FINANCE COMMITTEE

Tuesday 24 March 2009

Session 3

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FINANCE COMMITTEE
8th Meeting 2009, Session 3

CONVENER

*Andrew Welsh (Angus) (SNP)

DEPUTY CONVENER

Jackie Baillie (Dumbarton) (Lab)

COMMITTEE MEMBERS

*Derek Brownlee (South of Scotland) (Con)
*Linda Fabiani (Central Scotland) (SNP)
*Joe FitzPatrick (Dundee West) (SNP)
*James Kelly (Glasgow Rutherglen) (Lab)
*Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD)
*David Whitton (Strathkelvin and Bearsden) (Lab)

COMMITTEE SUBSTITUTES

Murdo Fraser (Mid Scotland and Fife) (Con)
Kenneth Gibson (Cunninghame North) (SNP)
Lewis Macdonald (Aberdeen Central) (Lab)
Liam McArthur (Orkney) (LD)

*attended

THE FOLLOWING GAVE EVIDENCE:

Richard Ackroyd (Scottish Water)
Alistair Brown (Scottish Government Finance Directorate)
Lesley Doherty (Scottish Government Finance Directorate)
Richard Leonard (GMB)
Ronnie Mercer (Scottish Water)
Dave Watson (Unison)
Gordon Weir (Scottish Commission for the Regulation of Care)

CLERK TO THE COMMITTEE

Mark Brough

SENIOR ASSISTANT CLERK

Lewis McNaughton

ASSISTANT CLERK

Allan Campbell

LOCATION

Committee Room 1

Scottish Parliament

Finance Committee

Tuesday 24 March 2009

[THE CONVENER *opened the meeting at 14:02*]

Decision on Taking Business in Private

The Convener (Andrew Welsh): Good afternoon. Welcome to the eighth meeting of the Finance Committee in 2009, in the third session of the Scottish Parliament. Apologies have been received from Jackie Baillie, whose substitute is due to arrive.

David Whitton (Strathkelvin and Bearsden) (Lab): I pass on apologies from him, too.

The Convener: I ask members and witnesses to turn off their mobile phones and pagers.

Agenda item 1 is to decide whether to consider item 6, on our future work programme, in private. Is that agreed?

Members *indicated agreement*.

Public Sector Pay

14:03

The Convener: Item 2 is to take evidence for our inquiry into public sector pay. The committee has already taken some evidence on the subject. We agreed to take further evidence from the Scottish Government's pay policy unit, a sample of public bodies and the trade unions representing staff of those bodies. We agreed to focus on the process of agreeing pay remits and negotiating settlements and to hear from all the witnesses in one panel, so that we could explore their different perspectives on the issue.

I welcome Richard Ackroyd and Ronnie Mercer from Scottish Water; Alistair Brown and Lesley Doherty from the Scottish Government; Richard Leonard from GMB; Dave Watson from Unison; and Gordon Weir from the Scottish Commission for the Regulation of Care. I invite the witnesses to make some short opening remarks before we move to questions. We will start with Scottish Water.

Ronnie Mercer (Scottish Water): Thank you for inviting Scottish Water to give evidence to the committee. I understand that the theme of today's evidence session is Government pay policy, procedures and processes. Although you did not specify who should attend on the company's behalf, I thought that it might be appropriate for the chair and chief executive to do so; I hope that that is okay with members.

Scottish Water is a large and complex company to run. It turns over £1 billion a year and has just under 4,000 direct employees and, currently, between 5,000 and 6,000 contractors. They are involved in a capital programme on which £670 million—£13 million a week—will be spent this year. Over the present four-year programme, we have 4,000 projects to complete, costing about £2.5 billion. We also spend about £400 million on operating costs. I am giving the committee a flavour of what we must get right.

According to others, we are doing reasonably well. The economic regulator, the Water Industry Commission for Scotland, says that we are the fastest improving water company—we are quite proud of that. Our achievements are the result of what I consider to be a strong management and a committed workforce. The business runs for 40 per cent less now than it did prior to the formation of Scottish Water. That has led to bills being the fourth lowest in the United Kingdom, so there is something in it for everyone if we do well.

The committee is interested in pay and the processes that are associated with that. All our employees have both base pay and performance-related pay, which is dependent on meeting targets that are linked to outperformance. There is a spread across various levels of the company. At the bottom, sums are fixed, not percentage based. There are potential bonuses of up to 40 per cent for different management levels, depending on seniority. The percentages are not new—they have been in place since around 2002.

Board-level salaries were set in 2006 by ministers of the day, to reflect the complexities of the job and the difficulty of retaining and attracting the right people. The number of those who were called directors had reduced to three in the course of a year, and headhunters were camped on the doorsteps of those who remained. Ministers took a decision to halt the exodus; leadership was shown from the top. Rightly, ministers demand success. I thank them for their decisive action, which has produced the successful company that we now see. The present Government ministers have kept the arrangement in place and are happy with the results that Scottish Water is producing at the moment.

Everyone in the company is covered by the public sector guidelines that ministers have given to us. Members will know that last year there was a long-running pay dispute, which resulted in a one-day strike. Attempts were made to increase the level at which the settlement was capped by the public sector pay policy. I am glad to say that the dispute is now behind us and that a deal has been struck within the pay caps that will last until the summer of 2010.

Finally, I would like us—including Scottish Water—to get deals made and paid closer to the expiry date of previous settlements. I would be pleased if we could do that jointly. I am interested in the processes and procedures that might get us there.

Alistair Brown (Scottish Government Finance Directorate): The committee may find it helpful if I provide some brief factual information on the pay remit process, in support of the written evidence that we have submitted.

The Scottish Government's position is that pay settlements are properly a matter for negotiation and agreement between the management, staff and representatives of the bodies that are covered by ministers' public pay policy. Ministers want to ensure that, as far as possible, settlements are fair, comparable and affordable. To that end, as Ronnie Mercer said, bodies that are covered by the policy negotiate pay within an agreed remit that is compliant with ministers' pay policy. Ministers set that policy and, as members know, it is published annually. Thereafter, ministers are not normally involved in assessing the compliance of particular remits or in pay negotiations, although they take an interest in progress.

The Scottish Government's remuneration group oversees the process of considering remits and deciding whether they are compliant with policy or need adjustment to be compliant. If a proposed remit is clearly compliant, it can be signed off by officials. In cases where there is a significant judgment to be made about compliance, the remuneration group is asked to exercise that judgment. The group either approves the remit or asks the body concerned to undertake further work. In cases where significant issues that cannot be resolved by the remuneration group arise, ministers are asked to reach a view. Once the pay remit has been approved, the public body proceeds to negotiate with its staff and their representatives with a view to reaching a settlement.

In our experience, when a body proposes a straightforward remit that is demonstrably compliant with the policy's main pay parameters, the remit can be signed off quickly and negotiations can go ahead. That should mean that settlements can be reached in good time. When a body wants to make a material change to its pay system, clearance of the remit may take longer, simply because more consideration is required or more calculation is needed to demonstrate whether the remit is compliant with the policy. Sometimes that involves the Scottish Government pay team and the public body in a series of exchanges of information and explanation. I confess that if several similar conversations take place at the same time, that process can be slowed down, particularly if new issues crop up that need substantive investigation.

The timelines with which we provided the committee for last year's pay remits for the Scottish Commission for the Regulation of Care and Scottish Water give the committee a flavour of the process, on which we can expand during evidence, if the committee wishes.

I can give the committee a feel for how we think that we are getting on generally. A significant and rising proportion of remits are agreed within the time targets that we set ourselves. So far in the 2008-09 pay round, we have agreed 34 out of 42 remits—there are still eight remits to be agreed. We reached agreement on eight—that is, a quarter—of those 34 remits within the seven-week target that the policy sets. We agreed 19—56 per cent—of them within 10 weeks, and the remainder took longer. In our view, there is clearly room for improvement, although that position represents an improvement on the one in 2007-08, when the median time for approval was 14 weeks. In the current pay round, we have got that down to less than 11 weeks, so we are heading in the right direction.

I and the team that Lesley Doherty leads will do everything that we can to ensure that, in the 2009-10 pay round, remits are agreed within the time targets that have been set. To that end, we will seek to streamline processes. We want to make further progress on reducing the median time for approving remits. I hope that that is helpful to the committee. Lesley and I will be happy to answer questions.

Richard Leonard (GMB): I have been a full-time trade union negotiator for 12 years. I have spent almost all that time dealing with the private sector. In 2006, I was appointed the organiser responsible for Scottish Water. My experience of the private sector is that private sector companies invariably operate pay guidelines, too. Many of the companies that the GMB negotiates with in the private sector are branch plants of larger conglomerates and receive instruction from the centre about their pay remits.

However, the experience in the private sector contrasts with that in the public sector because, in the private sector, decisions are invariably turned around within a week or two. Sometimes phone calls are made at meetings that allow blockages to be unblocked, decisions to be made and proposals to be put out to consultation among trade union members. I note from the guidelines that the public sector target is seven weeks and we have heard about the median figure. I can only report my own experience, which is that, although the 2006 Scottish Water settlement was thrashed out by April 2006, it was not signed off by the minister until October 2006. This year, as the committee is aware, the deal was on the table from about April 2008 but was not agreed until January 2009. That delay was partly to do with a dispute over what the settlement proposal was, but it is fair to say that our experience has consistently been one of extensive delays.

That can have two effects. For example, the imposition of the pay deal by Scottish Water's senior management team on 5 September was at least in part justified by the pay guidelines. The workforce and trade union members were told that the management team would impose a 15-month deal because it could not get more under the pay guidelines.

Secondly, as members will appreciate, delays can stoke up a grievance and do not encourage good industrial relationships in public or private corporations. A delay between the pay anniversary date and the implementation of a pay rise can be problematic.

14:15

I will finish with four quick points. First, the key task for us all is to consider how the timescale can be speeded up. Part of the agreement that was signed off in January was that we would move our anniversary date from April to July in recognition of the fact that the Treasury guidelines are often not produced until May. Because the April date almost inevitably builds in a clash of timescales, we have moved the date to July. I can say a bit more later about our members' reaction to that. Secondly, greater creativity should be allowed within the guidelines. Thirdly, some corporations and parts of the public sector, including Scottish Water, are considering market testing and benchmarking, about which the GMB has severe reservations. Finally, our union believes that the case has to be made for having two sets of guidelines rather than one. Why are the guidelines for senior appointments different from those for the rest of the staff who deliver public services? The committee might want to consider the roots of that.

Dave Watson (Unison): Unison's position is that the current pay process is broken and needs to be reformed radically. Richard Leonard outlined some of the practical difficulties—I agree with him about that. The pay guidance is inevitably settled after the budget, which means some time between April and June. That does not tie in with the variety of pay settlement dates that we have in the bargaining units that are covered by that guidance. The guidance is not only extremely rigid but extremely complex. Because it is rigid, when we get down to local bargaining, we are not really bargaining at all. When the issue was raised previously, I pointed out that, in trade union jargon, we wonder whether we are negotiating with the monkey or the organ grinder. I am afraid that the reality is that, in general, we negotiate with the monkeys. The organ grinder is the minister. The minister sets the pay remit, which means that the negotiations are simply not meaningful and are not free collective bargaining.

The guidance is enormously complex. Members will have staggered in with their papers for today's meeting, so they will know how complex it is. I think that the Scottish Government's evidence ran to 130-odd pages. The pay guidelines are just about readable but, frankly, with the technical guidance, even I lose the will to live. Imagine all the various bodies trying to plough through that and fill in all the forms. Then the process itself kicks in. One person puts in a remit, it goes to a committee and it is then passed backwards and forwards.

Alistair Brown made the fair point that that is not so difficult if things are straightforward. The problem in recent years is that things have not been straightforward. We have been in a period in which equal pay has been on the agenda and the Scottish Government and the previous Administration have been harmonising and bringing together public bodies. That process is not going to stop, as the Scottish Government has a clear strategy on that under the Crerar review and the agenda on rationalisation of public bodies. Such measures lead to complicated pay deals, as times are changed, people who are on different terms and conditions are brought together and long-term pay problems are sorted out.

Given the delays and complexity, it is self-evident that the process is not working and needs to be reviewed. There are two options: either we give more flexibility to the organisations to negotiate freely and collectively, within their budgets, with their trade unions, or we accept that the minister makes the decisions and so bargain more centrally. The Cabinet Secretary for Finance and Sustainable Growth has made it clear that he is accountable to Parliament for those bodies. I do not disagree with that and I understand his view. If that is the position, let us accept the reality and have a degree of negotiation with the Government in the centre, leaving appropriate matters for local negotiation. We believe that that is the way forward, so we urge that solution on the committee.

The Convener: For the Scottish Commission for the Regulation of Care, we have Mr Weir.

Gordon Weir (Scottish Commission for the Regulation of Care): That is our Sunday name. I will use our everyday name, which is the care commission.

I am the director of corporate services for two non-departmental public bodies: the care commission and the Scottish Social Services Council. I am also a member of the public sector pay implementation working group, which is a Scottish Government-led working group that aims to improve implementation issues. The care commission has about 580 staff, approximately 70 per cent of whom transferred to the care commission either from local authorities or from the national health service. The pay policy is not applicable to either of those groups.

The care commission operates no bonus scheme. In the two years for which I have been in post, two pay agreements have been approved. The first of those was for the period from April 2006 to March 2008, but it was paid in May 2008—25 months late. Part of the delay related to our implementation of a new pay and grading structure. We also suffered a period of industrial action, which was caused by the delay in agreeing the remit. The stalemate was finally broken when we put a request to the Scottish Government that the care commission should adopt the Scottish Social Services Council's pay remit. We could not agree to the remit that we were being pushed towards.

The second remit is for the period April 2008 to March 2010. The Scottish Government has agreed to that and it is now out for negotiation with the unions. The earliest that that agreement will be payable is May 2009—13 months late. I recognise Richard Leonard's comments on the impact that such delays have on industrial relations.

The view of the care commission is that the underlying cause for the delay in both cases was a combination of micromanagement of the first pay and grading structure for 2006 to 2008 and the approach to salary benchmarking. The working group is starting to see some progress, but not in the key areas of salary benchmarking or form filling, as it was described earlier. Also, in both cases, no form of real negotiation took place with the trade unions. It was a case of telling them, "This is the best deal that the employer has managed to strike." It was more of a consultation than a negotiation phase.

I am happy to answer any questions that the committee may care to put.

The Convener: Clearly, we are entering deep and complex waters. I thank all our panel members for underlining the importance, size and complexity of public sector pay negotiations.

James Kelly (Glasgow Rutherglen) (Lab): I have one question for Scottish Water and another for the pay policy unit.

An area of interest for many people is the number of contractors that Scottish Water uses. If the use of contractors is not kept closely under control, it can add to an organisation's costs. Also, the organisation may use contractors in place of permanent staff, which can result in a loss of expertise in the longer term. How does the daily rate for contractors compare with that for permanent Scottish Water staff?

Ronnie Mercer: We have hundreds of millions of pounds of capital to spend, but not the staff to undertake that capital spend. We hire contractors to do the work. They are household names—name one that we are not using. We hire loads of people to do the work. They take on chunks of work that they bid for and win. We hand out the work and they go and build it under our direction. We do not see the rate that every contractor is earning, but we know what the job is costing. We hire contractors such as Black & Veatch, Balfour Beattie and Costain and they give us a cost for the job, so I cannot give you precise rates.

There are peaks and troughs in our work programme. This year, it amounts to £670 million whereas the figure for the first year was £450 million. We would like to see a smoother flow of work, but so far we have not got things where we want them. We do not want to take on people as employees only to find that we cannot use them.

We therefore lift and lay people according to our needs. Richard Ackroyd might want to add something.

Richard Ackroyd (Scottish Water): No, I think that you have covered the issues.

Ronnie Mercer: The WIC benchmarks the cost of what we do against the 10 big water and sewerage companies in England and Wales and judges, sometimes harshly, whether we are doing well.

James Kelly: Are the figures that you gave of £450 million and £670 million attributable to contractors alone?

Ronnie Mercer: No. We are spending £2.5 billion over four years. Up to 20 per cent of that is capital in as much as it is spent on buying things such as vans and information technology. Of the remaining 80 per cent, half—40 per cent of the total—is run in-house, but the in-house people hire people from outside as well. The other 40 per cent of the total is spent by Scottish Water Solutions, which is a group of two large consortia plus Scottish Water, which is a 51 per cent shareholder. It has hundreds of millions of pounds' worth of work to deliver over the four years, which is given to it in parcels.

James Kelly: The figures that you gave were £450 million and £670 million.

Ronnie Mercer: In the first year of this period, we spent £450 million; the next year, we spent £620 million or so—Richard Ackroyd is going to tell me that it is more.

Richard Ackroyd: It was £680 million.

Ronnie Mercer: And next year it will be—

Richard Ackroyd: About £660 million.

Ronnie Mercer: That is just the total that comes under the heading of cap ex—in other words, not operating costs.

James Kelly: Is that capital expenditure, then?

Richard Ackroyd: Yes.

Ronnie Mercer: It goes on the asset base. Scottish Water's asset base is around £4 billion. Each year, it goes up by the amount that we spend on capital, and reduces by the depreciation. The net of that is what the asset base is currently worth, which is about £4 billion.

James Kelly: I understand that. You explained that you have large-scale contracts. How much do you expend on those contracts?

Richard Ackroyd: I cannot give you a precise breakdown—we can find that information for you. We operate a mixed economy, which varies over time—that is the other factor to play into this. My guess would be that a substantial majority of the capital programme will be cost incurred through contractors. However, the majority of our operating cost, which is another £300 million-plus a year, is in-house staff costs rather than contractors.

James Kelly: When you draw up those contracts, does a specific element of the contract relate to staff costs?

Richard Ackroyd: No. We do not prescribe the terms on which our contractors employ people. They have to abide with the general law of the land, good practice, and health and safety requirements, but how they manage their staff—how they pay them—is their business.

James Kelly: So when you are drawing up the contracts, all that you are really interested in is the delivery of the particular project for Scottish Water.

Richard Ackroyd: We are interested in successful, cost-effective delivery and getting a high-quality health and safety performance.

James Kelly: I have a question for the pay policy unit. There are six people in the unit. You have to deal with a number of complex issues, some of which we have discussed today. Those include grading and job evaluation, which require a lot of expertise. Of those six people, how many have a human resource qualification? Clearly, such a qualification would help to address the issues that we are discussing today.

Alistair Brown: Mr Kelly's question reminds me of a similar one that I tried to answer on the previous occasion that we were here. The answer is that none of us has an HR qualification. If we need to, we draw on HR expertise from elsewhere in the Scottish Government.

14:30

Lesley Doherty (Scottish Government Finance Directorate): That follows the model that the Treasury uses. It has no HR specialists on its team and would go to colleagues with that expertise when necessary.

Linda Fabiani (Central Scotland) (SNP): You will excuse me if I go over old ground, but I am new on the committee and a couple of things have come up that I want to ask about.

Alistair Brown talked about a median of 11 weeks for settlements. I noticed that he used median rather than average. What is the variation around the median?

Alistair Brown: I might not be able to tell you right away, but Lesley Doherty has the data.

Lesley Doherty: It is 10 weeks.

Alistair Brown: The arithmetic average is 10 weeks, which is below my threshold for being able to—

Lesley Doherty: I apologise—I gave Alistair Brown the figures the wrong way round: the median is just under 10 weeks and the average is 11 weeks.

Alistair Brown: I told the committee that the median was under 11 weeks. In fact, it is under 10 weeks and the average is just under 11.

Lesley Doherty: It is in the small print.

Linda Fabiani: I will need further explanation of that. We hear from Gordon Weir that settlement can take up to two years. We know that that can happen. A pay settlement has to be agreed every year for about 50 bodies—is that right?

Alistair Brown: We are dealing with 42 in the 2008-09 pay round.

Linda Fabiani: But your figures are based on 2007-08.

Lesley Doherty: They are for 2008-09.

Alistair Brown: The detailed figures that I gave in my opening statement related to 2008-09, with 42 pay remits. We can provide more detailed information if the committee would find that helpful. I think that the figures that Gordon Weir quoted are at the extreme end of experience.

Gordon Weir: Perhaps I can help. The figures that I quoted were for the time taken to pay staff from the date that the payment was initially due. For example, in our first remit, we first entered into discussions in January 2006 for a pay round that was payable on 1 April 2006. There was a lot of engagement with Scottish Government colleagues before the formal submission, which is when the clock starts ticking from the pay team's point of view.

Linda Fabiani: Let me get this right: you are saying that you reach the agreement and get sign-off at an average of 10 weeks.

Alistair Brown: That is 10 weeks from the date of submission of the draft remit to us. It may have been under consideration within the body for some time before that, but our clock starts ticking when the body—the care commission or Scottish Water, for example—submits its draft remit and asks for approval of it.

Linda Fabiani: In other words, if we take those two things together, employees can wait for up to two years for their wage rises.

Gordon Weir: That clearly happened in the care commission's case, but I agree that that was probably at the extreme end. Even we would say that the position is improving. Because the first remit was so late and we did not work on the second one before the first was concluded, there was an in-built delay in the second of our remits.

Linda Fabiani: I would be interested to know how many public bodies that applies to. From the point of view of the employee, it is of no interest at all whether it takes only 11 weeks from the point that the draft remit is handed in to the Government. The issue is wider than that.

Dave Watson: I will pick up that point. In Unison, we sit down with our members and put a pay claim in to an employer, which kicks the process off. We do it in advance of the pay settlement date and expect to come to a deal some time around that date. If it drifts a month or two, people understand that that is reasonable. However, the process that we are discussing goes on and on, because we put the pay claim in to the employer, who goes back to the Scottish Government pay unit, which sends it backwards and forwards. If the claim is straightforward, it can be settled fairly quickly. The problem, in fairness, is all too often connected to the expertise issue that James Kelly raised. Job evaluation schemes, pay and grading remits and equal pay are not easily resolvable matters, so claims drift on and on. You can see from the timescale that Alistair Brown has given you for the care commission and Scottish Water how many times even only those two claims went backwards and forwards to deal with changes.

Employees expect to get their pay deal somewhere around the pay settlement date. If there is a dispute, things might drift on a bit. In this process, it is out of employees' hands. The timescale was news to us. We do not see all the reasons; we just know that there is some problem between the bosses and the Scottish Government. That is where we are.

Linda Fabiani: There might not necessarily be a problem between the bosses and the Scottish Government.

Dave Watson: We do not know.

Linda Fabiani: I am aware that we got a paper about senior executive bonuses. I do not know whether Scottish Water or the care commission can answer this, but, in the public sector, are there such things as across-the-board bonuses for junior staff, or is the bonus culture only for senior staff?

Richard Ackroyd: We operate what we prefer to call a performance-related pay scheme, rather than a bonus scheme, which applies to every single person who works for Scottish Water. At the lower end, there is a flat rate; if the performance is achieved, there is a potential £900 per person.

Linda Fabiani: Dave Watson mentioned equal pay. How concerned are the unions about equal pay within the public sector, given the single status work that is being done in local authorities?

Dave Watson: We are very concerned about single status, which is not dealt with by this particular process—there is a separate negotiating arrangement. However, the same problems arise in the pay process that we are talking about. There is an issue about expertise, too.

One of the difficulties is that the process is very much tied to civil service processes. Some NDPBs are linked closely to the civil service—I am thinking particularly of executive agencies—but there is another group of NDPBs, of which the organisations that are represented here are good examples, that have never been part of the civil service and have no connection with civil service pay and conditions.

Colleagues in the pay unit are used to operating the civil service process. The care commission's problems have been largely to do with the fact that the benchmarking was done using civil service benchmarks, rather than using social work benchmarks or following the example of the health service, from which staff are recruited to the care commission. It is the same for Scottish Water, which recruits not civil servants—I suspect that it never has—but people from a different market. Civil service-type benchmarks, including some from the job evaluation scheme that the civil service uses, for which the expertise rests in the civil service, are entirely irrelevant to the sort of NDPBs that we are dealing with, which is why there has to be a different way of doing things.

There should be a negotiating table for the civil service and civil service-related NDPBs and a separate table for the NDPBs that have little, if anything, to do with the civil service and which have very different demands and needs, which we have to reflect. That arrangement would bring in the HR expertise from bodies such as Scottish Water, the care commission, the Scottish Environment Protection Agency and so on and would operate as for any joint employer—just like local government and the health service operate. You could bring in expertise on that basis. There would still be a role for the finance department in the Scottish Government, but we would not expect people working there to be pseudo-HR people; we would expect them to be accountants and to do the finance bit. If we brought in the HR expertise, we would have a more realistic negotiating process.

David Whitton: That brings me to a couple of points that I want to make. Mr Brown, you said that there were six staff in the unit. There is you and Lesley Doherty, your assistant, but what do the other four staff members do? Do they just provide administrative back-up, or are they more involved in some of the pay negotiations?

Alistair Brown: I am the deputy director of finance with a number of responsibilities, of which public pay is one. I suppose that I spend between one and two days a week on public pay issues. Lesley Doherty is the team leader at the moment. The previous team leader was Nicola Paterson, who had a lot of experience in public pay matters. She has now moved to another job within the Scottish Government. Lesley Doherty is now the team leader, in the meantime at least. She has two senior-level colleagues who deal with pay remits and have responsibility for discussing proposals with the public bodies concerned and making recommendations to the remuneration group that I mentioned. In addition, there are two further staff who do valuable work that you could describe as admin and support.

David Whitton: If I understand you correctly, three people are working on public pay full-time and you are working on it part-time, for want of a better description.

Alistair Brown: That is fair.

David Whitton: Is that enough?

Alistair Brown: As I said, we have just lost Nicola Paterson. Our normal strength would be four executive staff in the team.

David Whitton: I repeat my question: is that enough?

Alistair Brown: I believe that we can make the team work with that number of staff. The proof of the pudding will be in the eating, but I believe—

David Whitton: Sorry, but the proof of the pudding is whether you hit your targets, and you are not hitting them. In fact, you hit the target for only eight of your agreements in 2008-09; 19 agreements are behind schedule; and, in your own words, there is "room for improvement".

Alistair Brown: Indeed there is, and we accept that. We are working internally and through the public sector pay implementation working group, which Gordon Weir mentioned, to achieve that improvement. We need to work harder on streamlining the processes, in consultation with the public bodies concerned. By doing so, I hope that we will achieve further improvement.

David Whitton: Mr Watson has mentioned one method of streamlining the process. Mr Leonard and Mr Watson are senior union negotiators, so I would like to ask them whether they negotiate directly with Mr Brown. If not, with whom do you negotiate? I think that Mr Watson said that you had to sit there and it was like monkeys and organ-grinders, although I would not necessarily use that analogy. However, it is clear that you are not talking to the decision makers.

Richard Leonard: That is absolutely right. One of the frustrations is the silence. Because we do not engage at the point where decisions are made, we do not know why delays occur. The process is tortuous. As I said in my opening remarks, that can add to industrial relations problems.

David Whitton: I do not necessarily want to attack the pay unit, but in your opening remarks you talked about dealing with the private sector, where phone calls could be made and decisions taken almost instantly. If you reach a problem during a negotiation, how long does it take on average for you to get an answer?

Richard Leonard: Up until Christmas eve 2008, it took quite a considerable time. However, last-ditch pay talks averted industrial action over the Christmas period. Those talks were very constructive and led to decisions being taken on the day. I think that phone calls were made on Christmas eve. It is an interesting template, because there was pressure for a decision to be made, and it was possible to make it quickly. I do not know whether the Cabinet Secretary for Finance and Sustainable Growth was sitting on the end of a phone line, or whether some of my colleagues here today were sitting on the end of a phone line, but in the space of a day—albeit Christmas eve—it was possible to make a decision. I wonder whether that can be an example for other parts of the public sector.

David Whitton: I wonder whether Mr Watson would expand on his proposal—if that is what it was—to have some kind of central pay negotiations.

Dave Watson: To be fair to Alistair Brown, Lesley Doherty and other colleagues, I should say that the first time that most of us ever meet them is when we are sitting in the room with the minister, when we are at the punch-up stage and the minister is trying to sort something out. They are never involved in that. It is perhaps a bit unfair to talk about the elephant in the room, but that, in essence, is the situation.

Our proposal is to cut out the middle person and get to the core of the issue. There is a group of NDPBs that are different from the civil service. The cabinet secretary has been clear from the moment that he came to power in May 2007. I met him in June that year and we said that we needed flexibility to sort some issues out. He said that he was responsible to Parliament and would not give people the flexibility to reach agreements locally, even if they kept within budget, because it was his head that would be on the block. I do not disagree with the cabinet secretary, and I understand his point, but the reality is that the Government is driving the agenda, therefore it is the Government that we need to talk to.

That does not mean that micronegotiations on pay structures and so on would take place at that level; they would still take place at local level. However, if the core pay and conditions of that group of NDPBs are being controlled by the minister, let us have a bargaining structure at Scottish level that involves the organisations. The minister has his role, and the pay unit has its finance function, and issues can be sorted out at core level before the details are sorted out at local level. That would cut out the middle person and a lot of lengthy processes.

That would be entirely consistent with Scottish Government policies around streamlined processes, efficient government and the Crerar review, and would tie all of the elements together. For example, the Cabinet Secretary for Education and Lifelong Learning is consulting on a proposal to have one bargaining table for the further education colleges in Scotland, in recognition of the need to deal with the current ludicrous situation in which lots of little bargains are being made. We agree with her approach, and the same approach could apply to the group of NDPBs that are different from the core civil service ones.

14:45

David Whitton: Mr Ackroyd, you spoke about base pay and profit-related pay for everybody. However, you mean everybody apart from you, do you not?

Richard Ackroyd: No. The principle is exactly the same. I have a base pay and a performance-related element, as do the other directors on the board.

David Whitton: Yes, but the level of your performance-related element is around 38 per cent. What did you say that it was for everyone else?

Richard Ackroyd: The arrangements that have been in place since 2006—a variant of them was in place before then, starting in 2002—involve a base-pay element, an annual performance-related element, which goes up to a maximum of 40 per cent, and a further scheme that is based on performance over the full four years of each regulatory period, which goes up to 15 per cent a year, or 60 per cent for the four-year period. All of that is based on targets that we agree with and are assessed by the regulators. Achieving the target does not get someone the performance-related pay element, exceeding it does, and to achieve the higher levels of that element the target must be exceeded by a substantial margin.

David Whitton: And the regulator sets the target.

Richard Ackroyd: The board has a remuneration sub-committee that consists of some of the non-executive directors. They make proposals, which they discuss with the regulator.

The decision is actually made by the remuneration sub-committee, but it is discussed with the regulator. We want to have a joint view of which aspects are important in driving performance. Indeed, some of the elements of the targets have changed over the years to reflect changing perceptions of the importance of targets. At the end of the year, the regulator verifies whether the performance targets have been achieved.

David Whitton: I am not getting at you in particular, but, given that you are the chief executive of Scottish Water, do you think that you need a bonus in order to drive the company forward in the way that you do? You get a good salary anyway, and your job is to deliver for Scottish Water. Do you need a bonus on top of that salary to make you reach the targets?

Richard Ackroyd: Different people are motivated by different things. Some are motivated by cash and some are motivated by issues of a higher order.

The pay package includes fixed elements and variable elements. I am happy to have a pay package that includes a substantial proportion that relates to performance.

The Convener: I understand the frustration that is felt by negotiators who want to get to the top decision maker, but getting there would not really help with regard to the agreements that are local and specific as opposed to national and general. What would be the advantages and disadvantages in moving towards either genuine local bargaining by each bargaining unit within their funding levels or a Scotland-wide bargaining framework? Might administrative savings be created by moving in either direction?

Dave Watson: As I said earlier, we are fairly easy about which way to go, but you have to go one way or the other. We could live with bodies such as Scottish Water and the care commission being given the flexibility to bargain genuinely and freely at a local level, within their overall budgetary parameters. However, that is not the position. The reality is that the cabinet secretary holds a tight rein—in fairness, so did his predecessors. Cabinet secretaries feel—rightly—that they are accountable to Parliament, so they cannot give arm's-length Government organisations such flexibility.

We just accept the reality. If the Government was prepared to give those bodies flexibility, we would be happy to bargain freely with them locally. However, that is not the situation, which is why we need to cut out the middle person and go for some form of framework bargain. That would not deal with every last detail, but many annual pay bargaining arrangements are relatively straightforward. Core terms and conditions could be sorted out at the centre, and one-off issues such as a pay and regrading structure or harmonisation could be sorted out locally.

The advantage of such a system would be that it reflected the reality of and streamline the decision-making process, which would create savings. All the to-ing and fro-ing that is described in the papers to the committee costs time and money, and involves not only a straightforward cash cost. Richard Leonard talked about frustration and aggravation locally, which inevitably impact on performance. The performance of Scottish Water was affected by our industrial dispute with it. If people are upset and angry and are striking—reluctantly—that is not good for the organisation. A cash and performance price is paid for such bargaining arrangements.

A framework would have strong benefits. For example, the minister would not be involved in dealing with all the individual disputes. In theory, the Cabinet Secretary for Finance and Sustainable Growth could deal with the issues in many bodies, but there are 42 pay bargaining units, and more bodies than that. However, much as I love meeting John Swinney, who is a nice chap, meeting him regularly to sort out pay disputes would not be a good use of his time or mine. There are better ways to operate. A framework approach would be better, if the Government was not prepared to give organisations the ability to bargain freely with us.

Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD): The Scottish Government published its policy on senior salaries in October. Is it being reviewed in the light of the recession?

Alistair Brown: The senior salaries policy is reviewed and updated annually, generally in the light of the report from the UK Review Body on Senior Salaries. I expect ministers to want to review and update the senior appointees policy this year, but I cannot say exactly when that will happen. That will depend partly on when the SSRB's report is published.

Jeremy Purvis: The Scottish Government's policy will be published in October this year for the next financial year.

Alistair Brown: I would be surprised and disappointed if the policy were published as late as October this year. The document was published as late as October in Scotland in 2008 because the SSRB's report was not—if my memory serves me—issued until July, which was about three months later than normal. The pattern is for the SSRB's report to be published in April.

Jeremy Purvis: The helpful annex A to the Government's policy, on page 43, contains a table that shows that all chief executives and chairs of public bodies were to submit their proposals for annual pay increases, including bonuses, by 1 December. Have they all done that?

Alistair Brown: No, they have not all managed to do that yet. I am not sure whether I can quote the figure absolutely accurately, but a colleague who deals with senior appointees' pay told me that we are more than halfway through the process, so more than half the bodies have submitted proposals in respect of their chief executives.

Jeremy Purvis: Could you provide that information in writing?

Alistair Brown: Yes.

Jeremy Purvis: It is now four months since the deadline of 1 December, by when all the bodies should have submitted their proposals.

Alistair Brown: We can certainly provide more detailed information.

Jeremy Purvis: It would be extraordinary if anybody had not submitted their proposal, but that information would be helpful.

Mr Brown might remember that when he gave evidence to the committee before, I asked whether the appointment of the Scottish Futures Trust's chief executive fell within the remit of the senior appointments pay policy. Does it?

Alistair Brown: My understanding is that Mr Swinney has not yet announced his position on that.

Jeremy Purvis: Do you think that I will have to wait another four months before a decision is taken? Are you part of that process, as the pay policy unit?

Alistair Brown: I am simply unable to say when a decision will be made and announced.

Jeremy Purvis: Are you part of the process?

Alistair Brown: Part of what process, exactly?

Jeremy Purvis: Advising, providing guidance, providing information.

The Convener: We are getting into some deep waters. I am not sure that it is fair to follow this route, so perhaps you have another way of asking the question.

Jeremy Purvis: I am asking whether or not the policy unit is involved in consideration of the salaries of either the directors or the chief executive of the Scottish Futures Trust.

Alistair Brown: That is a factual question. The pay policy unit, as such, would be involved with assessing a draft remit from a body—including the Scottish Futures Trust—were the minister to decide that it was to be included in the policy.

Jeremy Purvis: That has not happened so far.

Alistair Brown: No announcement has been made.

Jeremy Purvis: Questions were also asked regarding Scottish Enterprise. It was helpful that, when you wrote back to the committee, you confirmed that there was a review of the chief executive's salary and package. You were not able to describe that to the committee, but the review has subsequently started. That is welcome, I think. What information do you have about the reasons for that review? You indicated that it was happening, but there was no explanation why.

Alistair Brown: That is the review by Scottish Enterprise of its chief executive's remuneration.

Jeremy Purvis: Yes.

Alistair Brown: I am not familiar with the details of what has been said about that, but we can certainly write to the committee to provide the explanation that has been given.

The Convener: That would be helpful.

Jeremy Purvis: Can you tell us what the Government's role is? I am confused about that. I asked the cabinet secretary about it in relation to the chairman. Both the chief executive and the chair come under the remit of the paper on senior pay policy. A decision had been taken to review the chief executive's pay and conditions. That falls within the scope of the pay policy—the agency has changed substantially, so that is appropriate. However, the Government thinks that it is not appropriate for the new chairman's pay to be reviewed, as the new chairman is on exactly the same remuneration as the previous one. What is the role of the Government in implementation of the pay policy?

The Convener: That is probably a question for the minister—unless you wish to respond, Mr Brown.

Alistair Brown: The question as I understand it, although perhaps it is an implied question—

Jeremy Purvis: I will help Mr Brown out; I will quote from the letter. I am asking about the policy, not the decision of a minister. The letter to me from the cabinet secretary, dated February 2009, says:

> "The remuneration for all NDPB Chairs is set each year in line with the Scottish Government's Public Sector Pay Policy For Senior Appointments, and is determined in relation to the organisation's size and budget."

The "organisation's size and budget" changed quite dramatically in the case of Scottish Enterprise, and that prompted a review of the chief executive's pay. However, although the body's size and budget have changed, that has not led to a change in the chairman's pay. What is the mechanism for determining an equitable way forward regarding chief executives and chairmen?

Alistair Brown: I believe that I am able to help the committee and Mr Purvis on that. The daily fee rate for chairs and non-executive board members of public bodies such as Scottish Enterprise falls into three bands, as I think the policy document explains. There are large, medium and little organisations. Scottish Enterprise, along with three or four other NDPBs, is in the band of the largest organisations, so the daily fee rate for the chairman and his colleagues on the board falls to be set within that band. There is a range, if I remember rightly. The parameters for deciding whether a body is in pay bands 1, 2 or 3 are set out in the public sector pay policy and should be a matter of public record.

15:00

Jeremy Purvis: Helpfully, the committee was provided with a copy of the technical guidance for the policy. Does the guidance provide a mechanism for revision of existing daily fee rates?

Alistair Brown: The policy includes a mechanism for annual revision—

Jeremy Purvis: Does it also provide for the revision of daily fee rates for new appointments?

Alistair Brown: Yes.

Jeremy Purvis: It seems extraordinary—whether this is due to political pressure, I do not know—that the policy allows for the chief executive's pay and the chairman's daily fee rate to be reviewed after pressure, but that has not been done. How can members of staff or my constituents consider such a process to be fair?

The Convener: Again, I suggest that matters of policy are really for the minister. However, if Mr Brown wishes to respond, he may do so.

Jeremy Purvis: Will we have an opportunity to put those questions to the minister?

The Convener: You have plenty of opportunities to do so. On questions of policy, there is also the matter of fairness in asking officials to answer them.

Alistair Brown: I can only refer the committee to the page in the policy to which Mr Purvis has referred, which sets out the framework within which we operate.

Jeremy Purvis: I have a final question, which is about Scottish Water. On the pay of the chief executive in particular, does the chairman consider that Scottish Enterprise's pay structure is fair?

Ronnie Mercer: I do not know about Scottish Enterprise's pay structure—

Jeremy Purvis: I meant Scottish Water's pay structure. I apologise.

The Convener: He is not multicompetent.

Ronnie Mercer: I can give a view on Scottish Enterprise's pay structure if you like.

Members must understand how such things are derived. The chief executive's pay was decided the year before anyone had ever heard of the guy who is now chief executive. The pay rate was decided for the post of chief executive, which was to become vacant, and was done against a background of benchmarking that had the aim of paying below the average, or median, for people in the comparator population. That was all done openly, so people can see how the salary was arrived at. As far as we are concerned, we might well have the lowest-paid chief executive of a water company in Britain. I do not know that for sure—one would need to look at what they all earned last year—but it is certainly likely. Our remit was to find out about the pay of all his peers—from among whom we needed to find someone for the job—and then pay not more than 95 per cent of the average. As a matter of interest, when, before coming here, I asked our human resources people where they think the chief executive's pay might sit—I cannot say that this figure is right—they said that it sits at between 80 per cent and 85 per cent of the average pay for that group.

Jeremy Purvis: Do you use a private sector comparator for all staff within Scottish Water?

Ronnie Mercer: We do not, as far as I am aware, do that for all staff.

Richard Ackroyd: We benchmark where our pay is for all staff, but we do not set pay rates based on benchmarks. The broad picture is that the lower ends of our pay bands are either around or slightly above the average of the comparator groups. The more senior the management level in the organisation, the further below the average of the comparator groups we tend to pay.

Jeremy Purvis: Just for clarity, when was the decision taken to award a salary of £263,000?

Ronnie Mercer: In 2007.

Jeremy Purvis: Did you inherit the previous decisions about the bonuses?

Ronnie Mercer: The bonuses have been in existence since 2002 and were reiterated in 2006, but the chief executive's bonus was 40 per cent from something like 2002-03 onwards.

Jeremy Purvis: Did Scottish ministers approve the £263,000 salary?

Ronnie Mercer: Yes.

Jeremy Purvis: When did they do that?

Ronnie Mercer: 2007.

Jeremy Purvis: The salary is 30 per cent higher than that of the predecessor. That is the flexibility that was put in place and which ministers approved.

Ronnie Mercer: The salary was designed to recruit someone, not to pay the guy who was there.

Jeremy Purvis: You can advertise a post that has a salary attached, or you can advertise a post with "an attractive salary," as is being done for recruitment of the chief executive of the Scottish Futures Trust, so there are options when you are seeking to attract staff. Is that correct?

Ronnie Mercer: It could be. It depends what market you are in and what the situation is at the time.

Jeremy Purvis: I have a final question, convener. I think Mr Ackroyd said that £900 was the limit in the performance-related pay scheme at the bottom end of the scale. What percentage would that be of the salary of a person at the bottom of the pay scale?

Ronnie Mercer: I reckon that it would be between 5 per cent and 10 per cent. Is that right?

Richard Ackroyd: As a percentage of our average salary, it is about 4.5 per cent to 5 per cent. For the very lowest bands, it would be approaching 10 per cent.

Jeremy Purvis: I have a question for Mr Brown, on how the pay policy is looked at in respect of fairness and equity across the scale. Is there anything within either the pay policy overall or the senior pay policy that would allow equitable consideration of performance-related pay as a percentage of salary? At the bottom end of the pay scale, the maximum performance-related pay could be 4 per cent to 5 per cent and at the top end it is up to 40 per cent.

Alistair Brown: The pay policy for senior appointees covers bonuses. The policy on bonuses is on page 13 of "Public Sector Pay Policy for Senior Appointments 2008-09", which states:

> "The maximum potential bonus in any year under this policy is 10% of base pay … The only exception to this is where bonus provisions above this level have been agreed previously by Ministers on an exceptional basis. In such circumstances, the level of bonus awarded may be above 10% but limited to the percentage approved by Ministers."

That is the case for Scottish Water.

Linda Fabiani: I have a quick question about something that was said previously. On the possibility of non-departmental public bodies coming together—we are almost on the road to collective bargaining, if you like—I can see why that would be attractive to the trade unions and to the cabinet secretary. Only two NDPBs are represented today, but I wonder how NDPBs would feel about it. Have you been asked how you feel about it?

Richard Ackroyd: No, we have not been asked, but I would not like our workforce to negotiate with the cabinet secretary. We manage Scottish Water and are accountable for running the business well and within budgets. We therefore need the management capability to manage within those budgets.

Ronnie Mercer: I was previously in the private sector, when I sat at same table as Dave Watson, but with a bench between us. That is how it was. He would reckon that he was dealing with me and that I was able to make a deal, which we would sign and pay the next month. The agreement was that we would do it in March and pay it in April, although I had a remit from the owners of the company or the shareholders. Everybody has a remit, but the negotiation was entrusted to people like me and Dave Watson. We did not have to go back and ask, "Is it okay if we do this?" We did it, signed up to it and paid it. That avoids the signing of deals when inflation is 2 per cent and then finding six months later, when the pay deal has to be paid, that inflation has doubled to 4 per cent, as happened last year. I understand that inflation is now zero, however.

Everyone has a remit and a cap. Others deal with people who can manoeuvre and we would like to do the same, once Alistair Brown has given us the riding instructions. That is all that we ask for—in fact, it is what we did, ultimately, in the deal that we made on Christmas eve, which was within the riding instructions. We did not have to go back to anyone and we are not going to break agreements—we are not that type of people.

Gordon Weir: The care commission was not asked, either. What Linda Fabiani suggested would be possible under a couple of conditions, but it would need to be a credible and sustainable arrangement. There would have to be a level playing field to start with so that the system could take account of different developments in different pay markets. The available benchmarking information would have to be the building block of all that.

As I said in my opening statement, the big technical flaw in the current arrangement is not just the benchmarking data that bodies are compared against but the technical methodology: that is, how the job evaluation system points are used by the pay policy team to benchmark across organisations. That is the problem. Collective bargaining would not be an insurmountable problem, but it would need a different approach and quite a bit of work to ensure that it was credible and sustainable.

Linda Fabiani: If some kind of collective bargaining was put in place, would the concern be that there would be benchmarking and comparators across all the NDPBs and that people would look for parity on different job evaluations?

Gordon Weir: Yes, but it would all depend on how it was done. Many of the care commission's staff came from local authorities, where they had worked in social work departments. When they joined the commission, the colleagues whom they left were on the same pay and, broadly, on the same terms and conditions, but their positions have drifted apart. When we have tried to bring benchmarks like that back to the table, we have struggled to get a good hearing and to get any change put in place. I would hate to get into similar technical issues on a national basis, rather than deal with them on a one-to-one basis. We would need to address some big underlying themes properly first.

Linda Fabiani: Would the unions have to look for such parity if they were to undertake a form of collective bargaining?

Dave Watson: In fairness, when Ronnie Mercer and I sat at a table together in one of Scotland's biggest private companies, we operated within constraints, too. We have thousands of members screaming at us if we get it wrong, and Ronnie Mercer had his board setting the parameters. We all operate within constraints. Ultimately, though, I recognised that Ronnie Mercer was the organ grinder. He was senior enough and had enough flexibility, and the board trusted him to cut a deal. Equally, when he negotiated with me, he knew that if I said, "That's a deal, Ronnie," I would go and sell the deal on that basis. He was confident that I could do that.

That is not the case with the current situation. It makes not the slightest bit of difference if Ronnie Mercer comes into the negotiation instead of Richard Akyroyd, because I know full well that he is not the organ grinder in these circumstances. We would be happy if Scottish Water and the care commission had an amount of freedom and flexibility.

We know the cabinet secretary's and the Government's view of collective bargaining for NDPBs, but we have tried the current system for several years now and have got into a complete and utter mess over public sector pay, so we must try something different. If the Government wants control to be implemented through a hugely complex civil service structure, we will not have collective bargaining. Let us stop kidding ourselves that we have free collective bargaining when we do not and let us have the central arrangement. Can that have flexibility in it? Yes, it can. For example, local government funding involves a core set of negotiations with core terms and conditions, but that does not mean that every local authority is paid the same. We can therefore reflect different circumstances and have job evaluation schemes that reflect need.

The care commission is a good example of use of civil service benchmarks. It keeps being told that it must fit in with the top 10 benchmarks as described in the papers that are given to it, but it does not want to do that. The bulk of care commission officers who inspect premises and so on were probably senior social workers, but their salary now is closer to that of a basic grade social worker, which inevitably affects the quality of staff that it will recruit. The commission is not interested in civil service benchmarks; it needs to recruit from a pool of staff in a different way. The fact that a framework has been negotiated does not mean that everyone gets paid the same. There can still be flexibility—what we call loose-tight systems in the current management jargon.

15:15

David Whitton: My question neatly follows on from that. It is interesting to look at the timeline for the Scottish Water pay deal. Mr Mercer, am I right in saying that you would have settled for a pay deal outside the public sector pay policy if it had been left to you?

Ronnie Mercer: I am not aware of that. I refer the question to Richard Ackroyd, who attended the meetings—I did not.

Richard Ackroyd: No. Broadly speaking, from autumn 2007, there were some internal discussions within Scottish Water between management and the Scottish Water council—a body comprised of trade union representatives and other employees—about the August 2008 pay remit. Nothing was formally agreed, but it is fair to say that there was broad consensus around a particular figure, which we were able to fit within the constraints of the pay remit.

Unfortunately, by the time all that was done, inflation had risen from about 2.5 per cent to almost 5 per cent. Understandably, both the trade unions and our employee base as a whole felt that the figure was no longer acceptable. Fundamentally, that was the root of the problem that we had this year.

David Whitton: Let me rephrase the question. If you had had the freedom that Mr Mercer had enjoyed previously, would you, with more flexibility, have been able to settle the deal a lot more quickly?

Richard Ackroyd: Yes. I will expand on that. Scottish Water has been very successful at becoming more efficient. We have saved substantial amounts in comparison with the costs that were assumed when our prices were last set, in 2006. In substantial part, that is down to the hard work of our entire workforce, who deserve some recognition for that. It would be good for us to have the flexibility to be able to recognise the workforce's contribution to Scottish Water's improved performance and not to be constrained by the annual public pay remit.

We must recognise, however, that the process can work in reverse. We are coming up to our next price review process. The Water Industry Commission will set our prices again later this year for the next four years, and it will make some assumptions about our costs. I expect that to be quite challenging. If, collectively, we could not beat or even meet those targets, we would expect to have to deal with pay in a tighter way.

David Whitton: You have partially answered this question, Mr Weir. In fact, I have written to the care commission about this, so you will know where I am coming from. It relates to the issue of senior social workers, to which Mr Watson referred. Some of your staff now find themselves way behind where they would have been if they had stayed with the health service or the local authority.

Gordon Weir: Yes, and that is very easy to demonstrate because such a high percentage—70 per cent—of our staff transferred from local authorities and the health service. I will give you a good example.

When we submitted our second pay remit, for 2008 to 2010, we were mindful of the fact that we had a poor experience the first time around. We managed to break the deadlock because we adopted the pay deal of the other body that I work for—the Scottish Social Services Council—which had already been approved. Basically, because my department runs the shared service operations for the two bodies and one of the bodies had agreed a pay remit, we said that we wanted that pay remit to apply also to the care commission. That was the pay remit for 2006 to 2008. When we negotiated for 2008 to 2010, we quickly reached the conclusion that we were heading for a similarly iterative process that nobody really wanted to get into. The SSSC's pay remit was again much more straightforward and was agreed by the pay team.

We waited until the SSSC's pay remit had been approved, when we again asked for the same remit as the SSSC. We acknowledged that, technically, we were fractionally over the pay threshold, but we gave the reason for that. We explained that because we ran shared service operations, we did not want staff in a shared service finance team, for example, to be sitting next to colleagues who were on different pay and conditions.

It was a while before we got feedback that said, "Sorry, you've got to get back to the limit." We got back to the limit in two ways. First, we removed an element that was purely to do with terms and conditions. There was an issue around equal pay, but we will have to bring that back under a different remit. Secondly, we simply changed our initial budgeted submission. By then, we were in January, so we recosted our submission using actuals. The percentage that we were asking for dropped because it transpired that the actual pattern of joiners and leavers was different from the one that we had anticipated at budget time; it came in at just below the 7 per cent threshold for the two-year deal. Nothing changed. No one got any more or any less money. It was purely a technical recosting.

We could have dealt with the situation much more quickly if we had had some local flexibility or if there had been some flexibility in the pay process. We had finance and HR staff busy recosting things, doing all the forms again and making new submissions, which all takes time, as has been said. If there had been some more flexibility, that would have been extremely helpful at the margins.

The Convener: I will now ask the witnesses for some final comments. If you had one priority for improvement, what would it be?

Linda Fabiani: That is a bad question to ask.

Dave Watson: Inflation.

Richard Ackroyd: Can I have three priorities, convener? The process needs to be faster, it needs to be simpler, and it needs to give the management of organisations a bit more flexibility to fit their own circumstances.

The Convener: Thank you. Anyone else?

Richard Leonard: Broadly speaking, I endorse those points. To me, the size of the bargaining unit is not necessarily the issue; the issue is the process and how it is dealt with. Whether there is one bargaining unit, which I think that the Public and Commercial Services Union at one stage proposed, or 32 or 48 bargaining units is not necessarily the issue. The main point at issue is how the matter is dealt with. The committee identified blockages, which I hope have been further explored this afternoon.

My final point is about equal pay, which remains a huge issue for the trade unions in local government in Scotland. It is absolutely massive. I am not aware of such a big problem existing in other parts of the public sector but, of course, under the gender equality duty, every public body will have to make an equal pay statement. The committee might want to keep its eye on that issue.

Alistair Brown: My priority, which might be a bit limited, is for us in the Scottish Government's pay team to work more closely, and to have more mutual understanding, with the bodies that are subject to the policy. I believe that that would lead to the following of a smoother, faster process. I subscribe to the points that have been made. I would like to see things work faster.

Can I add a comment, convener?

The Convener: Surely.

Alistair Brown: I might not have answered clearly Ms Fabiani's question about the time taken to process remits, particularly those of Scottish Water and the care commission. Out of fairness to my colleagues in the pay team, I draw the committee's attention to the timeline that several witnesses have referenced, which, from a quick calculation, shows that it took us about 16 weeks to progress from receipt of the care commission's 2008 to 2010 draft remit to an approval. That is outside the seven-week target, but it is not two years. The comparable figure for Scottish Water, as far as I can calculate it, is 12 weeks. I just wanted to put that on the record.

Dave Watson: As I hope that the committee realises from all the examples that have been given, the one key point to understand is that the current system does not work—it is broke, it is bust, and it needs to be fixed.

Frankly, we are easy. If the decision were made to give bodies such as Scottish Water and the care commission the flexibility to have genuine local bargaining, we would be happy with that. The difficulty is that we have tried that approach, and successive cabinet secretaries were not prepared to give those bodies the necessary flexibility—for reasons that I well understand, given that they are accountable to Parliament. If ministers are not prepared to give bodies flexibility, we must accept that reality and find another way of proceeding that cuts out all the nonsense of going backwards and forwards for up to two years, in some cases, to negotiate a pay deal. That cannot be right. In our view, the new approach that we should adopt is probably a form of central bargaining.

Gordon Weir: The public sector pay working group to which I referred is focusing on eight strands and demonstrating improvement on the majority of those across the NDPBs. However, the strand that I regard as most important—benchmarking—is the issue on which there has been least progress to date, probably because it is the most difficult to address. We need substantial movement to improve the quality of the benchmarking regime. That would help the whole process, regardless of which model is ultimately adopted.

The Convener: We can all agree that the labourers are worthy of their hire, but the complications start thereafter. I thank all our witnesses for the expertise that they have contributed today. I wish them well in their work.

15:26

Meeting suspended.

15:29

On resuming—

Tobacco and Primary Medical Services (Scotland) Bill: Financial Memorandum

The Convener: Item 3 is consideration of our approach to the scrutiny of the financial memorandum to the Tobacco and Primary Medical Services (Scotland) Bill. Members will see from the clerk's paper that level 2 scrutiny is proposed, which means that we would seek written evidence from bodies that will be affected by the bill and then take oral evidence from Scottish Government officials before we produced a report for the lead committee. Do members agree to conduct level 2 scrutiny?

Members *indicated agreement*.

The Convener: Do members agree to invite local authorities, the Scottish Retail Consortium and the Federation of Small Businesses Scotland to submit written evidence on part 1 of the bill, and to invite health boards to submit written evidence on part 2?

Members *indicated agreement*.

Derek Brownlee (South of Scotland) (Con): I suggest that we add the Scottish Grocers Federation to the list of organisations that we will invite to comment on part 1.

The Convener: Is that agreed?

Members *indicated agreement*.

Schools (Consultation) (Scotland) Bill: Financial Memorandum

15:30

The Convener: Item 4 is consideration of our approach to scrutiny of the financial memorandum to the Schools (Consultation) (Scotland) Bill. Level 1 scrutiny is proposed, which means that we would seek written evidence from affected bodies and then submit responses to the lead committee for consideration. Do members agree to conduct level 1 scrutiny?

Members *indicated agreement*.

The Convener: Do members agree that the committee should write to local authorities, the Convention of Scottish Local Authorities, the Association of Directors of Education in Scotland and Her Majesty's Inspectorate of Education?

Members *indicated agreement*.

Hybrid Bills

15:31

The Convener: Item 5 is consideration of correspondence from the Standards, Procedures and Public Appointments Committee. Members will see from the clerk's paper that that committee is considering the procedures that should apply to scrutiny of public bills that affect private interests, which are known as hybrid bills. The Finance Committee has been asked for its views, and the paper concentrates on issues that are of particular relevance to our role. I refer members to paragraph 10 and I invite comments on the information on the financial cost of a hybrid bill that should be required by standing orders.

Linda Fabiani: The issue is important. We are developing a new template for the Parliament, which will be used again and again. Most of the issues that are set out in annex A to the Standards, Procedures and Public Appointments Committee's letter are directly relevant to the Finance Committee. I am quite concerned that we have been asked to respond within a week. Most of the issues require discussion and we might also need to hear from someone from the procedures side of the Standards, Procedures and Public Appointments Committee or from the private bills unit. We should be wary of rushing decisions on parliamentary procedure that will stand for years to come.

Derek Brownlee: I do not disagree with what Linda Fabiani said about the importance of getting it right, although we could amend the standing orders if details emerged that demonstrated that we had not quite got things right.

It strikes me as ridiculous that we might ask for less detail on a bill on the new Forth crossing than would be the case for a project of such a scale for which the hybrid bill procedure was not being used. The suggestion that a hybrid bill should be treated as a Government bill but should be accompanied by the additional information on the business case that we would normally expect to receive for a private bill is sensible.

If there is uncertainty, we should err on the side of getting more information. The scrutiny of financial projections prior to the granting of authorisation not just for the new Forth crossing but for all major projects that fall into the hybrid bill category will be fundamental to our ability to keep projects on track financially, which is essential, regardless of the Government's financial position, and is even more essential in the current climate.

The Convener: Is the general feeling in the committee that we should seek more information? The clerks can produce a paper.

Members *indicated agreement*.

The Convener: Hybrid bills caused me enormous problems from 1974 to 1979 in Westminster. I see that they have not changed.

Linda Fabiani: You are an expert, then.

The Convener: Only in the sense that I understand the problems.

I refer members to the discussion in paragraphs 11 to 13 of the clerk's paper. Do members wish to make any comment on the type of committee that should consider a hybrid bill or on any restrictions on the membership of such a committee? If the Finance Committee were to scrutinise the financial implications of a hybrid bill, should any membership restrictions apply to the Finance Committee?

Linda Fabiani: We cannot consider any of those issues in isolation. We should have time to scrutinise all the issues.

The Convener: So you want a paper with more information and further consideration of the issues.

Linda Fabiani: I would like a session to talk through the issues, as there are many questions. For example, other bits of legislation, such as planning legislation, will impinge on the new Forth road crossing. If a decision is made on one issue at the moment, that might impinge on other issues further down the line. We should consider the matter as a whole.

The Convener: I understand your concerns and agree that we need to be careful. Perhaps the clerk can give us some advice.

Mark Brough (Clerk): The Standards, Procedures and Public Appointments Committee is at the beginning of its inquiry. If members felt that they had questions that required answers, rather than drawing conclusions now, it would be perfectly appropriate to raise those questions. We can put them to that committee and expect it to explore them in its inquiry.

Jeremy Purvis: I agree entirely with Linda Fabiani. I have been on two private bill committees, and my experience may be relevant. The members of those committees received legal advice with regards to prejudice and issues that impinged on other areas. The remit of the Finance Committee, which is a statutory committee of the Parliament under the Scotland Act 1998, is much wider than that of a private bill committee. If we are to consider hybrid bills, issues with regards to the areas that members represent or our interests might impinge on that. Therefore, legal advice is required before we form a view. I am open to having as much scrutiny as possible but, having been on two private bill committees, I am aware that there are sensible strictures with regard to activity in such committees. That draws us into territory on which I am not qualified to comment at this stage.

The Convener: The committee is urging caution and requests more information before we come to a conclusion.

As we agreed earlier under item 1, we now move into private to discuss our work programme.

15:37

Meeting continued in private until 16:04.

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