

JUSTICE 1 COMMITTEE AND JUSTICE 2 COMMITTEE (JOINT MEETING)

Tuesday 16 March 2004
(*Afternoon*)

Session 2

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JUSTICE 1 COMMITTEE **10th Meeting 2004, Session 2**

CONVENER

Pauline McNeill (Glasgow Kelvin) (Lab)

DEPUTY CONVENER

*Mr Stewart Maxwell (West of Scotland) (SNP)

COMMITTEE MEMBERS

*Bill Butler (Glasgow Anniesland) (Lab)
*Marlyn Glen (North East Scotland) (Lab)
Michael Matheson (Central Scotland) (SNP)
*Margaret Mitchell (Central Scotland) (Con)
Margaret Smith (Edinburgh West) (LD)

COMMITTEE SUBSTITUTES

Roseanna Cunningham (Perth) (SNP)
Helen Eadie (Dunfermline East) (Lab)
Miss Annabel Goldie (West of Scotland) (Con)
Mike Pringle (Edinburgh South) (LD)

*attended

JUSTICE 2 COMMITTEE **10th Meeting 2004, Session 2**

CONVENER

*Miss Annabel Goldie (West of Scotland) (Con)

DEPUTY CONVENER

*Karen Whitefield (Airdrie and Shotts) (Lab)

COMMITTEE MEMBERS

*Jackie Baillie (Dumbarton) (Lab)
*Colin Fox (Lothians) (SSP)
*Maureen Macmillan (Highlands and Islands) (Lab)
*Mike Pringle (Edinburgh South) (LD)
Nicola Sturgeon (Glasgow) (SNP)

COMMITTEE SUBSTITUTES

Ms Rosemary Byrne (South of Scotland) (SSP)
Cathie Craigie (Cumbernauld and Kilsyth) (Lab)
Michael Matheson (Central Scotland) (SNP)
Margaret Mitchell (Central Scotland) (Con)
Margaret Smith (Edinburgh West) (LD)

*attended

THE FOLLOWING ALSO ATTENDED :

Professor Arthur Midwinter (Adviser to the Finance Committee)

CLERK TO THE COMMITTEE

Alison Walker

SENIOR ASSISTANT CLERK

Claire Menzies Smith

ASSISTANT CLERK

Douglas Thornton

LOCATION

Committee Room 1

CLERK TO THE COMMITTEE

Gillian Baxendine

Lynn Tullis

SENIOR ASSISTANT CLERK

Irene Fleming

ASSISTANT CLERK

Richard Hough

Scottish Parliament

Justice 1 Committee and Justice 2 Committee (Joint Meeting)

Tuesday 16 March 2004

(Afternoon)

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

Item in Private

The Convener (Miss Annabel Goldie): I welcome members to the joint meeting of the Justice 1 Committee and the Justice 2 Committee. We have apologies from Nicola Sturgeon, Pauline McNeill, Michael Matheson and Margaret Smith, but we have a quorum.

Agenda item 1 is to consider whether to take item 3 in private. Is that agreed?

Members *indicated agreement.*

Budget Process 2005-06

14:01

The Convener: I welcome Professor Arthur Midwinter, adviser to the Finance Committee. As always, we are pleased to have you here and we are glad that you could join us this afternoon.

Professor Midwinter will brief us on the forthcoming budget process. I believe that he intends to give a 10-minute presentation and then to take questions from members.

Professor Arthur Midwinter (Adviser to the Finance Committee): There are several points that I would like to draw to members' attention. This year is a spending review year, which is important enough in itself, but there are also reforms to the budget process of which members should be aware.

The general background to the budget is one of a tightening of the fiscal context. We are likely to have fewer resources this year than has been the case since 1999. The current average real-terms growth is 4.5 per cent per annum. I expect that to shrink considerably—we have been using 2 per cent for guidance. All the noises from the Treasury are telling us not to expect too much, in contrast to previous years.

However, the UK Government has a long-standing commitment to boosting the health budget. That will bring Barnett consequential to the Scottish Parliament within the block grant, which the Parliament is free to use in whatever way it decides. The money is not tied to health, but it is a significant increase and, because health accounts for one third of our total budget, it means that we should do okay. There is also a vague commitment to further investment in education, which should also benefit Scotland through the consequential process.

I expect that the impact of the tightening fiscal position is that there will be a focus on redistribution within and between portfolios. Because the spending review sets the figures for a three-year period, we must revisit the figures for 2005-06 and then set figures for 2006-07 and 2007-08. We are entering what is probably the most important six-month period in the budget cycle. If the Executive is keen to target resources on its priorities, I expect there to be some redistribution in those totals. This is the prime opportunity for committees to advise the Executive of their views on the spending priorities in the portfolios.

The Treasury has said that, unlike in previous years, there will be no reopening of the baselines. That means that we have a set of figures for 2005-

06 from the previous spending review. In previous years, Gordon Brown reopened the figures and produced additional money, which was free for reallocation in 2005-06. We are expected to live within the current figures. In the three previous spending reviews, extra money was produced at this stage in the process.

An announcement was made some time ago about an additional £43 million that came Scotland's way because of changes to the council tax in England. That is for use in the current year, not in the coming year. There is therefore £43 million to be allocated. It is not earmarked for council tax in our budget, for example. The Executive is free to allocate that as it wishes—the money is not ring fenced, to use the jargon. Those first three or four points all relate to how the system is likely to be tighter than in previous years.

You will soon examine something that will still have the initials AER. It was called the annual expenditure report, but I understand that it will be called something else this year. That is to mark the change that is happening; however, the initials are being kept. To cover the background to that, in the last year of the previous session, the Finance Committee undertook a review of the financial arrangements. For those of you who are new to Parliament, the financial arrangements reflected the report of something called the financial issues advisory group, which made a number of recommendations as to how the budget process should be conducted. The FIAG recommendations were implemented almost completely.

The view that emerged following the Finance Committee's review was that there was too much overlap between the different stages of the process; members were getting the same information twice in the course of the year. Stage 1, which involves the AER, was intended to have been a strategic planning stage. In effect, however, it was like a draft draft budget, rather than a strategic plan. The Finance Committee recommended that the Executive ought to consider streamlining the process in order to tackle the overlap between the documents for the first two stages.

We felt that one aspect of FIAG's recommendations that was missing was any formal system of performance reporting, whereby the Executive, having set itself priorities and targets, would come back to Parliament and publish a report setting out the extent to which it thought it had achieved its priorities and targets. The committee took the view that the Executive had too many priorities for those priorities to be meaningful. In a flippant remark at the Finance Committee last week, I described that as being

"almost one priority per portfolio",—[*Official Report, Finance Committee*, 9 March 2004; c 1132.]

or one for each minister, so that no one was annoyed. I understand that that is under review.

When the AER is published—it will be in the last week in March, I think—it will have a new performance chapter, which members have not seen before. The chapter will chart progress with the stated spending priorities. That means, I presume, that the priorities that are stated in "Building a Better Scotland"—or BABS, the strategic plan document—are being stuck with, although the Executive's priorities have been changed over the four-year period. That said, the partnership agreement will probably form the basis of the new priorities, and I expect to see progress being monitored against objectives, targets and priorities in that document.

I mentioned the tightening fiscal context. The Executive will give us its best estimate of what is likely to happen to its budget on the basis of the information that it has received from the Treasury. Depending on the timescales involved, that information might be issued separately. It was hoped that it would be included as a chapter in the AER, but whether it will depends how much interchange there is following Gordon Brown's budget. Will the information be available on time? The Executive might have to issue the information as a separate chapter after the event.

The new document will contain a formal statement of priorities. There will also be the level 3 spending plans for 2005-06, as they currently stand. Unlike the previous documents, which contained three, or sometimes four, years of figures, the new document will contain just the spending plans for the coming year.

The result of all that is, first, that there will be less information in the new document, which should be about half the size of the previous AER. When I speak to different committees, it is intriguing to find that although everybody is in favour of there being less information, they ask for X or Y extra, as well.

As I said, however, there will be less information. The sections on what the budget does, what the Executive's activities are and what it will do with the new money will no longer be in the AER; they will be in the draft budget. They are also in last year's draft budget, so members can refer to them if they need to do so.

There may well be some reconsideration of the targets that the Executive uses in the AER. It might consult on whether it uses the best targets and whether we need to revise them. The Finance Committee will meet early after the recess to discuss guidance about the issues that we would like the committees to address in addition to the

issues that interest them. We are likely to ask two questions. First, how satisfied are you by progress on targets, and how good are they? Secondly, what are the high and low priorities in the spending recommendations in your list of programmes? In other words, if it came to it, which priorities would you do without or, at least, which of them do you envisage as being a low priority for receipt of additional money?

The process will continue in the summer. The agreement that we have reached with the Executive is that recommendations will go to the Finance Committee from the other committees, which will be put into the June report that will go to the Cabinet for discussion during the summer. Two years ago, there was a mix-up in the process. A number of members made recommendations and departments replied directly to them to say that the matter would be decided in the spending review. We want to avoid that, because we want to know what the outcome is, not that it will be decided in the spending review. Therefore, members may well get a reply on the Cabinet's decision in the autumn, and not earlier. The Finance Committee will consider a corporate document that will contain all the recommendations, and there should be specific departmental responses to tell committee members what ministers have done with the recommendations that they made for the portfolio.

After that, BABS, or whatever the document will be called—it has had three different names since it was introduced—will come out in September and the draft budget will come out in October. At that stage, the committee should consider whether its recommendations have been met. The overlap should be out of the process. The committee should receive the Executive's advice on what it has done and the committee should advise the Finance Committee whether it is happy with that. That is as much as I want to say at the moment.

The Convener: Thank you—your remarks may have been brief, but you have said a lot. From the expressions of the committee members, I suspect that, as usual, we are not finding the subject an easy one.

Jackie Baillie (Dumbarton) (Lab): I was working very hard at not looking dazed, convener. Evidently, I failed.

I have three questions. First, for the sake of tidiness, the £43 million to which you referred is spend for this year, but can you confirm that it is automatically accounted for in the baseline for next year?

Professor Midwinter: It is accounted for wherever it is allocated.

Jackie Baillie: It is in the pot, so it will not disappear.

Professor Midwinter: It will come through the budget revisions and will then go into the base.

Jackie Baillie: Secondly, the justice committees might want to consider taking on the question that you raise in your Scottish Parliament information centre briefing on the low percentage increases in the justice budget. We have been told by ministers that tackling crime is a cross-cutting initiative and that there is therefore a contribution from the communities budget and the education budget. As you will appreciate, that makes it extraordinarily difficult to carry out any degree of scrutiny. I note that you suggest in your document that that will be in a different section, but other than changing its location, will there be more clarity on the spend for cross-cutting initiatives?

Should I carry on with my final question, convener, or pause for breath?

Professor Midwinter: Carry on.

The Convener: We are all listening with unbounded admiration.

Professor Midwinter: Carry on so that I can look dazed.

Jackie Baillie: You are both easily impressed.

On trends, you spoke about only one year's figures being available because this is the start of a spending review. However, looking at trends previously was quite illuminating. Will we be able to get that information in a comparable form?

14:15

Professor Midwinter: I will deal with the last question first—it is the easiest. The draft budget contains only the previous two years' figures. The difficulty is that the current year's budget was the final introduction of resource accounting and budgeting; therefore, it is not comparable with the budget for 2002-03. You can easily use the data from 2003-04—the data that are in the current draft budget—which will show a short-term trend, but nothing beyond that.

The Executive has undertaken to provide us with a 10-year time-series data. It is hoped that that will be ready shortly, although I do not know the Executive's timetable. The 10-year time-series data will be made available to everyone. That is a major exercise, which takes account of three different changes in RAB, all the shifts between portfolios and all the reclassifications of categories in the budget. It is a big task for the Executive; however, we met the Executive a fortnight ago, and it is making some progress, which we are pleased about.

I was intrigued to hear Jackie Baillie describe tackling crime as a cross-cutting initiative. When it was described to us two years ago, it was

described as a functional priority. That is not the same as a cross-cutting initiative. Health, education, crime, transport and jobs were the five functional priorities and were broadly aligned with the spending departments that deal with those portfolios. We recognise that there can be some impacts from other portfolios on tackling crime, but I thought that the cross-cutting priorities were closing the opportunity gap and ensuring sustainable development.

I find the whole concept of cross-cutting priorities to be slippery. As Jackie Baillie said, it is difficult to monitor what is going on. I would expect there to be fewer priorities. To use the sustainable development cross-cutting objective as an example, part of the difficulty is that the Executive could justify almost anything that it wished to justify because the definition is so vague. The objective of closing the opportunity gap is easier to get a grip on because it is defined in a way that makes it measurable. However, I did not see much in the budget outside the justice portfolio that would contribute directly to tackling crime. I did not see anything in any other chapter that made me think instantly, "That will have a benefit in tackling crime."

In the past, we have asked for the spending—particularly the new spending—to be categorised according to which priority it contributes to. In the past, information from each portfolio has been presented on a whole-portfolio basis, with the Executive not only saying that it is doing X, Y and Z, but giving a list of things that it will do. I would like this year's budget document to concentrate on where the changes are so that they are clearly earmarked for us.

This is the first time that I have heard tackling crime described as a cross-cutting priority. I am intrigued.

Jackie Baillie: Leaving aside the language—whether tackling crime is a cross-cutting priority or a functional priority—among the suggestions that were made to the committee in previous budget scrutiny was that a number of different portfolios contribute to some of the priorities in the justice portfolio. The difficulty for us is that we are unable to scrutinise the spend clearly. Whether we call a priority cross-cutting or functional, the key concept that I was trying to drive at is the lack of transparency when other portfolios are said to contribute to a priority in the justice portfolio. They may well do that, but we have no means of measuring their contribution.

Professor Midwinter: If I wanted to be unkind, I would suggest that any of the five functional priorities would be in the same position. For example, you could argue that there are many things that benefit health. If the Executive is serious about making the budget document a clear

and transparent framework, it must go to work on it and produce a framework that shows what the priorities are and what spending is contributing to them. If the spending comes from across portfolios, it should be highlighted specifically instead of that fact being used as an explanation for why we cannot see it.

I heard such a comment last week. We were querying the similar increase for enterprise and lifelong learning as jobs are apparently now the top priority—not just one of the priorities—and the reply was that the Executive is spending a lot on transport. I can see the link between transport and the economy, but the use of money did not seem to be very transparent. Another reply was that the Executive is spending a lot of money on capital investment in programmes that will not show up in the figures. Obviously, private finance initiative spending does not show up in the public accounts. The budget document must be tightened up and focused better than it has been, although I think that what we have now is better than what we had in 1999.

The Convener: Jackie Baillie has raised an important point, which is crucial to our ability to scrutinise the budget proposals. For example, the Antisocial Behaviour etc (Scotland) Bill is being led not as a justice measure—that is an Executive decision—but as a communities measure. However, at the same time all of us round the table—certainly those of us on the Justice 2 Committee, which has been examining the bill—know that fundamental to the workability of the bill will be local government finance, in particular, the ability of social work departments throughout Scotland to not only take on board additional responsibilities but to comply with what will be a statutory framework in relation to the children's hearings system.

That is why the point that Jackie Baillie has raised is important, because part of the Executive's work that we come in on and are required to comment on will not work if the necessary resourcing in another portfolio department is not happening.

Professor Midwinter: You have now complicated the issue by adding another portfolio. The bill comes under the communities portfolio, but the funding will flow through the local government settlement and you are looking at it from the justice angle.

I do not see how the Executive can defend saying that tackling crime is a cross-cutting initiative. In relation to "Closing the Opportunity Gap: Scottish budget for 2003-2006", Margaret Curran is the responsible minister and she has a roving responsibility to co-ordinate the work across portfolios. There is nothing similar in the crime portfolio.

Jackie Baillie: However, that is the way that it is described to us and that is the kind of language that is used. We are told that we should not look only at the portfolio budget because there is a much wider contribution.

Professor Midwinter: That is true, but there is an obligation on the Executive to point to the figures. If the Executive says that although there may not have been a bigger percentage increase in the portfolio budget, there is money elsewhere, that money should be listed for the committee so that it can judge whether spending is adequate. Otherwise, the committee cannot do so.

The Convener: Are there any other pressing questions that members want to raise? Professor Midwinter has given us a very helpful commentary on the general shape of what is to come. I know that our adviser, who I will introduce formally under item 3, will want to discuss this particular aspect with the committee.

As there are no questions for Professor Midwinter, I thank him very much for joining us. As ever, we are grateful to him for seeking to throw some light on what is, for most of us, a challenging process.

Professor Midwinter: I will leave you in Mr McKay's safe hands.

The Convener: We move to item 3 on the agenda, which will be in private.

14:23

Meeting continued in private until 14:55.

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