

FINANCE COMMITTEE

Tuesday 31 October 2006

Session 2

£5.00

© Parliamentary copyright. Scottish Parliamentary Corporate Body 2006.

Applications for reproduction should be made in writing to the Licensing Division,
Her Majesty's Stationery Office, St Clements House, 2-16 Colegate, Norwich NR3 1BQ
Fax 01603 723000, which is administering the copyright on behalf of the Scottish Parliamentary Corporate
Body.

Produced and published in Scotland on behalf of the Scottish Parliamentary Corporate Body by Astron.

CONTENTS

Tuesday 31 October 2006

Col.

SCHOOLS (HEALTH PROMOTION AND NUTRITION) (SCOTLAND) BILL AND EDUCATION (SCHOOL MEALS ETC) (SCOTLAND) BILL: FINANCIAL MEMORANDA	3967
CORRESPONDENCE.....	3985
COMMISSIONER FOR OLDER PEOPLE (SCOTLAND) BILL: FINANCIAL MEMORANDUM.....	3992
SCOTTISH EXECUTIVE BUDGET REVIEW GROUP	4009

FINANCE COMMITTEE

25th 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

Shiona Baird (North East Scotland) (Green)

Janis Hughes (Glasgow Rutherglen) (Lab)

Alex Neil (Central Scotland) (SNP)

John Scott (Ayr) (Con)

Iain Smith (North East Fife) (LD)

*attended

THE FOLLOWING ALSO ATTENDED:

Frances Curran (West of Scotland) (SSP)

THE FOLLOWING GAVE EVIDENCE:

Fergus Chambers (Glasgow City Council)

Councillor Charles Gray (Convention of Scottish Local Authorities)

Alex Neil (Central Scotland) (SNP)

CLERK TO THE COMMITTEE

Susan Duffy

SENIOR ASSISTANT CLERK

Rosalind Wheeler

ASSISTANT CLERK

Kristin Mitchell

LOCATION

Committee Room 2

Scottish Parliament

Finance Committee

Tuesday 31 October 2006

[THE CONVENER *opened the meeting at 10:04*]

Schools (Health Promotion and Nutrition) (Scotland) Bill and Education (School Meals etc) (Scotland) Bill: Financial Memoranda

The Convener (Des McNulty): Good morning. I welcome the press, the public and witnesses to the 25th meeting in 2006 of the Finance Committee. As usual, I remind people to turn off their pagers and mobile phones. We have received no apologies, but Mark Ballard will be a little late.

We decided to adopt level 3 scrutiny of the financial memorandum to the Schools (Health Promotion and Nutrition) (Scotland) Bill, which means that we will take oral and written evidence from bodies on which costs will fall and oral evidence from Executive officials. At its meeting on 3 October, the committee agreed—given the crossover between the two bills—to scrutinise the financial memorandum to the Education (School Meals etc) (Scotland) Bill in conjunction with the financial memorandum to the Schools (Health Promotion and Nutrition) (Scotland) Bill.

We will take oral evidence from the Convention of Scottish Local Authorities. It gives me great pleasure to welcome Councillor Charles Gray from North Lanarkshire Council—I remember him from his earlier days at Strathclyde Regional Council. I also welcome Fergus Chambers, who is director of direct and care services at Glasgow City Council—I also remember him from Strathclyde Regional Council. Frances Curran MSP has joined us for this evidence session, but we will take evidence from her at the next meeting at which we consider the Education (School Meals etc) (Scotland) Bill.

I invite Charles Gray to make a short opening statement before we proceed to questions.

Councillor Charles Gray (Convention of Scottish Local Authorities): COSLA supports the principles of the Schools (Health Promotion and Nutrition) (Scotland) Bill, which should lead to a net improvement in youngsters' diet. New nutritional standards will enable us to determine whether children are eating properly and having healthy snacks and drinks. The Executive will

publish the new standards but we will not, until we have been able to examine them, be in a position to say much about how they might affect budgets, for example. However, the bill is good and follows our successful and on-going campaign, which followed the report, "Hungry for Success: A Whole School Approach to School Meals in Scotland".

I am not given to making long speeches. I have a reputation for speaking for a minute and a half, convener, so you can go ahead and ask questions.

The Convener: Frank McAveety and Elaine Murray will take the lead on the Schools (Health Promotion and Nutrition) (Scotland) Bill.

Mr Frank McAveety (Glasgow Shettleston) (Lab): I welcome the witnesses. I hope that our question and answer session will generate a reasonable amount of information and discussion.

In its submission to the committee, COSLA placed a caveat on its comments on the bill's overall costs, given that costs will depend on what happens in relation to the expert panel's work on nutritional standards. COSLA said that it would need to examine the detail of new nutritional standards, but I understand that the new standards will be produced soon, so I hope that COSLA will be able to comment by next week.

How many local authorities in Scotland currently provide free breakfasts? I think that authorities have different approaches to such schemes. How are schemes operated? What percentage of pupils take up free breakfasts?

Councillor Gray: Provision is fairly patchy. I have no idea how many local authorities in Scotland provide breakfasts, but a fair number of authorities in the central belt do. In my authority, we budget for £1 as the average cost of a breakfast in the schools that serve breakfasts, but we discovered recently that the price will go up towards the beginning of next year. We must look to our laurels and consider how to continue the scheme without reducing the numbers too much.

Fergus Chambers (Glasgow City Council): It is fair to say that Glasgow City Council operates the biggest free breakfast scheme in Scotland, if not in Britain. All 173 primary schools in the area operate a free breakfast service, as opposed to a breakfast club. The council spends £2.4 million per year on breakfast provision and, across the area, uptake is 20 per cent, which is quite a good level, if we bear it in mind that probably everyone would prefer their children to eat breakfast at home. At least 7,500 children who might not otherwise have a breakfast eat breakfast at school, so we are providing about 1.3 million breakfasts every year. I hope that those figures help members as they gather their thoughts.

Like Councillor Gray, I do not have the national picture and I do not know about other local authorities. Provision of free breakfasts depends on budget pressures.

Mr McAveety: Some current guesstimates suggest that the cost would be between £70 million and £90 million. Would that be an additional cost to local authorities, on top of what they are already providing? How do you determine that?

Fergus Chambers: Glasgow City Council represents roughly 10 per cent of Scotland and the scheme costs Glasgow £2.4 million, so £70 million seems to be somewhat excessive, although it depends on specifications. There is no great requirement to provide capital expenditure for additional equipment, but you need to consider the cost of supervision during the breakfast service. Supervision is included in the Glasgow costs, but that may differ in other authorities.

Dr Elaine Murray (Dumfries) (Lab): We are looking today and next week at both bills: the Schools (Health Promotion and Nutrition) (Scotland) Bill from the Executive and Frances Curran's Education (School Meals etc) (Scotland) Bill. We will be asking Frances about her bill next week, but I am not quite clear whether her bill will require authorities to provide both meals—lunch and breakfast—free. The financial memorandum to her bill says that the cost of free meals in primary schools will be between £66.3 million and £72.8 million, but I think that that is for lunches, based on a fairly reasonable estimate of uptake. What do the witnesses think the financial impact would be if they were required, under such a bill, to provide all meals to primary pupils free of charge?

Councillor Gray: I will have to ask Fergus Chambers to help me to answer that question, because I am not at all sure. COSLA is, in principle, against the Education (School Meals etc) (Scotland) Bill, for fairly obvious cost reasons. Our argument is that, if we can look at the eligibility criteria for free school meals and improve those criteria—I am confident that we can—the youngsters who most need the meal would get the meal, whereas the Education (School Meals etc) (Scotland) Bill would provide meals for a majority of children whose parents could well afford to pay for them.

Dr Murray: What sort of uptake do you expect? Do you agree with the sort of uptake that Frances Curran suggests?

Fergus Chambers: It is extremely difficult to cost universal free school meals and to forecast uptake. Universal free school meals will work only if they are popular: that will depend on the specification and on how each local authority

intends to deliver them. My local authority—if I may put my cards on the table—has yet to consider that at the political level, so I cannot give a view on whether the council believes it to be a good thing or not. From a practical perspective, I put down a marker by saying that there is no point in giving away free something that nobody wants: the service must be popular and there must be investment to support it. Until the detailed specification is known, I could not possibly cost it.

Dr Murray: I presume that it would be difficult to estimate the impact of having to provide free breakfasts and lunches.

Fergus Chambers: It is easy to estimate the cost of free breakfasts in Glasgow, because we already provide them. That is a known quantity. The provision of universal free school meals is an unknown quantity, and I suspect that the level of uptake or popularity would vary across the country, which is why costing of such a measure is difficult.

Mr John Swinney (North Tayside) (SNP): To whom is the breakfast service that you currently provide available? Is it a universal provision or are there eligibility criteria?

Fergus Chambers: There are absolutely no eligibility criteria. Any child in Glasgow can have the service free, and 20 per cent of children currently take advantage of that service. The level of uptake has been consistent since the start of the service.

Mr Swinney: When was that?

Fergus Chambers: A pilot scheme was started two years ago. Since then we have rolled out the scheme so that it is available in every school.

Mr Swinney: Did you say that the total cost was £2.4 million?

Fergus Chambers: That is right.

The Convener: Have you done any studies of which pupils, or which categories of pupils, based on their backgrounds, are taking up that provision? Under what circumstances are people more likely or less likely to take it up?

10:15

Fergus Chambers: I do not think that I can answer that in a way that would give you the information that you seek. We have done some analytical studies, which indicate the level of uptake relative to the level of deprivation. To be honest, there is no consistent statistic that has come out and that we can use—there are different levels of uptake in different parts of the city. There is no consistent message other than the overall point that, in areas of greater deprivation, there is

slightly higher uptake. It is no more than that, however.

Councillor Gray: We started the breakfast clubs in areas of deprivation and gradually spread them elsewhere in the Glasgow City Council area. They are extremely popular. The disquieting thing that faces us, however, is the possibility of providing all school meals free, which would mean a huge investment in capital changes for schools, which would have to find the room to provide meals for every single child.

The Convener: I wish to return to the breakfast issue. I know that it is still early days and that the pilot process is still continuing, but there are two or three types of analysis that it would be quite useful for us to hear about. One would be an analysis of the uptake by schools. It is, I presume, possible to link the catchment areas of schools to deprivation. Secondly, it might be possible to determine whether free school meals are more or less likely to be taken up in a given school by children who have existing entitlement to free school meals. Within a school, which types of pupils are more likely to take up the provision? Is there an issue with that? Thirdly, are there factors around the quality of service that could influence take-up? In other words, is there a pattern of better breakfasts or different arrangements at some schools attracting greater take-up there? Is there evidence that you can give us on those factors?

Fergus Chambers: I can certainly make available to the clerks information on the uptake per school. We do not record who takes up free meals, because we have no need to. I cannot give you statistical evidence on whether the higher level of uptake is among children who already qualify for free school meals.

The quality of service is relevant. There are three points to make about that. First, the breakfast service in Glasgow is supervised by my staff, rather than by teaching staff. I suggest that that makes it more appealing to children, because they feel that they are a bit freer. Secondly, the quality of the provision is clearly important. Thirdly, we engage the pupils and provide them with games and activities to encourage them to come to the breakfast service. It is not just about food provision, but about enticement—let us call it marketing or, perhaps, psychology. There are incentives, one way or another, to encourage children to attend the breakfast service. Similar provisions are available for the main school meals service.

Councillor Gray: Our practice is almost exactly the same as the one that Fergus Chambers has just explained. In pursuing good-quality meals, every so often—probably quarterly—we put out a questionnaire to schools, asking them to comment and to answer certain questions about the quality,

variety and warmth of the food. That is one way in which we ensure that the meals are of a high standard.

The Convener: Frances Curran has a supplementary question about breakfasts.

Frances Curran (West of Scotland) (SSP): My question is related to what Councillor Gray said about capital costs. I have three questions, but they will be brief.

Councillor Gray: I am afraid that I cannot hear you very well.

Frances Curran: I am sorry. I have three questions, and I will be brief, although I do not know whether the answers can be brief. The first is on your point about the breakfast clubs and how you project take-up to allocate appropriate funding.

My next question is about the huge capital investment. I was under the impression that the hungry for success initiative led to capital expenditure. How much was that across the COSLA authorities? My last question is this: given that the hungry for success initiative has been introduced, have you projected what you would like the take-up of school meals to be? Do you have a target for that in different authorities or as COSLA?

Councillor Gray: We are still pretty hesitant on targets. The finance for hungry for success will end reasonably soon and we hope that it will be continued, directly or indirectly, for schools. Otherwise, the programme might fail. COSLA thinks that for the continuity of hungry for success and for it to succeed, the programme or the Education (School Meals etc) (Scotland) Bill should generate a direct injection of the required cash.

In many of our schools, we have catered for only a percentage of youngsters, so there is no doubt that a fairly large amount of capital would need to be invested in the machinery and wherewithal to provide meals.

Fergus Chambers: We did not know what uptake to expect in the breakfast service that was developed in Glasgow, because it was new to us. We budgeted for 30 per cent uptake, but in the first year of trading, uptake was consistently between 20 per cent and 21 per cent.

As far as I recall, hungry for success provided zero money for capital expenditure. It was suggested that capital moneys would come from other budgets for school fabric.

As for projections of take-up, hungry for success has largely settled down in primary schools. In Glasgow, free meals uptake—if that is a key indicator—is sitting at 87 per cent, after a period in

which hungry for success has been consistently implemented. The overall uptake of meals that are paid for and free meals is about 61 per cent. In primary schools, uptake has reduced slightly because healthier options have been introduced.

In secondary schools, the uptake gap is much worse, because pupils have more freedom and flexibility to leave their schools' confines at lunch time if they are unhappy with the service. Secondary school pupils are more open to external marketing techniques. Since the hungry for success secondary school service was developed and introduced in August, we have experienced a significant downturn in Glasgow.

Mr McAveety: What lesson do you draw from that experience? How do you intend to deal with it?

Fergus Chambers: The lesson that I draw is that we need to be extremely careful in developing the right balance between the health agenda and reality, if I can call it that. Nobody around the table would argue against improving health, diet and nutrition and reducing obesity. However, if we do that in a way that means that nobody wants to use the service, that defeats its purpose.

A huge danger arises from adopting the health agenda too fast and too strongly. I will give some examples. Ahead of the timescale for implementation—December this year—we in Glasgow have introduced our secondary school hungry for success menu project. The key principles of that are that there will be no chips on the menu on any day except Friday, carbonated drinks will be taken away from the counters and put in vending machines and there will be one or two other new menu developments. We have a new branding concept to promote and market the project. Since we implemented the project, a huge reduction in cash purchases and free meals uptake has occurred. We are down 15 per cent in cash income and 17 per cent in overall free meals uptake since August.

That is no more than a response from the consumers or customers, if I can call them that. Some people argue that children are not customers, but I think that they are. They are sophisticated customers, and they are responding with their feet to the pressures of a healthier agenda by leaving the schools. That relates purely to secondary schools.

Mr McAveety: Teenagers who could access free meals are not taking them, but are instead spending their own money outside school.

Fergus Chambers: In secondary schools, our free meals uptake was 67 per cent in the last financial year. We project a rate of 52 per cent for the end of 2006-07. The children are voting with their feet against the healthier options. That is not

to say that we are defeatist. We will get an element back over time, but it will require a lot of investment, promotion, marketing and incentivisation.

Councillor Gray: The new Scottish Schools (Parental Involvement) Act 2006, which provides for the partial abolition of school boards, will be helpful because it will allow us to approach the parents forums innovatively. Our figures are much like Fergus Chambers's, so we are hoping that a fresh approach to parents, via the legislation to create forums that include all parents, might influence the youngsters to accept that what we are offering is good.

Mr McAveety: I am trying to get at whether children from poor backgrounds are still using their money to buy food rather than getting it free from school. That is my worry.

Fergus Chambers: Fewer children, with either cash or free meal tickets, are using the service.

Mr McAveety: Is there a difference in pupils' views on the uptake of breakfasts based on school? Is there a marked attitudinal difference? You said that secondary schools are more challenging because of teenagers' attitudes to food consumption and their social behaviour. Do pupils feel more comfortable with the breakfasts compared with the lunch options?

Fergus Chambers: We have done quite a lot of market research on the breakfast service, because—this goes back to Frances Curran's question—we did not know whether 20 or 30 per cent was the right target. The research indicated a high level of acceptability of the service. I do not think that the children who come to a primary school breakfast service have any problem with the food that is available, with how it is served or with how they are supervised in the dining environment.

You asked specifically about secondary schools—there is a problem there. From memory, I think that Mr McAveety is an ex-teacher, so he will know that children see lunch time as their time. They do not want to stand in queues and be marshalled and supervised by teaching staff. When Glasgow developed its original fuel zone concept, we did a lot of market research, and the number 1 problem that we identified was not the food or the tariff, but the queuing. That remains a consistent factor in the service's acceptability. Queuing is by far the biggest problem.

Mr McAveety: If you wanted to address that, would there be fairly substantial staffing implications and space requirements? I will draw on my experience. My constituency office is beside a secondary school and we have, in the past year, noticed a marked increase in the number of children in front of shops, which is

causing wider social problems with litter and so on. We have had discussions with the head teacher about the concerns, and he has said that he does not have the space or the staff to deal with it.

Fergus Chambers: Glasgow has a good history, particularly in secondary schools, with the revolution of the fuel zone concept. We went from the straight-line counter to multiple service points, thereby speeding up the process by investing in the service.

Going back 10 years, before we started the project, we had a free meals uptake in Glasgow of 45 per cent. That meant that 55 per cent of the kids who qualified for a meal did not take it. They did not value it. With a bit of investment, ingenuity and creativity, we increased the uptake of free school meals to 70 per cent, which is pretty good for a secondary school environment. With the health agenda, uptake has fallen to something like 52 per cent, which is a huge reduction in service acceptability. The service is free, but the kids do not value it enough to use it.

10:30

Mr McAveety: This question might be somewhat premature, given that you are still waiting for the nutritional standards. However, in its submission, COSLA expresses concern that changes in standards could lead to a substantial increase in costs. I imagine that you are already discussing hungry for success and that you are attempting to formulate a consensual approach to the matter, but what kind of wrecking ball in the nutritional standards would drive your costs up?

Fergus Chambers: I am fortunate in that I was on the expert working group and have had sight of and know about the proposals. Everyone in the group is a highly dedicated professional and no one is going against the health agenda. My concern is that, when everything is packaged up, the outcome might be a further reduction in the uptake of either free or paid for school meals at secondary school.

I say that because the working group's proposals raise concerns in three areas. In isolation, we can sit here and agree that banning confectionery, crisps and snacks and all forms of carbonated or sugary drinks after 31 December 2009 is a sensible approach to the nation's diet. However, as a caterer and operator, I know that if those things are banned, the number of secondary school children who take school meals in Scotland will be further eroded. It is a political decision.

Councillor Gray: We estimate that, in North Lanarkshire, banning the products that Fergus Chambers mentioned would cost a substantial six-figure sum.

Mr McAveety: In its submission, COSLA also makes a strong point about the need for more capital investment. We have had a brief tangential discussion about that, but if, as a result of the bill, certain duties were placed on education authorities, is not it inevitable that they would need to increase their capacity at some level to ensure that the promotions were successful, and to meet any new standards for, or expectations about, school meals?

Fergus Chambers: I think the submission was written before anyone had knowledge or sight of the expert working group's proposals. As I said earlier, if the new proposals are implemented in secondary schools, no investment in new equipment will be needed because there will not be such numbers of kids going through the facility. In primary schools, however, where service acceptability is high, there might be a strong argument for examining facilities. Of course there are ways around that but, with a bit of capital investment, it might be possible to increase capacity.

Mr McAveety: In that respect, is there a world of difference between schools that have been constructed and developed through conventional procurement and schools that have been constructed through public-private partnerships? Would you, for example, have to renegotiate the PPP contracts?

Fergus Chambers: No. From my experience, the facilities in Glasgow's secondary schools are excellent. We would all like more space, but there are limitations in that regard.

Space has been used excellently in the new PPP schools in Glasgow; for example, the fuel zones have been built into common areas and that system works extremely well. We have invested more and have enhanced those areas with plasma-screen technology that not only entertains children but passes on healthy messages. Indeed, I believe that, today, some of your colleagues from the Communities Committee are visiting a school in Drumchapel.

The Convener: Do you have concerns about the current and projected downturn in employment? After all, the number of customers—if I can call them that—is crucial to revenue.

Fergus Chambers: No detailed work has yet been done on that. At some stage, we will have to form a view on the need to combat the downturn in income with a reduction in staffing levels. It is fair to say that the design of a facility dictates the number of staff that are required to man it. Thus far, we have maintained our staffing levels in the hope that we will get back our former volume of customers. Change always results in a surge or a downturn in numbers; we have, as a result of the

health agenda, had a downturn in numbers. I hope that we do not have a further downturn, as jobs would eventually be affected.

Dr Murray: The statistics on the downturn in numbers as a result of hungry for success are interesting and worrying. Is there a difference on chip day? Are you busier on the days when chips are on offer?

Mr McAveety: It used to be fish on a Friday.

Frances Curran: It depends on which school you went to.

Mr Swinney: The secularisation of society.

Mr McAveety: Traditions have gone.

Fergus Chambers: That was the case in the early days. As pupils came to accept the new service, having chips on the menu made less of a difference. I agree that fish is popular, but so are many other items on the menu. I would not worry too much about it.

Dr Murray: Is the issue one of people not being keen on healthy food? Are the menus on days when unhealthy chips are on offer more popular with pupils or are they stopping using the school service and not coming back?

Fergus Chambers: That was the case in the early days, but it is less of an issue now. The caterers have become smarter. They are developing items that are healthier and popular.

Dr Murray: You said that you cannot tell us as yet what the financial implication of the downturn will be. Can you give us an estimate of how much you are saving or losing as a result of the downturn?

Fergus Chambers: Since August, my service's cash takings—the physical cash that we take from people who pay for meals—have been down £2,000 every day. Takings from free meal tickets are also down about 15 per cent. The value of the ticket is £1.15, so we could do the numbers. There is a big difference. I forecast that the deficit resulting purely from the downturn will be £750,000 by the end of this financial year. At the moment, I am still selling carbonated drinks, albeit that they are fewer in number and mostly of the diet variety. We are also selling items of confectionery, snacks and crisps.

Dr Murray: One local authority—it may have been Glasgow City Council—estimated how much an authority could lose if all snacks and fizzy drinks were taken out of vending machines. As we have seen in the media, parents down south are prepared to push chips through the school fence. Obviously, there is the potential for people to bring snacks and fizzy drinks into school.

Fergus Chambers: In Glasgow, I have seen parents pass chips to their youngsters through the school gate. I am not sure how far this could go—nobody will know until it happens—but there is a huge danger that, by going down an eminently understandable road under the health agenda, we will destroy the school meals service.

My experience of compulsory competitive tendering goes back to 1988 when, with the passing of the Local Government Act 1988, CCT was introduced to a range of services. At that time, there were huge pressures on the school meals service and uptake levels were extremely low. For the past 16 or 17 years, every local authority has done huge amounts of work and we have steadily increased uptake. We have managed to get uptake to quite a good level—certainly, relative to England and Wales. All of that may now be jeopardised.

Dr Murray: Will you be able to give us an estimate of possible loss of income?

Fergus Chambers: In all honesty, no one is able to guess that.

Councillor Gray: My local authority is fairly hopeful that, in the medium term rather than the long term, things will improve as a result of our work with the local health authority on the hungry for success programme. Yesterday, we spent a whole morning giving more than 100 establishments—nurseries, primary schools and as many as half a dozen out of 26 high schools—bronze, silver and gold awards for the promotion of healthy eating. We also showed a 20-minute DVD that gave examples of what is happening in schools. I am therefore hopeful that healthy eating ideas are coming through strongly, especially in dozens—almost all—of our primary schools.

I mentioned parents earlier, and we are getting a good response from parent-teacher organisations in primary schools and nurseries.

Dr Murray: Eliminating stigma is one of the hungry for success priorities, and it is one of the motivations behind Frances Curran's Education (School Meals etc) (Scotland) Bill. How much would it cost an authority to implement measures to ensure that youngsters are not stigmatised by their entitlement to free school meals?

Fergus Chambers: In Glasgow City Council we have a debit card system for all 29 secondary schools. We are also rolling out a pilot scheme in 11 primary schools, out of a total of about 175. On average, it costs £15,000 in primary schools and about £30,000 in secondary schools. There is also a relatively small amount to come from on-going revenue budgets. The £15,000 and the £30,000 are the initial investments for the technology.

Dr Murray: In discussions on Frances Curran's bill, it has been argued that the money to be spent on eliminating stigma could be used to fund free school meals. Do you agree?

Fergus Chambers: I am sorry; I have not done the numbers.

Jim Mather (Highlands and Islands) (SNP): I am looking at figures for the take-up of school meals in different local authorities. Glasgow is just above average. If I look at the numbers and try to set a statistical upper control limit and lower control limit, I see that the only local authorities that outperform the average are Argyll and Bute Council, Highland Council, Orkney Islands Council, Shetland Islands Council and Midlothian Council. I presume that that is because those councils have a different profile—different demography and perhaps less deprivation than other local authorities. Midlothian has made a remarkable turnaround since 1999—a 36.7 per cent take-up has gone up to 70.7 per cent. Have you examined how Midlothian has achieved that? Are there lessons to be learned from Midlothian or from rural schools?

Fergus Chambers: I was a member of the original hungry for success expert panel, as I think it was called in those days, which visited Midlothian in its efforts to develop best practice throughout Scotland. The local authority was doing certain things—as were others—that we built into the process. Midlothian started from a low base and was doing a very good job. The council was highly successful in that respect and had lots of committed staff. That is what should be happening throughout Scotland.

Will you clarify something for me? Were your figures for primary schools or secondary schools?

Jim Mather: Secondary schools. The Midlothian figure went up from 36.7 per cent to 70.7 per cent between 1999 and 2006.

Fergus Chambers: That is extremely good.

Jim Mather: It is.

In your efforts to tackle the downturn, have you thought about engaging a wider community of stakeholders to try to win hearts and minds? I am thinking about the pupils themselves, and their parents.

10:45

Fergus Chambers: There are many possibilities, and I am sure that each local authority is doing an awful lot—I am sure that North Lanarkshire Council is, and Glasgow City Council certainly is. A lot of consultation and work with community groups is going on. There is also a lot of work to engage with parents in particular and

encourage them to come in and see the service. Parents get an awful lot of anecdotal reports from their children, which we are trying to address.

Speaking as a caterer, I think that many things could be done. If you want to be really awkward, you could, arguably, stop children going outside the school gates. You could also have some form of control over what they take into school. However, if you, technically speaking, ban certain things in schools, will that encourage children to bring in exactly the same products in their bags? At the beginning of August, we made some fundamental changes in Glasgow and a black market started in certain schools, in which children took in things that they should not have been taking in and sold them to their friends. That might be an issue for the Enterprise and Culture Committee, as it is about interfering with market conditions.

Frances Curran: I want to check the figures that you gave for Glasgow. Did you say that the take-up of free school meals was 87 per cent in primary schools and 61 per cent overall?

Fergus Chambers: Those are projected figures for the end of the financial year.

Frances Curran: That is after one year of hungry for success.

Fergus Chambers: That is not strictly true; I need to qualify it. Hungry for success has been in place in primary schools for more than a year. In secondary schools, we are not due to meet the hungry for success target until December, but we implemented our model from the end of August, and that is what has brought the secondary school figure down by about two percentage points in the current financial year.

Frances Curran: Are those figures—the 87 per cent and 61 per cent—for primary schools?

Fergus Chambers: The 87 per cent and the 61 per cent are both for primary schools.

Frances Curran: And they are for Glasgow.

Fergus Chambers: The 87 per cent is for free school meals and the 61 per cent is for combined free and cash.

Frances Curran: Those are not bad figures.

Fergus Chambers: No, but we want them to be better.

Frances Curran: So do I.

Fergus Chambers: We want our business, if I can call it that, to go up, not down.

Frances Curran: I am interested in the period in which the take-up settled down. What happened at the beginning of hungry for success? Did take-up drop?

One of the most puzzling sets of figures that I have recently been given concerns the cost of school meals. It does not include staff and supervision; it applies only to the food on the plate. The figures that we have acquired through the Freedom of Information (Scotland) Act 2002 show that the cost per meal in a primary school in Glasgow is 66p and in East Dunbartonshire it is more than £4. The research for my bill showed that the average cost per meal in primary schools was £1.77. Can COSLA shed any light on why that would be the case?

Fergus Chambers: I cannot personally shed any light on that. I query the figure that you quoted for Glasgow, because I checked it this morning. I suggest that, currently, the food cost per customer in Glasgow is the same for a primary school as it is for a secondary school, which is between 95p and £1. One impact of hungry for success is that it has allowed us to put more on the plate. There is no question about that. The figure of 60p-odd that you quote might have been the case two years ago, but nowadays it is between 95p and £1.

The Convener: You said that 95p is the food cost. Does that exclude supervision and other matters? Is it purely the cost of the food?

Fergus Chambers: It is the cost of the food on the plate.

The Convener: Are supervision costs and other overheads additional to that?

Fergus Chambers: They are.

The Convener: Can you quantify them?

Fergus Chambers: I am not sure that I can, because I would need to work them out. About 50 per cent of the cost of putting a primary school meal on the plate is food and 50 per cent is labour and overheads, but that is a very rough figure. Glasgow City Council spends £5.7 million a year on its primary school meals service. I would need to sit down with an accountant in order to answer your question.

The Convener: It would be interesting to have that question answered, so that we are clear about how much is spent on food and how much is spent on non-food overheads. Glasgow is a particularly interesting case, given the concentration of deprivation and the thrust of both bills.

Let us move on to a different question. I visited All Saints secondary school yesterday for the Public Petitions Committee meeting. It is a brand new secondary school that is very well managed, and I am sure that there is a good uptake of school meals there. However, as I came out just after lunch time, I noticed a van sitting right outside the school gate selling what I presume was less-than-certified-healthy food. If we are to move ahead with hungry for success, could there

not be a mechanism to license such vans? At least we should try to get them further away from school buildings, because at the minute they seem to be able to park right outside.

Councillor Gray: We find that the local licensing committee is sometimes inclined to grant licences to such people unless the school objects. In recent times, we have managed to distance such vans from some schools, especially high schools, but it is difficult for us to remove some established vans that have been there for years. Our legal department tells us that there is not much that we can do about them. The matter should be addressed, as there is not much point in investing heavily in the provision of good, wholesome and healthy meals for youngsters when they can visit a van that is parked outside and get a roll, a glass of lemonade and a bag of chips for £1.

We talked about the price of school meals earlier, and I mentioned that we cost the breakfast at about £1. In fact, the cost is rising fairly rapidly to between £1.24 and £1.50. We are trying to find ways and means of making that up. In all our nurseries and in primary 1 and primary 2, fruit costs about 25p.

The Convener: Is the van issue a matter for joined-up government at Executive and local government levels? Is there departmentalism that we need to address? I presume that there is a policy intent that is being frustrated by a lack of proper regulation of the vans. If you are required by legislation to go further down the nutritious meals route but there is no parallel requirement on your competitors, that creates an uneven playing field. Is that fair?

Councillor Gray: Something has to be done about it. I had an unhappy experience about three months ago. My village has a high school and a primary school on the same campus, and almost next door there is a home for the elderly with 48 elderly people in it. A van that was new to the area came along and parked in a small car park that was beside the home for the elderly and prevented people from getting in or out. Someone went out and told the guy that he was not allowed to be there because it was a private car park for access to the home and for use by the local registrars and social work department. The guy gave the messenger a mouthful but, reluctantly, moved on just a few feet down the road. About 10 minutes later, when some of the children were coming out of the schools—we cannot prove this—we reckon that he gave the kids some eggs that they threw at the windows of the old folks home. We had to send for the police.

Some of these guys are determined to get as near to schools as possible. Perhaps some form of light legislation might prevent that from happening.

We are not going to win, in percentage terms, as long as people are allowed to sell unhealthy food in close proximity to schools.

The Convener: Let me ask a different question that might provoke a similar response. There is a major issue to tackle in terms of the dietary health of the nation. School meals are one aspect of that. Do you sometimes feel that the whole thrust of changing the dietary health of the nation is too closely focused on school meals at the expense of other aspects of health improvement, which need to be tackled in parallel with the same energy and force?

Fergus Chambers: I do not think that anybody minds there being a degree of attention on an area of service but, at current uptake levels, school meals represent between 8 and 14 per cent of a child's diet over a year—that is the bottom line. We are, essentially, talking about one meal a day for 190 days in the year. You can do the maths yourselves. Yes, we can influence and improve diet through school meals, but children need to be prevented from coming into school with, frankly, rubbish in their bags; they need to be actively discouraged from going either to the van outside the school gate or to the chip shop that is, in some cases, 60yd away from the front of the school; and they need some incentive or encouragement from their parents to eat healthily. I am not sure that trying to tackle the problem in isolation will achieve a huge amount for the health of the nation, as school meals make up only between 8 and 14 per cent of a child's diet.

The Convener: In that context, on the basis of your evidence, does whether school meals are free or not make a difference?

Fergus Chambers: We must make the service popular and acceptable to children. At least in schools we have the opportunity to educate and influence them. If we drive them out of the dining hall and on to the street, not only do we lose that opportunity but, perhaps more important, we create all sorts of social and community problems. That takes us back to what happened in the CCT days.

The Convener: The committee has no further questions. We will take evidence from Executive officials and from Frances Curran next week.

Frances Curran: I have a quick question.

The Convener: Can we take it next week? You will be giving evidence then.

Frances Curran: I know, but I cannot answer for COSLA.

The Convener: Okay. One quick question.

Frances Curran: Would COSLA be in favour of the Scottish Executive funding free healthy school meals in primary schools?

Councillor Gray: I would have to take that question back to COSLA. On more than one occasion, COSLA has resisted any suggestion that there ought to be a specific free school meals bill for reasons that have been stated on several occasions. Probably the most cogent of those is that the meal would be given to the majority of youngsters, many of whose parents could well afford to purchase school meals. There would also need to be additional investment for more staff and capital changes to buildings.

The Convener: I thank the witnesses for coming along. I suspend the meeting for a couple of minutes.

10:59

Meeting suspended.

11:01

On resuming—

Correspondence

The Convener: The second item on our agenda concerns consideration of our approach to post-legislative scrutiny and policy and financial management reviews in the light of previous discussions that we have had and correspondence, in the form of a response that we have received from the Scottish Executive, which is detailed in the approach paper from the clerk. You will see that we need to agree whether, in the light of the Executive's response, we want to have an evidence-taking session to compare the estimated costs with the actual costs of a specific act. The suggested legislation is the Education (Additional Support for Learning) (Scotland) Act 2004. It is proposed that the clerk will have initial discussions with Executive officials. The proposition is quite straightforward. I invite comments from members.

Derek Brownlee (South of Scotland) (Con): The proposal is sound and we ought to proceed with it.

I was taken aback by the comments that were sent by John Elvidge and appear in annex A to the clerk's approach paper. The comments suggest that it is not possible to review figures for the "actual costs of legislation". The response says:

"we recognise the attractions to Committees of being able to review figures for the 'actual' costs of legislation which they have scrutinised".

I would have thought that the Government would also have been attracted to the idea of being able to identify the costs of the legislation that it has introduced. I am surprised that it cannot do so.

Mr Swinney: I am entirely supportive of what is proposed in the clerk's paper. However, I must say that I share Derek Brownlee's concern about the poor nature of the response from the permanent secretary.

With regard to this committee's concern about financial memoranda, the third paragraph in annex A says:

"There is a continuing issue with regard to uncoded elements as a result of uncompleted or planned consultations and politically or commercially sensitive negotiations with stakeholders, but such occurrences are relatively rare."

I have never heard a more ridiculous reflection of the debate that goes on in this committee. We have repeatedly expressed concern about the fact that we see financial memoranda that are not complete because a consultation is under way or because something has to be done by regulation as a result of the legislation. For the permanent

secretary to say that almost all the factors that we complain about are the responsibility of the Executive and then to say that they arise relatively rarely is to miss the point of what the committee has been going on about for a considerable time.

Derek Brownlee mentioned the paragraph that deals with the ability of committees to scrutinise the "actual costs of legislation". I have to say that I find the permanent secretary's remarks about the financial implications of passing legislation and about the question whether anyone has a clue as to whether the information in any financial memorandum was in any way correct to be rather casual.

Recently, the committee has taken a stance on the financial implications of the legislation that Parliament has passed on the various commissioners and the ombudsman. One of the lines of defence that has been used by the commissioners and the ombudsman—perhaps to their credit—is that they have spent within the guidelines in the relevant financial memoranda. However, the permanent secretary appears to be saying, "We do not really know or pay attention to whether we have spent within the guidelines in the financial memoranda. In any case, most of the civil servants have moved on by the time any of us want to investigate any of these propositions."

In my view, it is completely irrelevant whether a civil servant has moved from department A to department B, leaving behind some legislation. The civil service and the Executive have an obligation to give us some assurance that there are processes and protocols that guarantee that, if the Scottish Parliament authorises a financial memorandum, viewing it as a reasonable best guess of what is to come, there is an expectation that the expenditure will be in line with that best guess.

I am deeply dissatisfied with the permanent secretary's response and wholly supportive of the clerk's proposals. In my view, the Education (Additional Support for Learning) (Scotland) Act 2004 is a good choice if we are looking to test this area.

Dr Murray: Like others, I was surprised by the communication from the permanent secretary. Do we have any idea of when the internal guidance was issued with regard to financial memoranda? The permanent secretary makes great play of the fact that—

The Convener: I think that we approved it in 2003 and updated it in 2004.

Dr Murray: The permanent secretary talks about

"the putting in place of our internal guidance",

as if the guidance had come from the civil service.

The Convener: The guidance is internal guidance for the civil service. However, it comes from our dissatisfaction with the practices that had been in operation. The Finance Committee in the first session of the Parliament started to examine the issue of financial memoranda because it felt that there was a serious issue to do with matters not being properly addressed. That committee's legacy paper suggested that there should be a systematic way of dealing with these things. The present committee adopted that approach and refined our view in 2004, putting more stringent requirements on the process.

I have to say that, at least once since then, I have been to the Minister for Parliamentary Business to highlight complaints about financial memoranda that have not been properly drawn.

With regard to the issue of bill teams coming and going, I suggest that we should require accountable officers or departmental heads—rather than the head of a bill team—to sign off financial memoranda. That would give the documents a higher status and would imply a greater degree of ownership within the civil service.

Ms Wendy Alexander (Paisley North) (Lab): I agree whole-heartedly with that.

In paragraph 16 of the clerk's paper, two recommendations relate to the issue of financial memoranda. I have no objection to the first, which is to do with holding an evidence-taking session on the cost of the implementation of the Education (Additional Support for Learning) (Scotland) Act 2004. However, the issues that emerge in the paper are sufficiently systemic that we should add a few other conclusions, one of which is the suggestion that the convener just made. I agree that having accountable officers sign off financial memoranda would be a quick and effective mechanism.

Further, we should write to the Audit Committee. As we have said before, there is a fluidity to the issues, when considered in retrospect, which means that they cross the boundaries between this committee and the Audit Committee. That will become more significant after May, when there will be a more stringent financial climate with regard to the question of which committee's job it is to look back at matters. We should alert the Audit Committee at an official level—clerk to clerk—that there should be a discussion about respective responsibilities.

We should also write to Audit Scotland, which considers many areas, and ask it whether the proposals represent best practice and, if not, what might. The complacency is extraordinary. The financial memoranda scrutiny process was originally proposed to the Parliament by the

financial issues advisory group. A couple of people in Scotland who specialise in that area—I am thinking particularly of Irvine Lapsley—have testified to the committee. We could write to them with the same questions that we ask Audit Scotland.

The paper's suggestion that this is an area in which we might want to commission further work after May is wholly appropriate. However, prior to May, as I said, we ought to alert the Audit Committee, ask Audit Scotland whether the proposals represent best practice and what suggestions it might have, and perhaps invite the views of one or two experts in this field in Scotland. That would give the committee a better basis for establishing what research work might be appropriate post-May 2007.

Dr Murray: I return to the point that I was trying to make earlier. If the guidance came in in 2004, the permanent secretary is, in a sense, saying that there is no point in any post-legislative scrutiny of anything at the moment because an act has to have been in force for at least two years for a proper comparison to be made. According to him, there is no way in which we can consider anything.

The Convener: No. Anything before 2004—

Dr Murray: Yes, but for comparison purposes, an act has to have been in force for at least two years. We are saying that we would like to use an act that has been in force for two years so that we can properly track how it has been implemented.

The Convener: The Education (Additional Support for Learning) (Scotland) Act 2004 has been chosen because it meets the criteria.

Dr Murray: But it does not meet the permanent secretary's criteria. He argues:

"Almost all of the FMs suggested to the Committee for the comparing of estimated and actual costs predate our first Finance Guidance Note".

The Convener: But the 2004 act does not. It is within the existing—

Dr Murray: It was passed in 2004, but presumably the financial memorandum was drawn up before 2004. It took up the best part of the first year of this session to get it through the Education Committee, which started considering it in 2003.

The Convener: Perhaps Susan Duffy can clarify the position.

Dr Murray: I do not accept the permanent secretary's statement anyway.

Susan Duffy (Clerk): As far as we are aware, the Executive's internal guidance—albeit that it is not the updated version—was in place at the time that the Education (Additional Support for

Learning) (Scotland) Bill was being considered by the Finance Committee.

Dr Murray: So it ought to have been. The financial memorandum ought to have been drawn up under that guidance.

Susan Duffy: We will double-check the position, but that is my understanding. That is the basis on which the Education (Additional Support for Learning) (Scotland) Act 2004 was chosen.

Dr Murray: This is not acceptable. The implication is that nothing was in place and that financial memoranda came out of a hat before the guidance was in place. I still think that it is relevant for us to consider that point.

In addition—with my other hat on—the Education Committee wanted to do some post-legislative scrutiny of the 2004 act, but that has not been possible so far because we have had a great deal of other legislation to consider. It might be quite helpful for the Finance Committee to do some work on it.

The Convener: To pick up that point and to return to Wendy Alexander's point, in 2001 the previous Finance Committee started to look at financial memoranda and requested that they be prepared much more systematically. In 2002, we had a session with Irvine Lapsley, Bob Black and others to talk about how we would take forward financial memoranda. Rather than write to those people as a one-off exercise, it might be sensible to consider involving some of them in another informal seminar, to take a snapshot three or four years on from our previous consideration of the issue and to establish whether we can force the procedure to be tightened up. The argument about pushing the issue up to accountable officers is probably the best way of taking it forward and ensuring that we do not get responses like the one that we have received from the permanent secretary.

It is profoundly unsatisfactory to be told that financial assessments from more than two years ago cannot be considered. That is not acceptable. On big issues and major policy initiatives, such as free personal care, we must be able to consider whether the financial projections were realistic. That should be part of our job and the Audit Committee's job.

11:15

Jim Mather: It would be sensible to introduce a standard post-implementation process, which in essence would repeat the process for the production of the financial memorandum but would describe reality. A report should be produced in every case and signed off by the accountable officer who triggered the process. The Finance

Committee or the Audit Committee would consider a random sample of such reports every year. Such an approach would oblige people to do the job more thoroughly—if they did not do so, they would risk exposure.

The Convener: I suggest that we take up the recommendations in the briefing paper to hold an evidence session on the Education (Additional Support for Learning) (Scotland) Act 2004 and to write to the convener of the Education Committee to alert that committee to the evidence session. In addition, we should write to the Minister for Finance and Public Service Reform and the permanent secretary to suggest that financial memoranda should be signed off by accountable officers or senior officials and that we enter into exploratory discussions with Executive officials about the scrutiny of public body reviews.

I float another idea: we could suggest to the Audit Committee that we hold a joint seminar at which we address the issues. We could invite people such as Robert Black, Irvine Lapsley and others who have been involved. Members of both committees need a proper system and we should aim to include the matter in our legacy paper, so that future committees can operate the new system.

Mr Swinney: I support the approach that you have set out, but we should also convey to the permanent secretary our dissatisfaction with his response. I do not know whether my suggestion puts members in a difficult position, but the response does not give me much confidence in the process over which the permanent secretary presides.

Elaine Murray said that if we follow the logic of the permanent secretary's response we cannot have a clue about whether costs are on target for legislation that predated the internal guidance on financial memoranda. We should consider that in the context of free personal care for the elderly, which the convener mentioned. The Health Committee's care inquiry was based on post-legislative scrutiny of the Community Care and Health (Scotland) Act 2002, estimates of the cost of implementation of which were in the financial memorandum to the Community Care and Health (Scotland) Bill. During the debate in the Parliament on the Health Committee's inquiry, ministers told us that the policy is on track and that the financial commitments have been delivered. However, the permanent secretary's response suggests that the financial memorandum was produced at a time when the standard of financial information provided was not particularly high. What on earth are we supposed to make of that?

The Convener: I take it that the committee agrees to follow the recommendations that I set out.

Mr Andrew Arbuckle (Mid Scotland and Fife)

(LD): I agree with the recommendations that have been made, but on a small, practical point in relation to the first recommendation in the clerk's paper, would it be productive to call witnesses from a health board and a local education authority in the same area, or should we call witnesses from different parts of the country, which operate different systems? If the witnesses come from the same area we will be able to ascertain whether there are gaps or common understandings and how costs are shared—we would have something against which to compare the evidence.

The Convener: I suggest that we let the clerks consider issues to do with the selection of witnesses. The clerks will come back to us.

Under agenda item 3, we are to consider correspondence from the Procedures Committee on a proposed change to standing orders with regard to Scottish statutory instruments. The clerks have produced a note for us on that. As members can see from that note, it is likely

“that this change would have little or no impact on the Committee.”

Unless anyone has any comments to make, I propose that we do not need to submit any views to the Procedures Committee, and that we simply note the correspondence. Do members agree to that?

Members indicated agreement.

Commissioner for Older People (Scotland) Bill: Financial Memorandum

11:20

The Convener: The committee will now take evidence on the financial memorandum to the Commissioner for Older People (Scotland) Bill. The committee decided to adopt level 2 scrutiny for the bill, which involves taking written evidence from the Scottish Parliamentary Corporate Body, which is the body on which costs would fall. Today, we will take oral evidence from the member in charge of the bill, Alex Neil, and from David Cullum and Claire Menzies Smith, the clerk team leader and senior assistant clerk with the non-Executive bills unit. I welcome the member and his colleagues. Our normal procedure is to invite the member to make an opening statement and then to proceed to questions. Alex Neil has the floor.

Alex Neil (Central Scotland) (SNP): I will try to keep this fairly short so that members have the opportunity to ask questions. The background to the bill lies in the substantial growth in the number of old people—both the total number and as a percentage of the population; the increasing demands on service provision from that group in society; and the whole range of issues that need to be addressed with regard to that age group.

It is clear from the evidence that we have taken—we have been round the houses twice with evidence taking and consultation, because of the change in the rules about members' bills—that a range of organisations concerned with older people believe that there is a need for someone in the policy-making arena or the parliamentary field to take an overview of the older generation's requirements.

One of the main supporters of the bill is the British Geriatrics Society, which is the organisation of doctors who deal with geriatric patients. I was not really aware of many of the issues that the society has raised until I went to speak to its members.

At any one time, about 50 per cent of admissions to hospitals are of people of pensioner age. On average, about 70 per cent of all the beds that are occupied in the national health service are for people of pensioner age. Because of the way in which the health service is organised, from the testing of new pharmaceuticals through to the provision of hospital services, the multifaceted nature of care for older people is not recognised. I will give a practical illustration of that. When pharmaceutical companies test new pills, they first tend to test them on younger people—those under

the age of 70—and they usually test the medicine on its own. However, one thing peculiar to being old is the likelihood of being on four, five or six medicines at once. When medicines are tested, they are not tested against four or five other medicines that are being taken at the same time. That is a practical and important issue of the kind that an old persons commissioner could research and address. Any resulting measures would not necessarily require legislation; they might simply need a change in practice. In the case that I mentioned, the change in practice would come from the private sector, possibly leading to changes in the public sector.

There are many such examples. Some transport and housing issues particularly concern older people. Education and leisure are other areas that need to be properly researched in relation to old age. There is a continuing need to consider the impact of aging in our society. Until now, we have taken a fairly negative approach to aging. As a society, we need to take a much more positive approach, think about how we can utilise the massive asset of older people and allow them to contribute much more than they are sometimes allowed to do now.

The National Assembly for Wales has already established a commissioner for older people. He was appointed a few months ago—the post is now up and running. Much of my proposed legislation is based on the model that has been through the Westminster mill. As members know, Welsh legislation is passed not by the Welsh Assembly but by Westminster. In deciding how to draft the bill and how to tackle many issues, we referred to the Welsh precedent.

Obviously, people are concerned about the number of commissioners that are being created, but people are mainly concerned about the number that the Executive has appointed. As members know, the Parliament has five commissioners—there would be six if the bill is passed. I am conscious that we must ensure that we do not create a whole new industry of parliamentary commissioners.

When the committee was considering evidence for its accountability and governance report, David Cullum, Claire Menzies Smith and I spoke to the Parliament's legal people and others about the possibility of legislating for the remit in question but giving that remit to one of the existing commissioners. We found out that that was not a possibility for a whole host of legal and practical reasons. There is a debate to be had about the number of commissioners that we have, but the bill should not be a victim of that debate. The proposals are a separate, albeit allied, issue.

I agree with the committee that it is important that budgetary control of the commissioners

should be under the direction of the Scottish Parliament Corporate Body. It is incumbent on the SPCB to have overall financial control over the commissioners in order to encourage co-location and the effective use of public money and to get value for money. However, there is no doubt in my mind that there is a job to be done and that my proposals are the right way of doing that job. There must be a parliamentary commissioner rather than an Executive-appointed body for a whole host of reasons. My colleague Alex Salmond has committed a future Administration to implementing my proposals, but I hope to beat him in arranging for their implementation.

The Convener: I remind committee members that the Finance Committee's primary focus should be on the bill's financial memorandum rather than on policy issues, although I will probably allow a wee bit of latitude in that respect, given that the committee has been given background information on the issues.

Alex Neil said that he wants some of the issues that the committee has raised—particularly issues to do with financial accountability—to be taken on board. I am not sure that we would necessarily regard the financial control procedures relating to, for example, the proposed commissioner for human rights as necessarily the best model or the best practice to follow. Issues require to be discussed further, and I hope that there will be such discussion when the Parliament discusses our report in December. We think that the existing arrangements—which most people would accept have been very ad hoc—need to be significantly tidied up. Every commissioner has been created under a different mechanism, and the process needs to be rationalised.

I return to the core of the issue. Alex Neil said at the start of his remarks that old people are important. That is indisputable. The Parliament and other bodies must take old people's needs, interests and issues more seriously. However, rather than having a parliamentary commissioner, should parliamentary committees, Executive bodies and other agencies deal with older people in a different way? Why would having a parliamentary commissioner be the right answer to the problem of flagging up older people's needs more effectively?

11:30

Alex Neil: There are two aspects to that issue. First, the nature of the work—particularly the research work—that needs to be done is such that a parliamentary committee would find it difficult to carry it out. I mentioned an issue that the British Geriatrics Society has highlighted. To improve the testing of new pharmaceuticals or to find out how rounded provision for older people in our hospitals

could be better handled, a fair bit of research on best practice in this country and elsewhere would be required and work would have to be done with old people's organisations, the national health service and the pharmaceutical companies. A parliamentary committee would not be able to deal with that because it is, essentially, a research function. If there was a budget office in the Parliament—which is another innovation of which I would be supportive—it might be able to undertake some of that work, but there is no budget office and there is not likely to be one in the short term. The commissioner's work would start right at the basic need to research an issue or undertake surveys of opinion on the best way to tackle an issue. There is no body at the moment that is able to do that and take a panoramic view of old people's needs. The Scottish Commission for the Regulation of Care has a specialist role and local authorities have specialist roles—and different attitudes across the 32 areas. At a national level, nobody is looking at the broad picture for our older generation.

The second point is whether, given that there is a need for the function, it should be an Executive function or a parliamentary function. In this case, it must be a parliamentary function because one of the issues that came out loud and clear in the consultation—particularly in the responses from organisations for older people—was that, for the commissioner to have credibility, he had to be standalone and independent of Government rather than an agent of Government. As members know, there is already an older people's unit in the Scottish Executive Development Department. It fulfils a useful function, but it is curtailed by being inside the Executive, which determines its work. The office of the commissioner would be a much more independent organisation and, I hope, the source of much more original thinking. It would feed into the Parliament, because it is the Parliament that should set the policy framework throughout the country in such a way that we are able to achieve consensus.

The Convener: I will use the parallel example of disability. How would you counter the argument that the case for a parliamentary disability commissioner is as good as, or better than, the case for a commissioner for older people? How did you decide that what you propose is correct for older people but not for other groups?

I will push the disability argument a bit further. Part of what you argue for seems to be an older people's equivalent to the research capacity of the Strathclyde centre for disability research, which was set up some six or seven years ago and which co-ordinates disability research throughout Scotland. Would it be possible for an external agency whose main business is research to do a

significant part of what you propose for the commissioner for older people?

Alex Neil: The commissioner, using his budget, would probably buy in some research from university research departments and units; he would not necessarily do it all himself. The commissioner's function would not only be research, which would be only part of the function.

The Convener: That is what you started with, which is why I am throwing the subject back at you.

Alex Neil: Yes, I know. However, the proposal is not only about research: it is also about the total package of examining old people's issues, some of which will require research before any policy recommendations can be made and some of which will require much less research and will be more about trying to spread best practice. In that sense, the commissioner is not comparable to a research unit in a university.

Like us in Scotland, the United Kingdom Government is in the process of reorganising the commissions that address issues such as equal opportunities and race relations. There is an argument that disability and equal rights should be covered by a parliamentary commissioner or commission rather than a Government commission. Rather than justify placing the commissioner for older people in the parliamentary sphere instead of the Executive sphere, I will put the challenge the other way. Experience shows that it might be better for commissioners who are part of the UK Government structure or the Scottish Government structure to be parliamentary commissioners, because the issues that they tackle cut across parties, have much wider scope and are about the total policy framework—not just the Executive's policy, but the legislative framework in which we operate.

The Convener: I think that the committee has a different view, based on the work that it has done.

Derek Brownlee: Your introduction helped by answering some preliminary questions. Your policy memorandum suggests that the Welsh commissioner for older people is the only institution that is comparable to that which you propose. Would not it have been more sensible to wait until the Welsh commissioner had been up and running for a few years before assessing the proposed post's effectiveness and its likely cost? The remit in the bill is fairly fluid and is pretty much for the commissioner to decide.

Alex Neil: The commissioner would decide the work programme and the priorities, but the framework and the remit are not left up to the commissioner. The commissioner would have a clear remit, within which he would decide priorities in the work programme. He would do that in

discussion with parliamentarians, the Executive, older people's representatives and so on. That would not be done in isolation, because the bill contains a built-in requirement for the commissioner to consult widely on matters related to his work programme priorities.

If we were to wait five years to see how the Welsh commissioner operated, loads of issues that arose in the meantime would not be properly addressed. I have introduced the bill not because the Welsh are to have a commissioner, but because a commissioner is needed. In producing the bill, however, I referred to the Welsh example for good ideas; for example, one key question is whether the commissioner's responsibilities should become active in respect of people who have reached a specific age. We decided to follow Welsh practice on that for a host of reasons, which I am happy to explain.

Derek Brownlee: I did not want to suggest that you introduced the bill because the Welsh have a commissioner; I thought that the Welsh example might be a useful comparator. Am I right in saying that the only comparator that you have, given the lack of an international comparator, is Scotland's commissioner for children and young people, who has an advocacy role in addition to other roles?

Alex Neil: Undoubtedly, the children's commissioner closely parallels what we are trying to establish in the bill. I read every word of the convener's columns whenever they appear in *The Scotsman* and I note some of the criticisms that have been made by people who feel that the children's commissioner has strayed too much into the political arena. I would be happy to accept amendments at stage 2 if they were required, but if commissioners are to have credibility and to build consensus, it is important for them not to stray into the political arena and to be judicious in commenting and setting work priorities.

I am cognisant of the need to work with the Parliament and the Executive. The commissioner for older people would not be established to be a permanent critic of the Executive; that would not be its purpose. One irony is that for some commissioners who were established earlier and particularly for ombudsmen, the focus is on services that have gone wrong for individuals. The purpose of a commissioner such as I propose is to ensure that services are set up in a way that minimises the possibility of their going wrong or not being provided as they should be. I hope that the commissioner would have an impact on value for money, not just in what he or she delivered but in service provision across the board.

Derek Brownlee: That was a judicious and measured answer. I turn now to the detail of the underlying costs in the financial memorandum. You have given an indication of what you think the

staffing costs for the commissioner's office might be, but you have made it clear that that is not prescriptive. Am I correct in thinking that the additional costs of pensions, national insurance and so on still need to be added to those indicative costs? It does not look as if they have been included, but I may be wrong about that.

Alex Neil: Those costs are not included—they have been excluded on the basis of advice that we received during discussions with the Scottish Parliamentary Corporate Body about how the matter should be handled. The costings are transparent and we have included figures but—on the advice of the corporate body—they are not in the core budget.

There are two things about the proposal that are different from the arrangements for other commissioners. First, we have not built in a provision for a chief executive because we do not need a chief executive; the commissioner should be the chief executive. Secondly, we have deliberately built in co-location with another commissioner. It has to be said that the financial savings from co-location are pretty limited, but I think that it is important to send out the clear message that Parliament will try to save a few thousand pounds when it can.

Derek Brownlee: I understand the point that you are making about additional costs—it might be appropriate not to have them in the financial memorandum. Can you tell us roughly what additional costs would fall on the taxpayer?

Alex Neil: In total, I think that we would be talking about £1 million a year, once the commission was up and running.

Derek Brownlee: Would that include, for example, pension costs, even if that was not necessarily coming out of the budgets to which you refer?

Alex Neil: Yes. About 30 per cent of the costs are salary costs, and the rest are running costs, office costs, funding for marketing and promotion and so on. I think that we have provided a breakdown of that, but we will be happy to provide more information.

Derek Brownlee: You have provided a detailed breakdown, which is quite helpful.

I was also struck by the commissioner's proposed advocacy role. You make a comparison with the Scottish commissioner for children and young people, for which there was a lot of initial publicity to advertise the role and to promote awareness. Would the money for promotion that would encourage people to contact the commissioner for older people on other matters be better spent promoting take-up of council tax benefit among pensioners?

Alex Neil: Initially, the commissioner would obviously advocate his or her services and the fact that he or she exists. However, I expect that much of the marketing and promotion budget would be for identifying best practice in key areas. I return to the health service example and how old people, who dominate the hospital-patient population, are dealt with. It may well be that the commissioner would use some of the money to organise workshops, perhaps in co-operation with the British Geriatrics Society, to examine best practice, which could be done jointly with the health service. I do not envisage the commissioner operating in isolation. That would be a bad mistake, which is why there would be a statutory commitment for the commissioner to work in partnership with others.

We have used the words “marketing” and “promotion”, but the commission would not be in the same category as Kellogg’s Corn Flakes or a product of that nature. Some of what is done will be facilitation rather than marketing and promotion as we know it. Once the commission was up and running, it would not be primarily about promoting itself, but about promoting the issues that the commissioner had taken on. The commissioner, unlike the Scottish public services ombudsman, would not take up individual cases. It is important for the ombudsman to advertise to people in Inverness, Ullapool, Dumfries and right across Scotland, including the housing schemes in Glasgow and Edinburgh, that she is there, so there is a huge marketing and promotion job to be done to make people aware of what the ombudsman can do. However, because the commissioner would not deal with individual cases, such mass marketing would not be needed.

Derek Brownlee: You gave the example of guidelines on the testing of drugs and cited that as an area in which the impact of a commissioner might be desirable. If the commissioner were to be set up, surely to make a real difference he or she would have to interact with councils, health boards, charities, private companies and so on. If so, why in paragraphs 119 and 120 of the financial memorandum do you say that you do not anticipate any costs for local authorities and other bodies? If the commissioner is doing his or her job properly, there are bound to be additional costs.

11:45

Alex Neil: Costs will be primarily in time. Indeed, if the commissioner does his or her work properly, he or she might save local authorities a lot of money by spreading best practice on how to deal with older people. For example, I hope that the commissioner’s work might lead to increased value for money in local authorities’ very sheltered housing services.

The same point applies to all bills, no matter whether they have been introduced by the Executive or members. For example, when the Housing (Scotland) Bill was considered in the first session of Parliament, no one on the then Social Justice Committee noticed that the business plan contained no provision for the costs of second-stage transfer. We are now facing a potential black hole of £500 million. Of course, I do not expect that the same thing would happen if the commissioner for older people were established.

Derek Brownlee: I would be appalled to find such a black hole in this financial memorandum.

One correct answer that I thought I might tease out of you on the statements in paragraphs 119 and 120 is that although there might well be costs, it is very difficult at this point to foresee any that might arise. I think it unlikely that the commission will not, if it is to be effective, impose costs on local authorities and so on. You mentioned time, which is a very real cost.

Alex Neil: Again, it will depend on the commissioner’s work programme. I cannot sit here and say definitely that once the commission is into, say, year three or year four of operation it will not be engaged in a project that a local authority will want to put money into. That is well beyond the reasonable requirements of any financial memorandum.

Derek Brownlee: There is also the question of monitoring the budget. At the beginning, you made helpful remarks about the need for value for money. However, as that will place additional requirements on the Scottish Parliamentary Corporate Body, should not the financial memorandum set out provision for additional costs that the SPCB incurs in managing the budget and in ensuring that value for money is delivered?

Alex Neil: No—those costs are built in. I do not think that the corporate body will have to take on any additional staff to look after the commissioner. Given that, last year, Parliament’s running cost was £110 million—or £60 million; I suppose that it depends on what the building brings in—the commissioner’s £1 million budget would be a very small percentage of the overall budget. It is very much what people in an economics class would call a marginal issue.

Mr Arbuckle: How did you decide on the proposed body’s staff structure and numbers?

Alex Neil: We decided on those matters after consulting the SPCB and examining existing commissioners here and further afield; there is now quite a range of such organisations. With regard to staffing, the closest parallel is probably the Scottish commissioner for children and young people, although I point out that our commissioner would have far fewer staff. We also considered the

Welsh example and the Scottish human rights commission. After thinking about the commissioner's remit and proposed work programme, we felt that 10 staff would be a reasonable complement. Moreover, because we propose to co-locate the commissioner with another one, we will save money by not having to staff a separate reception facility.

Mr Arbuckle: The commissioner's workload could, however, be twice what you have estimated.

Alex Neil: That is possible, but his or her workload will be the subject of budgetary constraints. That is why I have made it absolutely clear that the SPCB should decide and control the budget. As with any organisation, the commissioner will have to work within that budget. As a result, budgetary control by the SPCB, which the convener mentioned earlier, is essential not just for this commissioner but for all commissioners.

Mr Arbuckle: Just out of interest, how many respondents to the consultation indicated that the commissioner would mean additional public sector expenditure?

Alex Neil: None of them—in fact, many organisations such as Help the Aged, Age Concern and the Scottish Pensioners Forum, as well as a range of other bodies including COSLA, believe that the creation of a commissioner for older people would save them time. The existence of a focus point would mean that they would not need to knock on many of the doors that they have to knock on at the moment, and would be able to use the commissioner as a conduit for policy discussions with Parliament. Most organisations that were consulted believe that far from taking more time or costing more money, a one-door approach to Parliament's consideration of older people's issues would save time and money. I think that they are right.

Mr Arbuckle: The breakdown of the projected budget for the commissioner shows that more than half the total expenditure would go on staff costs. If additional costs such as office costs are taken into account, very little is left to spend on operating the services that the commissioner would provide.

Alex Neil: The staff costs would never go above 30 per cent of the total expenditure.

Mr Arbuckle: They would, as the year 2 figures that are given on page 18 of the financial memorandum show.

Alex Neil: The staff costs would be slightly above the level that I suggested, but it is a labour-intensive business. The commissioner and staff would have to have the necessary experience and knowledge. I probably should not say this now that

the new age-discrimination legislation has come in, but I doubt whether a person in his or her 20s or even someone as young as I am would have the necessary experience to do the job without requiring a long learning curve. You get what you pay for. The work of Parliament is labour intensive—a high percentage of its total costs go on MSPs' salaries and expenses. That is the nature of the business.

Mr Arbuckle: Are you suggesting that the commissioner and his staff would be older people?

Alex Neil: No, but we should not rule that out because to do so would send out entirely the wrong message. Devolution has addressed the absurd situation that used to exist, whereby a person over 65 would not be considered for appointment to a quango. I am talking not about quangos that deal with issues to do with older people, but about bodies such as Scottish Enterprise, which could have benefited from the experience of older people. It is clear that the commissioner should have knowledge and experience of, and a track record in, dealing with the issues with which they would be faced.

We should note that if the expenditure on the other items was increased, the staff costs would fall as a percentage.

Mr Arbuckle: Yes.

Mark Ballard (Lothians) (Green): As you are aware, the Finance Committee has been discussing the right relationship between the Finance Committee and the SPCB as regards budget, in relation to both existing commissioners and possible new commissioners. You have said several times that you would like the budget of the commissioner for older people to be controlled by the corporate body. With previous legislation, the committee has identified a lack of clarity about what such control amounts to in practice. Will you take us through how you envisage the controlled direction that you talked about working in practice?

Alex Neil: It is not for me to solve the general problems of the relationships that exist between the Finance Committee and the corporate body and between the corporate body and all its employees. The proposed commissioner would be covered by the agreed framework; the committee is considering what that framework should look like in the future.

It is vital that the budgets of all commissioners whose budgets are part of the corporate body's budget be firmly under the control of the corporate body and be part and parcel of the budgeting process; they should not be determined unilaterally by commissioners. The Finance Committee has the role of deciding how much money is available to the corporate body for running Parliament. I presume that as part of that

process, each year the corporate body puts to the committee a set of budgetary proposals, which include the estimated costs of the various commissioners for the coming years. It is then for the committee to decide how much money to allocate to the corporate body and for the corporate body to manage the budget that it is given. That is my understanding of the process.

Mark Ballard: I am not sure that it is for the Finance Committee to decide how much money the corporate body receives.

The Convener: Ultimately, Parliament decides that on a recommendation from the Executive, although we make a submission.

Mark Ballard: If there was disagreement on budget levels between a commissioner for older people and the corporate body, who would ultimately take the decision?

Alex Neil: It would have to be the corporate body—there is no question about that—which is answerable to Parliament.

Mark Ballard: If there was such a disagreement on not the total budget heading but the spending within it, who would take the decision?

Alex Neil: I would hope that we would not get into such an antagonistic situation, but at the end of the day the corporate body is responsible to Parliament for expenditure of public money. The corporate body must satisfy itself that the money is being spent, first as Parliament designated and, secondly, in a way that maximises value for money. As such, the corporate body must reign supreme, but it must do so with wisdom and tact and by ensuring that the role and objectives of the commission and the legislation that sets it up are not undermined.

Mark Ballard: I am sure that the corporate body would operate in that way, but paragraph 112 of the policy memorandum says:

“The Commissioner will need to balance how much resources in any year are devoted to carrying out investigations and how much to the Commissioner’s role in awareness raising and promotional activities.”

As you will know, one question that the committee had for the commissioner for children and young people concerned the amount that she had chosen to spend on promotional activities. Judging by what you just said, the commissioner would need to strike a balance, but if the corporate body or even the Finance Committee disagreed, they would have the power to alter the balance. Ultimately, it would not be the commissioner’s but the corporate body’s decision.

Alex Neil: It must be the corporate body’s decision, but it has to be based on available information and on the request by the commissioner. As I understand it—and as is the

case for the other commissioners—the normal process would be for the commissioner to put to the corporate body a proposal on how much money was needed and how it was intended that it would be spent under broad headings. The corporate body would consider the proposal and make the final decision on the totality and broad headings. Obviously, one would anticipate some possibility for on-going virement between the headings, but in the end the corporate body is responsible for the taxpayer’s money, so it would have the final say. I would be surprised if the Finance Committee got into the level of detail for the corporate body’s budget, but that is between the committee and corporate body.

Mark Ballard: I am asking these questions because, to some extent, we did that with the closest parallel commissioner at the last round. If your argument is that it would be the corporate body rather than the commissioner that ultimately decided the balance between investigation and awareness raising and promotion, how would that impact on the commissioner’s independence—especially the perceived independence—which you stressed earlier as being the reason for having a parliamentary commissioner rather than an Executive officer?

Alex Neil: I imagine that if it got to that stage—it is an unlikely hypothetical situation—there would also be input from other committees; for example, the Communities Committee may get involved, or Parliament might have to set up an old people’s committee. We do not know how Parliament, as opposed to the responsibilities of the corporate body, would oversee the commissioners’ policy work. There is a debate to be had about that, on which I hope the Procedures Committee will come up with an acceptable set of proposals.

The policy issues would affect the commissioner for older people, but they should not be determined by the needs of a single commissioner. They are general issues about how we handle all the commissioners. We should not handle the commissioner for older people any differently from how we handle the other commissioners. My view is that, as well as being responsible for budget and strategic plans to the corporate body, each commissioner should report on its policy work to a committee of Parliament.

The logical committee for Parliament’s scrutiny of the work of a commissioner for older people would be the Communities Committee, which should input into setting priorities for the commissioner’s work programme. At the end of the day, it is the commissioner who proposes and disposes, but they have to do that within the budgetary constraints and guidelines that are set by the corporate body. If things were to become heated, a committee of the whole Parliament could

be convened to take the final decision on a dispute. However, if that were to happen, it would indicate a breakdown in the corporate body's management of the situation.

12:00

Mark Ballard: I said that because, in the Commissioner for Children and Young People (Scotland) Act 2003, it is clear that

"The Commissioner is not ... subject to the direction or control of ... any member of the Parliament ... the Scottish Executive; or ... the Parliamentary corporation."

Your proposal is somewhat different. If, as you suggested, a communications breakdown occurred, would not the commissioner ultimately have to take direction from the Parliament?

Alex Neil: No, we are talking about the limited area of the budget. Obviously, the Commissioner for Children and Young People (Scotland) Act 2003 is now some three years old. We are further down the road; we have more experience of commissioners and how to manage them. If we detailed exactly what the commissioner must do or if we used the budget to undermine the commissioner's remit, we would defeat entirely the point of having an independent commissioner for older people. At the end of the day, the Parliament elects the corporate body to undertake its wishes, which are both budgetary and policy in nature. Obviously, the corporate body must reconcile the two.

The Convener: If I may, I will test you with an example that is not entirely hypothetical. The children's commissioner has announced the development of a new award: the Scotland's children's choice award. The SCCYP says that the award will give

"youngsters from across the country the chance to acknowledge the adults in their lives who they feel have made a special contribution to their development by respecting their rights ... The award could go to ... A teacher who has helped a pupil through a difficult time ... police officer who has helped set up a community group ... parent who helps a child with a disability access support ... journalist who writes positive articles about young people".

Would it be appropriate for the commissioner for older people to put in place a similar type of award?

Alex Neil: We are getting into policy issues; the question is not strictly a financial one. Like everyone else, I have my views on some of the priorities that some of the other commissioners have set. I assume that the purpose of the project is to raise awareness and that an evaluation will have to be done of whether the award meets that aim. Commissioners must strike a proper balance between doing what they set out to achieve—and getting consensus on that—and maintaining their

public profile. They need to ensure that pursuit of the latter does not undermine their ability to obtain support for what they are trying to do.

I have some reservations about the wisdom of the children's commissioner investigating private finance initiative schemes. That is not because I am a defender of PFI schemes—far from it—but because of the potential for the commissioner to stray from her remit. If members look at the *Official Report* of the debates on the Commissioner for Children and Young People (Scotland) Bill, they will see that those who framed the legislation did not view such investigations as a priority.

At the end of the day, we have learned the lessons. In the bill, we have made it clear where the exceptions to the commissioner's independence lie—we have listed them. We have done so to get a better balance between the independence of the commissioner and the need for accountability. Indeed, the commissioner should not stray at all from the remit that is laid down in the bill.

The Convener: Okay. So, no trophies.

Alex Neil: I have never been one for trophies, mainly because I have never won any.

Jim Mather: Good afternoon, Alex. I have been on the Finance Committee for three and a half years and I am always worried about the prospect of one-way financial traffic. Has there been any attempt to quantify the potential overall positive effect that the bill could have and the financial impact of improved services; a higher incidence of paid and voluntary work into old age; increased levels of self-sufficiency; lower occupancy in hospitals, nursing homes and so on; and an overall reduction in medication costs as people have a better balanced life? The potential financial benefits could screw down the budgets of other budget holders.

Alex Neil: One good example is that the British Geriatrics Society has done detailed work on the savings to the health service of having better profiling of the introduction of new pharmaceuticals. However, there are problems with trying to quantify to that level of detail. First, there is the cost. Secondly, there is a lack of detailed financial information—each project would require a PhD on it. Thirdly, such analysis depends on the work priorities of the commissioner.

However, on the general, underlying theme of your question, I believe that, for £1 million a year, the commissioner could provide substantial value for money. They could be instrumental in spreading best practice in some of the examples that I have given, which would lead to financial savings or substantially improved value for money both in the public sector and, in some cases, in the

private sector. I think that we would get a good bang for our buck, but it is difficult to be precise about the number of bangs and the number of bucks.

Jim Mather: It interests me because I see the possibility of exporting the statistical research costs to the likes of the NHS, which is probably monitoring the situation just now anyway, and the Inland Revenue, which should be able to tell us how many people over retirement age are still in work, and so on.

Alex Neil: My view is that, once the commissioners have been up and running for, say, five years, the Parliament—it would be a matter primarily for the corporate body and the Finance Committee—should undertake a piece of work to evaluate their impact against their original remit to determine whether they have made a positive contribution. When we pass legislation, we should evaluate the results. I would like all the commissioners to be evaluated after five years.

The office of the Scottish Public Services Ombudsman appears to be grossly underresourced for the workload that it has. I know from the 20 or 30 inquiries that I have pursued with it that it is taking up to a year to do investigations. That defeats the purpose of the ombudsman's remit and is a big issue to be addressed. Given that the ombudsman has been up and running as a unified service for three or four years, now seems to be the time to do a discrete piece of work to evaluate properly whether it has too wide a remit or needs more resources. Similarly, I would hope that, once the commissioner for older people had been up and running for four or five years, we would evaluate its work systematically, through the Finance Committee and the corporate body, to determine the net economic and social impacts of the body. If it was not good enough, we could change it; if we thought that it had been a waste of money, we could admit that we had tried and it had not worked.

Jim Mather: You make a good case. Let us return to your proposition and the statistics that you cited. You said that 50 per cent of hospital admissions were of older people; that 70 per cent of hospital bed occupants were older people; and that certain people take up to four or five medicines in later life. Are not those statistics on which we could seek to improve, year on year?

Alex Neil: Absolutely. Hospital admissions are one issue. When an old person breaks a leg, they are taken into hospital and get their broken leg attended to but not their hernia or stomach complaint. They then have to leave the ward that they were in and go back into a different ward in the hospital two months later to get their hernia or stomach complaint treated, instead of everything

being done at once. That is the kind of area that needs to be addressed. The commissioner would consider the situation from an older person's point of view—from the consumer's point of view—and, working with the health service, could improve the level of service.

The Convener: There are no further questions. I thank Alex Neil and his colleagues for coming along. When we complete our report, it will go to the lead committee on the bill, which is the Communities Committee.

Alex Neil: I am hoping that the lead committee will be changed to the Equal Opportunities Committee, as the Communities Committee is overloaded with work. I thank the committee for that session. I enjoyed it.

Scottish Executive Budget Review Group

12:11

The Convener: The final item on our agenda relates to the budget review group. John Swinney flagged the matter up for discussion in the committee. I invite him to set out the issue.

Mr Swinney: Members have been supplied with copies of an e-mail that I sent to the clerk last week in connection with the Scottish Executive budget review—the Howat review. From the e-mail, members will see the description of the task that is involved, the remit of the review and the process that is to be undertaken. At the end of the document, members will also note the following reference to the Finance Committee:

“This is an exercise for Scottish Ministers. However, in its role of scrutinising the Scottish Budget process, it is possible that the Scottish Parliament’s Finance Committee may choose to seek evidence on the report from the reviewers.”

I invite the committee to consider how we should deal with that part of the explanation of the group’s remit.

Members will be familiar with the history of the issue. At our meeting in Elgin about a year ago, we were given a commitment that the report would be published. That was reiterated in the chamber on at least one occasion by the Minister for Finance and Public Service Reform. In the past few weeks, we have been advised that the Executive does not intend to publish the report until after the conclusion of the spending review in September 2007. That is obviously a change of position. The committee was led to believe one thing and we are now being asked to deal with another.

There are implications of our not having oversight of the review at an earlier stage. Our adviser has said that its publication date in 2007 will be after most of the key decisions have been made, so we will have the report after the event rather than during the process. A commitment to publish was given by the Minister for Finance and Public Service Reform in November 2005. Our not getting the report is inconsistent with the open and transparent approach to the budget process that the committee has asserted, for years, should be followed.

My proposal is that the committee should agree to invite representatives of the Howat review group to give evidence on the contents of their report on the Scottish Executive budget at a time that is convenient, to be arranged by the clerks.

The Convener: Will you clarify your proposal, John? I understand that the Scottish National Party has chosen the budget review as a topic for debate on Thursday, but no motion has been published yet. Can you enlighten us as to the motion that will be under consideration? That might inform our debate here.

Mr Swinney: It is likely that the motion to be debated will request that the Executive publish the Howat review. However, as you will appreciate, I am not the one who will determine the final contents of the motion.

The Convener: The difficulty that we face is that any decision that we make today may be superseded by a decision that is made on Thursday. Therefore, it might be better for us to defer consideration of John Swinney’s proposition until such time as Parliament has debated and voted on the motion that is likely to be lodged. That would seem to me to be the logical way of dealing with the matter.

12:15

Derek Brownlee: I think that John Swinney’s suggestion has merit regardless of the outcome on Thursday. There are two conceivable outcomes of Thursday’s debate or of the Executive taking unilateral action: either the report will be published or it will not. If the report is published, no doubt it would be useful to seek clarification from the group that prepared it and, if the report is not published, our scrutiny of the budget would be better if we were able to have access to some of the information that the Howat committee acquired as it prepared the report. Proper parliamentary scrutiny of public spending in Scotland can only be enhanced by the proposal.

Mark Ballard: I am inclined to agree with Derek Brownlee and John Swinney. There are two separate issues. One is to do with the publication of a report that, according to the milestones, should have been completed in February 2006; the other is to do with the Finance Committee taking evidence from the members of the review group. Given that those issues are separate, I do not see that there is an overlap between the decision that Parliament might take on Thursday to request publication of the report and the Finance Committee’s right—which is laid down in the remit—to seek evidence on the report from the reviewers. No doubt, they will have issues that they are not able to discuss, but I think that it is appropriate for us to take up the right that is set out in the document that John Swinney e-mailed us.

Mr Arbuckle: I think that your assessment is correct, convener. It would appear that we are trying to go down two tracks at one time. Mark

Ballard has indicated that he sees the two issues as being separate, but I do not know how he can say that, given that the SNP has not yet lodged its motion and he does not yet know its terms.

Jim Mather: I agree with John Swinney, of course. I am keen for any available evidence that might help us to scrutinise the process to be made available to us. There is a clear sequence to be followed and John Swinney has taken the first opportunity to bring the issue to the committee. It is incumbent on us to make a decision on the matter. Later this week, there will be a debate on the matter and, clearly, a decision that is made by this committee would inform the motion that is debated. It would be a sad day if the Finance Committee were to kick the matter into the long grass and postpone the process.

Dr Murray: I do not think that taking a decision next week instead of this week would be kicking the matter into the long grass. If I were to be cynical, I could say that the proposal is an attempt to bounce members of the Finance Committee into making particular decisions now that might be embarrassing in a couple of days' time. I would not suggest that that is happening, but it is possible that it might be.

I have a practical question about possible constraints on what the reviewers are able to tell us in view of the report not having been published. Given that they are paid by the Executive, will they be able to discuss the review with us? In calling them, would we be putting them in a difficult position? People might prefer to put the Executive in a difficult position because it has not taken the opportunity to publish the report.

The Convener: My proposal would be to take evidence from the members of the Howat committee once their report has been published. The decision on whether or not to publish it is presumably one not for this committee but for ministers, bearing in mind the will of the Parliament when it is tested on Thursday. I suggest that we take evidence from the reviewers when the report is published. I am happy to make that a formal proposal. If John Swinney wishes to put an alternative proposal, we might just need to go to a vote.

Mr Swinney: I will respond to Elaine Murray, who asked whether the people behind the report will be able to discuss it. I am not in a position to judge that, but the Howat committee was given a remit by the Executive. I presume that the individual reviewers, when they are invited by the Finance Committee to give evidence, will be in a position to respond to that request. I have no clearer statement on that than what I got from the Scottish Executive in the description of tasks that is contained in the paper that I have in front of me. It is clear that, whenever that paper was written,

the Government's view was that there should be open scrutiny of what was going on.

That brings us to the central question of whether this exercise should be informing the budget process. The Government has stated:

"in its role of scrutinising the Scottish Budget process, it is possible that the Scottish Parliament's Finance Committee may choose to seek evidence on the report from the reviewers."

Therefore, the Government obviously considered that the matter would have some impact on the Finance Committee's work in scrutinising the budget process.

I think that it is entirely natural that the committee should ask for the information to be made available to it in time to inform the budget process. My proposal assumes that the committee gets access to the necessary information to allow it to question and scrutinise those who have been involved in the Howat review and to make a decision in the light of that.

The convener has made a counter-proposal about taking our lead from the Parliament. The Finance Committee is involved in an on-going, detailed set of discussions with the Executive about the scrutiny of public finances. We are the ones who get our hands dirty investigating such issues and the details of the budget. We are the ones who were told by Tom McCabe that he would make the review document available to us. It is entirely reasonable for us, when given the opportunity, to ask for the information to be published. We are the ones who have been told that it will not be published. For the matter suddenly to be deferred to a debate in Parliament, while we are the ones who have been in the mix on the whole issue, is a rather strange route to take.

The committee has been so active in pursuing the issue over a long period. My proposal, that the committee agrees to invite the Howat committee to give evidence on the contents of its report on the Scottish Executive budget, is entirely consistent with the long-standing interest that the committee has taken in the issue.

Dr Murray: I take John Swinney's point about what was said in the advert that the Scottish Executive put out. At the time, the report was expected to be published in February this year. I am sure that there is shared disappointment that that did not happen—there would have been a document on which we could have taken evidence. However, it would be difficult to indulge in some sort of fishing exercise with the people who were involved in the review group without the report having been published, which would put them in an awkward position. We would be trying to find out the information that we would have liked

to have been published, but the review group members would probably be constrained in some ways, as their conclusions will have not been made public.

The Convener: When the Howat committee's initial remit was published, the expectation was that the spending review year would be this year; in fact, it is next year. We must take account of the fact that the initial specification was written with the expectation that the spending review year would be 2006-07, rather than 2007-08.

Ms Alexander: If I were John Swinney, I might also have taken this route, but the point that Elaine Murray made is the overriding one. It would put the authors of or contributors to the report in a completely invidious position if we asked them to provide evidence to the committee before the report was published. That is discourteous and inappropriate. There is no precedent for a committee deciding to ask the authors of a report to give evidence to it because the report has not been published by those who commissioned it. If we can resolve the matter only through a vote, let us have one. There will be no hard feelings thereafter. People must make a judgment on the issue.

Mr Swinney: As Wendy Alexander knows, there is nothing discourteous about my intentions.

Ms Alexander: I appreciate that.

Mr Swinney: I know—that is beyond question. However, there is a duty on the Finance Committee to get to the nub of the issues that are at stake. Wendy Alexander said that there was no precedent for asking people to appear before committees when reports have not been published. I cite the Justice 1 Committee's summoning of the former deputy chief constable of Tayside police, James Mackay, to provide information on the so-called Mackay report, which had not been published. That is not a particularly happy example, because the Lord Advocate instructed Mr Mackay not to answer questions on the unpublished report. Anyone who observed that escapade will realise how inappropriate the Lord Advocate's decision was.

We are always being told about the importance of open and transparent government. Ministers published a document that stated that the committee would be entitled to take evidence on the report and that they intended to publish it. After failing to tell us that they had changed their mind—we read that in the newspapers—they are asking us to accept that the report does not matter and that we should wait not until a material point in the spending review but, as our professional adviser has told us, until most of the major decisions on the review have been taken. If we do not take

evidence on the report, we will miss an opportunity properly to scrutinise the Government.

The Convener: My proposal, which is for the committee to take evidence on the report once it has been published, will be the second proposition for the committee to consider. I invite John Swinney to clarify his proposition, so that it can be put to a vote first.

Mr Swinney: My proposition is, that the committee agrees to invite contributors to the Howat review to give evidence to the Finance Committee on the contents of their report on the Scottish Executive budget.

The Convener: The question is, that John Swinney's proposition be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Ballard, Mark (Lothians) (Green)
Brow nlee, Derek (South of Scotland) (Con)
Mather, Jim (Highlands and Islands) (SNP)
Swinney, Mr John (North Tayside) (SNP)

AGAINST

Alexander, Ms Wendy (Paisley North) (Lab)
Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)
McAveety, Mr Frank (Glasgow Shettleston) (Lab)
McNulty, Des (Clydebank and Milngavie) (Lab)
Murray, Dr Elaine (Dumfries) (Lab)

The Convener: The result of the division is: For 4, Against 5, Abstentions 0. The proposition is disagreed to. Therefore, is my proposition agreed to?

Members indicated agreement.

The Convener: The substantive position is that we will take evidence on the report once it has been published.

I remind members that our next meeting will take place in Dumfries on Monday. An e-mail has been circulated that shows the allocation of members to workshop groups. If members want to change round, it is up to them to swap with one another. We have been asked to think about who should chair each workshop, so I suggest that members speak to the people with whom they have been bracketed in the clerk's memo. I remind members that the fact that we have a day in Dumfries on Monday does not mean that there will be no meeting next Tuesday—unfortunately, there will.

Meeting closed at 12:29.

Members who would like a printed copy of the *Official Report* to be forwarded to them should give notice at the Document Supply Centre.

No proofs of the *Official Report* can be supplied. Members who want to suggest corrections for the archive edition should mark them clearly in the daily edition, and send it to the Official Report, Scottish Parliament, Edinburgh EH99 1SP. Suggested corrections in any other form cannot be accepted.

The deadline for corrections to this edition is:

Wednesday 8 November 2006

PRICES AND SUBSCRIPTION RATES

OFFICIAL REPORT daily editions

Single copies: £5.00

Meetings of the Parliament annual subscriptions: £350.00

The archive edition of the *Official Report* of meetings of the Parliament, written answers and public meetings of committees will be published on CD-ROM.

WRITTEN ANSWERS TO PARLIAMENTARY QUESTIONS weekly compilation

Single copies: £3.75

Annual subscriptions: £150.00

Standing orders will be accepted at Document Supply.

Published in Edinburgh by Astron and available from:

Blackwell's Bookshop

**53 South Bridge
Edinburgh EH1 1YS
0131 622 8222**

Blackwell's Bookshops:
243-244 High Holborn
London WC1 7DZ
Tel 020 7831 9501

All trade orders for Scottish Parliament documents should be placed through Blackwell's Edinburgh.

Blackwell's Scottish Parliament Documentation
Helpline may be able to assist with additional information on publications of or about the Scottish Parliament, their availability and cost:

Telephone orders and inquiries
0131 622 8283 or
0131 622 8258

Fax orders
0131 557 8149

E-mail orders
business.edinburgh@blackwell.co.uk

Subscriptions & Standing Orders
business.edinburgh@blackwell.co.uk

Scottish Parliament

RNID Typetalk calls welcome on
18001 0131 348 5000
Textphone 0845 270 0152

sp.info@scottish.parliament.uk

All documents are available on the Scottish Parliament website at:

www.scottish.parliament.uk

Accredited Agents
(see Yellow Pages)

and through good booksellers