand how it deviates from the ideal or other areas, for example?

**Julie Wilson:** All that information is on the Scottish neighbourhood statistics website but, if you wanted, we could run you special analysis of any SIPs or any other geography. The database that has been set up allows people to draw their own maps, choose their own indicators and do all the comparison, but if you wanted to give us a list of questions, we would be happy to provide all the information for you.

**Jim Mather:** I am more keen to see a process in which you have identified that information and are taking steps to ensure less variation and a more median normality.

**Malcolm Chisholm:** That is what closing the opportunity gap is all about. To answer your question, we now have the information and can track it to find out where the gap is being closed. The underpinning philosophy of closing the opportunity gap is to close gaps between groups of individuals and between places.

**Jim Mather:** So is it possible that, at some point, we will get a crisp statement on one sheet of A4 that sets out for a SIP area the aims, the statistical data on outputs that you have received and the key measures that you are putting in place in order to lift all the boats in the area?

**Malcolm Chisholm:** We can do that. We have given some examples of health and work indicators and I am sure that we could simplify those. Part of the problem in that regard is that we have very detailed data from the social focus on deprived areas. I am sure that that could be simplified; I believe that Julie Wilson could do that, among her many other talents.

**The Convener:** One of the difficulties is that there is probably more information about the problem than there is about the solution, but that takes us back to where we were at the beginning.

I thank the minister and his officials for coming along today. We will reflect on what we have heard. I suspect that we might want to take further evidence in the new year. Your ordeal is over, Malcolm.

**Malcolm Chisholm:** It was not an ordeal; it was a pleasure.

**The Convener:** As we are a wee bit behind time, I wonder whether I could crave Jim Mather's indulgence and take agenda item 3, the report to the committee on the case study visit, at next week's meeting.

**Jim Mather:** Certainly.

**Mr Swinney:** He is such a reasonable man.

**The Convener:** Absolutely.

## Scottish Schools (Parental Involvement) Bill: Financial Memorandum

11:37

**The Convener:** The fourth item on our agenda is evidence taking on the financial memorandum to the Scottish Schools (Parental Involvement) Bill. We agreed to undertake level 2 scrutiny, which involves seeking written evidence, and then taking evidence from Executive officials. We have written submissions from COSLA and Her Majesty's Inspectorate of Education. I welcome from the Executive Colin Reeves, the head of the schools division, and Deirdre Watt, the bill team leader. I invite Colin Reeves to make a brief opening statement before we proceed to questions.

**Colin Reeves (Scottish Executive Education Department):** Thank you, convener. I will be very brief. The bill fulfils part of the ministers' commitment set out a year ago in "ambitious, excellent schools: our agenda for action" to promote better parental involvement in education. It has a twofold purpose. The first is to replace the school board legislation with a more inclusive and flexible system of parental representation in schools, with parents choosing locally how they want to structure representation in their schools. The second is to promote more and better-quality parental involvement in education in the widest sense, in supporting their children's education and the life of their schools. All the evidence suggests that, when parents are involved, children do better.

The main net costs of the bill will fall on local authorities, so we have been in regular contact with COSLA and the Association of Directors of Education in Scotland as the bill policy has developed. From recent discussions with both organisations, I understand that they are comfortable with the order of additional costs that are set out in the financial memorandum and that the Executive will make available to local authorities to support them in implementing the bill.

**Mr Swinney:** Ministers have made it clear that the bill's objective is to increase the level of parental participation in the governance of schools in its widest sense, which is reflected in the fact that the financial memorandum contains an assumption that there will be additional costs to local authorities. I welcome the recognition of the fact that increased activity relates to increased costs.

In your introductory remarks, you said that the purpose of the bill was to create as much flexibility as possible at a local level for arrangements to be designed that best suited the needs of individual

schools. How robust is the financial memorandum in capturing what may be a broad range of approaches and levels of activity in individual schools? How can you predict accurately what the financial implications of the bill will be without a defined model of what might take place in every school in the country?

**Colin Reeves:** I am obliged to agree that, if we had a single model, it would be easier to predict what the costs might be throughout Scotland.

In discussions with local authorities, we have explored the issue and have concluded that the flexibility to allow different structures makes predicting exact costs more tricky. However, that does not substantially alter the costs of the bill that are to do with parental involvement in the wider sense. Those include a local authority's responsibility to offer a scheme to parents in every school, which will contain a model constitution with a number of options that parents can choose from. There will also be costs involved in supporting the establishment of parent councils and in enabling parents in schools to examine what they have at the moment and what changes they might like to make in the future. I do not think that the costs of that preparatory and supporting work will change substantially.

I agree that there might be slightly different costs in supporting a parent council with 20 members as opposed to one with 10 members. However, although there will be a range of structures in schools—which means that there will be a continuum between two extremes—I do not think that that will fundamentally alter many of the costs. We have discussed the matter with local authorities over the past several months and they are broadly comfortable with the figures that we have given. As COSLA says in its evidence to the committee, although the figures can never be exact, it does not foresee departures from the order of figures that are set out in the financial memorandum such as would cause local authorities difficulty. The identified additional specific costs of the bill are of the order of £1 million or just above £1 million per annum, which must be set in the context of GAE allocations to local authorities for education of the order of £4 billion per annum.

**Mr Swinney:** You have talked about a range of parental involvement. Are the assumptions and predictions that you make in the financial memorandum set at the minimum or the maximum level of parental involvement?

**Colin Reeves:** The figures have not been set at either the minimum or the maximum level of parental involvement; they have been set according to an assessment of the likely response to the opportunities for flexibility in structures. The bill that was consulted on was different from the

bill that has been introduced to the Parliament. The bill that has been introduced to the Parliament defines the entire parent body—the parents of all the children in a given school—as the “Parent Forum”, with the “Parent Council” being the committee or representative body that they select. Admittedly, the parents have the flexibility to decide the shape, size and structure of the parent council, but a committee that gets beyond a certain size begins to become unwieldy.

The significant advantage in the bill is the flexibility that it offers. Instead of following the formulaic approach in the School Boards (Scotland) Act 1988, which said that a school of more than 1,500 pupils, for example, would have a school board of 13 members, comprising seven parents, three teachers and three co-optees, the school in question might choose to have a parent council with 10 or 24 members. I doubt that it would choose to have a parent council of 150, although I could be wrong in one or two cases. However, neither we nor the authorities envisage such a shift in quantum that the figures in the financial memorandum would no longer be sufficient.

11:45

**Dr Murray:** The financial memorandum refers to four sample local authority areas, each of which accounts for about 4 per cent of the total current spend. Which four local authorities are those?

**Colin Reeves:** When I reread the memorandum, I could not believe that we had omitted that detail. The four are East Renfrewshire, East Lothian, North Lanarkshire and Highland. Those four authorities straddle the divide between rural and urban, east and west and big and small. Let me be absolutely clear: the four sample authorities represent, coincidentally, 16 per cent of current expenditure on school boards and 16 per cent of the state schools in Scotland. As they hit the 16 per cent mark almost exactly on those two counts, COSLA and the Association of Directors of Education in Scotland were broadly comfortable with taking just that sample and grossing the 16 per cent up to 100 per cent to achieve the figures that we set out in the memorandum.

**Jim Mather:** I am interested in the financial memorandum, which, like many financial memoranda that come before the committee, seemed to me to be a little short on the potential financial benefits that could accrue. Has any thought been given to the prospect of better attendance, reduced disruption and fewer teachers being absent or taking early retirement due to stress?

I wonder whether it might be worth looking at James Heckman's Allander series lecture. He made a financial case for focusing resources specifically on children from the ages of two to six. He argued that kids who had received a proper emphasis on education in their early days were less likely to be disruptive, less likely to get caught up in the legal system, more likely to complete their education and more likely to hold down a decent job and thereby become advocates of education and work for the next generation. Is something missing in the memorandum in that respect?

**Colin Reeves:** I will certainly look at that. I have not considered that paper specifically. We have not factored such considerations into the bill-specific figures in the financial memorandum. We are working closely with our colleagues who deal with early years provision, as we know that involving parents at the pre-school stage has a beneficial downstream consequence in relation to the involvement of parents of school-age children.

**Jim Mather:** Given that the financial memorandum that we are being asked to sanction contains a substantial spend of additional money, would it not be seemly for the Executive to place an obligation on future forums and local education authorities to reduce disruption and to ensure that fewer teachers are off school or take early retirement due to stress-related illness? Would that not be reasonable?

**Colin Reeves:** It would be reasonable and we would consider doing so in the guidance that accompanies the bill. The bill places new statutory duties on education authorities to devise strategies for overall improvement in parental involvement. It would be entirely reasonable to suggest to authorities that there is a direct read-across between those duties and the thrust of the bill. For instance, authorities own the statements of improvement objectives and the targets that they set. Although we very much have a self-reporting system, signalling a read-across between the thrust of the bill and those sorts of issues and statements would be entirely appropriate, as you suggest. We will consider that.

**Derek Brownlee (South of Scotland) (Con):** The only significant difference between the submissions on the financial memorandum from COSLA and HMIE is that HMIE seems relatively sanguine about the prospect of additional costs falling on it with the demand-led investigations through parent councils, whereas COSLA seems to be raising a note of caution. I appreciate that it is difficult to form a view on how many investigations will ultimately come to fruition, but what methodology did you use to quantify the number of likely submissions to HMIE from parent councils and the cost impact on the education authority before a submission got to that stage?

**Colin Reeves:** Principally, we approached HMIE and COSLA and asked them the obvious question. You have the HMIE answer in front of you. Anyone can approach or write to HMIE at the moment; my understanding is that it has—as you would expect—a protocol that requires it to consider and respond to any representations.

On the specific provision in the bill for a parent council to make a representation to HMIE once it has made a representation to the head teacher or the education authority, HMIE simply made an estimate on the basis of, for instance, 10 examples of four days apiece at £570 a day, which produced a figure of £23,000. I have since spoken to HMIE, which feels able to absorb £23,000 within its budget of £12 million. When I asked what would happen if there were 20 representations of that duration, it said that it would not be much more difficult to absorb costs of the order of £40,000.

HMIE envisaged issues being raised with it that fall within its areas of responsibility. The district inspector might pay a visit to the education authority or to the school to do a bit of investigation, which gives us an illustration of the sort of costs. At first blush, the costs to the education authority of responding or participating in that brief investigation ought not to be of a different order from the costs falling on HMIE. COSLA has certainly raised a marker; depending on how the bill progresses, we will need to discuss further with COSLA the specifics around that concern.

**The Convener:** There are no further questions for the witnesses, so I thank you both for coming along.

11:53

*Meeting suspended.*

11:55

*On resuming—*

## **Budget Process 2006-07**

**The Convener:** The next item is to take evidence from the commissioner for children and young people on her budget proposals. As members will recall, when we took evidence from the Scottish Parliamentary Corporate Body last week we raised concerns over the commissioner's budget. Under the protocol that the committee has with the SPCB and with each commissioner, we can ask any of the commissioners to give us evidence if we still have concerns after taking evidence from the SPCB. We have a copy of a letter from the commissioner and supplementary correspondence that has been supplied by the SPCB.

I welcome to the committee Kathleen Marshall, the commissioner for children and young people. With the commissioner are Elizabeth Foster, chief executive officer, and Stephen Bermingham, head of participation. Welcome to the committee. Our normal procedure is to ask questions after we have given you an opportunity to make a brief opening statement.

**Kathleen Marshall (Commissioner for Children and Young People):** Thank you. I welcome the opportunity to speak to the committee in support of our budget proposals. I realise that ours is an innovative and new organisation and that some of our activities may need some explanation. The cautionary note that was included in the letter to the committee from the SPCB focused on two issues. It noted, for example, that I had been insistent that the activities that we were doing and the budgets that supported them were required if we were to fulfil our statutory requirements. I re-emphasise that everything that we are doing and everything that we have budgeted for is based on the functions that have been imposed on this office by Parliament. Those functions have been fully debated and have previously been before the Finance Committee.

We have a duty to raise awareness and understanding in all children and young people throughout Scotland and among parents and agencies. It is a complex duty. For example, when we produce a report, we have to produce a child-friendly version—and there are different ages, stages and abilities of children. The accessibility and languages of what we produce must comply with equal opportunities legislation. We must also inform children and young people about the office, about what I can do and about how to contact me. We have to consult and involve children and young people in the work of the office. We have

got to consult agencies and conduct research. We are therefore very focused on our statutory functions.

The other concern in the note of caution was that our proposals were

“overambitious for a single financial year”.

If we consider the participation budget, for example, we see that most of that work is well in hand—in fact, we are ahead of schedule with some of it. That has implications for the figures that we are considering today. About £24,000 is allocated to the recruitment of a reference group of young people, yet we feel that we are ready to proceed with that now and can cover it within this year's figures. That £24,000 could therefore come out of the budget. We are well ahead with our work. We have tried hard to keep costs down by working with agencies that are already working in the field.

On the other hand, working with children and young people in the way that Parliament has required us to do is complex and has costs of its own. We are a new agency; I appreciated the fact that, when she gave evidence to the committee for the SPCB, Nora Radcliffe pointed out that this is the first time that this kind of work has been done. We, too, are learning all the way and we require to be flexible in order properly to fulfil the consultative duties that have been imposed by Parliament. If we set out rigid plans and rigid costs, it will not be true consultation, because we will not be taking account of what people say to us.

We have been forging ahead with, for example, the reference group. We are now ready to start recruiting for that, which means that we have some revised figures available: £24,000 could come out of next year's budget because we can cover it in this year's budget. We discovered a double-counted figure, where a sub-total was wrongly added in; if you wish, I can circulate papers showing that revision. In total, therefore, there is a reduction of £31,400 on what we projected in October, which means that instead of a 4 per cent increase on the figures that were before the committee in 2002, what we are asking for represents a decrease of 2.08 per cent on the figures that were projected in 2002. We are well within the expectations that were set by Parliament. If the convener would like me to circulate the revised figures, I would be happy to do that.

12:00

**The Convener:** There are a few matters that I want to clarify. What is contained in the financial memorandum to bills such as the Commissioner for Children and Young People (Scotland) Bill is not an indication of what the Parliament expects

and should certainly not be seen as a financial threshold or ceiling. It is an estimate of the maximum costs that might ensue that is constructed in advance of the post being created. The committee is quite rigid in considering such estimates. They should not be seen as targets for spending.

Members might want to pursue matters that relate to the budget headings that the Scottish Parliamentary Corporate Body highlighted in its submission to us or to other budget headings. It is proper that we should ask questions on that issue.

Another issue is whether the process of budget scrutiny and control is sufficient. I am not sure that we agree on what you seem to be saying are your statutory obligations and their budgetary consequences. There are some philosophical issues that we need to explore. That applies not just to the children's commissioner; we may wish to explore those issues with other people. However, I will start the ball rolling by asking how you approached and resourced your contribution to the Family Law (Scotland) Bill.

**Kathleen Marshall:** What do you mean by that?

**The Convener:** The Parliament is considering the Family Law (Scotland) Bill, which is a big bill that will have a significant impact for children. What did you do in connection with that bill and what resources did you use?

**Kathleen Marshall:** We used our staff resources because our consultative processes will not be set up until next year's budget. In other words, we do not yet have such processes. I have made that clear in my submissions on such matters. I submitted a paper to the consultation on the family law proposals. Subsequently, I sent written information to the committee that is dealing with the Family Law (Scotland) Bill, but it was based on the work that we are doing in the office. For example, we are developing a child rights impact assessment, which we want to use as a tool for auditing all the proposals that the Executive makes or that the Parliament considers. I submitted information on that to the relevant committee. I asked to give evidence, but the timetable did not allow it. That work was done in the context of our current resources.

We have also done a lot of work behind the scenes. Civil servants have come to our office and consulted us. In that respect, we have made a significant contribution. For example, the rights of grandparents were being discussed. A commitment had been made, not so much on giving grandparents rights, but on having a grandparents' charter. We discussed that and thought that the concept would be problematic. We suggested that, instead, the focus should be on having a grandchildren's charter. There is now

a measure of agreement on that concept. We have done a lot of work behind the scenes with civil servants and have been in contact with the committee that is considering the bill. All that work was done using our current staff resources and knowledge.

**The Convener:** So you did not use the new publications budget, your research budget or your participation budget.

**Kathleen Marshall:** We did not use them in this instance, but we will do in the future. We are setting up the reference and consultation groups partly so that children and young people will be available to us to consult. Our website development will help, too. We launched the second phase of our website recently. It now has a message board, which is a facility for consulting young people. Those developments are on-going, so what we do for bills that are going through the Parliament at the moment is not necessarily what we will do in the future.

We have done more extensive work on other bills, such as the Prohibition of Female Genital Mutilation (Scotland) Bill, in which we identified that there was a gap on child protection. We convened a multidisciplinary group and submitted a paper that was found to be extremely helpful. It led to amendments to the bill, changes to the guidance and promises of more. We did a great deal of work on that bill, but the parliamentary work that we have done so far is only the beginning. We have much more extensive plans. However, we need to develop our publicity and consultation tools, reference groups and so on if we are to make a different contribution in future.

**The Convener:** What kind of work did you carry out for the Education (Additional Support for Learning) (Scotland) Bill?

**Kathleen Marshall:** I was not involved in that bill, because it was passed about a month after I took up the post.

**Dr Murray:** On child protection, have you been involved in the Joint Inspection of Children's Services and Inspection of Social Work Services (Scotland) Bill?

**Kathleen Marshall:** Yes. We have just submitted our written evidence on the bill. Moreover, our parliamentary and legal officer has been in close contact with all the people who are involved in it and has been in and out of the Parliament buildings to discuss the matter.

**Dr Murray:** You have 15 members of staff—

**Kathleen Marshall:** We have 14 staff members.

**Dr Murray:** Will you briefly describe what they do?

**Kathleen Marshall:** Certainly. To do that, I will circulate to committee members a diagram of the

staff structure.

I should point out that 11 of our 14 staff members started between April and July, which means that we have been fully staffed only since July. That is why there is so much activity going on at the moment.

**Dr Murray:** You were going to say a little bit more about what everyone does.

**Kathleen Marshall:** First, I am at the top of the organisation, with overall control of and responsibility for the organisation's strategic direction. Next in line is my chief executive, Elizabeth Foster, who is responsible for holding the organisation together. When I took on this appointment, I said that I wanted to employ a chief executive model because I had to be free to be out and about in the country, talking and listening to people and carrying out substantive work. I note that the same model has been adopted for the Scottish Commissioner for Human Rights Bill, which I take as an endorsement of my approach.

Below the chief executive are three managers: the head of policy; the office manager; and the head of participation. The office manager's job is self-explanatory. Two people report to him: a receptionist and someone who acts as my personal assistant but who also organises events. Indeed, a few weeks ago, she organised a very successful event for 130 young people at Our Dynamic Earth to launch a national consultation of young people. As you see, we do not have a huge number of administrative staff.

Most staff are employed to carry out the organisation's substantive work. The head of policy, Maire McCormack, has four staff. First, there is a parliamentary and legal officer, who is our link with the Parliament. He is in and out of the Parliament building, networking, working with clerks and keeping us abreast of parliamentary matters and what we should be doing. Next, there is an information officer, who ensures that we have the most up-to-date information. That is also a service post, because we aim to develop a Scottish children's rights library that will be available to the public and other agencies that cannot afford someone like a qualified librarian to keep them up to date on matters.

We also have an inquiries officer. Although I do not have the remit to deal with individual cases, I have noticed—and indeed it has been pointed out in parliamentary debates—that people will nevertheless seek to raise them with us. We have to respond humanely and helpfully when they do so. The inquiries officer has been very successful in that respect; in fact, after launching our national consultation of young people, we have found that they, too, are contacting us. Beyond that, the officer examines issues that inquirers are raising



and identifies gaps in services or areas that require policy development. Moreover, she works with other agencies that deal with complaints such as the Scottish public services ombudsman to develop child-friendly complaints procedures.

Next, we have a policy development officer who has been developing the child rights impact assessment. We have used that tool in some bills that we have worked on, but we want it to be able to tackle systematically as much as possible of what goes to Parliament or comes from the Executive. At the moment, the officer is also monitoring our report to the United Nations Committee on the Rights of the Child. The UN recognises that we are an independent human rights institution and it is expected that we will submit a report on the extent of Scottish compliance with the UN Convention on the Rights of the Child. She has visited Geneva to meet committee members and see the structure of the organisation and we have already started our work on how to monitor and report convention compliance.

Our work on policy has two dimensions. One is our core, or reactive, function, which is about responding to what other people put on the agenda, such as bills in Parliament or consultations. We are gearing up more and more for that and taking on more work. Our work also has a proactive dimension, which involves putting issues on the agenda. As you may have noticed, we are currently consulting children and young people on policy priorities. A lot of preparatory work has been done to present a menu of issues on which children and young people are voting. This week, we will launch a policy priorities consultation for agencies that work with and for children and young people, which will give us a focus for positive development.

An issue of particular interest in the context of the debate is our strong participation section. A third of my staff are devoted to participation, which reflects the strong emphasis that was put on participation while the Commissioner for Children and Young People (Scotland) Bill was going through the Parliament. A lot of consultation was carried out of children and young people, who wanted a commissioner who would involve them. There is a high legal duty to participate, which I decided it was important to reflect in the staffing structure. Stephen Bermingham, who is the head of participation, has four people reporting to him. The communications officer deals with press inquiries and is responsible for our website and publications, among other issues. Our research officer, Ffion Heledd, is involved in action research with young people. For example, in the lead-up to our national consultation, she contacted other agencies to ask for the results of consultations of children and young people in the past five years,

which she then analysed to find out the issues. She then organised and conducted focus groups with children and young people throughout Scotland, from which she developed the menu of issues on which children and young people are voting.

We also have two participation worker posts, which are an innovation on which other organisations now follow us—we are regarded as a trail-blazer in that respect. The posts, which are based on 18-month contracts, are reserved for young people who are aged between 16 and 21. They are our basic link with children and young people's groups—their job is to ensure that we keep on track. I have noticed already that the way in which those workers communicate with groups is beneficial.

That is our basic structure and the rationale behind it.

**Dr Murray:** Six people, including you, are involved in participation. How many children will you be involved with?

**Kathleen Marshall:** We aim to be involved with as many children and young people in Scotland as possible. That is not easy, because the Commissioner for Children and Young People (Scotland) Act 2003 says that I must

“pay particular attention to groups of children and young people who do not have other adequate means”

to make their views heard. We have had meetings with children's rights officers from throughout the country who work with the looked-after and accommodated population. With the help of YouthLink Scotland, we convened a meeting of detached youth workers from throughout Scotland, who work on the streets with children and young people. We have had conversations with them and engaged their help in accessing that particularly difficult-to-reach group.

We have also established links with many groups in the disability field and with very young people. There has been some comment about our consulting pre-school children, but such children are not excluded from the legal duty in the 2003 act. I have recently made it my job to listen to organisations such as Learning and Teaching Scotland and play-scheme associations to gather views on why we should listen to pre-school children and how best to do it. Again, we are blazing the trail with our proposals for engaging with that group.

**Dr Murray:** What outcomes do you expect from that? Do you expect the views of nought to four-year-olds to affect legislation?

**Kathleen Marshall:** They could do. The nought to four-year-olds will be particularly interesting, because the research that has been done so far—

although not a huge amount has been done—has naturally been about their immediate environment, in which they tend to be interested, such as choices in nursery school. However, it is important that we have a culture of listening to young people. The recent report on the Western Isles child abuse case noted at several points that people had not listened carefully enough to very young children and that they lacked expertise in that. We are trying to achieve a culture of listening to children and young people. In general, children will not talk about sensitive and difficult matters if they do not believe that we will listen to them.

As I said, we anticipate that the results of our consultation of older young people will ultimately affect law, policy and practice in Scotland. Whatever they decide is a priority issue, we will take it on board and work at it for a two-year period. We hope to effect real change.

**Dr Murray:** The problem is that you do not put bills together; you are not a member of the Executive, so you cannot make that happen. You can advise on bills that are needed, but you cannot ensure that they come about.

12:15

**Kathleen Marshall:** I would not have taken on the job if I did not have faith in it. I believe that Scotland's children and young people have a lot of sensible things to say to us. What we proposed with respect to the Prohibition of Female Genital Mutilation (Scotland) Bill, for example, was not controversial; it had simply not been thought of. People will willingly accept many of the sensible ideas and solutions to problems that the children and young people of Scotland come up with.

Recently, someone said to me, "I don't know what is important to children and young people—pocket money or something." However, children and young people have talked to us about safer streets—they have given us suggestions about how to make them safer—bullying, things to do, support and choice in the curriculum, health education in schools and transport. Children and young people are telling us about those issues and have put them on our agenda. They have ideas about how problems can be solved. There is a catchphrase nowadays that children and young people are not so much the problem as part of the solution. I believe in that philosophy and hope that our work with them will show its worth, which was a guiding principle of the act that set up my post.

**Derek Brownlee:** I want to return to more strategic issues rather than discuss detailed numbers. I do not want to misquote you, but I think that the gist of what you have said is that the budget for which you are asking is necessary or essential to allow you to fulfil the statutory

requirements of your post. Your correspondence to the corporate body makes the point that the remit that you have been given under the act is

"very open-ended, with the potential for significant variations in expenditure depending on the approaches chosen."

Is it true that there could be significant variations in the budget for fulfilling the statutory functions of your post, depending on which model is chosen as being appropriate for the role that you are trying to fulfil, and that the budget could be significantly less or greater than the budget that you have suggested?

**Kathleen Marshall:** Obviously, there are options. We could say that our statutory duties have been fulfilled by putting an advert in a paper that says that all children and young people are entitled to contact us, but not many people would be impressed by that. Whatever we do must be real and not simply a box-ticking exercise. The global figures to which we are working for what it costs to do things at a reasonable level have been devised using similar international models as comparisons and we are paying less than is being paid in other models.

We can justify to members all the particular figures as being required for good practice. We have been very careful about money and there are things that we have not done. For example, it was suggested to me when I started in the job that I should spend £5,000 on having photographs taken with children and young people that could be used for publicity purposes, but I did not think that that was a good use of public money. There were 130 young people and their carers at our event at Our Dynamic Earth a couple of weeks ago, including young people with severe physical disabilities and needs. They had a great time, learned about the UN Convention on the Rights of the Child, went away to tell their friends about it and helped to launch our national consultation. We received consent from most of them to use photographs for our current publicity and we received free television and advertising time. We got at least a triple whammy out of the event. As I said, we have been very careful—many things that we do serve more than one purpose.

There are two ways of looking at matters. At a global level, what we have proposed is less than was expected and is not out of kilter with what is spent in other countries. We are also committed to using public money wisely—I can provide evidence of that in what we have done and in the proposals for next year.

**Derek Brownlee:** Essentially, your argument is that you are making good use of public money and that you can justify that use, which is fair enough. However, you have argued in correspondence to the corporate body that the budget that you have

asked for is necessary if you are to meet the statutory requirements of your post. I am trying to investigate whether that is true or whether it is more accurate to say that what you have asked for is desirable for best practice but is not necessary?

**Kathleen Marshall:** There could be a hundred different opinions about the point on the scale at which the desirable shades into the necessary. We are talking about a qualitative issue that is difficult to quantify. The figures are not unreasonable and we can justify them. What is more, we offer an integrated package for all our proposals. Let us take the example of our advertising and publicity budget. We are planning to use what we have learned from the Edinburgh experience and take a road show round Scotland. We want to go up to the islands and out to the rural areas as well as to the cities. If we are going to the expense of taking staff and materials to Orkney and Shetland, we want to make the best use of the time when we are there. We need to have advertising and events—we need to do things. If members were to say, “Actually, we think this advertising budget is a bit over—take something off it,” we would have to look at the knock-on effects on what we plan to do, because we have an integrated and inclusive strategy.

There are necessarily indefinables in the budget. When we recruit our reference group of 12 young people from throughout Scotland—we will do that in three geographical divisions so that we get a good mix—we intend to meet at different locations in Scotland during the year. We have a duty to involve those who are hardest to reach. If we got someone from one of the island communities, for example, who had particular physical needs or communication difficulties, we would want to be able to involve that young person. That could affect our costs drastically, but we do not know how at the moment.

All that I am saying is that if we come back here next year and members say to us, “You haven’t spent some of these moneys,” I might say to you, “We found a better way of doing it that meant that we didn’t have to pay the money.” I want to be able to say that to you honestly. I do not want to be in the trap in which people sometimes find themselves of feeling that they have to spend all their budget or they will lose it. If members look at the spending pattern since I was appointed, they will see that that is true. We have underspent because I was not ready to commission research—I was not ready to do a lot of things. My philosophy is that I do not believe in wasting public money. If I underspend, I will come back and say that to you and I will give you an honest prediction for the year to come.

**Derek Brownlee:** Perhaps I am asking beyond the committee’s remit, but is the remit that you

have been given in statute too broadly defined? Is it specific enough, because it seems to be causing some problems?

**Kathleen Marshall:** The remit is very big, but we are tackling it. As I said, we are trying to do that in an integrated way. That was the will of Parliament and I am carrying out the job that I have been given.

My budget is very modest comparatively. If one gave an advertising company a budget of £157,000 and said to it, “Right, we want you to contact all children and young people, parents, and agencies in Scotland. Let them know who you are, what you are doing, how to contact you and what events you are holding,” the agency would be fairly surprised.

We have a broad remit, but it will be focused by our policy priorities, which is what we are working on just now. Although people have asked about particular bills, one of my concerns is that so much is going on in Scotland that has an impact on children and young people—not just the Family Law (Scotland) Bill or the Joint Inspection of Children’s Services and Inspection of Social Work Services (Scotland) Bill. We also want to take account of matters such as transport and the environment. When we have identified our policy priorities, we will have to focus on some more than on others. We will do just a basic children’s rights impact analysis of some of those, but we will get involved with others more deeply. That will involve hard choices, but I agree with Derek Brownlee to an extent that in order to make the job workable and to have an impact, that is what we must do.

**Mr Swinney:** Would it be appropriate for the parliamentary authority to restrict your budget if that was felt to be desirable?

**Kathleen Marshall:** It is up to the Parliament and the SPCB to decide who makes the decisions about the budget. The legislation makes it clear that I have to be accountable for the money that is spent. I fully appreciate the need to scrutinise all budgets. On the other hand, the legislation that set up my post is also clear that I have to be independent, and that I must not be subject to the direction or control of any member of the Parliament, the SPCB, or the Executive. It is inevitable that there comes a point when scrutiny of the budget or decisions to delete certain parts of the budget impacts on the substance of the job or affects the independence of the job. If you say now that you will not allow me to have a reference group of young people because you do not think that it is appropriate, you will make it impossible for me to carry out part of my job in the way that I see it. We are an independent human rights institution and, under the Paris principles that govern such bodies, we must have satisfactory budget arrangements that maintain that independence.

I am happy to be subject to scrutiny and to be questioned and I do not believe that anyone should have a blank cheque for public funds, but I ask that there be at least an understanding of what we are trying to do and where we are in the process. The strong commitment all the way through the parliamentary process leading to the creation of my job was, "It is going to be up to the commissioner to decide the location of the office, the staffing—subject to approval by the SPCB—and how the work is to be carried out." That has been the clear message all the way through.

**Mr Swinney:** That goes to the heart of what I am interested in. I understand the importance of the independence of your office and of ensuring that it is in no way compromised—that view is shared by every member of Parliament—but, equally, we could have received a budget bid for £5 million.

**Kathleen Marshall:** Indeed.

**Mr Swinney:** We have an absolute duty to scrutinise bids properly in order to guarantee that they reflect a reasonable assessment of what the commissioner can be expected to do. I return to my point: do you accept that it is appropriate that the SPCB is entitled, in certain circumstances, to restrict the budget?

**Kathleen Marshall:** Audit Scotland will examine how we are doing, and I am happy to co-operate with it. I am not sure that it is up to me to decide between Parliament and the SPCB in terms of who scrutinises our budget. I accept completely—

**Mr Swinney:** To avoid confusion, I am not talking about two institutions. The SPCB, on behalf of all members, takes decisions as the parliamentary corporation, subject to ultimate approval by Parliament. My question is this: Do you accept that the legislation provides for possible constraints on the budget?

**Kathleen Marshall:** Of course I accept that—at a general level. If I came with an application for £5 million or £100 million, I would expect to be asked serious questions about it and not to have it rubber-stamped. This goes back to what we talked about originally, which is the status of the financial memorandum. I understand that the memorandum is not a target at which to aim. I have tried not to exceed Parliament's expectations and I have regarded the memorandum as being the top line because some parameters have to be laid down. However, how does Parliament or the SPCB decide that my claim is completely over the top? There has to be guidance. I completely accept the need for scrutiny.

**Mr Swinney:** One reasonable starting point for guidance is this committee's report on the financial memorandum to the Commissioner for Children and Young People (Scotland) Bill. I have two

points. First, paragraph 12 of the committee's assessment states:

"Despite this, we feel that 15 staff is a large number and it is our opinion that there may ultimately be scope for the sharing of staff between the two existing postholders and the Commissioner".

Was sharing of staff with the other postholders ever considered? Secondly, what do you make of the committee's opinion that 15 staff is a large number?

**Kathleen Marshall:** First, we are the smallest establishment in the UK jurisdictions—the others all have more staff than we do, although I am not complaining about that. In my written evidence to the commissioner for children and young people inquiry, I set out what I thought it would take to staff the office. I think that my estimate was about 12 people, but that was without the big participation team. As the bill went through Parliament, there was huge emphasis on participation and the fact that consultation would require to be beefed up. The establishment of 15 staff was not out of synchronisation with what I thought it would take to staff the office.

When I was appointed, I asked about the budget and the staff. Whether people were not saying what they thought I do not know, but when I had to get my staff structure and terms and conditions approved by the SPCB no questions were ever raised about them.

I have taken on the job in good faith and on the basis of the conditions that were presented to me. I have gone with those. In questioning things now, the committee may want to learn lessons for the future—I notice, for example, that the Scottish Commissioner for Human Rights Bill is different in that it makes specific reference to the location of premises—but I took on this job and developed it in terms of the expectations that were around at the time. No questions or objections were ever raised.

I believe that what we have is reasonable for the job. We have quite a tight staff—our numbers are certainly not superfluous and everybody is working very hard. I am sure that members will see the benefit of that.

12:30

**The Convener:** I want to capture you on one point. As I recall, when we took evidence from the SPCB last year, we were told that all the commissioners were asked about their decisions on location of their offices. However, you have just said that no questions were ever asked.

**Kathleen Marshall:** The recruitment details for my job said that the location of the office will be a matter for the commissioner. I recall that I was

probably asked about that during my interview. Although I live in East Renfrewshire—the location decision was certainly not out of convenience for me—I recollect that I was quite clear that the office should be located near Parliament as a visible commitment to the involvement of children and young people in the life of Scotland. Our location allows us to access Parliament and we want to become visible and active in the life of Parliament.

I was very clear about that from the beginning and my decision was never questioned. I think that there may have been a brief informal discussion when I gave reasons for choosing Edinburgh, but my decision has never been questioned. Again, I made the decision in the light of the terms that were presented to me. My decision was made for strategic reasons and it was never questioned. I have taken on premises and staff on that basis. As I have said, I have done everything in good faith, so I find it difficult that I am now being questioned on matters on which I was not questioned at the time of my appointment.

**Mr Swinney:** Finally, I want to pick up on the Finance Committee's original report on the bill's financial memorandum. Paragraph 14 of that report states:

"We would suggest that advertising costs be considered carefully before being incurred."

I see that the commissioner's advertising budget includes expenditure on "Headliners Bus Advertisements", "Portable/Inflatable Panels" and a "Radio Advertising Campaign". The total advertising budget comes to about £70,000. I want to use that budget to illustrate a wider issue.

From my background in the private sector, I know that when our company wanted to get a message across about a newly launched product, the advertising costs would be truly colossal. Such judgments were big decisions because there was no point in advertising the product unless we were prepared to incur colossal expenditure. As you said in reply to Derek Brownlee, the advertising budget should not be just about ticking boxes.

My concern about the advertising budget—which I am using to illustrate a wider concern—is that £70,000 is an absolute drop in the ocean if your advertising campaign aims to reach all children in Scotland. My point is not that you should spend £700,000 but that there must be a better way of going about the task than, to be frank, giving a lot of money to radio, newspaper and other advertising agencies that already have a lot of money. I question what impact will be achieved by spending £70,000 on trying to reach all children.

**Kathleen Marshall:** Such advertising supports our main tasks, but a lot of the publicity that we receive comes from actually doing things. An

example of that is the publicity that we got on the national consultation.

**Mr Swinney:** Commissioner, that is really my point—

**Kathleen Marshall:** We are already doing that.

**Mr Swinney:** As you pointed out earlier, it is great that your event at Our Dynamic Earth received television coverage. I am absolutely delighted about that, but I am not surprised that that was the case given the good work that you do. However, I question whether there is any point in spending £71,000 on advertising. If you wanted to get the message across, you would need to spend 10 times that amount.

**Kathleen Marshall:** We need to take a variety of approaches, particularly as we have a variety of audiences.

For example, one of our aims, which is set out in statute, is to reach people who are harder to reach. We must reach children who will never come to an event at Our Dynamic Earth and those who might not even go to school, although we do a lot of work through schools. We will use the radio—young people's radio stations—and buses. We have taken professional advice on what is most likely to reach young people. We will use buses because young people use buses, so that is a way to get to them. We are told that portable inflatable panels would be really useful for our road shows and for taking round schools.

We have taken advice and have rejected more expensive options such as television advertising. Many ideas have been put to us. Although we are taking our current approach based on professional advice, once we have established reference groups and consultation groups of young people, this is exactly the sort of issue on which we will want their advice. They may well tell us that nobody would listen to that radio station or that we would be better doing such and such. I have outlined what we currently plan to do; our approach is based on professional advice and it supplements the other work that we are doing.

We must get the message out. Young people often say that at the end of a consultation nobody tells them what happens; they are consulted to death, but they do not know what happens. At the end of our national consultation we must get out quickly and in a variety of ways the message about the top priority and where we will go from there.

Our approach is based on professional advice, but it will be developed in consultation with young people. I agree that, given what we are meant to achieve, the advertising budget is very modest. However, I find myself caught between two points of view; some people say, "This is a ridiculous

amount of money to spend on advertising.” but others say, “That is a drop in the ocean.” We are working very hard to find the middle way and so far we have been doing that very successfully.

**Mr Swinney:** I am not arguing for you to spend more money or less money. I am arguing for you to spend money in a way that delivers value for money for the taxpayer. I question fundamentally whether spending £71,000 on advertising will have any effect. If you spent the £71,000 on other projects you could separately justify those.

**Kathleen Marshall:** As I said, when we go up to island communities and rural areas in the Highlands we want to use methods of communication such as local radio. Sometimes we can get that free, but on other occasions we might want to put advertisements out. Publicity and promotion was discussed when the Commissioner for Children and Young People (Scotland) Bill went through Parliament. It was said that comparable organisations would, at 2002 prices, spend £220,000 a year on it. A bit was trimmed off that and the cost for us was put down as £200,000. We have reduced the figure to £157,000, so we are planning to make good use of public money. The money will be used strategically; we have always used our advertising budget strategically. We do not go out on an advertising blitz and pay money for a television advertisement to say, “Here we are.”

In the debates that led to the bill being passed it was said that a variety of approaches would be required in implementing the duty to let people know who we are and what we are doing, and to involve and consult children, young people and agencies. The advertising budget is part of our strategy. I agree that in terms of national advertising campaigns the sum is a drop in the ocean, but it would be a problem if you were to say to us, “Okay, you can’t do that—that opportunity isn’t open to you.” I am happy for you to ask us next year when we come back to the committee how it has worked out and how we used our advertising budget. This is the first time we have done it and our budget states what we anticipate. We must be allowed such flexibility, which is exactly what Parliament intended when the bill was going through.

**Mark Ballard (Lothians) (Green):** I apologise for coming in when you had started your presentation. I hope that you did not cover this point in your presentation.

I am interested in the notion that there is scrutiny of budgets that relate to programmes, but that you have independence in terms of your programmatic approach. I was particularly interested in the comment that was made in a bullet point on page 3 of George Reid’s letter to the Finance Committee. It states that the Scottish Parliamentary Corporate Body

“considered that the programme might be overambitious for a single financial year”.

I am interested to hear your response to that statement.

**Kathleen Marshall:** As I explained, the plans that are labelled as “overambitious” are already well in hand. I am not sure whether to take as a compliment the comment that what we are doing is regarded as being “overambitious”. We are caught between the two views. Is the publicity budget overambitious or not? Is it too much or too little? We are trying to use the budget strategically to support the structures that we are setting up.

The young person’s reference group is ready to start recruiting. We can take the costs for that out of the budget for the next financial year and start the group in the current financial year. We have worked out a partnership agreement with the Scottish Youth Parliament to consult groups of children aged 5 to 9 and 10 to 14. That work is already well in hand. Our looked-after children group is in discussion with agencies, and our early years group is listening carefully to ensure that we are doing the right things. Front-line staff have started to work with children’s rights officers, detached youth workers, and so on. The children’s champion awards is another triple-whammy, which I will explain to you if you wish. That is an idea that we want to develop, although we have rejected one incarnation of it because it did not suit our strategy.

All that is on the go. We have some agreements already worked out and agreed to, and we have made good use of public funds. One person recently asked us, in a rather bad-tempered way, how much money we were going to spend on consulting children and young people. We replied that it would be £50,000 for the national consultation because we have done it strategically. Later, I noticed another message on a sort of chatroom thing, in which the person said that she had been surprised because she had expected another zero to be attached to that figure.

Our programme is ambitious, but we are delivering on it and are well down the way. Do not put the brakes on us now; we are only just getting up and going. Ask us next year about what we have done. The budget that you are considering is for our first fully operational year. Now that we have taken those figures out, we will have spent 2 per cent less than was anticipated in 2002. We are doing well and we are using public funds wisely. There is a danger of re-running some of the debates that took place during the extensive process of inquiry and consultation that was held before the commissioner’s post was set up. It is my job to convince people of the benefits of taking a children’s rights approach, and that is what I am

doing. I hope that you will by this time next year have seen more of the fruits of that and that fundamental questions about the role of the commissioner will not linger.

**Mark Ballard:** There are some interesting questions for the committee about reporting mechanisms. We often get reporting mechanisms that are nothing less than budget headings. The SPCB budget gave us headings such as “Staff Pay” and “Running Costs”, which were difficult to understand until we got more disaggregated information. You also report in terms of outcomes; however, you have emphasised the triple whammies, as you call them, and the value-for-money and spin-off aspects. Have you a way of reporting those? Have you anybody to report those to?

**Kathleen Marshall:** We will, obviously, publish an annual report. One of my regrets is that that has not yet been published because we have been waiting for the accounts to be signed. Because they are part of the SPCB’s accounts, we cannot present ours on their own. We have wondered whether we could or should have published our annual report without our accounts. In our annual report, you will see details of a lot of the substantive work that we have been doing. That is how we hope to keep you up to date.

We also hope to have more communication mechanisms; for example, we invited all MSPs to an event at our new office at the beginning of June to see our office, to meet our staff and to find out what we were doing and what we planned to do, but only five or six MSPs came. We have tried hard to be open and accessible and to allow people the opportunity to ask us questions. I reiterate that invitation to the Finance Committee to come and see our office, to talk to the staff and to find out what we are doing. We have an innovative role—we are blazing the trail in many ways—and other people are looking to us for examples of good practice. I would welcome the opportunity to show you what we are doing, so that the figures can be put into their proper context when you receive them.

**The Convener:** I will pick up on the point that Derek Brownlee made earlier. You are suggesting to us that, on participation, you endorse the approach to participation that is described in article 12 of the UN Convention on the Rights of the Child, which says that children and young people have a right to express an opinion and to have that opinion taken into account on all matters and procedures that affect them. You are making a judgment on how that should be done, but the right could, in theory, be extended to almost all children and young people in Scotland.

12:45

**Kathleen Marshall:** The right applies to all children and young people in Scotland. What is more, that is stated specifically in the Commissioner for Children and Young People (Scotland) Act 2003. It is not something that I have just decided.

I explain my job to children and young people like this: I say that, when our country’s Government ratified the United Nations Convention on the Rights of the Child, which is international law, the Government promised the children and young people of this country that it would do certain things to make life better for them. I do not make the promises up; they are set out in international law. My job as commissioner is to keep the Government and the country to its promises.

Two of those promises are specifically mentioned in the legislation that set up my post. One is covered by the duty to allow children to express their views, to take account of those views and to give them appropriate weight. That applies across the board to policy and law.

The second promise—which is perhaps relevant here—is in article 3 of the convention. Article 3 says that, whenever any decision that will affect children is made by social or administrative authorities or legislative bodies, the best interests of children must be a primary consideration. That applies to budget allocations too, as has been made clear by the UN Committee on the Rights of the Child. Systems must be set up that allow children and young people to express their views and those views must be given due weight. That is my job; that is what I am doing; that is what I am building up at the moment; that is what the Commissioner for Children and Young People (Scotland) Act 2003 is about. I am trying to deliver on that.

**The Convener:** If that is your interpretation, why are you not asking for a £5 million budget, as John Swinney suggested.

**Kathleen Marshall:** If you are inviting me to, I will next year.

**The Convener:** It seems to me that there is a reduction ad absurdum. If you say that children and young people have a right in legislation to be consulted, and if you are the arbiter of how that is done, there could be an almost inexhaustible budget requirement for that.

**Kathleen Marshall:** That is true; I could come up with a huge budget. However, I come back to what you said about the financial memorandum. With an open-ended remit such as mine, I have to have some guidance on the scale that people are willing to accept. We are at the beginning of the

process and I have been trying to keep within expectations. However, if it turns out that the budget is not enough and I need more, I will make an application, I will justify it and I will see what Parliament says. I am not yet at that stage. I do not have the track record and I am trying to cut my coat according to the cloth, as people say.

On the one hand, I feel that the committee is saying, "Well, if we just left you alone you could come up with a figure of £5 million," but on the other hand, I feel that you are also saying, "Well, actually, with just the present amount, you are never going to achieve what you want to, so you really need £5 million." I am not quite sure where I stand. It is legitimate for me to start from the basis of Parliament's expectations and to see how that works out in the future.

**The Convener:** With respect, commissioner, we are saying that it is not up to you to decide what your budget is. Ultimately, it is for Parliament to decide that.

**Kathleen Marshall:** Yes.

**The Convener:** There is a worrying tone in what you suggest about how your budget should be arrived at, which is the suggestion that you decide the parameters rather than the Parliament.

**Kathleen Marshall:** I am trying to work within the parameters—the only guidance that I have—that were discussed when my post was originally set up. I have also considered the experience of other similar organisations. If you can suggest another way in which I should have gone about things, I would be very happy to consider it. At the moment there is no guidance and I could come up with a figure of £5 million.

Difficult issues arise to do with the boundary between the need for financial accountability—a need with which I completely agree—and the independence of my office. That issue is much broader than just my role, and I am sure that it will come up again in the Scottish Commissioner for Human Rights Bill. There will be a good opportunity to discuss such issues in the light of the experience of existing commissioners and ombudsmen. I would be very happy to be part of that debate. It is a complex debate and a difficult one in which to engage in this particular context.

I have tried to justify what I have proposed and to explain why I am doing what I am doing. I hope to obtain the support of the committee in doing the job that Parliament has given me.

**The Convener:** Okay. I do not think that there are any further questions, so I thank you very much for coming along and speaking to us.

**Kathleen Marshall:** Thank you.

12:50

*Meeting continued in private until 13:04.*



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