

# **FINANCE COMMITTEE**

Tuesday 14 November 2006

Session 2

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## FINANCE COMMITTEE

### 28th 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:

Professor Arthur Midwinter (Adviser)

#### THE FOLLOWING GAVE EVIDENCE:

Brian Cole (Scottish Executive Justice Department)  
Rachel Gwyon (Scottish Prison Service)  
Ian Leitch (Scottish Parliament Directorate of Resources and Governance)  
Gery McLaughlin (Scottish Executive Justice Department)  
Eric Murch (Scottish Prison Service)  
Willie Pretswell (Scottish Prison Service)  
Nora Radcliffe MSP (Scottish Parliamentary Corporate Body)  
Jane Richardson (Scottish Executive Justice Department)  
John Scott MSP (Scottish Parliamentary Corporate Body)

#### CLERK TO THE COMMITTEE

Susan Duffy

#### SENIOR ASSISTANT CLERK

Rosalind Wheeler

#### ASSISTANT CLERK

Kristin Mitchell

#### LOCATION

Committee Room 2



# Scottish Parliament

## Finance Committee

*Tuesday 14 November 2006*

[THE CONVENER *opened the meeting at 10:06*]

### Budget Process 2007-08

**The Convener (Des McNulty):** Good morning, colleagues. I welcome everyone to the Finance Committee's 28<sup>th</sup> meeting of 2006. I also welcome the press, the public and our witnesses. I remind people, as I normally do, to switch off all pagers and mobile phones. We have received no apologies.

Under agenda item 1, the committee will take evidence from representatives of the Scottish Parliamentary Corporate Body on the SPCB's 2007-08 budget proposal. The SPCB's budget is top sliced from the Scottish consolidated fund and therefore we consider its budget bid as part of our scrutiny of the Executive's draft budget.

I welcome John Scott MSP and Nora Radcliffe MSP, who are members of the Scottish Parliamentary Corporate Body; Ian Leitch, who is the Scottish Parliament's director of resources and governance; and Derek Croll, who is the head of financial resources in the Scottish Parliament. Nora Radcliffe will lead off on the SPCB budget. We will hear her statement and ask questions on the SPCB budget. After that, we will hear from John Scott on the commissioners' budgets.

**Nora Radcliffe MSP (Scottish Parliamentary Corporate Body):** I thank the committee for allowing us to make some introductory remarks on the SPCB's budget submission for 2007-08. I will comment on the overall SPCB budget. John Scott has portfolio responsibility within the corporate body for commissioners and ombudsman. You will come to him later.

I am pleased to confirm that the total budget bid is within the previous indicative figures that were advised to the Finance Committee in November last year. Our proposed net revenue and capital expenditure budget submission for 2007-08 is £71.9 million excluding capital charges. It is set out in more detail in the schedules that are attached to the letter from the Presiding Officer and, as in previous years, we have highlighted comparisons with the current year's approved budget in schedule 3 to assist the committee in its scrutiny of our budget.

Members are aware that the 2007 Scottish Parliament election falls into the 2007-08 financial year. That has important consequences for our

proposed budget, as a new Parliament and a new corporate body may set different priorities with consequential impacts on the SPCB's budget. Based on our experience of the election in 2003, we recognise that there is a different pattern of expenditure in the first year of a new parliamentary session. Some costs are lower than in an average year; for example, committee travel and commissioned research are typically reduced in the early part of the year as new committees plan their work for the forthcoming term. In other areas—for example, the capital costs of equipment to set up new local offices—expenditure is higher. Our budget submission reflects those factors.

In particular, I draw your attention to the fact that the 2007-08 budget includes a specific provision of £1.2 million within our budgeted contingency in respect of resettlement and winding-up costs to take account of possible changes that may arise from the 2007 election. The actual costs will clearly depend on the results of the election and may therefore be significantly lower or higher. However, we believe that £1.2 million is a reasonable figure to use for budgetary purposes. Excluding the £1.2 million contingency, which is specific to next year's budget, the overall increase in expenditure compared with this year's approved budget is £1.7 million or 2.4 per cent.

As the Presiding Officer highlights in his letter, we have been very conscious of the need to protect the public purse in meeting the objectives that are set out in our management plan. In those areas in which we can directly control costs, the overall increase of 1.1 per cent is below the rate of inflation.

One of the Parliament's founding principles is to facilitate engagement with the people of Scotland. Our budget proposals reflect that principle in several ways. We have seen a fivefold increase in the number of events compared with the number of events in our interim accommodation. The events, which are typically sponsored by individual MSPs, are an important means of engagement and we anticipate continued growth in that area. The SPCB operates events in a way that allows equitable access for all organisations—big or small, voluntary or private. No charge is made for access to the accommodation, although any additional costs, such as those for catering, equipment hire and overtime, are passed on to the hosts.

We have changed the focus of the guided tours to provide more information on the Parliament and how it works. We consider the service important; accordingly, the SPCB provides a subsidy—of around £81,000, or 25 per cent of the cost—to allow the service to be provided at a reasonable

price. The price for the guided tours is £5 for adults and £3 for concessions.

We have sought to maximise the opportunities offered by the Parliament's public crèche and have successfully increased usage over the past six months. Accordingly, we have agreed to retain the crèche in its current format for the next financial year, with a budget of £153,000.

Staff pay of £22.3 million accounts for more than half of our controllable costs. We have maintained tight control over staff numbers and the overall total of full-time equivalent posts, including agency staff, is unchanged from the current level. Individual increases in some teams, such as those for visitor services and events, have been offset by reductions elsewhere in the organisation.

The percentage increase in the staff pay budget is 2.3 per cent higher than the cost-of-living increase, as a result both of progression through the incremental pay scale and of the full-year cost of posts not budgeted for a full year in 2006-07.

Property costs of £6.3 million show a slight decrease from the 2006-07 approved budget. The largest single component of property costs remains the rates bill of £3.4 million, which is essentially outside our direct control and has been extensively debated in previous years. Maintenance costs, both planned and reactive, account for £1 million, and the utilities of electricity, water and gas also account for £1 million.

We consider it prudent to provide a contingency of £1.7 million—excluding the specific election contingency that I mentioned earlier—to cover emergencies and to meet unexpected or unquantified new cost pressures. That is in line with best practice, and our experience to date reinforces the importance of maintaining such a reserve.

Finally, we have provided £1.6 million for capital expenditure in 2007-08, which is £1.4 million less than the 2006-07 budget. The amount of capital expenditure varies significantly from year to year depending on the timing of capital projects. It is expected to increase again in 2008-09 when the next major information technology refresh is expected.

That concludes my general remarks about the budget. John Scott will discuss the proposals for commissioners and ombudsmen later. I am happy to answer questions.

**The Convener:** Thank you. Do members have questions on the SPCB's budgets?

10:15

**Dr Elaine Murray (Dumfries) (Lab):** The letter from the Presiding Officer says that the SPCB is exerting considerable pressure to keep budgetary increases below the level of inflation. It also says that difficult decisions have had to be taken. Will you say a little more about the decisions that you had to take to achieve the below-inflation increase?

**Nora Radcliffe:** Each department had to produce a zero-based budget, which the management team went through with a red pen, stripping out everything that was not absolutely essential or, if it was not certain that it would happen in the current financial year, which could be put into contingency. With the Finance Committee's support, we did significant work on the commissioners and ombudsman budget, which we will discuss later. We have also kept a tight rein on our staffing numbers and have put any uncommitted and unquantified expenditure proposals into contingency. The total cost of such proposals, which referred to anything that might happen or that people might have wanted to do in the next financial year, was halved when placed in contingency, which has allowed us to keep a tight lid both on actual spend and on expectations.

**Dr Murray:** Does that mean that only the aspirational aspects of the budget have been put into contingency, or has anything that was done this year been cut out of next year's budget?

**Nora Radcliffe:** The aspirational elements have been placed in contingency, because I do not think that we are doing anything unnecessary. We have simply looked closely at things that we might have done or improvements that we might have made.

**Dr Murray:** The events budget has increased by almost 18 per cent. Events in the Parliament are very popular, and this venue is more popular than our previous venue. In your opening statement, you said that the costs of catering equipment and hire and staff overtime are passed on to those who host the events. That made me wonder about the additional costs that the Parliament has to bear.

**Nora Radcliffe:** Much of it comes down to volume. We are holding five times the number of events that we held in our interim accommodation, and the number increases year on year.

**Dr Murray:** But where is the Parliament making a loss on this? If, for example, the cost of staff overtime is passed on to those who host the events, is the Parliament meeting the cost of fuel or something else?

**Nora Radcliffe:** I would describe it not as a loss, but as the cost of support such as lighting and heating the public areas and keeping the building open in the evenings. Such expenditure is

legitimate, because it supports the Parliament's ethos of involving people in what we do and how we do it.

**Dr Murray:** So the expenditure meets the physical running costs of the building, not the costs of personnel.

**Nora Radcliffe:** Pretty much.

**Dr Murray:** It must have been quite difficult to estimate the proportion of the running costs that are attributable to, among other things, keeping the building open later.

**Nora Radcliffe:** In the early days, we did not quantify such matters. Since then, we have refined our approach more and more and we now extrapolate those costs from the general running costs to find out exactly how much events cost. As I said, some of the obvious extra costs are passed on, but we see these underlying costs as legitimate support to allow the Parliament to carry out its business.

**Dr Murray:** You explained that the contingency fund has increased because certain aspirational elements that might not happen have been put into it. Obviously, the £1.2 million contingency to cover winding-up costs for members who are not re-elected is quite a sensitive issue for many of us. You said that the estimate is reasonable, but what is it based on? How many of us might not be here in 2007?

**Nora Radcliffe:** The figure is based on turnover at the last election. We felt that it provided a reasonable starting point—although I say that with the proviso that the figure might be more or less. After all, that is what a contingency is for.

**Dr Murray:** Surely if, in the 2007 election, there is more churn in the system than you expect, the rest of the winding-up costs will be funded out of contingency. Will that not remove the capability to fund some of the more aspirational elements that we have been talking about?

**Nora Radcliffe:** It depends on the scale of the turnover. If it is massive, we will have to come back with a revised bid. However, we do not expect that to happen—touch wood; I imagine that that feeling is common around the room. If the turnover is the same as in the previous election, the contingency fund should cover it.

**The Convener:** On the events budget, is there a separate charging regime for events involving the voluntary sector and those that involve a private company?

**Nora Radcliffe:** It depends on the different sorts of event—

**The Convener:** You might want to pass the question on to Mr Leitch.

**Nora Radcliffe:** Events include the things that we do on Tuesday, Wednesday and Thursday evenings. If a group of people come in for an event that is sponsored by an MSP and there are fairly modest catering requirements, that is different from a large event, such as the business in the Parliament conference, for which we would look for external sponsorship. The answer depends on the scale and type of event.

**The Convener:** It would be interesting to know what regime is in place. You talked about the allocation of heating costs and staff overtime costs. Is there a cost allocation mechanism that assigns a percentage of the overhead costs to specific events? That would be a complex exercise.

**Nora Radcliffe:** I do not think that we charge that out, but it is useful for us to have a grasp of it. My colleagues might like to add to that.

**Ian Leitch (Scottish Parliament Directorate of Resources and Governance):** We are trying to find a more sophisticated method of costing our operations. Although the Parliament is, by its nature, political with a small p, it is nevertheless a business, and we are considering how we can cost our various activities, as distinct from the subsidy that goes in to support them.

The fundamental principle of the Parliament, which is always extolled, is its openness and accessibility. In relation to events and visitor numbers, there is always a balance to be struck between accessibility to the environment of the Parliament and the effective conduct of parliamentary business. As we get more sophisticated, we will look into that, and there will be policy options for the SPCB on what charge is appropriate for such things. The SPCB does not intend to offer commercial lets—for example, to someone who is holding an annual dinner and wants simply to book the Scottish Parliament as a venue. As you know, it was determined that events should be parliamentary functions that are connected to parliamentary activity, rather than the Scottish Parliament being considered simply as a prestigious venue for a dinner. The corporate body takes those issues into account.

**The Convener:** The next financial year will include the month of April, in which I suspect there will be fewer receptions and other events than usual because of the election. Has that been factored in?

**Nora Radcliffe:** It is a judgment call, is it not? You might say that, because people will come back in May refreshed and eager to go, they will hold even more receptions. Perhaps new members will want to invite people in even more assiduously than existing members do towards the

end of the four-year session. We might all be getting a little tired.

**The Convener:** It is certainly the case that, when we came to the new building, many members who had stridently opposed it conducted great masses of people around it. Some of us reflected on that with some interest. However, I would like to see some clearer information on the criteria against which events are put forward, on any differentiation between different types of organisations and the charging regime that applies to them, and on the costs that are taken into account in holding particular events. Those are legitimate questions and we hope that the SPCB might be able to give us greater clarity on them.

**Nora Radcliffe:** We will write to you about that and set out a bit more clearly the criteria that we employ in considering what events should be hosted here.

**The Convener:** We would welcome that.

You point out, rightly, that the increase in the SPCB's total budget requirement is 1.9 per cent, which is below inflation. However, if you exclude capital charges, over which you have no control, the increase is about 4.1 per cent. It is therefore not entirely correct to say that the increase in costs over which you have control has been held below inflation, is it?

**Nora Radcliffe:** It depends on how the budget is broken down. I think that the increase is slightly above inflation for the staff budget and slightly below in other budgets. That is the result of incremental pay increases and the fact that posts that were not 100 per cent accounted for in the previous year have been accounted for in this year. Such pressures have slightly increased the staff budget.

**The Convener:** Last year, you argued that the net increase in staff pay was below inflation as a result of a reduction in the number of fixed-term posts. This year, the number of full-time equivalent posts is unchanged. What are the main features on staff numbers and complements that emerged from the efficiency reviews that you have done?

**Nora Radcliffe:** The main feature is that the proportion of agency and fixed-term posts has decreased. There were transitional elements to do with moving into the Holyrood building, settling down and establishing what complement we needed, but we now know much more clearly how many staff are needed to run this place. Transitional arrangements to do with the move and its implications have ended. For example, much of the work to do with the project team and the building is finished.

**The Convener:** I have been a member of the Finance Committee for a long time, so I remember

arguments that were made in the past. It was argued that there would be a bulge in staff numbers because of the project's requirements and the move into this building, but it was expected that at the end of the process there would be no need for the same number of staff. However, your budget suggests that after that period there will be no reduction in staff numbers. Is that right? If it is, what is the explanation?

**Nora Radcliffe:** There has been a shift in emphasis. The profile has changed: staff numbers have gone down in relation to the transitional arrangements and they have gone up to enable us to deal with the number of visitors who come to the Parliament. I think that the increases have been mainly to do with dealing with visitors and security around visitors, as well as work with school parties and community outreach. The level is flat, but the profile has changed.

**Ian Leitch:** It is assumed that an efficiency review will lead to a reduction in staff numbers. However, there is an issue about the quality of information that is required and the quality of service that is expected, which must be paid for. For example, the information that we received from the finance office did not allow for effective decision making and costing—I mentioned costing earlier. An efficiency review of the finance office that was carried out by independent consultants a couple of years ago indicated a need for a higher professional level and more qualified accountants to do the job, to enable us to understand how to cost this place. That meant a net increase in the professional element in the finance office, the purpose of which was to provide a service to the business areas, so that they can know what their costs are. For example, the convener asked for information about differential costs and how they apply. We need people to work out such costs. That is an example of how the efficiency review dictated a higher level of staff need.

10:30

In addition, we are grappling with issues to do with the machinery at our disposal. As you know, we share the Scottish Executive accounting system model and for some time we have been studying whether that model is fit for purpose for the Parliament. To do that, we need the people, and we need to understand the business areas and their requirements. We have been gathering that information for the past 18 months and we will shortly be considering our options. Can we get more efficiency from the Scottish Executive accounting system through dialogue with the Scottish Executive? Can we make that system fit for our business purposes or is there another option? Those are questions that we have to consider, and they will cost, but we need to have a



greater understanding of our business needs and business areas. That will mean that, at times, we have to pay for more.

Based on last year's figure, the number of full-time equivalent staff has increased by one in comparison with the intention for next year. We make changes as people move, although there is little movement because we have low staff turnover; we are not in the position where we have to make people redundant. The Parliament is evolving. It has done only two sessions and we have to get the balance right. If the balance is for greater business services, we have to resource that to ensure that members of the Parliament and the public and communities that they all serve get the service that they require. Within the overall figures, the SPCB operates to control its costs and so the supposition, if there is one, that efficiency reviews will result in lower staffing numbers is erroneous, especially when we consider the quality of output.

**The Convener:** I was not making that assumption. The SPCB told us previously that there was a bulge in staff numbers on account of the requirement to establish the Parliament and project manage the transition process to Holyrood, and that this year's budget would reflect more clearly the longer-term requirements of the Parliament. I presume that that is the basis on which you have presented the budget submission.

I am looking for clarity—has that bulge disappeared because staff are no longer required? What is the disposition of any other staff that were brought in as a result of the efficiency reviews or any other agreed needs that have been identified by the corporate body? We would like some detail on that, because it is not entirely clear if all we get is budget aggregate figures that just say that the number of staff is unchanged.

**Nora Radcliffe:** The move from fixed-term and agency posts to permanent posts shows the shedding of the people who were here for the transition and the complement that is required as we learn how many people we need to run the business and the building properly.

**The Convener:** It would be helpful to have greater transparency on those numbers.

**Mr John Swinney (North Tayside) (SNP):** I want to ask about the ability of the various parliamentary services to meet demand. We are talking about the cost of providing various services. Has the Scottish Parliamentary Corporate Body estimated where, within the financial envelope that it is working in, there is difficulty in meeting demand for services from members, the public or external agencies?

**Nora Radcliffe:** The main area of unmet need is probably school visits. The programme for those

visits is booked up within days of being opened every six months, or whatever the period is. The SPCB is concerned to find ways of expanding the provision of that service, because it is the one in which there is most unmet need. Is that the sort of thing you are asking about?

**Mr Swinney:** That is exactly the type of thing I am wondering about. Are there any other examples?

**Nora Radcliffe:** That is the main one, but there are other things and we can always do more. That is the issue that stands out.

**Mr Swinney:** Dr Murray asked about the events budget, in which there has been a reasonably significant increase in cash expenditure. Has that been used to address the problem about the capacity for handling school visits?

**Nora Radcliffe:** Part of the problem in handling school visits relates to the physical space in which to do that. The review of the use of public space—the public foyer, the crèche and the room that is used for school outreach work—includes that aspect. All that is under consideration—indeed, I should have included the shop and cafeteria in the list of spaces on the ground floor that are under review. We are considering whether we can expand the physical space that is used for school outreach work, in order to bring more schools into the Parliament on the school visits programme.

**Mr Swinney:** Another issue that members have raised is the capacity to handle non-Executive bills. A number of members have raised points on that subject. Is there a sense within the SPCB that, in its approach to the budget, that area of activity needs to be strengthened? Have you reached any conclusions in that regard?

**Nora Radcliffe:** In some ways, we are the servants of our political masters on that one. The way in which parliamentary time is allocated is always a judgment call. Obviously, the resources that are allocated to the non-Executive bills unit are impacted directly by the pressure of Executive business. There is a political call, to which the SPCB will respond, on the extent to which the Parliament exists to deliver the business of an Executive that has been elected to put a manifesto in place and the extent to which it exists to promote members' business.

**The Convener:** I think that that is sufficient on the SPCB budget. We will move on to our consideration of the budgets for commissioners. I invite John Scott to make an opening statement.

**John Scott MSP (Scottish Parliamentary Corporate Body):** In approaching the budgets for the ombudsman and commissioners, the Scottish Parliamentary Corporate Body has been mindful of three things in particular: our statutory duty with

regard to funding; the need to respect the operational independence of the ombudsman and commissioners; and the need to ensure that expenditure is prudent and reasonable. I add that, when I speak about the budget holders, I will describe them as “office-holders”.

The SPCB considers that it must take a rigorous approach to the budget exercise and to performing what is, in effect, a challenge function. We need to be satisfied that the funds that are sought are justified in relation to the responsibilities that Parliament has assigned to those office-holders. In its recent inquiry, the Finance Committee commented on the uncertainty that surrounds the powers of the SPCB on matters of budgeting for the office-holders. On behalf of the SPCB, I confirm that the committee’s comments were very helpful. For the offices of the ombudsman and commissioners to be effective in the public interest, the SPCB is mindful that it is required that adequate yet reasonable funding be made available to the office-holders. In the light of that, we are making a budget bid of £6.551 million, which represents an increase of 2.4 per cent on this year’s approved budgets.

It may be helpful for me to sketch out the process of our budget considerations. The office-holders were invited to produce a zero-based budget: that is, they were asked to take a ground-up approach in order to ensure rigorous justifications for all their proposed expenditure. When the initial budgets were received, we found that the Scottish public services ombudsman was seeking a 30 per cent increase on her approved budget for the current financial year; the Scottish information commissioner was seeking a 19 per cent increase; the commissioner for children and young people was seeking a 3.7 per cent increase; and the commissioner for public appointments was seeking a 3 per cent increase. We also found that the Scottish parliamentary standards commissioner was not seeking a budget increase.

The SPCB met and considered that, on the face of it, some of the sums were excessive and would be difficult to justify—especially to the Finance Committee. We therefore invited the Scottish public services ombudsman and the Scottish information commissioner in particular to revise their bids to bring them within an increase over the current year of not more than 8 per cent. In saying that, we accept that that still represents a significant increase beyond the rate of inflation. We also invited the commissioner for children and young people to revisit her budget proposals.

The revised bid that we received from the Scottish public services ombudsman was 7.3 per cent over her approved budget for the current financial year. The Scottish information

commissioner’s bid was also 7.3 per cent over and the commissioner for children and young people’s bid was 2.7 per cent over.

We were aware that, in being robust in our approach to challenging those budget bids, we should not tread over the line into operational matters that are quite properly the province of the office-holders. Consequently, a second meeting of the SPCB was held on 1 November, which provided a further opportunity to probe the revised budget submissions and to hear from the relevant office-holders the justifications for their revised bids. In particular, we were anxious to ensure that the relevant office-holders would be able to perform their statutory duties within those budgets, and we were given assurances to that effect.

With particular reference to the public services ombudsman and the information commissioner, we recognised that their revised budget bids still allowed for significant above-inflation increases that would provide funding for additional staff.

The public services ombudsman has requested funding for seven additional staff to deal with complaints and inquires and, in particular, to deal with the backlog, which is increasing. That will take the ombudsman’s staff complement to 45. To put that increase in context, the ombudsman has argued that, since the 2004-05 budget year, there has been a 49 per cent increase in the amount of complaints that have been received and a 60 per cent increase in inquiries. She also argued that to operate at current levels would mean commencing 2007-08 with 1,400 cases open, and that she would not be able to meet her closure rate target of 90 per cent of cases in nine months.

We have, of course, asked questions about measures of efficiency within the public services ombudsman’s office and how that is to be independently verified. The ombudsman has agreed to discuss the matter with the SPCB; that is something that we are currently engaged in and will continue. We are conscious of the need not to interfere in operational matters, but we are willing to assist with regard to the processes and we welcome the opportunity to discuss those matters with the ombudsman. In addition, we shall be requesting regular information on performance in reducing the backlog, as the committee would expect.

The information commissioner has requested 4.5 additional staff to deal with appeals and publication scheme revisions and approvals. That will take his staffing complement to 24.5. Two of his additional staff will deal with the current backlog of cases to reduce it substantially over a two-year period. Another will deal with appeals, and the remaining 1.5 members of staff will deal with approval of publication schemes, of which 663 were approved in 2004. By way of background to

his proposals, and to put the increase in staffing in context, the commissioner anticipates 725 new applications and a backlog of 219 cases by the end of 2006-07.

We are acutely conscious of the old maxim that justice delayed is justice denied. Accordingly, we are satisfied that the additional staff will allow the office-holders to tackle backlogs, which we recognise is a matter of some anxiety to members of Parliament, given constituents' representations over the time that is taken to deal with such matters.

The revised bid from the children's commissioner, together with the bids from the public appointments commissioner and the standards commissioner, sought increases of between 0 per cent and 3 per cent. We were content to endorse those bids.

In conclusion, the SPCB, in undertaking a challenge function, has managed to reduce the office-holders' original budget submissions by just over £900,000. I can confirm that reducing the office-holders' contingency fund results in a net 2007-08 budget protection for the office-holders that is 2.4 per cent higher than the approved budget for the current financial year and just £3,000 higher than the indicative forecast that we gave to the committee in November 2005. I also record my appreciation and that of the corporate body for the co-operation of the office-holders in that exercise.

It is necessary that reasonable budgets be granted to ensure that the public can be given the service that they expect from the creation of the new institutions. Equally, while maintaining the operational independence of the office-holders, we must have regard to the demands on the public purse. In our view, we have achieved that balance, and we hope that the committee is able to endorse the office-holders' budget bids and, as my colleague, Nora Radcliffe, has already submitted, the overall SPCB budget.

10:45

**The Convener:** The committee appreciates the clarity in the documents that we have received, including the letter from the Presiding Officer, which puts over a number of issues very clearly. The committee has been examining some of the issues around commissioners and their accountability. We have perhaps moved the goalposts part-way through the budget process but, judging from your comments, there is some concurrence between the SPCB's view and that of the Finance Committee. That has been reflected in the SPCB's response to our inquiry, which has been circulated to members this week.

I seek clarification. The SPCB's submission states:

"we challenged the initial submissions from three of the Office Holders".

You have specified the Scottish information commissioner and the Scottish public services ombudsman. Which was the third and on what bases did you challenge each of the bids?

**John Scott:** The third was the commissioner for children and young people. On the basis of our challenge, she has effectively reduced her budget bid by 1 per cent. We also challenged the initial budget bids from the public services ombudsman and from Kevin Dunion, the information commissioner. We felt that it was unacceptable that a budget bid could be 30 per cent over the previous year's budget. In Kevin Dunion's case, the budget was 19 per cent over the previous year's. In the first instance, we wanted to ensure value for money for the public purse. As you would expect, the commissioners and ombudsman made robust cases—which I have outlined—essentially relating to their need for more staff. That has been a matter of detailed discussion between us.

**The Convener:** You have given us some explanations for the increases in staffing for the public services ombudsman and the information commissioner. In the course of your deliberations, were they asked how they might be expected to manage and handle differently the complaints that come to them?

**John Scott:** We invited them first to ask themselves whether they were as efficient as possible in respect of their staff. The committee would expect us to ask that. Kevin Dunion made a very good case for an increased number of staff for the information commissioner. He has cut costs in every other element of his budget to allow him to have more staff, which we feel is an utterly focused approach.

In fairness to Alice Brown, she also made a very good case for more staff for the public services ombudsman. I have mentioned the increases in the workload, inquiries and complaints that she has had to deal with; they have, over the past two years, been significant, as the committee can see.

**The Convener:** As I understand it, the projected increase in the staff costs for the Scottish public services ombudsman is 18.8 per cent, and that for the Scottish information commissioner is 30.6 per cent. If I understood what you said correctly, that is because of increases in applications and complaints and the backlog that has built up.

My first question is whether there is an issue around the working practices of either or both Kevin Dunion and Alice Brown. Has there been any discussion about that, or is that a discussion

that you have yet to have with those two individuals? Secondly, do the public services ombudsman and information commissioner themselves influence in any way the number of complaints that come before them? There is an issue about how they interpret their own roles. I presume that that is a potential factor—although it will obviously not be the only one—in the number of complaints or applications that come before each of them.

**John Scott:** The public services ombudsman and information commissioner have limited ability to influence the number of complaints that come before them and I do not see how we could limit that further. The offices exist as public services so that people can complain. The information commissioner has a significant and clearly defined workload in addition to dealing with complaints and inquiries in terms of reviewing Scottish public authorities, and I think that it is about 10,000 every four years. We have suggested to the ombudsman that she might wish to reduce her advertising budget because she already has such a backlog of cases. It would be wise for her not to seek more work when she is unable to cope with the amount of work that she has.

On the first part of your question, the dialogue has begun. I reiterate that we now feel more able to have that dialogue as a result of the help and support—moral support at any rate—that we have had from the committee, which has helped us to further investigate matters that are germane to seeking value for the public purse while in no way damaging the operational functions of the commissioners or what is expected of them.

Ian Leitch will be taking up our discussions about efficiencies in the very near future. There has already been correspondence about that. I do not think it is fair to either party for us to go into that at the moment, but please accept our assurances that the process has begun, following the publication of the committee's report. We are taking our tasks in that regard very seriously. We hope that the office-holders, too, will respect the committee's views and allow us to help them in every way we can.

**Mr Swinney:** I wish to follow up some of the convener's questions. It is clear from what has been said so far that the staffing budgets of the Scottish public services ombudsman and the Scottish information commissioner have had to increase because of a sizeable increase in their case loads. If that is so, will you explain why the staff costs budget for the commissioner for children and young people in Scotland has increased by 18 per cent if that office-holder does not deal with individual cases?

**John Scott:** You will appreciate that the commissioner for children and young people

sometimes plays more of an advocacy and promotional role. She has, notwithstanding that, kept her budget increases within the rate of inflation. She has made considerable sacrifices, although more might be able to be made on her behalf. We believe that she has endeavoured to deliver a reasonable budget. To be honest, I need to pass that difficult question to someone else, because I am not entirely sure where the increased staffing cost comes from.

**The Convener:** I presume that the question is being handed to Mr Leitch.

**Ian Leitch:** It seems so. There is a fine line between setting a budget and telling people what to do with their budgets. In examining the two main budgets—for the Scottish information commissioner and the Scottish public services ombudsman—we were concerned that they should make to us the representations that they required to make. We have justified that, subject to further questions from the committee.

As for the commissioner for children and young people, as members know, there was an issue about whether Parliament's view was that such matters should come through our hands or should lie appropriately elsewhere. The commissioner has an advocacy role and also reacts. I am conscious of the commissioner's evidence to the committee that she is responsible to the children and young people of Scotland and that she is accountable to them as well as to Parliament. That is an interesting debate—almost a dialectic.

When the commissioner for children and young people proposed her budget and the reduction of some substantial sums of money, she was at pains to point out that she is promoting educational issues among children and young people, which means that she needs additional staffing. She has reduced some of her events for young people. In the overall framework of the budget, the corporate body was satisfied, but it did not say, "We don't think you should do this," or, "Why are you doing that?" That would be going into operational territory.

The output of that budget will be for the subject committee. We are grateful that the Finance Committee has strongly advised that other Parliament committees should take up the opportunity of questioning the various commissioners, when they produce their annual reports, about what they have been doing. That may be the way to go, but we have not told the commissioner how she should spend her money. We have examined global sums.

**Mr Swinney:** I say with the greatest respect that those two answers take me to the nub of my concern. We can all look at the numbers for each budget, from which it is clear that staff costs are by

far the predominant factor. That is understandable and is the situation in any organisation.

Significant increases have been proposed in staff-cost budgets across the board and the committee must be satisfied that there is a compelling reason why those staff-cost budgets are where they are. The reason is pretty clear for the Scottish public services ombudsman and the Scottish information commissioner—their case loads—but I am not clear about the reason for the increase in the commissioner for children and young people's staff costs. I am not singling out that budget, but I am making the point that the commissioners and the ombudsmen can base budgets on financial projections in the financial memorandums that underpin their establishment. I think that the view prevails that if they start under the barrier of their financial memorandum, they can increase the budget with inflation thereafter and carry on in that fashion. That does not strike me as a particularly prudent way of ensuring value for money for taxpayers.

The other big item of costs is running costs, from which the public services ombudsman, the information commissioner and the commissioner for children and young people are each to remove very close to £100,000. The public services ombudsman is to reduce running costs by about 25 per cent. If it is easy to ditch 25 per cent of running costs, the question arises why those costs were required in the first place. If I had got rid of 25 per cent of the running costs of the business that I worked in before coming to Parliament, I would have been given a garland. If 25 per cent of running costs can be got rid of easily and readily, what was the money being spent on?

11:00

**John Scott:** You appreciate where we are coming from. This year, you have given us the opportunity to be much more robust with regard to inviting people to reduce their costs than we have hitherto been able to be. As I said at the outset, we asked the Scottish public services ombudsman to reduce her budget request of 30 per cent over last year's costs. We do not want to interfere with her operational capability, but she has come back with a reduced figure which, as John Swinney noted, is down from £406,000 to £309,000. How she has achieved that is a matter for her; we are just very pleased that she has.

**Mr Swinney:** My point is that if it is possible to absorb that kind of reduction, we need to ask how money was being spent in the first place.

**John Scott:** Quite—although it is a process with which I have only recently become involved. We will continue to take a more robust view on the matter. Ian Leitch will say something about that.

**Ian Leitch:** The convener will recollect that some thought was given to trying to expand the use of shared services. One suggestion for the ombudsman was that she could operate out of a Glasgow office in conjunction with other public services. Taking account of the constraints that we have imposed on the budgets, that suggestion is clearly not a runner this financial year, so any cost elements that are associated with such a move would be removed.

We still aim to have joint facilities among public services, but we have been over the history of the proposal and the committee knows full well the difficulties of the different timings of operations and the statutory requirements of each of the office-holders. It is possible to strip out elements that cost more, but it might mean that it is not possible to provide the service that was intended in another location.

Mr Swinney is right to query the breakdown of the budget: we have asked searching questions, right down to whether the income from the car park next door is accounted for in the budget. We asked clear questions about the rent increases and other costs of that nature, although we are more reluctant to get into the question of operational costs.

Despite that, in relation to the matter that the convener raised earlier, questions were put by the SPCB to the public services ombudsman at the meeting on 1 November about how she operates her service. We were advised that the former ombudsmen, such as the local government and health ombudsmen from whom services were inherited, each had different investigative practices and that the ombudsman has introduced a standard template for investigation that covers all those services.

One of the areas about which the SPCB wants to be satisfied is the level of throughput and efficiency in case production and handling under the three disparate arrangements. We want to know what would be the measurable improvement in production of having a generic service and how it would be audited. That is one of the areas about which we will speak to the ombudsman to find out how efficient throughput is without interfering in the product. There is a fine line between our saying, "You can process so many eggs" and asking, "Are they well fried?" That is a qualitative question that goes into the substance and nature of the operations.

**Mr Swinney:** I am not sure about that, but I will move on to my final question. Schedule 4a in your submission gives a summary of the whole SPCB budget bid for 2007-08 and includes the commissioner and ombudsman budgets of £6,301,000 as well as a central contingency fund

of £250,000 for legal action and so on. Who controls that central contingency fund?

**John Scott:** The SPCB does. It is a centrally held contingency fund for the obvious reason that the commissioners and ombudsmen would have to apply to us should they wish to access it.

**Mark Ballard (Lothians) (Green):** If I understand the process correctly, the zero-budget basis indicated a 30 per cent increase in the budget of the Scottish public services ombudsman and a 19 per cent increase for the Scottish information commissioner. As you said, those increases were argued for strongly on the basis that there had been a 49 per cent increase in complaints to the Scottish public services ombudsman and 725 new cases for the Scottish information commissioner—more than double the upper estimate of the number of expected cases.

After challenge—I think that was the word that you used—increase in the Scottish public services ombudsman's budget was reduced to 7.3 per cent. You also said that, in the case of the Scottish information commissioner, two of the additional four and a half staff would be able to substantially reduce the backlog over the two-year period. What does "substantially reduce" mean? How much of a backlog will there still be at the end of that two-year period? Would the initial bid for a 19 per cent increase have been enough to ensure that the backlog was cleared sooner?

**John Scott:** We believe that that number of staff should be sufficient to reduce the backlog to an acceptable level. It is a judgment call on our part, but I reiterate that we have had assurances from the public services ombudsman and the information commissioner that they will be able to carry out their statutory functions. That said, the public services ombudsman has expressed concerns about her ability to investigate complaints within reasonable timescales and to reduce her backlog, given what she perceives to be the toughness of the regime that has been agreed. The information commissioner has expressed similar concerns.

**The Convener:** Can you clarify what you mean by

"the toughness of the regime that has been agreed"?

**John Scott:** The public services ombudsman feels that a very tough regime has been put in place. There have been robust discussions, but a balance must be struck between what we feel is value for the public purse and her expressed concerns about her ability to carry out her functions. We have real concerns, which is why we have arrived at what we hope is a reasonable figure. I reiterate that we have sought and been given assurances from those people that they will be able to carry out their statutory functions.

**Mark Ballard:** I think that, in your opening remarks, you mentioned a target of 90 per cent for the number of cases that the Scottish public services ombudsman would deal with within a specific timescale. Can you remind me what that figure was?

**John Scott:** The public services ombudsman will deal with 90 per cent of cases within nine months.

**Mark Ballard:** Is that a statutory duty or self-imposed target?

**John Scott:** I think that it is a self-imposed target, although I stand to be corrected on that.

**Mark Ballard:** So, it would be possible for the public services ombudsman to continue to meet her statutory duties but to fall below the 90 per cent self-imposed target.

**John Scott:** Yes.

**Mark Ballard:** You said that

"justice delayed is justice denied."

Are you concerned that, although the Scottish public services ombudsman may be able to meet her statutory duties, she may not be able to provide the level of service that the public expects?

**John Scott:** Those are concerns that she has expressed to us, which is why we also have concerns. We would not be doing our job seriously unless we informed the committee of those concerns. We want to discuss the matter with the public services ombudsman to see whether the corporate body can help her in making efficiencies and in respect of how her office deals with inquiries and complaints.

**Mark Ballard:** In discussing another part of the budget, Ian Leitch suggested eloquently that an efficiency review may not lead to a reduction in staff. If an efficiency review was carried out with, in particular, the two demand-led ombudsmen and commissioner and it was found that efficiency gains would be realised by employing additional staff, would you consider that in future budgets?

**John Scott:** We would have to consider that if there was a case to be made for it. We have taken the reasoned position that seven extra staff—which will increase the number from 38 to 45—should help the public services ombudsman to reduce her backlog. That is a significant increase in the number of staff. Combined with that, we sincerely hope to help her in any way we can, given the moral authority that the Finance Committee has provided us with and the will of Parliament to ensure that she delivers her functions as well as she can within a reasonable budget. We are optimistic that she can achieve that with the increased number of staff. There is

an element of risk, but that is the balanced judgment that the corporate body has come to. Time will tell whether we are right.

**The Convener:** Let us draw the discussion to a conclusion. I commend the corporate body for the efforts to which it has gone in reducing some of the other costs. Some significant savings have been achieved through co-operation between the various bodies and the corporate body. That is warmly to be welcomed and represents a proper system of control.

However, as someone who spent a long time in local government—as did other members—I would not describe the process that you have gone through as rough or difficult. “Rough” and “difficult” are terms that could have been applied to dealing with social work budgets in the early 1990s, when there were real questions about maintenance of statutory services. We need to keep in perspective what people are being asked to do and, I suspect, what they will be asked to do in the future, given the projections for public finances.

I am not convinced, either, by the justification that you have given for the 12 per cent staffing increase for the children’s commissioner. I would like to see more information on that.

In relation to the projected staffing increases for the public services ombudsman and the information commissioner, I accept that there is a backlog but I am not sure, from what you said, that there has been sufficient dialogue between the corporate body and those two bodies about the issues of working practices and elimination of backlogs. More time is needed for discussion of those matters.

In that context, if we are going to agree increases in staffing for the two bodies, we should not do so on the basis that there will be increases in their establishment. We must ensure that any budget provision is made in the context of meeting need under specific circumstances. We must not find ourselves, a year from now, facing further substantial increases in the budgets for the demand-driven bodies without serious attempts having been made to manage the complaints process. The ombudsmen and the information commissioner must consider their roles, how they apply themselves to them and under what procedures they operate; otherwise, Parliament will end up financing an ever-increasing volume of cases. Whether that would be justified or justifiable is something that we will have to consider in due course.

There needs to be dialogue and a report back from the corporate body and the commissioners, perhaps in February or March, so that the Finance Committee can take a longer-term view. If we accept the present budget, we should do so on the

basis that we do not accept—here and now, for ever—that the increases should be for increases in the establishment of the information commissioner, the children’s commissioner or the public services ombudsman.

11:15

**John Scott:** I welcome your clear sense of direction, which is, in effect, the will of Parliament. That certainly enables us to pursue further the matters that members have raised. I hold my hands up if I over-egged the pudding about there being a robust discussion and I take the criticism on the chin. All I can say is that the discussion was a great deal more robust than it had been in previous years.

If you would like us to write to you with a further and perhaps more detailed explanation of the commissioner for children and young people’s staffing levels, we would be happy to do so, although I am not sure whether we have that information available immediately. We may have to go back to the commissioner to get the information.

On the backlog and the dialogue that needs to take place, we are, as I said, at the beginning of the process. The committee’s report came out in September—it is in effect only six weeks since it did. I thank SPCB staff for the diligent way in which they have approached the mandate that the committee has given us and the task that you set us. I give every assurance that as long as I am involved we will pursue those matters diligently.

**The Convener:** We need by 23 November to get the additional specific information that we have requested for this budget round. We will perhaps discuss offline when it might be appropriate for either the Scottish Parliamentary Corporate Body or the commissioners to come back before the committee to reflect on progress on the longer-term management issues that we have raised. I thank you for coming along.

I suspend the meeting for a couple of minutes so that we can switch the witnesses around.

11:16

*Meeting suspended.*

11:18

*On resuming—*

**The Convener:** We have two matters to deal with before we come to the next set of witnesses.

The second item on our agenda is consideration of the report from the Scottish Commission for Public Audit on Audit Scotland’s 2007-08 budget proposal. Members will be aware that Audit

Scotland's expenditure is top-sliced from the Scottish consolidated fund and that its spending plans are scrutinised by the SCPA, as required under the Public Finance and Accountability (Scotland) Act 2000. However, given the Finance Committee's overall responsibility for scrutinising all expenditure that is paid out of the Scottish consolidated fund, we consider the SCPA's scrutiny and take account of it in our report to Parliament. Members have, along with the report itself, been issued with a paper that summarises the recommendations in the report and outlines the memorandum of understanding between the SCPA and the committee.

My view is that it might be appropriate for us to take evidence from the SCPA, which we could do at our meeting next week. Do members agree to that course of action?

**Members** *indicated agreement.*

**The Convener:** We will invite Margaret Jamieson, who is the convener of the SCPA, to come along and speak to us at our meeting next Tuesday.

Agenda item 3 is consideration of issues for the committee's report on the budget for 2007-08. As we are waiting for Arthur Midwinter it might be useful for committee members to flag up what they see as the main issues so that the clerks can take a note of them.

**Mr Swinney:** I thought that the evidence that we took from the minister in Dumfries was illuminating in a number of respects—that is the most charitable way of putting it. A number of issues arose in relation to the transfers out of Scottish Water's budget. I simply cannot get my head round how what was said about that is consistent with the rest of what the Government is telling us about what it hopes to achieve with Scottish Water. In addition, concern was expressed about the strategic waste fund and where specific items of expenditure are going. We need to probe that further in our report, although we may receive a reply from the minister before we conclude our considerations.

More generally, two major issues of significance were left unresolved by what the minister told us. The first concerns any possible enhancement of the local authority settlement for 2007-08, on which we did not receive any clarification. The clock is ticking—local authorities will have to make their judgments soon.

The second issue relates to the note that we were given at the meeting in Dumfries, which was copied from a letter from the minister to the convener. I cannot understand why the minister took the attitude that he took. The note set out a number of programmes to which he expected to have to allocate resources in due course through

draw-down from the funds that are held by HM Treasury. The detail that was provided was helpful, but there was no clarity on a significant proportion of the items that were identified. I am afraid that I do not have the paper with me, so I cannot recall what they were. In addition to the specific budget lines for which the minister expected to draw down money, there were substantial expected spending pressures of between £200 million and £300 million that he was not able to define. If they are expected, he must know what they are and should be able to share them with Parliament. I dare say that one of those pressures might be to do with enhancing the local authority settlement. The more information we have on the expected draw-down from the Treasury, the better. That will allow us, and people who observe our proceedings, to identify what the consequences might be.

**The Convener:** As regards the stage 2 report on the budget and what it is germane for us to report to Parliament about the evidence that we took on the budget revision—which obviously relates to the present financial year—I am sure that we will seek further clarification on some of the issues that John Swinney has raised.

I anticipate that the minister will make an announcement about the local authority settlement before the parliamentary debate, although not necessarily before we produce our report. There is usually a ministerial announcement about that in late November or early December, but we do not yet know on what date it is likely to be made this year. I understand that the minister is appearing before the Local Government and Transport Committee this week and I assume that he will be asked questions that will shed some light on his intentions. We must wait to find out what comes out of that.

The point that we need to make is that some of the comments that we made last year about the budgetary position in local government need to be carried forward. We also need to add concerns that we have raised repeatedly—particularly in our report "Cross-cutting Expenditure Review of Deprivation"—on how the money is allocated. There are shortcomings in that and the process needs to be modernised. The fact is that the longer a revision is delayed, the more cumulatively unfair the system becomes. We can see that things are being missed out. Obviously, the committee is also concerned about the issues for local government of equal pay and single status. We want to flag up all those matters in respect of local government.

I turn to other issues that have exercised the committee. We have expressed concern about transport expenditure and the deliverability of the Executive's programme, not only in one year but



perhaps over a number of years. We expressed those concerns not least during our discussion on the Transport and Works (Scotland) Bill and its implications. At the time, I think we said that we wanted to see a better system of management of capital planning and capital flows. We should repeat that requirement and say specifically that we would like to see some indication of that in the context of next year's budget arrangements.

A number of presentational issues were raised in terms of where the new money is going. We got some clarity on where the £725 million was to be spent. We should point to those issues and the need to look at that in the budget documents. Members asked whether it is appropriate that the money is to be spent in the ways that the Executive had indicated. It might be useful for those issues to be raised. Another presentational issue is the £483 million that went to health. It was difficult to see what value was added by that substantial sum.

The final issue that may need to be flagged up is the need to get a handle on some of the rising costs of measures that the Executive has introduced, such as care of the elderly, university expenditure, pay rises in the national health service and concessionary bus fares. The budget has shown significant changes year on year in those. We want contextualisation of the justification for that and an indication of future projections. That would help us in considering those issues in the future.

Those are some of the main issues that have come out of the committee's deliberations that we might want to raise in our report.

**Jim Mather (Highlands and Islands) (SNP):** I am particularly keen for us to focus on the efficient government review. I cannot state often enough that the answers that we got from the minister on that were wholly unsatisfactory. He told us that the savings are gross, but could not then go on to give us the net number or the cost of spend to save. The whole proposition is weakened by the fact that the costs might totally extinguish the savings. The matter is likely to bring the Executive into disrepute, especially when it has compounded the situation by having no baseline data against which to show movement in performance over the period. The proposition is risible; it plays very badly with the business community, given the reality under which it has to work.

Of course, the other issue is the major capital release from Scottish Water—the £161.8 million. A clear pattern is emerging; the accumulation year on year is evident. We need an explanation for that. To my mind, there is *prima facie* evidence that the Cuthberts' proposition is absolutely and totally right—otherwise, how could that money magic its way back into the Executive coffers year

after year after year? We need a logical explanation for that: if it is not the Cuthberts' explanation, I am looking for something to fill that vacuum.

11:30

**The Convener:** Efficiency was a major element of our report last year, when we did a substantial amount of work on the issue. I do not think that this year's report can place the same weight on efficiency because the committee has not done the same volume of work on it this year, but we can nevertheless make some points about the progress that we were expecting.

**Jim Mather:** To have had the minister fess up to the extent that he did about the total ineptness of the process and for us not to comment on it would be an own goal.

**Mr Swinney:** Although we have not done as much detailed work as we did last year, we can observe from a cursory glance that none of the architecture of the Executive's efficient government approach has changed in any significant material respect since we produced our voluminous report on efficient government. I think that Jim Mather's points were well made. As he has said to ministers before, we are asked to believe in the savings because the minister tells us what they are. Pardon me for being a bit sceptical, but I am not likely to accept that.

**The Convener:** I am not arguing that the matter should not be in the report. I am simply saying that we do not have the same volume of information to add in.

**Derek Brownlee (South of Scotland) (Con):** I agree entirely with what Jim Mather said about efficiency, although I take your point, convener, about the balance of our report.

Although I agree with the points that Jim Mather has raised, there is a more general issue that I think is pertinent in terms of how the committee and the wider Parliament are expected to scrutinise the budget. The documents just do not contain the level of detail that is needed for us to carry out sufficiently detailed scrutiny. Based on the answers that the minister gave last Monday in Dumfries, I wonder whether the detail exists internally, and whether that is perhaps part of the problem. Some of the basic questions that we want to ask touch on issues such as relative increases in staff costs across departments and comparators—I am not convinced that the Executive has the data to answer those questions.

We are coming to the point in the electoral cycle where all the Opposition parties will be challenged to produce their own detailed budgets, but it seems to me that the Government struggles to

identify some fairly basic details in its own budget. In addition to the issue-by-issue questions that have been raised, there is also a question about process, and I am not convinced that that is yet right.

**The Convener:** Are there any other points that members would like to flag up that arise from the evidence session with the minister?

**Mark Ballard:** John Swinney talked about the architecture of efficient government not changing. The architecture has not changed in terms of cross-cutting themes either, particularly for the relationship between cross-cutting themes as set out in the budget and the priorities as set out in the foreword. It is worth commenting that we still do not have detail on how the cross-cutting themes relate to spending decisions or to changes in spending decisions. I am aware that that is not something that we have majored on, but it is worth reflecting that it is a continuing issue.

**The Convener:** There is one presentational point that I thought might be worth mentioning, as this will be the committee's final report on the budget. I wonder whether we could look at how the presentational and informational issues have changed over the period, so that we can have a benchmark against which to measure where we have got to and where we feel further work needs to be done. Mark Ballard has highlighted the cross-cutting themes, and I think that there has been some progress in that area, but not to the point that we wanted to reach. We could draw up a checklist of where we have made progress and where we might need to go. Arthur Midwinter might be able to consider that possibility as he has been involved throughout our scrutiny of the budget documents. We might include a longer version of such a checklist in our legacy paper, but our report on the draft budget could flag up some of the issues relatively briefly.

Does Arthur Midwinter want to mention anything else that should be included in our report?

**Professor Arthur Midwinter (Adviser):** The only issue that has not been mentioned on which I feel almost obliged to include a section in our report is the performance report on spending review targets, which was published as a supplementary to the draft budget. In particular, our report should highlight the fact that several targets have been revised with new targets that seem less tough than the previous indicators. Also, as with cross-cutting spending, we should highlight the problem getting information on cross-cutting targets.

I seek clarification from the committee on some of the issues. The amount of new information that we have been given on efficient government is minimal, so I propose to cover that in two or three

paragraphs. As we are still awaiting Audit Scotland's report on efficient government, we cannot say much more about the issue apart from registering our discontent with the process.

On free personal care and the other issues that members have mentioned, are those issues highlighted in the reports from the subject committees?

**The Convener:** We have not seen those as yet.

**Professor Midwinter:** I am conscious that free personal care is funded through grant-aided expenditure, which never sees the light of day in the budget exercise. Therefore, I am not sure to what extent we are aware that problems are happening now as opposed to being anticipated after the spending review. Similarly, most of the publicity about university funding has been expectation of a problem that might arise if university funding from the Scottish budget does not keep up with the extra income that English universities receive through fees and charges.

I need to clarify how we can cover Scottish Water in our report on the draft budget for 2007-08, given that what is at issue concerns a revision to this year's budget and does not affect the draft budget. The motion on the revision was agreed to last week at our meeting in Dumfries.

**Mr Swinney:** Technically, we agreed to the revision, but I am sure that we would have been lambasted if we had not endorsed the changes that the Government wanted to make. However, there must be a consequence of transferring £161 million from Scottish Water. The transfer says something about the effectiveness of the programme.

**Professor Midwinter:** With respect, there is a difference between the capital programme and the financing of it. Nothing has been transferred from the capital programme. The Executive has said that Scottish Water can finance the programme without the borrowing. Those are two separate things. That misunderstanding has been an on-going difficulty.

**Mr Swinney:** Perhaps folk are fed up with the analysis that the Cuthberts provided, but their argument needs to be played out. At a practical level, the substantial point is that in communities that I and other members represent people cannot put an extra bathroom in their house because of Scottish Water's water and sewerage constraints. I refuse to accept that there is no relationship between that problem and the financing of Scottish Water. If the Cuthberts have not got it wrong, I want to understand who—I suspect that the answer is Mr McCabe or one of his colleagues—has got it wrong. There is a problem in tackling the issue.

In our comments on the cross-cutting issues that Mark Ballard has repeatedly reminded us about, we can point out that although economic growth is apparently the top priority, there seems to be no relationship between the decisions on Scottish Water capital expenditure—which is what we have just seen—and the ability to deliver on the cross-cutting targets on economic growth. We need to make that point somewhere.

If we need to make the same argument this year that we made last year, then let us make it. I was not a member of the committee when it chewed over the Cuthberts' analysis but I want that argument played out. There must be some relationship between the changes to the way in which Scottish Water has dealt with capital projects and the practical realities in communities across the country.

**Jim Mather:** Scottish Water releasing £161 million into the central unallocated provision also has an impact. At last week's meeting, Tom McCabe said that he would write to me to confirm the balance available to Scottish Water. The accumulated balance must now be in excess of £500 million, which is a significant amount.

**Mr Swinney:** The minister cannot have it both ways. He told us that that money was taken out of Scottish Water's capital expenditure and put into the CUP so that it would be available to Scottish Water in the future. If that is the case, then the proposition that Scottish Water can fund its programme without that money—

**Professor Midwinter:** At this time. It does not need to borrow the money at the moment, as I understand it.

**Mr Swinney:** Ah, but that gets to the nub of the problem, which is that people in my constituency cannot put an extra bathroom in their house because Scottish Water says that it does not have the capacity—

**Professor Midwinter:** That is about the inadequacy of the programme, not the financing of it.

**Mr Swinney:** Well, then we get into politics. The Government tells me that economic growth is a top priority, but there are communities in my constituency where industrial and economic development cannot happen because of water and sewerage constraints; housing developments cannot go ahead for the same reason, and ministers are still saying that they can fund the programme adequately. That says to me that something is fundamentally wrong with the programme, and I want to pursue that as a political issue with the ministers.

**Jim Mather:** It also says that there is prima facie evidence that water charging has become a

stealth tax in Scotland, if the Executive can release that level of capital. If the Finance Committee cannot talk about a stealth tax, I do not know who can.

**The Convener:** There is an issue here, but we are talking about the 2007-08 budget report and we can take such issues forward to only a limited extent. We have held an extensive inquiry into the subject. If members want to conduct a further mini-inquiry, the committee will have to consider that as part of its forward work programme. There are limits to what we can do on the subject in the context of taking evidence on and writing the budget report.

**Professor Midwinter:** I have no information about Scottish Water in the context of the budget report, apart from what is in the budget document. The revision is to this year's budget and not an adjustment to the draft 2007-08 budget. We have received no evidence on Scottish Water's budget for the budget that the committee is being asked to approve.

**Mr Swinney:** We are being more than a little bit cautious. Every day of the week ministers lecture me about how we are in this great three-year budget cycle that ensures that there are no obstacles in individual budgets. A £161 million capital financing opportunity is going out of Scottish Water and I am not supposed to say that that might have consequences in 2007-08. We need a pretty vigorous inquiry to get to the bottom of what is going on here.

**Dr Murray:** There is an alternative analysis. I know that the SNP particularly wants the Cuthberts to be proved right, but there is another analysis of the situation that worries me. The money is being put back into the CUP and Tom McCabe has said that it will be available in future years should Scottish Water require it. Because my constituency has been badly affected by planning blight and constraints, I want to know whether Scottish Water's investment programme—the one that quality and standards III promised and that was supposed to address all those constraints—is falling behind schedule, in the same way as Q and S II fell behind schedule.

I was not convinced by Mr and Mrs Cuthbert at the time and I am still not convinced that their analysis is correct and everyone else's is wrong, but there could be a problem if Scottish Water's solutions are not producing the investment that Scotland needs to move forward.

**Mark Ballard:** It is worth bearing it in mind that the Scottish Water issues are not just about the cross-cutting theme of economic growth; they are also very much about sustainable development. This situation exemplifies what Derek Brownlee was saying earlier about the budget documents

still not providing us with the information that would allow us, the Parliament and the public to trace through some of the questions that Elaine Murray raised. When we are dealing with large amounts of money, we should be able to follow them through the budget documents. We should reiterate that process issue and give Scottish Water as an example of where the budget documents are not transparent.

11:45

**The Convener:** We need to move on. There are limits to what we can do in the context of the budget document. From what members are saying, it may be appropriate for us to hold a one-off evidence session in the new year on Q and S III. That would allow us to probe the matter properly and have a decent discussion on the issues that have been raised, including those of development constraints and Scottish Water's capacity to deliver the programme. Before we do that, we need to speak to the Environment and Rural Development Committee to ensure that we are not getting in its way, although the Finance Committee's involvement is legitimate.

**Jim Mather:** We must not ignore either the pattern of capital release or the fact that it is happening at a time at which it is widely recognised that Scottish Water is spending as much as it can in terms of the contractor resource that is out there, but that it is doing so neither particularly wisely nor in the right places. The situation in this financial year is that, after the adjustment was made, Scottish Water's net new borrowing is a mere £21 million—that is about 4 per cent of its total capital expenditure, by my calculation. Not to mention that in our report would be to invite the combined personification of the three wise monkeys to be brought on all committee members.

**The Convener:** We have gone through the stuff on the Cuthberts. At the time, the majority of committee members believed that their findings were based on a fundamental error of interpretation of public finance and that remains the continuing problem with that analysis. One of the issues that emerges is that any comparison between Scottish Water and other water companies such as Thames Water or Severn Water shows that the finance in those companies comes from customer charges. It is only in the Scottish context that additional Government investment is made—whether that is £21 million or £170 million. That additional factor in Scotland marks it off from what happens south of the border.

That said, the legitimate issue remains of why such a large amount of financial cover appears to be required. In the past, we have had promises

that that would change. Although a public finance issue is involved, from our constituents' point of view Elaine Murray asked the more relevant question, which is whether the financial package is reasonable, deliverable and so on. Some of the public finance issues piggyback on that.

Again, if members agree I propose that we hold an evidence session on Q and S III. That seems the right place to begin. The subject is complicated and there is a limit to what we can say in a budget report that has to be produced within a relatively short time.

**Mr Swinney:** I am prepared to agree to that today, but without prejudicing my position on the committee's stage 2 report. Major issues are involved. We would be found to be almost in denial if we did not refer to and explore those issues in our report. I am quite happy to go along with the proposal for an evidence session, subject to it being clearly understood that my agreement to that does not mean that the issue should not be explored in our consideration of the text of our stage 2 report.

**The Convener:** Okay. Is that sufficient, Arthur?

**Professor Midwinter:** I have a final point to make on the basis of your presentation, convener; it is about the local government settlement. It is correct to say that that normally happens around December, but any announcement would be made on the basis of figures that have been before the committee in the draft budget. Surely it would be wholly unusual for additional moneys to be announced at the very last minute. I do not know the protocol in this case. Normally, the committee deals with the budget as a whole and portfolio ministers deal with their areas afterwards, within the framework that is agreed in the document that the Finance Committee has been asked to scrutinise. I think that you were suggesting that an announcement might be made at the very last minute about additional moneys that are not in the budget document and were not announced in advance to the Finance Committee.

**The Convener:** I agree that that would not be an ideal arrangement.

**Professor Midwinter:** I wonder whether that is in order.

**The Convener:** It is in order. The Executive can make announcements outside the budget cycle. That might not be logically ideal, but we will probably find ourselves in that situation. I just wanted to flag up that, whatever we say now about local government, we might have to modify it in the context of any future announcements.

**Professor Midwinter:** Do you want me to mention in the draft report that there are rumours of such a deal or shall I just ignore that?

**The Convener:** No, I do not think that you need to mention that. We should deal just with the facts because in the end, the Parliament can still scrutinise the budget bill before final agreement is reached.

**Mr Swinney:** I am keen for the committee report to reflect at this stage what the committee said clearly last year, which was that we asked the minister to address the funding problem in 2006-07.

**The Convener:** That is essential.

**Professor Midwinter:** That is clear enough.

## **Custodial Sentences and Weapons (Scotland) Bill: Financial Memorandum**

11:51

**The Convener:** Item 4 is to take evidence on the financial memorandum on the Custodial Sentences and Weapons (Scotland) Bill. I invite our first group of witnesses to the table. We agreed that the bill should be subject to level 3 scrutiny, which means taking oral evidence from an organisation on which costs fall and then from Executive officials. The committee will take evidence today from the Scottish Prison Service and Executive officials. As our timescale for reporting on the bill is relatively tight, we have had to schedule both evidence-taking sessions today, which is not what we would do normally.

I welcome from the Scottish Prison Service: Willie Pretswell, finance and business services director; Rachel Gwyon, director of corporate services; and Eric Murch, director of partnerships and commissioning. I invite the witnesses to make a brief opening statement and then we will move straight to questions.

**Willie Pretswell (Scottish Prison Service):** We welcome the opportunity to present evidence to the committee. Although Tony Cameron sends his apologies for not being able to be here today, he has made a submission to the committee, which is included in members' papers. We have responded to the committee's questionnaire. The key implications of the bill for the prison service relate to the additional prisoner numbers that the bill generates and the subsequent additional obligations that will be placed on the prison service, mainly to do with the risk assessment and management of prisoners, including transportation through our escort contract. That is the main theme. The major issue in our managing those additional obligations will be the phasing of the increases in the prisoner population and our ability to synchronise delivery of any additional resources that will be required in line with that increased prisoner population.

**The Convener:** Thank you for that, Willie. The committee agreed that Derek Brownlee and Andrew Arbuckle would be the lead members on the bill so I hand over to Derek Brownlee.

**Derek Brownlee:** The financial memorandum estimates that there will be between 700 and 1,100 new prisoners on top of the existing projected increase. A whole range of assumptions feed into that figure at paragraph 178 of the financial memorandum. Are you entirely happy with that? Is the range reasonable?

**Rachel Gwyon (Scottish Prison Service):**

Yes, it is. We have considered the figures, which range up to year 5.

**Derek Brownlee:** A provision that has been the subject of recent comment concerns the release point after three quarters of a sentence has been served. Was there any analysis of what the increase in prisoner numbers would be if there were no automatic release after 75 per cent or a higher percentage of the sentence had been served, or no release until 100 per cent of the sentence had been served?

**Rachel Gwyon:** As you can imagine, there are a number of ideas floating around as to whether the measures in the bill are the correct ones. A lot of work goes into the modelling, and we did the detailed modelling that you see in the financial memorandum just on the measures in the bill. However, one thing that we considered at an early stage was what would happen if there were no 50 per cent or 75 per cent points and if everyone stayed to the end of their sentence without being risk assessed for a period in the community, and the numbers for that are stark indeed. If everyone stayed to the end of their sentence, over the same timeframe that we were looking at for the 700 to 1,100 extra prisoners, the prisoner population would rise from the current level of just over 7,000 to about 12,000. That is a different scale altogether.

Members will have a number of ideas about which measures in the bill they want to discuss, and the Finance Committee is obviously giving detailed thought to the costs, implications and impact. I just wonder what the arrangements are, either here or in other places, for considering what will happen if changes to the bill produce big changes in impact or cost, and for checking what those changes might be.

**Derek Brownlee:** I would like some clarity on those numbers. You said that there would be an increase of 5,000 prisoners if there was no provision at all for automatic release in the bill. The financial memorandum calculates an increase in prisoner numbers of between 700 and 1,100 as a result of the bill, but an increase in the prisoner population is projected anyway. If we take the 5,000 figure and subtract the 1,100 additional prisoners estimated as a result of the bill, that leaves 3,900 additional prisoners. Perhaps I should put the question another way. What increase in the prisoner population is expected over the timeframe that we are talking about, excluding the effects of the bill?

**Rachel Gwyon:** The figure is around 500 over the same period, or about 100 a year.

**Derek Brownlee:** That is useful. An increase in prisoner numbers has an impact on prison spaces

and your submission states that a prison houses about 700 inmates, as a rule of thumb. Is that the optimum? Is it the maximum? Why 700? If, for example, there were 1,100 additional prisoners, that number would fill more than one prison if the typical prison size is 700 inmates. Is there any way of squeezing—that is perhaps the wrong phrase—or of increasing the size or scale of prisons that would lead to a consequent reduction in the cost per prisoner serviced, or is 700 a natural limit?

**Willie Pretswell:** We have tried to give an indication of the resources that would be required to provide the additional prisoner places that we are projecting—the figure of 700 to 1,100. As you said, there are many assumptions behind that estimate, and many different scenarios could play out in terms of how those prisoner places are provided. At this stage, we have no plans for how we could deliver that provision, so we have tried to express it in financial terms in the financial memorandum, rather than presenting it as a fixed way of delivery. We have presented the financial memorandum so as to cover the estimated costs of providing a mixture of places in different ways.

The committee will be aware that we are currently spending about £1.5 million a week on modernising the prison estate. As part of that programme, we are trying to create more efficient, modernised prisons that are fit for purpose and have extra capacity. On existing sites, we are converting the old accommodation into new and providing more places. For example, at the turn of the year, we will be opening new house blocks at two of our development prisons, Polmont and Glenochil, where there will be about 700 new places. At the same time, we will be closing around 300 or 400 places. As we go along, we are putting in extra capacity, but at the moment we have a shortfall in the design capacity as against the prisoner population, and we have a rolling programme of investment.

Over time, the opportunities to build more accommodation—more efficient prisons—on the existing sites will dry up. If that happens, we will need to look at other ways of delivering that accommodation, assuming that there are no factors to offset the impact of the bill on the overall prisoner population. We will need to consider other options such as new prison sites and the cost of delivering those. Nevertheless, we are content that the overall recurring costs of providing 700 to 1,100 new places are covered in the financial figures that we have. Where capital expenditure is incurred, either for traditional investment in existing sites or for a new prison, the figures are in the right ball park.

We have not developed a plan for delivering the extra capacity; we need to consider that in conjunction with the other estate management

issues that we have and the timing of the roll-out of the aspects of the bill that would cause the prisoner population to increase. The key issue for us will be the management of any additional demand for our services that arises from the bill in conjunction with the other issues that we have within the prison estate.

12:00

**Derek Brownlee:** Is it fair to say that, although there is the potential to make economies of scale, the main constraints are the prison estate and the physical space that is available to you to deliver the extra capacity?

**Willie Pretswell:** We are taking on an ambitious development plan for the prison estate. We have concentrated the investment—I mentioned the expenditure of £1.5 million a week—on four key prisons. Remarkably, we are maintaining fully operational prisons on those sites, as we cannot give up the spaces. We have building sites with 200 to 250 contractors working in a live prison environment because we cannot release the sites for full development. That work is going well at the moment, and we are creating more than 2,000 new, modern places through that route. As I said, once we finish the development on those four sites—which we hope to do round about 2008-09—we will look to the next phase of development. If the bill is passed, our development programme will take account of the demands that arise from it.

**Derek Brownlee:** So, your current development programme aims to deal simply with the pressure that already exists in the system through the increase in prisoner numbers. If the bill did not come into force and nothing else changed, you would still face a projected increase in prisoner numbers. Would the current projections lead to a surplus of places or would you still be under pressure?

**Willie Pretswell:** The charts that we have provided, along with our business plans, show that, over the next few years, we will try to build up sufficient capacity. We hope to align capacity with the projected prisoner population in a few years' time. That is not taking into account any implications of the bill. The projection is that the prisoner population will continue to increase by about 100 to 200 prisoners per annum. So, in a few years' time, we will have another shortfall of places if the figures fall out as they are projected. That will be addressed in the next phase of the development plan.

You will be aware that we are also under pressure to modernise the prison estate because of the need to raise standards of accommodation and because of some of the issues that we are

managing at the moment. The implications of the European convention on human rights for slopping out have been well publicised. That is one of the issues that is associated with the legislation. We are trying to get ahead of the game in making the estate fit for purpose for prisoners and for staff, so that we can carry out the work that the Executive wants us to do on targeting reductions in reoffending and on prisoner behaviour.

**Derek Brownlee:** Has the Executive given you a commitment to provide you with the resources that you will need to deliver the extra spaces if the bill comes into force?

**Willie Pretswell:** The Executive has fully funded the current development programme, in terms of both capital investment and the two new prisons that are planned. In June, we awarded a contract for 700 additional places at HMP Addiewell, which is on track to open in late 2008. On the second new prison, we are currently awaiting the outcome of a planning appeal that took place in the summer. We hope to know the outcome of that appeal early in the new year, after which ministers will make a decision that will allow us to proceed with the project. The project has been fully funded.

Assuming that no offsetting measures are taken to reduce the impact of the bill and to address the financial implications that would arise from it, there is an understanding, which is reflected in the bill, that resources would need to be made available to match any net increase in the prisoner population. Regardless of which route is taken to create new places—whether they are additional places on existing sites or new prisons—there will be a lead time for delivering them.

**Derek Brownlee:** Let me push you a wee bit further on that. You say that there is an understanding that resources would follow. Is that as far as it has gone? Has there been no specific commitment that any costs to the prison service arising from the bill, if it is passed, will definitely be funded?

**Willie Pretswell:** I would expect that to be factored into the appropriate spending review process. The timing of the bill's roll-out would determine which spending review process that would be part of. I am not sure about the timescale for passing the bill, and there is a separate question of when the various elements of it would be brought into force. That would be considered and, if nothing else changed, we would factor that in on the basis of the submission that we have made to the committee. However, as Rachel Gwyon mentioned, if the bill changed during its passage through Parliament, we would need to revisit the assumptions underlying the projections for the prisoner population, the delivery of spaces and the financial implications. We see the decision on funding being taken through the spending

review rather than through the Executive giving a firm commitment at this time.

**The Convener:** It might be useful to point out that, if an amendment was passed at stage 2 that had a significant financial implication for the bill, under the agreed procedure there would be a requirement for the Executive to produce a revised financial memorandum. There is a process in place that would kick in to deal with the eventuality that Rachel Gwyon mentioned.

**Willie Pretswell:** That is helpful.

**Mr Andrew Arbuckle (Mid Scotland and Fife) (LD):** I have a question on the lead-in time. You say that it takes up to five years to build a new prison. The figures that we have been dealing with take us to year five, with between 700 and 1,100 new spaces required. A further extrapolation increases the figure. I hope that that extrapolation is wrong and that the figure does not continue upwards. There is, surely, a need for you to identify additional requirements eight years down the line. Can you tell us what will be required either through the extension of existing premises or through the building of new premises?

**Willie Pretswell:** At this stage, we have not defined what that mix is. The easy option would be to say that because the requirement will be additional, we will need new sites and new prisons, but we propose to consider the matter in the context of the other estate management issues that we face and to manage as much as we can within the existing estate.

If we reached our maximum capacity, we would need to look for additional sites, get planning permission and carry those plans through. That would probably have a longer lead time. We indicate a timescale of eight years in our written submission, basically because a lot of assumptions have to be made about how long it would take to identify and purchase sites and get planning permission. Our experience with Low Moss, at Bishopbriggs, shows that such issues are outwith our control. It has taken a number of years even to get to the present position. It is difficult to predict exact timings. If we went forward with such a programme, we would see it as an opportunity to integrate this exercise with the overall estate strategy that is aimed at modernising the entire prison estate.

**Mr Arbuckle:** I recognise that it is a difficult exercise and that many factors could influence it. If that is the timescale from deciding that we need additional capacity to opening the doors—or closing the doors, I suppose—surely it would be prudent to include that in the capital cost of the bill, which will affect the prison population.

**Willie Pretswell:** It is included in the capital value. We have identified that if there is a

requirement to go outwith the existing sites, we will need to acquire some land. We have allocated a non-recurring cost of around £2 million to that. We have identified that the capital requirement would be between £23 million and £160 million, depending on whether 700 or 1,100 additional prisoner places were needed and on whether the vehicle was traditional capital funding or a public-private partnership solution that was off balance sheet. A few assumptions have been made.

**Mr Arbuckle:** We will return to those assumptions with the next panel.

I want to change the subject. One of the duties of the SPS is to provide documentation to the Parole Board for Scotland. You have suggested that the cost of that will not be significant, but one of the bill's aims is to make far more use of parole. Will the additional work not have a financial implication?

**Eric Murch (Scottish Prison Service):** A group is examining the four components of the process: the custody part, the community part, the court part and the parole part. We are dealing with the custody part and the parole division is leading on the parole part.

In addition, we have introduced integrated case management, through which much of the information that was traditionally provided to the Parole Board in large volumes of paper will be dealt with. We hope that integrated case management will rationalise the amount of paper and documentation that is required for the process.

**Mr Arbuckle:** What about the financial implications of the extra work?

**Eric Murch:** We covered the part of the process for which the SPS is responsible under the risk management analysis. We will require additional criminal justice social workers to work alongside additional prison officers and additional administration staff. We factored in the cost of that—I think it came out at £5 million to £6 million.

**Mr Swinney:** Mr Murch mentioned the four components that are being examined in this area of policy. I take it that that work has fed into the figures that Mr Pretswell gave us on the number of prisoner places that you expect to require in the future. Is that correct?

**Rachel Gwyon:** We did the modelling work on the number of prisoner places that will be needed first. The implementation work is about how we manage the volume of work that we expect, what information the Parole Board and other people will need from us, and what risk management tools the Risk Management Authority will develop for us to build into the integrated case management process. That work is not expected to change the



modelling; it is about the implementation, in the light of what we expect to happen.

**Mr Swinney:** If a different attitude to policy were adopted—let us say that a more aggressive approach was taken to alternatives to custody for some minor offenders—it might have a material impact on your modelling of prison numbers.

**Rachel Gwyon:** A policy change that sought to keep more people on sentences of less than six months in the community would require a change in primary legislation, for which a separate financial memorandum would have to be prepared. The committee would consider such measures and we could discuss the impact on the projections, so there would be visibility.

**The Convener:** We have no more questions for the SPS witnesses. Thank you very much for coming along.

12:15

I welcome officials from the Scottish Executive. Jane Richardson is the head of parole and life sentence review division, Brian Cole is from the community justice services branch and Gery McLaughlin is head of the knife crime branch—it must be interesting to have that on your business card.

As before, I invite the officials to make a brief opening statement should they wish to do so. We will then proceed to questions.

**Jane Richardson (Scottish Executive Justice Department):** I am conscious of the time, so we will keep the presentation short.

As you are aware, the bill has two distinct elements: custodial sentences and weapons. Because my division deals with the existing arrangements for parole and review of life sentence prisoners, we are co-ordinating the custodial sentences aspect of the bill. In addition, we have sponsorship responsibility for the Parole Board for Scotland.

As the financial memorandum tries to explain, the new combined structure approach to sentence management that will apply to sentences of 15 days or over will see sentences being managed from now on as part custody and part in the community. My colleague, Brian Cole, who deals with community and justice services, obviously has a significant role. You have heard from our colleagues in the Scottish Prison Service on the custody element. My colleague Gery McLaughlin will do the interesting bit on knives.

**Mr Arbuckle:** The bill is wide ranging, but we are concentrating on its financial costs. You heard us question the previous witnesses about whether we can be sure that we will have the funding and

capacity for the increased number of prisoners that will result from the bill. Can you assure us that there will be prison capacity for the additional prisoners?

**Jane Richardson:** I believe that my SPS colleagues answered the question about the number of prisoners. The financial memorandum reflects the estimate, on which we worked with our prison colleagues, of an additional 700 to 1,100 prisoner places.

**Mr Arbuckle:** With regard to new facilities, a wide range of costs is given. Towards the end, the financial memorandum states that the cost will range from £25 million up to £162 million. Can you indicate why there is such a wide range?

**Jane Richardson:** I will invite my colleague, Mr Cole, to say more about the community services element. As my colleagues from the SPS explained, the variation is because the figures are based on a range of assumptions. The new structure of the sentence will mean that there is a degree of flexibility in the way it is managed. The period of custody imposed by the court can be a minimum of 50 per cent of the sentence, but it can raise that to 75 per cent on the basis of retribution and deterrence—punishment if you will. There is also a variable once the individual is taken into custody, which will depend on the risk they are assessed to present as they work their way through the custody part. The period can range from the minimum imposed by the court up to 75 per cent of the sentence if the case is referred to the Parole Board.

**Mr Arbuckle:** Yes, but I come back to the range of the estimate of the capital cost of new facilities. Can you give us more information on why there is such a range?

**Jane Richardson:** In relation to the prison service?

**Mr Arbuckle:** Yes.

**Jane Richardson:** I am sorry, but I am not equipped to answer that question more fully than my colleagues from the SPS, who have just answered it. The estimates of capital costs were based on information that we gained from the SPS in discussions held to formulate the overall financial implications.

**Mr Arbuckle:** Can you assure the committee that ministers have confirmed that funding will be made available to implement the bill, regardless of whether the smaller figure or the larger figure of £162 million is required?

**The Convener:** Let me just tweak that question slightly. Do you have any information in connection with the spending review that might allow us to take the issue forward? Obviously, the cost issues will need to be dealt with in the future.

**Jane Richardson:** I appreciate that. As my colleagues from the Scottish Prison Service said, all the information will be fed into the spending review, which is about to start off.

The only thing I can say by way of assistance is that commitment is given in the financial memorandum that ministers recognise that the facilities and structures will need to be in place before the new arrangements can be brought on stream.

**The Convener:** Is there a mechanism that allows that to happen? In other words, will the finance be provided and the mechanisms then be put in place to match up to it, or is it possible that we could be legislating to put in place a system that ministers might decide not to fund?

**Jane Richardson:** The two issues go hand in glove. As my SPS colleagues mentioned, an implementation group has already been formed to consider how the structure of the whole system will be put in place. Given that the proposals involve a radical departure from the existing arrangements, the structure will need to be in place before the new arrangements can be implemented. Although the legislative authority will be provided as a result of Parliament eventually considering the bill to be appropriate, we will also need to have in place the structure to support and implement the new arrangements. Obviously, that will include resources.

**Mr Arbuckle:** Why is there such a vast difference between prison costs in the private sector and prison costs in the public sector? Are those differences reflected in the cost of the private prison that is currently being built in West Lothian?

**Jane Richardson:** Sorry, I would need to ask my SPS colleagues to answer that. That is not my field of expertise, so I cannot answer the question.

**The Convener:** Perhaps we can put that question in correspondence to the Scottish Prison Service.

**Mark Ballard:** I want to press you on the recurring costs, for which the table on page 32 of the financial memorandum gives a range of between £37 million and £55 million for the SPS and another range of between £47 million and £65 million. Is the difference between those two sets of figures due to the different recurring costs of private prisons and public prisons?

**Jane Richardson:** The total cost to the Scottish Administration is given as between £47 million and £65 million. The next line in the table gives the recurring costs to the SPS for year 5, which are given as a range of between £37 million and £55 million. As my SPS colleagues explained, those figures are based on a number of assumptions,

including the varying impact of additional prisoner places and, as the financial memorandum explains, the differences between the various types of funding for those places.

**Mark Ballard:** Does the variation in the different types of funding refer to the cost differences between private prisons and public prisons?

**Jane Richardson:** I believe that that accounts for part of the difference. If it would be helpful, we could try to set out further details on those figures for the committee.

**Mark Ballard:** I am particularly interested in the statement in the financial memorandum that the asset—the prison—returns to the SPS after 25 years. It would be useful to have the comparative costs of a private prison and a public prison over the 25-year period so that we can see the long-term costs of the two options. That would give us a better understanding of the variability of new prison costs rather than the year 1 costs and recurring costs in year 5 that are given in the financial memorandum.

**The Convener:** It might be better to put that question in correspondence to the SPS rather than to Executive officials today, although I presume that the SPS has to agree the figures with the Executive.

**Mark Ballard:** I suppose that my question is trying to unpick what the variability in the recurring costs is, to find out whether other factors are involved.

**The Convener:** I agree that it would be helpful to get that information. Can we deal with that by correspondence? Are people content with that?

**Members indicated agreement.**

**Mr Arbuckle:** In its submission on the bill, the Parole Board for Scotland says:

“the Financial Memorandum advises that savings of £50,000 will accrue as a result of the Parole Board not being required to consider cases involving the recall to custody of licensees.”

It goes on to say that

“That is not correct”,

as the savings would be offset by additional work in other areas. What is your comment on that?

**Jane Richardson:** We have been in discussion with the Parole Board on a number of fronts, including cost. Perhaps it might be worth saying up front that, in recognition of the pivotal role that the Parole Board will play in the new arrangements, the Scottish ministers have said that they will ensure that the board is properly resourced. Obviously, that commitment was made in the context of the tests of effectiveness,

efficiency and best value as well as the overriding consideration of legal competence.

We have discussed with the board the ways in which efficiency savings can be made. The amount of money under discussion is small. Our view is that if the Scottish ministers—as is proposed in the bill—are made responsible for recalling offenders to custody, the board will, quite rightly, as a court-like body, remain the organisation that looks at the individual's re-release. At the moment, the board operates a system under which most of its cases are dealt with on paper in casework meetings. On the day of those meetings, the board splits the membership into two groups, one of which looks at recall, while the other looks at re-release. Given that the board will no longer be required to look at both questions, a smaller number of members will be involved. That is how we arrived at the £50,000 saving.

As I said, we are in discussion with the board on a number of areas, including possible reductions in its workload in relation to the number of tribunals that it has to hold. The board will be fully consulted on any changes that we make, including on the Parole Board rules, which we are in the process of drafting. The board will make a full input to that process.

**Mr Arbuckle:** I have another question on resources. At present, the board relies on the post-sentence reports that are produced by High Court judges. The board is concerned about the proposal to extend that requirement to sheriffs. What recognition is being given to the additional work that will fall to sheriffs in undertaking such report writing?

**Jane Richardson:** I mentioned earlier the implementation group. I am happy to say that it has representation from all the organisations that will be involved in setting up the structure and framework for the new arrangements. We have representation from the Sheriffs Association. One of the issues that we will look at is the impact on the judiciary of any information that is required. At the moment, in most indictment cases, the sheriff or the judge would be expected to prepare a report.

**Mr Arbuckle:** My final question relates to the legislation on knives and swords and the role that local authorities will have to play. The bill is supposedly cost neutral for local authorities because they will be given support for their work centrally, but in its submission the Convention of Scottish Local Authorities suggested that although there are precedents for that, the reality is that the costs of the additional work will not be covered. Is the bill really cost neutral for local authorities? Will allowance be made for administrative and background work?

**Gery McLaughlin (Scottish Executive Justice Department):** Yes. The arrangements will allow local authorities to cover their direct and administration costs. It will be up to them to set a fee that covers all their costs. My understanding of COSLA's point is that, given that what we are asking for is not terribly significant, it may not amount to whole-person costs. I suppose that that provides a management challenge for local authorities. However, it will be open to them to set a fee that reflects the actual cost of doing the work.

12:30

**Derek Brownlee:** I would like to move on to the supervision element. I do not know whether you have seen COSLA's submission about the relative costs. The financial memorandum suggests £7.45 million for overseeing offenders, but COSLA says that rather than the cost for a low-risk offender being £2,000, as the financial memorandum indicates, the true cost is about £3,500, and that the cost for a high-risk offender is about £5,000. Do you accept that, or are you operating from a different base from where COSLA is coming from?

**Brian Cole (Scottish Executive Justice Department):** I should say at the outset that we are in continuing discussion with COSLA and the Association of Directors of Social Work about our respective sets of calculations. It might be useful to provide some information to set the figures in context. The Executive provides local authorities with some £9.3 million of grant for the delivery of throughcare services, both for those who are currently subject to statutory supervision on release and for those who receive voluntary assistance. Slightly more than £2.5 million is in respect of that latter group—those receiving voluntary assistance—and that provision applies to offenders who are released from custody without any statutory supervision. The bill will mean that, henceforth, those offenders will be subject to licence when released, so that £2.5 million or so will be available to be added to the £7.45 million that we have estimated for delivering the services. It is an on-going discussion, but more money is made available for those services than is shown in the financial memorandum.

**Derek Brownlee:** Later in its evidence, COSLA states:

"Local authority community-based disposals are not currently funded at a level which can realistically achieve the expected reduction in re-offending."

If it has been an on-going discussion, presumably there have been discussions in the past and presumably, to judge from COSLA's evidence, nothing substantive has changed. Will it change if the bill is passed?

**Brian Cole:** The Executive has increased considerably the amount of money it provides for throughcare. As recently as 2002-03, the sum was £2.5 million. This year, it is £9.3 million. The increase shows the Executive's recognition of the greater priority and focus that is given to this area of work.

**Derek Brownlee:** It would be useful to see those figures on a per-offender basis, to give us a bit more context.

**The Convener:** As there are no further questions, I thank the witnesses for coming along today. I should let members know that the report on the bill will be taken on 28 November.

*Meeting closed at 12:33.*

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