

FINANCE COMMITTEE

Tuesday 21 February 2006

Session 2

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FINANCE COMMITTEE

5th 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

*Robin Harper (Lothians) (Green)

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:

James Fowle (Convention of Scottish Local Authorities)

David Henderson (Scottish Executive Finance and Central Services Department)

Alan Logan (West Lothian Council)

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

John Nicholson (Scottish Executive Finance and Central Services Department)

Graham Owen (Scottish Executive Finance and Central Services Department)

Ian Snodgrass (North Ayrshire Council)

John Williams (Scottish Executive Finance and Central Services Department)

CLERK TO THE COMMITTEE

Susan Duffy

SENIOR ASSISTANT CLERK

Rosalind Wheeler

ASSISTANT CLERK

Kristin Mitchell

LOCATION

Committee Room 1

Scottish Parliament

Finance Committee

Tuesday 21 February 2006

[THE CONVENER *opened the meeting at 10:03*]

The Convener (Des McNulty): Good morning. I welcome members, witnesses, the press and the public to the Finance Committee's fifth meeting of 2006. As usual, I remind members to switch off all pagers and mobile phones.

We have received apologies from Wendy Alexander and Mark Ballard. On the committee's behalf, I congratulate them on recently having had children. We will send each of them a card. They should be congratulated on contributing to growth in Scotland's population.

Mr Frank McAveety (Glasgow Shettleston) (Lab): I hope that that is not a hint for the rest of the committee.

Mr John Swinney (North Tayside) (SNP): Apparently it is for the under-40s.

The Convener: I welcome Robin Harper, who is here as the Green party substitute. Do you have any relevant interests to declare?

Robin Harper (Lothians) (Green): I do not think that I have.

Local Authority Single Status Agreement Inquiry

10:04

The Convener: Agenda item 1 is our final evidence session on the costs of the single status agreement. I welcome to our meeting Tom McCabe, the Minister for Finance and Public Service Reform. With him from the Executive's Finance and Central Services Department are David Henderson, who is the head of the local government finance and local funding division, and Graham Owenson, who is the team leader of the local government expenditure and grant distribution branch of that division. As is our normal procedure, I ask the minister to make an opening statement, after which we will ask questions.

The Minister for Finance and Public Service Reform (Mr Tom McCabe): Good morning and thank you for inviting us. We very much welcome the committee's inquiry into the local authority single status agreement, which is a serious matter for councils throughout Scotland. The Executive provides much of local government's funding, so we are—as members would expect—keeping a close eye on developments although, as has been said many times, the pay and conditions of local government staff are a matter for each council. The Executive provides funding as part of the annual block grant for the salaries that councils pay their employees, but it is each council's responsibility to decide how that grant is allocated to a variety of headings.

As councils often remind us, they are responsible statutory bodies that have their own financial and legal staff. It is not for the Scottish Executive to run councils' businesses for them. If we tried to do so, I have no doubt that we would be accused of being centralist. If my memory serves me, that accusation has occasionally been made in the past.

As members know, the Executive was not involved in any way in the negotiations between the Convention of Scottish Local Authorities and the trade unions that resulted in the single status pay agreement in 1999. However, when we have been asked, and in all our contact with COSLA and councils, we have made it clear that we expect councils, in implementing the agreement, to acknowledge the importance of striking a balance between what is fair and equitable for the staff whom they employ and what is fair for council tax payers, who ultimately make a substantial contribution to meeting the costs.

Our consistent position has been that it is for councils to manage their affairs, partly by using

the substantial funding with which the Executive provides them. There has been much debate—which we will no doubt revisit quite soon—about whether we provide councils with enough money. We believe that we do. As I have said to Parliament, most recently in the debate on the Local Government Finance (Scotland) Order 2006 (SSI 2006/29) on 8 February, we can demonstrate that. In that debate, I said that councils spend about £17 billion a year on services and another £1 billion on capital investment. The Executive's contribution to that is a little over £10 billion. We are providing sufficient funding to councils, so in accordance with that, if councils plan prudently and make sensible efficiencies, they should be able to meet all the commitments that they face.

The council tax levels that most councils set on 9 February suggest that we have the funding levels just about right. The average increase among the 30 councils that have set their council tax rates for 2006-07 is 3.1 per cent. That is the lowest average since devolution and does not sit comfortably with much of the rhetoric that we heard just a few weeks ago in the run-up to the setting of council tax levels.

As members know, following the pressure that we exerted on councils to identify efficiencies, they identified efficiencies of £122 million in 2005-06 and are set to add to that in the years ahead. All that money can be redeployed to meet pressures. As the committee has heard in evidence, councils also have access to very significant reserves.

However, as members will accept, when councils want more money, the Executive is often the first place they go. To be fair, although COSLA has informed us about what is happening in respect of the single status agreement, we have not had a direct unconditional request for additional cash; instead, several councils have asked individually about alternative ways to help them to meet the emerging costs. Councils should have planned prudently to meet what has been in the pipeline for at least five years; I know that some councils have set aside funding in their reserves for that purpose. I accept that the local government settlement for 2007-08 is tighter than that of previous years, but we have said that we will be prepared to re-examine that against the background of performance on efficient government in particular.

I repeat that responsibility for budgeting for equal pay and the single status agreement is properly a matter on which councils should answer in the first instance. However, I will do my best to answer the committee's questions.

The Convener: As you say, the single status agreement inquiry has been worth while. We have extracted some revealing information—in particular the different estimates that local

authorities provided on the costs of the single status agreement and compensation. For example, the estimates from North Lanarkshire Council did not square in any way with the estimates from Glasgow City Council and other councils.

The process has been fragmented: local authorities are moving individually towards agreements on both single status and compensation. Are you concerned that we will end up with wide variations in the agreements, and that further negotiations may be required as the trade unions try to move the least advantaged people up again? Is the present process sensible?

Mr McCabe: I have a number of concerns. First, the process does not seem to be coherent. From the evidence that the trade unions gave the committee, the process began with a desire for a national agreement, but local authorities felt that that was inappropriate and so instead favoured 32 individual agreements. The process has recently culminated in COSLA, as the representative body, trying to establish a framework that would get close to a national agreement and failing to do so. As you rightly say, convener, we now find wide discrepancies between the estimates from individual councils.

I was, to be frank, stunned by some of the figures in North Lanarkshire Council's evidence to the committee. A remarkable sum of money has been added to its obligations over a period of time—all the more remarkable if we consider that, back in the late 1990s, there was a presumption of cost neutrality in the overall agreement. If a council was to have written to local taxpayers in the late 1990s to say, "We've reached an interesting agreement, but we don't think it'll cost you anything," but six years later that council was to write a second letter to say, "Incidentally, we've revised that and it's now going to cost you something like £60 million," members would understand why those local taxpayers might be concerned.

The Convener: The most startling example is the disparity between North Lanarkshire Council and South Lanarkshire Council, which has reached an agreement whereas other councils have not. Do you share the committee's concern that only one council has reached a single status agreement? What steps can you take to push the other councils to reach agreements as quickly as possible?

Mr McCabe: It would be instructive to consider the professional advice that was offered to councils up and down Scotland, to find out whether advice that was similar to that which was offered to South Lanarkshire Council was offered to other councils. Chief executives of councils meet regularly through their professional body, so

it would be instructive also to know how they discussed the situation. For instance, did they consider what was being done in South Lanarkshire Council? Did they discuss the fact that a growing problem would have to be resolved at some point? Were they—I do not know whether this was the case—simply looking the other way? I do not think any of us knows that, but it would be instructive to know what professional advice was offered.

The Convener: You say that, at this point, you are not being asked explicitly to foot the bill, but COSLA made a strong case in its evidence to us that it could not meet the costs—neither the costs of compensation nor the predicted costs of single status. You will undoubtedly be asked for more money and those factors will be an element. What can you do to push councils rapidly towards a single national agreement or towards a more structured set of agreements within a single framework?

Mr McCabe: As the committee knows, individual councils have approached us at different times, and we have asked them to demonstrate what their measures would offer in return for what might be considerable sums. We have asked them how they intend to redesign services and what differences the people who receive those services will see in return for considerable investment.

10:15

It is right that people should be paid appropriately. Nobody is arguing otherwise, but it is, to say the least, unfortunate that so much time has passed without equal pay obligations in local government being resolved. The Scottish public would hope and expect that we treat people as well as we can, but the public should get something in return. We have encouraged individual councils to structure and deliver their services more efficiently, and we have asked them how changes will result in better services for the people who use and need those services. We want to assist councils to modernise their practices; but with the modernisation of conditions, the public should be able to discern modernisation in services.

The Convener: Members of the committee probably share that view. Let me put the question in a harder way. Is it a prerequisite that before local authorities will receive any kind of financial support from the Executive they must reach, with the trade unions, agreements on single status and equal pay that the Executive finds acceptable? Are you concerned that local authorities seem to be moving towards resolving equal pay without any sign of imminent agreement on single status?

Mr McCabe: The two matters are absolutely interrelated. To do one without the other, and to stop the clock on obligations on back pay, would be madness. There is no point in spending a lot of money now when the clock is still ticking on some obligations and when the single status agreement has not effectively resolved some potential difficulties.

The Scottish Executive will not be attracted to single status schemes that simply give everyone more money. There is supposed to be a job evaluation process but we do not live in a utopia and, as we move towards more equitable conditions, there will be winners and losers in the process. I do not know how many losers have been identified in evidence to the committee. We cannot take the soft option on every occasion. If we were to do so, the costs would be at the top end of the speculative figures that we have heard.

The Convener: Again, I will put things starkly—I suspect that other committee members will share my view. So far, trade unions and local authorities across Scotland have not been engaged in realistic negotiations. There is no lever that forces that to happen, so how can we induce realism so that problems can be solved?

Mr McCabe: That is a difficult question and it is at the hub of the issue. Earlier, I wondered about the degree to which Scottish ministers should lay down preconditions and intervene directly. People would criticise us severely if we intervened in what are, in essence, independent corporate bodies. Local authorities are democratically elected and have to be responsible for their decisions. Some of those decisions will be difficult.

The Convener: You might, however, be severely criticised if you do not intervene and we end up with financial meltdown in local authorities or a collapse of services in some areas. We do not want to wait until we reach the edge of the cliff before there is intervention.

Mr McCabe: In the run-up to the local government settlement, we heard many claims and much rhetoric and it is difficult to discern what was fact and what was hyperbole. The chief executive of COSLA said in evidence to the committee that councils had already substantially cut services. Where is the evidence that anyone has substantially cut services in Scotland?

Someone else said in evidence that last year was manageable, 2006-07 will be near impossible and the following year even worse. Last year may have been just manageable, but we ended up with an average increase in council tax of 3.1 per cent, which bore no relation to some of the claims that were made, as members know. In the same year, employment in local government increased by nearly 5,000. I accept that some of the increase

was in the police and fire services and that it is right to exclude that. However, the increase in the core workforce that councils employ was just under 4,000. In most people's terms, that shows that the settlement was a bit better than "manageable".

There is a considerable difficulty in distinguishing between the hype and the actuality that people face, so we have said sincerely over the past few weeks that we need to try to engender a more mature debate about the issues. As I have said on many occasions, we cannot have a 1970s-style negotiation in which someone asks for a 50 per cent increase in the hope that they will get a 5 per cent increase. That approach does not fit the modern-day situation and will not work. We must identify more clearly the problems so that we can consider what remedies can be used to solve them.

Mr Swinney: I want to explore further the points that you made about the relationships between the Executive and local authorities. You said that ministers would be criticised if they were to set conditions and say what they expect single status agreements in local authorities to look like. The convener suggested that ministers could be criticised for not doing that, because there could be a spiralling problem in local authorities. What do you see as being the lessons for the Executive about its relationship with local authorities from the attempt to address this difficult and protracted problem?

Mr McCabe: One of the lessons for us all is that sometimes we must take hard decisions that are difficult to sustain. Some of us in politics already know that. Some of those hard decisions may relate to the job evaluations that have been under way for a number of years and to the schemes that have been adopted. A previous witness said that 70 job models were considered before one was chosen. As you know from the evidence that the committee has received, the costs of that model are considerable. It was mentioned that another model would have cost £1.4 million, but the model that was eventually adopted will potentially cost considerably more than that.

Mr Swinney: None of us denies that there are tough decisions to be taken. What is the role of the Scottish Executive in trying to make that happen?

Mr McCabe: There is a very fine line. We can do our best—as we do—to mentor local government and to encourage it to reach agreements that will strike the balance that I described earlier, which will result in a settlement that is fair and equitable both to the people whom councils employ and to the taxpayers who fund them. The alternative approach would be overzealous intervention from the Scottish Executive. I appreciate from the way in which he

asked his question that Mr Swinney is more than aware that, if the Executive takes a much stronger line, we will be exposed to strong criticism and accused of undermining the democratic legitimacy of local government.

Mr Swinney: Mr McCabe knows that I would not, given my political stance, encourage him to do that.

There is, however, a problem that must be resolved and from the evidence that we have received, it looks to be no closer to resolution today than it was a number of years ago. I am interested in whether the Executive is considering offering arrangements to local authorities subject to certain conditions. I know that the Executive uses that model for the delivery of certain elements of its programmes; local authorities will get funds if they do X or Y. Would the Executive consider such a model to resolve the single status agreement? Is that the subject of negotiation with local authorities?

Mr McCabe: I would like to broaden the discussion to include our ambitions for public service reform. I am sure that members appreciate that although that is far wider work that is not confined to local government, local government is an important part of public services in Scotland. The direction of travel may be the opposite to that which has been suggested: it may be about collapsing funding streams; moving towards outcome agreements; the Scottish Executive's being less prescriptive and agreeing headline achievements that we want; and allowing local latitude to come up with mechanisms for achieving the aspirations.

I return to a point that I made earlier. An important part of public service reform must relate to the degree of professional accountability that exists. It seems to be strange to me that only one authority in Scotland has managed to resolve the issue. I said earlier that it might be instructive to consider the professional advice that was offered to elected members of that authority and to look at the professional advice that was offered in other authorities. It might also be useful for us to consider the degree of accountability that should exist not only among democratically elected politicians but among very highly paid professionals in the public services and local government. I am not criticising them for the fact that they are well rewarded, but I am convinced that we need to examine how accountable they are for the professional advice that they do or do not offer in certain situations. That may be one way of improving things.

In the final analysis, if the chief executive of a council is being paid in excess of £100,000—in some instances, well in excess of that—or if a director of human resources is being paid in

excess of £100,000, they must be professionally accountable for the advice that they offer. There must be some way for us to examine when they have said to elected members that there was a growing problem and what its extent might be, asked what provisions were being made and suggested what hard decisions would be required, whether people like to make them or not. We need to be able to see how those professionals presented a range of options to the democratically elected members of each authority. I am interested in that from the perspective of the Scottish Executive. Public service reform should concentrate on it.

Mr Swinney: I would like to ask two questions that arise from your previous answer. First, what is the role of the Scottish Executive in creating a culture of professional accountability? Secondly, given that only one local authority has settled and 31 have not, does not the analysis that you have provided suggest that there is significant unease within the Scottish Executive about the professional responsibility and accountability of all but one of the local authorities in Scotland?

Mr McCabe: I will make two points in response to the questions. First, I have no doubt that we need to find ways of legislating to improve the professional accountability of people who work in local government. Secondly, there is no doubt that there is unease in the Scottish Executive about the fact that one authority was able to reach an agreement but the rest have not.

Dr Elaine Murray (Dumfries) (Lab): One argument that has been put to us by COSLA and the unions is that the Executive has funded equal pay and pay modernisation in the health service through agenda for change. How do you respond to that?

Mr McCabe: I understand that there has, under agenda for change, been no specific allocation for equal pay, but there has been substantial redesign of jobs and responsibilities in the health service, which has been funded. As I said earlier, it is a different matter if we see evidence that, in return for a specific investment, there will be significant redesign that will result in significant increased flexibility across existing grades, and if the public can discern real changes and improvements to the services that they receive as a result of investment. The committee heard some evidence about that from previous witnesses.

If the money that was invested in the health service for agenda for change had simply resulted in the status quo being maintained questions would—legitimately—have been asked. Likewise, questions would need to be asked if the sums that are being quoted in relation to local government were to result simply in maintenance of the status quo.

10:30

Dr Murray: So there are losers as well as winners under agenda for change, as far as you are aware.

Mr McCabe: That is my understanding. It depends on how we define losers, of course. Someone who becomes more flexible and has more opportunities to express their professional competence and their commitment to their field is not a loser but a gainer. They will feel more fulfilled as a result.

Dr Murray: In terms of single status, people who were red circled or were losing holiday entitlement might consider themselves losers. Have such things happened within agenda for change or is it based more on flexibility in working practices?

Mr McCabe: I am not in a position to get into the specifics of agenda for change. That is best left to the Minister for Health and Community Care.

Dr Murray: You mentioned alternative ways of meeting costs. One possibility that has been mentioned is that of offsetting costs against capital receipts. What is the Executive's response to that suggestion? Is there anything to prevent local authorities from doing that?

Mr McCabe: Do you mean offsetting costs against—

Dr Murray: Against capital receipts.

Mr McCabe: To capitalise the outstanding amounts of back pay?

Dr Murray: Yes.

Mr McCabe: Scottish ministers could make that decision, although it would certainly not be in accordance with the golden rule that has been set by the Treasury. As you know, that rule states that capital should be raised only for investment and not to fund current expenditure. The suggestion that you mention would blow that rule wide open. If the costs were funded through the prudential borrowing regime, that would more than double the existing levels of borrowing, given the figures that have been mentioned for outstanding back pay. At that point—this is speculation, of course—the Treasury might express a strong view about the substantial increase in borrowing. It is only fair to point out that, in short course, the Treasury could cap the level of prudential borrowing that is available to local government in Scotland. That has never been done, but it could be done.

Dr Murray: Some councils are considering using their balances to fund the equal pay claims. Is there anything to prevent them from selling off excess land or buildings to top up their reserves?

Mr McCabe: No. It is for councils to consider how to re-establish reserves in the future.

Sometimes there are disputes about the level of reserves that are held by councils, but the evidence from COSLA mentioned the figure of £1 billion and said that about a quarter of that is uncommitted. That is not an insubstantial sum. Councils will say, quite rightly, that the remainder of that money is set against specific projects, but we all have choices to make and councils choose to use money in one way or another.

Mr Andrew Arbuckle (Mid Scotland and Fife) (LD): You said that the Scottish Executive is prepared to help local authorities that are changing their practices or streamlining their procedures. Will that professional or financial help go to individual councils who are in financial difficulties or will it be given across the board?

Mr McCabe: I cannot give any commitments on specific amounts of money, but I will be interested to hear the individual councils' proposals on how to deal with the situation. As councils explain their proposals, we will consider them on an individual basis.

The Convener: Has the Executive sought legal advice on councils' liability for back payments and on the ways in which councils propose to deal with the situation?

Mr McCabe: It is for individual councils to seek their own legal advice on that. I work under the strong assumption that no council will pay out more than it needs to. If a council was found to have paid more back pay than was required, its auditors might have a view on that. Each council has its own legal advice and its own legal department and councils can buy in further legal advice as appropriate. We can assume that, when councils quantify their back pay obligation, they will do so against the background of the legal advice that they have received.

The Convener: You expressed concern about the quality of the professional advice that councils receive and the ways in which they act on it. If there is uncertainty about that, would not it be prudent and sensible for the Executive to ensure that councils are taking the appropriate legal advice and making the correct decisions?

Mr McCabe: We could spend our lives double-checking on councils or on a range of public service organisations in Scotland, but, ultimately, people are either responsible for their actions or they are not. Scottish councils have substantial legal services departments and access to whatever legal advice is appropriate. Where do we draw the line? As I have said before, when do we stop checking on the checkers? They have their own legal advice.

The Convener: I appreciate that, but there appear to be significant discrepancies among local authorities. If we benchmark councils against

organisations that were transferred from the public sector to the private sector and consider the way in which they have dealt with the single status agreement, some councils' estimates of equal pay liability appear to be far higher than the estimates of those other organisations. Are councils receiving the correct legal and financial advice? Are they acting on it appropriately? What scrutiny processes can be put in place to ensure that people are not choosing soft options or ducking the tough decisions that you mentioned?

Mr McCabe: I have to say that that is difficult to do. Your inquiry might reveal whether that is taking place. Ultimately, we are talking about individual corporate bodies that are democratically elected and which have the right to make decisions. I am reluctant to establish a regime in which we sit as a shadow over local government in Scotland and double-check every action. That would be neither feasible nor practical.

The Convener: Let us go down another route, then. The Accounts Commission for Scotland is responsible for overseeing the way in which local authorities operate. It is clear from the answers that we have received so far that the benchmarking process that compares local authorities is not working as well as it could do. Should the Accounts Commission be asked to examine that process? Also, if some local authorities' reserves have been run down to the extent that it appears they have been, is there a risk that those authorities are not satisfying the basic financial requirements for the continuity of the organisation?

Mr McCabe: As I understand it, Audit Scotland advises local authorities that they should hold 2 per cent balances, but there is no accounting rule that states that they have to do that. If you are saying that there could be a much more proactive regime either from Audit Scotland or for the way in which councils are audited, perhaps there could be.

The Convener: From my experience of local government, if a strong chief executive felt that councillors were acting ultra vires, they would have made that clear, even though there was a risk to the authority or to services. There would have been no ambiguity. There is concern that we are moving towards a position in which such messages are not being sent or are not being put appropriately. There must be some mechanism for ensuring that authorities do not take financial risks or duck decisions.

Mr McCabe: The way in which we class contingent liability seems to be somewhat confusing. Even though it is clear that local authorities knew that their obligation to meet the single status agreement would grow year on year, it seems that there is no accounting obligation on

them to make provision for that. I will ask Graham Owenson to deal with your point in more detail.

Graham Owenson (Scottish Executive Finance and Central Services Department): There is a duty on local government to follow proper accounting practice, which needs to be fulfilled in three regards. First, the local authority has a present obligation, legal or constructive, as a result of a past event. Secondly, it is probable that a transfer of economic benefit—in other words, a cost—will be required to settle the obligation. Thirdly, it should be possible to make a reliable estimate of the amount of the obligation. It is probably the third of those conditions that has not been satisfied. Until now, local authorities have been noting in their accounts that there is a contingent liability, without setting aside a specific sum to meet it. To date, auditors have accepted that.

Derek Brownlee (South of Scotland) (Con): I want to pick up on that point. As I recall, although the accounting standard in question is not new, it has certainly changed within the past five or six years. Are you aware of whether, if the previous standard had applied, the situation would have been substantially different or are we discussing a question of semantics?

Graham Owenson: I am sorry, but I am not aware of the previous accounting practice.

Derek Brownlee: It would be useful to understand whether there has been a change of policy from a technical, accounting perspective. My understanding is that there has not been.

On a more general level, at what point did the Executive first become aware that equal pay in local government was becoming a problem? Is there a date on which the issue first raised its head?

Mr McCabe: I could not give you a specific date, as I was not directly involved when that took place. Given that local authorities struck an agreement in 1999, if no progress had been made one or two years later, people would have regarded that as an emerging difficulty. However, I am not aware that in 2002, for example, a great deal of noise was being made in the system about the potential impacts of equal pay and single status.

Derek Brownlee: In the evidence that we got from COSLA or the trade unions—I forget which—there was some ambiguity about when equal pay was first raised as an issue that would have to be resolved. There was uncertainty about whether that happened in 1999. Can we be confident that equal pay and the sums that we are hearing about now in the media had not been brought to the Executive's attention by 1999 or 2000?

Mr McCabe: I do not want to be disingenuous by suggesting that the Executive was operating in a vacuum and was not aware of what was going on in the external environment, but I have already said that, to date, we have received no formal requests through COSLA for additional resources to meet equal pay obligations.

Mr Swinney: Mr Owenson made the point that the accounting standard may not have been fulfilled by local authorities. Whose responsibility is it to insist that that accounting standard is met?

Graham Owenson: I do not think that I said that the accounting standard may not have been fulfilled; I simply said that local authorities scored equal pay as a contingent liability in their 2004-05 accounts and that their auditor, the Accounts Commission, had accepted that.

10:45

Mr McCabe: That goes to the nub of the problem. Local authorities scored equal pay as a contingent liability, without placing a figure against it. I am not a professional accountant, but I find it surprising that such practice is acceptable. The general public probably find it strange that even though local authorities knew that there was a growing obligation that they had to meet, they did not feel that they had to quantify the extent of that obligation year on year. In my view, that is a strange way to operate.

Mr Swinney: I do not want our exchange to turn into a chartered accountancy seminar, which some folk might be interested in, but—

Mr McCabe: I would fail you miserably in that regard.

Mr Swinney: Exactly. I am more interested in the fact that the situation has been developing for years. The convener went through a series of questions with COSLA, from which we learned that although agreement was sought in 2002 and 2004, none was reached. Here we are in 2006 and we do not seem to be any closer to reaching agreement than we were at either of those previous junctures. Who is intervening to bring matters to a head?

From what Mr McCabe has said today, ministers are understandably not happy at all about the fact that the issue remains unresolved. I assume that the Accounts Commission's building is crammed full of highly paid accountants, who sign off local authority accounts that do not include the full contingent liabilities. The situation goes on merrily, but council tax payers will wonder who takes the decisions. We are talking not only about fancily paid chief executives or directors of human resources; fancily paid Accounts Commission staff and fancily paid civil servants are involved, too. Who will resolve matters on behalf of council tax

payers? Who will take the situation by the scruff of the neck and say that they will fix it?

Mr McCabe: It is often tempting to take things by the scruff of the neck, but—

Mr Swinney: I do not think that you need any lessons in taking things by the scruff of the neck.

Mr McCabe: Sometimes it is unrewarding to do so, judging by some of the remarks that are made to me in parliamentary debates.

Mr Swinney: I never make such remarks.

Mr McCabe: Mr Swinney's point is well made. Quite frankly, our system is flawed. Perhaps Parliament and the Executive must ask whether we have the right balance between local accountability and more ministerial control. That will be an interesting debate, as people vent their frustrations. I have talked about the need for professional accountability and the way in which professionals should be obliged to offer advice to people who ultimately take the decisions. I repeat that Mr Swinney's point is well made. There is no doubt that there are flaws in our system.

Mr Swinney: I will give a comparable example that troubles me. In the community that I represent, local authorities must frequently reassess their school estates. In particular, they must examine rural primary schools, because it costs more money to educate children in those schools than it does to educate children in the town primary schools in my constituency. At the insistence of organisations such as Audit Scotland, local authorities continually re-examine the future of rural primary schools because it costs more to educate a child in a school such as Kilry primary school than it does to educate a child in a town primary school in Forfar. If the Accounts Commission can force local authorities to adopt what it considers to be the best practice of re-examining their school estates regularly—far too regularly for my liking—from where does the impetus come on equal pay?

Mr McCabe: If you are saying to me that we should have a long, hard think about the things that we measure through the audit process and about our funding of an organisation such as Audit Scotland to examine critically the actions of the public service as a whole, not just local government, I agree that there is a case for that.

Mr Swinney: I want to pursue my example. Local authorities are pressurised by Audit Scotland to examine the fact that education might cost £400 more per pupil in a rural primary school than it would cost in a town primary school, but hundreds of millions of pounds in contingent liabilities on equal pay are not even making it on to the balance sheet. That seems to be an absurd position for us to be in.

Mr McCabe: Let us say that we reach a point at which all the equal pay agreements are concluded. Bodies such as Audit Scotland might ask why in some authorities 10 per cent of people are red circled and in other authorities 40 per cent are red circled. They might ask why in some authorities some people had their grading changed over a period of time whereas in other authorities there was almost no net effect. Those would be legitimate questions. However, that is a consequence of having 32 individual agreements.

It is okay to be wise with the benefit of hindsight. The evidence from the trade unions was that they favoured having more of a national agreement right at the start of the process. If I understood it correctly, the evidence from the local authorities was that they favoured having more of an individual settlement locally, but, apart from the one example that we mentioned, they have subsequently not provided those settlements.

Mr Swinney: Am I correct in saying that you did not try to facilitate a national agreement? You took no stance on the issue.

Mr McCabe: We are a bit past that. If you are asking for my opinion, it seems to me that, perhaps a few years too late and pretty substantially down the line, when COSLA tried to establish a framework agreement in the recent past, it was heading in the right direction. However, it failed to do that.

Mr McAveety: Local authorities will have a tight financial settlement next year. There are pressures on single status, legal pressures relating to equal pay compensation and potential problems with debt administration fees. You said that COSLA has still to put in a request to discuss certain matters. Are all things on the table for discussion or would you exclude any topics and expect local authorities to meet certain costs on their own?

Mr McCabe: COSLA is free to make requests in relation to any subject that it feels is appropriate, but how I might respond is another question altogether. I have indicated how I might respond with regard to single status. We would want to see what we would get from the investment, how services were redesigned and how the flexibilities were increased, all of which I have mentioned previously. It is not for me to say that certain things are above discussion, because I do not think that that would ever be the case.

I have acknowledged publicly that next year's settlement is tight. Our ability to address that situation has been constrained by the delay of a year in the spending review. I have made that clear a number of times in the chamber and to local authorities. I do not want to harp on about that too much, but we need to put some of the

claims that have been made into context. Given some of the rhetoric of the past few months, in comparison with what transpired when council tax levels were set, it is difficult to separate fiction from reality in some of the claims that have been made.

Mr McAveety: Trade unions and local authorities have given the committee a number of figures on equal pay compensation. Do you have a notional figure about which you think it might be more reasonable for people to talk turkey behind the scenes?

Mr McCabe: No. It is impossible for us to produce such a figure, because we are not involved in the minutiae of the 31 individual discussions that are taking place.

Mr McAveety: If I have picked this up wrongly, perhaps you could assist me. Did you say that you thought there might be potential for considering legislation to deal with—

Mr McCabe: Professional accountability?

Mr McAveety: Yes.

Mr McCabe: Yes.

Mr McAveety: Could you expand on what you mean by that and how it would be developed?

Mr McCabe: We need to try to formulate legislation that puts clearer obligations on some of the professionals who serve not just local government, but public service in general. There has to be a degree of accountability, which would necessitate those professionals being able to demonstrate clearly how they provided advice—whether such advice was taken is a different matter altogether. People need to have such an obligation on them.

I will give you an example. Say we found ourselves in what I would think was a much improved situation whereby we had a far higher preponderance of outcome agreements between the Executive and local government, and a council was minded to take an action that militated against the achievement of a particular outcome agreement. It would be incumbent on the individual service director and chief executive to offer the council advice that it needed to stop there and not take such action, because an agreement had been reached on particular outcomes. I think that there should be an obligation on people to ensure that that happens. We have to make that obligation clearer than it is at the moment.

Mr McAveety: Would that apply across the public sector?

Mr McCabe: I am here to talk about local government single status, but local government is a good example to use, because it is such a significant part of the public service. However,

sometimes it is unfair to use that example, because it gives the impression that some of the problems exist only in local government. That is not the case; the problems exist more widely. Local government is such a prominent feature of Scottish life that it is the easy example to use.

Mr McAveety: Could the impulse have come from a building project that perhaps exceeded its costs extensively and in which the advice that was given to senior decision makers was not as accurate as it could have been?

Mr McCabe: That project was the subject of another inquiry, which in itself cost a considerable sum of money and produced its own report. I think that lessons have been learned from that—I hope that they have been. The Executive has certainly done its best to learn the lessons emanating from the recommendations that were made.

Mr McAveety: Given that we are on that trajectory, would it not be more instructive to use that example in public debate? It is probably the better example of lessons that need to be learned about probity in the advice that senior decision makers receive.

Mr McCabe: There is no denying that it is a high-profile example. The difficulty is that, although it would be easy to focus on that example, thousands of projects throughout Scotland are under way and we have little way of knowing whether they are good value for money or whether the cost of producing them is fair and equitable.

Jim Mather (Highlands and Islands) (SNP): You said that you thought that the system was flawed. What specific flaws are there and what remedial action should be taken to overcome them?

Mr McCabe: I do not think that there is enough codification of the responsibility on professionals in the public service; that is a strong flaw, to which I have just alluded. Another example is the contradiction between calls for a more centralist, interventionist role for the Scottish Executive and the local accountability that should exist. We need to do more to clarify the right balance.

Jim Mather: To what extent would legislation create overheads, reduce professional continuity in individual local authorities and increase the checking on the checkers to which you are averse at the moment?

Mr McCabe: I do not think that it would do any of those things. In my experience, irrespective of the function that people perform, whether in highly responsible professional jobs or other activities, they like to know the parameters within which they work. The more that we try to codify that, the more we will produce professionals who are confident in the exercise of their duties.

Jim Mather: On striking the balance that you mentioned between centralisation and local autonomy, what is wrong with what works elsewhere in other jurisdictions: the process of genuine quality programmes, whereby people set worthy aims; involve all their stakeholders; get the process under statistical control with the focus on outcomes, which allows benchmarking; and draw help from outside, given that it is hard to see the wood for the trees when we focus on individual trees?

It would be worth while to set in train a process that is replicable and similar throughout many local authorities and thereby to initiate a process of perpetual improvement that goes beyond what we have in efficient government, which to me is essentially a heavy focus on e-procurement. That may well defeat your own top priority of economic growth for Scotland, if e-procurement results in more orders being placed outside Scotland. What is stopping you moving towards a genuine process of quality programmes? Even Scottish Enterprise, with its focus on lean management, now advocates such a process.

11:00

Mr McCabe: I do not want to comment on Scottish Enterprise because I am not entirely aware of its proposals. I would be surprised if anyone is aware of them at the moment, although I know the generalities to which you refer about Scottish Enterprise.

In short, nothing is stopping us considering public service reform in Scotland. I mentioned the prospect of moving towards a more outcome-focused relationship between the Executive and local government. That does not need to be constrained to local government. However, I do not underestimate the difficulties of actually moving from where we are now to such a position. Nothing is stopping us looking at the possibilities for collapsing the wide variety of funding streams that make their way to local government. Neither is there anything stopping us considering how feasible it is to ask for the constant monitoring and reports that we ask for from local government and the burden that that places upon it. There is nothing stopping us having an examination of regulation and inspection in Scotland; I hope that we will have some proposals on that in the near future. We must consider how proportionate that is without diminishing some of the very important regulation that has to take place in sensitive services.

As I previously informed the committee, last summer I spent some time speaking to a wide variety of professionals from a range of disciplines across the Scottish public sector. The one point that they made strongly and consistently was that they felt burdened by the amount of professional

officers' time that is spent on monitoring and reporting to the Scottish Executive. They claimed that if they could find a way of lifting that burden, professional officers would be much more objectively and positively focused on improving and developing services. Nothing is stopping us examining that.

Over the coming months, interesting discussions will be had on that subject. I hope that it is an area in which every member who has an interest, irrespective of political complexion, is prepared to play a part. I hope that those professionals who are involved in the public service will also enthusiastically play their part. From the private discussions that I had with professionals last summer, I got every indication that they are more than happy to engage actively in that discussion. The majority of people in public service are in it for the right reasons and are committed to what they do. They want a working environment in which the shackles that they feel are on them are removed to allow them to better express themselves in the interests of the public service. We intend to travel in that direction, but how quickly we move along that road will be up for discussion.

Jim Mather: Would it not be helpful for some firm timeframes to be laid down, stating when the process will be expected to begin? Do you agree that there is a need for an early milestone to be laid down, stating when and how changes will be introduced? How much time and effort would it take to map that out? The advantage would be that people would have more confidence that a concrete mechanism was in train.

Mr McCabe: We will begin that process when we publish the white paper on public service reform in the near future. I hope that that will be the basis and the start of a discussion process across Scotland. I understand your desire for timescales and milestones. I am also aware, however, that by setting too many milestones, particularly with administrative arrangements for local government, the charge can easily be made that the outcome has been pre-determined.

Some people have expressed the view that there is an almost secret plan for the future shape of local government. There is not. Undoubtedly when discussions take place, suggestions will be made to the Executive about how local services could be better organised, not only in local government but in economic development, the health service and non-departmental public bodies.

Jim Mather: Could a much more open plan be introduced that would suggest that the Executive is enthusiastic about local government and other arms of government moving towards the best practice that has worked in other jurisdictions and industry?

Mr McCabe: I hope that reference to best practice that has worked in other jurisdictions will form the basis of the input from local government to the discussion document that we will launch in the near future. I hope that that is exactly how local government will look at the matter. I have said previously that one of the drawbacks in Scotland is that perhaps we do not learn as much as we could from best practice; we prefer to reinvent the wheel rather than to pay attention to what has clearly worked in other areas.

Dr Murray: I am interested in your comments about the responsibilities of senior public servants. The minister and committee members are on fixed-term contracts—if the electorate do not like us or our parties they can kick us out. Is there a case for senior public servants in local and central Government being on fixed-term contracts that are dependent on responsibility and success?

Mr McCabe: I am not a lawyer, but I think that the concept of a fixed-term contract is much more obscure than it used to be. My local government experience of moving employees to fixed-term contracts is that employment law means that it is not simply the case that the employer can dispense with a person if they are not happy with them at the end of the contract. There must be a systematic measurement that justifies such action; otherwise employers can find themselves in industrial tribunals. The concept of the fixed-term contract has perhaps been diminished as employment law has developed.

The Convener: I will take us back to single status agreements, which are the focus of our inquiry. You have agreed that it is imperative that back pay and compensation be linked to single status agreements' being put in place. Is it appropriate to set a clear timetable for local authorities to secure agreement on single status? I accept that the negotiation process is complex, but surely the matter cannot be left any longer. A timetable must be set for agreement and implementation.

Mr McCabe: First, I am not sure what the mechanism would be for the Executive to set such a timetable; I do not think that powers to do that are at our disposal.

I am reluctant to set timescales because we may end up with the worst possible scenario in respect of cost. If authorities have a deadline to meet, they might go for the softest option. The range that has been mentioned is between £300 million and £560 million. If a deadline were set, the cost could end up being £560 million because people would go to the top of the range in order to meet the deadline, which makes me reluctant to move along that road. I accept that the matter requires further consideration by the Executive and further discussion between the Executive and the Convention of Scottish Local Authorities.

We have mentioned a few times that the initial aspiration of the trade unions way back in the late 1990s was a national agreement, but that did not find favour. Five or six years later, we find that COSLA, which at that time wanted individual agreements, is trying to establish a framework agreement. That suggests to me that there is perhaps a case for a rethink in order that we can produce an approach that will enable a more comprehensive view of the situation to be taken, although I have no concrete ideas about how to do that.

The Convener: The sums that are involved are considerable. The estimates that have been made for compensation and the costs of single status agreements are very large.

I will pick up on John Swinney's point that we cannot all stand aside and hope that somehow the situation resolves itself. There must be a catalytic process that leads to a resolution. Perhaps setting a timetable is not the right approach, but how will you force the parties that are involved into a realistic framework of negotiation that will ensure that we move out of the situation that we have been in for the past six or seven years?

Mr McCabe: I do not have a definitive answer to that question, but I refer members to my earlier comment that, when individual local authorities have made representations to us, we have explained to them how we would like things to develop when the considerable sums of money are invested in their local situations. We want increased flexibility and job redesign, and we want people to feel that their services are being delivered in an improved and more comprehensive way. Perhaps as individual examples of good practice materialise, other councils will consider whether they, too, should operate in similar ways.

That will sometimes involve difficult decisions. However, there are very good reasons for that. We do not live in a utopia, but we want to ensure that people's terms and conditions are appropriate and that they are treated as they should be. If that gives rise to consequences or costs, we encourage local authorities to live up to them.

The Convener: Let me put the question another way. The single status agreements might well be agreed throughout Scotland as you suggest, but they might not all be agreed at the same time. Indeed, any agreement might require an extended period. The potential cost to the Scottish Executive, council tax payers and service users will be immense and, as a result, local authorities might be forced into making choices that are more unpalatable than those which they currently face. Are not you concerned that unless the matter is resolved quickly, the hard choices that we face at the moment will be replaced by much harder choices in the years to come?

Mr McCabe: That goes without saying. Time is important and the sooner we can resolve the matter, the better. I would not dream of saying that I could resolve things by waving a magic wand, and you would not believe me if I did.

Mr Swinney: As I understand it, you have powers to make resources available to local authorities under certain conditions. I am not saying that you would write a blank cheque—indeed, you tell us all the time that you do not give local authorities blank cheques—but could you set out certain conditions under which local authorities would within a given timescale have to resolve various single status agreement issues, including cost neutrality, which seems to me to be a reasonable proposition? After all, you said only a moment ago that if the situation goes on and on, costs will rise and control over the situation will diminish.

Mr McCabe: Your new-found centralising tendencies fit you very well, Mr Swinney. I am glad to see that you are with me on this.

Mr Swinney: We are managing to discuss this matter in a civilised way—indeed, even I have managed to behave myself. However, I am not arguing for more centralisation. What I am saying is that you are clearly able to make available to local authorities resources that come with strings attached.

Mr McCabe: That is essentially what I have been saying. As individual local authorities—

Mr Swinney: But you do not appear to be able to do the same with single status agreements.

Mr McCabe: As individual local authorities have made their representations to the Scottish Executive, we have explained to them how we would like their situations to be resolved. If their proposals address the aspects to which I have alluded, I will consider them case by case.

The Convener: Is the current arrangement of a national framework with local agreements consistent with such an approach, or do we have to think again about the ways in which local authorities are going about the process?

Mr McCabe: At the very least, the current situation justifies reconsideration of the approach that is being taken. I hope that when local authorities reflect on the situation in which they find themselves, they will be prepared at least to reconsider their own approaches.

To be fair, I have to say that that involves more than just local authorities: it also involves the trade unions being prepared genuinely to negotiate to find the compromises that will allow a solution to be found. The problem does not lie only at the door of employers. The responsibility is shared with those with whom they negotiate.

The Convener: That brings us to the end of item 1. I thank the minister for responding to our questions.

Subordinate Legislation

Budget (Scotland) Act 2005 Amendment (No 2) Order 2006 (Draft)

11:15

The Convener: Agenda item 2 is consideration of the spring budget revision. Accompanying the minister for this item are John Williams and John Nicholson from the finance expenditure policy division at the Scottish Executive. While the officials swap over, I thank David Henderson and Graham Owenson for their contribution to the previous item.

Like the autumn budget revision, the draft Budget (Scotland) Act 2005 Amendment (No 2) Order 2006 is a draft Scottish statutory instrument that seeks to amend the Budget (Scotland) Act 2005. As well as the draft instrument, members have copies of the budget documents that set out the background to the proposed revision, a further note of explanation from the Executive and a note from the clerk.

Members will note that consideration of the instrument has been split into two parts. First, I will give the minister an opportunity to make brief opening remarks. I will then give members an opportunity to ask technical questions. The officials may answer technical questions, but they are not permitted to speak during the formal debate on the motion. After technical questions have been answered, I will ask the minister to move motion S2M-3910 and the motion will then be debated.

The draft Budget (Scotland) Act 2005 Amendment (No 2) Order 2006 is subject to the affirmative procedure and so cannot come into force until it is approved by Parliament. The committee will debate the motion, which is in the name of the minister and which asks the committee to recommend that the order be approved. Under standing orders, the debate may last no longer than 90 minutes. At the end of the debate, I will put the question on the motion. If the committee agrees to the motion, the Parliamentary Bureau will lodge a motion seeking parliamentary approval of the instrument. I hope that that procedure is clear.

I invite the minister to make a brief opening statement.

Mr McCabe: The committee is well used to the budget revisions that take place in the autumn and spring. Members will know that the budget revisions are simply a regular piece of Government business to seek parliamentary authorisation for changes to our spending plans that inevitably arise during the financial year.

It is worth my pointing out—I am sure that the committee already knows this—that the Budget (Scotland) (No 3) Bill, which the committee discussed with George Lyon at the end of January, is about our spending plans for 2006-07. The budget revision that we are discussing today is our last opportunity to amend budgets for the current financial year—that is, 2005-06.

I draw the committee's attention to a few of the highlights in the budget revision. The most significant change in the revision was mentioned during the stage 1 debate on the Budget (Scotland) (No 3) Bill. The revision of Scottish Water's budget is necessary to align more closely the budgets and the expenditure information that is published in the Executive's accounts. The main changes to the presentation include the removal of the loan repayments that Scottish Water makes to the national loans fund and the Public Works Loan Board, and the inclusion in the budget of the cost of capital charge. Although those changes increase the published budget for Scottish Water, they do not alter or increase the amount that it is entitled to spend. The change is presentational, but it is necessary.

The second most significant change in the numbers is in the Health Department budget. The revision will increase the Health Department's budget as it draws down resources from the central unallocated provision. The increase in health expenditure will be offset by a corresponding increase in the share of health spending that is notionally funded by national insurance contributions and income from charges. The net effect is an increase of about £4 million in the health budget on which Parliament votes.

There are the usual increases in the annually managed budgets for pensions and common agricultural policy market support. Those increases result from changes in estimated requirements and amount to about £50 million.

Calls on the central reserve amounted to around £165 million. That figure was made up of £112 million to fund a shortfall in non-domestic rates income; £20 million to buy out the Highlands and Islands Airports Ltd contract; £12 million to fund revenue support grant redeterminations; £10 million to meet prisoner compensation claims and related costs arising from the Napier judgment on slopping out; £2 million for Scottish Prison Service capital charges; and £9 million to fund the European structural funds programmes.

Although the non-domestic rates shortfall does not show up in table 1.5, as it is offset by an increase in revenue support grant, it can be seen in schedule 3.1 on page 63. As you will know, revenue grant to local government—known as aggregate external finance—is made up of three components: specific grants, non-domestic rates

and revenue support grant. AEF funding to local authorities is guaranteed. If the level of NDR income is reduced, the shortfall in funding is met by increasing the revenue support grant by the equivalent amount, or vice versa.

A note of the other significant changes in the revision was sent to the committee by officials prior to the meeting. I hope that members have found that helpful. I will do my best to answer any questions.

The Convener: Thank you, minister.

Let us start with the Justice Department figures on pages 67 and 68 of the budget revision document. I understand that the Napier-related cost of £10.2 million relates to slopping out. I am surprised to see that figure in the spring budget revision. Does it reflect settlements that have been agreed subsequent to the autumn budget revision? What are the implications of that for the total quantum of claims that you expect will be dealt with in the future as a result of the Napier case?

John Nicholson (Scottish Executive Finance and Central Services Department): The £10.2 million is to meet the costs of compensation claims that we are aware will go through in this financial year. Some money was added in the autumn budget revision to meet the costs of claims that we were sure would go through at that point. Given that this is the final budget revision before the end of the financial year, this is the money that the Justice Department expects it will need to meet all the claims in 2005-06.

The Convener: That seems to be a substantial amount to be coming forward very late in the financial year.

John Nicholson: The Justice Department is only now getting the final budget cover for that, but it may well have been paying out compensation for claims that have been made up to this point using money that it has already voted. It is able to use all the money that it has voted up to this point. It may also be fine tuning the budget at the end of the year to cover everything it needs to do. The £10.2 million is the total additional cost that the department expects will arise from the Napier case.

The Convener: Given that it is a substantial amount of money to appear in the spring revision, is it possible for us to get an indication—perhaps involving a retrospective look—of the pace of the settlements over the previous 12 months and the expected number of settlements over the next period?

John Nicholson: The Justice Department has an indication of how much it thinks it will need next year. Unfortunately, I do not have that figure to

hand. If it would be helpful to the committee, we could produce a picture of the trend of payments.

The Convener: It would be useful to map out the expected costs.

Mr Swinney: Could we get a figure for the amount of money that has been spent on Napier-related cases in each of the respective financial years and the number of cases that have been dealt with? Can you tell us how many cases the £10.2 million relates to?

John Nicholson: No—I am afraid that I do not have that information to hand.

The Convener: To amend John Swinney's suggestion, I would like a quarterly breakdown of the past year and this year and an indication of how many cases there have been. I would also like to know how many claims in total it is anticipated will eventually be made under the scheme.

Mr McCabe: You will appreciate, convener, that that number would be an estimate. The scheme is demand led.

The Convener: Yes—but we have evidence, and the scheme is hardly demand led; rather, it is circumstance led.

Further down page 68, under the heading "Police Central Government", there is a budget line entitled "Increase in baseline for Scottish Safety Cameras". The figure is quite large—£7 million. Does that revision relate to the availability of funds coming forward or does the cost effectiveness of such spending lie behind it?

Mr McCabe: We will look into that and reply to the committee in writing.

The Convener: Does the entry under the Scottish Prison Service of transfer from other current to capital mean that you are building prisons more quickly than you had anticipated?

Mr McCabe: I do not have detailed explanations for each portfolio; such information is more to do with decisions that are taken in that department. If there is a transfer to capital, I assume that there is an accelerated programme somewhere.

The Convener: I presume that there is a positive story; I just wanted to get a sense of what it is.

Mr McAveety: I refer to page 96. There are two adjustments, which I presume relate to money that is not being taken up from the modernising government fund. I refer to the entry on transfer to revenue support grant from the modernising government fund for Glasgow City Council and the entry on transfer to RSG from the EGF in relation to funding allocation to Glasgow council. Given the tight pressures on the authority, I just wonder

whether it has met its obligations and therefore does not require the sum.

Mr McCabe: That might be the case. There are a number of applications under the fund, some of which are still under consideration. It might be that the money has not been taken up.

Mr McAveety: Would it be better for me to pursue that with the council or do you know the item for which the money might have been allocated but was not taken up? We are talking about a substantial sum of money.

Mr McCabe: We would be happy to give you more information on that.

Mr Arbuckle: I refer to page 10. Under the CAP support heading, an additional £21 million is being put in for changes to the single farm payment scheme. Can you give me more detail on that?

Mr McCabe: The estimates are to do with the revaluation of sterling, which has resulted in a requirement for the transfer. It is to do with currency movements.

Mr Arbuckle: Will that additional money go out to farmers in single farm payments?

Mr McCabe: Yes.

Mr Arbuckle: On the same page there are entries showing the reduced estimating requirement for the farm business development scheme and for the agriculture business development scheme. Both those schemes were introduced to wean farmers off the subsidy culture and on to the market culture. However, there will be an overall reduction in the budget for 2005-06. Is that because of lack of demand or is there another reason for it?

Mr McCabe: That reflects partly the changing demand under the scheme and is also partly to do with how the figures are now presented—we now present a net budget, which makes a change to the figures. The contribution from modulation of CAP support payments is £28.701 million.

Mr Arbuckle: The bottom line figure on page 15 is £28.701 million. Further up the page, the figure for the rural stewardship scheme is minus £11 million and for the land management contracts it is minus £18 million. Is it coincidence that those figures added together come out at the modulation figure? They are both major reductions.

John Nicholson: The example that you used was land management contracts. The budget initially contained budget cover that we provide and budget cover that is provided by the CAP modulation. We showed the contributions from CAP modulation as a negative figure. We are now showing the net budget and the reduction in the CAP modulation receipts—which is now zero—offset by reductions in expenditure and the variety

of the annual managed expenditure lines above. They should net off overall, although there are some other slight adjustments to the figures.

11:30

Mr Arbuckle: Page 16 shows a major change in support for the Scottish Agricultural Science Agency. Although it has new research laboratories this year, why is it necessary to introduce such a major change to its provision at this late stage?

Mr McCabe: That is linked to completion of SASA's new headquarters.

Mr Arbuckle: Thank you.

Dr Murray: On page 98 on the local government budget, I note that income from non-domestic rates is down by £111.744 million and revenue support grant is up by £158.556 million. What is the story behind that? In previous years, we have seen more than expected moneys being collected in non-domestic rates and then used for other purposes. Why is the non-domestic rates amount approximately £112 million less than expected this year?

Mr McCabe: The estimate was put at the top of the range, which proved to be somewhat optimistic. With hindsight, the estimate should have been in the middle range. That has resulted in a shortfall of income, but it is starting to correct itself. The shortfall next year will be down to about £22 million. The projections for future years are—

Dr Murray: That has been picked up only now. It seems like yesterday when we had the previous revision. I do not recall any mention of that programme then.

Mr McCabe: We need to wait until the end of the year to decide the best possible estimates of actual income. All our indications are that the shortfall exists. It has to do with the original budget estimates being at the top end of the scale. It would have been more prudent to go for a mid-range estimate.

Dr Murray: There are also transfers from the central reserve to the revenue support grant and from the modernising government fund to the revenue support grant. The modernising government fund was £13.759 million. Is that money earmarked—particularly in the light of our previous discussions on equal pay settlements—for information and communications technology or is it more generally available for modernising services?

Mr McCabe: That is the modernising government fund. There was a change to its method of distribution. It is now distributed through the revenue support grant.

Dr Murray: In previous years it tended to be for ICT projects more than anything else.

Mr McCabe: There has been a merging of funds that has resulted in the efficient government fund.

Robin Harper: My question might be too detailed. Is there an explanation for the estimating reduction in provision for the Royal Botanic Garden Edinburgh on page 11?

Mr McCabe: I will have to write to you on that, if you do not mind.

Jim Mather: I want to focus on the figures for European Union structural funds on pages 38 and 40. I note that the change of approximately £8.7 million will be from a transfer from the central reserve fund. Does the total amount—£112 million—come from the central reserve?

Mr McCabe: The £8 million comes from the central reserve. The remainder will be borrowed from us to be paid back in 2007-08. It is simply a reprofiling of expenditure.

Jim Mather: Is there an audit trail so that we can see whether the £112 million comes from central Government or whether it genuinely comes from the EU?

Mr McCabe: The £112 million is all from the EU.

Jim Mather: It all comes from the EU and is not part of the Barnett formula funding for Scotland. That is fine.

On page 53, on ferries, there is an additional £4 million-plus for the northern isles ferries. Is that indicative of future expectations? Will we see a £26 million cost year on year from now on?

The Convener: That is actually page 41.

Jim Mather: My apologies. I had page 53 down in my notes. Page 53 gives the detail.

Mr McCabe: It is simply that there were savings on the Caledonian MacBrayne piers and harbours grant in 2005-06, which has been redeployed to meet pressures on the northern isles ferries.

Jim Mather: Will the northern isles ferries run forward at that higher cost of £26 million?

Mr McCabe: We have no indication of that at the moment.

Jim Mather: How are the CalMac savings—the £4 million—accrued to you?

Mr McCabe: That is going down to quite tight detail.

Jim Mather: I understand that, but I asked the question because Argyll and Bute Council is talking about removing its subsidy for piers and harbours. One of its councillors said that those reduced subsidies will be “more than marginal”. I

am therefore concerned that that may have a spin-off effect on fares.

Mr McCabe: We will look into that and provide you with more detail.

The Convener: There are two figures on page 41: a transfer from the CalMac piers and harbours grant to northern isles ferries of £4 million and a transfer to northern isles ferries from the CalMac piers and harbours grant of £4 million. Is that simply a balancing arrangement or is it an error?

John Nicholson: The figures represent two separate lines in the same subsection of the budget. One shows the reduction in the CalMac line and the other one shows the increase in the northern isles ferries line. The total effect is zero because it is just a movement between two lines within the same subheading.

Mr Swinney: My recollection of the autumn budget revisions that we considered a few weeks ago is that there was quite a substantial reduction in the strategic waste fund. Is that correct?

John Nicholson: Yes.

Mr Swinney: If we undertook major revisions a short time ago, why are we looking at a £4 million uplift in the strategic waste fund at this stage in the budget?

Mr McCabe: We want to try to ensure that councils meet the percentage target—25 per cent, I think—that we have set. It was decided that by injecting that £4 million it is more likely that we will achieve that target.

Mr Swinney: That confirms my suspicion. The criticism that I have heard from local authorities is that it has been difficult for them to make progress on important recycling targets because the Executive has been so slow to make decisions on the strategic waste fund. That is why I have concerns about why we took money out of the strategic waste fund in the autumn budget revisions but are putting it back now. Has the Government realised that it is not providing the financial resources for modernisation of waste-handling processes that are required to allow local authorities to avoid the significant penalties that they will incur if they do not achieve their recycling targets?

Mr McCabe: No—not at all. The £4 million is really just a final tweaking of the sums that will be necessary this year in order to ensure that local authorities meet the percentage target. I cannot get into the detail of the argument—if indeed it exists—between the Executive and local authorities about where responsibility lies, and about whether local authorities have been slow in submitting bids or whether bids have been insufficiently detailed to allow consideration and decision. There was a process of going back and

forth between the Executive and the local authorities. If the committee feels that the time the Executive takes to consider and decide on bids is a problem, we can provide you with more information on that.

Mr Swinney: I raised the issue with the deputy minister a few weeks ago. As I understand it, although local authorities were required to submit bids for the strategic waste fund by 31 January, the Executive plans to respond to them only by the autumn. That strikes me as being a particularly dilatory response, given that local authorities face the possibility of being fined if they cannot achieve levels of recycling that will be possible only if they invest locally in the equipment and facilities that will enable them to undertake that work.

Mr McCabe: The money is being paid out for bids that have already been received and decided on. You are talking about something slightly different—you are saying that when bids are received, the Executive might take too long to consider them.

Mr Swinney: I am making the point that, given that the bids that the local authorities had to get in by 31 January 2006 will not be responded to by the Executive until the autumn of 2006, that is pretty slow. If we were to give significant impetus to local authorities' recycling activities before 31 March in the provision for this financial year, that might mean that council tax payers will not have to pay fines that would be imposed on local authorities for failing to reach recycling targets—which I think we all agree would be a complete waste of their money.

Mr McCabe: There is no doubt that we want the system to be as efficient as possible. Some of Mr Swinney's remarks might be predicated on the existence of a problem at Executive level. It would be worth our while to examine the reality in order to establish whether bids have been submitted that were not comprehensive enough or not sufficiently detailed and on which extended discussion has had to take place. That may or may not be the case, but it would be useful if I asked my colleague Mr Finnie to comment on the reasons for any local authority concerns that exist. I would be more than happy to do that.

Mr Swinney: That would be helpful, thank you.

Derek Brownlee: I have a question about the administration budget. Page 87 of the budget revision document identifies a proposed increase of £5 million in Scottish Executive staff costs. Does that figure relate to new staff or to additional remuneration for existing staff?

Mr McCabe: It relates to the conclusion of the pay deal. It was necessary to transfer that amount of money to meet our obligations under the pay deal.

Derek Brownlee: No new staff will be employed using that £5 million.

Mr McCabe: No.

The Convener: As there are no more technical questions, we move to the second phase of consideration. I invite the minister to speak to and move motion S2M-3910. Once the minister has done that, we can have a debate.

Motion moved,

That the Finance Committee recommends that the Draft Budget (Scotland) Act 2005 Amendment (No.2) Order 2006 be approved.—[*Mr Tom McCabe.*]

The Convener: Does any member want to debate the motion?

Members indicated disagreement.

The Convener: I think that we have dealt with all the various issues.

Motion agreed to.

The Convener: We are now required to report to Parliament. As such reports are usually very brief, I propose that we seek to agree the text of our report by e-mail. Do members agree to that?

Members indicated agreement.

The Convener: I thank the minister and his officials for coming along and responding to our questions.

11:43

Meeting suspended.

11:45

On resuming—

Planning etc (Scotland) Bill: Financial Memorandum

The Convener: Under agenda item 4, the committee will take evidence on the financial memorandum to the Planning etc (Scotland) Bill. Members will recall that we agreed to adopt level 3 scrutiny, which will involve taking written and oral evidence from organisations on which costs will fall and oral evidence from the Executive. We are in the first phase of that evidence taking.

I welcome James Fowlie, who is policy manager and team leader in the Convention of Scottish Local Authorities' environment and regeneration team; Alan Logan, who is West Lothian Council's head of finance; and Ian Snodgrass, who is North Ayrshire Council's chief executive and the Society of Local Authority Chief Executives and Senior Managers adviser to COSLA.

In line with our normal practice, I invite our witnesses to give a brief opening statement—I hope that one witness will make a statement on behalf of you all. Members will then ask questions.

Ian Snodgrass (North Ayrshire Council): Thank you for providing the opportunity to attend the meeting, convener.

COSLA has cautiously welcomed the new bill. A number of points about the details have been raised elsewhere, but the objective this morning, as has been mentioned, is to provide information on the bill's cost and resource implications.

The Executive undertook a survey of the existing system in 2005, the results of which have recently been published. A shortfall in resources of some £17.5 million was identified in the existing planning system. The financial memorandum, which—obviously—considers the implications of the proposed changes, refers to a second exercise that identified a new additional cost of some £10.7 million. Our view is that that work was honest in endeavouring to identify what the costs would be. Transitional costs are given, and the exercise identified that increased efficiencies would in time defray those costs by around 20 per cent to reduce the additional costs to around £8.9 million. We believe that such savings will not be forthcoming and that the increased demands on the planning system, which are continuing apace, will absorb that money in the transitional period.

In addition, it appears that the work that has been done to date has focused on the direct costs to planning departments. Members will be aware that planning is a pervasive service that requires active support across council departments. It

involves legal people, engineers, environmental health people and committee clerks, for example. We believe that the work that has been done to date has not fully captured the wider costs that will be essential to delivering the new planning system.

To try to identify the associated costs, we sought further advice from five representative councils from across the country. The work was done fairly quickly, but it indicated that, under the existing system in Scotland, further costs of around £24 million outwith the planning system fall to councils. To date, we have not been able to identify the additional costs outwith the planning system that there will be for councils as a result of the changes.

COSLA believes that the Executive's work demonstrates the current underfunding of the system and the future costs that will arise from the proposed improvements. We agree with what that work shows, but the work that we have done indicates uncertainty about both the level of funding that is required to fund the existing system properly and the level of funding that will be required to deliver the expected improvements. We believe that further work is required to identify properly what the funding should be, and we would be pleased to co-operate with the Executive to identify the costs more clearly. If the costs that are given are not the full costs, there will be considerable disappointment, as the system will be unable to deliver what has been expected.

We are happy to answer members' questions.

The Convener: Thank you very much.

Part 8 of the bill lays down provisions for ministers to set fees and charges for planning authorities to undertake any authority functions. The detail of those provisions will be set out in secondary legislation. Have you had any discussions about the charging system that will be put in place and how it will operate? For example, is there any prospect of objectors to a planning application being required to pay a fee to lodge their objection?

James Fowlie (Convention of Scottish Local Authorities): I understand that there is no intention to charge objectors for lodging objections. However, I point out that we have not yet been involved in such detailed discussions. Our point is that much of the secondary legislation is still to come and that, until we can consider fully that legislation and what it will mean, it will be difficult to work out the cost implications.

The Convener: Have you not even had any preliminary discussions about the Executive's broad policy intention and the parameters for charging arrangements?

James Fowlie: The answer is yes, but I am afraid that I cannot provide the committee with anything more specific at the moment. I will be able to give you more information when I have spoken to my colleague who was directly involved in the face-to-face discussions.

The Convener: It would be useful to have that information.

The financial memorandum says that it will cost £1.7 million for all planning authorities to provide an additional member of staff to deal with neighbour notifications. Is there any link between that figure and reality?

Ian Snodgrass: We want to explore that area in considerably more detail. I should point out that, as a director of planning and transport in Renfrewshire Council until two years ago, I have an intimate knowledge of the system at the time when the proposal was first made. When I discussed it with colleagues south of the border who have been involved in such a system, they indicated that, although it was probably the fairest way of addressing the situation, we should underestimate neither the costs nor the implications for officers across the council. We chief executives receive complaints from individuals who believe that the council has not properly assessed matters or ensured that the applicant is notified. We might well have done so, but we are still required to answer the challenge and to move through the various stages of the complaints procedure, involve ombudsmen and so on. As a result, we feel that the proposal will have real cost implications.

South of the border, they have endeavoured to establish a protocol among authorities that sets out the operation of the system in more detail. We would welcome a more detailed examination of the matter, because the potential disruption and the effect on reputation might be quite considerable.

The Convener: Is it possible to separate costs into different areas? Presumably, the system will incur certain mechanical costs associated with, for example, identifying the various neighbours and sending out letters. Moreover, if, for whatever reason, someone does not receive a neighbour notification, would any subsequent appeal incur processing costs for the council? Is it possible for the process itself to be challenged, which would delay the processing of the application, or for retrospective appeals to be lodged in the event that planning permission was given without proper neighbour notification? The proposal seems to lead to a number of potential costs and bureaucratic consequences.

Ian Snodgrass: You show a very good understanding of our concerns about the process. We can define the various mechanical issues that

are involved. When COSLA consulted its authorities, it became clear that different councils have different concerns. For example, the issues that affect rural areas might well be different from those that affect urban areas.

That said, the problem is the potential for challenge. Indeed, in my own local authority, private sector interests have recently taken that approach to disrupt sales and other aspects of the process. We need to examine the whole matter, because once a challenge has been lodged, it moves quite rapidly from the planning system into the core of the council. From there, it can lead to legal challenges and to the involvement of ombudsmen.

The Convener: Can you estimate the cost of ombudsmen cases to local authorities?

Ian Snodgrass: No. The nature of the system is such that people have to go through the complaints process before they go to the ombudsman. The case then has to be referred to the local authority, which has an opportunity to challenge it. A report goes to the head of the service and the case will then move on, usually to the chief executive. Anyone who is determined will go the whole way and more senior officers are involved at each stage. In many cases, people use the process to frustrate planning applications and prevent them from going ahead. It is not a question of supplying a quick answer. Local authorities are required to carry out interviews and to assess each case properly before responding to the ombudsman.

The Convener: Is it possible to assess the relative costs of the appeals process and, for example, having a third-party right of appeal? Is it possible to compare the costs to local authorities of dealing with an appeal from a determined objector who has not received a notification with the costs that would arise from a different mechanism such as a third-party right of appeal?

Ian Snodgrass: It is certainly possible to calculate the cost of neighbour notification and to give some indication of different types of cases.

The Convener: That would be useful. One of the issues is the avoidance of unnecessary bureaucratic overheads and costs to local authorities.

Ian Snodgrass: When the planning officers discussed the matter, it was clear that neighbour notification is regarded as the fairest system south of the border. However, we should not underestimate the cost of delivering it.

The Convener: Bearing in mind the experience of your colleagues south of the border, what do you think is the likelihood that application fees will cover local authorities' costs? At what level would

fees have to be set to meet the requirement to cover costs?

Alan Logan (West Lothian Council): As we state in our submission, we do not believe that application fees will cover the additional costs. The sections of the financial memorandum on development management make it clear that fees are already factored in. My interpretation of the £10.7 million to which Ian Snodgrass referred is that it is, at best, an estimate of the additional costs that local authorities will have to meet. The fees will already have to be increased to take account of the development management factors that are mentioned in the financial memorandum. Therefore, if further costs are added in, the fees will have to be even higher. We do not have a precise percentage, but figures of up to 30 per cent have been tentatively mentioned. There are questions about the market's ability to absorb such an increase.

The Convener: Can you give us cash values rather than percentage increases?

Alan Logan: There is such a wide range that it is difficult to apply a cash value.

The Convener: Is it possible to give some examples from that range? Perhaps you could send us a written response that shows us the possible effect on the public.

Alan Logan: We will do that.

Mr Swinney: I ask Ian Snodgrass to clarify a point. In your opening statement, did you say that the current estimate of the underfunding of the planning service is about £24 million?

Ian Snodgrass: I mentioned three figures. When the Executive examined the system in the previous calendar year, it came to the conclusion that the planning system was underfunded by about £17 million. The work that the Executive's consultants did in preparing the financial memorandum identified a requirement under the new proposals for an additional £10.7 million, although they stated that, within a period of time, that would be reduced by 20 per cent to £8.9 million due to efficiencies.

12:00

Although COSLA generally supports the direction in which this is going, we recognise that there are other costs to councils. For example, the costs of traffic engineers, flood assessment appraisals, environmental appraisals, committee clerks, legal advice and so on all fall out with those direct costs. We asked the City of Edinburgh Council, Fife Council, West Lothian Council, Highland Council and North Ayrshire Council a series of questions about those supplementary factors. The authorities identified non-direct costs

of around £24 million—factored up—that were not captured by the original work, which asked very direct questions.

The work that we have done is not strictly accurate; it needs to be tested further. However, it leads us to believe that there is uncertainty about the costs. Given the fact that this is a once-in-a-generation improvement in the planning system and given the amount of work that has gone on behind it, everybody wants to ensure that the bill is capable of delivering the change that is intended. We believe that it is essential that we capture the overall costs of what is going on, and that will require further work—probably a continuation of the detailed work that we have done with the five councils. We would be happy to co-operate with the Executive in pursuing that further, to define more clearly the costs that are involved.

Mr Swinney: That is helpful. As has been mentioned, elements of the bill will be handled in secondary legislation and we have not seen the detail of that yet. What are your major anxieties about the possible cost implications? What issues within the scope of that secondary legislation would give you most anxiety about a likely increase in the cost burden for local authorities?

Ian Snodgrass: In the discussions that we have had, particular concerns have been raised about the cost implications of development planning and the preparation and implementation of plans. As the convener said, the development management system may involve fees and may endeavour to cover the costs in other ways, but the whole area of development planning is outwith the fees system.

Mr Swinney: Under the bill, development planning will play perhaps the most important part in changing the culture to improve the planning system. It will be the aspect of the bill that has to be revisited most frequently. Some of the development plans that are around today might have been revisited five years ago, but others might have been revisited 15 years ago or even longer ago. Frequency is an issue, and the success of the bill and the reforms will be predicated on how effectively that work can be undertaken. As yet, it is not clear what the extent of that work will be or what the likely cost implications are. Is that a fair assessment?

Ian Snodgrass: That is fair, although the financial memorandum endeavours to make some cost estimates. There is no doubt about the need for better management of the system and for authorities to renew their development plans. I am pleased to say that North Ayrshire Council has just approved, within five years, its renewed plan and its renewed structure plan. As the process changes, that will not only require to be done more regularly and to a timetable, but there will have to

be public engagement and environmental impact assessment, which are time consuming and, therefore, resource intensive. We must ensure that that work is done properly or we will not manage to meet the targets. If public consultation is not properly resourced, time is added to the process. I have seen that happen in North Ayrshire. We have lost a lot of time and plans have become discredited as the costs have built up.

Mr Swinney: One of the other big areas on which the reforms will be predicated is the ability to have the appropriate professional and technical staff and therefore credible planning departments that are able to undertake the work. Opportunities exist for people with the same qualifications to work in either the private sector or the public sector. How challenging is the recruitment of planners into the public sector, given the climate of the planning area being underfunded, which I think that you and others have accepted? Is such recruitment a challenge, or can you compete effectively with private sector organisations?

Ian Snodgrass: That is an extremely important point, which we have raised with the chief planning officer in the Executive over time. It is a question not only of recruitment, but of the age of those in the planning profession, which will leave a gap. Extensive recruitment into the system has not happened for some considerable time. Given the closure of the planning schools on the west coast, the ability to train planners or to cross-train people from other professions has become limited.

SOLACE has had discussions with the chief planning officer, who is meeting us again on Friday. There has been consideration of upscaling what we call paraplanners. That is fine for regular processing of minor issues in casework, but if the system is meant to improve the quality of what we do on the ground and to provide more vision, it is now deficient. There is definitely an issue about securing support.

You mentioned the private sector. It is quite easy for us to get recruits in at the bottom, but we lose them quickly. As soon as they are qualified they go to the private sector and we then have to re-employ at considerably increased costs. That is what is happening at the moment, particularly in relation to implementation of plans in regeneration. We invariably have to employ the private sector to do that, at a cost.

Mr Swinney: In a consultancy arrangement?

Ian Snodgrass: Yes.

Mr Swinney: In effect, therefore, planning departments are contracting out services because they do not have the skills in house.

Ian Snodgrass: The immediate development management system is provided directly by the

council. Elected members would have concerns about contracting that out. Although some councils south of the border use the private sector to process planning applications, elected members would prefer to keep that at their own hand, because the public see that as more direct and fair. Authorities will face issues with the development planning process in securing their plans in the proposed timescale. Having the ability to increase staff numbers is a real issue.

Mr Swinney: I quite understand the distinction between in-house consideration of planning applications and contracting out the more forward-thinking, visionary parts of development planning. Is such contracting out a bad thing?

Ian Snodgrass: Not per se. I can speak only for my authority. We have secured private sector advice in providing design guidance and development briefs. Authorities in Ayrshire find it difficult to procure such advice west of Glasgow, because there is no density of people there. There is a limit to what is available in the private sector as well.

Mr Swinney: One of the other points on which the financial propositions are predicated is the ability to make efficiency savings in the process. The local authority planning departments in my locality are under siege just now with major strategic applications. What is the potential to make efficiency savings?

Ian Snodgrass: The Executive's point about management of the system, which it made directly to the authorities, was well made. There is potential to tighten up the system. However, the reality is that the process of public consultation tends to absorb any time that is created through improvements to the planning system. Demands on the system have increased markedly in the past 10 years. As I said, I seriously doubt the Executive's assessment in the memorandum that there will be a reallocation of existing resources in planning departments and improvements from efficiency. If any time is freed up, it will be absorbed in the process of public consultation and dealing with new legislation as it comes through—it is being issued all the time.

The Convener: The Executive estimates that the authorities' new role of monitoring and reviewing tree preservation orders will cost £2.7 million per annum, which is calculated on the basis of there being one full-time trees officer per authority. Interestingly, that is £1 million more than will be required for neighbourhood notifications. Why are trees so expensive relative to notification of neighbours?

Mr Swinney: Is it to do with leylandii hedges?

Ian Snodgrass: The issue with tree preservation orders is that the trees are not

inspected just once—we have to keep returning to ensure that the orders are current and, if they are not, they have to be redone. My experience is that, as development progresses in local authority areas, the public want more and more tree preservation orders to protect the environment in which they live. Once an order is in place, to be effective at a time of challenge, the tree must be surveyed regularly. However, I am not familiar with the full basis of that calculation.

The Convener: The issue may be about not only tree preservation, but broader environmental management. As well as the identification and maintenance of trees, an issue arises about open spaces more generally as they become designated. Is the issue broader than the tree preservation point that the bill picks up?

Ian Snodgrass: This is not a direct answer to your question, but one of our concerns is that the questions that were asked of planning departments were very direct. Arup's work for the Executive identified the sort of work that you mention as other activities that planning departments get into. However, they are the sort of activities that elected members often want officials to do. Development plans are only part of what planning departments do. In my case, the big issue just now is the seafront at Largs, which requires considerable design guidance. The planning system does not require that process, but clearly my councillors want to see it being done, with a view to the future vision for Largs.

On the environmental issue, planning departments are invariably used to deliver biodiversity improvement schemes and access schemes. You are right that dealing with trees and the natural environment is an essential part of that process. However, such schemes are not quantified in the figures that have been produced. I cannot work out whether what is intended in the talk of transfer of resources from non-core areas is a move away from some of that work to the core work of production of development plans. I cannot tell that from the memorandum.

The Convener: The interesting issue that I was leading to is whether the Executive simply identified the legislative elements. That would explain why tree preservation orders, which are a legislative element, are included, whereas environmental management, for which there is no specific legislative designation, has been excluded.

Ian Snodgrass: It is non-core, perhaps.

Mr Swinney: Does that not take us back to the comments in your introductory remarks and in your response to my questions that the problem in local authority planning departments, as in many other departments, is that financial decisions are

now predicated on the statutory functions? Authorities think that it would be nice if they could undertake duties that are not statutory but, increasingly, they do not do so because the money is being spent on statutory responsibilities. Much of the new regime will be predicated on considering in the round which development plan decisions must be taken.

12:15

Alan Logan: The point is not so much that authorities do not undertake discretionary duties. Ian Snodgrass gave figures about underfunding at the margin in planning. In addition, the published position for planning as a whole is that the total grant-aided expenditure is about £90 million and the spend is £155 million, which suggests that authorities are doing work in addition to the statutory work, but they have to fund it.

The Convener: As there are no more questions for this group of witnesses, I thank them for their evidence. We will take evidence on the bill from Executive officials at next week's meeting—some of your answers will give us questions for them.

Item in Private

12:16

The Convener: Under agenda item 5, we must decide whether to consider in private our draft report on the financial memorandum for the Bankruptcy and Diligence etc (Scotland) Bill at our next meeting. Do members agree to take that item in private?

Members indicated agreement.

Meeting closed at 12:16.

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