

# **AUDIT COMMITTEE**

Wednesday 8 October 2008

Session 3

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## AUDIT COMMITTEE 14<sup>th</sup> Meeting 2008, Session 3

### CONVENER

\*Hugh Henry (Paisley South) (Lab)

### DEPUTY CONVENER

\*Murdo Fraser (Mid Scotland and Fife) (Con)

### COMMITTEE MEMBERS

\*Willie Coffey (Kilmarnock and Loudoun) (SNP)  
\*Cathie Craigie (Cumbernauld and Kilsyth) (Lab)  
George Foulkes (Lothians) (Lab)  
\*Stuart McMillan (West of Scotland) (SNP)  
\*Nicol Stephen (Aberdeen South) (LD)  
\*Andrew Welsh (Angus) (SNP)

### COMMITTEE SUBSTITUTES

Derek Brownlee (South of Scotland) (Con)  
\*James Kelly (Glasgow Rutherglen) (Lab)  
John Farquhar Munro (Ross, Skye and Inverness West) (LD)  
Sandra White (Glasgow) (SNP)

\*attended

### THE FOLLOWING ALSO ATTENDED:

Mr Robert Black (Auditor General for Scotland)  
Sir John Elvidge (Scottish Government Permanent Secretary)  
Paul Martin (Scottish Government Chief Nursing Officer Directorate and Health Workforce Directorate)  
Alyson Stafford (Scottish Government Finance Directorate)  
Dr Kevin Woods (Scottish Government Director General Health and NHS Scotland)

### CLERK TO THE COMMITTEE

Tracey Reilly

### SENIOR ASSISTANT CLERK

Joanna Hardy

### ASSISTANT CLERK

Rebecca Lamb

### LOCATION

Committee Room 1



## Scottish Parliament

### Audit Committee

*Wednesday 8 October 2008*

[THE CONVENER *opened the meeting at 09:30*]

### Interests

**The Convener (Hugh Henry):** I welcome committee members, any members of the press and public, and Audit Scotland staff to the 14<sup>th</sup> meeting of the Audit Committee in 2008. I ask everyone to ensure that their mobile phones are switched off. We have received apologies from George Foulkes, for whom James Kelly will stand in.

I welcome Cathie Craigie, who has just joined the committee. I invite her to declare any relevant interests.

**Cathie Craigie (Cumbernauld and Kilsyth) (Lab):** Thank you for your welcome convener—I am very happy to join the committee. I refer members to my declaration in the register of members' interests. There is nothing there that would prevent me from taking an active role in the committee's work.

**The Convener:** Thank you.

### Decision on Taking Business in Private

09:31

**The Convener:** We now move to item 2 on our agenda. Do members agree that we should take items 6, 7 and 8 in private?

**Members** *indicated agreement.*

## Section 23 Report

### “Review of major capital projects in Scotland—How government works”

09:31

**The Convener:** Item 3 on our agenda is a section 23 report on major capital projects. We are joined this morning by Sir John Elvidge, the permanent secretary, and by Alyson Stafford. Welcome to you both. We have not had the privilege, Sir John, of your attendance at the committee in this parliamentary session—although I do not know whether you have attended in previous sessions. We look forward to your contributions on two agenda items this morning. Thank you for coming along. Before we move to questions, do you wish to make some introductory remarks?

**Sir John Elvidge (Scottish Government Permanent Secretary):** Only briefly—and thank you for the opportunity.

The first thing to say is that the report is an excellent piece of work by Audit Scotland. It is valuable and timely. Rather than any arguments over views of what would be desirable, the issues that arise concern how we should pursue the sensible direction of travel that the report sets out. We agree with the report that we should make progress, and in talking about how we can do that I will refer frequently to two main threads of activity. The first concerns the work of our infrastructure investment group, which Alyson Stafford chairs. The group brings the directors from our main directorates together with senior staff from our finance directorate, so that they can take an overview of our main strands of capital activity. The report clearly suggests that taking such an overview is sensible; indeed, the report refers to the existence of the group, which was set up in 2006. Much of what we have to say will be about how that group has developed its role and how it intends to continue to develop its role.

The other thread of activity to which we will refer frequently is the gateway process. The report refers to that process as an important tool. It is a system of regular reviews of major projects at critical stages; it is a kind of peer-review process that we apply to all high-risk or mission-critical projects with a value of more than £5 million. We now have a pool of more than 200 trained reviewers to carry out that process. They are partly drawn from within the Scottish Government, but they also come from the national health service, the university sector, the Association of Chief Police Officers in Scotland and local government. We have sought to make increasing use of that resource in achieving at an individual

project level the broad objectives that the report signals are desirable. One instrument is about the overview, which the report rightly says is important, and one is about the way in which we try to keep close tabs on individual projects.

**The Convener:** Thank you. Would Alyson Stafford like to say anything at this stage?

**Alyson Stafford (Scottish Government Finance Directorate):** I have nothing to add. I am happy to respond to the committee's questions.

**The Convener:** Before we move on to the committee's detailed questions, Sir John, can I ask you about your 200 trained reviewers? You said that they come from a broad range of backgrounds in the public sector, but how many of them have practical experience of major projects as distinct from academic knowledge?

**Sir John Elvidge:** It depends what you mean by practical experience. Almost all of them have practical experience of overseeing projects in a senior management capacity. Some of them also have practical experience in more direct project management roles. I do not have a feel for the breakdown of the skill set. I do not know whether Alyson Stafford does.

**The Convener:** Have many of them actually managed projects and taken decisions about how they develop rather than just having oversight and an interest in projects? I do not mean any disrespect to academics, but they can pontificate on things without ever putting a hand to the particular task. I am trying to get a feel for where the 200 people are coming from.

**Sir John Elvidge:** Sure. I can certainly say that one would not describe many—if any—of them as academics. They all bring their working experience to bear on the process. For example, when I talk about the university sector, I am more likely to be talking about people who have been involved in the capital projects that the universities develop than about people with an academic interest in the issues. What we have is essentially a practitioners club—it is a peer-to-peer club.

**The Convener:** Would it be possible to get some further information on that? It sounds interesting.

**Alyson Stafford:** We are happy to arrange to provide that extra information. It is important to recognise the strength that we get from having a wide range of people from different sectors. Their experience is useful and they can draw upon it in providing peer reviews.

The gateway review teams always have the resource of an independent expert who operates at all the various levels of the gateway. That person is there to ask challenging questions and ensure that the review team is made up of the

right personnel. Some members will be highly experienced and others will be there with inquisitive minds, but that richness is important.

Also, we are drawing into the gateway review pool people who will be running projects in future so that they can benefit from the experience of being part of the wider team. We will get a rolling programme of benefits from the work.

**Murdo Fraser (Mid Scotland and Fife) (Con):** It is clear from Audit Scotland's report that, in many cases, the time and cost estimates for major capital projects are wildly optimistic and the final outturn costs are substantially higher. Will you say a little about the work that you are doing to try to improve the cost and time estimates for projects?

**Sir John Elvidge:** Certainly—I will say a little and then ask Alyson Stafford to continue, because that question relates to the work of the infrastructure investment group.

There is an important distinction in the report between the accuracy of estimates and the degree of control from the contract stage onwards and in the first phase of planning. The report says, broadly speaking, that the level of good performance doubles as you move from one stage to the next.

I would argue that it is right that the first focus has been on controlling performance against contract costs and timing estimates at the time of entering into a contract. The report brings out the time interval between forming the first estimates of cost and time, and entering into a contract. That interval is highly variable, and in some projects it spreads over more years than one would think desirable. The area in which performance is in greatest need of improvement is the first stage, and that is where we are increasingly focusing our attention.

**Alyson Stafford:** I will talk about the work around costs and then about the work around timing.

The cost of a construction project can be expressed in terms of capital cost or in terms of whole-life cost. The estimating processes for capital costs are based on established systematic methods that have been accredited by the Royal Institute of Chartered Surveyors. We have the "Construction Procurement Manual" and there is a team in the procurement directorate in the Scottish Government that specialises in providing the advice, the policy and the direction for that work, so that those processes are clearly set out. The manual states:

"Budget estimates"

for capital costs

"should ... consist of a base estimate and a risk allowance."

In 2003, a requirement to bring in optimism bias was introduced through the Treasury green book, for projects that were to begin after that date. Optimism bias is a wonderful technical phrase that is about ensuring that there is an assessment of risk and how inflation can affect those early costs. Although a number of the areas that the review covers began before that key date, it is clear that that bias needs to be built into projects.

Whole-life costing is a key feature in achieving value for money, as set out in the "Construction Procurement Manual". The estimating processes for whole-life costs are much more diverse, and it is fair to say that practice varies across the industry.

It is only very recently—this year—that a standardised method has been published. That will help us in working towards a more consistent and wider application, and it will be an important part of taking forward the spirit and the recommendations of the Audit Scotland report. We can move it on through the infrastructure investment group, so that we are not just considering costs at the construction and the capital stage, but the whole-life costs.

The construction advice and the policy division in the procurement directorate are there to provide the help and assistance that is required. We are gathering material on estimates and costs, and we now have—as I mentioned—the standardised methodology for whole-life costing that was published this year. It is important that all new projects that are taken forward from this point bring that in as part of their estimates.

09:45

I will talk about time estimates and then say a little about the role of the gateway process. Although we now have measures and various modelling techniques that will help us effectively on costs, it is fair to say that it will be more difficult to address the timing aspects of projects effectively. The "Construction Procurement Manual" gives advice on the factors that should be taken into account when considering a project's duration. It is important that that assessment is carried out rigorously at the early stages of any project's development, through the work of the infrastructure investment group, which I chair. As the permanent secretary outlined, much of the emphasis has been on our management post contract award—on achieving rigour and ensuring that everything is followed through. However, our work is now turning to the early stages, with the aim of working through estimates and ensuring that rigorous early assessments are made of the risks on timing.

The read-across to gateway is important. I am sure that we all agree that, in parallel with the need for tools and mechanisms to be available, it is important that we follow how projects are lived out and that we continue to test whether people are following the original assumptions rigorously. The gateway process has an important role in that. As the permanent secretary explained, since 2005, it has been mandatory for projects that are mission critical or high risk and with a value over £5 million to go through the gateway process. Gateway has five stages in all. I can go through them in more detail, either in response to the present question or as we continue our discussions.

The five key stages are important, because they give a regular opportunity to continue to test the original assumptions, estimates and processes and the risk assessment of an individual project. A mixture of peer and external review is involved and a reporting mechanism feeds back to all the accountable officers wherever the project may sit. The project therefore gets the attention at the highest levels, either in an agency or in a portfolio area in the Scottish Government. Those follow-up mechanisms, in tandem with the continuing press for better means to support project deliverers, will be important to us in our next stage of evolution.

**Murdo Fraser:** Thank you for that very full response. It sounds as though that is work in progress. Willie Coffey has more questions on that issue, but before I pass on to him, I have a question on a related topic. In relation to the departure of final costs and times from the estimates, has the Scottish Government done any comparisons between traditionally funded projects and those that are funded through public-private partnership or the private finance initiative?

**Alyson Stafford:** For a comparison between the two, I would need to arrange a specific analysis to be shared with the committee. There is a distinction in the early stages of work before a contract is let. I am sure that colleagues will know that in PFI activity a longer period is required for project definition and specification. We want some of those disciplines to be supported in conventional projects, too, because the more we define up front, the more closely aligned are the early estimates, the prices at contract and the final delivery price.

**The Convener:** You say that a standardised method of calculating the whole-life costs of projects has been published. Will that be applied to all projects henceforth, or will you apply it to projects that were commissioned in the past year and are still to be completed?

**Alyson Stafford:** The expectation is that it will be applied to projects henceforth but, because it is part of a continuous review of existing projects, it

is only sensible that we draw on it to determine whether any realignment is required.

**The Convener:** So if we were to ask for the whole-life cost of any major public sector project that is still being developed, we would be able to get it?

**Alyson Stafford:** You would for the new ones. We would need to test the standards at a particular point and it would depend on how developed the procurement project was. To be fair, we would have to consider it project by project.

**Willie Coffey (Kilmarnock and Loudoun) (SNP):** Sir John Elvidge said that the level of good performance doubles as we move through the phases of a project. Audit Scotland's report showed that, between 2000 and 2007, 60 per cent of a broad range of 41 projects completed over budget and 66 per cent of them delivered late. I ask Sir John to comment on that in light of what he said about the level of performance doubling.

Alyson Stafford mentioned the green book guidelines that have been in place since, I think, 2003. Perhaps some of those guidelines have not been taken to heart, because there was slippage in project performance for four years after they were introduced. It is as though we are not learning the lessons of projects that overrun in cost and time. How can we ensure that the recommendations in the green book are fully implemented and actioned in all the capital projects that we are responsible for delivering?

**Sir John Elvidge:** I was cross-referencing two statements in the Audit Scotland report, which I am not fast enough to find in the text. Broadly speaking, the first says that around two fifths of projects come in close to the original cost and time estimates and the second says that around four fifths come in close to the contract-stage cost and time estimates. I referred to the relationship between the two statements. Without taking up a lot of your time scrabbling through the report's individual paragraphs, I cannot give you the paragraph references, but I am confident that I am using the report's language in both cases.

**Mr Robert Black (Auditor General for Scotland):** If it helps, paragraph 26 on page 12 of the report and the exhibits above it demonstrate the movements in cost.

**Alyson Stafford:** The green book guidelines apply from project inception. A lot of the projects that Audit Scotland examined started quite a bit before those guidelines were introduced, but the infrastructure investment group and the gateway process are part of ensuring that there are other means of ensuring that that work takes place and that the guidelines and policies that exist are followed. Gateway review was introduced in 2005

and it will be a matter of working the stages through. Gateway reviews are going through their various stages in parallel with projects as they develop.

**Willie Coffey:** Audit Scotland mentioned that estimates of construction costs varied wildly in comparison with those for general costs. That did not appear to be taken into account; it was as though there was a presumption that inflation would be the same for both, when in fact it was clear that construction costs were going over expected levels. That fact did not appear to fall back into project planning for future projects. Why?

**Alyson Stafford:** That is a fair observation about the projects that were initiated in the timeframe covered in the Audit Scotland report. The infrastructure investment group focuses on that area, builds in such considerations and ensures that we keep in touch with the relative inflation rates at any particular time.

Moreover, the construction advice and policy division carries out a degree of what might be described as market tracking, which focuses not on the financial markets but on changes in the construction industry. Through a network of formal and informal contacts, the division takes soundings at various times from different construction organisations and uses that information in considering pertinent levels with regard to a particular programme of activity.

As you might expect, things change over time and we want to use advice from the construction team and from the gateway process of reviewing projects to ensure that people are working with the best available information. We must also ensure that everything is connected up so that all aspects of a project from estimate stage through the awarding of the contract to delivery are strongly aligned. Of course, post-delivery assessments are also important in ensuring that we are getting the benefits down the track.

The very nature of capital programmes means that they take place over a number of years. The fact is that these improvements are being made at a particular point; we have a snapshot of certain areas going back in time, and we want to build on that work.

An element of the gateway process—it is called lessons learned—captures lessons from gateway reviews. Reports have already been produced for 2005-06 and 2006-07, and another report capturing lessons from 2007-08 will be published shortly. Given its timing, the Audit Scotland report will prove valuable in that process. After all, we need to communicate the lessons that have been learned to ensure that people do not have to start



with a blank sheet and can benefit from others' experiences.

**The Convener:** Stuart McMillan has some questions on skills and expertise.

**Stuart McMillan (West of Scotland) (SNP):** The Audit Scotland report says:

"Project management and governance arrangements of individual projects are broadly effective."

How do you know whether there are sufficient in-house skills in the smaller bodies to manage major capital projects?

**Sir John Elvidge:** Evidence suggests that smaller bodies often do not have sufficient in-house skills. I was struck by the distinction made in the report between the performance of organisations that undertake many capital projects and those that do so infrequently. As one would expect, we have seen a clear difference in that respect. One thing we know is that smaller organisations are less likely to contain the necessary expertise to do anything that they do infrequently. As a result, we are not seeking to build expertise in every organisation, because in some organisations such expertise would be redundant some of the time.

Instead, our approach is a combination, first, of strengthening both the central expertise that small bodies can draw on—the construction procurement team that Alyson Stafford has referred to several times—and the connections between that central team and the bodies; and, secondly, of ensuring that the small bodies use appropriate external help at the right stage. That tends to be the post-contract stage, when reliance on external project management is greater.

It is harder to bring external help into those bodies at the earlier stage—"harder" is perhaps not the right word; I am sure that consultancy firms would happily sell all our smaller bodies help in every potential project, but that would not be a value-for-money approach to the problem. As such, we have tried to strengthen the central expertise on offer and the connections with the bodies.

10:00

**Stuart McMillan:** Is that akin to what is happening in the police service with the Scottish Police Services Authority? It provides back-office functions for all eight police forces in Scotland. Is that the idea with the construction procurement team?

**Sir John Elvidge:** It is different, in the sense that I would characterise work with the SPSA as the development of a shared service. It is bringing together in one place a capacity to do the job that everybody draws on. We offer individual bodies

more of a source of advice, and we do not lift the management of an individual project away from a body to the central team. One is essentially a shared execution model; the other is essentially a shared advice and support model.

**Stuart McMillan:** So a separate entity has not been created; the people are still in the current central Government unit.

**Sir John Elvidge:** Yes.

**Stuart McMillan:** What systems exist to ensure that project teams employ recognised quality standards in the planning and delivery of projects?

**Sir John Elvidge:** That question takes us to the heart of one of the general issues: the distinction between giving people guidance and expertise on which to draw and what we might call enforcement—ensuring that people do what they are exhorted to do.

Broadly speaking, we are in a position to give the committee strong assurances about the best-practice guidance, which is constantly evolving. Alyson Stafford gave a good example of better guidance on whole-life costing, and that is one recent evolution. How we ensure that people are following the guidance is a separate question, and it is important to draw a distinction between projects that are inside the Scottish Government and those that are outside the Scottish Government.

Inside the Government, a management chain gives us a straightforward way of ensuring that the guidance is followed. As Alyson Stafford pointed out earlier, we use the gateway process to reinforce the effectiveness of that management chain. When it was originally conceived, the gateway process was designed as a source of peer advice for those running projects. The gateway review might involve criticism, but that criticism was given to the person who was running the project on the assumption that they would take that critical input and use it to correct the project. We came to the conclusion that that was perhaps not 100 per cent secure, so we moved away from the purity of a gateway model that insisted that the feedback was private to the project team. We now share the feedback with the next person up in the management chain and the accountable officer for the relevant budget. If the gateway review says at any stage that the guidance is not being followed, we have an effective alarm bell, which will allow more senior managers to move in and deal with the situation.

For projects outside the Scottish Government—which include a lot of the projects that the report covers—there is a completely different set of questions about enforcement. There is a much wider set of issues that concern the relationship between central Government and non-

departmental public bodies, and the meaning of the arm's-length principle when it is translated into a field such as the one that we are discussing.

It might be sensible at this point to ask Alyson Stafford about the discussions in the infrastructure investment group about the intrinsically tricky issue of how to ensure that guidance is followed in organisations that one does not directly manage.

**Alyson Stafford:** The infrastructure investment group is made up of the lead directors across the Scottish Government portfolio areas. Each of those directors has a relationship with a number of arm's-length bodies, either by being a Fraser figure for an agency, or by playing a leading sponsor role through a sponsor division in their own area.

The emphasis of the infrastructure investment group is: to ensure that each of those lead directors is much more closely linked to the activities of those bodies; to consider how that approach impacts on the overall budget management of our capital programme for the whole of the Scottish Government year on year; and to examine some of the standards and disciplines that those bodies use. That has been reinforced through specific directions to those individual directors in relation to where their accountability lies.

The statement of internal control lies within our annual process of assurance, which supports the production of the consolidated accounts. Through that mechanism, each director with those responsibilities must, in providing their assurances to their own accountable officers and ultimately to the principal accountable officer, address how they interact with those bodies and how they ensure that the funds that are being disbursed through that route are in line with the policies, processes and systems that we want to put in place.

That has all been reinforced, particularly over the past year, so there is much more of a signal and a requirement for directors across the Scottish Government to have those links. As I said, we have started to examine how individual budgets and the overall capital budget are managed. To give you an indication, the capital budget for the Scottish Government last year, in the areas that fall within the core aspects of management, came in within £2 million, which is just the right side of the line. That is a testament to the close working that is taking place and the links that directors within the organisation have to the NDPBs and other bodies through that route and those mechanisms.

Returning to Stuart McMillan's earlier question, members will not be surprised to learn that we have a series of specific skills development courses for senior people, to ensure that the early

stages of the strategic project—the definition—can be supported. We have defined the competencies that people require in various areas. That is part of the Scottish Government's skills for success initiative, which contains an element on specific delivery skills for programme and project management. As well as being clear about where the responsibility sits and how people should carry out that role, we are ensuring that they have the tools to do that. That is true both at the strategic level and, as the permanent secretary explained, at the operational or delivery level.

**Andrew Welsh (Angus) (SNP):** Does your system act after the event or can it pick up on problems before they become major? You mentioned the arm's-length principle in your relationship with outside bodies, and you said that an alarm bell sounds if something goes wrong, but is that system reactive rather than proactive?

**Sir John Elvidge:** Yes and no. It is reactive in the sense that it is a review process so it always comes in after the event. However, it comes in not at the end of the project but at stages throughout the project. In that sense, the intervention can be made between the point when best practice is not being followed and the point when the consequences of that materialise in the way in which the project is being taken forward.

Strictly speaking, the process is always backward looking, but the point of having frequent gateway reviews at stages during the project is to try to get a bit of forward-looking action so that a mistake at the beginning does not necessarily mean that there is a poor outcome at the end.

**The Convener:** Does that mean that you, as the principal accountable officer, are made aware of problems that are developing in a project, rather than the end of the project being reached before someone reports that there is a problem?

**Sir John Elvidge:** I would not be made aware of that personally, except in the one area in which I am a budget accountable officer as well as the principal accountable officer. The accountable officer for the portfolio budget will be made aware if the gateway review shows that there is a problem with a project. That is one of the changes that we made in the past couple of years.

**The Convener:** Are you suggesting that the accountable officers do not necessarily alert you, as the principal accountable officer, to emerging problems?

**Sir John Elvidge:** Yes. Broadly speaking, their first instinct will be to try to fix the problem rather than tell me about it. In honesty, it probably depends how severe the problem is. I regularly talk to all the accountable officers one to one—on average, no less than once every two weeks—so if something is particularly worrying them about a

major project, they will tell me. However, they do not automatically pass on the warning of a red gateway review assessment.

**The Convener:** Let us consider a specific example. Were you made aware of emerging problems in the Stirling-Alloa-Kincardine railway project?

**Sir John Elvidge:** Yes.

**The Convener:** At what stage did that happen?

**Sir John Elvidge:** You are testing my memory there.

**The Convener:** If you cannot remember, perhaps you could revert to us with that information, because the issue is important. Are problems being picked up, and if so, what action is being taken? When you reflect on that and revert to us, will you tell us how many projects were brought to your attention as having significant risks in the past two years?

**Sir John Elvidge:** I will do my best. As I said, the alerting normally takes place in conversation rather than on paper, so it will take a bit of digging into people's memories.

**The Convener:** Can I tease that out? We are talking about major projects that involve millions of pounds, yet in terms of an audit trail and accountability, in general nothing is put on paper. Conversations take place. Is that not a strange way to manage a serious potential problem?

10:15

**Sir John Elvidge:** We are getting into the theology of levels of accountable officer responsibility. I designate a series of accountable officers to manage discrete budgets because, if everything flowed to me, individual issues would not receive the attention that they need. The model is not built around the idea that I intervene personally in everything. The purpose of having the designated accountable officers is so that they take responsibility for dealing with issues within their budgets and tell me only if they experience some particularly acute problem. There is no institutional complacency—some of the most senior people in the organisation are brought in through their accountable officer roles to bear down on the problems.

**The Convener:** I presume, therefore, that there must be records of warnings and alerts at accountable officer level, rather than at your level. From an audit perspective, those should be available if anyone wants to find out when a problem was first identified and what action was or was not taken. I accept the fundamental point that you cannot be involved in the micromanagement of every project. However, you are responsible for

managing the accountable officers. How can you manage them, and how do you know whether they are doing a good job, if they do not tell you that there is a problem and there is nothing on paper to indicate that there is a problem?

**Sir John Elvidge:** My safeguard system is sitting beside me. There is no realistic prospect of an accountable officer concealing from me a problem that has not been successfully addressed, not least because Alyson Stafford, as director of finance, would pick up the evidence of that, and she provides a second channel of information to me. I can say to you, hand on heart, that I do not suffer from accountable officers not telling me when they have problems.

**The Convener:** That does not necessarily answer my question. I asked how you know whether they are doing a good job—whether they are competent—if you have not seen any written evidence of how they are managing.

**Sir John Elvidge:** I have a series of measures of whether they are doing a good job. Again, the infrastructure investment group's work is important in that regard because it gives me assurance across the piece about how individual projects are being managed, so I certainly find out about failures. I also find that people are not particularly reticent about telling me about successes, so there is not much danger of me not knowing about the good bits.

**The Convener:** You say that you find out about failures, but does that happen after the event? We are more concerned that you should be in a position to take action to prevent emerging problems from becoming failures.

**Sir John Elvidge:** Let us try to be clear about what we are talking about: we are discussing the example of a project that had got into difficulty and in relation to which an accountable officer had not taken successful action. It must be right that the accountable officer is given the room to do their job, and I am confident that, if successful action was not taken, Alyson Stafford would tell me so through her overview. There is no absence of channels for telling me when the management of a major capital project might be in difficulty.

**The Convener:** Okay. Does Alyson Stafford want to say something?

**Alyson Stafford:** Yes. This would be a good point to say something about the gateway process.

**The Convener:** Could you do so succinctly? We have a number of other questions to ask.

**Alyson Stafford:** Of course. There are five stages in the gateway process: business justification; delivery strategy; investment decision; readiness for service; and gateway 5, which is the

operations review and benefits realisation, after the delivery of the project. At each stage, a review is held by the review team that we described earlier. At times, more than one review will be held for each stage; there is scope for multiple reviews.

The permanent secretary has already said that, at times, reviews flag up a red gateway. "Red" means that corrective action is required. It does not mean that the project is doomed, and it does not mean that nothing can be done; it means that corrective action is required. For any of the stages, such a flag would go to the senior responsible owner of the project. It would be reported to the accountable officer as well. As you would expect, all our efforts are made to ensure that we deliver programmes and projects successfully.

Gateway is designed with that mechanism so that we can appraise projects regularly. We want to deliver the required outcomes for infrastructure investment across Scotland. Gateway is there to let us do that. It runs in parallel with the project so that we can minimise all the problems that committee members have been talking about. Members have been talking about projects going off track; gateway is about keeping projects on track. It is a review mechanism.

Each year, the infrastructure investment group identifies some key areas of work that each of the directors needs to link into. Accountable officers have to be good custodians of the public purse in each financial year. As finance director, I send a report to the strategic board each month. Part of that report will mention all the programmes of activity in the Scottish Government that are part of the capital budget, and it will set out the programmes that are over a certain level, asking whether they are on track and how they match up to the budgets that were set for them. Therefore, around the strategic board table, we can regularly assess the variants, if any emerge. As the permanent secretary has said, there is therefore another mechanism: over and above people's individual responsibilities, we have a collective way of taking stock every month.

**The Convener:** Before I bring in James Kelly, do Stuart McMillan or Andrew Welsh have anything further to ask on this issue?

**Andrew Welsh:** You have set up a structure in Government, with a gateway team, a gateway review and a five-stage process, but we also have to consider realities on site—as we know only too well in this building. Reports come in, but how can you compare those reports with what is actually going on? How can you close the reality gap, to ensure that the information that you receive is accurate and states what is really happening on site? For example, we saw the flaws in the M74 completion project.

**Alyson Stafford:** Gateway, with its reviews and peer reviews, is our mechanism for that. When I described the make-up of the review team, I said some external people are always on the team. When I say "external", I do not mean simply someone from another part of the public sector in Scotland. Although we have trained reviewers from the universities and from the NHS, for example, we also get external people on the review team. That offers another check and another degree of independence.

Use of the gateway process has been mandatory since 2005. Several projects are still going through the various gateway stages. The gateway is one of our key mechanisms.

**Andrew Welsh:** In life, we tend to hear of disasters rather than successes. Without breaching confidentiality, will you give an example of the system picking up and solving a problem?

**Sir John Elvidge:** I have an example in mind, but the confines of confidentiality are a problem. I will think about what I can say. The example that was prompted by your question is of the system being given what was in effect false information about what was happening on a project.

**Andrew Welsh:** Did the system pick that up? That is what I am after.

**Sir John Elvidge:** The system picked up the situation and it worked. The project's management was changed and, at some cost, we got back on track. My difficulty is that, for reasons of confidentiality, I can tell you nothing about the identity of that project. That is not tremendously helpful for you, because you must trust me that it exists.

**The Convener:** I do not know whether Sir John Elvidge has just encouraged people to think about freedom of information requests. He might have made a rod for his own back.

**James Kelly (Glasgow Rutherglen) (Lab):** Post-project evaluation is critical. It looks back to decide whether a project has succeeded and allows lessons to be learned for future projects. Alyson Stafford spoke about the fifth gateway review, which was the benefits realisation process. What systems measure success in achieving the benefits of a project that are stated in its business case?

**Sir John Elvidge:** Audit Scotland's report brings out the fact that the need to improve is strongest at that stage. I return to the distinction between having guidance and enforcing it. For some time, the guidance has said that post-project evaluation should be mandatory. It draws a distinction between two kinds of post-project evaluation. A self-contained process, which we call the post-project evaluation, evaluates how the process

went and goes into issues such as how effectively the project was scoped and managed, which the report mentioned. A separate process, which we call post-occupancy evaluation, is about whether a project delivered the benefits that it was intended to deliver, never mind whether the most fantastic procurement job in the world was done.

A system exists, in that the framework is clear and the guidance makes it clear that those processes should be followed. However, the evidence tells us that compliance is not nearly as good as it should be. That takes us back to territory that Alyson Stafford has talked about.

**Alyson Stafford:** That links into the infrastructure investment group and the gateway process overall. At the helm of the work on post-project evaluation and post-occupancy evaluation is the Government's construction advice and policy division. The procurement manual for construction schemes sets out how performance is measured in specific areas. That means that not just a subjective assessment, but a substantive assessment takes place. It is important to do such assessment and to have comparability with other projects.

**James Kelly:** Where the business case states that there are particular cost benefits of going ahead with a project, will the benefits realisation process in the fifth gateway review look at the statement of those cost benefits and at whether they have been achieved, or are in the process of being achieved? Can you make that clear?

10:30

**Alyson Stafford:** Yes. I will draw on the post-occupancy evaluation checklist that is used in reviews. As a minimum, it assesses the achievement of the business case objectives to date; the benefits to date against those that were forecast and the other benefits that were realised and expected; the extent to which there is continued alignment with the business strategy; the effectiveness of actual improved business operations, which may include function processes and staff numbers; the ways in which to maximise benefits and minimise whole-life costs; the risk assessment around that going forward; and business and user satisfaction. We also expect regular post-occupancy reviews to take place over the operational life of a facility. That chimes very well with gateway, which is not a single event process—we look to gateway 5 being achieved.

Therefore, depending on the life of a project or asset, we expect to see regular evaluation. If we expect a 20-year benefit, we expect gateway reviews to take place at intervals during that time to ensure that we get the benefits from the investment that was made; we also expect the

evaluation to feed back into the process. I return to the point that we made earlier on the need for a continuous learning loop in our work going forward.

**James Kelly:** Learning the lessons from projects and feeding those into future projects is important.

As Sir John mentioned, compliance in this area is obviously of concern. The report noted that in 21 of 43 cases, the project team conducted no post-project evaluation. What steps have you taken to ensure that compliance improves and that all project teams carry out post-project evaluations in future?

**Alyson Stafford:** The change is that it has been made clear that the gateway process is now mandatory for all projects that are mission critical and/or high risk, with a budget of more than £5 million. That is the clear standard by which the Scottish Government must live and work.

**Andrew Welsh:** There is no consistent approach to the provision of information on major projects and no regular publication is made available to the Parliament or the public to show how major projects across Government are performing. What plans are there for the Scottish Government to report publicly on projects?

**Sir John Elvidge:** I will say something initially. We are on a journey. We now have two infrastructure investment plans, the first of which was published by the previous Administration in 2005, and the second by the present Government in 2008. The plans provide the first step towards a clear overall picture of investment activity. The second step is the database that the infrastructure investment group has constructed to provide a framework for tracking all projects.

When we think about the topic, we make a distinction between what we manage ourselves and what NDPBs are managing. That is an important ingredient in the complexity. The question is: what is the next step forward? Two issues are involved: the quality of data for individual projects; and how one moves forward with what is in public domain, starting with the infrastructure investment plans. The honest answer is that we have not reached conclusions about what the next step on that journey should be. This might be where Alyson Stafford comes in.

**The Convener:** Before we bring Alyson in, is the journey one on which you are doomed to wander for eternity, or is there a specific timetable? If so, what is it?

**Sir John Elvidge:** It is tempting to say that improvement is a journey that never ends. I am genuinely always hesitant to say, "Once we get there, we will have done everything that can

possibly be done and that is it." This is not a "Maybe sometime" journey. We are looking to take regular steps and make progress. That is where the relevance of the work that Alyson Stafford is leading will help us to get a handle on the likely timescale.

**The Convener:** Yes, but will you then report to Parliament and tell us what the target is for each step so that we can have some assurance that you are making progress?

**Sir John Elvidge:** I am sure that we can give you an account of our ambitions for the steps on the journey. We can say quite clearly that the next step is to develop our database, and Alyson Stafford might be able to give us a sense of the timescale for that.

**Andrew Welsh:** Infrastructure projects have been going on for a long time. You have just said that you have mechanisms for monitoring them, so you must know exactly what is going on. Earlier, I mentioned the reality gap. What information is available as the project progresses? Is the project on schedule? Are things being delivered? Surely all that information should be going through the monitoring structure that you already have. What is the problem?

**Alyson Stafford:** I will respond to both those points.

The infrastructure investment group is focusing on having a database that charts all the information. On your questions, I have been considering how much of that information is in the public domain and at what stages. There are various elements to seeing a project through, as well as the interfaces with external contractors. I am concerned to ensure that we get all the value-for-money benefits that we have talked about by bringing in the life-cycle costing and getting the benefits of the individual projects as they go through. We have to have in our armoury the information that we need to continue to get the best arrangements with our contractors so that we can get the contracts and the facilities in place.

So, although it is about having the information, we have to think about commercial confidentiality so that we can still get the best deals possible as we go through any infrastructure project. We need to think carefully about getting value for money at the same time as reassuring you that we have the database to work those various issues through.

We have opportunities at intervals to take a snapshot of the project. The most obvious snapshot is our annual accounts, which contain our capital budget for the year. Obviously our programme of activity is in line with our capital phasing of investment. We have to have the budget there. We make the investments and we work that through. At the end of each financial

year, in effect we draw a line under how much of our resources we have committed to specific projects and programmes of activity. At that point, we are clear about what we have delivered and where we are. We get a value for projects still under construction and we use that to explain any variances in individual rows of accounts.

One of the valuable things will be to think about how we use the information in the annual accounts. The annual accounts are part of our structure of reporting and are in the public domain. People can rely on them, because they go through an audit process. Those who were at the Finance Committee yesterday will be aware—

**Andrew Welsh:** We are talking about informing the public and Parliament of progress on projects. We are talking about types of information. Everybody understands that some information will be confidential, but we want to know about the reality of a project as it progresses. We are also talking about clarity. It is important to give the public access to information and to state clearly what is happening. Projects have a start, a continuing process and an end. It would surely be appropriate from the start of such a process to let the public see simpler information and it could build up to greater complexity. The information that the committee would seek is probably different from what the general public would want. It becomes complex if you get all the information that is in the system.

We are not asking for Rome to be built in a day, but it would be welcome if we made a start and made fundamental information available to Parliament and to the public. Scotland performs could surely be a model for such information.

**Alyson Stafford:** I am happy to look at the read-across from what we are talking about today to Scotland performs and to see how that links in. Scotland performs is about charting our progress on outcomes, and infrastructure is part of achieving those outcomes. I am happy to take that suggestion away and work on it with colleagues.

**Andrew Welsh:** We are all interested in outcomes: the end-product is what is important.

**Alyson Stafford:** Yes.

**Andrew Welsh:** Can I move on?

**The Convener:** Nicol Stephen would like to comment.

**Nicol Stephen (Aberdeen South) (LD):** My question relates to that point.

Sir John, you mentioned the information that flows through to you as the accountable officer. We have talked about the information that is provided to Parliament and to the public. I am interested in the information that is provided to

ministers as a result of the gateway process and in respect of the overall management of major capital projects. I would like to know how regularly such information is provided and whether it is provided consistently across different departments.

Obviously, the biggest set of projects at the moment is the M74 extension, the Aberdeen western peripheral route, the Forth road bridge replacement and the Borders railway. Those are big projects. I am interested to know how often the Minister for Transport, Infrastructure and Climate Change and John Swinney, the Cabinet Secretary for Finance and Sustainable Growth, get updated costings for those projects. Do they get such information monthly or quarterly? In what form is it provided? I do not want to know the detail, but I would like to know the frequency with which such information is provided and the shape and quality of what is provided to ministers to allow them to take appropriate action and to inform Parliament when that is necessary.

**Sir John Elvidge:** We will have to come back to you on the detail. I know enough from my conversations with the ministers to know that they are happy with the information flow that they get, but I do not know enough to describe either its form or frequency. We will come back to you with precise information.

As Nicol Stephen knows, in this respect the system tends to mould itself around the working preferences of individual ministers. We have no reason to monitor centrally how the system works, provided that individual ministers are happy with it and provided that the information flow comes to us. There is a separate question about how the information that we gather through the processes that Alyson Stafford has talked about flows to ministers.

I promise to get back to you on your main question about how it works at the level of individual ministers. Perhaps Alyson can say a bit about the secondary question of how the aggregate information flows.

10:45

**Alyson Stafford:** Yes. The aggregate information is drawn on each month when I pull together all the information that comes from the feeds of different parts of the Scottish Government on the financial performance of the Scottish Government. Alongside that, there is a feed of information that breaks down the capital figure of our budget into programmes of activity with a specific attention on programmes within each area of £50 million or more. There is a degree of aggregation when looking at the whole picture. That information comes through and I use the infrastructure investment group gathering to

scrutinise that and test the confidence of the individual directors who lead on those areas in the robustness of the information.

It is not just about having a mechanical feed of figures that come through. A dialogue takes place in which I ask the directors, with their other sources of information and contacts with various people, whether the financial monitoring rings true with the delivery, to ensure that there is no gap between perception and delivery. There is testing at that point, and that is pulled together in the material that goes to the strategic board. There is then a chance for anything of an exceptional nature to be flagged up. Specific commentaries are provided in the briefest of terms, but are sufficient to say what is happening on each of the programmes.

Again, the whole idea is to maximise the use of our budget in any one year and to get the value that we want from it. That is our mechanism for pulling that together.

**Andrew Welsh:** On maximising the use of budgets, what systems are there to ensure that priority is given to projects within the capital investment programme that will provide direct benefits?

**Alyson Stafford:** That is an interesting question. The investment in individual capital projects is—as you would expect me, as finance director, to say—linked to budgetary decisions. It is fair to say that those budgetary decisions—the decisions about how much is allocated across individual portfolios and how those portfolios apply the funds—are very much ministerial decisions. Ultimately, it is for the Cabinet to decide on the mix across all the portfolios, and there are decisions and prioritisations within that. That is very much part of the whole area of ministerial decision making on prioritisation. The investment must be linked to the budgets, and that is where the conversation takes place.

**Andrew Welsh:** Can you assure us that project proposals receive robust, independent challenge before they are accepted into the major capital programme?

**Sir John Elvidge:** That depends on what the word “independent” means in that context. I think that we can assure you that there is an increasingly robust challenge through the mechanisms that Alyson Stafford leads. That is a robust function not just of the finance directorate, but of a wider circle of colleagues with expertise in overseeing capital projects. In that sense, the answer to your question is yes. If you asked me whether there is a routine external challenge, the answer would be no.

**Andrew Welsh:** I would like assurances about such challenges. At the beginning of the M74

completion project, there was no clear plan for managing and controlling the project's total cost. The only allowance for risk was implicit within the range of cost estimates for the project—there was no explicit allowance for risk or bias. There was no agreed basis for accounting, controlling and managing the significant risk element in the estimate, nor any explicit strategy for doing so. There were also various other flaws. Can we be assured that that will not be repeated?

**Sir John Elvidge:** Yes, I think that you can. Part of the answer is the development of Transport Scotland as a change that the previous Government made to the way in which transport projects are managed and the evolution of what that body of specialist expertise is able to bring to project management in the field of transport. The other part of the answer is the evolution of what we might call the challenge community, which Alyson Stafford leads through the infrastructure investment group.

**Andrew Welsh:** So, there is a mechanism that has learned from past lessons.

**Sir John Elvidge:** Yes.

**Cathie Craigie:** The Audit Scotland report recommends that the Scottish Government strengthen strategic direction and investment planning through stronger, Government-wide co-ordination and more constructive challenging of projects to help to deliver them better. Both Sir John Elvidge and Alyson Stafford have spoken about having a database that can provide a snapshot of what is happening, but that does not give any real-time update and it is not a check across the portfolios on major capital projects and performance outcomes.

It seems to me that Audit Scotland has made a sensible recommendation that would make the situation much better if the Government would take it on board. From the answers that have been given to Andrew Welsh this morning, I am not satisfied that there really is a move to get that better flow of overall information and a better exchange of information between different departments. Can you say anything more about it that might satisfy me?

**Sir John Elvidge:** We will do our best. I am disappointed that we have left you unconvinced about that. The work of the infrastructure investment group is, essentially, our response to that recommendation in the report, with which we agree strongly. My judgment—it is easier for me to say this than for Alyson—is that Alyson has driven forward our capacity in a marked way over the past year and a half using that structure.

We absolutely agree that there is scope to do more; however, it is a question of proportionality. One of the other threads of our work is the

burdens that we place on organisations throughout the public sector—the information flows that we demand of them. There is an obligation on us to demonstrate that the information that we demand, in particular from NDPBs, is proportionate to the value that we get out of using it; otherwise, we could generate a lot of cost in the public sector without achieving a proportionate benefit.

In this sphere, that judgment must hinge on an assessment of how many projects go wrong that would be improved by our intervention in requiring a more regular information flow to us. That is a judgment that we have to make. I make no presumption about where that judgment would lie; that is simply the process that we must go through if we are thinking about a step change in the information that we require from public bodies. Requiring a shift towards real-time information flows, as opposed to regular snapshot reporting, would represent a significant shift in the demands that we place on public bodies. That is the issue that we must wrestle with.

**Alyson Stafford:** It is fair to say that the infrastructure investment group has focused on ensuring that we get the maximum out of the budget. We can be judged by our outcomes, and in the past two financial years we used all the capital budget—which was in excess of £3 billion in each of the two years—to within a margin of less than £10 million. That evidence reinforces what we are saying about our work.

Some things are tangible now, but we know that we are moving into times when our financial position will be much more constrained. From the spending review, we know our settlement for the next three years. Not surprisingly, my emphasis with the infrastructure investment group has been to say, “Right, we need to make sure that we use the money effectively and efficiently. We need to get the benefit from the investments and from ministers’ decisions.” In the past two years, the evidence shows that we have achieved our aims and kept within fine margins. That has been done through careful interaction between directors on the various schemes that are under way, and it has been really important. If we generate any underspends, that money will not be available to us until the next spending review in 2011-12. That is a huge incentive for us.

As we have said, we are also shifting our attention towards life-cycle costs—a standard has been published this year—and towards project evaluation and outcome evaluation. We are moving the focus from getting the best from the budget and are now looking left and right to see what is in the pipeline. We have to consider how to bring all the projects that have been initiated since 2005 through the gateway process, taking into account the optimism bias and the risk. Budgets



are tight, and we cannot afford to have anything going off track. We have to make the most of our investments.

Post-project work is where we learn lessons and evaluate, and such work is very much in with the bricks of the infrastructure investment group. However, we focus first on getting the best out of the budget that we have. Two years' worth of evidence shows that we have delivered on that. We are looking along the pipeline and looking out for events.

Skills development has been touched on, which is an important issue. We must also be aware of other strategic issues and policy initiatives, such as those relating to sustainability. Experts have been involved in giving us a steer on sustainability issues. We have also been considering the national planning framework. Time and cost issues are important in the early stages, and we do anything that we can to help to keep a project running smoothly and to minimise the disruption that external factors can cause.

**Cathie Craigie:** Shall I move on, convener?

**The Convener:** I am watching the time. If you want to ask one further question, that is fine; but if there is anything else, we can follow it up in writing.

**Cathie Craigie:** How does the Government decide on its priorities for projects? Also, we have heard from the Government about the Scottish Futures Trust. What improvements in the procurement and project management of programmes will come from that?

11:00

**Sir John Elvidge:** Those are two big questions. I will try to give some headline responses. We need to recognise that Audit Scotland's report describes project commissioning over a long period, in which the answer to your question about how prioritisation is done changed quite a lot. I will leap into the present. Now, prioritisation is achieved through the Government's structure of objectives—the single overarching priority of economic growth, the series of targets that relate to that and the five strategic objectives. Prioritisation is now handled in a way that tries to bring projects back to their contribution to those overarching objectives.

It is harder to do a headline on the Scottish Futures Trust, but I will try to draw out the main connections. One of the trust's objectives is simply to improve the efficiency of procurement. That takes us back to the territory of smaller public bodies commissioning capital projects, but it does not end there. The benefits of aggregating procurement activity are a key thrust for the trust

to explore. We also expect it to interest itself increasingly, although not necessarily as its first priority, in working its way into other questions that we have discussed this morning. I cannot jump to the answer about how the trust will come up with fresh ideas to interact with those questions. Broadly, I expect the trust to start by considering the benefits of aggregation and of more co-ordinated procurement action, which are directly relevant to what we have discussed, and to move on as it develops as an organisation to consider wider questions.

**The Convener:** We will reflect on whether we have covered all the issues. If we have not, we will write to you. I thank you and Alyson Stafford for a full session. Some of the evidence was technical and specific. We might well wish to return to issues that relate to capital projects or other matters. We all realise the significance of good management and of using scarce resources efficiently. As Sir John Elvidge said, Audit Scotland's report was exceptionally good. It should drive better services for the public.

I will allow a five-minute break for the changeover of witnesses.

11:03

*Meeting suspended.*

11:10

*On resuming—*

## **Audit Committee Report (Government Response)**

### **“Report on the 2006/07 Audit of the Western Isles Health Board”**

**The Convener:** Again, I welcome Sir John Elvidge to the committee. I also welcome Dr Kevin Woods, who is accompanied by Paul Martin. Do you wish to make an opening statement, Dr Woods?

**Dr Kevin Woods (Scottish Government Director General Health and NHS Scotland):** Yes, with your permission, convener, I will give a brief update of developments in the Western Isles. I think that that would be helpful to the committee.

First—and it is good news—NHS Western Isles continues to make good progress in resolving its financial situation. For the first time in five years, in-year financial balance was achieved in 2007-08 and the board forecasts in-year financial balance again for 2008-09. The effect of that is that the board has reduced its accumulated deficit by about 8 per cent to just over £3 million. Of course, the accumulated deficit meant that the Auditor General for Scotland issued another section 22 report for 2007-08.

To support the progress that has been made, the Scottish Government has committed to provide brokerage to clear the cumulative deficit, subject to satisfactory evidence of continuing improvement in financial performance. We will get that evidence from our routine financial monitoring. In addition, we have asked the board to task its internal auditors with making an assessment, which will give us additional assurance that the board is in a position to move forward. If we get that assurance at the mid-year point, which is towards the end of October, we will begin discussions on a brokerage and repayment plan.

In order to provide a broader range of support to all three island boards, we have put in place partnership support arrangements with other NHS boards along with a commitment of £250,000 of additional recurring funding for each island board. In the case of NHS Western Isles, its partner board is NHS Highland. The arrangements will enable all three island boards to strengthen their capability in areas such as finance and governance.

Gordon Jamieson has been appointed as interim chief executive following the departure of John Turner to take up another substantive NHS post. The recruitment process has begun for a substantive, permanent chief executive. On the

two previous chief executives, the board has told me that Laurence Irvine was dismissed with effect from 13 June 2008, following a disciplinary hearing, with an employment tribunal pending, and that Mr Manson, who resigned with effect from 5 September 2008, is to receive only his contractual entitlement on departure.

Finally, in your letter inviting me to give evidence today, you highlighted the committee's belief that the Scottish Government should accept some responsibility for the situation that arose at NHS Western Isles. I have a few brief points to make on that. At national level, formal accountability for the NHS in Scotland to Parliament lies clearly with Scottish ministers. However, the NHS in Scotland is comprised not of one single legal body but a collection of separate legal entities, each with its own legal powers and duties.

To support the formal accountability arrangements, successive Administrations have put in place a framework of administrative accountability. I operate that framework on ministers' behalf through the work of the Scottish Government's health directorates and in line with my responsibilities as accountable officer for those parts of the Scottish Government. That work is designed to support health boards in carrying out their functions and in fulfilling their responsibilities, as laid out in legislation. It is not designed to lessen or remove the statutory and other responsibilities that lie with health boards, as illustrated in the case of NHS Western Isles.

11:15

The operation of health boards is comparable to the operation of other NDPBs in Scotland and is consistent with the wider relationship between the Scottish Government and other public bodies, which is described in the guide for board members of public bodies in Scotland that is issued to all NHS board members. You may recall that I attached a copy of that guidance in my letter to you of 27 March.

I am happy to answer the committee's questions in relation to that and any other matters, and I acknowledge once again the good progress that is now being made in the Western Isles.

**Sir John Elvidge:** It might help the committee if I add one point that follows on from where Dr Woods finished and deals with my responsibilities in the accountability framework. Those responsibilities flow from section 15 of the Public Finance and Accountability (Scotland) Act 2000, which builds on section 70 of the Scotland Act 1998. Section 15 of the 2000 act confers on the holder of my post ultimate accountability to the Parliament—indeed, to the Audit Committee—for ensuring the regularity, propriety and value for

money of expenditure within the budget that the Parliament sets for the Scottish Government.

Section 15 empowers me to delegate elements of that responsibility by designating accountable officers for parts of the Scottish Administration and for other bodies whose accounts are required by statute to be audited by or under the control of the Auditor General. Those other bodies include the health boards. It is, therefore, my responsibility to ensure that there is a person in each health board who has the capacity to exercise the demanding responsibilities of an accountable officer. The assumption is that the chief executive will be that person.

In making the initial designation, I normally rely on those who appoint a chief executive to assure me that the person whom they have appointed has the necessary capacity. In the case of health boards, I rely on the assurance that is provided by Dr Woods—previously, I relied on the assurance of his predecessor—given his role as an assessor in the appointment process. Accordingly, the chief executive or interim chief executive of NHS Western Isles has been designated by me as the accountable officer who is personally answerable to Parliament for regularity, propriety and value for money in the management of that organisation. That designation is conferred in a letter from the accountable officer for the health portfolio but is explicitly stated as a designation that is made by me.

I also have responsibility to revoke a designation if I conclude that the designated person is no longer fit to carry out the responsibilities of an accountable officer, or that it is otherwise in the public interest for a designation to be withdrawn. In considering the continuing fitness of a designated accountable officer to carry out his or her responsibilities, I am assisted by the annual certificate of assurance process, through which the designated accountable officers for the various portfolio budgets within the Scottish Government's overall budget provide assurances about the internal control arrangements relating to their budget responsibilities. Those certificates of assurance cover the continuing fitness of the designated accountable officers of bodies that are covered by the relevant budget.

It is, of course, my responsibility to ensure that those various processes are sufficiently robust to bear the weight of the important decisions about the fitness of individuals to be designated as accountable officers.

**The Convener:** Thank you, Sir John. That clarification was helpful because it put into context Dr Woods's comments about each health board having its own statutory responsibility. It is clear from your comments that, notwithstanding that, there is still a line of accountability through you to

the Government and, ultimately, to Parliament, for the performance of individuals who may or may not operate at arm's length.

I put on record the committee's appreciation of the way in which the health board has been performing recently. We recognise the substantial effort that has been put in and the contribution that has been made by a number of individuals. What Dr Woods has reported is testament to their efforts and we wish Mr Turner well in his new post. I am sure that he will bring the same determination and expertise to it as he has brought to NHS Western Isles. However, it is also fair to say that, as you have seen from our report and our correspondence, we are unhappy and concerned about what has happened in the Western Isles in recent years. It is hard to describe the depth of the failure and it is hard to understand some of the decisions that were made. There is no doubt that there has been poor management over a long period.

We welcome the fact that the health board has faced up to its responsibilities and accepted much of what was said. However, we are concerned that those in positions of responsibility in the health directorates in particular have not shown the same willingness to accept the historical failure. That is not a criticism specifically of Dr Woods, because we recognise that some of what happened predated your tenure but, nevertheless, you and Sir John Elvidge are now responsible for forming an opinion on what has taken place. The committee is not convinced that the health directorates can walk away from their responsibilities, particularly given what Sir John has said this morning about his role in the management process.

We remain concerned about how appointments are made and how the health directorates address failure. We also wonder whether that is a wider problem. Rather than a problem being dealt with when it arises, people seem to be moved to the side to other senior jobs. We think that the health directorates and Scottish Government officials need to face up to a number of fundamental issues, which we want to explore this morning.

**Murdo Fraser:** I endorse the convener's comments. I am grateful to Dr Woods for his very helpful update. The committee is encouraged to hear that there is good news on NHS Western Isles. We have already taken evidence from Dr Woods on the issues in our report, so I address my question to Sir John Elvidge.

The committee has spent a great deal of time over the past year examining the situation in NHS Western Isles—probably more time than any of us would have wanted to spend. We produced a well-balanced and evidence-based report, which contained a number of recommendations. It was

clear to us that, as the convener said, responsibility for what happened in the board had to be taken partly by the board, but it also had to be taken by the health directorates. In our report, some recommendations were addressed to the board and others were addressed to the health directorates. The board accepted, in whole or in part, the recommendations that we made to it and its response was constructive. We were all very disappointed that all the recommendations that we made to the health directorates were rejected.

To me, the response reeks of complacency and gives the appearance of a close-the-ranks approach to criticism that is directed towards the civil service. What assurances can you give that, when a committee produces a report along the lines of the one that we produced, Government will take seriously the criticisms that the report contains and the recommendations that it makes?

**Sir John Elvidge:** I give an absolute assurance that we never take lightly the views of committees. I regard it as a serious matter for this, or any, committee to have criticisms of the performance of the organisation. I give an assurance that the view that we have taken in this instance is not born of complacency.

The thorough investigation that the committee undertook opens up issues of fundamental importance to governance and accountability. I am not sure that there is disagreement between us that responsibility clearly rests initially with the individual public body. If one creates independent bodies with independent governance, the corollary of doing that is that those bodies have to take responsibility for what they do. In this case, the issue seems to be about the point at which one makes a judgment that the model is not working. One then has to decide on the nature of the intervention that one has to make.

It is my view that one should be very cautious about deciding that the governing body of an organisation—in this case, a health board—should be disempowered by an external intervention. The risk of using intervention in that way is that organisations are not encouraged to develop the capacity that they need to manage their affairs. That said, from time to time, one reaches a point at which intervention needs to be made. In this case, we reached that point and an intervention was made. The issue of debate between us may therefore be whether the timing of the intervention was right. Inevitably, when such decisions are made, fine judgment is involved.

We are clear about, and I would defend, the principles on which our view on being cautious about intervention is based. I would argue against a model that assumed that rapid intervention is always right. That is particularly the case when the intervention involves changes to key personalities.

There is a price to be paid for taking key individuals out of an organisation. Even if the performance of an individual or individuals is imperfect, one has to reach the judgment that the organisation is going to be better run by withdrawing them and putting in their place people with less experience and knowledge of the organisation.

11:30

I have experience of such decisions in other settings. My mind tends naturally to go to the problems at the Scottish Qualifications Authority, because they were a significant event for me. At the SQA, we decided that it was right to take out—in effect—an entire board and the chief executive simultaneously. It was right to take the risks of doing that and of putting in a completely new team because of the performance improvement that we thought that we would achieve. However, in other circumstances, it might be right to reach a different judgment. The issue is not complacency but difficult judgments in a framework about which I do not think that we and the committee disagree.

**Murdo Fraser:** I thank you for your response. I entirely take the point that deciding when to intervene involves judgment. I welcome the tone of your answer, which is more constructive than previous responses.

The committee wants you and Dr Woods to assure it that lessons have been learned from the episode with NHS Western Isles, that procedures will be monitored and that changes will be put in place, if necessary. That is the purpose of our report. We are not here to score points. We are trying to achieve improvements in how the public sector operates. The committee's concern was that the responses that we had received suggested complacency. If you are saying that you understand the need for improvement, we welcome that.

**Dr Woods:** I reiterate that we are not complacent. We take the committee's recommendations extremely seriously and did so when previous reports were produced. The point about judgment is well made and well taken. Within our responsibilities as described in the accountability framework, we carefully assessed the situation in the Western Isles in the late summer of 2005, when I asked my colleagues to produce written reports on the situation. In the light of that analysis, we concluded with the minister that we would address the issues at the accountability review that was to be held just a few weeks later. I recognise that, given how the situation unfolded, the committee might say in retrospect that a different course of action might have been followed at that point. However, I emphasise that the decision was based on a

Careful analysis of all the information that was available to us. When the position deteriorated in 2006 in the way that I have described to the committee, we took further action.

**Stuart McMillan:** A few moments ago, Sir John Elvidge said that he would be concerned about disempowering a governing body if decisions went to a central body or if a central body stepped in to take control. The points that the convener and Murdo Fraser made relate to the idea that a more teamworking approach should be adopted, instead of central Government taking a step back and allowing a body to sink or swim. I take on board Dr Woods's comment that, in hindsight, the decision to take a step back in 2005 might have been wrong.

Neither you nor the committee is in the game of disempowering any public body. The health directorates should work with health boards. However, I would like reassurance that the health directorates will be there to provide assistance when it is necessary.

**Sir John Elvidge:** I share that view. I will make some general points first, before making specific points about health. I absolutely agree that supportive teamwork among the different elements of the public sector is crucial. That needs to be the working ethos throughout the sector. However, the balancing factor is the possibility of undermining accountability. I am unapologetically in favour of the boards of organisations being accountable for performance. Teamwork and support have to be managed in a way that does not undermine accountability. However, I agree absolutely with the principle that we should be building the capacity of individual organisations, and not detracting from it.

Health bodies have a particular interdependence and, as accountable officer for the NHS budget, Dr Woods has to manage the aggregate consequences of what they do. In the public sector, it is generally true that what one body does has consequences for others, but the interaction is particularly acute in health. The health boards share the one defined pot, and Dr Woods is responsible for keeping that within budget.

In health, there is a slightly specialised version of the general principles, which I think we would all agree gives the interactions a different character from those in the rest of the public sector. For example, the relationship between us and Highlands and Islands Enterprise is clearly different from the relationship between us and the health boards. Because of the need to find a balance, the judgments that Dr Woods is asked to make are more complex than the judgments of other accountable officers.

**Dr Woods:** We regard support as a very important function. Shortly after I took up my post in the Scottish Government, we created within our team an improvement and support group, with specialist expertise, to help boards. As I have said to the committee on previous occasions, we have tried to provide a range of assistance to NHS Western Isles at various times, and we continue to do so. I am pleased to say that the current chair and leadership of the board find our assistance beneficial.

A lesson from our experience with NHS Western Isles is that we need to be more systematic about our support. That is why we have introduced the partnership arrangements that I described in my opening statement. We believe that the recurrent funding that we have made available to the boards, and the formal link between the island boards and the mainland boards, will enable us to put in place additional capacity and capability in some key areas that were exposed as problems by the experience in the Western Isles.

**Andrew Welsh:** To say that I am disappointed with the response would be putting it mildly. We are being told that the health department does not accept that it was in part responsible for the fact that the model of care previously developed in the Western Isles was not affordable. The department states that responsibility lies with the board. The defence put forward is an explanation of the relationship in legislative terms. Sir John has said that there is a point at which one makes a judgment and at which intervention is all important. I agree with what he says about caution, but I do not accept inaction—which is what we had before the committee intervened. If the committee had been as cautious as Government officials, very little would have happened.

I remind everybody that NHS Western Isles was only the latest in a long line of health boards in financial difficulties stretching back to Tayside Health Board in 1999. What we are offered is a monitoring role, but the committee, working with reports from Audit Scotland, got action for the people of the Western Isles. We are told that health boards are autonomous, independent organisations that are supplied with public funds in a hands-off central Government approach with no early-warning system. It was clear that something was terribly wrong in those health boards, yet no one seems to have spotted major problems or requested remedies. Surely, central Government is responsible for the overall performance of the health service and the individual performances of its component parts. After all, the public depend on those individual performances for their health needs.

I find your argument disingenuous. NHS Western Isles was only the last in a long line.

Common sense, good business practice and a change of personnel to improve performance were introduced only after the committee intervened. Therefore, I find the reaction that we have heard today from the health department a legalistic one. Surely the health department is responsible for the authorities that it funds and to which it appoints officials. I find it unacceptable to be told that the health department did nothing wrong and that there was not really a problem. I think that there was. I am proud of the work of the committee and I am disappointed by the reaction that we have received today.

**Dr Woods:** We accept that many things were wrong in NHS Western Isles. We have tried to explain how we tried to discharge our responsibilities as opposed to the responsibilities of the health board.

In the package of material that I supplied to the committee in earlier evidence, there is an exchange of correspondence between the chair of the health board and me, which is relevant in this context. The chair of the board—you may think somewhat ironically—was concerned about the extent to which we were trying to support and help the board and the nature of the involvement. I wrote back to him, explaining why we needed to have Paul Martin making close inquiries about the procedures and practices of the board in relation to a number of matters. I pointed out to the chair that that was one of the responsibilities that I had as the accountable officer for the whole system.

I believe that we have learned from the previous cases to which Mr Welsh has referred, such as NHS Tayside. For instance, in 2004, we published revised guidance on the function of audit committees in health boards and, in 2006, the Government as a whole published a very important document called “On Board: A Guide for Board Members of Public Bodies in Scotland”, which is distributed to everyone who takes up a position on an NHS board and which sets out the obligations on them and the way in which governance should operate.

Since the situation in NHS Argyll and Clyde, we have taken a number of steps to ensure that such situations do not repeat themselves. We have changed the way in which we challenge and analyse the financial plans that are submitted to us. We have looked internally at our procedures, and I requested an internal and external audit opinion on the amendments to our procedures. One of the most important things that we have done, as a matter of policy, is reduce the dependence of boards on non-recurring moneys to sustain their financial position. As the Auditor General’s overview report on the NHS in Scotland last year demonstrated, we have now reduced that to an all-time low. All those things, together with

our revision of the performance management arrangements for boards, derive from the experiences of those regrettable earlier failures. We will continue to draw on those experiences and we are committed to amending our procedures if that is necessary.

**Andrew Welsh:** In that case, why did action in NHS Western Isles take so long? Action came only after the intervention of the committee, and it was the end of a long line of clear problems in the health service stretching back almost a decade. I am glad that the situation has been addressed and I welcome the improvements that have been made. However, not only should the department have been alerted to what was happening almost a decade ago, it should have been on top of it. I am disappointed that the health directorates do not accept that they were responsible for what happened in NHS Western Isles and the other health boards.

11:45

**Dr Woods:** I think that I explained in previous evidence that we were alert to the issues in 2005. We made a judgment and the minister intervened during the accountability review then. I do not think that anybody who was involved in that review or who attended the meetings could have been in any doubt about the minister’s wish for the board to change its ways. Of course, we ultimately put in a support force in 2006. We welcome the developments since then, but we have been trying to get to grips with the issues in the Western Isles since 2005.

**The Convener:** Sir John Elvidge spoke earlier about his responsibilities in relation to accountable officers, the appointment of individuals and the action that could be taken. You mentioned that the minister took action. Why did people wait until the minister took action? Why did senior officials not do something before then?

**Dr Woods:** Senior officials were doing things before then. For example, I personally engaged with the chair and the chief executive of the board on the matters that we are discussing. We challenged their plans and occasionally were not prepared to accept them. At my request, Mr Martin went to the Western Isles to explore some issues in greater detail. Eventually, in the summer of 2005, I requested a formal written analysis of the financial and human resource issues, which was carefully considered. As the annual review that was to be chaired by the minister was about to take place, we decided that it presented an opportunity to make the point that we were not satisfied with the performance of NHS Western Isles.

**The Convener:** But things were not sufficiently bad until then for Sir John Elvidge to decide to exercise his powers to effect change. Things could wait until the minister carried out a formal review.

**Sir John Elvidge:** It must be recognised that I have one power—which is a bit of a nuclear option—to remove an individual's designation as accountable officer. In practice, it is more likely that the chair of a public body would say that they were not happy with their chief executive, and we would help them to manage the process. If I wanted to remove a person's designation as accountable officer in other circumstances, that would imply that although the chair of the body did not want to take action to change the individual, I was going to override their judgment and take a step that would make it quite difficult in practice for the individual to continue in their role as chief executive. Our ambition in the case in question, as it would be with any public body, was always to work in concert with the chair and the board, because parting company with the chair and the board is very dramatic.

**The Convener:** But in effect, you overruled the chair's judgment when you got the minister to take the action that was taken. Why did there have to be a delay until the minister took action? Why did you not take action earlier?

**Sir John Elvidge:** Because the minister was able to take more comprehensive action. The tool that I have in my hand is quite blunt. My reading of the situation in the Western Isles was that broader and more complex intervention was needed, rather than what would amount to my saying to the chair, "You've got to sack your chief executive whether you like it or not." Action by me on that narrow front would be tantamount to that.

**Willie Coffey:** Part of the problem is that the impression that the committee formed from past responses suggested—rightly or wrongly—that you were attempting to distance yourselves from the events at Western Isles Health Board. The committee expected you to embrace the criticisms. If something continually and habitually goes wrong—as it did in the Western Isles, which had a carousel of officials coming and going through a revolving door—the public expect ultimate responsibility for allowing that situation to continue to rest with you. Sir John Elvidge said that section 15 of the 2000 act enshrines the accountability framework, but the public's view is that, as the events happened on the watch of the permanent secretary and the director general health, those people will ultimately carry the can. We expect you at least to embrace the criticisms rather than reject them outright. That view is reflected in my colleagues' comments, but I prefer to express the point differently. I ask you to step up to the mark

and embrace the criticisms, so that improvements take place.

**Sir John Elvidge:** I regard it as self-evident that when things break down in any part of the public sector, the failure is shared, because we all expend much energy on trying to ensure that that does not happen. We and the committee disagree on something narrower. We are not saying that we are not part of the mix. When failure happens, we feel that we have not done as well as we could, just as is the case elsewhere. We are saying that taking particular decisions ourselves is a different matter, if we believe that a sound model of governance requires those decisions to stay, as far as possible, with the health board. Perhaps that distinction is tripping us up.

I see absolutely no difference between the committee's objective and our objective. We are both strongly committed to ensuring that severe breakdowns, particularly in financial management, do not happen in the public sector. There cannot be a wafer between us on that.

The issues are subtle, and concern one's intervention and when to make it. I doubt whether we and the committee disagree in principle that such judgments are tricky and that hitting the nail on the head in timing terms is hard. We are not distancing ourselves from the responsibility for monitoring that judgment all the time and for ultimately judging the right moment for intervention.

**Willie Coffey:** What is Dr Woods's view?

**Dr Woods:** Sir John Elvidge has set out the position clearly. I agree with him.

**James Kelly:** The committee has expressed concern about who is taking responsibility for what happened in the Western Isles. It is clear that disagreements about that exist. However, we can agree that it is important to learn the lessons from the exercise. Financial planning and management in the Western Isles completely broke down. Plans were put in place to try to reverse the adverse financial situation in the Western Isles. Not only did those plans not achieve their objectives, there was a complete breakdown in the monitoring of them. The realisation that things were going wrong came too late in the financial year to fix the problems.

Dr Woods, you said that you had learned lessons about your approach to financial planning from previous health board experiences. What have you learned from the Western Isles experience? How will you draw on that in your dealings with health boards in the management of their financial plans?

**Dr Woods:** The central issue in financial monitoring is what we call our financial protocol,

whereby we receive plans from boards and then interrogate them. We keep that protocol under continuous review. We made important modifications to it following the experience in Argyll and Clyde NHS Board, to which I referred earlier. I believe that the protocol that we now operate complies with the advice from the Chartered Institute of Public Finance and Accountancy. We will reflect further on the experience of the Western Isles and consider whether we can do more to strengthen the protocol. Boards have a responsibility to implement the plan, with our help. The key difference between the current and previous situations in the Western Isles is that the board has resolved the issues and is delivering the plan.

**The Convener:** I want to ask Sir John Elvidge about employment practices. There is a perception that not just the health directorates but the civil service in general rewards failure or incompetence by moving the people involved to other senior positions rather than dealing with the consequences. Is that a fair perception?

**Sir John Elvidge:** I do not think so, although I understand how the perception arises. It is important to understand employment law in this context. Employment law requires us to demonstrate that the failures in question are sustained and irremediable, unless they proceed from such demonstrable recklessness that one can justify saying that the person involved cannot get any more chances, because what they did was so unacceptable that starting a process that is designed to lead to immediate dismissal is the right response.

More generally, employment law requires us to examine whether the failure in question is remediable. One has a choice between either leaving someone where they are, placing performance demands on them and working through the process of testing their performance, or taking them somewhere else and, in effect, running a parallel process of performance managing them, which is also part of the path towards dismissal—if that is the right outcome. For practical reasons, the judgment is often made that the process of testing performance should be done somewhere else, because the area in which the initial failure occurred is too mission critical to go through that process. Yes, you will often see us move someone about whom we have performance concerns, but that is certainly not intended to be a reward; it is intended to let them know that they have one more chance to demonstrate their performance and that, if they do not do so, the end of that process will be dismissal.

**The Convener:** When Mr Manson was moved to a senior position in the NHS after his job in the Western Isles, was it to give him one more

chance, or was it because he was the best person for that particular job?

12:00

**Sir John Elvidge:** I am more remote from the events in the Western Isles than the committee and Dr Woods are. It certainly fits the model that applies if one wants to examine somebody's performance issues, but one does not want to do it in the place where that person has demonstrated performance problems, and instead one wants to move the person somewhere else.

I do not want to imply necessarily that Mr Manson was undergoing some form of formal disciplinary process, partly because I am not close enough to the details of the individual case—Dr Woods is better placed to speak about that. Moving someone for reasons of priority is consistent with the model that I have described.

**The Convener:** Before I bring in Murdo Fraser, I will follow that line of logic. When Mr Manson was moved to the health board from his previous employment at the state hospital—I realise that that pre-dates Dr Woods's involvement—was it because he was the best person for the job in the Health Department in St Andrew's house, or was it another example of allowing someone about whom there had been criticisms to be tested in a different environment for a certain period?

**Sir John Elvidge:** I know even less about the circumstances of his move from the state hospital than about his time in the Western Isles, but I understand that there was an operational reason for that move, and a judgment that he had the right skills to contribute in the role that he was given in the Health Department.

**Murdo Fraser:** I prefer not to personalise my comments in relation to Mr Manson—I will talk in more general terms. I am concerned that we are dealing not with clerical officers but with very senior executives who are very well remunerated for the jobs that they do. You appear to be saying that if there are concerns about somebody's performance, they will be moved—sideways, presumably—into another role. I understand that you are constrained under employment law in dealing with that. However, if the person is moved into another senior and well-remunerated role, you are, in effect, saying that that vacancy is not necessarily being filled by the best person for the job, but is being filled by the person for whom you have to find another place.

**Sir John Elvidge:** I would not necessarily put it in the same language, but that is a reality for all employers. No employer goes to the market for every single job vacancy that they have, partly because there is a cost if one discards people with whom one already has an employment contract.



The judgment is not simply about who is the best human being in the entire population who is available to do that job at that point in time—there is a balance between the risks and costs of going down that route and of using an existing member of staff. An element of compromise is inherent in that, but it is a compromise that every employer everywhere makes all the time. There is nothing peculiar about the view that, as far as possible, one makes the best of the resource that one already employs. That puts a lot of weight on the initial decision to employ a person, which is, in many ways, the really critical point in the equation. Once you have made mistakes, they are expensive to rectify.

**The Convener:** If you keep on making mistakes, presumably they become even more expensive as the years go by.

**Andrew Welsh:** I agree with Sir John's earlier statement that there is no difference in the shared objective of well-run health services, but what happens when health boards are objectively not up to the job and finance and management are simply inadequate, but officials are claiming that all is well? If the health directorates do not accept that there is currently a culture in the health service in which performance failures are not addressed, do they accept that there was previously a culture in which performance failures were not addressed? You have acted to cure the problems—which everybody applauds, and I wish you well—but I must ask for assurances that past lessons have been learned. Will there be vigilance in the future?

**Sir John Elvidge:** I do not claim to be an expert on employment practices in the NHS, so I shall leave that one to Dr Woods.

**Dr Woods:** The question deals with issues broader than employment. I reiterate what I said earlier: we take the issues extremely seriously and are not complacent. We have already reflected on the events in the Western Isles, and we will examine the committee's conclusions to see whether we can do more, particularly on financial management. I assure the committee that we will do that.

If members want to explore employment matters in the NHS, I will ask Mr Martin to comment.

**Paul Martin (Scottish Government Chief Nursing Officer Directorate and Health Workforce Directorate):** On the performance of individuals, the committee may be aware that we have revised the contractual and performance management arrangements of executive directors and senior managers in the NHS in the past two to three years. Using the performance management framework that executive directors work through, we have supported and increased the

understanding of remuneration committees and the important governance role that they play in the organisation. In particular, we have emphasised the role of the non-executive directors of boards who make up remuneration committees in holding the chair and chief executive to account for the performance of both the chief executive and the other executive directors and senior managers.

As part of that arrangement, and to acknowledge some of this committee's concerns, we have moved the date of increase and allocation of any performance-related pay to executive directors and senior managers from 1 April to 1 October, so that we can go through the audit of accounts and annual reviews and therefore have more rounded evidence before boards make decisions on the performance of their executives and senior managers. However, it is the responsibility of the boards, supported by the remuneration committees, to make those decisions.

We have added a governance layer, which I have referred to in previous discussions, called the national performance management committee. In effect, the committee has a moderation role. It looks at the performance scorings of the executive cohort across all boards and determines whether the reflection is reasonable. As members will know, there is a normal bell curve for performance management, and the national performance management committee checks whether the bell curve is reasonable for the boards and across NHS Scotland. The committee has an independent chair, who is responsible for advising the cabinet secretary that he is satisfied that the governance processes in performance management and appraisal are robust throughout the NHS.

We now have a far more structured and rigorous process for monitoring the performance of executive directors collectively throughout the NHS in Scotland than we have ever had before.

**Dr Woods:** Let me add one general point on board effectiveness. Having reflected on what we can do if a whole board is in difficulty, we have begun some work on board effectiveness and the induction of non-executive and executive directors to board positions. We are developing specific training materials that will supplement the "On Board" guidance and will be aimed specifically at audit committee members and remuneration committee members. We are developing a board effectiveness tool—as it is called in the jargon—that boards can use to appraise themselves on the extent to which they are applying the guidance in documents such as "On Board". I kicked off that work earlier this year, and we are working towards launching that programme later this calendar year. That will be an important addition to the range of

things that we do to ensure the effectiveness of boards as a whole. As I commented previously, we need to remember that one difficulty in the Western Isles was that the board as a whole did not function well.

**Nicol Stephen:** When the Parliament's Audit Committee and the Scottish Government's health directorates have locked horns on this issue, there has been a difficult atmosphere at times, but this morning's session has been significantly more constructive. However, as Murdo Fraser commented at the beginning, there is a real sense that the health directorates have denied responsibility by falling back on a legalistic explanation of the responsibilities of Government in relation to individual health boards. The committee's impression is that recommendations have been dismissed and people have closed ranks. Having re-read the correspondence and the Scottish Government's response, can you understand the Audit Committee's view?

Given all the good developments that have been described, can we find a way forward that breaks through the issues and shows that action is being taken on the recommendations? That seems to be what is being said, but there seems to be a reluctance to accept that action is being taken because of wrongdoing by the health directorates in relation to NHS Western Isles. Rather than look back at the past, we all want to move forward, knowing that the spirit and good intentions of the recommendations are being acted on. A lot more could be done to reassure us on that point.

**Sir John Elvidge:** That is a very constructive suggestion. As today's discussion has produced a lot on which we agree, it might be helpful if, rather than write a letter about where we disagree with the committee, we write a letter on where we agree. That might map out much of the territory that Nicol Stephen has suggested.

12:15

**The Convener:** Thank you for that helpful suggestion. However, at the back of Nicol Stephen's comments is a desire on our part not just to see where we agree but to be assured that some of the fundamental criticisms have been accepted and are being acted on. To some extent, both Sir John Elvidge and Dr Woods have given us assurances this morning, but it appears to us that the correspondence represents a denial of any responsibility on the part of the health directorates. Frankly, that is unacceptable.

As Murdo Fraser said, we want to move on and learn the lessons. I hope that, as Andrew Welsh said, this is not part of a chain of events with more to come, and that what we have seen in NHS Tayside, NHS Argyll and Clyde and NHS Western

Isles is the end of the process and we can all learn from what has happened.

Improvements can be made. Politically and managerially, we are all responsible for public funds. If we can demonstrate to the public that where there is failure it has been addressed and improvements have been made, we have done our job.

We do not intend to linger on this matter. We have other issues to address, so for us I expect this to be the end of the matter. We accept your assurances that changes will be made. I am sure that we can agree that this has been a regrettable and disappointing episode in public life in Scotland. We are all culpable in having let people down in the Western Isles, and as public bodies we are all working together to ensure that it will not happen again.

Thank you for your evidence. We will reflect on what you have said. We welcome the further information that you have indicated you wish to give us.

I say to Dr Woods that we had intended to discuss "A review of free personal and nursing care", but, with your forbearance, we would like to postpone it until our next meeting, given the time and the fact that we have other agenda items to discuss.

**Dr Woods:** Fine. I have no problem with that.

**The Convener:** Okay. Thank you. We will now go into private session.

12:17

*Meeting continued in private until 12:35.*

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