



**OFFICIAL REPORT**  
AITHISG OIFIGEIL

# **SPCB Supported Bodies Landscape Review Committee**

**Thursday 8 May 2025**

**Session 6**



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**SPCB SUPPORTED BODIES LANDSCAPE REVIEW COMMITTEE**  
**11<sup>th</sup> Meeting 2025, Session 6**

**CONVENER**

\*Ben Macpherson (Edinburgh Northern and Leith) (SNP)

**COMMITTEE MEMBERS**

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

\*Richard Leonard (Central Scotland) (Lab)

\*Ash Regan (Edinburgh Eastern) (Alba)

\*Lorna Slater (Lothian) (Green)

\*attended

**THE FOLLOWING ALSO PARTICIPATED:**

Angus Macleod (Scottish Government)

Ivan McKee (Minister for Public Finance)

Aileen Wright (Scottish Government)

**CLERK TO THE COMMITTEE**

David Millett

**LOCATION**

The James Clerk Maxwell Room (CR4)



# Scottish Parliament

## SPCB Supported Bodies Landscape Review Committee

Thursday 8 May 2025

*[The Convener opened the meeting at 09:30]*

### SPCB Supported Bodies Landscape Review

**The Convener (Ben Macpherson):** Welcome to the 11th meeting in 2025 of the SPCB Supported Bodies Landscape Review Committee. I have received no apologies for today's meeting.

Today, the committee will continue taking evidence as part of its review, and I am pleased to welcome to the committee Ivan McKee, Minister for Public Finance, as well as Scottish Government officials Angus Macleod, head of the public bodies support unit, and Aileen Wright, deputy director of the risk control and assurance division. We are grateful to have you here for our evidence taking.

We move directly to questions, the first of which is from me and is probably one that you have been anticipating. We have been asked by the Parliament to look at Scottish Parliamentary Corporate Body-supported bodies, which, of course, fit into a wider scenario of public bodies, some of which are funded by the SPCB and some of which are funded by the Scottish Government. Our questions will mostly be intended to gain further understanding of the way in which things are organised and the reasons for that.

Including the Patient Safety Commissioner for Scotland, who is yet to become operational, there are eight SPCB-supported bodies, the majority of which were proposed by the Scottish Government. The latest—a victims and witnesses commissioner—is proposed in the Victims, Witnesses, and Justice Reform (Scotland) Bill, which has passed through the Criminal Justice Committee and will now go to stage 3 in parliamentary plenary.

Could you explain under what circumstances the Government proposes an SPCB-supported body rather than a Government-sponsored body? How does the Government take into account capacity and funding issues for the SPCB in proposing the creation of an SPCB-supported body, and what consideration does the Scottish Government give to the overall coherence of the SPCB-supported body landscape when proposing new bodies such as a commissioner for one group in society? Does that lead to proliferation and a

disjointed landscape? I appreciate that some of those decisions were made a decade ago or more, but has there been a strategic approach? I know that there is an ambition to have such an approach in the future, if you want to touch on that, too.

**The Minister for Public Finance (Ivan McKee):** Thank you very much for the invitation to talk to you this morning. I am looking forward to the conversation.

It is worth saying at the outset that the Parliament-supported bodies are clearly in that space for good reasons, which we can talk about. There is a limit to how appropriate it would be for the Government to influence or be seen to be influencing that, because such bodies are not in the Government's space for good reasons.

You hinted at the fact that those bodies sit within a much broader public body landscape, convener, which I am happy to engage on if the committee wants to go down that route, although I understand that it is not, strictly speaking, within your fairly tight remit.

The existing bodies have grown up over many years in response to requirements that were felt to be necessary at that time. I watched with interest some of your earlier evidence sessions, in which there were conversations about whether some of the bodies should be more closely aligned or amalgamated or whatever. That is a welcome discussion, but, as I said, it is not for the Government to take a view on how the bodies should be organised.

It has come out in the evidence that there have been two types of bodies in the Parliament space. There are the bodies that are separate for very good reasons—those that consider information or ethics or other compliance issues, whereby it is hugely important that they are separate and are seen to be separate from the Government. There are also the advocacy groups, if you want to call them that, which are a more recent phenomenon.

As you will see from the ministerial control framework, there now is very much a presumption against creating new public bodies. Indeed, the public service reform strategy that we will publish next month will set in train some work to review how many bodies we have and whether we need that many. That is very much the direction of travel, rather than that of creating new bodies in response to every need. The MCF lays out a process whereby we would go through various gates to check whether a new body was necessary. However, you are right to say that there are a number of bodies for which the process was set in train a while ago.

**The Convener:** Colleagues will ask about some of those areas later.

An issue that has been on our minds is that, at last week's meeting, we heard from three public bodies that, although different types of arm's-length Government bodies, are still very much seen, both in Parliament and in the public domain, as being independent of Government. For example, the Scottish Fiscal Commission stated that it does not think that if it were to be an SPCB-supported body it would mean that it would function any more independently than it does now, with funding from the Scottish Government. How does the Scottish Government determine the level of independence from Government that a new public body would require? Does your consideration of the creation of new public bodies fit with the Scottish Government's wider public service reform programme? I am sorry—you have just answered that.

**Ivan McKee:** It is a good question. There are many different categories of public bodies. Are there too many different types? That might be worth looking at. Again, this is not something that we sat down and designed; it has grown over a period.

As executive agencies, some bodies have a slightly different set-up, but, to all intents and purposes, they are effectively part of the Government. There are others that operate independently but are funded and guided by the Government, typically in the delivery space, where we want them to perform a function that is delivering services, having an economic impact or whatever it happens to be. However, there are also bodies that, for very good reasons, we would want to have the independence to be able to provide information and comment on what Government is doing. For example, the work of the Scottish Fiscal Commission absolutely needs to be seen as its own and not influenced by the Government. Having that clear distinction on its independence is important.

I would be very open to discussing whether some of those bodies could or should be under the aegis of Parliament rather than the Government.

**The Convener:** We are glad to hear that there is an openness about that.

**Ivan McKee:** Absolutely.

**The Convener:** As we form our conclusions about how we move forward collectively, that openness for rethinking some of the methodology will be useful for us all.

**Murdo Fraser (Mid Scotland and Fife) (Con):** Good morning, minister and officials. One issue that the committee has been considering is the rationale behind the drive to create new commissioners. You will be aware that there are three proposals in train; there might be others in the ether. There are people wanting to create new

commissioners around disability, older people and—what is the third one?

**The Convener:** Future generations.

**Murdo Fraser:** Thank you, convener. We have been trying to understand what the driver is for that. Why are people proposing commissioners? We are not exactly an under-governed country: we have 129 MSPs, 57 MPs, 20-something Government ministers and 130-something Government bodies. Why do people want more commissioners? One thing that has been said to us is that it is because people feel frustrated that there is a failure in delivery and in what the Government is trying to do, and they see a commissioner as a way to force the pace of change. Do you have any thoughts on that? Do you recognise that concern?

**Ivan McKee:** I do not want to speak for members or others who feel that they need to make those proposals. I know that a number of members are seeking to bring new commissioners before the committee.

In system design generally, if more layers and more bodies are added, it does not make the process simpler, it makes it more complex and I suggest that there is a relationship between the complexity of a system and its ability to deliver. By making a system more complex, you run the risk of making the problem worse, because it means that there are more people in the space to be engaged with and in the process, which makes the delivery process more complex. As a general rule, simplicity is probably the best design principle when it comes to looking for effective and efficient delivery. You clearly need checks and balances within that, and they are an important part of the landscape, but it is important to recognise that as a principle.

I suspect that you might be right that people feel that having a commissioner elevates the status of the group that they are advocating for. It gives them more people to talk to and more opportunity to get the issues that they want to be raised in front of the Government or the Parliament. That might well be the case, but, in terms of how effective specific groups or the system as a whole are, you are better looking at why the system is not performing.

I would argue that delivery can always be better. Of course, there are challenges out there, some of which will be fiscal challenges and other impacts on society and the economy. However, just because everything is not as good as people should expect it to be, it does not necessarily mean that a new commissioner is the answer.

**Murdo Fraser:** Thank you for that. I am interested in how you, as a minister or as part of the Government, view commissioners? What is

the value of an independent, SPCB-supported commissioner, as opposed to MSPs, MPs and others?

**Ivan McKee:** You are right. The advocacy role has come out in your evidence. I cannot remember who it was that said that MSPs have a very important advocacy role: a lot of people come to our door and then we make a case for them by setting out the situation that they find themselves in and how that can be addressed. I suppose that it is important to parse that out to the regulatory bodies.

Not that we would, but if we said that we did not think that the Scottish Information Commissioner or the Ethical Standards Commissioner should be doing what they are doing—

**Murdo Fraser:** To be fair, we recognise that there is a difference.

**Ivan McKee:** The roles are very clear. I know that you have had some discussion about whether there should be fewer commissioners and more scope for amalgamation and so on, but, frankly, as I said, the Government would not want to get involved in that discussion, for obvious good reasons. In the abstract, I would say that commissioners do an important job as part of the democratic process and the checks and balances that are within that. It is essential that those regulatory roles are carried out.

In terms of the advocacy groups, I think that it will depend very much on the individual situation, because every context will be different. Different groups will be advocating for different groups within society. They will interact with different agencies and different parts of the Government and they will face different challenges. I suppose that the value that they will bring to that will vary, depending on what it is. That will be very much at the portfolio level and depend on the minister who is responsible for that.

**Murdo Fraser:** As a minister, what is more likely to keep you awake at night: a report from a commissioner or a report from a parliamentary committee—assuming that the report in question is critical?

**Ivan McKee:** It is questions in the chamber from you, Mr Fraser.

**Murdo Fraser:** Of course. The point that I am trying to get to is: what is the added value of a commissioner, as opposed to cross-party parliamentary committees that produce reports? As a minister, if you have a critical report from a commissioner and a critical report from a parliamentary committee, which of those do you think has more weight?

09:45

**Ivan McKee:** Others may have a different perspective based on their experience, but I would say that both have the ability to gain traction in the media, which is, at the end of the day, where that pressure would be felt. If either route was generating commentary on the Government's performance, what we have done or anything else, it would have the ability to generate that pressure.

**Murdo Fraser:** That was a very diplomatic answer.

**Ivan McKee:** I suppose the question is whether a commissioner has a route to be able to create more pressure than a committee can. I am not sure about that. There may well be examples where that has happened. As I said, others might have had a different experience in their portfolios, but I think that pressure can be brought to bear in both cases.

**Murdo Fraser:** Yes. So, you are saying that it is more about the outside noise that could be generated.

**Ivan McKee:** Absolutely. If a committee produces a report that is, for good reason, critical of things that the Government has done and the matter is deemed to be in the public interest, I am sure that the media will pick it up.

**Murdo Fraser:** I am looking at the convener of the Public Audit Committee, who is sitting two seats along from me. That committee regularly produces reports that are critical of the Government, which I am sure that ministers are awake to and pay attention to.

**Ivan McKee:** Absolutely.

**Murdo Fraser:** Okay. Thank you.

**Lorna Slater (Lothian) (Green):** Thank you for coming to see us, minister. The committee has been tasked with looking at the SPCB-supported bodies, but the work that they do sits within both the wider landscape of Government scrutiny and the public body landscape. Given that the committee will need to make recommendations, some of which might be quite wide reaching and ambitious and may suggest primary legislation, I want to feel out what you think is the art of the possible in where we go next. I have a few questions to ask in that regard, if the convener will indulge me.

First, picking up on the point that the convener made earlier about independence, I note that both the Government-supported public bodies and the SPCB-supported bodies have emphasised the importance of independence and testified to their independence. From my point of view, there is no difference in how they feel about that independence or how practicable it is.

One thing that the committee could recommend, although I am not saying that we would, is that some SPCB-supported bodies should be reclassified out of the landscape. Our task is to look at that landscape, and punting some of those bodies out into the wider public body space would be a solution, although it would not necessarily be the right one. I want to test those points—on independence and reclassification—with you. Would that make a fundamental difference to the wider landscape?

**Ivan McKee:** It is interesting that you have had evidence from those bodies that they do not see who supports them as an important constraint or difference. That is valuable evidence from them. As I said, there are examples of bodies whose independence is clearly important, such as the Scottish Fiscal Commission.

I suppose that I am a wee bit wary, because the Government needs to be able to keep its distance from some of those bodies, for good reason, given the important roles that they play. If that were the committee's recommendation, I would absolutely consider it. If we were looking at a scenario where—again, this has come up in your discussions—there would be a reorganisation of some of the bodies, that would probably be better handled in the Parliament space than in the Government space, again for good reasons, but we would be open to considering that if the committee felt that that was the best direction.

I do not know whether either of my officials wants to comment.

**The Convener:** Can I first come in with an additional point? The subject that Lorna Slater has raised, and which Murdo Fraser also touched on, is important. I totally agree with you, minister, that there is a very clear rationale for some of the SPCB-supported bodies, such as the Scottish Information Commissioner, being funded by the SPCB. However, the independence of a number of other bodies, such as the Scottish Fiscal Commission, which we spoke to last week, is very clear, even though they are funded by the Government.

Although we do not know what our recommendations will be, if there were to be any suggestion that there should be amalgamation or reorganisation, that would have to be a joint exercise between the Government and the Parliament because of the situation that we are in, which is that there is no real consistency as to why bodies are funded by the Parliament or by the Government.

**Ivan McKee:** I absolutely understand that. I simply guard against a scenario in which you give all the bodies to the Government and expect the Government to reorganise the landscape. It would

have to be about joint work on a cross-party basis. We are very happy to engage in that space.

**Lorna Slater:** I have two hypotheses as to why we have seen a proliferation in the number of commissioners. The first is that it is in reaction to problems that we have had in the public sector, such as specific scandals around patients or victims of crime. The second is that it is more politically glamorous to create a new thing and to say, "Look, I have made a new thing. I have solved your problem," rather than tweaking or adjusting existing powers or resources. I think that that means that we have been reactionary and have put in place commissioners to try to bandage up problems, rather than looking at how problems may be prevented.

The Scottish Public Services Ombudsman told us that it has been asking for investigative powers for a while, which would allow it to potentially identify problems in the public sector before they become scandals. That would avoid commissioners being created after the fact because we were reacting to something negative that had happened.

What is your view on the role of public bodies in that prevention and investigative space? Do you have an appetite for moving our public sector to a more preventative space, which would require additional powers for groups such as the ombudsman and the Scottish Human Rights Commission and so on?

**Ivan McKee:** In broad terms, I absolutely agree that it is better to catch problems earlier rather than later. As I said earlier, getting the right system design and the right delivery mechanisms is hugely important, because that is where you resolve the problems. You do not resolve the problems by coming along and inspecting out the faults at the end of the process; you design the process so that you are not generating the faults at an earlier stage. That is absolutely true. In principle, therefore, I am very supportive of anything that helps to prevent those problems from happening.

Whether powers could be expanded would depend on what we were talking about; other aspects of that would need to be considered in the round. In principle, however, I have absolutely no problem with an approach that prevents problems from arising earlier in the process.

I agree that we need to guard against the tendency to embrace shiny new things. The problem, however, is that you then get criticised and asked what you are actually doing, which potentially puts you back in the shiny new things space. However, as ministers and as a Government, we have a responsibility to guard against that.



**Lorna Slater:** One of the challenges that has been presented to us by both SPCB-supported public bodies and others is how they make their work relevant and feed it into both the Parliament and the Government. My colleagues will come on to some of the mechanisms around that.

At a higher level, however, how do you view the paradox between bodies being independent and getting to decide what they investigate, but that issue perhaps not being on the Government's agenda, so that there is no focus on it and no legislation on it coming through? Commissioners are putting out excellent papers that they have done lots of work on, but that go nowhere—they are not read by any particular parliamentary committee and they are not picked up by the Government in any way. As such, a lot of resource goes into excellent work that is then not fed in to or picked up by parliamentary committees, because it is not timely, it is not related to legislation and it is not in line with Government priorities or concerns.

Do you have any thoughts on the relevance of the work being done by both SPCB-supported bodies and commissioners and others? What gets through to you? What lands on your desk? My question is sort of related to what Murdo Fraser asked about. I know that ministers are bombarded by so much information from MSPs, and from all the various commissioners, public bodies and third sector organisations. How do we ensure that our SPCB-supported bodies, and other public bodies, do work that actually lands on ministers' desks and gets actioned?

**Ivan McKee:** I will keep the regulatory bodies separate, because they do their thing and no one wants to tell them what to investigate.

Regarding the advocacy commissioners—if we can call them that—I would flip the question. I am not sure that we would want to be in a place where the Government was telling commissioners what to look at, because that would be a guaranteed mechanism for missing things. People are out there looking at stuff, uncovering and pointing at the things that they think that we should be looking at. That is valid work, and the fact that it does not all lead to something is not necessarily a problem because it is important that they are doing that advocacy job.

There will be examples of the Government laying out a challenge or having an issue that it wants to deal with. We are taking forward work on public sector reform and would welcome groups, individuals and committees becoming part of that process and having an input. Those groups should make their own decisions about what they want to look at, with a view to having an input into Government thinking or into helping to direct what the Government should look at.

Lots of different groups are doing advocacy. Commissioners and committees can do stuff in that space, as can third sector organisations, non-governmental organisations, campaigning groups and many others. They are not alone in raising the concerns of the groups that they advocate for.

**Lorna Slater:** I will go back to a point that Murdo Fraser touched on. Are commissioners any more effective in those spaces than MSPs or third sector organisations? Are people more likely to do something if a commissioner has said it than if they hear about it from the third sector or from MSPs? In your experience, do commissioners have a material impact?

**Ivan McKee:** I can talk about my experience, although the three former ministers who are on the committee all have their own experiences of different portfolios to talk about.

A commissioner is one voice among several. Their impact will depend on the context, the portfolio, what the issue happens to be and on whether the commissioner comes up with something important or significant, but that impact could also come from a range of other directions.

**Lorna Slater:** I have two more questions and will try to be quick.

Although the committee has not made any decisions yet, we may make recommendations that require primary legislation, such as a consolidation bill that would give the ombudsman the investigatory powers that it has been asking for and that would empower the Scottish Human Rights Commission, in a way that it is not currently empowered, to cover some advocacy issues. A bill might also consolidate the functions of some existing SPCB-supported bodies with those of some proposed ones. What is the Scottish Government's appetite for that sort of primary legislation?

**Ivan McKee:** My colleague, the Minister for Parliamentary Business, would tell us that there is absolutely no space in the calendar for this parliamentary session. Given the timescale, I think that you are talking about doing that in the next session. In theory, the Government would welcome anything that would make the landscape more effective and efficient and that applies to this committee's remit to look at Parliament-supported bodies and to the larger and wider landscape of public bodies. We are absolutely willing to engage in that.

**Lorna Slater:** I have a final question, for clarification. Would a bill be roughly in line with the Scottish Government's intention for that sort of vision and potential consolidation, as part of its review of the public sector landscape? Am I right in thinking that we would not be at odds with the Government's intention and direction?

**Ivan McKee:** The direction of travel is to look for opportunities to simplify the landscape. To be clear, we do not see structural change as the first port of call. There is a lot that we can do before we get to structural change, including having co-operation between public bodies, the sharing of services and resources, removing duplication, working in clusters and so on. If that leads us to a place where structural reorganisation is the right answer for the broader public body landscape, we will move into that space. Where legislation is required to do that, we will take that forward. We do not start with that, however; we get to that once we have exhausted everything else.

10:00

**The Convener:** We appreciate that the public sector reform programme will take some time, and that it involves a large piece of evaluation, followed by consideration and then implementation. As part of our work, we want to see whether there are things that we can constructively recommend that dovetail into that. Whether that will require primary legislation or not is still to be determined. I do not think that the Scottish Parliament has done a consolidation act at all, but it does happen in the United Kingdom Parliament, and it might be interesting to consider that.

**Ivan McKee:** Absolutely.

**The Convener:** Thank you both.

**Richard Leonard (Central Scotland) (Lab):** Good morning. I will start with the final area that you were talking about, which is the public sector reform agenda, but also place it in the context of the ministerial control framework. Have you undertaken a mapping exercise to consider where different functions sit among the 131 public bodies that are covered by the Scottish Government?

**Ivan McKee:** When you say “different functions”, do you mean different—

**Richard Leonard:** Well, to see whether there is duplication or overlap.

**Ivan McKee:** Yes, that is an on-going process. Take what we are doing with shared services, which includes information technology systems and support, human resources, finance and so on: we now have 32 public bodies, I think, on the shared service system. I have calls every month with the director who leads on that to look at the work being done to bring other bodies on board.

I meet people in the various groups representing clusters of public bodies that are working together, in different portfolios, to take out duplication and to seek opportunities for shared services. We will accelerate that work through the public sector reform strategy.

There is quite a bit of other activity there. We do not have a big chart with everything on it, as it is far too complicated for that, but we do have strands within areas, whether that is in IT shared services or in digital resource. We are moving towards virtual digital budgets and the tracking of digital resources, so that we understand how much there is out there—both contractor and employed—what projects those people are working on and how we are prioritising all that.

There is a lot to tackle there, but we are on the journey of getting more information and having more impact on how resources are more effectively shared.

**Richard Leonard:** I am obviously interested in that aspect of reform as convener of the Public Audit Committee.

**Ivan McKee:** Absolutely.

**Richard Leonard:** My question as a member of this committee, however, is whether you have carried out any kind of assessment of whether there is an overlap or duplication when it comes to the purposes of the different public bodies.

**Ivan McKee:** Yes—sorry.

**Richard Leonard:** It is not just about whether you can share IT or HR systems; it is also about whether two bodies are, in part, doing coincidental work or have a coincidental purpose.

**Ivan McKee:** The answer is yes, in the sense that we are always looking for opportunities or examples of where that is the case. When I meet cabinet secretaries, I always ask to what extent they are considering the bodies under their portfolio, whether there are overlaps and whether there is scope for consolidation.

Another interesting point concerns overlaps between different portfolios. We tend to consider things in the portfolio space, but we can also ask what specific expertise a body brings to the public sector landscape. The body might have expertise in doing something that cuts across portfolios, such as making payments, gathering revenue or a specific function such as standard setting. We are also in the business of looking for opportunities where we can capitalise on the expertise that is out there and that public bodies can offer as a service to other public bodies, which means either that those other public bodies do not need to do it or that we can consolidate.

There is a job for Government there, and very much a job for public sector leaders. Nobody knows everything about all the 130-odd public bodies and what they are all doing, or what different people in different bits of those bodies are doing. There is absolutely a role for public sector leaders to engage, and many of them are very proactive in that space.

**Richard Leonard:** Last week, His Majesty's chief inspector of constabulary in Scotland talked to the committee about some collaborative work that he is doing with Audit Scotland, on a best value audit of Police Scotland, so there are good examples of such synergies.

Let me move from the existing landscape to the process. As I read it, you have a 13-step process in the ministerial control framework to assess whether a new body is warranted. The mantra underpinning that is that

"any new public body should only be set up as a last resort."

What does that mean in practice?

**Ivan McKee:** You have probably answered the question. If a body can get through the 13 steps and survive that ordeal, there is probably a good case for it to be considered. However, the presumption is that we should not have to establish a new body. The framework codifies the process that you need to go through to make the case for why a new public body is needed. It is an effective approach, but I am very willing to hear other suggestions of how we can make the process even more robust.

**Richard Leonard:** The framework was introduced exactly two years ago, in May 2023. In those two years, how many new public bodies have been created?

**Ivan McKee:** To my knowledge, one has come through that process: the national social work agency. Five proposed bodies have, for various reasons, not been set up. You could say that some of those would not have been set up anyway, for other reasons, but there are five that did not get through the process.

**Richard Leonard:** Were they rejected?

**Ivan McKee:** They were rejected for a variety of reasons—not necessarily because of the process, but they did not even get through it.

**Richard Leonard:** Which of the 13 steps did they get to?

**Ivan McKee:** I would need to write to the committee on the specifics.

**Richard Leonard:** That would be helpful.

One of the steps—I think that it is step 11—refers to occasions on which ministerial written authority might be required. In other words, the civil service's assessment is presumably that the proposal does not represent efficiency, effectiveness or economy, but, nonetheless, there is a political imperative to create the new body or position. Are there any examples of cases in which such authority has been required?

**Ivan McKee:** No.

**Richard Leonard:** Are there not?

**Ivan McKee:** Bodies would have had to come through the process, and only one has to date.

**Richard Leonard:** Okay. Those are all the questions that I have in that area for now.

**Ash Regan (Edinburgh Eastern) (Alba):** Good morning to the panel. If you have been watching any of the committee's deliberations, you will know that we are very interested in the scrutiny and accountability of public bodies.

There are different types of public bodies—some are accountable to the Parliament, and some are accountable to the Government—but across them all we are interested in what measures the Scottish Government has in place to scrutinise their performance and measure their effective governance.

**Ivan McKee:** That takes us into an interesting space. Ministers are rightly held accountable, as we are every day in the Parliament and elsewhere, for delivery bodies in the public sector, but that does not reflect on the SPCB-supported bodies to the same extent.

Depending on the nature of the body, the relationship can be arm's length. We do not tell the public bodies exactly what they should do daily. We appoint the body's board, which then appoints the executives; we give it the budget; and we put in place the framework document that explains the relationship, as we have talked about in evidence. It then gets on with it.

That is the correct approach, because, for good reasons, we would not want ministers to be involved in every last detail of every single public body. It is always a challenge to manage, but it is important to recognise that there are various checks and balances in the system for how the bodies operate vis-à-vis ministers. Ministers are not the accountable officers for the finances and so on; by and large, that role sits with the chief executives of those bodies.

There are sponsor teams in the Government that have the responsibility for engaging with the public bodies, and they have an important role to play in scrutinising compliance. Performance issues can be raised, and performance is obviously the subject of regular discussion in Government. There are several areas where that is quite high profile and therefore talked about frequently in Government. However, the operational aspect is, by and large, still carried out by the delivery body.

We also have Audit Scotland, the Auditor General for Scotland and others that are engaged in the essential work that they do to keep track of how public bodies perform at various levels. There is also parliamentary scrutiny, whereby ministers

are held to account in the chamber and, indeed, in committees, which also have the opportunity to bring in chief execs and chairs from public bodies.

There are various levels at which scrutiny operates, but it is important to understand the distinction from the day-to-day operation of those delivery bodies.

**Ash Regan:** In your view, is the level of accountability to the Scottish Government consistent across all public bodies?

**Ivan McKee:** Do you mean the level of accountability of the public bodies to the Scottish Government, or the level of accountability of the Scottish Government to the Parliament?

**Ash Regan:** Of the public bodies to the Scottish Government.

**Ivan McKee:** It varies, and it depends on the nature of the body. Some executive agencies are very close to Government, whereas others, such as the non-ministerial offices, are further away for good reasons. It then depends on the portfolio and the nature of what the bodies are trying to do.

**Ash Regan:** From what you have seen, do you think that there are gaps in accountability?

**Ivan McKee:** Given that ministers are held accountable for that to the Parliament and the public, and were elected to do so, it is important that ministers are able to have an influence. If we end up in a place in which performance is not where it should be, it is important that ministers are able to engage proactively with a public body to ensure that we can resolve the situation.

**Ash Regan:** On the Scottish Government website, it says that there are 131 devolved public bodies in Scotland and that they are subdivided into nine categories by type of body. Will you explain to the committee how the Scottish Government decides which category a public body is placed in and what level of importance the Government puts on ensuring whether that classification is correct? Does it ever get reviewed?

**Ivan McKee:** A lot of the situation has grown up historically and things have been put in place over a long period of time. Some of the bodies predate the creation of the Scottish Government and the Scottish Parliament by some way. The decision on where an individual body should sit is taken case by case, depending on the nature of what the body has been asked to do. There are examples of bodies that have been moved from one classification to another over time.

On the final part of your question, I think that classifications are reviewed on an on-going basis in an ad hoc sense. On whether there is a need for a more structured review, I note that I would not

be opposed to doing that, just to ensure that we have everything in the right place.

**Ash Regan:** So, in your view, there would be scope for bodies to move between categories.

**Ivan McKee:** Absolutely. The category that they are in could have implications for their ability to operate. For example, a body's Office for National Statistics classification can affect its funding, revenue generation opportunities and other aspects. That can change over time, of course. In general, however, on the question whether there is scope for a review to ensure that everything is in the right place, we would be open to that.

10:15

**Ash Regan:** The committee has heard that most of the public bodies produce an annual report or a similar type of report. From the Government's perspective, are those reports useful? Do they contain the right type of information?

**Ivan McKee:** Yes, I think that they do. Of course, every case will be different. The reports will come to ministers who will, by and large, be very engaged with the public body and have a good understanding of what that body is working on. The report gives ministers and officials a sense check as to whether the public body is pointing in the right direction, with the right priorities and focus. The information will then be a matter of public record, which allows those in the wider ecosystem to see and understand what the body is doing.

**Ash Regan:** The committee has taken quite a bit of evidence that would seem to suggest that Parliament capacity is an issue with regard to scrutiny and accountability for Parliament bodies, and perhaps other bodies as well. Does the Government have a view on that?

**Ivan McKee:** The Parliament, by way of its committees, has a hugely important role in that regard. It is not up to Government to decide how many committees there should be or what their workload should be. Committees have the scope to call in a broad range of public bodies and question them as part of any inquiry that they are undertaking—

**Ash Regan:** Forgive me—I am asking whether the Government thinks that there is an issue with capacity in the Parliament.

**Ivan McKee:** That is up to the Parliament, if it wants to make that case. Are you referring to capacity in terms of the number of MSPs or committees, or the amount of time that committees spend on specific things? In what sense are you talking about capacity?

**Ash Regan:** For scrutiny.

**Ivan McKee:** If your argument is that we need more committees or committees sitting for longer, that is clearly up to the Parliament—it is not an issue for the Government.

**Ash Regan:** So, as a Government, you would not be prepared to take a view on that.

**Ivan McKee:** No—it is up to the Parliament to figure out what it needs to do.

**The Convener:** I note that one of the other committees in the Parliament is looking at scrutiny and what committees do. Some interesting issues have come up in this session that may relate to that work, so I appreciate your answers on those points, minister.

We go back to Richard Leonard on questions about auditing.

**Richard Leonard:** Yes—this is my chosen specialist subject.

Last week, we had three commissions in front of us, or rather, two commissions—the Scottish Fiscal Commission and the Mental Welfare Commission Scotland—and HM Inspectorate of Constabulary in Scotland. We learned from their evidence that two of them are separately audited by Audit Scotland and/or by their appointed auditors, but one is part of the audit that is conducted into the Scottish Government's consolidated accounts.

Could you or your officials explain how it is determined whether a body is subsumed into the overall audit of the Scottish Government or is audited as a separate body?

**Ivan McKee:** It may depend on the classification, but I shall defer to my officials, who may have the answer.

**Aileen Wright (Scottish Government):** It is exactly that—it is down to the nature of the body, and whether it is indeed a body. We sometimes have office-holders or tribunals—what we call non-executive NDPs, which are advisory or tribunal bodies. They sit within Government and are made up of an office-holder, such as an inspector, who has specific responsibilities, or of a panel of members who come together for a specific purpose. They do not have a body that supports them—they just have the expenses of running the process.

Those expenses, and the administration of that process, is done within the Scottish Government, and it is therefore part of SG expenditure that is then—as you said—part of the wider SG audit and the SG consolidated accounts.

**Richard Leonard:** Okay. So, you think that that is a robust system and you do not think that any

body is in the wrong category for auditing purposes.

**Aileen Wright:** I guess that that is a separate question. The auditing requirements arise from the classification and what the body is—or, indeed, whether it is a body. Once we get into the territory of having a separate, independent body that has its own classification and which has to produce accounts because it is subject to legislation, we are absolutely in that separate Audit Scotland or Auditor General space.

**Richard Leonard:** Let me ask about oversight by the Scottish Government—either by the sponsor team or whichever part of the Government is relevant. What is the difference between, say, oversight of the audit of His Majesty's inspectorates versus the oversight of the audit of the Scottish Fiscal Commission or the Mental Welfare Commission for Scotland?

**Ivan McKee:** The officials can correct me if I am wrong, but I suppose that if the organisation employs staff, has a building and a budget, is spending money and has accounts, it can clearly be audited as an entity. If we are talking about an inspector or a group that does not have that back-office support—its support is provided by the Government—and does not run its own budget line per se, that will be consolidated in the Government accounts and the process will be different. That would be the determining factor as to which category the body would sit in, but the level of scrutiny through whatever route should be just as effective.

**Richard Leonard:** I know that Mr Macleod will be familiar with the recent incident involving the Water Industry Commission for Scotland. It is quite a small organisation, and clearly at arm's length from Government, but it has been the subject of section 22 reports by Audit Scotland because of issues of governance, expenditure and so on. If an internal part of the Scottish Government had similar issues, how would they be addressed?

**Ivan McKee:** In the Government, the accountable officers have responsibility for that. There will be people looking at the budget lines; there is a director general who acts as accountable officer, and there is the principal accounting officer, who is the permanent secretary. Such issues would be dealt with in the same way as any other expenditure within the civil service would be dealt with.

**Richard Leonard:** That is fine.

A theme that has been highlighted to us, especially by the SPCB-supported commissioners, is a feeling that the level of audit to which they are subject is overly burdensome and disproportionate to the size of their organisations and the functions that they perform. In asking this question, minister,

I am looking not just at you but at your team. Have you picked up a similar feeling from the supported bodies for which the Scottish Government is responsible?

**Ivan McKee:** Not specifically with regard to audit, but more generally with regard to reporting requirements and information gathering. We are working through the public sector reform strategy with public bodies to see whether there are opportunities to make the requirements more proportionate and effective and to ensure that we are gathering the right information and checking the right things in order to make a difference, not just collecting information for the sake of it or going through processes that add cost but no value.

If there are any examples of audit falling into that category, I will be willing to look at them. However, we need to bear in mind that audit has, for very good reasons, its own regime in terms of the legal processes that we need to go through: what we need to check, why we need to check it and how we need to do it.

Do you want to add anything, Aileen?

**Aileen Wright:** I would draw a wee distinction with regard to audits. External audits are absolutely the purview of the Auditor General, Audit Scotland and the independent auditors. If the bodies produce accounts, they will fall into that audit regime and, as a result, that will be separate from ministers or the Scottish Government. With internal audit, we would expect the accountable officer, who is responsible for ensuring that the right kind of internal audit is in place for the nature of the body, to have a conversation with the provider of the audit—whether they be internal or a service provider—to ensure that they have something that is proportionate to the nature of the organisation and the risks that it faces.

**Richard Leonard:** My final question, just for completeness, is this: are you looking at the proportionality of the audit process as part of your assessment of public service reform and whether the landscape is fit for purpose?

**Ivan McKee:** We are looking more generally at information-gathering requirements and the onerousness of the requirements on public bodies. If audit fell within that, we would consider it. We are open to considering any specific examples of what to include in the work that you want to point us toward.

**Richard Leonard:** As I have said, a view has come through that, just as HM Inspectorate of Constabulary is part of a collective audit—in that it is part of the Scottish Government audit—some of the bodies that we are looking at could be a subject within the Parliament's internal audit instead of being separately audited. I am not

advocating for that to happen; I am just reflecting on evidence that we have taken as a committee.

**Ivan McKee:** Again, if they are Parliament bodies, it will not be for the Government to be involved in the process.

**Richard Leonard:** Thank you.

**Ash Regan:** My question is linked to scrutiny. I am interested in the Government's view about a body that Parliament is supporting—not a Government body. The committee has taken evidence that the Scottish Human Rights Commission is not fulfilling its remit as laid out in its enabling legislation. That is quite an important commission, so I am wondering whether the Government is aware of that failure and whether it is concerned about it.

**Ivan McKee:** Who was that evidence taken from?

**Ash Regan:** A number of different witnesses.

**Ivan McKee:** Clearly, if somebody is not doing what they are supposed to be doing, we would be concerned about that. However, I am not aware whether the Government more widely is aware of that situation.

**Angus Macleod (Scottish Government):** If the body were in a different portfolio, it would not come to our attention.

**Ash Regan:** So, would the Scottish Government not be monitoring the performance of other bodies at all?

**Ivan McKee:** Well, those working in the relevant portfolio—such as communities, equalities or whatever—would obviously have a close relationship with those bodies, as well as with relevant stakeholders, which would allow them to take a view. The matter that you raise is not something that I am personally aware of. If there is a specific issue, we can check in with the relevant portfolio and write back to you.

**Ash Regan:** That would be helpful.

**The Convener:** Ash Regan raised some points in our evidence session with the Scottish Human Rights Commission, and I think that those have also been raised in other committees.

**Ash Regan:** It was also stated by an official that there were issues—that was a confirmation.

**The Convener:** If Ash Regan wants to write to you with more detailed information, that would be a good way forward.

**Ivan McKee:** Absolutely.

**The Convener:** Thank you. Do members have any other questions? Lorna Slater, do you want to come in?

**Lorna Slater:** If we seem to be doing all right for time, convener.

**The Convener:** Yes.

**Lorna Slater:** I will dig a bit further into the minister's comment about a commissioner being one voice among many. I am interested in how we can have effective advocacy, and whether that could happen by expanding the role of the Scottish Human Rights Commission to take on advocacy, so that we do not need a separate victims commissioner, a children's commissioner, an older people's commissioner and so on.

Another proposal that has come across our desks is having ministerial portfolios for each of those areas. There would be roles such as a minister for older people, a minister for disabled people and so on. I am curious about your thoughts on that proposal. There are two aspects to my question. First, do you think that that would make for an effective way of advocating, which would also allow the entire Parliament to hold the responsible person to account?

Secondly, one of the criticisms that has been levelled at us throughout the evidence is that, when the Scottish Government creates a new commissioner, it is dodging responsibility, because the Government is then able to say, "The commissioner is doing that—it is not us." Would having ministers for X, who would be responsible for advocacy under that portfolio, bring that responsibility back on board and solve that problem? Are there any disadvantages to that?

10:30

**Ivan McKee:** Job titles would be exceedingly long, which is probably not an advantage—many are far too long already—because we would have to try to cover a whole range of topics in them. For example, I am the minister for public finance, public service reform, pensions, the Accountant in Bankruptcy, planning and a whole bunch of stuff that I have forgotten—officials will remind me when I leave here—that I engage with daily.

If you look on the Government website and click on a minister's name, you will see a whole page of things that they are responsible for. That is clear and transparent. However, putting all that into job titles would quickly become a bit ridiculous, so we just need to be a wee bit careful about that.

**Lorna Slater:** How would you respond to the accusation that, by creating a commission, the Government is dodging responsibility, because the commission, rather than the ministers, is now to be accountable?

**Ivan McKee:** I do not think that, and I do not think that anybody would think that; maybe they do, but they should not, because, as I said earlier,

a commission is another voice in the business of drawing attention to issues that need to be addressed. If anybody thinks that, the strategy is not very effective.

**The Convener:** I have a final few questions. You talked about shared services, which has been an area of particular focus for you, both in your previous ministerial brief and since you assumed your current one. It is interesting more widely, but it is particularly relevant to the committee. We have heard from SPCB-supported bodies that the co-location of services is working well where it happens—for example, in Bridgeside house, which, for clarity, is in my constituency.

A hub-and-spoke model is proposed by the Scottish Biometrics Commissioner. I do not know whether you heard his interesting evidence. He talked about how the centralisation of certain back-office functions, with the potential to group together commissioners that are alike, could be helpful. How does the Government approach shared services between public bodies? Earlier, you spoke about how you are trying to improve that—including in your determination to deliver a more efficient approach to public sector property management through, for example, a single Scottish estate programme. It would be good to hear an update on that programme, but also any reflections on, for example, the co-location of a number of the SPCB-supported bodies in Bridgeside house. That is working well, but could it happen for example in another building that is part of the Scottish Government estate, to save further public money?

**Ivan McKee:** Yes to all of that. We are approaching the estate strategy on two levels. Longer-term work is going on in the cities—Glasgow and Edinburgh in particular—to determine what longer-term solutions might be. Basically, the golden rule is that you do not renew a lease without having a serious conversation about whether you need to renew it and where else the public bodies concerned could go. Regularly, we decide not to renew a lease, which enables public bodies to co-locate, more effectively, elsewhere.

That is just an on-going process. It has the advantage of not just saving lease costs but making it easier for organisations to co-locate services in the back office, and—this is probably the biggest win, to be honest—easier for them to talk to each other more and have a closer working relationship, which allows them to integrate more effectively the services that are delivered to the public, understand what they are all working on, and improve co-operation and integration. That is absolutely a key part of what we are doing.

We are always looking for good examples of that. That could be what you are talking about:

SPCB bodies co-locating with other public bodies that have space, as many do, in their buildings.

We are also working increasingly closely with local government and health boards in that. There are examples of health boards now sharing premises with local authorities and so on. We encourage that work and create the space to enable it to happen, because, as I said, it leads to a plethora of benefits beyond cost savings.

**The Convener:** I appreciate that it would be an upheaval if SPCB-supported bodies were to move their physical location, but it might save some money if they were to move elsewhere in the public sector estate. It was interesting that, last week, the Scottish Fiscal Commission clarified that, although it is located next to St Andrew's house in the Scottish Government estate, it sees itself as very independent. That was quite a good example of a body's location not impacting its independence.

Minister, is there anything that you want to emphasise to us that you have not had a chance to say yet?

**Ivan McKee:** This has been a great conversation in which lots of things have been drawn out, which has been really helpful. I very much look forward to the committee's conclusions and recommendations, which could be very helpful in the work that I am taking forward. As I said, I know that the committee's remit is tightly drawn around SPCB-supported bodies, which, from memory, account for £18 million of the Government's total spend of £60 billion. That gives a sense of the scale of that spending compared with that on the rest of the landscape. Far be it from me to direct the work of committees, but, if work was done to look at the wider public body landscape, that would not be unhelpful in supporting the work that the Government is taking forward in that regard.

**The Convener:** It is really helpful that you have underlined that collaborative approach. I appreciate your point about the comparative ratio. The Scottish Government constantly thinks about efficiency and value for money, particularly at the moment, and rightly so, given the wider fiscal environment and pressures, but does it take into account the SPCB's capacity when proposing a new body, such as a victims and witnesses commissioner?

**Ivan McKee:** That question came up when I was in front of the Finance and Public Administration Committee on this subject. As part of the budget process, the Parliament engages with the Government on its budget settlement, and I believe that the Parliament would take into account its requirements in order to support such bodies. That is the mechanism for resolving issues

relating to administrative support and so on, but committee time is clearly a different resource, which I have already commented on.

**The Convener:** There must be consideration that the Government is putting obligations and costs on the SPCB by passing a bill that creates an SPCB-funded commissioner. We need to think about that together as we go forward.

**Ivan McKee:** As I said, the budget process should deal with that, because the cost of a commissioner would be added to the Parliament's budget, which would then be put to the Government.

**The Convener:** Is there engagement with the SPCB itself, given its limited number of members?

**Ivan McKee:** It is up to the Parliament to decide how it wants to configure that.

**Angus Macleod:** Under the ministerial control framework, if the creation of a new parliamentary commissioner is being considered, one of the initial steps is engagement with the SPCB before taking the proposal any further. Early engagement with the SPCB is incorporated in the MCF.

**The Convener:** It is helpful to get that clarity.

**Richard Leonard:** That is step 6. [*Laughter.*]

**The Convener:** Minister, you kindly agreed to write to the committee to follow up on some of the points that Richard Leonard raised, and Ash Regan and I will consider how to follow up on her questions in relation to things that have been said in public in this committee and in others. We will engage in correspondence on that.

All that is left to do is to thank the minister and his officials for taking the time to be with us today. It has been a very helpful evidence-taking session, and it is great to hear wider emphasis on the need for collaboration between the Parliament and the Government in all this.

10:40

*Meeting continued in private until 11:06.*



This is the final edition of the *Official Report* of this meeting. It is part of the Scottish Parliament *Official Report* archive and has been sent for legal deposit.

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Published in Edinburgh by the Scottish Parliamentary Corporate Body, the Scottish Parliament, Edinburgh, EH99 1SP

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