FINANCE COMMITTEE

Tuesday 15 September 2009

Session 3

£5.00

Printed and published in Scotland on behalf of the Scottish Parliamentary Corporate Body by RR Donnelley.

CONTENTS

Tuesday 15 September 2009

FINANCE COMMITTEE
20th 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:

Jo Armstrong (Centre for Public Policy for Regions)
Dr Alison Elliot
Professor Chris Himsworth (University of Edinburgh)
John Howison (Transport Scotland)
Iain Jamieson
Aileen McHarg (University of Glasgow)
Ainslie McLaughlin (Transport Scotland)
Professor Alan Page (University of Dundee)
Richard Parry (University of Edinburgh)
Professor Colin Reid (University of Dundee)

CLERK TO THE COMMITTEE

James Johnston

SENIOR ASSISTANT CLERK

Mark Brough

ASSISTANT CLERK

Allan Campbell

LOCATION

Committee Room 1

Scottish Parliament

Finance Committee

Tuesday 15 September 2009

[THE CONVENER *opened the meeting at 14:00*]

Decision on Taking Business in Private

The Convener (Andrew Welsh): Good afternoon and welcome to the 20th meeting in 2009 of the Finance Committee, in the third session of the Scottish Parliament. I ask everyone to turn off their mobile phones and pagers.

I have received an apology from Joe FitzPatrick, who is attending the funeral in Dundee of a Black Watch soldier, Private Kevin Elliott, who was killed in an explosion while he was on duty in Afghanistan two weeks ago. Committee members will want to extend their thoughts and sympathy to Private Elliott's family on this day.

Do members agree to take in private item 4, which will be a discussion of our response to correspondence on the budget process from the Cabinet Secretary for Finance and Sustainable Growth?

Members *indicated agreement*.

Forth Crossing (Contingent Liability)

14:01

The Convener: Item 2 is a discussion on a contingent liability into which the Scottish Government proposes to enter. Under a written agreement between the Government and the Finance Committee, the Scottish ministers must seek the committee's approval before entering into a contingent liability of more than £1 million.

We have received a letter from Stewart Stevenson, the Minister for Transport, Infrastructure and Climate Change, which explains the proposed liability in respect of the Forth replacement crossing. I welcome officials from Transport Scotland: Mr John Howison is project director for the Forth replacement crossing, and Ainslie McLaughlin is director of major transport and infrastructure projects. The officials will answer members' questions, after which I will ask members whether they approve the liability. I remind members that the committee must consider the proposed contingent liability and not other issues that relate to the Forth replacement crossing. We will seek to avoid any commercially sensitive issues. I invite the officials to make an opening statement and to explain the position.

Ainslie McLaughlin (Transport Scotland): Ministers seek Parliament's approval for reimbursement of bidders' costs in the event that the contract for the Forth replacement crossing does not go ahead or is not awarded, either because the proposed Forth replacement crossing bill falls or because the Scottish Government decides not to proceed with the contract.

Potential bidders for this major project will spend a considerable amount of money—we estimate that the tender costs will be up to £10 million. The tender will run in parallel with promotion of the project, and so would represent a significant risk to contractors who bid, should the project not get past the bill stage.

Jackie Baillie (Dumbarton) (Lab): I have no difficulty with the principle, but this situation has never arisen in the lifetime of the Parliament. Is it correct to say that we have never had a contingent liability that sought specifically to cover companies' tender costs?

Ainslie McLaughlin: That is correct. This is an unusual case, in that we are considering carrying out the tender process before there is statutory approval to proceed with the contract. Therefore the contracting industry will see significant risk in the fact that the project is not secure in terms of its being taken forward.

Jackie Baillie: Let me develop that point slightly. As we speak, lots of substantial construction projects are under way, such as the Southern general hospital, which is worth about £850 million, and the M74, which is worth £700 million and is—we would all agree—mired in controversy. However, at no stage was contingent liability sought for the cost of the tender processes in those cases.

Ainslie McLaughlin: In both those cases, statutory approval to proceed with them was already in place—the orders for the M74 were in place and, as far as I am aware, the planning approvals for the Southern general are in place.

Jackie Baillie: Can I pursue with you the nature of the risk? The penultimate paragraph of Stewart Stevenson's letter talks about the risk being low. However, the construction industry regards the risk as being quite high. Is it just that the level of interest that you are likely to get in what will probably be the Government's most iconic construction project is so low that you are having to incentivise participation?

Ainslie McLaughlin: No. There has been considerable interest in the project, but it has been quite clear from discussions with the industry, at market-testing stage and during the pre-tender consultations, that we have been having with up to 39 organisations that have expressed an interest in the project—in so far as they have asked for pre-qualification documentation—that contractors believe that there is a significant risk that they will have to commit significant resources in the face of a possibility that the project might not receive the statutory approvals. That is the industry's view. Our view—ministers' view—is that there has been cross-party support for the project, which means that the risk that the project will not receive statutory consent is low. That said, contractors will have to commit quite considerable sums—up to £10 million, we believe—before that statutory authority is in place.

Jackie Baillie: I am stunned to hear that you have had 39 expressions of interest—I would have thought that there would have been less interest. Given the amount of interest that is evident, and taking into account the fact that we are in a time when there is a tightening of financial belts, is the proposal actually necessary?

John Howison (Transport Scotland): On the 39 expressions of interest, you will appreciate that companies consolidate when dealing with a project of this size. Therefore, we would be looking at about five world-class bidders that would be capable of anchoring the project, and which would suck in other companies.

The question is what we expect the industry to make of the situation. The industry has had a number of shocks as a result of people pulling important contracts—one of the main examples being the project to build a bridge between Italy and Sicily at the Strait of Messina, which was pulled after a lot of expenditure on the part of contractors. Similarly, in 1997, we took forward a contract to complete the M8 between Edinburgh and Glasgow, but that project was suspended halfway through. Obviously, as that took place before devolution, the decision was not made by the Scottish Executive. The aggregate cost to contractors of that project was about £6 million.

Ainslie McLaughlin said that ministers were confident that they would get the agreement of Parliament in this process. In one of today's newspapers, however, we read that the City of Edinburgh Council would like the project to be held back so that it can spend the money on other transport projects. Contractors will perceive, because of such publicity in a major paper, that there might be a threat to the proposition.

Jackie Baillie: Are you seriously telling me that—given that the Scottish Parliament has already demonstrated its cross-party support for the project—the City of Edinburgh Council's views will affect the views of quite major contractors, who must be used to the small-p politics that surround such projects?

John Howison: I do not think that the council's opinion can be discounted, particularly with regard to Edinburgh's current high profile in transport projects.

The Convener: I think that we are getting into deeper waters.

David Whitton (Strathkelvin and Bearsden) (Lab): If I understood Mr Howison correctly, he said that the various companies would probably coalesce into consortia of some kind. There might be five consortia, each made up of two or three companies. Is that what you think might happen?

John Howison: We think that there will probably be consolidation into consortia of at least four companies.

David Whitton: That will dilute the risk, because it will not be only one company—albeit that it would be a major multinational company—that has to take a risk of £10 million. The risk could end up being about a couple of million pounds for each company in a consortium.

John Howison: The risk would be in relation to the shares that the various parties took—you are right that the risk would be split between those parties. Some would take more and some would take less, but in aggregate it would come to £10 million.

David Whitton: Where does the figure of £10 million come from? Mr McLaughlin said that

that was your estimate. How do we know that it is £10 million? It could be £8 million or £6 million.

John Howison: The proposition is not that we would pay £10 million to each bidder; it is that we would pay the expenses that they incur up to a cap of £10 million. The discussions that we had with industry before we proceeded with the competition suggested that the amount of money that companies might spend would be in the range of £5 million to £10 million. Since we published the contract notice and received further information, several of the bidders have confirmed that the sum would be up to £10 million, at the higher end.

David Whitton: We are talking about what will probably be the biggest construction contract for the next decade. Companies are queuing up to express an interest in it. I am not surprised by that, given the current state of the economy. They all want a slice of the action, but they want belt and braces, because they want the Scottish Parliament to underwrite their bidding costs just in case of the very outside chance that the bridge does not go ahead. Those companies must take on such risks all the time throughout the world. Why on earth should Parliament fork out a sum on that—it could be £30 million if there are three bidders—especially when we are told that we will have less money to spend?

John Howison: I would have been able to answer that at much greater length had the meeting been in camera. I can say that the information that we have leads us to believe that we are not secure in getting a competition or even a single bidder, without making a commitment to meet those costs on a contingency basis.

The Convener: That is as far as that line of questioning can go.

David Whitton: That is fine.

James Kelly (Glasgow Rutherglen) (Lab): You seek a contingent liability, with a payment to be made if the bill does not proceed. You expect there to be three bidders, with the liability being the payment of tendering costs up to £10 million. Can I be clear that, if the bill proceeds, we will not make any direct payment of tendering costs to the bidders?

Ainslie McLaughlin: We are not here seeking approval to pay tendering costs of bidders in the event that the project does not go ahead. We are looking at potentially reimbursing unsuccessful bidders, if the project goes ahead, for the costs incurred in tendering for the project.

James Kelly: Let us assume that the bill is passed and that there are three bidders. Are you saying that the two unsuccessful bidders will have their tendering costs reimbursed?

Ainslie McLaughlin: Yes—up to a maximum of, I think, £5 million.

James Kelly: Is that normal practice with such contracts?

Ainslie McLaughlin: When such significant bidding costs are involved, that is seen as normal practice, to ensure competition.

James Kelly: Can you give an example of that happening previously with a contract with the Scottish Parliament?

Ainslie McLaughlin: We offered similar sorts of terms on the upper Forth crossing project.

James Kelly: You say that tendering for the principal contract, and the passage of the bill, will run concurrently. What is your understanding of the precise timetable for that?

14:15

Ainslie McLaughlin: We anticipate that the bill will be introduced in November—I am not sure of the precise date, but I think that it will be around 16 November. We anticipate that invitations to tender will be issued in early December. We expect the tender process to run for up to a year, with bids returned in late 2010. We expect to be in a position to award the contract in the spring of 2011, by which time we would expect the Forth replacement crossing bill to have been enacted.

Derek Brownlee (South of Scotland) (Con): In the penultimate paragraph on the second page of his letter, the minister talks about the circumstances in which the contingent liability might crystallise. I understand the point about the bill not being enacted, but he also refers to any

"other elective decision of the Scottish Ministers not to proceed with awarding the Contract."

Is a timescale attached to that? I have not seen the bill, but I assume that it would be permissive. Would the contingent liability be triggered if the Scottish ministers decided to proceed, but not on the original timescale, or is it based on the Scottish ministers after having secured passage of the bill then saying, "Under no circumstances will we go ahead and build the crossing"?

Ainslie McLaughlin: The guarantee would apply if the bill had been enacted but for some reason Scottish ministers decided not to proceed with the contract.

Derek Brownlee: What if they decided not to proceed according to the timescale that they had originally envisaged? That would be quite reasonable, although not necessarily desirable. We could foresee a circumstance in which the contract might not be awarded in the original timescale and might be delayed by one or two years.

Ainslie McLaughlin: In those circumstances, we would be faced with procurement regulations, to the extent that we could extend the tender process. Normal circumstances are that tenders are open for acceptance for up to three months. If a decision cannot be made at that time, it is not unusual to seek another extension. However, that would normally be for about another three months. Beyond six months, we get into potential challenge territory under procurement law.

Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD): Did I hear Mr Howison say that he believes that a bidder will not be secured for the project without the guarantee of a contingent liability?

John Howison: I believe that we would not secure competition and that we may not even secure a single bidder.

Jeremy Purvis: On other contemporary projects, you will both be familiar with the Borders railway, which is a project that goes into my constituency and that has a capital cost of £300 million. The legislation has not been triggered, and nor has the project yet been put out to tender in the *Official Journal of the European Union*. Are you considering a similar guarantee for that project, with regard to tender costs?

Ainslie McLaughlin: I am not aware of any plans to do so. The significant difference with the Borders rail project is that the relevant statutory powers are already in place. The same risks do not exist.

Jeremy Purvis: The guarantee is in one part, not two. In other words, there is not one part that deals with whether Parliament gives approval and another that deals with the decisions of ministers. Borders rail has had statutory approval but the legislation has not been triggered, so a guarantee would still apply to a project such as Borders rail.

Ainslie McLaughlin: As I say, we have no plans at this stage to consider similar arrangements for the Borders railway.

Jeremy Purvis: Would that decision be taken by officials or a minister?

Ainslie McLaughlin: It would ultimately be taken by a minister.

Jeremy Purvis: What consideration has been given to risk balance? What risk is there to private sector contractors when it comes to costs that are associated with tendering for the project?

John Howison: There is always a risk in bidding for a contract, which is generally assumed in the overheads that the contractor bears. A contractor does not win every tender that it goes in for, so the contracts that it wins must include an allowance for those that it does not win. The Forth replacement crossing contract is a little bit unusual because of its scale and the amounts of money that are at risk.

One needs also to consider the overall risk of the contract. Our approach has been to seek a design and build contract with fairly strict limits on the potential for cost escalation once it is awarded. That is based on the normal contract that Transport Scotland puts out, which has historically restricted the overrun between outturn and tender costs to about 3 or 4 per cent, compared with the industry average of about 30 per cent before we went into those contracts. The contractor has to consider what risks are associated with winning the contract, with not winning it and with entering a competition that does not result in an award. There are three different sets of risk.

Jeremy Purvis: My question was about the tender process. If I understand correctly, the taxpayer covers up to £5 million of risk even for unsuccessful bidders. If a minister decides to delay or not to activate the legislation, the taxpayer picks up a £10 million tab for the successful bidder. There is no risk to the private sector when it comes to the tender process because the taxpayer picks up the tab for it all.

John Howison: I will address first the situation in which the competition results in an award and a bidder is unsuccessful. We do not want there to be no risk to the bidder at all, because contractors would enter the competitions for the fees that they get from them rather than for the prospect of doing the work.

Jeremy Purvis: Up to £5 million.

John Howison: It is actually half of their audited costs up to £5 million. The presumption is that it would cost them up to £10 million but they would get only half of that back if they were simply unsuccessful. The alternative to providing that would be to accept that the winning bidder would simply allow for its potential risk losses as an overhead to its price. If we provide the support for unsuccessful bidders, contractors who bid will be aware that the amount of money that they put at risk is only half the bid cost. Therefore, their overheads to recover the potential unsuccessful bids would be only half of what it would be in any event. The theory is that the net cost to the public purse of giving that award in the situation in which the contract is awarded should be £0.

Jeremy Purvis: Will that apply to the £300 million Borders railway scheme as well?

Ainslie McLaughlin: I cannot tell you that at the moment, because the contract and tender documents have not yet been prepared for that project and no procurement has been started.

The Convener: We are not getting into that questioning.

Jeremy Purvis: It is interesting to note that we have been asked to permit the underwriting of £30 million of taxpayers' money but we do not know whether, in another week, there will be another, similar letter.

The Convener: I am sure that you can raise that in other fora.

Jeremy Purvis: Perhaps we could debate that after we have asked our questions. There is a point that I would like to make with regard to that.

With regard to the £10 million for the successful bidder, the sum that they would get is not half of their incurred costs, is it? They would get the entirety of their costs up to £10 million. Is that correct?

John Howison: If the contract were not awarded, each bidder would be reimbursed its costs up to that limit.

Jeremy Purvis: So, there is a different risk profile for those who are unsuccessful bidders.

John Howison: No. If the process were to be aborted, there would be no winner and we would not make a distinction between the participants.

Jeremy Purvis: Yes, but my question was about what would happen to the successful bidder if the minister decided not to proceed with the contract or the project did not continue. In that situation, the relevant amount is the costs that each bidder might incur

"up to, or in excess of, £10m."

It is not half of the eligible costs for that category, is it?

John Howison: That is right.

Jeremy Purvis: So there is a different risk profile for them.

John Howison: Yes.

Linda Fabiani (Central Scotland) (SNP): I would like to clarify a couple of things for the record. First, will you clarify where the money would be paid from? I think there was a bit of confusion about that earlier. My understanding is that the funding would come from the Government's budget, but that Parliament's approval allows that to happen under the 2005 agreement.

Ainslie McLaughlin: That is my understanding.

Linda Fabiani: Thank you. My other point goes back to what Jeremy Purvis was saying. I thought that I misheard when James Kelly was asking his questions. My understanding from reading the minister's letter is that a contingent liability of £10 million per bidder is sought so that, if the contract does not go ahead because statutory obligations are not met or because ministers decide not to proceed, those who had been accepted as bidders would be paid up to £10 million each, but the amount due would have to be interrogated in each case before any payment was made. Have I got that part right?

Ainslie McLaughlin: That is correct. They would have to submit a bona fide tender in the first place and their tender costs would be subject to audit.

Linda Fabiani: Right. What I have now picked up—I think, from the confusing discussion that we heard—is what would happen if there were three bidders and the contract went ahead with the successful one. The contingency sum would be absorbed within their normal costs and normal payments under contingencies, prelims and things like that. Are you saying that, in that case, the two unsuccessful bidders would be given a payment?

Ainslie McLaughlin: Yes—a payment of up to £5 million each.

Linda Fabiani: Why?

Ainslie McLaughlin: That reflects the fact that it is very expensive to bid for such contracts. A number of large projects are out on the market at the moment, including the crossrail project in England and the Olympics, as well as a number of major projects in Europe. As Mr Howison said, contractors have to take a view on the risk that is involved in bidding for and winning work, and they will consider where the costs and resources are best expended. We want to ensure that we get the best possible competition for the project, the cost of which will be about £1.7 billion, because getting good robust competition is likely to save the taxpayer a significant amount of money. We believe that spending the money represents value for money in attracting the quality of bidders that we seek and getting them to bid competitively.

14:30

Linda Fabiani: This discussion could go on for quite a long time. When I studied the minister's letter very closely—obviously, from a background of much more limited experience than either of our witnesses—I did not pick up the point that has just been made. In my view, the minister's letter states only that, should the contract not be awarded, ministers will

"reimburse the costs … up to a pre-defined limit … in the event of failure of the Bill to be enacted".

If it is indeed the case that a payment will be made to unsuccessful bidders even if the contract goes ahead, the correct information is not included in the minister's letter. In my view, we cannot make a

decision on the issue until the correct information is included in the minister's letter. We should postpone any decision.

John Howison: I will clarify the point. It is a remote possibility that the bill will fail in Parliament or that the Scottish Government will decide, for some currently unforeseen reason, that it does not want to go ahead. The matter therefore comes into the category of contingent liability. The expectation and probability is that the contract will be awarded and that payments will be made to the unsuccessful bidder. In accounting terms, those circumstances are treated not as a contingent liability but as a provision within the minister's budget. The minister's letter is absolutely correct. It seeks cover for contingent liability in the unexpected event that the contract does not proceed. I hope that that explanation helps.

Linda Fabiani: It helps a great deal. You are saying that the minister's letter is technically correct. That is fine, but we must understand the position before we make a decision. Some explanation from the minister of the difference between provisions and contingent liabilities is required, or the waters will be muddied.

The Convener: If I read the committee's mind correctly, doubts remain. We should therefore write to the minister seeking further clarification of the points that members have made, referring him to the *Official Report*.

Jeremy Purvis: Given the position on this project and the points about consistency of application that I have made in relation to other projects, it would be appropriate for the committee to ask the minister to attend a committee meeting to take questions from us. Officials cannot reply to questions about the policy decisions that have been taken, which need to be interrogated.

Linda Fabiani: There is enough muddying of the waters without our bringing in another issue. We must deal with the issue of contingent liability in relation to the Forth crossing in the way that is laid down by the 2005 agreement. If the committee needs more information to inform its thinking on the matter, that is fine, but the question of other projects is an entirely separate issue. The committee could address that in another way, but not as part of the decision that must be taken on the Forth crossing.

David Whitton: I ask Mr McLaughlin to clarify one point. You said that similar terms were offered to unsuccessful bidders for the upper Forth crossing.

Ainslie McLaughlin: That is correct.

David Whitton: How many bidders were there? I cannot remember the number. I do not need the exact sums. If there were two unsuccessful bidders, were they paid a proportion of their costs?

Ainslie McLaughlin: I think that there were three bidders. I would need to check, because it is some time since the contract was awarded.

David Whitton: Was that the first time that you paid out to unsuccessful bidders?

Ainslie McLaughlin: As a matter of routine, we have reimbursed site investigation costs that contractors incurred, quite rightly, in carrying out due diligence before entering into a contract.

Derek Brownlee: It would be helpful for the committee to have more information. I am loth to do anything that is likely to prejudice the timescale of the project—I think we all recognise that it is on a tight timescale. Is it feasible, under the committee's procedures, to move to take some more evidence in private today, so that we might get some fuller responses than it has been possible to get in public?

The Convener: I propose that we write to the minister, but we could examine the wider policy issues as part of our work programme. That would go some way towards addressing the issue that Derek Brownlee has just raised.

Doubts and questions have been raised today, and the committee would like those to be answered. The first step would be to write to the minister to allow him to read the *Official Report* and to respond. However, we can, as a committee, consider the wider policy issues as part of our future work programme.

Linda Fabiani: Can we ask what difference a week would make with regard to approval of contingent liability?

The Convener: How urgent is this?

John Howison: We hope to start the tender process at the end of November. Without a decision at that point, I believe that the process could not go forward.

Linda Fabiani: So an extra week would not unduly prejudice the process?

Ainslie McLaughlin: No. We are saying that bidders and contractors will look for that security to be in place before they enter the tender process, which is likely to start towards the end of November, going into December.

John Howison: However, the final submissions from those who are interested are due on 23 September. I am concerned about the impact that any doubt around the situation that might be conveyed in the *Official Report* would have.

The Convener: Everybody is now leaping in. I suggest that we take evidence next week. That

would not be the end of the committee's involvement in the process; it would have further input at a later stage. We should find out the lie of the land and allow the minister to respond, and we can make the wider issues part of our work programme.

Linda Fabiani: I understand completely what Mr Howison is saying, and the last thing that we want to do is put out a perception that the committee is not behind the need to move forward on the Forth road crossing. It is imperative that we record that we do not have a problem with the idea of contingent liability, but that we feel that we were not given enough information to properly inform our discussion and our decision.

The Convener: I see that there is general agreement on that suggestion.

Jeremy Purvis: I would like to ask about what I have just heard. Did I hear correctly that interest in the project is due back by 23 September?

Ainslie McLaughlin: Yes.

John Howison: On 23 September, interested parties who have already declared an interest will have to submit to us a response to a questionnaire that we have put out. On the basis of that, we will make a decision on who should go forward. That will be the first significant and substantial response from interested parties.

Jeremy Purvis: Does that questionnaire include any mention of contingent liability on the taxpayer?

John Howison: In response to expressions of interest, we have put out a questionnaire and a prospectus, which records that it is the intention of ministers to proceed on that basis.

Jeremy Purvis: Therefore, anyone who has expressed an interest in the project and is replying to the questionnaire has done so on the basis that there will be a contingent liability.

John Howison: That is correct.

Jeremy Purvis: Without the Parliament having any consideration of it at all.

Ainslie McLaughlin: No—it is subject to parliamentary approval.

Jeremy Purvis: Is that specifically stated?

Ainslie McLaughlin: Yes.

Jeremy Purvis: Other members may not agree, but I think that there is a case for the minister to appear before the committee with regard to this specific point, given that part of his letter refers to

"other elective decision of the Scottish Ministers not to proceed with awarding the Contract."

Derek Brownlee's questions about the timeframe, and the questions about the application of consistency to decisions, involve policy decisions. The committee should therefore, in considering the application, hear from the minister directly—I am not sure that a written request is sufficient.

The Convener: I think it would be helpful to say that we intend to take evidence next week and that we should invite the minister, because I think that that is the mind of the committee. Is that agreed?

Members *indicated agreement*.

The Convener: I thank the witnesses for giving evidence. Does John Howison want to make any final comments?

John Howison: We would be willing to give you far more information in camera, which would cast a much greater light on the situation.

Jackie Baillie: We considered a written request from officials about that but, frankly, sufficient justification for it was not given. Until sufficiently robust justification is provided, I think that the information should be given in public and that we continue to act as we have done since the start of the meeting.

John Howison: Okay.

The Convener: I thank both our witnesses.

14:40

Meeting suspended.

14:42

On resuming—

Public Services Reform (Scotland) Bill: Stage 1

The Convener: Our next item is a continuation of evidence taking on the Public Services Reform (Scotland) Bill at stage 1. Our first panel of witnesses comprises commentators with a wide range of experience and expertise. We have asked them to give evidence on the bill in the round. I welcome to the committee Jo Armstrong, of the Centre for Public Policy for Regions; Dr Alison Elliot; Richard Parry, reader in social policy at the University of Edinburgh; and Professor Colin Reid, professor of environmental law at the University of Dundee. I invite the panel members to comment on the Scottish Government's wider programme of public services simplification and reform and how they see the bill contributing to it.

Richard Parry (University of Edinburgh): This is an aspect of the eternal fascination of all Governments with quangos—those public bodies that are not ministerial departments or part of local government but are in an area in between. Governments always want to change them, bring them into being and bring them to an end, because that is an easy thing to do. It is easy to reorganise; it is much harder to do anything else. All Administrations of all parties aim to reorganise.

It is the policy of the present Scottish Government to reduce the number of public bodies by 25 per cent by April 2011 from its baseline of 199 organisations. That is a numbers issue; it is playing a numbers game. It is being done under the banner of simplifying government, but it is more a matter of reducing numbers within the existing public sector landscape, architecture or engineering—those are the images that are used. The important thing is to look at how public services are delivered in each area. There will be all sorts of different answers in each area.

14:45

I hope that the committee will be interested in the general picture of agencies and institutions. It seems to me that all of them—the non-departmental public bodies, executive agencies, public corporations and health bodies—were brought in after devolution. It is important to look at the bodies as a whole, but that is different from considering any proposed changes in an area.

The issue that has caught everybody's attention is the order-making power in section 10 of the bill, which would give the Scottish Government power to do almost anything that it wants to do with respect to quangos—it could bring them into being, end them or transfer what they do. The Government is asking for a catch-all power. Things will be done by order, of course, and Parliament will have the chance to consider them, but the regime will be much easier than the existing regime, and it will be highly convenient for civil servants and ministers.

I am concerned in particular about the use of the concepts of efficiency, effectiveness and economy in section 10(1) as guidelines in exercising the power. If things are done in the name of those concepts, they will be okay. However, it is hard to understand how that would operate, because everything that is done by Government ought to be done in the name of one or more of those concepts. I am rather uncertain about what the Government is asking for and how it would be exercised.

I hope that the committee will want to consider those matters.

The Convener: That is a good start. Who wants to continue?

Dr Alison Elliot: I would like to pick up on part 1 of the bill. I was surprised that there was so much enthusiasm for part 1 in the responses on the bill, because it seems to put the cart before the horse in the way that Richard Parry just said. We want simplification for the consumer—for the person who gets the public service. There seems to be a trickle-down theory that if the public bodies landscape is simplified, a simpler experience of public services will be produced at the consumer level. That theory might work, but it will not necessarily do so.

I read a paper that was delivered by citizens advice bureaux people last year, which considered the impact on their clients of changes that were, presumably, the result of the rationalisation of bodies at the highest level. Changes in the Department for Work and Pensions resulted in a move from face-to-face situations to people phoning up a helpline. It was said that clients were coming in droves to the bureaux for help to deal with that. Similarly, the taking over of tax credit arrangements by HM Revenue and Customs led to huge confusion among clients. Citizens advice bureaux clients are on the knife edge of solvency, and such confusion can put them into serious debt.

Simplification for the customer rather than simplification of the landscape is important. User focus is one of the wider aims of the simplification programme, but I question the trickle-down theory that assumes that we can get one by doing the other.

Professor Colin Reid (University of Dundee): I should declare that I am a member of the Public Transport Users Committee for Scotland, which is

one of the public bodies that might be affected by the bill. However, I have no axe to grind about that, and I will speak in a wholly personal capacity.

I agree with the general idea that the structure of government changes all the time. A problem is identified and a body is created or an initiative is produced to deal with it. It is then realised that that body or initiative overlaps with other things. People try to integrate things, but they find in due course that they have overintegrated and lost specialisation, and therefore they need to split things again. That will always happen, and reform and revitalisation of the public sector in various ways will always be needed.

The issue with the bill is primarily the breadth of the powers and whether the protections are adequate. I look forward to reading an explanatory memorandum for a bill that says that the proposals are inefficient, ineffective, non-economic and disproportionate to the policy objective, and that they will get rid of some necessary protections.

Jo Armstrong (Centre for Public Policy for Regions): The bill offers a serious opportunity that possibly was not in the mind's eye of those who developed it. Given the significant budget constraints and concerns that we face, we need to look more closely at delivering significant savings through public sector reform.

My submission was slightly tangential to others in that I did not examine particular sections but gave an example of significant regulatory reform that delivered significant savings and improved quality of service. I identified a number of generic lessons that could be applied across the public services. I would be happy to go into those in detail later on, if the committee would like.

The bill represents a big opportunity. Some of the submissions indicated that an opportunity has been lost, but a serious opportunity still exists to focus on what the public sector is trying to deliver, what the appropriate regulatory framework is and what is fit for purpose as we move forward, as opposed to what has been fit for purpose over the past five or 10 years.

The Convener: We are anxious to get as much of your expertise as possible on the record. I have listened to talk of quangocide for more than four decades but I have yet to see it. In fact, quangos seem to be multiplying—it is as if they are breeding. I throw the discussion open to the committee.

Jeremy Purvis: I will start with a question for Jo Armstrong.

I am interested in the published paper that you provided as evidence. On previous occasions, you have given the committee information on the strategic review. There is a broad match between what you think the reduction in the Scottish Government's budget is likely to be over the coming years and how much you think can be saved through efficiencies and more competition in the public sector. How much do you believe can be saved, purely in financial terms, through the better delivery of public sector services in Scotland over the coming period? In your paper, which was published in 2008, you said that savings of £2.25 billion could be achieved by 2010-11. Do you have a more up-to-date estimate?

Jo Armstrong: I do not. It was an extremely crude estimate that took account of the efficiency savings that Scottish Water delivered in its first four years of operation and applied them across the general Scottish Government budget. I think that significant cuts are coming, but I have not updated the figure in my paper.

Jeremy Purvis: My question is one in which the language is important. One person's savings are another person's cuts and another person's efficiencies. I want to know specifically whether you have judged that the same services could be better delivered at a reduced cost, and if you have, whether you have estimated how much could be saved. I am not talking about forced cuts; I am talking about delivering services more efficiently as a result of different practice.

Jo Armstrong: The Scottish Water model shows that it is possible to produce more for less and to improve quality at the same time. There is an example of that being done, and there are generic lessons that can be applied. The extent of those lessons and their applicability across all services needs to be considered on a case-by-case basis.

My one concern about the bill is that it could be said to present the belief that one size fits all, and I do not think that that is the case. It is a question of thinking about what services we need to deliver, what the most appropriate way of delivering them is, and—if we need one—what a regulatory structure should look like, taking account of what is possible and what has been achieved elsewhere.

The Convener: You have used Scottish Water as an example. You state that people in the public sector

"need clarity about their objectives"

and that

"regulation acts as a second best option",

compared with competitive pressures. You also mention

"meaningful output targets which are based on suitable benchmarking data."

You go on to cite better productivity, suitable incentives, rewards for exceeding targets and penalties for inadequate performance. That sounds like absolute common sense to me. Why are we not getting it?

Jo Armstrong: It is sad—it is common sense; it is not rocket science. Given the real-terms budget cuts that we are facing, everybody now has to ask whether they are delivering what the user wants. There is potentially confusion about who the user is. Is it the final user or the intermediary user? I think that it is the final user, and the question is whether what is being delivered is what they want.

In the area of care services, which I cite in my paper, what users want might not be to the fore; what individual producers want to deliver might be driving things in that sector. The identification of what is needed is not coming through in the bill. Is there clarity in the objectives? The approach seems to be to leave that until guidance notes are produced, and they will suggest how measures will be implemented on individual, regulatory body-by-body bases.

If you want to make significant savings through the opportunity that the bill presents—I think that you can—it must be made crystal clear what ministers think each of the individual bodies is aiming to deliver. What will that be measured against? How will you know that you have delivered it? How will you incentivise the people who are being asked to take on greater risk, in a world where things will be more unpleasant, or where, as there is less money around, it is harder for them to take on more risk? It should also be made clear what the penalties for failure look like.

The Convener: There is one thing that bothers me. Some public organisations have been tremendously effective and efficient, whereas others have been forced to be effective through the excellent work that Audit Scotland does. What is inherent in the other organisations? What is stopping all such public organisations improving their performance?

Jo Armstrong: One of my colleagues might wish to cover this, but I will quickly run through it. Scottish Water is still in the public sector, so it was not taking the organisation out of the public sector and putting it into the private sector that made it work. It was not making it into one body that made it work—it went from a multitude of local authorities into three bodies, and then into one before it became the Scottish Water that we now know. That involved each individual stakeholder having clarity about the organisation's roles, with an inability on the part of any individual stakeholder to change the terms of engagement once they had been set down.

Under the bill, it is possible that, if ministers do not like the outcome, they will be able to change the rules, and if the rules are changed, that will make it difficult for those who are operating within the framework to believe that they will actually have to carry something through. If there is something painful to carry through, people must believe that there is no other option, that the bridge is burning behind them and that they cannot expect to go back to where they were before. It is essential to have that clarity and rigour and to stand back from interfering, certainly according to the model that I have been examining.

The Convener: Something else is bothering me. Public money appears to be going to shore up some pretty poor organisations. However, instead of curing those organisations, the money goes in, the organisations continue to be poor and the money is not well spent. How can we maximise the efficient investment of money in public organisations?

Dr Elliot: Apologies to the committee, first of all, for not having submitted written evidence beforehand—there were various confusions, but I did circulate for the committee's interest a report by the better public services forum, which I chaired in 2006. The forum's perspective was that rather than just examine the economic question—which, of course, we must do to determine how money can be saved—we can also consider the question of how money can be spent better. We focused on how to improve service quality, in our case by involving other organisations, namely the voluntary sector, to a greater extent.

That takes us back to the question of user focus, which should come through everything that I say when commenting on the bill. If user focus is done well, so that we start by ensuring that people who receive services say what they want and have a say in their design, that will at least provide a check on not wasting money on services that miss the mark.

On the front page of *The Herald* today, the Federation of Small Businesses says that Jobcentre Plus is not providing the kind of service that is needed. Similar situations must be arising in all kinds of places. There is always room for checking with the user whether a service is hitting the spot. We think that the voluntary sector is better placed to do that than the public sector is—but that is another matter.

15:00

Richard Parry: I would be concerned if organisations in the public sector were reorganising all the time, because energies would be being directed at that. All reorganisations

involve merging or dividing organisations, implementing redundancies, which is often really hard, and integrating terms and conditions—or doing the opposite. Organisations might direct all their energy into doing those things but not into making key internal changes. A good audit would reveal that, as Audit Scotland does when it considers organisations.

Anything that makes it easier to keep reorganising is undesirable. It is easy for Governments to say, "What are we doing on X? We have brought into being the X agency, which will be charged with driving things on," and so on. It is all rhetoric, it is easy to do and it means constant reorganisation. Anything that makes reorganisation easier must be looked at with caution.

Professor Reid: Much of what we are talking about comes down to accountability and stakeholder involvement. Such issues are often built into the constitutions and structures of public bodies, but those are the very things that the bill will give the Government a much freer hand to muck around with.

James Kelly: Richard, you said in your submission that the proposals to establish creative Scotland and separate scrutiny bodies for health and social care

"might have deserved separate bills."

You went on to describe the bill as being

"more like a miscellaneous provisions bill, an umbrella for a number of things that the SG needs or wants to do."

Will you expand on that view?

Richard Parry: You would expect a public services reform bill to be to do with broader issues and perhaps to contain provisions to get rid of or merge odds and ends, because there will always be public bodies that are not useful—there is no controversy in that regard. However, the Public Services Reform (Scotland) Bill will bring into being, for example, creative Scotland, which was the subject of the Creative Scotland Bill—the bill did not work and it fell, for various reasons. Creative Scotland is a big issue, and has raised all sorts of other issues. That is what happens when one merges organisations. It all seems to be easy and a good idea, but when you try it it turns out to be expensive. All the costs are front loaded in the immediate future, and all the benefits are obtained in the long term and are end loaded.

The proposed changes in health and social work are also big. After the Crerar review there was a big debate about regulation and whether we needed a merged body or separate bodies for health and social work and what the division between two bodies would be. The proposals involve merging large organisations that are less than 10 years old. That is a big thing to do, and it should be considered by people who have expertise in the area. Such consideration would be easier if the proposals were contained in a distinct bill. The Scottish Government has mixed up things that are to do with individual organisations—big and small—and broad principles, to the extent that it is almost as if the Government does not want us to read the bits about the broad principles and pick up the big changes that are proposed.

I agree with Jo Armstrong that in the right circumstances the powers could present opportunities to do things better. However, how the powers will be used is really unpredictable. I suspect that they will be used simply to bring into being new bodies, so that politicians can say, "Look what we've done. We've brought a new body into being." Every Administration says that it wants to get rid of quangos or reduce their number, and every Administration is tempted to bring into being new quangos, to serve a political purpose.

James Kelly: Alison Elliot spoke about user focus. In your written submission, Professor Reid, you mention your surprise that legal obligations are being used in the bill to introduce user focus. You seem to have some reservations about that.

Professor Reid: Yes. It seems to have become the fashion in legislation at Westminster and Holyrood to impose broad general duties on public authorities. One sometimes wonders what the point of that is. It could be dangerous because, to some extent, it could be seen as lessening the magic of the law. The law is meant to be powerful and authorising. It is meant to be about creating rights and getting people to do things rather than being simply a declaratory statement of general policy objectives. There is a role for general statements when they are followed up by something more meaningful, but I am not sure what is intended by simply imposing a general duty for the continuous enhancement of user focus. The bill itself is not clear about what that means; everything will be in guidance from the minister. The legal obligation is that, if the minister writes someone a letter because they are not doing enough, they must reply. That is what it boils down to—that is the specific obligation.

Is having a general duty to have regard to user focus really going to make a difference? Will it lead to a better and more effective way of doing things than simply having a clear policy statement and policy guidance? Most of the public bodies that it covers are already subject to ministerial directions of some sort. Public bodies are starting to have a vast list of general legal duties that it is hard to keep track of. They could be distracting people from the really important things, and they lessen the impact of such things being law. Public

bodies have so much to do as a matter of legal duty that their focus is weakened on the few really important things that the Parliament thinks should be enshrined in law.

Linda Fabiani: Everyone has mentioned the dangers of leaving policy to secondary legislation and guidance—Richard Parry and Colin Reid in particular. One of the written submissions expresses concern about the use of secondary legislation, particularly when there is a majority Government and things can be steamrollered through. Since the Scottish Parliament came into being in 1999, a lot of legislation has been enacted that has resulted in secondary legislation. Do you have any examples of secondary legislation having been a bad thing and having resulted in things being steamrollered through?

Professor Reid: Whether particular measures are good or bad is a very political question. The wider concern is about the broad division of responsibilities, accountability and what will happen in practice. Yes, under the proposal the Parliament will have the power to say no, but there is greater publicity and public engagement through the bill process, as well as extra opportunities for members to take evidence and to reflect on what is happening in the early stages of the debate. Things may also happen more quickly. Yes, there will be a consultation process—there often is—and one of the big changes over the past 20 years has been that, as a result of the availability of the internet, consultation processes are more open and people can see their outcomes. So consultations have the potential to generate more public debate, but it is still very much the case that, although the newspapers give people an idea of what bills are going through Parliament and what issues are being discussed, they do not go into the same detail on subordinate legislation. It is therefore possible for some stakeholders to miss the boat, and the process relies on a much smaller group of parliamentarians realising the significance of the issues and generating support, interest and argument because the issues will not be debated in a wider forum.

Linda Fabiani: Does anyone feel that that has happened over the past 10 years?

Professor Reid: An example from Westminster is the Pollution Prevention and Control Act 1999. The act has only seven sections, yet the first set of regulations made under it is more than 90 pages long. All the detail is in the regulations. That general pattern is repeated in all sorts of areas.

Richard Parry: The long list of public bodies in schedule 3 to the bill includes big, high-profile organisations that were brought into being by primary legislation and, in all other political dispensations, would be altered only by primary legislation. The fact that everything is in that list reinforces the catch-all nature of the bill.

Linda Fabiani: That leads on well to my next question. I have a particular concern about the fact that bodies such as commissioners appointed by the Parliament are included in schedule 3 under part 2. I am looking for expert opinion on that. How can it be that the Parliament as a legal entity is responsible for certain bodies, such as the commissioners, but the Government of the day is given order-making powers and powers of direction over them? Does the fact that the legislation goes through the Parliament give that process legality or would the Parliament have to hand over responsibility separately from that? I am trying to get that clear in my mind.

Professor Reid: The Parliament would be handing over the responsibility and the powers through the bill.

Linda Fabiani: Would that be enough? What if the Parliament voted through the bill but the Scottish Parliamentary Corporate Body, as the Parliament's legal entity, was not happy with transferring those powers and refused to do it?

Professor Reid: As far as I am aware, what the Parliament as a legislature says would take priority, but I am sure that some of the experts sitting in the public gallery who have time to think about it may come up with a fuller answer shortly.

Linda Fabiani: In that case, I will hold that thought until the next panel of witnesses.

Richard Parry: I will not add much to what Colin Reid said. People who read the list in schedule 3 will ask why those bodies are listed. I suppose that their internal organisation needs to follow the principles of efficiency, effectiveness and economy. Perhaps you could consider some hold on how they organise themselves internally. However, I would have thought that it was obviously not right to be able to change or direct that group of bodies by order.

Linda Fabiani: Thank you.

David Whitton: Jo Armstrong has extolled the virtues of Scottish Water in front of the committee before and I have taken her to task on it before, so she will not be surprised that I come back to her claim that

"productivity improvements are more likely to occur if those operating within a sector are suitably incentivised"

and

"rewarded for exceeding targets".

As we all know, the boss of Scottish Water has the highest salary in the public sector in Scotland and a bonus that an Edinburgh banker would be proud to have. Why does a public sector employee need

to be incentivised in that way to do what should be his job?

Jo Armstrong: I will leave Scottish Water's salary bill to the side because that must be debated by its paymasters and it is not for me to opine whether it is right, wrong or indifferent.

The bill asks people to do things in a way fundamentally different from how they did them before, sets up new structures to do things differently and asks people to take risks. It is human nature for people to ask, "What's in it for me?" so you have to incentivise them to do things differently and take the risks. The incentives need not be monetary or direct payments into workers' bank accounts; they can be about the ability to do different activities and take on more roles and responsibilities that are relevant or close to what they currently do.

If there are no incentives, it is possible that people will say, "If I do not deliver, so what? It doesn't really matter." If you make life difficult for them and ask them to take risks, they will err on the side of caution and not do anything new or different because, although they might not get an uplift or get to do anything new, they will not get sacked. There must be some sort of trade-off if you ask people to do new things and give them opportunities to better themselves, be innovative and do things the way that they think most appropriate because they have been given their heads. You have to incentivise them properly to do that because their natural instinct will be to stick with what they are comfortable with and what they know works, even though it might not be the most efficient or effective, because it is safe.

15:15

David Whitton: But the opposite of that approach is penalising

"when delivering inappropriate or inadequate performance",

as you say in your submission. It seems to me that it is extraordinarily difficult to penalise people in such positions. How can they be sacked for poor performance?

Jo Armstrong: I reckon that the chairman of Scottish Water went as a consequence of not delivering what ministers and the Water Industry Commission for Scotland wanted. I could be wrong, but I am pretty sure that the chairman decided that that was the appropriate action at that point.

David Whitton: Earlier, you talked about this being a good time to introduce the bill, although the landscape has changed. We have received written evidence that says that, in the current climate, the Government should not be doing this at all. You seem to be arguing the complete opposite and, although you might not agree with everything in the bill, you probably want a public sector reform bill, just with a different stamp. Is that correct?

Jo Armstrong: Yes. The financial environment in which public services will be delivered in the next five to 10 years will be radically different from the financial environment in the past 10 years. Saying that the current regulatory framework is fit for purpose for that new landscape would beggar belief. Some people argue that it is not fit for purpose now, so how can it possibly be fit for purpose when we are changing how we do things?

The bill is an opportunity. I would possibly not have introduced a bill at this time if it would have cost more money. I cannot talk about the financial memorandum and whether the costs and benefits of all the individual changes are accurate, but I keep coming back to the example of reducing operating costs by 40 per cent while improving output and quality and reducing prices. That is an amazing example of where public sector reform has worked in the Scottish public sector.

David Whitton: Would it surprise you to learn that when Mr Neilson, the bill team leader, was in front of the committee, he told us that the bill is not a cost-saving exercise but is rather about more efficient public services? The financial memorandum shows that, in relative terms, the savings will be minuscule in light of the upheaval that will be caused.

Jo Armstrong: The savings could be significant. If the bill is not about cost savings, that is a lost opportunity. Given that serious financial constraints are coming, we could use the bill as an opportunity to make savings, improve the quality and delivery of services, and deliver more for people who will be marginalised as costs and budgets get smaller.

David Whitton: The Scottish Government has set a 2 per cent efficiency target; the United Kingdom Government would like a 5 per cent target. From what you know about how the public sector works, do you think that 5 per cent efficiency savings are achievable in the current Scottish Government set-up?

Jo Armstrong: I am unable to say whether those savings are achievable, but I think that efficiency savings are achievable. I have seen significant savings in Scottish Water. It is not about salami slicing current activities; rather, it is about saying that we are delivering and operating differently to deliver significant savings. It is not about people saying that they will keep on paring away and salami slicing costs until people do not get a service.

David Whitton: In your submission, you say:

"if Scotland's public service were to deliver Scottish Water-equivalent productivity improvements, this would release savings amounting to £2.25 billion"

by the next financial year. Coincidentally, that is about the same sum that your colleague John McLaren reckoned could be at risk by 2013-14.

Jo Armstrong: Those two numbers were reached from two totally different angles and require quite different views of what we are trying to achieve. If you simply take the 8 per cent per annum savings that Scottish Water delivered, that is equivalent to £2.25 billion-worth of additional funding available for public services in Scotland. If we accept that the world out there is for £2.5 billion-worth of reductions in the next five years, that is a compelling reason for considering the lessons from Scottish Water and using the bill as an opportunity to reshape how services are delivered.

David Whitton: Does Dr Elliot have a view on the comment that the bill is not a cost-saving exercise?

Dr Elliot: At the end of the day, the question whether the bill will save costs must be considered in the light of whether what is being done is right and is an improvement.

I want to pick up on the point about incentives and take it to a more abstract level. What is the point of public services? On one hand, it is a good society and state that provides a lot of public services and ensures that citizens are well provided for; on the other there is a danger that such an approach disempowers people and that having a heavy public sector and comprehensive set of public services damages the natural neighbourliness that public service is supposed to be about. There are other ways of making communities coherent and healthy than simply through state provision of public services.

That is where the voluntary sector has a role to play, because in many cases it is more engaged in involving people in the provision of services. It is about building community and social cohesion. Such an approach provides a different kind of incentive, which does not need to be financial. If we consider where incentives are coming from through the lens of a voluntary approach, we can see other kinds of goods being released.

There are many good examples of the value of befriending as a means of keeping people out of many of the services that we provide. The classic one, which is beloved of John Swinney, is the routes out of prison project, which is run by the Wise Group. A person who comes out of prison is given a buddy, who has been in prison and knows the ropes, and for about £1,500 a year they can be kept in training and helped to move into a job rather than go back into the cycle of going into prison. There are approaches to the question that are about not just reducing the cost of providing a service but ensuring that the service is not needed to the same degree. One such approach is a more community-centric model, in which the voluntary sector plays a bigger part.

Jeremy Purvis: I do not want to put words in Jo Armstrong's mouth, but were you suggesting that changes in how public services are delivered can release savings in the order of those that Scottish Water was able to release, which would be broadly equivalent to your organisation's estimate of the reduction in the devolved budget? Can the public sector be reformed while continuing to deliver the front-line services that are currently delivered, in other words without any diminution of services?

Jo Armstrong: In my study for the David Hume Institute I considered three sectors and tried to apply the lessons from Scottish Water's experience to ascertain whether there was applicability and the possibility of improving productivity, releasing funding and improving quality. It was about doing more for less, or doing the same thing better for the same amount of money. There were compelling reasons why there were opportunities to deliver significant productivity improvements in each of the three sectors, if a different approach was taken.

In relation to care services, I agree with Alison Elliot that the issue is not saving money but doing better for the same amount of money. I seriously worry about the bill's ability to deliver personalisation of services in that sector, given that a larger organisation will be trying to deliver more efficiencies, perhaps through more institutional care provision. In my submission I indicate that, although the current arrangements in the public sector are competitive—there are a lot of private and voluntary organisations providing services—there is a distortion in the market as a consequence of the fact that, in effect, local authorities are the provider of first rather than last resort. That means that the voluntary sector has less market opportunity to set up its stall and to deliver services. It must deliver according to the structures and expectations of local authority providers, so innovation is stifled.

Within the current structure, the ability to provide services in a personalised way—to deliver the quality of service that end users, rather than providers or producers, want—is seriously reduced. The lesson to be learned from that is that we need more effective economic regulation and competition, rather than the monopsony, as we call it in economics, of local authority provision. We need to free up local authorities to be procurers, rather than providers, of service, to create a more contestable and competitive

marketplace, to make productivity improvements and to improve quality, so that personalisation has a chance to thrive in the future.

Dr Elliot: I am delighted to hear that. A report from the care commission indicates what good value voluntary sector organisations are in the area of care services. I am involved with the task group that has been set up by the Government, the Convention of Scottish Local Authorities, the Scottish Council for Voluntary Organisations and the Society of Local Authority Chief Executives and Senior Managers to examine the local authority-voluntary sector interface. Community planning partnerships will now look at commissioning. We have pushed hard for intelligent commissioning that will from the start consider what services are required. The hope is that, through that mechanism, there will be more opportunity for a wider definition of what services should be provided.

Jackie Baillie: I have been listening intently to the discussion. You have been describing a much wider strategic reform of public services. I would sign up to such a reform but, with all respect to you, the bill does not provide for that. The scale of what you have described would entail a complete rewrite of the bill. Are you suggesting that the bill is not worth proceeding with because it is timid and, although it merges some organisations, does not bring about the wider strategic reform of public services that we should be seeking? That is what I am hearing.

Dr Elliot: I would not say that the bill is not worth proceeding with, but it is a wasted opportunity. Despite its title, the bill is not about reforming public services. Another agenda is being developed that looks at a different way of providing services that has a lot going for it. I do not know whether legislation is required to implement that change in the current set-up or whether it can be brought about through policy. The other processes that I have described are continuing and changes are being made at local level.

Jackie Baillie: We have picked up that the approach is to arrive at a target for the number of bodies to be removed. The bill contributes to meeting that target but, as either Richard Parry or Professor Reid said earlier, it is essentially a numbers game, rather than a strategic review.

Dr Elliot: The number of public bodies should be the outcome of a different process, not an aim at the beginning.

The Convener: I must now draw this session to a close. Would members of the panel like to make any last-minute comments?

Professor Reid: I emphasise the point that was made earlier about there being a one-size-fits-all approach. The bodies that are listed in schedule 3 are very diverse. The list includes two judicial bodies, the Judicial Appointments Board for Scotland, bodies that are structurally different, some that have been set up recently and have parliamentary links, and others that have the function of scrutinising and auditing elements of government. It seems remarkable that they should all be treated in the same way.

Richard Parry: It would be reasonable to tidy up some bodies by order, but it is unreasonable to have a list of all the public bodies in Scotland. The bill as drafted provides for much wider powers than were available previously. You may wish to ask ministers whether the powers are needed and, if so, for what purposes. In the absence of answers to those questions, the bill remains a catch-all piece of legislation that gives people in government the powers that they might like to have in an ideal world.

The Convener: I thank our witnesses for sharing their knowledge and expertise with us. The evidence that they have given today will be helpful to the committee.

15:30

Meeting suspended.

15:33

On resuming—

The Convener: The members of our next panel of witnesses are all experts on public and administrative law and have been asked to comment specifically on the order-making powers in part 2 of the Public Services Reform (Scotland) Bill. I welcome Professor Chris Himsworth, professor of administrative law at the University of Edinburgh; Iain Jamieson; Aileen McHarg, senior lecturer in public law at the University of Glasgow; and Professor Alan Page, professor of public law at the University of Dundee.

I will start off with a general question. What do you think is the right balance between the use of primary and secondary legislation to make changes in the structure and functions of public bodies?

Professor Alan Page (University of Dundee): The obvious answer is that primary legislation should be about important matters of principle, and subordinate legislation should be about picking up the detail. The concern about part 2 of the bill is that it ignores that dividing line, which means that subordinate legislation will end up being used as a vehicle for dealing with matters that should properly be discussed, considered and decided on by the Parliament.

The Convener: Ever since I was at university, I have longed to say, "Discuss." Who wishes to contribute?

Professor Chris Himsworth (University of Edinburgh): I agree with Professor Page. Any discussion of the balance of powers of legislation should start from the position that legislatures make the law and, on the whole, executives do not, except when there is good reason to give executives the power to make and change the law.

Of course, packed into Professor Page's answer—which I wholly support—is a range of assumptions about the distinction between primary and secondary legislation. On the whole, primary legislation leaves parliaments with powers, to be exercised in the full passage of bills, while secondary legislation leaves ministers with the power to do things by order, subject to a degree of supervision and control by the Parliament. We should, of course, bear in mind that those supervisory powers, although important—their importance in this Parliament is demonstrated by the existence of the Subordinate Legislation Committee—are inevitably weaker than the powers that a parliament can exercise in relation to primary legislation. On the whole, secondary legislation is a take-it-or-leave-it matter—the Parliament either approves or disapproves of a range of different proposals, rather than having a discussion of the pros and cons of particular proposals, as happens at stage 2 of a bill.

The Convener: A very democratic balance here.

Aileen McHarg (University of Glasgow): I endorse what the previous two speakers have said. On the balance of legislation, I would have thought that the central issue is the scope of public functions that must be dealt with by primary rather than secondary legislation. One concern that I have about the section 10 power is that it is simply not clear whether it is about rearranging the deckchairs or adding new deckchairs. It seems to me that there is some scope for augmentation of public functions, and it is clear that there is scope for deletion of public functions. That does not strike me as a matter for secondary legislation.

It is important to see primary legislation, and the statutory framework of many quangos, as having not only an enabling but a defensive function. The statute is not just about giving people powers to do things; it is an important guarantor of public bodies' independence and enables them to resist inappropriate attempts by Government to interfere with their functions. A public body can say to Government, "You might want us to do that, but we cannot do it, because our statute says that our functions are X, our duties are Y and our powers are Z."

To see this issue simply in terms of improving the effectiveness of outcomes is a little too simplistic. Statute performs more complex functions than that.

Iain Jamieson: I entirely agree with the previous speakers but I have two other points.

First, it is for the Parliament to decide what other powers it delegates to the Government. If the Parliament is persuaded that there is a good reason for reviewing the way in which the public sector operates and for making appropriate changes but it considers that for various reasons the process for making primary legislation in a unicameral legislature such as ours is too slow or too cumbersome to be effective, it may decide that it is appropriate to delegate to the Government at least part of the function of sifting the bodies that should be considered and of suggesting amendments.

Second, and more important, is the question: what role should Parliament reserve to itself in that exercise? Ideally, if the Parliament had the resources, it would be for a parliamentary committee to do it and to come up with ideas itself. If Parliament cannot do that because it lacks the resources, it may delegate the task to the Government, but it must ensure that it has an effective way of supervising the exercise of that power.

The present ways of scrutinising that power are very limited under the bill. The proposed order-making powers are, at present, subject to affirmative procedure except for the list of bodies in schedule 3, which may be amended by statutory instruments subject to the negative procedure—which allows for even less scrutiny by the Parliament. The super-affirmative procedure—as is covered in the Legislative and Regulatory Reform Act 2006—would give more of a role to the Parliament, but there is no reason why Parliament cannot devise its own, separate procedure for scrutinising such orders.

If the Parliament decides that it is appropriate to hand over such a wide power to the Government, it can reserve to itself the power to make amendments to draft orders that are laid before it, or to treat orders in the same way as it would treat bills at certain stages. That is all in the Parliament's own powers.

The Convener: We are entering very important territory here.

Jeremy Purvis: This point was put to a previous panel. The witnesses will be aware that the Parliament has reviewed the bodies and commissioners that it has established by statute. The Cabinet Secretary for Finance and Sustainable Growth told the Parliament in December 2008:

"The clear distinction between the powers of the Executive and the Parliament must be properly recognised in meeting the essential requirement of ensuring that public concerns are properly and dispassionately considered, free of any relationship with the Government. That point of principle helps us to understand the distinction between those parts of the scrutiny process that are properly the preserve of the Government to change and those that are more appropriately the preserve of the Parliament. The distinction is clear."—[*Official Report, Review of SPCB Supported Bodies Committee*, 9 December 2008; c 21-2.]

Do members of the panel think that the distinctions are clear in the bill?

Professor Page: Not at all. I also wish to answer a question that was asked previously, about why some of the bodies are parliamentary bodies whereas others are ministerial or executive bodies. The answer is that it is an accident of history—indeed, the phrase "historical accident" crops up in the policy memorandum that is attached to the bill. It goes back to the establishment of the Scottish Information Commissioner in the Parliament's first session. The anticipated difficulty that faced the coalition Government was that MSPs such as Phil Gallie might ask how the appointed person could be independent and ensure that the Government was providing information while the Government was paying for him. How on earth could that work? Surely he would not be independent.

The wheeze that the Government lit upon was to follow the model of the Auditor General and have the Information Commissioner appointed and funded by the Scottish Parliamentary Corporate Body. That answered at a stroke the question of independence, as the post was to be funded by the Parliament, not the Government. The same model was simply followed thereafter for the other commissioners that were set up.

15:45

The great virtue that parliamentary status brings is independence. It is that independence that is compromised, or threatened, by giving ministers the power by order to do pretty much what they like in relation to those posts. The Parliament did indeed review the commissioners through the Review of SPCB Supported Bodies Committee, but anybody reading the debates would realise that they had an unfinished quality to them. The committee came up with a report and the Parliament agreed with it, but the argument was not finished. I see the various bodies' inclusion in schedule 3 to the bill as the continuation of that argument.

Linda Fabiani: I cannot get this question right in my head. How can the Government just take over directions and order-making powers? Is it enough that Parliament agrees and puts the provisions into legislation? Does the Parliament, as a legal entity, have some right beyond that?

Professor Page: I am not sure about Parliament as a legal entity. If the Government asks for a power and the Parliament accedes to it, that is it.

Linda Fabiani: Is that it?

Professor Page: But the Parliament might well say, "Hang on a minute, this runs counter to everything that we've been talking about."

Linda Fabiani: But the Parliament, as a body, cannot—

Professor Himsworth: I will put just the tiniest gloss on that. It goes back to a phrase that you used in an earlier question, Ms Fabiani, on legality. One might cast the debate in terms of constitutional propriety or legitimacy or appropriateness—that is the sort of language that Alan Page has been using when expressing his reservations about what is going on in the bill. I share those reservations absolutely.

No one here would suggest that the Parliament would not be acting legally or making a legal product if it passed the bill and gave ministers the powers. That would be legally done if the bill was passed, and when ministers exercise their powers they are performing legal acts, as long as they remain within them. No one would have any doubt about that, and no one would doubt the capacity of the Parliament to readjust things in that way. However, there are strong arguments, which we have heard, for retaining the qualities that were originally sought when the bodies in question were established.

Aileen McHarg: I will add a further gloss to that. What Chris Himsworth has said is absolutely right, except that subordinate legislation has always been subject to more stringent scrutiny by the courts. Of course, UK primary legislation is not subject to scrutiny by the courts, whereas Scottish Parliament legislation is—although the hints that we have had so far suggest that it is fairly hands-off scrutiny.

Secondary legislation has always been subject to challenge on what we might call constitutional grounds. There is a possibility that, if there was a reduction in the Parliament's role in providing a check on the Executive—which the order-making power that we are discussing would certainly involve—the courts might feel obliged to step in and fill the vacuum. It is unpredictable how exactly the courts would interpret such a power. They may be inclined—I say may be, not would be—to read in restrictions that are not in the text of the bill.

Iain Jamieson: Although I said earlier that it is for the Parliament to decide what powers it delegates to the Government, I agree that one of

the considerations that the Parliament should have in mind is whether it is appropriate to delegate a power.

The power in section 10(1) is unprecedented in its width as far as I can see. It is not even limited by the words

"having regard to—

(a) efficiency,

(b) effectiveness, and

(c) economy."

The courts have said that a body that is required to "have regard to" something is not bound by the considerations, and may disregard them and have regard to other matters that are not listed in the legislation.

For example, Dr Elliot asked whether the power could be used to introduce some degree of user focus. Yes, it could. Equally, it could be used to introduce a more cost-effective public service. It is so wide—it covers anything that the Scottish ministers

"consider would improve the exercise of public functions"—

that it could be anything that ministers want it to be. It is up to the Parliament to decide whether it is appropriate and desirable to give such a wide power, even with the reservations that Professor Page and Professor Himsworth mentioned that it could be regarded as constitutionally inappropriate for certain bodies in schedule 3.

The Convener: With width comes vagueness.

Iain Jamieson: The power is extremely vague, and there are hardly any limitations on it. Professor Page has analysed the three preconditions, and even they are not much of a restriction on ministers.

Jeremy Purvis: Have the witnesses read the submission from the National Galleries of Scotland? They can be forgiven for not having done so. The submission says:

"As it stands, the Bill is so widely drafted it could be used by a subsequent administration for purposes which the present government may not actually intend. For example, as far as we can see, it would be possible for a future government to change or remove the current restrictions against the sale and transfer of collections, and then either direct or pressurise the Trustees to consider selling some items not currently on display.

This possibility directly undermines the prime purpose of our institutions which is to hold the National Collections in trust for the people of Scotland, in perpetuity. The effect could be to lose our public role as the guardians of Scotland's largest collections of key historical, cultural and national importance."

Officials may say that that is an extreme example, but it is what the National Galleries of Scotland has told the committee. Do the witnesses agree with its reading of the scope of the powers?

Aileen McHarg: I know nothing about the legislative framework within which the National Galleries of Scotland operates but I would think that the power is wide enough to deal with awkward public bodies by abolishing them, merging them or altering the scope of their functions. The only real restrictions are the rather vague substantive preconditions that we have talked about and the procedural control that the Parliament can provide, which is far more important than the substantive preconditions. The question is whether that procedural control is strong enough to pick up every potentially abusive use of the power. I am doubtful about whether it is.

The Legislative and Regulatory Reform Act 2006 is sometimes held up as an example of the value of parliamentary procedures as opposed to order-making procedures because the dangerous nature of that piece of legislation was picked up only as the Legislative and Regulatory Reform Bill proceeded through its parliamentary stages. It was certainly not picked up straight away. The value of a multistage, parliamentary primary legislation procedure is that it allows people to say, "Hang on a minute, what about this?" It allows people to think about things and it allows a much wider range of views to be expressed than the subordinate legislation procedure does, however much consultation is built into that process.

Iain Jamieson: I, too, know nothing about the specific powers, but I refer the committee to Professor Page's submission, in which he says that the bill's intention seems to be that, as long as the bodies' objectives and purposes remain unchanged, everything is up for grabs. The Scottish ministers can remove functions, change functions and so on; indeed, they can do what they like.

Professor Page also points out that, in any case, it is very difficult to identify a particular body's objectives and purposes, especially when we are talking about parts of the Scottish Administration. In that respect, he mentions the Scottish Environment Protection Agency. One could say that the agency's general purpose is to protect the environment but, of course, anything is possible in that field.

Jeremy Purvis: Although it is suggested that its very existence is all the protection that an organisation needs, the National Galleries of Scotland is concerned that in its case exhibiting a very controversial work of art, sculpture or even part of a chess set might fall within the scope of ministers, which in effect would change the whole essence of the collection.

Aileen McHarg: From my reading of it, the bill does not even require the National Galleries of Scotland to continue to exist, as long as some body continues to fulfil its purposes. If a set of trustees in the National Galleries of Scotland is being awkward, ministers can solve the problem by abolishing the body, setting up a new organisation and appointing some new people who they think will be more congenial and amenable to their point of view. That sounds a bit Machiavellian, but it seems to me to be possible.

Jackie Baillie: It is entirely possible. I was thinking that myself.

Iain Jamieson: I stress that, although the power is extremely wide, if the Parliament thinks that it serves a useful purpose in reforming the public sector—if that is, indeed, the bill's intention—the Parliament might well decide that someone has to look at how the public sector should be reformed. If it cannot do the work itself, what else can it do but delegate at least some aspect of the power to Government? However, someone has to look after the public sector. The job cannot be left to Audit Scotland, because it carries out a different kind of scrutiny.

The Convener: The combination of unlimited power and politicians puts the fear of death in me.

I am told that the power

"to remove or reduce burdens"

in the UK Legislative and Regulatory Reform Act 2006 is very similar to that in the Public Services Reform (Scotland) Bill. However, the power has not been subject to widespread use by UK ministers; indeed, it has been used only three times since enactment. What are your views on the UK act and how it has been used so far?

Professor Page: I suspect that Aileen McHarg knows more about that issue than any of us, but the fact is that, after much discussion and debate, the power in the 2006 act was narrowed down to a provision that people were reasonably happy with.

I have to question whether Scottish ministers are serious about this power. I think that it is in the bill simply to make up the numbers, as if they had said, "Well, let's put that in as well." Their record right from the beginning indicates that they are not terribly serious about deregulation or regulatory reform, which is why I say in my submission that the section 10 power, rather than this power, is the one that they want. That is my personal take on the matter.

16:00

Aileen McHarg: As I was on the train this morning, it occurred to me that, to the Scottish Government, the section 13 power is a bit like the statement handbag that anyone who aspires to be taken seriously as a celebrity needs. It does not have to be pretty or functional, but it must be big. The Scottish Government has decided that if it wants to be taken seriously, it must have a really serious regulatory reform power. It is as if it is saying, "Whitehall's got the power, so we'll have it too—oh, and we'll add in this section 10 power while we're at it."

Despite what Alan Page has said, I am not an expert on the specific use of the power in the 2006 act. All I will say is that an interesting dialectic has developed at UK level. Each time the Government has tried to acquire regulatory reform powers, Parliament has said, "Hang on a minute—you can't have these powers in that form. You can have them only if they're subject to stringent conditions." The Government has then come back and said, "Well, the powers aren't very useful to us with those conditions. Can we widen them, please?" to which Parliament has replied, "You can widen them only if they're subject to even more stringent conditions." On it goes. Wide though it is, the power in the 2006 act might not be the last word on this matter. Precisely because of the restrictions that have been written into it, ministers might consider the power not to be strong enough for their purposes and might well come back for more.

Professor Himsworth: I am happy to say that I do not even know what a statement handbag is, although I have been glad of the instruction.

What should not go unnoticed is the fact that, in their ability to amend previous primary legislation, the powers in sections 10 and 13 are actually Henry VIII clauses—or what are called, in the Scottish context, Macbeth clauses. Under such clauses, Parliaments give ministers the power to do and undo things that they have done in the past as primary legislation, and they cause special tremors in the hearts not only of constitutional lawyers but of parliamentary politicians, who, when they see them appearing, should think very hard about them.

A serious point that I have made in my submission is that we should not make the error of simply comparing what we are doing with what is going on at Westminster. The Scottish Parliament has to make up its own mind about its own conditions, which might well be thought to be different from the conditions that have assailed and held sway in the UK Parliament. After all, UK Parliaments might well have been persuaded of matters that the Scottish Parliament has no reason at all to be persuaded of.

However, I am not saying that conditions are not similar in all cases. The institutions are similar and the Scottish Parliament should have no fear of taking something off the shelf if it appears to be

acceptable, useful and a good idea from a parliamentary point of view. Why not? That said, Holyrood should certainly not be tempted necessarily to accept any case that is made at Westminster for extraordinary powers.

The Convener: If that is the case, what checks and balances would you recommend?

Professor Himsworth: I just would not do it in the first place. That is the problem. In my submission, I have taken a blunt approach; indeed, I suppose that you could call it a stage 1 rather than stage 2 approach. If it is agreed at stage 1 that something that is broadly along the lines of sections 10 and 13 should proceed, what sort of supervision and control over the powers is put in place will remain in the Parliament's hands, as Iain Jamieson said—the committee has had a little from me and more from my colleagues on how the approach might be improved. The notion of super-affirmative resolution procedures—as we have loosely referred to them—goes down that track. I am sure that it would not be beyond the wit of committee members and in due course the Parliament to think of further controls.

I remain unconvinced that the case for doing such things by secondary legislation has been made, so I would prefer to keep my powder dry on what might be done at stage 2. Some of the obvious reasons for delegated legislation are not there. There is no emergency; no one is arguing that ministers would need to respond in the way that they respond to infections and other problems to do with animal or human health. The argument that the Parliament is short of time needs to be reflected on. I am not for a minute suggesting that members are not busy; of course they are. However, I doubt whether that argument transfers from a UK Parliament to the Scottish Parliament and I doubt whether it even applies to full effect in the UK Parliament. We are still looking for a strong case to be made for removing from the primary legislative process issues that are potentially deeply politically sensitive.

The Convener: Are the witnesses in general agreement?

Aileen McHarg: I agree. It does not seem that a strong case for the powers has been made. As far as I am aware, the powers that the Scottish ministers have under the Deregulation and Contracting Out Act 1994 have not been used at all, so the issue is not that ministers have tried to use the powers and found them wanting. Ministers have not used existing powers, so why do they need better powers?

The argument has been made that we need a common regime at UK and Scottish level. Why? I see no strong argument for that at all. I agree with Chris Himsworth that the powers are not necessary and that tinkering round the edges and trying to increase restrictions on their use might give them a legitimacy that they do not deserve. Indeed, as I said, the more procedural restrictions are placed on their use, the less useful the powers become. There is an inherent tension between the Executive's desire to do things speedily and what should be the Parliament's desire to do things in a legitimate way, which is certainly the desire of constitutional lawyers.

Professor Page: In my submission, I said that the power in section 10 is so broad as to make me think that it was designed as an opening bid. Members should not disappoint ministers by accepting their opening bid.

Iain Jamieson: I entirely agree, but I will add one point. I think that the powers that are conferred by section 13 could well be subsumed in the power that is conferred by section 10(1). I suspect that the reason for the inclusion of section 13 was that all the procedural provisions that attach to the section 13 power derive from the UK act. The Scottish ministers want the power in section 10(1)—the power to improve public service—and they have attached all the provisions that are precedented in the UK act but for a different purpose.

Panel members are right to say that the Scottish ministers have never used the deregulation power. The UK position might well be different but, when we examined the issue in a Scottish context during the Subordinate Legislation Committee's inquiry, no demand was made for further deregulation powers. It is not for me to speculate, but I think that the section 13 power might have been included just to indicate that the powers are precedented, although in fact the power in section 10(1) is not precedented at all.

David Whitton: A real joy of being a member of this committee is that we have the opportunity to listen to experts. We have just heard Chris Himsworth, professor of administrative law at the University of Edinburgh, Aileen McHarg, senior lecturer in public law at the University of Glasgow's school of law, Alan Page, professor of public law at the University of Dundee and Mr Jamieson, who was adviser to the Subordinate Legislation Committee, say that the bill is basically a load of nonsense that should be sent back to ministers so that they can reflect on it. I hope that someone somewhere is taking note of that.

The Convener: The member has put words into the witnesses' mouths. Do they want to respond?

Aileen McHarg: Our comments were limited to part 2. We did not say anything about the rest of the bill.

Professor Himsworth: That is an important point. Someone talked about timidity. No one has

said that part 2 is timid; part 2 is un-timid and goes too far.

The Convener: We have no more questions for the panel. Does anyone want to make a final comment?

Iain Jamieson: I pointed out in my submission that the power to promote better regulation—the power to require bodies to observe certain regulatory principles—is in the 2006 act but is not reflected in the bill, which is not really about better regulation. If the Government is serious about improving the delivery of public service, that is the model that should be adopted, rather than the model in the bill.

The Convener: I thank the witnesses for the depth of expertise in their contribution to the meeting.

16:12

Meeting continued in private until 16:23.

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

Members who wish to suggest corrections for the archive edition should mark them clearly in the report or send it to the Official Report, Scottish Parliament, Edinburgh EH99 1SP.

The deadline for corrections to this edition is:

Thursday 24 September 2009

PRICES AND SUBSCRIPTION RATES

OFFICIAL REPORT daily editions

Single copies: £5.00
Meetings of the Parliament annual subscriptions: £350.00

WRITTEN ANSWERS TO PARLIAMENTARY QUESTIONS weekly compilation

Single copies: £3.75
Annual subscriptions: £150.00

Published in Edinburgh by RR Donnelley and available from:

Blackwell's Bookshop

53 South Bridge
Edinburgh EH1 1YS
0131 622 8222

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

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

And through other good booksellers

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

Telephone orders and inquiries
0131 622 8283 or
0131 622 8258

Fax orders
0131 557 8149

E-mail orders, Subscriptions and standing orders
business.edinburgh@blackwell.co.uk

Scottish Parliament

All documents are available on the Scottish Parliament website at:

www.scottish.parliament.co.uk

For more information on the Parliament, or if you have an inquiry about information in languages other than English or in alternative formats (for example, Braille; large print or audio), please contact:

Public Information Service
The Scottish Parliament
Edinburgh EH99 1SP

Telephone: 0131 348 5000
Fòn: 0131 348 5395 (Gàidhlig)
Textphone users may contact us on **0800 092 7100**
We also welcome calls using the RNID Typetalk service.
Fax: 0131 348 5601
E-mail: sp.info@scottish.parliament.uk

We welcome written correspondence in any language.