

FINANCE COMMITTEE

Tuesday 24 January 2006

Session 2

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FINANCE COMMITTEE

2nd Meeting 2006, 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

Janis Hughes (Glasgow Rutherglen) (Lab)

Alex Neil (Central Scotland) (SNP)

John Scott (Ayr) (Con)

Iain Smith (North East Fife) (LD)

*attended

THE FOLLOWING GAVE EVIDENCE:

Stephen Boyd (Scottish Trades Union Congress)

Ian Drummond (Glasgow City Council)

Brian Lawrie (Fife Council)

Rory Mair (Convention of Scottish Local Authorities)

Paul McNulty (Scottish Executive Finance and Central Services Department)

Iain Moore (Scottish Executive Finance and Central Services Department)

Tim Page (Trades Union Congress)

Dave Watson (Unison Scotland)

Councillor Pat Watters (Convention of Scottish Local Authorities)

Gavin Whitefield (North Lanarkshire Council)

CLERK TO THE COMMITTEE

Susan Duffy

SENIOR ASSISTANT CLERK

Rosalind Wheeler

ASSISTANT CLERK

Kristin Mitchell

LOCATION

Committee Room 1

Scottish Parliament

Finance Committee

Tuesday 24 January 2006

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

Local Authority Single Status Agreement

The Convener (Des McNulty): I open the second Finance Committee meeting of 2006. We have received apologies from Wendy Alexander.

The first item on the agenda is evidence taking on the costs of implementing equal pay as part of single status agreements between local authorities and trade unions. We agreed at our meeting on 13 December to conduct a short and focused inquiry into the issue. We decided to seek evidence from local authorities, the relevant trade unions and from the minister.

Today, we are taking evidence from a selection of local authorities and from the Convention of Scottish Local Authorities. Next week, we will take evidence from the unions and after that from the minister. Members have copies of the submissions from the various local authorities and COSLA.

I welcome our first panel of witnesses: Ian Drummond, who is the solicitor for Glasgow City Council; Brian Lawrie, who is the head of finance and asset management for Fife Council; and Gavin Whitefield, who is the chief executive of North Lanarkshire Council. I offer the witnesses an opportunity to make a short opening statement—I do not know whether a single opening statement will be made or whether you will each make a statement. We will thereafter proceed to questions from members.

Gavin Whitefield (North Lanarkshire Council): Good morning. I will kick off. Of all the issues that my council is currently dealing with, by far the biggest challenge is implementation of single status and job evaluation, and dealing with equal pay. As you will see from our submission, the council is at a critical stage in progressing our agenda. We have committee agreement for the package, which is now going out to consultation with the workforce. Consultation will conclude on 10 March when we will hear the results of the ballot. We are working towards implementation from 1 April of this year.

As you will see from our submission, the costs that are involved are absolutely massive. In the first year, £9.4 million of recurring costs will be needed to implement the new pay model and harmonised conditions of service. That is an

increase of 3.6 per cent on our pay bill for more than 15,000 employees who are subject to job evaluation. That will increase to almost £30 million on a cumulative basis to 2012-13 and will represent about 10 per cent of the pay bill.

In addition, we will have one-off costs that total £23.5 million, plus the on-costs of national insurance and superannuation, which will take the figure to £27 million. We are in negotiation with the trade unions to progress towards finalisation of a compensation framework, so it is still unclear what the final figure will be, which will also depend on the outcome of tribunal claims. The figure could increase substantially or it could come down slightly.

It is clear from both the one-off costs and the recurring costs that there are massive pressures on North Lanarkshire Council, which is already working within tight financial settlements for financial years 2006-07 and 2007-08. That is why we support fully the case that is made by COSLA—which the committee will hear later this morning—for additional resources to assist councils in dealing with this matter and for flexibility that would allow consideration of capitalising some of the one-off costs and dealing with capital receipts to support that process. We also support the link with the Treasury to try to get back the windfall tax revenue that will arise from the one-off payments that are made.

Ian Drummond (Glasgow City Council): Glasgow City Council has already reached agreement with the trade unions in respect of packages for retrospection. Compensation payments have been made to the workforce. Offers have been made to approximately 11,500 members of the workforce; at the end of December, 90 per cent of those had been taken up at a cost to the council of £37.6 million. The council has taken steps to make those sums available.

As other councils do, Glasgow City Council now has to go on and agree a new pay and grading structure, which will resolve the equal pay issue. We are currently in discussions with the trade unions in order that we can effect that outcome. I echo my colleague Gavin Whitefield: there will be further substantial financial costs in respect of introducing the pay and grading structure going forward into the next few years.

Brian Lawrie (Fife Council): I will not go over the points that have already been made. The detail of what is happening in Fife Council will come through as necessary in my answers to questions. The subject is possibly the most destabilising issue in local government finance in recent times. We have to acknowledge that there are two parts to it: retrospection and what will happen in the future.

We have heard from North Lanarkshire Council that there is a year 1 cost, but there will also be significant increases in costs in future years. Fife Council estimates a cost of £8 million in the first year, but there could thereafter be incremental drift of up to £3 million a year for seven years, which will be significant.

The funding options are limited; I imagine that balances will be an issue for discussion later. The options are not necessarily as obvious as they seem. Routes such as finding ways of borrowing to finance, rather than capitalising, will help. Councils will go into deficit and will require to recover that deficit and to restore their balances over a period of years. If that is done over a three-year period, it will have a significant financial impact and will not allow us to reinvest the money elsewhere. The key aspects are retrospection, what will happen as we go forward and short-term funding.

The Convener: An account of how we got to this point might be useful. Agreement to implement single status was reached in 1997. Why has it taken so long to implement it or move towards implementing it?

Gavin Whitefield: The red book agreement of 1999, which the trade unions and the employers' organisation signed up to, has been a key priority for my council. We signed up to implementing the national job evaluation scheme; the target date for implementation was 1 April 2002. There were a number of significant revisions to the scheme, which is robust but required amendment at the time. My council had already completed two thirds of the evaluation process, so that work had to be redone.

Following discussion with the trade unions, the target date for implementation of the scheme was put back to 1 April 2004. Our council has continued to target the scheme as a key objective, with implementation to be achieved as soon as possible, but linked to the target date. We have obviously gone beyond that date, the reason for that being the complexity of the agenda.

There are four key objectives in dealing with single status and job evaluation. The first is to do with personnel and human resource issues. We need to be able to maintain morale and motivation among the workforce, which enables the council to attract and retain the type of workforce that we require to deliver quality services. The second objective relates to financial issues, in that we must deal with significant financial consequences within our financial framework without those consequences impacting too negatively on council tax or on the amount of resources that are available for services. The third element involves the legal framework. We must have something that is equal-pay proof and which protects the

council by extinguishing future liability for equal pay claims. The fourth objective is about best value. With additional costs, we need to keep an eye on best value and on the justification for continuing to deliver the services that involve higher costs.

The committee will appreciate that some of those four objectives compete or conflict, which has required an enormous amount of work and analysis. We have received excellent co-operation from the trade unions, whose representatives have taken part in our job evaluation steering group, which has developed 70 pay models. They have been evaluated and we now have a preferred pay model, which will involve 44 per cent of the workforce receiving an increase in grade, 44 per cent having their grades remain the same and 12 per cent, initially, having their grades reduced. We have extended the protection or cash conservation for five years, at the end of which we envisage that number to have been reduced to 179, or 0.9 per cent of the total number of employees. There are major issues around the impact on our finances across the workforce. That has required that time be spent with the trade unions in order that we could arrive at what we believe to be the best possible solution.

The Convener: I do not want to put the same question to every authority, but I will pursue that point a bit further. I understand that the issue is complex, although I had thought that implementing single status was intended to be cost neutral, or at least broadly cost neutral, with the implications of implementation of the job evaluation scheme being offset by the savings that would be brought about by making changes to conditions of service elsewhere. What Gavin Whitefield has described is certainly not that, given the proportion of people who will gain relative to the proportion of people who are being red lined. Could you say a bit more about that?

Gavin Whitefield: I mentioned that we had considered 70 pay models, one of which would have involved an additional cost in the first year of approximately £1.4 million. That was more within the budget that we could have proposed to fund the scheme but it would also have had 33 per cent of the workforce in red circles, as we say. That refers to a situation in which the grade will reduce and will be subject to the national agreement or the three-year cash conservation, which we have extended to five years. Under that proposal, the pay model would, for a significant part of the workforce, have struck levels of payment that would not have allowed us to attract and retain the type of workforce that we require in order to deliver high-quality services.

We have considered the challenge of bringing together the conditions of service for

administrative, professional, technical and clerical workers—APT and C—for manual workers and for residential workers, and we have explored the issues and we have developed what we believe to be the best possible package. In negotiation with the trade unions, we have managed to secure compensatory savings through the introduction of Inland Revenue mileage rates. Under the proposals, we will also reduce the number of pay runs that we currently operate from seven to two.

The savings will help to offset the obvious additional cost of getting a harmonised annual-leave framework between the manual workforce and the APT and C workforce. The conditions-of-service package is cost neutral. What is not cost neutral, however, is the pay model that is needed to enable us to attract and retain the type of workforce that the council requires.

10:15

The Convener: What criteria did you use to establish benchmarking for the recruitment of staff against existing employees? Your argument, as I understand it, is that you have to pay additional amounts or maintain salary levels in order to attract and recruit staff into posts within local government. What evidence do you have to support that contention?

Gavin Whitefield: A lot of work has been done internally within the council on the impact of the new pay model compared with the existing grades. We have taken into account the relative demand for positions that are advertised. Discussions between networks of councils have also taken place to establish what the outcomes will be. Information that is available within the council and across organisations has helped us to reach where we are on the matter.

The Convener: Has the new pay model been audited? Obviously a significant potential increase in local government expenditure is associated with implementation, so has Audit Scotland been asked to investigate the matter?

Gavin Whitefield: No, to the best of my knowledge the model has not been independently examined. It has certainly not been subjected to external review through audit in North Lanarkshire Council. However, in respect of future plans for audit, it is clear that the single status job evaluation and equal pay is a major issue for local government, so I am sure that it will be subject to review as matters progress.

The Convener: I move on to a question that might be more appropriate for Ian Drummond, given his legal background. What do you think of the legal implications of not offering compensatory payments? You must have given advice on that to Glasgow City Council.

Ian Drummond: Compensation payments are offered in order to manage a risk. The risk would be that a council could face a substantial number of successful equal pay claims which would result in substantial payments to staff across the board. It is clearly in the financial interests of the council to manage that risk by offering compensation that is acceptable to the staff, in lieu of members of staff making claims that could, if they were successful, go back five years.

The Convener: What alternatives to compensation payments were considered for managing the risk?

Ian Drummond: The only other method of managing that risk is to adopt the approach that you discussed with my colleague, which is the introduction of a pay and grading structure that demonstrates equal pay across the board for councils or other public sector organisations that are not in that position and which have not been in that position for the past six months. Claims are valid from the six-month period, so only the introduction of such a system and having a period of six months pass would obviate people's being able to raise claims that could go back for five years.

Mr Andrew Arbuckle (Mid Scotland and Fife) (LD): So the cost neutrality of single status was a myth.

Gavin Whitefield: I have explained that we have examined all aspects of the matter and that we believe that our package is the best way forward. To do nothing is not an option. We have explored every avenue to try to minimise the cost—constructive dialogue has taken place with the trade unions in that connection. As to how single status was seen from the outset, we have dealt with the outcomes; the major developments in equal pay have also impacted on the final outcomes. I have explained why it is necessary to make the investment in the workforce to deal with equal pay and to get a solid foundation on which we can build for the future.

Mr Arbuckle: I think you said that 0.9 per cent of your employees will experience a decrease. It therefore seems from the outside, from your figures, that 99 per cent of your employees will see an increase as a result of single status.

Gavin Whitefield: Initially, the figures are that for 44 per cent of employees there will be an increase in grade, for 44 per cent there will be no change in grade and for 12 per cent there will be a reduction in grade, which will be cash protected for five years. At the end of the five-year period, 0.9 per cent of the workforce—179 employees as the situation currently stands—will experience a reduction in their grades.

However, we have given a commitment to reconfigure and redesign jobs for the five-year period in order to mitigate the effects of what is termed red-circle protection. We need to produce a clear outcome that satisfies the requirements of best value.

Mr Arbuckle: In the three local authorities that are represented here, have the financial gains been factored into the figures that you gave us on expenditure?

Gavin Whitefield: The figure of £9.4 million takes account of all the factors. It also takes account of the fact that we have had to determine a standard hourly calculator. At the moment, our APT and C staff work a 35-hour week, but our manual workforce largely works a 37-hour week. We have standardised using a 35-hour calculator, which accounts for approximately £2 million of the £9.4 million in first-year costs.

Brian Lawrie: Fife Council is at a slightly different stage in the process—consultation with the trade unions on the terms and conditions package is currently under way and will come before our members in February. We have built in a small figure in year 1 for a saving from terms and conditions, but the longer-term objective of the council is that implementation of single status should be self-financing. A large part of that will come through measures such as rationalisation of overtime, for which there may be eight different rates at the moment. The working week is a key issue in the negotiations with trade unions, which is why it has taken some time for us to reach the current position. We are taking a modernising approach.

There is an issue about how long salary protection lasts. That becomes a matter for individual negotiation between authorities and trade unions. It has always been said that Fife Council will have fewer employees as a result of modernising and job redesign. There is a cost going out, but if conservation starts to tail off after three years, a saving will come from that. There will be a saving from aspects of the terms and conditions package and, potentially, a saving in the head count.

Ian Drummond: Glasgow City Council is also engaged in discussions with the trade unions about all those issues. At the moment, it is my view that, with the pressure of equal pay, the benefits that will come from more flexible working conditions, rationalising of leave and so on will be outweighed by the cost of the increased pay bill.

The Convener: Can you estimate how substantial that difference will be?

Ian Drummond: I cannot at this stage.

Dr Elaine Murray (Dumfries) (Lab): Earlier, Mr Drummond spoke about managing risk. This is not a risk that has suddenly come upon us. The initial agreement was reached in 1997, so we have been aware of the issue for a number of years. What advice did you give to councillors on building the risk into budgets, given that you knew that it would materialise?

Ian Drummond: I would like to ensure that the discussion about single status is correctly placed in time. In my view, the risk arising from equal pay has increased as a result of cases' being pursued through tribunals south of the border and claims and tribunal cases that have recently been lodged against councils in this country. Although councils were aware of the single status agreement and were negotiating on that basis, the extent of individual equal pay claims that would be pursued through tribunals was not clear to local authorities in Scotland until much more recently.

Dr Murray: But were councils at least advised to budget for single status? Even if the equal pay situation is worse than expected, were you budgeting for the introduction of single status?

Gavin Whitefield: The matter has been high on our agenda and was identified as a concern in the consideration of previous budgets. We made some financial provision, although that was on the basis of trying to minimise cost. However, the longer that we considered the issue, in negotiation with the trade unions, the more apparent it became that costs would have to increase to enable us to get a package that we can implement.

I echo Ian Drummond's comments about the increase in risk due to recent developments and how we have managed that. It is important that we do not focus solely on financing the new pay model, the cost of implementing which will be £9.4 million for North Lanarkshire Council, as I mentioned.

We have made efficiency savings each year for several years up to the financial year 2006-07, when our annual efficiency savings totalled approximately £4 million. Because of the tight financial settlement for 2006-07 and 2007-08, the efficiency savings that we are required to deliver have increased to £8 million next year and £10 million the year after. Only a proportion of that is available to fund the implementation of single status and job evaluation. As members will see from our report, which we included with our submission, we have had to set out a funding framework that will require us to use other funding sources to try to implement the agreement.

Dr Murray: So you are saying that until you got into negotiations with the trade unions, you

assumed that the agreement would be cost neutral.

Gavin Whitefield: We were targeting a cost-neutral outcome, but the more that we examined the implications of pay models that involved less investment, the clearer it became that they were unacceptable to the council and to the trade unions.

Brian Lawrie: I will clarify the position in Fife Council. About three years ago, I flagged up to councillors a potential cost of £12 million for the first-year costs of the agreement, based on recognition of what had happened in some English authorities.

The level of cost then moved back because the council was looking to make the agreement self-financing and was not certain about what to include. In the past couple of years, we have flagged up that we are looking at additional costs of in the region of £7 million or £8 million from April 2006.

During the last calendar year, the council recognised that our balances were above our policy level and it was suggested to the council that it might be possible to use balances over a three-year period to defray council tax increases. However, hanging in the background was the potential cost of retrospective claims. More recently, I have advised elected members that all balances will have to be retained towards that end.

In the past three or four years, we have been fairly upfront about our cost figures. They started out at £12 million and have come down a bit, which recognises some of the work that has been done on job evaluation and pay modelling.

Mr John Swinney (North Tayside) (SNP): I will pursue the question of balances. Will the witnesses tell the committee what is the current level of balances for each of the local authorities that they represent?

Brian Lawrie: I will explain using just two or three figures to make it simpler. I start with the figures that were published in March 2005 in our annual accounts. The council's account balances totalled £36 million. Of that, £6 million relates to the housing revenue account. The council has a housing business plan that uses those balances over a period of years, so they are not really available to us. We have an insurance fund of £3 million, which is governed by accountancy practices on what can be used as an insurance fund. We have a small energy fund to try to encourage reinvestment to produce future savings in energy, and a tourism fund. That totals £300,000-odd. Then we have the statutory schemes for budget flexibility in relation to police and fire services, under which if there are underspends, a certain percentage can be carried

forward. The council also has a budget carry-forward scheme. Last year, nearly £3 million of ring-fenced funding was carried forward.

As a result, out of the original £36 million starting figure, about £13.5 million of what might be called ring-fenced funding—some of which is statutory, some not—was available for expenditure. Our March 2006 projection for what might be called unallocated balances, which could go towards defraying starting costs, is £15 million. We believe that the starting costs might be somewhere in the region of £40 million. As my colleague said, that figure is based on negotiated settlements and the council's duty to meet certain employer's costs such as tax, national insurance and so on.

10:30

Mr Swinney: Over what timescale is that £40 million figure relevant?

Brian Lawrie: The figure is based on five years' retrospection, which could require to be settled in the relatively near future. If we use the figures I gave, for the sake of consistency, that would give the council an immediate deficit of £25 million. Our policy is to reserve, ideally, 2 per cent of our budget for balances; however, in the financially stable times that local authorities have recently had in relation to pay settlements and so on, the figure has fallen to 1.25 per cent, which is roughly £9 million. If we add that £9 million, which restores us to our policy level, to the £25 million deficit, we will have to recover £34 million—which, if we wanted to clear the amount in three years, would mean making savings of roughly £11 million a year on top of the savings that my colleague from North Lanarkshire identified. At the moment, we are making savings of about £8 million a year; as I have said, we would have to recover an additional £11 million a year over three years. If we decided to cover that shortfall not by making savings but by increasing council tax, we would have to increase the tax by about 8 per cent, or £85 a year. That kind of starting point is unrealistic.

Gavin Whitefield: Like Fife Council, our policy is to maintain an £8 million reserve on the general services account. That figure used to equate to 2 per cent of our budget but, with inflation, it is now less than 2 per cent. Our unallocated surplus from 2004-05 is £1.8 million and our risk and uncertainty budget is £1 million, which we are considering using for one-off compensation payments to support the funding package.

Within the overall funding package, like most councils, we have been progressing an education public-private partnership, under which 10 schools are now being built. Each year, the affordability gap in the project is approximately £3.5 million; in recent years, we have built up the gap to provide

efficiency savings that have been used to support and improve on-going maintenance in other schools and corporate properties that are not included in the PPP project. The money will not be required to fund the gap until all the schools have been built, which will happen at the end of 2007-08. We intend to use £6 million of that money to help to pay for one-off compensation packages and will forgo the improved property maintenance that would have occurred in the next two financial years.

In summary, our main balances are the £8 million reserve, the £1.8 million unallocated surplus and the £1 million risk and uncertainty budget.

Mr Swinney: So, in effect, you have £10.8 million in balances.

Gavin Whitefield: Yes, approximately.

Mr Swinney: What would happen to your balances if you applied Mr Lawrie's methodology and subjected them to the type of liability estimates that he is making at Fife Council?

Gavin Whitefield: If we take the potential liability of approximately £27 million and the on-costs that were reported to the committee, it is already clear that there is a substantial difference between the available balances and the one-off costs. The council is already considering other ways of bridging that gap, one of which is to halt all non-essential expenditure in the current financial year to maximise the underspend.

Ian Drummond: As you are aware, Glasgow City Council has reached agreement on compensation. In this financial year, the council has put together a package of £40 million for that. Around £33 million is available in revenue balances, which comprises £13 million from the general revenue fund, £16 million from the repairs and renewals fund and £4 million from the culture and recreation fund. The package uses all available balances in the current financial year together with an underspend in this financial year of 2 per cent in all the council's budgets, which generates about £18 million. Therefore, in the medium term, the council will have to replace the balances. To do so, it has agreed to seek additional efficiency savings of 2 per cent, which is equivalent to £18 million in the next two budget cycles, to regenerate the sums that it has utilised.

Mr Swinney: So, in effect, Glasgow City Council has utilised all available balances and still has forward commitments in relation to equal pay that it will have to find.

Ian Drummond: Yes. We will have to make further budgetary provision.

Mr Swinney: In the parliamentary debate on the local government settlement on 12 January, the

Deputy Minister for Finance, Public Service Reform and Parliamentary Business told me that money could be made available from the £1.6 billion of balances that was held by local government last year to meet on-going pressures in relation to equal pay. What is your view on that line of argument?

Brian Lawrie: I have already described Fife Council's situation. Our published figure, if one looks straight at the accounts, is £36 million, but that ignores the reality of what is available to spend if we take account of other commitments and the nature of the balances and reserves. I mentioned the insurance fund as an example—it is not available just to spend on other matters. Therefore, in reality, our balance fell considerably. Some of it is, as I say, included in the statutory carry-forward schemes for the police and fire budgets, the housing revenue account and one or two other matters for which there is ring-fenced money that cannot be used. The balance includes Scottish Executive funding that is carried forward and earmarked for specific projects. That situation is probably mirrored in most councils. Therefore, while the figure of £1.6 billion is a published, accurate figure, it is an overstatement of the financial resources that are available to local authorities.

Mr Swinney: Has appropriate advice been given to elected members to allow them to make adequate provision for equal pay in the balances that your authorities hold?

Gavin Whitefield: Based on the information that has been available, we have given members the best possible information and advice on managing the issue. As my colleague from Glasgow outlined, recent developments have had an impact. We now have overall liability for dealing with compensation payments and, through negotiation with the trade unions, for arriving at a package that we believe we will be able to implement from 1 April this year and which will extinguish liabilities for equal pay for the future.

Mark Ballard (Lothians) (Green): I have further questions for Mr Drummond on his evidence on compensation. Glasgow City Council's letter to the Finance Committee states:

"of the 11776 offers of compensation made to staff, 10334 were accepted prior to 20 December 2005. This represents an acceptance rate of 88%".

Is it likely that the 12 per cent who have not yet accepted will go to tribunal and, if so, what is the potential impact of that?

Ian Drummond: They may well go to tribunal. In fact, a substantial number of them have already lodged tribunal cases, although not all of them. Predicting the outcome of those tribunals is an entirely different matter. We could be talking about

all sorts of different employees with different cases, which will have to be taken through the tribunal process before we know the outcomes.

Mark Ballard: The letter states that the 10,334 accepted compensation offers give a total expenditure of £36.7 million. Do you have any provision for the potential costs of those tribunals?

Ian Drummond: I understand the question. I have outlined the financial position for Glasgow City Council in our report on equal pay. We have a number of budgetary pressures to deal with and we are dealing with them by generating further savings and efficiencies over the next two years. Your question is difficult to answer, as we do not know the overall potential liability. Councils must do their best to budget for the anticipated costs of the circumstances that they face.

Mark Ballard: Can you give us a figure? Is there a figure in the report for what that budget might be?

Ian Drummond: If you are asking me what the potential figure is for the liability, I would have to say that the liability will be dependent on the number of successful cases. Glasgow City Council is considering next year's budget but has not yet approved it. In that budget, there will be some provision for future liability.

Mr Frank McAveety (Glasgow Shettleston) (Lab): When Brian Lawrie was asked about the detail behind the response of the Deputy Minister for Finance, Public Service Reform and Parliamentary Business to John Swinney in Parliament, he identified a number of key areas in Fife Council's accounts in which the figures could be interpreted differently. I think that the overall figure that the minister mentioned was £1.6 billion—

Mr Swinney: It is actually £1 billion. That was another factual error that the minister contributed to the debate on 12 January.

Mr McAveety: What is £500 million between friends?

Of the £1 billion, how much could be used flexibly to address concerns in relation to equal pay retrospection or single status?

Brian Lawrie: COSLA would probably be better placed to give the answer for the whole of Scotland. I can answer only for my own authority.

I will make one comment on the previous point on the cost of the equal pay settlements. It is useful and ties into something that was said earlier. I have indicated a potential figure of £40 million for Fife. That is based on negotiated settlements of just less than £30 million, but it is important to remember the additional costs of tax and national insurance. I do not know whether the

Glasgow settlement includes that expenditure, but it is an important additional cost that falls on local authorities. There might be pension issues as well, but we will need to clarify that because of where that funding goes.

The Convener: I will pursue some of the issues that were raised earlier. Part of the justification that Mr Whitefield gave for the single status agreement was that the introduction of a new pay and grading structure, linked to the introduction of more efficient working practices, would lead to greater efficiency within councils. How much evidence do you have that what you are in the process of negotiating—or, in Glasgow City Council's case, have negotiated—will deliver greater efficiency against the costs that will be incurred?

10:45

Gavin Whitefield: It is important to differentiate the action that Glasgow City Council has taken and the position that North Lanarkshire Council is in. Glasgow City Council has taken action to deal with retrospection—that is, past equal pay claims. As well as negotiating a similar compensation package, North Lanarkshire Council is implementing job evaluation and the single status agreement with £9.4 million of investment.

We have used the process of single status job evaluation to modernise the service, but it is important to note that that is not the sole focus of modernisation. Before implementing the new pay and grading model and the new conditions of service, we have modernised our services. We have introduced first-stop shops and contact centres, which have involved significant changes in how the organisation works. We have addressed the challenge of joint future through joint working with our health service colleagues and through single shared assessments. Much modernisation has taken place. The single status agreement is about consolidating that, modernising further and providing a foundation on which we can build for the future.

I outlined the four key objectives of dealing with human resource issues, such as morale and motivation and the ability to attract and retain the workforce; financial issues; legal issues; and best-value issues. The single status agreement is part of a continuing agenda to ensure that we continue to deliver best-value services.

The Convener: I hear what you say, but you have not answered my question. A very substantial cost is associated with implementing the single status agreement and with the retrospection of equal pay. What will council tax payers in North Lanarkshire and other council areas get for that additional financial burden?

Gavin Whitefield: The aim is to maintain the existing quality and standards of service, to build on them and to make further improvements. Perhaps we should ask what would happen if we did not make the investment. If we made much less investment, the workforce would be totally demotivated and we would be unable to attract and retain the workforce that we require. We would also continue to be exposed to equal pay claims, which are extremely costly, as we have heard.

The Convener: I will ask my question differently. One argument in the submissions that we have received is that the basis for many equal pay claims is the fact that many male employees of councils are paid bonuses that female employees are not paid. Will the deal continue those bonus payments or will it make a fundamental change to how payments are made?

Brian Lawrie: It is not always recognised that the single status agreement does not apply to all employees—some craft workers are not covered. In Fife, we have already removed the bonus scheme from that category. That spreads to all of our trading operation, which is what we now call our building and maintenance division. The council has decided to remove the bonus for all employees. Removing the bonus from craft workers who are not part of the single status agreement is costing us £800,000 a year over three years.

Another benefit that people have experienced is that in some areas we have created a far more flexible workforce by using technology differently. We have made savings by reducing the head count and by changing the work that is undertaken by many employees who are part of the single status agreement. They are no longer single focused but are multiskilled and use technology. Visible benefits have resulted from that.

There are two aspects to bonuses. Many councils have made agreements to move away from bonuses and most councils are buying out the bonus schemes of employees who are not part of the single status agreement.

Gavin Whitefield: I confirm that the preferred pay model that has been recommended, with the harmonised conditions of service, deals with bonuses and all other issues that have an impact on equal pay. The model provides a solution that is equal pay proof.

The Convener: Are you saying that bonuses will no longer be paid?

Gavin Whitefield: Yes.

Ian Drummond: As I have said, although Glasgow City Council has dealt with the retrospection, we are discussing new pay and

grading structures with the trade unions, so such issues are actively being debated. Retaining any form of bonus could have implications for future equal pay arrangements. All those issues will have to be discussed and a conclusion reached; at the moment they are still being actively discussed.

Jim Mather (Highlands and Islands) (SNP): I want to consider the parallels between the public and private sectors. The private sector has had similar pressures over the piece and has had a panoply of options—the head-count option, the productivity option, and the option of pushing ahead with increasing sales and margins. You have mentioned new working practices and new technology and the pay model, but is there anything else that you could do to achieve a better outcome from this difficult situation?

Ian Drummond: As my colleague said before, all councils, including ours, have been delivering substantially on an agenda of modernisation and efficiency saving. While that agenda is being pursued, we are examining our business delivery models under the auspices of best value. We are also creating efficiencies through more efficient working. Those issues are going on in parallel.

Jim Mather: To what extent are all stakeholders involved in that process? I am talking about involvement beyond trades union participation. Are employees involved directly in trying to optimise the model that the council is progressing?

Ian Drummond: Yes. You will find that all stakeholders—partner organisations, the workforce and trades unions—are involved in best-value processes. I am sure that that is the case in other councils, too, as the best-value regime is worked on.

Jim Mather: Looking at what we have by way of retrospective and future liabilities, do you see light at the end of the tunnel? Can we get the balance of cost under control in the long term as a result of the efficiency and best-value processes?

Ian Drummond: I am sure that my colleagues from COSLA will want to engage on that issue to introduce a more national viewpoint. There are many calls on the efficiency gains that we are making, and single status agreements are simply another pressure on local authority finances. Local authorities will continue to drive forward an efficiency and best-value agenda.

Jim Mather: In doing that, are you benchmarking your authority against authorities elsewhere and other organisations to see how well you are doing? Do you have objective criteria to assess how you are converging on best practice and best performance?

Ian Drummond: Yes. All authorities will select an appropriate benchmark, depending on the

areas that they are considering for best value. Sometimes they will select the benchmark of cities; in our case, the appropriate benchmark was from south of the border. Obviously, the criteria are subject to our best-value audit process, which is going on at the moment.

Jim Mather: Does your benchmark tell you that you are exceeding performance or matching it? Where are you?

Ian Drummond: We would have to take specific areas of service to consider that, and there are many examples of such areas through our work. In certain cases, the council south of the border against which we are benchmarking may be ahead of us and we are trying to close the gap; in some areas, we are improving on it.

The Convener: Perhaps we could move on to our next group of witnesses. I thank the representatives of the three local authorities for giving us the benefit of their experience. They are welcome to stay to listen to the next session.

I welcome our second panel of witnesses. Pat Watters is the president of the Convention of Scottish Local Authorities and Rory Mair is the chief executive. Once they have made a short opening statement, we will proceed to questions.

Councillor Pat Watters (Convention of Scottish Local Authorities): I thank the committee for the opportunity to give evidence. I will try to add to our written evidence rather than to go over it. You mentioned single status, and equalities. There should be a comma between those, as they are two different issues. No one knows better than the Parliament the importance of dealing with equalities properly. Single status is a deal that we did with our trade unions at national level to modernise our workforce, whereas the equalities issue is to do with equal pay, which is a statutory issue that is dealt with in legislation. If we go to industrial tribunal, that legislation will be quoted. There will not be challenges on single status, but there will be challenges on equal pay, which is covered by legislation.

Under single status, we were trying to modernise our workforce and to take away some of the inequalities between two sections of the workforce who were working for the same employer, namely blue-collar, or manual, workers and white-collar, or APT and C, workers. Those two sections had different conditions of service, holidays, pensions and entitlements. That is what was being tackled under the heading of single status.

If we had done nothing under single status, we would still be facing the same equalities issues that we are facing today. We do not solve the issues without first considering how we eradicate the differences. That is why I make a distinction

between single status and equalities. We are not facing our current problems because of single status; we are facing them because there is equality legislation on the statute books on which we can be challenged. There have already been successful challenges in England on those equalities issues; the reason for the single status agreement is to try to avoid that. Although we have had problems trying to implement the agreement, we are in the process of doing that throughout local government in Scotland. Two issues face us—they are not the same issue.

Rory Mair (Convention of Scottish Local Authorities): I will go over some of the issues in our evidence that the committee asked us specifically to consider. We were asked to give some idea of the overall cost in Scotland. Clearly, the committee was able to ask councils about individual costs, but we tried to calculate the cost for the whole of Scotland. It is difficult to give an exact cost because there will be 32 separate agreements, some of which are still being negotiated. We feel that the upper limit of about £560 million that we mentioned may be an underestimate but, overall, it is a realistic ball-park figure. It may be reduced if we can come to a national agreement on tax but, in the absence of a national framework, with 32 councils negotiating their own deals, the upper limit of £560 million is a reasonable estimate.

We are also considering the on-going cost—this relates to questions that you put to my colleagues from the councils. Even if single status is eventually cost neutral, there is an on-going cost of implementing it over, say, the next two or three years. There is some money to be paid out while protection is in place and before savings come in. As recently as Friday, the directors of finance were addressing that issue. The accepted estimate of the cost over the next three years, before anything is recouped, is about 6 per cent of the manual worker and APT and C workforce pay bill. That equates to about £200 million a year across Scottish local government. There are two big issues here: the scale of equal pay retrospective payments; and, even if we assume that single status will ultimately be cost neutral, the short-term payments for single status that have to be budgeted for. Those payments seem to be in the order of £200 million a year.

11:00

We have said something about affordability in our written evidence. As the previous witnesses indicated, COSLA has made the case that local government is currently underfunded. We are not addressing these large, complicated issues of cost in an environment in which we believe we are adequately funded for the services that we are

required to provide. We believe that there is a funding gap, which is estimated variously—depending on whom one is speaking to—at between £310 million and £400 million. We have identified a series of cost pressures on local government. We were not asked to do that by the minister, but we deliberately did not make a series of bids.

Like the rest of the public sector, we are affected by the efficient government programme. We want to highlight the fact that, unlike other elements of the public sector that are in the programme, local government has lost £168 million at source. Although we believe that we are doing very well—a recent report suggested that we have identified £122 million of efficiency gain—that is happening against the background of £168 million having been taken off us at source. That is one of the difficulties that local government faces.

Clearly, an expectation has been created by statements that have been made that in the coming year council tax rises will be limited to 2.5 per cent. We believe that local government is in a difficult funding position and that both the costs of equal pay backpay and the on-going single status costs have arisen in a difficult environment for us.

I will highlight a couple of issues in relation to funding options. We have some figures on balances. Given that the previous witnesses were asked about balances, you may want me or Councillor Watters to say more about the issue in response to questions. Councils are examining the extent to which balances can be used to fund retrospection, in particular. It is best to apply balances to one-off costs. In retrospection, we have a one-off cost, and in balances, we have a one-off funding solution.

Some councils have suggested that they may want to consider using capital receipts to fund the backpay element. That may require some discussion with the Executive. Some councils have talked about borrowing to fund equal pay. As a collective of councils, we recognise that under this deal the Treasury will receive a 30 to 40 per cent windfall, which will come out of the money in tax. We recognise that tax must be paid on the money but, given that the Treasury did not expect that windfall, we would consider asking the Treasury whether there is an opportunity for more money to be made available to local government. We would seek support for that proposal.

The conclusion is that both equal pay backpay and implementing single status over the next three years are an expensive process, even if single status turns out to be cost neutral and yields benefits after that period. The process is taking place at a time when we believe there is a funding crisis in local government. We need long-term,

sustainable funding to come into local government to allow us the flexibility to deal with those issues.

The Convener: We are not here to discuss the overall parameters of the local government settlement. We must focus on the issues of retrospection and the cost of implementation of the single status agreement. We understand the distinction between the two elements, but they are nevertheless interrelated. The Equal Pay Act 1970 was passed a considerable time ago. The single status arrangements were agreed at the end of the 1990s. What steps did COSLA take to ensure that its member councils were addressing the issue of equal pay throughout that period and making financial provision for its implementation?

Councillor Watters: It is difficult for COSLA, which is an organisation that is made up of local authorities, to say how individual authorities should be making provision. That is a matter for authorities to determine at the local level. When it was indicated that certain equalities issues were outstanding, we negotiated a single status agreement. That was a framework agreement because we could not have a national agreement on how single status would be implemented at the local level as the impact would differ in every local authority area—the impact in Highland would be different from that in Glasgow and the impact in South Lanarkshire would be different from that in the island councils. The solution was to be found locally in how each council did its job evaluation exercise and how it configured its services to meet the priorities that were set locally.

We negotiated the framework agreement at the national level and it was to be implemented at the local level. However, local authorities have been struggling to get it implemented. Sometimes, that is because they could not get co-operation at a local level from the trade unions. That has been a problem. Efficiency savings had to be made to offset the costs of implementation. The idea was that it would be cost neutral but, obviously, savings would have to be made at the local level to meet costs at the local level if local authorities were to be able to deliver the necessary changes.

The Convener: So you are saying that the single status was supposed to be cost neutral but that that has not been achieved.

Councillor Watters: Agreement on efficiency savings had to be reached locally with local union representatives and staff, but that has not happened; it has happened in some areas, but the work has not been completed.

The Convener: Your authority, South Lanarkshire Council, was perhaps the first to reach agreement on these matters. Why were other authorities not able to reach agreement?

Councillor Watters: That is difficult for me to answer. I can answer only in relation to COSLA on a national basis and specifically in relation to South Lanarkshire, as I dealt with the process there.

The Convener: Perhaps you could do so.

Councillor Watters: We spent long, arduous hours on the process. We implemented changes in our workforce and modernised our workforce. Last year—after nearly five years—we finally delivered the desired outcome.

Mr McAveety: What are the obligations for employers under the Equal Pay Act 1970?

Councillor Watters: To ensure that there are no inequalities.

Mr McAveety: If that is the case, and it has been in statute since 1970, how come retrospective payments with major implications for local authorities are kicking in now?

Councillor Watters: When the act was passed, local authorities conducted a job evaluation exercise, because the act impacted only on manual workers. That was completed in 1982 and implemented in 1987. There have been changes to the legislation and to employment regulations. At that time, the situation with regard to bonuses was not recognised and it was not until the late 1990s that the bonus element of equalities and pay was recognised. That is what is causing the major problem for authorities at present.

It is not only local authorities that are struggling with this problem; the problem exists throughout the public sector. The Executive is struggling with it in relation to health. The agenda for change is designed to deal with the exact same situation. Down south, major cases have been taken against health boards. The settlement of the equalities issues of a board in the north of England came to £400 million. The local authorities are dealing with the situation in the same way as other organisations are dealing with it. However, elsewhere, finance is being made available for that purpose, for example in the health service through the agenda for change.

Mr McAveety: In the period that is under discussion, have any guidance papers been issued by COSLA or have there been any discussions in the local authority network about this issue? Alternatively, has the issue simply emerged because of the challenges in court?

Councillor Watters: Several information-sharing committees were set up to ensure that local authorities were aware of what the others were doing so that they could be sure that one was not being played off against the other. The issue has been on leaders' agendas constantly for at least the past three years.

Mr McAveety: Were any core recommendations made as a result of any of those discussions about how best to implement the single status agreement—which we assume was meant to be cost neutral, although it is now clear that there are questions about that—and about the likelihood that trade unions or members of trade unions would seek legal redress over equal pay? Were suggestions made about looking at reserves and balances and planning in order to avoid the financial crisis that is now being faced?

Councillor Watters: It was up to individual authorities to consider their preparations. We have certainly shared information with one another over the period. We have tried to learn from the mistakes that others have made and from others' successes. Like other parts of the public sector, we have tried to get an agreement negotiated at the local level that would solve the problems that we face, although an agreement would not take away all the problems and there would still be some liability.

Mr McAveety: Would it not have been better if COSLA had issued a clear directive to address the issue? I understand the logic behind your philosophical concerns about local autonomy and ensuring that local authorities have a sovereign right to make their decisions, but we have heard Fife Council's representative say that this is the most destabilising financial issue that he has known in local government in recent years, although perhaps we can think of one or two others. Given the severity of the problem, I wonder why the discussions were perhaps not as coherent as they should have been.

Councillor Watters: Many issues have been dealt with in the period. The situation and how we should try to deal with it were recognised quite a time ago. The reason for having a single status agreement was to try to alleviate the worst ravages that we faced under the equal pay requirements. We have had problems in trying to reach agreement at the local level on delivery. We have tried to share advice among authorities, and we have had seminars, think-tanks and working groups, but when any agreement is being sought, both parties must sit down, agree and move forward.

Derek Brownlee (South of Scotland) (Con): I want to return to equal pay. I think that you mentioned a change to the statute in the late 1990s, but I had understood that the equal pay legislation is older than I am.

Councillor Watters: There you go, Derek.

Derek Brownlee: Indeed. When I studied employment law 13 years ago, the fundamental principle of equal pay for equal work existed. I do not understand why the problem that you have

identified was not recognised much earlier. The legislation is more than 30 years old.

Councillor Watters: As I tried to explain, when the legislation was passed, local authorities dealt with it practically immediately. A job evaluation exercise was done in 1982. The legislation mainly impacted on manual workers. It took us nearly five years finally to agree that job evaluation exercise with the trade unions and to implement it. We had the impression that we had dealt with the matter. If anybody had told us at the time that we could have received a claim that related to what one member of staff did against what another member of staff did, we would have dealt with them equally. There is exactly the same liability in the health service, which is not our responsibility—it is the Government's responsibility. If somebody knows about something, that knowledge should be passed on to us in the same way that we share information with one another.

Derek Brownlee: I appreciate that, but at what specific point did councils become aware that the issue was broader than had been recognised? Can you be specific and say in what year that happened?

Councillor Watters: In 1997, we were trying to reach a single status agreement with our trade unions, which would have alleviated some of our equality problems. We reached an agreement in 1999. Since then, we have been trying to implement the agreement at the local level.

Derek Brownlee: But, in essence, the law has not changed since 1970, so councils were acting in breach of the Equal Pay Act 1970, albeit unwittingly, for all that time.

11:15

Councillor Watters: You have just studied the law, but I am just a poor councillor, Derek.

Derek Brownlee: Given that a handful of employment lawyers south of the border could see that this was an issue, why did all the employment lawyers and lawyers working in all Scottish councils over that period not recognise that it was an issue too?

Councillor Watters: If you are classing as employment lawyers the ambulance chasers that are around at present, I would hope that none of the lawyers in local government is behaving in that way.

Derek Brownlee: It is surely a bit rich to criticise employment lawyers for pursuing the Equal Pay Act 1970 and to call them "ambulance chasers". Equal pay is a long-established principle of employment law.

Councillor Watters: I think that they are ambulance chasers, because the people who

would gain most are not our employees but those self-same lawyers.

Derek Brownlee: I turn to how you are trying to move on under single status. The evidence from one of the local authorities from which we have just heard is that a wide range of potential job evaluation schemes was considered. Some of the schemes offered cost neutrality, but the majority of them did not. Will the majority of local authorities be adopting schemes that are not cost neutral?

Councillor Watters: I think that the authority that you heard from was referring to pay modelling. The job evaluation exercise was agreed with the trade unions in 2000 or 2001. It is up to authorities whether to pick up that model.

Derek Brownlee: One of the main difficulties with implementing the scheme is the issue of employees who would be red circled. Is there not a balance between implementing a scheme that is, on the face of it, cost neutral but which might have a high proportion of staff red circled, who might leave, and adopting a scheme that has a cost to the local authority, which might present a funding issue and might mean that authorities have to make other groups of staff redundant? Is that not a choice for local authorities to make?

Councillor Watters: Part of the agreement was that anyone who was going to be red circled, or downgraded, as a result of the job evaluation exercise, would have their pay protected for three years. During that period, the authority would work with its trade union colleagues and the employee in considering whether to remodel or reconfigure the job. If that meant that fewer people would do the job, and that was agreed, that is how the council would proceed. The opportunity would exist to do that.

Derek Brownlee: What do you say to the argument that it is a matter of choice for individual local authorities how they implement the single status agreement and meet the costs that they incur?

Councillor Watters: The job evaluation exercise would be dependent on what the local authority wanted to do. The opportunity was there for authorities to reconfigure their jobs. You heard evidence about slimming down workforces and introducing more flexibility. If authorities got such flexibility, they would have a better opportunity to produce an improved and more consistent service.

It is not inappropriate that each local authority should consider how to proceed. Highland Council had the opportunity to do something different from a big urban authority. It does things differently at present and would probably want to improve on what it does and consider how it would change that. In Glasgow, a roads worker might do only roads work. In a smaller authority area in a more

rural setting, that might not be the case. The opportunity was there for authorities to consider reconfiguring jobs and how that would impact on the delivery of services.

Derek Brownlee: So, given that individual local authorities had that opportunity, as you said, why should the issue be dealt with nationally? Surely it is a matter for individual local authorities, as the Executive indicates.

Councillor Watters: I am sorry. I am missing the point.

Derek Brownlee: I understood that the Executive's view on this issue was that it was essentially a matter for individual local authorities because it had been negotiated by individual local authorities and they were responsible for the model that they chose to implement.

Councillor Watters: You are absolutely right. Single status is a matter for individual local authorities, but the cost of equalities might not be.

Derek Brownlee: Is there not a distinction between the cost of implementing the single status agreement and that of implementing equalities legislation? Equalities legislation could be implemented in a variety of ways, but individual councils will choose only one method of implementing the single status agreement.

Councillor Watters: No. Authorities will not choose only one method. There will be 32 different methods of implementing single status. If we get taken to industrial tribunal, there will be only one settlement on the equalities issue and that is the retrospective payment. That is not part of the single status agreement.

Derek Brownlee: What I mean is that each individual local authority will select one method of implementing single status. I appreciate that there might be 32 different models across Scotland but given that each local authority will have a free choice, do the funding implications not then fall to the local authority rather than to the national Government?

Councillor Watters: I have already said that if local authorities reach a conclusion with their employees and find a way forward after doing a job evaluation exercise, then that is fine. As you pointed out, that does not take away their responsibility for backpay on equalities issues. That is different from the on-going situation of making the agreement on single status. One is a one-off payment that costs local authorities because they have a legal responsibility, and the other is a mutual agreement between local authorities and their trade unions about how they deal with each other.

The Convener: We should move on. Andrew Arbuckle is next.

Mr Arbuckle: What is the taxpayer getting for the £200 million?

Councillor Watters: The taxpayer will get a more flexible, up-to-date and modern workforce that is better motivated to deliver services in their community.

Mr Arbuckle: Right. Rory Mair indicated that the agreement would be cost neutral within three years. Do you believe that? Is that your target for your local authority?

Councillor Watters: We have already implemented the single status agreement so—

Mr Arbuckle: Will it be cost neutral in three years?

Councillor Watters: Yes, but let me answer fully. Under the single status agreement, local authorities have the opportunity to look at how they deliver, configure and modernise services. Some people might lose money as a result of the changes that are made. Most employees will have their pay protected while that is being done and that will be an on-cost for that period. After that period of protection, there should be savings that local authorities can put back into delivery of services.

Mr Arbuckle: Your response on modernising services sounds right, but what does it mean? Can you give practical examples of where money will be saved?

Councillor Watters: Yes. A local authority may have a host of grades with very little flexibility between them. Let me give an example. When we in South Lanarkshire Council looked at our leisure sector, we saw that there were 15 different grades and total inflexibility between each of them. After we looked at single status, we came out with three grades that are totally flexible with one another, which reduced the need for cover in those areas. That flexibility means that a better service is provided. In our janitorial services in schools, we got an agreement with the trade unions to double-shift secondary schools. That means that there is an early shift and a back shift, which cuts down on overtime. We no longer need as many pool janitors to cover absences because we put janitors in clusters of secondary schools and primary schools. Janitors work flexibly with one another and deliver a better service to the schools, and they do so more cheaply because no overtime is necessary.

Mr Swinney: I turn to the issue of balances. Mr Mair, you said earlier that you have information on current available balances. Will you share that information with the committee?

Rory Mair: The issue is more one of availability. That said, if we take the figure of £1 billion and exclude HRA, we reckon that 55 per cent of the

total is allocated to capital costs, insurance and so forth. Councils have deliberately retained funding to deal with specific building projects and so on. A further 20 per cent has been earmarked for Executive spending programmes. Local authorities receive money for such programmes but are unable to spend it in one spending year. The money becomes a balance that is used to fund the programmes in future. That leaves about 25 per cent as unearmarked, general reserve moneys.

The committee has to remember that, whether or not it is stated as an audit principle, most councils work on the premise that a retention figure of 2 per cent of their budget is a reasonable balance level to have. It is simply not accurate to say that £1 billion is available to use. Councils have made very sensible decisions on the use of balances to fund projects, which is what they should do as part of their budgeting process.

Mr Swinney: So you estimate that the current available balances are more in the order of £250 million, rather than the £1 billion that the Government quoted to me in Parliament a week ago? Is that correct?

Rory Mair: The difference is between the available—

Mr Swinney: That is the point that I am driving at.

Rory Mair: The point that councils are raising is whether they have to stop the capital projects that they have on their books, for which they have deliberately been accruing balances, in order to fund part of the equal pay backpay.

Mr Swinney: I understand that you expect the liability for single status to be in the order of £310 million to £560 million. Is that correct?

Rory Mair: That is the liability for the equal pay backpay.

Mr Swinney: Okay. Could the local authorities use their current available reserves to settle that one-off cost?

Rory Mair: Not without other projects being put to one side. One of my colleagues made the point earlier that, if the balances drop below a level that is deemed to be safe, councils are exposed to another risk and would have to accrue further balances to cope with that. They may pay the money out as a one-off cost now, but, over the next three-year period, they will have to put money into their budgets to regain those lost balances.

Mr Swinney: So the likelihood is that, if available balances are used to pay off this one-off debt, council tax increases will be required to recoup them. Is that correct?

Rory Mair: I am saying that councils will have to make provision in their budgets for the recouping

of those balances. They will then have to decide how to fund that, which may have an effect on council tax.

Mr Swinney: I return to the questions that Frank McAveety asked on guidance from COSLA. What guidance has COSLA given the local authorities on making financial provision for the equal pay and single status agreements?

Rory Mair: It is as Councillor Watters said. Certainly, in the almost four years that I have been at COSLA, both agreements in general and the single status agreement in particular have been the subject of on-going discussion. In seminars with council leaders and chief executives, we have discussed the fact that we need to have a plan for dealing with the situation. That links to the issue to which the convener said we should not relate the situation—the more general financial position that local government expects itself to be in. There is no doubt that, over the past two years, our overall funding has become less generous than was the case previously. It is against that background that the agreements become much more difficult to fund.

Mr Swinney: So your criticism is that the local government financial settlements of the past two years made it impossible for the local authorities to create the reserves that would have allowed them to deal with the problem.

11:30

Rory Mair: We are in the tightest financial position that we have been in. We face a series of funding pressures, which means that any funding pressure of the scale that we now have to plan for will be difficult for us. In discussions elsewhere, Councillor Watters has pointed out that, at the moment, we have to plan to fund retrospective claims and we are wrestling with the problem of funding the on-going costs of single status. We are doing that against a backdrop of trying to find the money, and where are we to find it? Do we find it from efficiency, which we are already recognised as doing well at? Do we find it by cutting services, although we have cut them significantly already? Do we find it from council tax rises, which, as you have heard, would be unacceptable? As you can see, we are up against that funding difficulty.

Mr Swinney: Is it your view that local authority settlements have been adequate over the past two years, or have they been such that no opportunity has been created for local authorities to make provision for retrospective equal pay claims? I stress that this question, which is for Councillor Watters, is about the past two financial years, not about the future.

Councillor Watters: Of the three years dealt with in the settlement that we finalised last year,

last year's settlement was manageable, this year's settlement is extremely difficult or nearly impossible and next year's settlement is virtually impossible for local authorities.

Mr Swinney: I would like to pursue that point. If the current financial year—the financial year that we are in—is manageable, why are not the reserves in place to fund the retrospective equal pay claims?

Councillor Watters: Most authorities would have the reserve recommended by auditors, which would be around 2 per cent. There are reserves, but they are for dealing with unforeseen circumstances.

Mr Swinney: That was not my point. If the financial settlement for this year is viewed as manageable, why is there no provision in local authorities' current balances for dealing with the retrospective claims?

Councillor Watters: When you refer to this financial year, are you talking about the financial year that is about to start?

Mr Swinney: No. I am talking about the one that we are in—2005-06.

Councillor Watters: I said that it was manageable, not overgenerous.

Mr Swinney: That is why I asked you my previous question.

Councillor Watters: We managed our services on it.

Mr Swinney: My original question was whether local authority settlements had been adequate or whether they had allowed you to make no provision for the equal pay obligations. That is what I want to get a feel for. I want to understand whether the local authority settlements from the Government have been so restrictive over the past few years that they have not enabled local authorities to build up reserves to pay for a completely predicted equal pay liability. It was not unforeseen; it was totally predicted.

Councillor Watters: I do not agree that the level of liability was predictable. Even today, we cannot predict with any certainty what the liability will be, because there are so many imponderables. We do not know which cases would be successful or unsuccessful if we were to end up going to an industrial tribunal. If we make an agreement at the local level, we do not know what the level of that settlement will be. Some authorities already have agreements with local trade union colleagues and staff, but the next agreements might be different.

You asked whether I thought that the settlement was adequate. It was not adequate to make provision for the nearly £560 million that we have

estimated needs to be set aside. We do not have that comfort. Set against the rest of the public sector, our share of the public take has gone down by 7.3 per cent over the past four years. Health services have seen an increase of 3.4 per cent over that period, and quangos have seen an increase of 3.7 per cent over the same period.

Although our share of public sector funding has reduced by 7.3 per cent, that is not to say that additional money has not been brought into local authorities. We have record amounts of funding in local authorities and we deliver record amounts of services as a result. Many of the increases that we have had are for priorities that the Executive has set.

Mr Swinney: I am glad that we have got to that point. Your view is that the local authority settlements have not been adequate to allow you to make provision for the equal pay issues that you now face.

Councillor Watters: Yes, I agree with that.

The Convener: I want to pursue that issue a little. I presume that local authorities, as employers, have the normal responsibility of employers to make provision to cover their liabilities—in this case, employee-related liabilities. I accept that you could not be precise about the retrospective costs of equal pay, but you have known that there would be a legal liability. What provision have local authorities made in the past three or four years to take account of the matter? Is there a legal or advisory requirement for local authorities to make provision for predictable costs that will fall on them?

Councillor Watters: I find it difficult to accept that the costs were predictable. We are in the present situation because legal firms are willing to take us to court. The trade unions were willing to try to negotiate a solution. What has brought the matter to a conclusion is the fact that we have not reached that negotiated solution and legal firms intend to take us to court, employee by employee.

The Convener: By your own account, you began the process in 2001, and you would not have completed it had people not started taking councils to court. Is that what you are saying?

Councillor Watters: No. We started the process when we reached an agreement in 1999. We set out a timescale within which we would try to reach a conclusion—the initial deadline was 2002, but it was impossible to meet that because agreements could not be reached locally. We then changed it to 2004 and have since extended the timescale further. The matter is up to individual local authorities, although we have estimated when each authority will be able to implement part or all of the agreement. A timescale is set out—it is not as though we have been doing nothing. We

have tried to negotiate a settlement. However, authorities now face the immediate problem of being taken to industrial tribunal, as has happened in England. Until now, we have tried to negotiate a conclusion.

The Convener: So you set a target of 2002, which you failed to meet. You then set a further target of 2004, which you failed to meet. Now you are trying to reach agreement under pressure from legal challenge.

Councillor Watters: Yes.

The Convener: Is that a reasonable situation for an employer to be in?

Councillor Watters: What we have done until this point has been entirely reasonable. We have tried to get discussions at a local level to allow us to deliver the necessary change through agreement.

The Convener: You say that, until recently, you could not have predicted the scale of the likely retrospection costs.

Councillor Watters: We cannot do that with any accuracy. We have a guesstimate of what will happen.

The Convener: You have given us a range. I presume that that must be based on evidence.

Councillor Watters: Yes, although the top of the range might not be the final outcome—the figure could be higher, but it is the best estimate that we can make. If somebody goes to industrial tribunal, the tribunal will set the figure. Legal cases that are taken by lawyers will be decided individually. If a trade union is working for a group of employees, there can be test cases, although each test case could be different.

The Convener: Let me get this right. The cases that will be taken by individuals would be against particular employers for failing to abide by the legal requirements. Is that the basis of claims that individuals might make?

Councillor Watters: A lawyer cannot take test cases. The cases must be individual cases. We can tell how many cases are lodged with an industrial tribunal because legal firms must lodge each case individually, and the tribunal hears them individually.

The Convener: So a case against an employer would be on the basis that the employer had acted unreasonably in not providing equal pay. Is that correct?

Councillor Watters: Yes.

The Convener: By your own admission, you have known for five years that you needed to resolve these matters to avoid legal challenge.

Such challenges are now a reality. You set yourself targets to deal with the situation between 2000 and 2004, but only now are local authorities finally moving to reach agreements. If I have got it right, you are saying that somebody else should pay for this.

Councillor Watters: For what?

The Convener: For meeting the costs of retrospection. You are saying that that is not your responsibility, despite the fact that it clearly is.

Councillor Watters: Who is paying those costs in the health service? Is it the health boards?

The Convener: That is not really the issue. I am asking you the specific—

Councillor Watters: Well, we will—

The Convener: No, do not try and divert the discussion. I am asking you the specific question—

Councillor Watters: If we are talking about an equality issue—

The Convener: It is local government's responsibility. You have legal liabilities.

Councillor Watters: If we are talking about an equality issue, let us see the whole of the public sector being treated the same.

The Convener: I think that we have a record of trying to pursue that issue, but I am asking you specifically about the position of local government. You are required to operate under the Equal Pay Act 1970, which you know about. You have taken steps that you deem to be appropriate to deal with that. You set yourself a number of targets, which you have not met. What you are now saying is, "I'm sorry. The cost is substantially greater than we thought it was. We haven't been able to estimate it up to now and it should be met from general taxation, on top of what local authorities get." Therefore, the costs of retrospection are the costs of your not doing what you should have done four or five years ago. Is that essentially your case?

Councillor Watters: No, that is not my case. That has been—

The Convener: Perhaps you could tell me again what your case is, then.

Councillor Watters: I have articulated it today. We are not saying that the Scottish Executive or taxpayers in general should meet the whole cost of retrospection. I am saying that there needs to be a cocktail of funding to meet it. We have tried to explain that to you. You must remember that 80 per cent of our funding comes from the Executive and that only 20 per cent is at our behest. You are saying that that 20 per cent should be used to

meet the whole of the liability and that we should pass the cost on to taxpayers. I do not believe that that is right—there has to be a mixture.

At present, local authorities have had no indication from the Executive that it will meet all or any of the costs of retrospection, so we have to consider how we will meet those costs. We have several options. We will investigate what we can use from our balances. We will also consider whether we can capitalise some of it and whether we can borrow to pay some of the cost. However, at the end of the day, if local authorities have a liability, we will have to meet that liability. We will certainly try to speak to the Executive to see whether we can be assisted, and we will look at the revenue system to see whether that can be of any assistance. We will also seek to speak to Gordon Brown to see whether the tax that is paid on any retrospection is pensionable. We will look at all those areas to see whether we can do anything. However, if we have a liability, we will have to meet it.

Mark Ballard: You mentioned issues that are to do with the Treasury. Mr Mair—and the COSLA submission—said that between 30 and 45 per cent of the one-off equal pay costs and the on-going annual costs will go direct to the Treasury. That seems a very high figure.

Rory Mair: If we do things individually, the on-going costs that will go to the Treasury will be of that order. What we are saying is that we might be able to reach a national deal on tax that reduces the amount that goes to the Treasury. Some money will go to the Treasury, but we are asking, “Look, if that is a windfall that had not been expected, can it be returned to us?”

Mark Ballard: Is there any precedent for asking the Treasury to repay taxation revenue on the basis that it was a windfall?

11:45

Rory Mair: No. I am not even suggesting that we expect our strategy to be successful. We are saying that we have a funding difficulty and that we are looking at all the options to remedy the situation. Colleagues in local government have asked whether we can mount and get support for that strategy and whether we can approach the Treasury. It is part of COSLA’s job to look at how the liability is funded, and we have suggested that we will pursue that.

Mark Ballard: If you were to succeed, that would be unique, as far as you know, and would set an interesting precedent for local government and other sectors.

Rory Mair: Yes.

Councillor Watters: There have been cases in

the past when the Treasury has waived tax liability.

Mark Ballard: In similar situations?

Councillor Watters: No.

Mark Ballard: In what situations?

Councillor Watters: There have been cases in the past when the Treasury has waived tax liability.

Mark Ballard: But not for pay settlements?

Councillor Watters: No—not for pay settlements, but there are cases in the past where the Treasury has waived tax liability.

Jim Mather: I am keen to return to cost neutrality. What mechanisms are in place to measure future cost neutrality and the move into that era?

Councillor Watters: That would be up to individual local authorities. They would prepare the changes that they wanted, consider their workforce configurations and examine service delivery in their communities. They would then estimate the changes and costs—for example, how much buy-outs would cost, or how long particular conditions of service would be protected for. It is up to individual authorities to look at that. We could not answer that at a national level.

Jim Mather: Let me ask the question from a different angle. Is it COSLA’s position that local authorities should have mechanisms to measure the move into cost neutrality? Should that be audited and reported on openly?

Councillor Watters: That would be up to each local authority. They are responsible for balancing their own budgets, so it would be up to them to audit and report on that continually. Whether they can move into cost neutrality is a different argument.

Jim Mather: Peter Drucker said:

“if you cannot measure it, you cannot manage it”.

Will COSLA take a leadership role and advocate that local authorities should audit and report openly on the move into cost neutrality? What is COSLA’s position?

Councillor Watters: The Audit Commission and another 20-odd organisations already audit local authorities.

Jim Mather: That is somewhat tangential; I am asking a very specific question.

Councillor Watters: You asked me specifically whether COSLA will monitor local authorities.

Jim Mather: I am asking whether COSLA will take a leadership position and advocate that such an audit should be done.

Councillor Watters: Authorities do that on a daily basis anyway.

Jim Mather: So you are telling me that authorities will measure the move towards cost neutrality. You are saying that that will happen.

Councillor Watters: Yes. That is part of a local authority's day-to-day business.

Jim Mather: So we are not in new territory with the single status and the move into equal pay.

Councillor Watters: No. That is part of our business.

Jim Mather: How will that manifest itself?

Councillor Watters: In what way?

Jim Mather: How will I be able to check that in the future?

Councillor Watters: You could ask the local authorities.

Jim Mather: Ask them?

Councillor Watters: Yes.

Jim Mather: I am sorry; so I would have to pull out that information, rather than their giving me the broadcast push.

Councillor Watters: I am missing the point entirely. I am sorry; I am not trying to be difficult. Part of the day-to-day business of local authorities is justifying what they do. They will have projections on how they plan to develop their workforce changes and the impact that that will have.

Jim Mather: We now see a sea change. We have the efficient government agenda as well as the productivity agenda that is being implemented as part of the new reality of new working practices and new technology. It will be important for people who pay council tax to have clear baseline information on what they get now and what will be an overall improvement. People see what is happening and what they will get from the change. They want to know whether they face a long-term overhead because of that change or whether there will be genuine efficiencies and genuine productivity gains.

Rory Mair: COSLA and local authorities have negotiated best-value auditing. That will cover exactly the issues that you have raised, and best-value audits are publicly available. We will be responsible for reporting on whether people get the best value for local government money over time. That is exactly the kind of thing that best-value audits assess, and COSLA and the councils have advocated best-value auditing.

Dr Murray: I want to check my understanding of something that Councillor Watters said earlier.

You helpfully made a distinction between retrospective payments and single status. Single status was negotiated by each local authority. Does COSLA accept that each local authority has the responsibility to bear the cost? You have explained how, in future, savings can be made in some ways, not just through red circling, but by using more modern working practices that should eliminate the need for overtime and the sort of janitorial arrangements that you said applied in South Lanarkshire. Does COSLA accept that the single status aspect is not the issue? Councils will have to manage that situation, but it is not the issue—the issue is to do with looking for assistance with retrospective payments rather than with single status.

Councillor Watters: That is a fair assessment of how I view the issue. Costs are certainly involved in single status but, over time, with flexibility in funding, we would be able to manage that system. Where we are experiencing extreme difficulty in coping is in the retrospection aspect of the equal pay claims that we are facing.

Dr Murray: You suggested a possible solution involving capital receipts. What is the problem with that at the moment? What needs to be done to enable councils to go down that route?

Councillor Watters: You would have to ask the Treasury that question.

Dr Murray: So it is a Treasury issue, rather than an Executive issue.

Councillor Watters *indicated agreement.*

Mr McAveety: You mentioned in one of your responses other issues that the public sector is facing, possibly with respect to similar claims. I think that you identified a health authority or health board in England in that regard. How does it propose to deal with the equal pay claims?

Councillor Watters: I do not have a clue.

Mr McAveety: What I am trying to get at is this: if that board in England had received additional resources from either the Treasury or from—

Councillor Watters: I have no knowledge that health boards in England are any better off financially than are health boards in Scotland. If a health board in England had £400 million in its contingency fund, I would be amazed. In Scotland, additional finances have been made available to the health service through the agenda for change programme.

Mr McAveety: Agenda for change is UK-wide, is it not?

Councillor Watters: Yes.

Mr McAveety: So there will be broad similarities when it comes to health allocations. However,

agenda for change is not specifically about the Equal Pay Act 1970, is it?

Councillor Watters: It deals with that act.

Mr McAveety: Mainly or—

Councillor Watters: No—it deals partly with it. Part of agenda for change is about equalities issues. Any body that employs various levels of staff can be liable, within both the private and public sectors. The current target is the public sector.

Mr McAveety: What I am trying to get at is whether there is an equivalent sum of money produced by whatever agency of Government it is—the UK or English Department of Health, or the Scottish Executive—specifically for dealing with retrospective equal pay. If not, is it assumed that it must be dealt with from within general allocations?

Councillor Watters: If a health board in Scotland was taken to court under the equal pay legislation and the case was successful, the board would not have an available contingency and would just overspend. We are not allowed to do that, and we do not do that. Agenda for change is similar to single status in local government, but we are talking about part of general funding, and health funding has increased. It is easier to deal with the issue with an increased share of the public sector purse than with a decreased share of it.

Mr McAveety: I accept that there might well be different financial arrangements, which are to do with how local government and health boards have been funded historically. There is not a specific sum and an instruction on how to deal with equal pay issues. Understandably, it is assumed that, should equal pay claims arise in health boards in Scotland, they might have to face similar problems. A board might be allowed to overspend, or it might adopt stricter savings agendas compared with what has been possible for local authorities so far. Will you comment on that?

Councillor Watters: We should consider the efficiency agendas. The best-value regime has been mentioned. Over the past five years, local authorities have redirected about £167 million as a result of best value. As Rory Mair said, £160-odd million was taken off at source in the efficiency savings that were offered up this year. We can currently evidence further efficiencies in local government of about £122 million; by the end of the financial year the figure will probably be higher than that. That does not suggest that we are organisations that are mismanaging our funds. We believe that in producing savings we do as well as, if not better than, other parts of the public sector.

Mr McAveety: Finally, is there a way to allow local authorities to manage the claim on them over

a period of time? Irrespective of the figure that is arrived at—whether or not it is at the upper limit that you have identified, particularly on equal pay rather than on single status—are there ways, other than the three that you have identified, to minimise the impact on council tax payers?

Councillor Watters: We must sit down and consider jointly how that could be achieved. I have not come here today to say that liability for those costs lies with Government. I am saying that we need assistance in dealing with the problem that faces us.

Rory Mair: The minister has already said that he will examine our spending in 2007-08. We are saying that if we use balances now and we have to recoup those balances, it will be easier for us to ensure that the burden does not fall on taxpayers if the backdrop is that the spending pressures that we have identified are being met in part or in whole.

I return to what the convener said. Our evidence does not state that we want someone else to fund equal pay; it states that we want a fair funding settlement for local government and that single status is one of the pressures that we are under. We have not said that a particular block of money should be earmarked for either of those two purposes. In fact, we would make the case that we will cope with this one-off difficulty if the Executive provides funds to meet the funding pressures.

The Convener: I understand the distinction. I will ask some final questions.

How does your range of costs for retrospection compare with the situation that faces councils in England and Wales? Have you done any comparative work on that?

Councillor Watters: We have done such comparative work—that is how we produced an estimate of the funds that will be required. The situation is different in every area. If compensation has been awarded by industrial tribunals, the costs are much higher, but if a negotiated settlement has been reached, the costs can be lower. It is not an absolute science; rather it is about individuals and whether we either get agreements at local level or end up having to pay out compensation as the result of industrial tribunals.

The Convener: I understand that there are differences between authorities, but is your ball-park figure for liability in line with the ball-park figure that is coming from English and Welsh local authorities?

Councillor Watters: Yes.

The Convener: Is it exactly in line?

Councillor Watters: The figure has not been inflated.

The Convener: You said earlier that you thought that the promise of single status agreements being cost neutral could be met, although some kind of increased costs might be involved to get to that point over a three-year period.

We heard from North Lanarkshire Council that something like 40 per cent of its staff are likely to get increased salaries and about 13 per cent will be red circled. That does not appear to indicate that single status agreements will be cost neutral, although I know that that is only one council's experience. What stance should local authorities take in their negotiations with the trade unions in respect of single status agreements? Do you maintain that, across the board, it should be cost-neutral and that authorities should be negotiating on that basis? Would it, on the other hand, be more likely that North Lanarkshire Council, for example, would say that there would be significant future additional cost pressures from single status agreements?

Councillor Watters: I cannot answer that. It is difficult for me to answer questions about agreements that have not been made between authorities and their staff. The negotiations are in progress. North Lanarkshire Council gave the committee the results of its job evaluation exercise, but I do not know whether costs have been reduced in other areas. North Lanarkshire Council mentioned reducing its number of pay runs from seven to two. That will release funds because there will be less bureaucracy.

Authorities work very hard to keep costs as low as possible; that is done through negotiations. Local authorities are seeking to change how we do things—we are trying to be more flexible and streamlined in delivering services and supporting our delivery mechanisms. Authorities will leave no stone unturned in trying to ensure that costs are kept to a minimum.

The Convener: I hear the words, but what is the target? Trade unions' role in the process is, I presume, to maximise employees' wages. How serious are local authorities about ensuring that single status is implemented as a cost-neutral exercise?

Rory Mair: I take issue slightly with what it has been suggested I said. Cost neutrality remains a target, but there will be costs in the short term. I am sure that, as my colleagues said, councils are balancing a straightforward need for cost neutrality with the need to strike a deal that provides a motivated workforce that is designed around the needs of delivering services. The target from all the chief executives and directors of personnel to whom we at COSLA spoke is that they will achieve cost neutrality.

The Convener: Thank you.

12:02

Meeting suspended.

12:03

On resuming—

Subordinate Legislation

Public Contracts (Scotland) Regulations 2006 (SSI 2006/1)

Utilities Contracts (Scotland) Regulations 2006 (SSI 2006/2)

The Convener: I am sorry that we overran a bit on the first evidence session. The second item on our agenda is evidence on two pieces of subordinate legislation that have been referred to the committee. They are the Public Contracts (Scotland) Regulations 2006 and the Utilities Contracts (Scotland) Regulations 2006.

As the note from the clerk states, we will consider the regulations formally at our meeting next week, but the Scottish Trades Union Congress has written to me outlining its concerns about the regulations. I thought that it might be useful for members to take evidence from the STUC and from Executive officials in advance of our dealing formally with the regulations next week. Members have a note from the clerk, a copy of the instruments, a copy of the correspondence from the STUC and correspondence from the Equal Opportunities Committee.

I welcome our first panel of witnesses. Stephen Boyd is from the STUC, Tim Page is from the Trades Union Congress and Dave Watson is from Unison Scotland. I apologise for keeping you waiting, although I am sure that Dave Watson, at least, will have been interested in what has been said.

Perhaps you could make a brief opening statement, and then we will proceed to questions.

Stephen Boyd (Scottish Trades Union Congress): The UK public sector spends £125 billion each year on goods and services. I have had trouble in obtaining the relevant figure for Scotland, but I believe that it is about £5 billion. How that money is spent—whether it goes to companies that develop skills and inclusivity or to companies that seek simply to provide goods and services at the lowest cost—can have a major impact on our ability to meet profound economic and social challenges.

Procurement is not a panacea for all our economic and social ills, but it can be an effective lever in promoting and supporting employment, manufacturing industry and inclusiveness, and in setting best practice in employment conditions and ethical contracting. Trade unions want the Scottish Executive to set positive standards in that way. The Executive must move away from the blinkered

viewpoint that such considerations constitute burdens on business and must instead start to acknowledge the clear benefits that are gained in productivity and in the quality and reliability of goods, works and services when workers are treated fairly and with respect.

The STUC has been closely involved in the consultation processes on transposition of the public sector and utilities procurement directives. As a result of campaigning by trade unions, charities and equality bodies, the directives contain important rights to promote the social, environmental and employment agendas. For example, the definition of the most economically advantageous tender is now from the point of view of the contracting authority. In addition, one of our main arguments is that the regulations that implement the public sector directive should refer to recital 33, which outlines the social, economic and environmental issues that procuring authorities can legally pursue.

The STUC is frustrated by the Scottish Executive's unwillingness to use its devolved powers to implement the regulations separately and distinctly from the Treasury's Office of Government Commerce and is disappointed that the regulations will not give full force to the new directives' positive aspects.

Only minor changes have been made to the regulations in the light of consultation responses. It is interesting that those changes appear to be identical in the OGC and Scottish Executive-drafted regulations. There is no substantive difference between the Scottish and English regulations, which raises the question why the Executive bothered to use its devolved powers to implement the provisions separately.

I will quickly run through some of our detailed concerns. The following points were made in written submissions to the consultation. In regulation 30 of the Public Contracts (Scotland) Regulations 2006, which is on the criteria for the award of a public contract, we welcome the correct transposition of the wording

"most economically advantageous from the point of view of the contracting authority".

However, the text should be amended to make it clear that social factors can constitute permissible award criteria.

Regulation 45 will implement article 25 of the public sector directive, which is on subcontracting. We are deeply concerned that this important article will be implemented as being optional rather than mandatory, because that will weaken considerably the potential for contracting authorities to monitor the quality and best value of a contract. It also appears to contradict the Scottish Executive's professed commitments.

The Convener: You are going over your submission, which we have. Do you need to read that into the record, or are you happy to accept that we have had the chance to read it?

Stephen Boyd: I will be much briefer than the submission—I am nearly at the end.

Regulation 38 will implement article 27, which is on obligations relating to taxes, environmental protection, employment protection and working conditions. Article 27 will also be implemented as optional rather than mandatory; the STUC believes that the article should be implemented as being mandatory and we reject the suggestion that that would add unnecessary burdens or bureaucracy.

Regulation 39, which will implement article 26 on the conditions of performance of contracts, inadequately reflects the content and spirit of the directive. Supporting recitals 33 and 34 provide significant detail on the scope and opportunities for consideration of social and employment issues and include references to International Labour Organisation conventions, skills and training provisions, support for unemployed people and respect for collective agreements. The regulations ignore that wording, so the STUC calls for the provisions to be fully and fairly reflected in the regulations. It will be unacceptable merely to pick that up in guidance.

We also have serious concerns about other regulations; they are listed in our submission. The STUC and our affiliated trade unions remain deeply concerned about the regulations. They fail to give due prominence to the additional scope in the directive to include employment, social and environmental criteria in the public procurement process and they fail to implement articles 25 and 27 as mandatory provisions. The directive gives member states a clear choice, but non-mandatory provisions will inevitably undermine good practice.

We had hoped that the amendments that we suggested, and other amendments, might have been accepted in the light of our consultation responses, but it appears that the OGC continues to drive the process. We therefore ask the Scottish Parliament, through the Finance Committee in your report, to consider raising our serious concerns.

Mark Ballard: I will ask first about a minor point. In relation to your point about regulation 7 implementing article 19, am I right that the more usual term is “social firm” rather than “sheltered workshop” and “sheltered employment”?

Tim Page (Trades Union Congress): We are looking for the term “supported employment”.

Stephen Boyd: To be fair to the Executive, it has picked up that amendment and the

terminology has been changed from “sheltered” to “supported”.

Mark Ballard: My more substantive point is about regulation 30(2) and the list of criteria that will be judged to bring economic advantage. Do you have information about how other European countries have implemented the directive and whether they have broadened it out to include, for example, tackling long-term unemployment and skills training?

Tim Page: I do not have information about how other countries have implemented the directive in their domestic law, but one of the reasons for the new directives was to bring European law up to date with, among other things, recent case law.

The committee might be aware of one of the most prominent examples of case law—the Nord-Pas-de-Calais case. In that case, a contracting authority included an attempt to reduce local unemployment in a certain part of France as part of the reason for the award of a contract. The case sets important precedent in that it allows any contracting authority to bear in mind something as crucial as reducing local unemployment when it tenders for goods and services. It was to capture those legal developments that the new directive came about in the first place. We highlight it as an issue that we would like to be reflected in the regulations.

Mark Ballard: If the regulations are accepted, will there still be a possibility in Scotland of court cases to challenge the differences between the definition of the directive here, European case law and the implementation of the directive elsewhere?

Tim Page: I am not a lawyer, but I understand that Scottish courts would treat previous case law as precedent. The Nord-Pas-de-Calais case sets an interesting precedent.

Jim Mather: I commend you for bringing the matter to the committee’s attention. I am really taken by the phrase that refers to tenders that are

“the most economically advantageous from the point of view of the contracting authority”.

We should issue tee-shirts with that phrase on them. What impact might that have had on earlier orders for a shipyard such as Ferguson Shipbuilders Limited?

Dave Watson (Unison Scotland): If the regulations were in place and were mandatory, as we would like them to be, they would have an impact on some of the current and topical issues in relation to procurement. Obviously, the Ferguson situation is one such issue.

Members will notice that one of our differences with the Executive is about whether we make

elements of the regulations mandatory or whether those elements should be covered by guidance. Our concern about not making the aforementioned elements mandatory is that although the best public sector organisations will probably follow the guidance, others might not.

An older example than Ferguson's shipyard, and one that is probably more relevant to the Finance Committee, is trunk roads. This committee and the Local Government and Transport Committee examined that matter in some detail. In that instance, the Scottish Executive had not followed guidance that had been issued by the Cabinet Office. That was a clear example of what happens when guidance is not mandatory—things fall through the net and the proper provision is not applied.

Jim Mather: As regards the future framing of contracts that are not directly or indirectly discriminatory, and where the conditions are indicated in the contract, would it be sensible for Government to take cognisance of the total economic impact—even in a devolved Scottish context—and the tax benefit that could accrue from, let us say, a £20 million order to the likes of a shipyard? Should the Government also have regard to the social security impact that would ensue from having more people in work who actually pay tax? Would it be sensible to include that in the thinking process?

12:15

Dave Watson: We would be treading in some difficult legal areas. The difference between Unison and the Executive is not vast. Although we have some sympathy with the position that Jim Mather outlined, we are constrained by European law on that point. The Nord-Pas-de-Calais case and others suggest that there are still significant limitations in European law on what member states and devolved Administrations can do in this area. The important point about the regulations is that they will allow us for the first time to ask the right questions about procurement and the people who are bidding and they will allow us to set minimum standards. The process is not based purely on cost. That was the limitation prior to the Helsinki bus case, many other European cases and, importantly, the introduction of the new regulations, which will implement the new directive.

Jim Mather: I understand that. In essence, the fight against unemployment is shining out here. I am well aware of the need to comply with European competition law. I am also well aware of the need for us to have as competitive an economy as possible. I suggest that we may be able to remove some of the scales from our eyes and to consider the total cost of ownership. I refer

not just to the fiscal and social security implications, but to long-term maintenance costs—the potential downtime of sending a ship back to Poland to be repaired, for instance, and the service disruption that can ensue if the ship has problems. This is beginning to look like a new era in which enlightened national self-interest can apply to our contracts. In that climate, should we take all the issues into account?

Dave Watson: Potentially, it is a new environment, but we need to take maximum advantage of the flexibility in the directive. Our concern is that the Scottish Executive is taking too narrow a view of the opportunities.

The Convener: Most of the points that you make relate to areas in which you believe there should be a mandatory approach, rather than an approach based on guidance. We will ask the Executive witnesses afterwards why they have opted for the non-mandatory route. Are you concerned partly because guidance has not yet been published, so you do not know how strong it will be? If the guidance had been published, that might have gone some way towards satisfying you on some issues. Would you like to flag up where that may be the case?

Tim Page: The TUC in London has been in discussions with the OGC about the guidance, and it has made suggestions—with varying degrees of success—as to how it could be strengthened. In some cases, the OGC has taken our comments on board, but in others it has not.

We are concerned that, if the law is to be properly enforced, some of the main elements of the directives need to be incorporated into the regulations, rather than into guidance. There is often a feeling that guidance is in the second division and that people will ultimately follow the regulations. That is why a big part of our campaign was to get recital 33 included in the text of the regulations. We accept that there is no legal obligation on the Scottish Executive to do that, but that does not mean that it cannot do so. Recital 33 sets out clearly a number of areas: respect for equality, respect for training and respect for International Labour Organisation conventions among them. The best local authorities will seek to achieve value for money for the Scottish taxpayer, excellence in terms and conditions, training and development of the workforce and to give equal rights to men and women. We want them to push the boundaries in all those areas and to be first-class employers. We believe that including recital 33 in the regulations, rather than in guidance, would send the proper signal. That has not been done.

The Convener: To be more precise, it has been done in some areas, but not in others. Is that a reasonable summary of the position?

Tim Page *indicated agreement.*

Dave Watson: I also highlight that there is benefit to business in mandatory provision. I know that the Executive will put the counter-argument that it would create business burdens, but there is also an issue of business certainty. I have spoken to a number of large companies that take the view that, if they know what the rules are, there is a level playing field. If the regulations are non-mandatory, different bodies may apply them in different ways. Arguments can be made on both sides.

Dr Murray: My question is on that very point. I am interested in the assumption that that is why the provisions have not been made mandatory. What would be the effect of having different procurement regimes north and south of the border? Would Scottish business be at any competitive disadvantage or might it be at a competitive advantage?

Dave Watson: To be frank, I think that the effect would be neutral. There are many areas in which different regulations apply north and south of the border—after all, that is largely what devolution is about—but the important point about Scottish regulations is that they should always be tailored to Scottish circumstances. Particularly in rural areas of Scotland, there are specific procurement issues that need to be taken into account, both in the regulations and in the guidance, to reflect the fact that we have a more disparate range of potential bidders. I know that a number of business organisations have concerns about that. We need to tailor the regulations in that way.

I do not think that our having a different procurement regime would make a great deal of difference to our competitiveness. A company that bids for a contract in Scotland must accept and understand the regulations and must bid on a level playing field. Businesses are concerned to know that when they put in a bid, they are doing so on a level playing field along with everyone else. If any favouritism was shown towards a Scottish company or a UK company, that would be unlawful under European Union law; nothing in the relevant directives allows that and that is not what we are arguing for. It is, however, clear that it is possible to reflect local circumstances, which are not the same in Scotland as in the south of England, for example. If that were not the case, there would be no point in having separate regulations in Scotland, as Stephen Boyd said earlier.

Dr Murray: Is it right that trade unions in England and Wales have not applied similar pressure to have some of the options made mandatory? There has not been the same feeling there.

Dave Watson: Yes there has.

Tim Page: The TUC has applied pressure down south just as the STUC has applied it up here.

I want to make a point about longer-term competitiveness. We could consider competitiveness from the point of view of whether a contract was awarded next week, but through the regulations we are trying to encourage the best public sector bodies to factor in issues such as skills training and to get into the habit of training their workforces more. We want contracts to stimulate that push. We hope that in 10 years a great deal more skills training will have been provided and that the workers in industries, and the industries themselves, will be more competitive because their skills bases will have increased.

As someone who does a great deal of work at the TUC on manufacturing industry, I know that our productivity is behind the productivity of our European competitors partly because they have for a long time been upskilling, while our skills capacity has reduced. We hope that a procurement regime that encourages skills training and which fosters respect for some of the wider social issues will make our economy more competitive in the longer term.

Dr Murray: The UK Government has received a certain amount of criticism for the way in which it has sought to get more people who are on incapacity benefit or disability living allowance back into work, for example. Will the regulations provide solutions that will help people back into employment?

Tim Page: I think that they will help to promote a more inclusive and a more highly skilled economy, although I am not sure that they will be a major part of the Government's push on incapacity benefit, which has been in the news over the past few days. However, they might make a small contribution to that.

The Convener: Time is pressing, but Andrew Arbuckle has a question.

Mr Arbuckle: Is there any reason why the STUC did not want locality to be taken into account? I am thinking of the food industry, in particular. If the companies that won hospital contracts had to source their meat in Scotland, that would benefit primary producers, processors and the food industry overall. Is there a case for making local sourcing a consideration, especially in the food industry?

Dave Watson: Elements of that can be taken into account, but one must be imaginative in doing so. I understand that the legal framework would make it difficult to do some such things. Some such factors could be recognised if the issue was

addressed slightly differently. Under current EU law—even with the more flexible regulations—one is walking a very fine legal tightrope. It is important to emphasise that although the regulations give us flexibility on social matters, they do not change the rules on competition between member states, which are the underpinning law in relation to European procurement.

The Convener: Mark—are you desperate to ask another question or can we move on to the next set of witnesses?

Mark Ballard: We can move on.

The Convener: I thank the witnesses.

Our next witnesses, from the Scottish Executive, are: Iain Moore, the head of the policy unit; Paul McNulty—no relation—the head of procurement policy in the best practice branch; and Josephine Mitchell, the senior procurement officer in the best practice branch.

We will give you the opportunity to make a brief statement before proceeding to questions.

Iain Moore (Scottish Executive Finance and Central Services Department): Our regulations give effect to European Union procurement directives that are intended to clarify, simplify and modernise existing EU law on public and utility procurement. Included in the regulations for the first time are obligations deriving from European Court of Justice case law.

We are legally obliged to implement the regulations by 31 January at the latest and a failure to do so would leave the United Kingdom exposed to a challenge from the European Commission. We are satisfied that the regulations fulfil our obligation.

We have worked closely with colleagues from the Office of Government Commerce in London during the implementation phase and on drafting the regulations. In drafting the regulations, we believed that we had little scope to do anything significantly different about the substance, although the form could have been slightly different, by which I mean the manner in which the regulations are expressed. However, a great many public and private organisations that operate in Scotland and the UK will need to work with both sets of regulations and, consequently, we decided to retain the form and to avoid creating substantial differences.

We have been criticised in a number of quarters on the basis that we should have allowed the Office of Government Commerce simply to implement the directives in Scotland, which would have meant that there would be one set of UK regulations, as is the case at present. Although we do not share that view, we agree with the underlying concern about the possibility that

implementing regulations whose form is different might give rise to unnecessary complications for the people who have to interpret the rules. Therefore, we took the view that we should attempt to keep differences between our regulations and the Westminster regulations to a minimum and we publicly announced that in July 2004.

There are two key differences between these regulations and those going through Westminster. The first difference is the level of the court in which remedies may be sought. In the Scottish regulations, we are seeking to reduce that level from the Court of Session to the sheriff court. In England, Wales and Northern Ireland, the level will remain the High Court. The second difference is the principle of adequate publicity for contracts that are not covered by the detailed procedural rules in the directives.

We do not accept the proposition that our regulations fail to give full force to the directives. For example, the regulations expressly permit: the use of social clauses in contracts; the application of environmental issues in award decisions; the reservation of contracts for supported businesses; and the exclusion of companies that fail to comply with their legal obligations, including those relating to employment, health and safety and the payment of taxes.

When we were drafting the regulations, we could have made articles 25 and 27 mandatory obligations on every public sector body for every procurement exercise. Article 25 permits a public body to require a bidder to indicate in its tender any part of the contract that it proposes to subcontract and to identify the subcontractor. Article 27 allows for public bodies to include in their invitation-to-tender documents details of where bidders can obtain information on certain specified legal obligations and, where that information is provided, to require bidders to confirm that they have taken it into account.

During the consultation process on the wording of the regulations, we received three responses that favoured making that provision mandatory and two that favoured making it optional. The Executive's preference is to make it optional. Making it mandatory would mean that such information would have to be sought and provided on each and every occasion, whether or not it was appropriate to the contract at hand. The public sector has frequently been criticised for excessive bureaucracy and a lack of flexibility in procurement processes. Over the past 18 months or so, we have been working with a number of business groups to identify and reduce bureaucracy in procurement processes, and we believe that making the provision mandatory would have been counterproductive to the work that has taken

place. Of course, that is not to say that it is not possible to ask for that information—the regulations allow people to ask for it. Making it optional just gives the flexibility to determine whether the information is relevant to the particular case in hand.

If it would be helpful to the STUC, we would be willing to discuss the details of the guidance on the circumstances in which the provision could be applied.

12:30

The Convener: Thank you, Iain. If I understand the STUC's evidence, the two items that particularly concern it are the implementation of articles 25 and 27. The word "deeply" is used in the context of both articles, so we might wish to focus on those issues in particular. How close are you to being able to provide the proposed guidance in relation to both articles, so that it can be seen whether it might be adequate?

Paul McNulty (Scottish Executive Finance and Central Services Department): To date, we have focused principally on preparing the regulations. To some extent, the timing of when we could produce guidelines would depend on how easy or difficult it might be to reach agreement. We would need to consult a number of stakeholders apart from the STUC. However, I suspect that we ought to be able to make reasonably rapid progress. I would suggest that it ought to be possible to provide guidelines within a couple of months.

Iain Moore: We are already committed to producing guidance on a number of different issues that arise as a result of the new regulations. Work on that is in hand; we would just need to produce another set of guidance.

The Convener: If I take you right, what you are saying is that you would be willing to have further meetings with the trade union representatives on the guidance that you will produce on those issues.

Iain Moore: That is correct.

The Convener: If, at the end of that process of discussion with the trade unions, there was still a view on their part that regulations might be more desirable than guidance, would it be possible to introduce supplementary regulations to address those and perhaps any other issues? In other words, I am asking you whether the situation at the moment is all or nothing.

Paul McNulty: We would be happy to review the situation after a reasonable period in partnership with the STUC. If, at that point—in, say, 12 months' time, after the guidance is published—it is clear that the guidance is not

working, we would gladly revisit whether the provision ought to be made mandatory.

The Convener: I am slightly worried about the phrase "not working", because to test that would imply a longer period than 12 months.

Paul McNulty: It could take longer than 12 months. It would depend on what issues arose. We would be happy to continue a dialogue with the STUC. If this is as big a problem as is being implied, we could identify issues in less than 12 months. The point is the stage at which we can take a rational view of what the right approach might be.

Mark Ballard: In his opening statement, Mr Moore talked about the fact that the regulations modernise and clarify public sector procurement. The STUC insists that the European Union directives extend the regulations' scope. Will you explain the difference between your view that the regulations modernise and clarify and the STUC's view that they extend the scope?

Paul McNulty: The directives extend the scope, particularly in connection with reserving contracts for supported businesses. In other respects, confusion has arisen over the fact that we do not propose to give effect to recitals in the directives. Text in the recitals of directives is not usually given effect in national implementing regulations. That is consistent with European Commission guidelines on good practice in implementing European Union law.

The regulations make it absolutely explicit that we can do many of the things that we have thought we could do for some time. We have been working with a range of public sector bodies for a couple of years to pilot the application of social clauses in contracts.

One of the STUC's concerns is that if we say that the regulations simply clarify the scope, that does not send people the message that they ought to be thinking positively about the possibilities. We would be happy to work with the STUC to address that concern and to ensure that the Scottish regulations make it crystal clear for the first time that wider social issues can be addressed in the context of public and utilities procurement.

Mark Ballard: So there is extension in some areas and clarity in others. Recital 33, which the STUC quotes, mentions contracts that favour on-site vocational training, the employment of people who experience particular difficulties in achieving integration, the fight against unemployment and the protection of the environment. The environment is mentioned in regulation 30(2), but I cannot see how issues around unemployment, social inclusion and training are covered in the list of criteria, which refers to

"quality, price, technical merit, aesthetic and functional characteristics, environmental characteristics, running costs, cost effectiveness, after sales service, technical assistance, delivery date."

How does that cover the points in the recital about training, social inclusion and unemployment?

Paul McNulty: Recitals 33 and 34 refer to conditions that one might attach to a contract to address wider social and environmental issues. That is dealt with in regulation 39. The text that you quoted is the criteria against which a contract would be awarded.

Mark Ballard: Social and environmental considerations are mentioned in regulation 39 as conditions. The regulation states:

"A contracting authority may stipulate conditions".

Regulation 30 states:

"A contracting authority shall use criteria."

Paul McNulty: That is right. The text in regulation 39 addresses conditions of contract imposed on the successful bidder, whereas regulation 30 deals with the process by which someone arrives at a decision to award the contract. They are two subtly different things.

Mark Ballard: Could there be a difficulty if you brought in the criteria on social inclusion and unemployment only at a later stage, in regulation 39, rather than dealing with them upfront in the contract in regulation 30?

Paul McNulty: The two are not incompatible. We could have contract conditions aimed at tackling a wide range of social and environmental issues. Equally, where they are relevant to the contract in question, they can be taken into account in the decision to award the contract.

Mark Ballard: Why have you chosen to make regulation 38 non-mandatory again? Simply requiring that sources of information on taxes, environmental protection and so on be made clear does not seem too onerous. I do not understand why such a low-level requirement, which ensures that bidders take such information into account, should be an issue.

Iain Moore: Part of the reasoning behind the regulations was to provide as much flexibility as possible. The case for making such provisions mandatory is stronger with exceptionally high-value and high-profile contracts; however, not all public contracts are of such high value and it might not be necessary for such information to form part of the process. As a result, we felt that it was right to give people the chance to determine the issue on a case-by-case basis.

That said, we routinely ask all potential bidders to provide details of any offences, which would

include non-payment of taxes. Such convictions will be picked up during pre-qualification.

Paul McNulty: If we made article 27 mandatory for each and every public and utilities contract, any public or utility body that failed to provide all the information listed in the article—or that got the information wrong—could find itself facing a legal challenge. Our difficulty with such a requirement is that it would place a significant risk and burden on bodies right across the board. However, I can certainly envisage working with the STUC on guidance that puts the onus on public bodies either to provide information and assess bidders on it or to have a good reason for not doing so.

The Convener: How will you monitor the operation of the regulations? In particular, how will you monitor the aspects that Mark Ballard has highlighted against the Executive's cross-cutting objectives such as closing the opportunity gap, sustainability and so on?

Paul McNulty: We have been engaged for some time in a pilot project on social conditions in contracts and we are now working with the office of the chief researcher on examining how the various pilots have worked in practice.

We do not have a specific mechanism for monitoring how the wider public sector will adopt and use the regulations. To some extent, we are dependent on feedback from our networks and contacts in the procurement community. As a result, there is no central monitoring or enforcement role, because the regulations will be enforced not by the Executive but through the courts. We will rely on the empirical evidence from the pilot project to determine the extent to which we recommend this approach as viable and workable in particular circumstances and will then hope to receive information from our normal contacts in the public sector procurement community.

The Convener: You said that you were willing to have an on-going dialogue with the trade unions on articles 25 and 27 and any other issues that might arise. Would it be possible to incorporate monitoring of the processes in those discussions to ensure that the trade unions are involved?

Paul McNulty: We would have no difficulty with that.

Jim Mather: I am pleased to hear that you want to go the extra mile to address the STUC's concerns, because doing so could be very productive and constructive.

I was taken by the comment that the regulations simply make explicit what is already in place. Have the provisions already been in place in some pervasive way?

Iain Moore: Are you referring to the comment that we are setting out in regulations for the first time provisions that have already been in place as a result of decisions made by the European Court of Justice?

Jim Mather: Yes. I was referring to your earlier comment that, essentially, the regulations make explicit what you have already been doing—or tending towards doing—when framing contracts. It is for you to tell me to what extent you were moving in that direction.

12:45

Iain Moore: Part of the remit of the Scottish procurement directorate is to disseminate information on changes to procurement policy or decisions of the European Court of Justice that have an impact on how public bodies conduct their procurement activities. We write to public bodies to draw such changes to their attention. As Paul McNulty said, we can disseminate information, but we do not have a monitoring or enforcement role.

Jim Mather: The key thing is the effectiveness of the dissemination in the context of, say, the recent Ferguson orders or the Caledonian MacBrayne order that went to Poland, the Northern Lighthouse Board order that went to Poland and the case involving the Scottish Fisheries Protection Agency order. How did you manage to get the message on procurement through to our own Executive?

Paul McNulty: Dave Watson will correct me if I am wrong, but I believe that the STUC has recognised that there are difficulties in addressing the local economic impacts of procurement processes. It is fair to say that the added social issues might not have had an impact on any of the procurements to which you refer. The directive and the regulations allow us to write into contracts, for example, a requirement that the winning bidder must recruit a given number of the long-term unemployed. It would be wrong to view the regulations or the directives as potentially offering any—

Jim Mather: I have a slight suspicion that if this conversation were taking place in French or Spanish, the answer might be slightly different, but I will leave the matter hanging.

Can we look forward to the regulations—perhaps with the invisible eye patch and the invisible cutlass that the French and Spanish seem to bring to the table—having a positive impact on the Scottish economy?

Paul McNulty: I think so, and I would like to explain why. Business representatives, the Federation of Small Businesses, the Confederation of British Industry Scotland and the

Scottish Chambers of Commerce asked us to look at two key aspects. They saw two priorities for ensuring that Scottish small and medium-sized enterprises have a better chance of winning public contracts. One was the simplification and standardisation of procurement procedures, and the regulations certainly help in that respect. The other key recommendation was that we do more to publicise the lower-value contracts that are often not advertised. That is what the regulations do, and that is one of the key differences between our regulations and those of the Office of Government Commerce.

We have included a requirement that adequate publicity be given to lower-value contracts. Those are contracts that are unlikely to be of much interest to companies outside Scotland, so we are confident that that will have a very positive economic benefit.

Jim Mather: As the procurement requirements become common practice and people start to adhere to them more fully, what impact will they have on the procurement savings on which the Executive is hanging a fairly material hat vis-à-vis efficient government?

Paul McNulty: We think that the regulations will support the simplification and modernisation that we talked about at the outset. They should help to support and underpin the efficient government targets.

The Convener: I thank the witnesses for their evidence. We will take their statements in relation to future liaison with the STUC into account in moving the matter forward.

Planning etc (Scotland) Bill

12:49

The Convener: Our third agenda item is to consider what level of scrutiny we should undertake for the Planning etc (Scotland) Bill. The clerk's note proposes that we adopt level 3 scrutiny, which is to take written and oral evidence from bodies on which costs fall and oral evidence from Executive officials. Are members agreeable to that?

Members *indicated agreement.*

Local Electoral Administration and Registration Services (Scotland) Bill

The Convener: The fourth item is to consider what level of scrutiny to apply to the Local Electoral Administration and Registration Services (Scotland) Bill. The clerk's note suggests that we adopt level 1 scrutiny, which is issuing our standard questionnaire. In this instance, we would include a couple of additional questions and forward any submissions to the Local Government and Transport Committee. Do members agree to that level of scrutiny?

Members *indicated agreement.*

Items in Private

12:50

The Convener: The final agenda item is to decide whether to consider in private at our next meeting an approach paper on future inquiries and a paper in advance of the draft report of our deprivation inquiry. Is that agreed?

Members *indicated agreement.*

The Convener: Excellent.

Meeting closed at 12:50.

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