

JUSTICE AND HOME AFFAIRS COMMITTEE

Wednesday 26 April 2000
(*Morning*)

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JUSTICE AND HOME AFFAIRS COMMITTEE

15th Meeting 2000, Session 1

CONVENER

*Roseanna Cunningham (Perth) (SNP)

DEPUTY CONVENER

*Gordon Jackson (Glasgow Govan) (Lab)

COMMITTEE MEMBERS

*Scott Barrie (Dunfermline West) (Lab)

*Phil Gallie (South of Scotland) (Con)

Christine Grahame (South of Scotland) (SNP)

*Mrs Lyndsay McIntosh (Central Scotland) (Con)

*Kate MacLean (Dundee West) (Lab)

*Maureen Macmillan (Highlands and Islands) (Lab)

*Pauline McNeill (Glasgow Kelvin) (Lab)

*Michael Matheson (Central Scotland) (SNP)

Euan Robson (Roxburgh and Berwickshire) (LD)

*attended

THE FOLLOWING MEMBER ALSO ATTENDED:

Donald Gorrie (Central Scotland) (LD)

WITNESSES

Ian Allen (Scottish Executive Justice Department)

Mark Batho (Scottish Executive Finance Department)

Niall Campbell (Scottish Executive Justice Department)

John Ewing (Scottish Court Service)

David McKenna (Victim Support Scotland)

Elizabeth May (Victim Support Scotland)

Andrew Normand (Crown Office)

Ruth Ritchie (Scottish Executive Finance Department)

Sandy Rosie (Crown Office)

David Stewart (Scottish Executive Justice Department)

CLERK TEAM LEADER

Andrew Mylne

SENIOR ASSISTANT CLERK

Shelagh McKinlay

ASSISTANT CLERK

Fiona Groves

LOCATION

The Chamber

Scottish Parliament

Justice and Home Affairs Committee

Wednesday 26 April 2000

(Morning)

[THE CONVENER *opened the meeting at 09:38*]

The Convener (Roseanna Cunningham):

Good morning, everyone. I am sorry that we have a late start. I have been rushing a little, but we cannot blame ScotRail this morning, as blame lies with whoever runs the inter-city service to Edinburgh.

I have received apologies for absence from Christine Grahame, who has an engagement in her region this morning. Donald Gorrie is with us, as he has been appointed by the Health and Community Care Committee as a reporter on the budget process.

Donald Gorrie (Central Scotland) (LD): I have been appointed by the Local Government Committee.

The Convener: Right—the Local Government Committee. I presume that Donald is here to watch what happens. Do you wish to say anything, Donald?

Donald Gorrie: The Local Government Committee has asked some of its members to attend other committees with which there is some overlap. I do not think that any of the witnesses giving evidence to the Justice and Home Affairs Committee today are in any way related to local government, so I will sneak off. On other days, when you are dealing with the police, for example, which is a service that is obviously of interest to the Local Government Committee, I will sit in, if I may, and follow your proceedings.

The Convener: You are very welcome. If you wish to ask any questions, Donald, just indicate and we will ensure that you get in.

I remind members to declare an interest at the beginning of the discussion, if specific issues arise from today's proceedings in which they feel they should declare such an interest. That is in addition to the general declaration of interest that all members made in September.

It had been our intention to consider a draft report on prisons today. However, that has proven difficult because of the recess. Our clerks, apparently quite unreasonably, regarded the recess as an opportunity to take holidays, which resulted in the committee not having its draft

report. I am only teasing. The draft report will be on next week's agenda. I ask the committee to agree to take that item in private, as is our practice.

Members indicated agreement.

The Convener: Thank you.

Budget Process

The Convener: We move on to item 1 on the agenda, which is the scrutiny of the budget 2001-02, in which the committee is to be involved. We have a number of witnesses today, including Andrew Normand, the Crown Agent from the Crown Office, and a group of people from the Scottish Executive civil and criminal law section and various associated sub-departments. We also have with us John Ewing, who is the chief executive of the Scottish Court Service, as well as Elizabeth May, assistant director of finance and administration, and David McKenna, assistant director of operations, from Victim Support Scotland. The last two witnesses are not here yet. They will arrive later.

I understand that Mark Batho, who is the assistant director of finance in the Scottish Executive justice department, wishes to make a brief opening statement, which I welcome. This is a novel exercise for committee members, as, dare I say, it is for the witnesses who have come to talk to us today. I am not entirely sure how the exercise will progress. Mr Batho, perhaps you could take five minutes and we will see how we proceed from there.

Mark Batho (Scottish Executive Finance Department): Thank you, convener. I thought it might be helpful if I set the budget process in context, as there are a lot of finance papers flying around.

The exercise that we are starting today is the process of setting the budget for 2001-02, which will culminate in the budget bill to be introduced into Parliament in January 2001. We went through half of that process last year, starting about September. As the Parliament was not in existence at this stage last year, we could not start at the beginning of the process, which the financial issues advisory group recommended that we follow before the Parliament was set up. It envisaged the publication by the Executive of a report setting out its future plans for the year in question, which is 2000-01, and for 2001-02, laying that report before the Parliament and its committees, and inviting views.

09:45

The report was published last week, and you should all have a copy. Table 5.1 on page 62 of chapter 5, the justice chapter, summarises the main heads of the justice expenditure, and the bottom line is the total justice cake, as it were. There are two elements to the budgetary process. First is the issue of the overall size of the justice cake in relation to other cakes, such as local

government and health. Secondly, there is the matter of how the cake is subdivided.

The different heads in table 5.1—criminal injuries compensation and so on—are further broken down in what is, I hope, a reasonably explicable way as one works through the chapter. That is followed by objectives and targets for each of the expenditure heads. The table only goes up to 2001-02 because we do not have figures for 2002-03 and 2003-04. Those figures will be added following the spending review, which is currently under way, and they are likely to emerge around September. I hope that that is helpful in setting the context.

The Convener: Before we start the question-and-answer procedure I would like to make a couple of comments. It is not your responsibility, but committee members have been frustrated to find that the figures that they were given some weeks ago in preparation for today are not the ones that we are supposed to work from, and that we should be working from these more recent figures. Publishing information during the recess causes some difficulties, and has annoyed some individuals. I appreciate that that is not your responsibility, but it is worth saying that that is not an ideal scenario for us to work in.

Scott Barrie (Dunfermline West) (Lab): A few of us have not seen the new figures.

The Convener: That is a prime example. I have not received a copy of "Investing in You" either. I think that we were meant to pick copies up at the document supply centre, but we were only notified of the document a week or so ago, therefore it is understandable that members have not seen it. "Investing in You: The Annual Report of the Scottish Executive" only came out last week, and we are using the figures in it, not the draft figures that were originally published. In some cases there are substantial differences between those two sets of figures, such as the amount of money that is being given to Victim Support Scotland. Someone is going over to the document supply centre to get copies of the document for us. The difficulty is that committee members have not had the opportunity to look at the figures that they are supposed to be scrutinising.

Before we ask questions I should also say that I have received a letter from Mike Watson, convener of the Finance Committee, which may be relevant to some of the answers today. It asks subject committees

"to consider the different impact that expenditure proposals in their area will have on men and women."

I am not sure how we can best do that, but the Finance Committee has requested that we try to do it.

We have had a similar letter from the convener of the Equal Opportunities Committee asking us to take full account

“of the effect of spending plans on minority groups”,

although I am even less clear how easy it will be for us to do that. I remind committee members that, at this stage of the scrutiny procedure, we are talking in general terms about the proposals and the targets that are being set out, and that we will be coming back to these issues in more detail later in the year.

I understand that officials are prepared to answer questions on factual matters and on matters of agreed policy. Obviously, they will not be able to speculate on potential policy changes or otherwise, so I ask committee members to remember that if they are going to ask officials questions like that, it will be difficult for them to answer. We are asking the minister to meet us on 10 May, so questions on policy should be reserved until then, although we are having difficulty sorting out the time for that meeting.

In addition, members should remember that Executive officials can only answer questions relating to those parts of the justice department that they are involved in. There are quite a few officials here, but we do not have any individuals from the Crown Office—[*Interruption.*] I am sorry, I see that we do. When questions are asked the relevant official will answer, so committee members might find that different parts of their questions are answered by different officials. If questions arise on other areas—criminal justice social work services and the General Register Office come to mind—we may need to pursue them in a different way because the relevant officials are not here. There are a lot of cross-cutting expenditures, and that will be one of the difficulties with this process.

Following those preliminary comments, and while we are waiting for our copies of “Investing in You”, I invite questions from anyone who feels confident that they have something to ask.

Phil Gallie (South of Scotland) (Con): Irrespective of the fact that I got the document last night—and it was with some trepidation that I noticed the differences between the figures—some of the questions that I wrote down previously are probably relevant.

I would like to focus my questions on the Crown Office, so they should probably be addressed to Andrew Normand. The first issue that I noticed was the reported underspends in 1998-99 and 1999-2000. The underspend for each of the budgeted figures is approximately 10 per cent. Those underspends are carried forward into subsequent years, and it is stressed that that is allowed. First, why was there an underspend,

given the pressures that there are on the Scottish Court Service? Secondly, are you happy with the overspends being carried over, and does that give you sufficient facility to take matters forward?

Andrew Normand (Crown Office): May I say at the outset that I welcome the committee's interest in the adequacy of the funding of the Crown Office and the procurator fiscal service, and its recognition of our pivotal role in the criminal justice system in Scotland. By way of introduction, I should say that, as Crown Agent, I am head of department and also the accountable officer for our budget. I am accompanied by Sandy Rosie, who is our budget expert. He is our principal establishment and finance officer, and he would be pleased to assist the committee by dealing with any detailed or complex issues concerning our budget. I also have with me Dr Alastair Brown, who is our head of policy.

It may be useful to remind the committee that my department, which is separate from the justice department, has reached its current financial position following a slightly different route from that of the justice department. That is mentioned in the short note that my office provided for members, and which you may be referring to. That note explains that our position derives from our direct comprehensive spending review negotiations with the Treasury as a separate department prior to devolution.

The comprehensive spending review for the Crown Office secured an improvement in our financial position such that our funding has been adequate over the past couple of years. It will remain so for the current year that has just started, provided that the budget figure shown in the annual expenditure report—the volume to which the convener referred—is supplemented by carrying forward our end-year flexibility.

Phil Gallie: Which page is that on?

Andrew Normand: It is on page 78. To answer your question, Mr Gallie, our funding will be adequate for the current year provided that the baseline figure shown on page 78 is supplemented by carry-forward of what is known as our end-year flexibility. That is the figure to which you have been referring, and it is shown in a note to the table on page 78 of the report.

The comprehensive spending review provided us with a package over several years that has been sufficient to meet our requirements up to the current year on the basis of carrying forward end-year flexibility. Beyond 2000-01, the plans and forecasts set out in our new strategic plan, which has also been circulated to committee members, are likely to require an increase in our funding. Follow-through on current or proposed new initiatives is also likely to require additional

funding. I hope that that answers the question.

Phil Gallie: It does, up to a point. However, having looked at the new figures presented on page 78, I notice that your outturn has gone up from the draft figure of £46.627 million to £50.7 million. It just so happens that your budget figure was £50.7 million. How can that have changed in the space of a week or two? In your earlier report you emphasised the importance of carry-over but, if your outturn has been spent, there is no carry-over.

Andrew Normand: There is, in fact, carry-over. These are financial technicalities and I shall ask my principal establishment officer and finance officer, Sandy Rosie, to explain the details.

Sandy Rosie (Crown Office): For the past two years, we have been managing the budget that we got from the comprehensive spending review as the Crown Agent has described. The explanation for the figures for the year just ended is simply that there is a difference in timing between the estimated outturn figures that were used for publication purposes. What we have given the committee in the past few days are figures for our provisional outturn, having reached and passed the end of the financial year. There is a small underspend for that financial year on the budgets that we set within the Crown Office.

All that must be considered in the wider context of managing the package of money that we got from the comprehensive spending review over the three years. It was an important principle of that spending review that, as far as possible, organisations were given baselines that would last over a three-year period and not have to be revisited annually. That has been an extremely important part of our planning process.

Phil Gallie: I am just a little bit concerned that you said that the carry-over is essential to your requirements, but now you have said that there is minimal carry-over for the year 1998-99.

Sandy Rosie: For the last financial year, the carry-over is £1.3 million; that is the underspend for that year. As I said, that must be considered in the context of an accumulated management of the funds that we received under the comprehensive spending review. In that regard, the difference that will be carried into the financial year just started—and also into the next financial year, 2001-02, which is the last year of that package—is considerably greater. That is part of our planned management of resources over that period. As the Crown Agent has said, that should be adequate for the coming financial year, but not thereafter.

The Convener: Members will notice that we have managed to get two more copies of "Investing in You". That appears to be all we can get our hands on. Which committee members

received a copy of this document and which did not?

Phil Gallie: I got mine last night.

The Convener: Did anyone else get one?

Michael Matheson (Central Scotland) (SNP): I did.

The Convener: Did nobody else receive one in the mail or by any other means?

Mark Batho: Copies were distributed last night to all MSPs.

The Convener: Distributed where?

Mark Batho: In the pigeonholes, I believe. I do not know the system, I am afraid, but that is what I heard.

Phil Gallie: I was working late in my office and got the last mail delivery.

10:00

The Convener: I would like to make the rather harsh statement on the record that that is woefully inadequate notice. To distribute a document as important as this one the night before a committee meeting—and presumably some committees had this on their agenda for yesterday—is utterly ludicrous. We are now in a situation where the majority of committee members have to try to ask questions without having the information. All that they have had is the draft form of the document, which we already know is not adequate. I think that that is utterly ludicrous. If it is intended that this scrutiny exercise be a real one in which people can participate properly, it will have to be dealt with a good deal more efficiently than this.

Phil Gallie has asked questions and I know that he will have more. Are there any other questions from members? I suspect that the position that we are in will make this morning's exercise very difficult to handle.

I would like to ask a more general question and I am not quite sure which of our witnesses can answer it. It has long been a concern of mine that we make changes, particularly in the justice system, in one area, without considering the knock-on effect in other areas. Who is in overall charge of keeping an eye on how that balance works out? I have in mind such examples as a six-month police blitz that would increase the number of prosecutions and charges. That increase would in turn increase the number of directions to the fiscal service to investigate. Is anybody keeping an eye on the knock-on effect of such changes? Without increased resources in the fiscal service to deal with more prosecutions there would obviously be trouble. The same can be said of many other initiatives, but that is just one example.

Who has overall responsibility?

Niall Campbell (Scottish Executive Justice Department): I shall say a few words and then invite the Crown Agent to talk about the example that you have raised. There is a question of local co-ordination between a police force and the fiscals in the area. There is also co-ordination across the whole justice system.

There are two bodies that you should be aware of. The criminal justice forum brings together the main actors in the justice system, but not in a budgetary sense, so that they can talk to one another about issues of general concern. At official level in the justice area, there is the criminal justice liaison group, which brings together people such as the Crown Agent, the head of the Scottish Court Service and the head of the Scottish Prison Service to discuss general justice issues. That is what happens at national level; at local level, it is a question of good local co-ordination. The Crown Agent might want to pick up on the specific example that you gave.

The Convener: I described that situation just to give an example of the kind of thing I mean. We are all aware of that sort of thing happening and leading to an increase in the number of potential prosecutions. People then become frustrated because many cases are dropped or result in a not proven verdict. The suspicion is that the resources have simply not been available in the fiscal service to deal with increased levels of prosecutions. I do not want us to get too hung up with that specific example; I was just trying to give an example of how an initiative in one area can cause problems in another.

Andrew Normand: I fully agree about the importance of co-ordination of initiatives and liaison. For example, I was the regional fiscal at Glasgow at the commencement of Operation Spotlight and there was consultation and co-ordination with Strathclyde police on that exercise. Of course, it is sometimes difficult to calculate and forecast the exact consequences of such initiatives in numerical terms, but in general, around the country, there is a good system of liaison between individual police forces at a senior level and senior procurators fiscal.

At a higher level, I have regular meetings with Association of Chief Police Officers in Scotland office bearers; we discuss the importance of co-ordination and consultation about the sort of initiative that you mentioned. Beyond that, on the impact of proposals for legislative change, Scotland has a good record of joined-up working between the policy department—the old home department, now the justice department—and other organisations such as the Crown Office, in assessing the possible consequences and implications of policy changes. From recent

contact with a colleague in the Treasury, I know that our record on that is much stronger than that south of the Border.

Phil Gallie: In your plan, under the heading “Values”, you state that thoroughness is all-important. To my mind, that means that your staffing is sufficient in number and in expertise. However, various people in the police and the legal profession seem to have some concern about the quality of some of the support staff to the procurators and about the number of people who are available to the procurator service in the courts. Do you share that feeling?

Andrew Normand: I am aware that such comments are made from time to time, but it is important to set the context by referring back to the Crown Office funding arrangements. The provision with which we are operating at present, and have been for the past couple of years, has been sufficient to enable us not only to fill vacancies in the fiscal service but to increase our staffing level. For example, the number of legal staff in the fiscal service in April 2000 is 30 more than in 1998. The process of recruiting and appointing staff takes time. We try to recruit a mix of staff, not just keen youngsters, who are always very able. When we have vacancies, we get a lot more applications than there are vacancies. We also try to take in some experienced staff.

In addition to those increased numbers, we are recruiting for more deputy fiscals. That will strengthen our resources and our ability to ensure the continuation of the thoroughness of approach that Mr Gallie mentioned.

Michael Matheson: I think that you referred, in response to an earlier question, to the Crown Office strategic plan and said that it would require an increase in resources. Would that be an increase in resources over what you have at present, even though you may have end-of-year flexibility?

Andrew Normand: So long as we carry forward the end-year flexibility from last year, 1999-2000, we are funded adequately for the current year. The problem lies in the strengthening of our staff resources that is required to meet continuing and new pressures in 2001-02. Beyond that, the strategic plan includes references to some new initiatives, such as continuing to provide—and increasing—our support for victims and witnesses. The plan also refers to a feasibility study that is being carried out as a joint exercise with the justice department—another example of joined-up working and cross-cutting activity.

Depending on the outcome of that study, additional resources may be required to enable us to provide the level of service that we would wish to provide to victims and witnesses. We also have

a proposal for an invest-to-save project in information technology, for new computer systems to improve the quality and efficiency of the service's work. That would require additional funding beyond the current year.

Michael Matheson: With reference to additional funding, what is your current estimate of overall cost for implementation of the strategic plan?

Andrew Normand: The problem with that, as I just mentioned, is that there are a number of unknowns, one of which is the outcome of the feasibility study on victims and witnesses.

Michael Matheson: But you must have a rough idea of how much the IT project, for example, would cost to implement.

Andrew Normand: We have figures for that. Sandy Rosie, who has been working closely on that, can answer your question.

Sandy Rosie: It may help if I explain that the note that we provided to the committee is our own projection of what we consider to be our core business. That covers an element of increasing staffing, to which the Crown Agent has already referred. It also covers our ambitions in terms of IT developments. The note brings out the fact that additional money would be required, even on that sort of definition. The other initiatives to which the Crown Agent referred, such as victim support, postal citations and one or two other areas that are just being looked at, would be in addition to those figures.

Michael Matheson: But for an initiative such as the IT project, you do not actually have a cost.

Sandy Rosie: We do have a cost for that; that is included in the figures that we have given to the committee.

Michael Matheson: Which figures are they?

Sandy Rosie: We provided a note, during the past week, which I understand has been circulated to the committee.

The Convener: Yes. I certainly got the "Crown Office and Procurator Fiscal Service Strategic Plan 2000-03".

Sandy Rosie: That is the one.

Michael Matheson: I see. So you have included the IT project in the overall costs?

Sandy Rosie: That is right. The IT project includes a mixture of changes to staffing, investment in communications infrastructure and specific software development. That is included in those costs.

Michael Matheson: But do you have a specific figure for that project? Or is it just included in the overall costs?

Sandy Rosie: I do not have that figure with me, but we could provide it separately, if you like.

Michael Matheson: It would be interesting to know, purely from the point of view of how much such a project will cost—as an invest-to-save project—and to know whether your on-going budget will meet that cost.

Sandy Rosie: Right. I would be happy to provide further information on that to the committee, if you like.

Michael Matheson: That would be helpful.

Sandy Rosie: Okay.

Maureen Macmillan (Highlands and Islands Lab): I am pleased to see many of the objectives in your strategic plan because they concern matters that are quite dear to my heart, particularly victim support. I note that you mention a pilot study in Aberdeen. Have you considered rural areas? I do not want to be picky, but I attended a conference on victim support in Inverness just the other week and one of the big concerns was the overall package for victim support and how it could be delivered.

I do not have to tell you that many courtrooms in the Highland area are very old. If we are talking about equality between men and women in their experience of the courtroom, there are often no facilities for children, and witness for both sides—defence and prosecution—are often in the same room. In addition, much work needs to be done on refurbishing courts or perhaps even building new ones. I know that the fiscal service also believes that. Many solicitors who work in the courts feel that money has to be spent.

I notice that there is no provision for any increase in spending on court buildings. As Roseanna Cunningham said, everything has to be linked: we cannot have good victim support if the defence witnesses and prosecution witnesses are in the same room, glaring at each other. In such circumstances, people are afraid to go to court.

There is also the impact of rurality on people's perceptions of how justice operates. I refer to the lack of police surgeons in the Highlands and the difficulty of getting the right medical and police attention to people in remote areas. In the past, I have discussed with procurators fiscal the idea of having a flying squad—maybe with a helicopter—that could go to remote areas when a serious crime is committed.

Those are some thoughts about how justice in rural areas might be developed. Have you considered such ideas? I feel that attention is often concentrated on the cities and would like there to be a pilot study in somewhere such as Dingwall or Wick, and not just in Aberdeen.

10:15

Andrew Normand: I will deal with the first part of that and then hand over to those who have more direct responsibility. For example, John Ewing has responsibility for the Court Service and Niall Campbell might want to say something about police surgeons, as that matter relates to the police rather than to prosecution.

We considered the possibility of extending the pilot study that we are carrying out in Aberdeen beyond the city area, because we recognised that there is a need for support in rural areas as well as in the city. However, given the funds that we have to run the pilot, it is not feasible to extend it beyond that limited area. I hope that I can reassure you that we recognise the need for support for people in rural areas.

We work with the Court Service on the arrangements for dealing with witnesses at court. We have a joint statement of commitments on the treatment of witnesses in court. John Ewing might like to address that issue and the point about the fabric of court buildings.

John Ewing (Scottish Court Service): We are alive to the issue of the condition of courts.

The Court Service, with the Crown Agent and others, is involved in examining the feasibility study to which Andrew Normand referred. A question for the feasibility study to consider will be how one delivers a national service that is responsive to local needs, including the needs of rural areas in particular. That will be a tricky issue to resolve effectively, but we are actively examining it.

We are also working with Victim Support Scotland to roll out the arrangements for victim support that are in place at certain courts around the country, such as those at Ayr and Dunfermline. We will need to address how we deal with the issue in more remote courts. In improving the quality of court accommodation, we face the difficulty that much of it is very old and much is in listed buildings.

We have to weigh up value-for-money considerations. In courts such as those in Edinburgh or Glasgow, criminal business is going on daily, so one knows that a significant number of members of the public will benefit from any investment that is made. In places such as Dornoch, Dingwall or Lochmaddy, the court does not meet anything like daily. One has to balance investment plans with the level of business in a court.

At the moment, we are undertaking a review of the extent to which our buildings meet the standards that we set out in the "Court Users Charter", which we published a couple of weeks

ago. About 87 per cent of the court estate meets those standards, but we have to make further improvements and focus some attention on the smaller courts. However, we are constrained by the nature of the buildings. You mentioned the possibility of new building. We tend to find that there is great reluctance to close a court anywhere. A degree of rationalisation of the court estate might allow us to invest more in more custom-built designs, but there might be a lot of local resistance to the closure of any court.

We are increasing our budget for capital expenditure for 2000-01 to enable us to undertake further work to improve some of the bigger courts. We will want to build on that and roll out work to the small courts to meet such demands as the requirements of victim support and the need for improvements in cells and in other accommodation, as we are mindful of the European convention on human rights dimension to that. We are actively considering that issue and I expect that there will be an increase in investment for that purpose.

Maureen Macmillan: There is an urgent need to address the problems of the courts. For example, people travelling from the west to the court in Dingwall cannot even get a cup of tea there—the facilities are nil. We cannot wait much longer for improvements in facilities, so that issue should be addressed.

The Convener: Table 5.24, on page 78 of "Investing in You", gives the budget figures in real terms. Compared with the estimated outturn for 1999-2000, the plans for 2000-01 are, almost without exception, for cuts rather than increases. It seems that it is planned that the cuts in some areas will be greater in 2001-02, most notably in the amounts for the police and the Prison Service, but also in the amount for legal aid. Could we go through the differences between the estimated outturn for 1999-2000 and the plans for 2000-01? Perhaps the person who is responsible in each case could explain why the planned figures are so much lower than the outturn figures?

The amount for the Criminal Injuries Compensation Board is the only one that will increase—slightly—in real terms. I do not think that any of the witnesses is directly responsible for criminal justice social work services and victims issues.

Mark Batho: I would like to make a general, technical and financial point. The figure for 1999-2000 includes end-year flexibility money that was brought forward from 1998-99—it includes underspend from 1998-99 that was added to the 1999-2000 figures in-year, at the autumn supplementaries in September. That process will happen again: underspend from 1999-2000 will be added to the 2000-01 figures. Ultimately, any

underspend from 2000-01 will be carried forward into 2001-02. To an extent, there is a comparison of apples and oranges here. I appreciate that it is difficult to present and to tease out the information. In every year there will be a rolling underspend that will be added to the next year's figure. I hope that I am being clear.

The Convener: We will want to know, then, what element of each figure was underspend that was carried forward. In a sense that brings us back to what Phil Gallie asked in the first place: why is there continual underspend in areas that most people would expect available money to be spent on? I am thinking about the figure for Scottish courts in particular. The difference in real terms between the estimated outturn for this year and the plans for next year are considerable. Does that mean that there was considerable underspend or that there is a considerable cut in the offering?

John Ewing: The reason for the sudden dramatic increase in the figure for Scottish courts in 1999-2000 is the costs of the Lockerbie trial, which are included in the figures for this year but which for technical reasons—Ruth Ritchie might be able to explain this better—have not yet been included in the planned figures. We expect the cost of the Lockerbie proceedings for 1999-2000 to be in the order of £9.8 million.

The Convener: So the Lockerbie costs are not included in the planned figures?

John Ewing: They are not included in the forward figures. The Court Service sets a budget excluding the Lockerbie costs, which are received as an add-on. They are included in the outturn figure to show what the position would be, but they have not been added into the plan figure. I do not have to accommodate the cost of the Lockerbie proceedings. Our document attempts to present the underlying trend in the distribution of the overall justice budget.

The Convener: We will move on to deal with the Scottish Prison Service.

Mark Batho: The figure for 1999-2000 includes £11 million of underspend from 1998-99 that was applied to the Prison Service budget in 1999-2000. Underspend from the Prison Service this year, which will depend on the outturn figure, will be applied to the 2000-01 figure, which is £199.9 million.

The Convener: But the forward figures for 2001-02 show that it is expected that there will be a decrease in real terms in Prison Service expenditure.

Mark Batho: Yes, but extra money will come in in 2000-01 on the basis of money that the service has not spent this year. I take the point that

members of the committee made: that one would expect any service to spend up to the nail all the time. However, a feature of public expenditure is that that does not happen, partly because people plan not to do that as they are planning over a three-year cycle and partly because—to be blunt—there is a fear of overspending, which is a crime worse than death.

The Convener: I think that MSPs might make a plea for their office expenses and so on to be included in this interesting way of doing things.

Scott Barrie: Mr Batho, would it not have been better, given what you are saying about added-in savings from previous financial years, to have included the planned budget in the 1999-2000 figures? That would have let us see the progress that has been made. It is difficult to assess that if we do not know what the carry-forward from the previous year was. We are shown an outcome, which includes savings, which is added to an estimated outturn for the financial year that has just finished, and then we are shown the planned expenditure, but we are not told what the planned expenditure was at this time last year. If that column had been included, some of what the convener was asking about would have been a lot clearer.

The Convener: Is it possible to obtain those figures?

Mark Batho: We can get the baseline figure for this time last year. There is a complication in that that baseline shifts—additional resources might come in from budget announcements and so on. Public expenditure shifts the whole time. However, we can give you figures for, say, April 1999.

The Convener: Could we fit those in to the real-terms table?

Mark Batho: Yes, with the caveat that the figures do not necessarily represent the final baseline for 1999-2000. They will give an indication of the trend, however.

The Convener: That will give us a clearer indication of what the various underspends are in each area. If we do not know what the underspends are, we will have difficulty appreciating the extent of the flexibility in each area.

Gordon Jackson (Glasgow Govan) (Lab): I want to ask a question because I am as ignorant of these matters as it is humanly possible to be.

Does money that is underspent in a public expenditure budget always go into the next year? When might it and when might it not?

Mark Batho: There was a change of process after the 1998 comprehensive spending review, when we were suddenly allowed to keep a lot

more of what we underspend—almost everything, in fact. Previously, it went back to the Treasury.

Technically, the underspend from each area is pooled by the Executive. An underspend on prisons would not necessarily go to prisons the next year.

The Convener: We know that. [*Laughter.*]

Mark Batho: Indeed. Mr McConnell has said that his intention is that underspend should carry forward to the programme concerned, with some exceptions, such as 25 per cent being retained at the centre to meet in-year pressures. That was announced in Parliament.

The Convener: Do you mean 25 per cent of the underspend?

Mark Batho: Yes. That would be retained by the centre for subsequent distribution.

10:30

The Convener: Does that figure appear in this document?

Mark Batho: No.

The Convener: So the underspend that makes up part of these figures is net of that 25 per cent.

Mark Batho: No, because the 25 per cent proposal will come into effect for the first time this year.

The Convener: The underspend figures that we are looking at are 100 per cent, but will be 75 per cent in the future. Is that right?

Mark Batho: Yes, but that does not mean that the money disappears. It still exists and will be spent.

The Convener: But it might not be spent in the justice area?

Mark Batho: It might not. Perhaps 50 per cent would be.

The Convener: We need to be able to make a clear estimate about the figures that we are dealing with.

Gordon Jackson: Let me get this clear. In the future, will a programme that does not spend its budget be able to carry forward 75 per cent of the saving?

Mark Batho: Yes.

Gordon Jackson: And that arrangement is new?

Mark Batho: The percentage arrangement is entirely new; the ability to carry forward most of any underspend dates back a year or so. Before that, most of any underspend was returned to the Treasury.

The Convener: We would like to see the underspend figures. It would be helpful if we could get each of the figures that we are discussing disaggregated so that we can see the underspend. That will give us a good idea about departments' flexibility.

Mark Batho: We do not yet have the final figures for the underspend for 1999-2000 as the books are not yet closed.

The Convener: What are the figures that we are looking at, then?

Mark Batho: They are the latest estimates, but the figures will change as payments come through. The books do not close until the accounts are audited.

The Convener: We have seen one draft already, which was made redundant by the document before us today and even this does not give us the final figures.

Ruth Ritchie (Scottish Executive Finance Department): We can provide you with a note of the original baseline and how it changed over the years as money was added in. That was usually done through the application of end-year flexibility. We can show you that for each category.

The Convener: That would be helpful, as long as those figures fit in to table 5.2.4. Where it is possible, we would like the estimated outturn to be disaggregated. Because we have had in-depth discussions with the Prison Service, we have a clear understanding of what some of those figures will mean.

For each of those areas, what percentage is made up by staff costs—pay, pensions and so on?

Ruth Ritchie: We can provide you with that information.

The Convener: That would be useful in helping us to understand each department's flexibility.

Michael Matheson: To be honest, I am not sure whose figures I should trust. I do not whether those who must explain the estimates or those who must try to understand them have the hardest job.

Was there an underspend in 1998-99?

Mark Batho: There was.

Michael Matheson: How much was it?

Mark Batho: Do you mean in the justice programme only, or across the piece?

Michael Matheson: Across the piece.

Mark Batho: It was in the order of £300 million, which is about 2 per cent of the budget.

Michael Matheson: Will there be a continued

underspend in the 1999-2000 budget? I know that the books are not closed, but you must be able to give some estimate of the expected underspend in that budget.

Mark Batho: It is a bit early to say, but I would not be surprised if it were of the order of £300 million.

Michael Matheson: Would it be fair to say that 2 per cent is the average underspend? Naturally that average might vary in different departments.

Mark Batho: Yes, but there would be all sorts of caveats attached to that.

Michael Matheson: I am very conscious of that.

On the budget for criminal justice, social work services and victims issues, I note that there should be a real-terms reduction in the budget for 2000-01 and I am conscious that there might be an end-year saving that could be added to the figure. A written reply from Jim Wallace indicates that up to £2 million has been set aside to be rolled out throughout 2000-01 and 2001-02 for victims services. Is that £2 million included in the budget?

Ruth Ritchie: No. It is included in the end-year flexibility figure that appears in the miscellaneous column. Because that money is being held in the programme, it will be applied in-year. Previous years' savings will enhance the baseline for forward years.

Michael Matheson: I must confess that after asking my questions I am more confused. Are you saying that that £2 million will come from the end-year savings?

Ruth Ritchie: Yes.

Michael Matheson: So it is not new money.

Ruth Ritchie: It is not.

Pauline McNeill (Glasgow Kelvin) (Lab): As time goes on, we are all becoming more confused. The committee cannot be expected to scrutinise the justice department's budget in this manner. I feel that I am at a complete disadvantage—I do not have a copy of the document and I have had no chance to prepare. I am less than satisfied with what has happened. For other members and me, it is the first time we have been in a committee that scrutinises a rather large department, so I make a plea for assistance with definitions. It would be useful to have notes on definitions, for example, on what exactly is meant by end-year flexibility.

I want to ask about civil procedures, because I have dealt with issues relating to delays in the civil courts. Has any action been taken to increase the resources of civil courts to speed up the process for those who are waiting for cases to be heard? It is a matter of particular interest to me because it

has been raised by some of my constituents. I appreciate that criminal cases take priority over civil courts and that there are often cancellations in the civil courts, but civil cases are important. Some deal with personal injury and people have waited for a year and a half or two years for their cases to be heard. Will there be additional resources available for civil cases next year?

John Ewing: The pressure on the courts is the result of the removal of temporary sheriffs and the availability of sheriffs to run additional courts. Civil business is being affected, but the majority of courts throughout the country meet the 12-week target for allowing a proof to continue. When examining delays in individual cases on a constituency basis, it must be kept in mind that the parties in each case determine the timetable. When one investigates a problem, one finds often that it is the result of one of the parties in a case having asked the court for a delay, an adjournment or a sisting of the process.

One of the initiatives that ministers have announced is the recruitment of additional sheriffs—that will enable us to tackle some of the delays in the courts. The priority in deploying those sheriffs will be to deal with criminal matters, but we are conscious of the need to keep an eye on and some control over civil business. As Pauline McNeill says, that can be important to individuals.

Pauline McNeill: But will there be additional resources?

John Ewing: We are recruiting additional sheriffs and we have funded that by reallocating some of the current resources of the Scottish Court Service, among others.

Phil Gallie: Mr Ewing referred to an increase in capital expenditure next year, but if we examine the figures for 2001-02, we see that it is reduced by 50 per cent. That must cause concern to those who are looking for capital expenditure, especially in rural areas.

What impact has the European convention on human rights had on Crown Office spending? I note that £0.9 million was provided to allow you to prepare for the incorporation of the ECHR. How was that spent and, given the difficulties that have been identified, what resources are there for the future?

Andrew Normand: I think that I am right in saying that we have provided a note to either the committee or the Scottish Parliament information centre about the preparations and planning for the incorporation of the ECHR in the Crown Office and the fiscal service.

As some members will be aware, one of the problems in answering questions that seek precise

financial information is that the ECHR permeates all our business. It is difficult, if not impossible, to identify expenditure that is directly related to the convention in particular cases. The strategic plan that has been circulated to the committee makes reference to the impact of incorporation of the ECHR and to the possible further impact of the Human Rights Act 1998, which will make the procedure much easier. Our planning process has taken account of that.

We have been affected by recent High Court decisions in relation to the issue of delays. We have identified a need to strengthen our resources to assist in the preparation of some of the more serious cases, which can include complex fraud cases and child abuse cases. Strengthening our resources will enable us to meet the requirements of the ECHR, as interpreted by the court, by accelerating the processing of some such cases. We have taken account of the ECHR in our plan and, if time permits it, members might be able to find reference to it in the plan.

Phil Gallie: The plan does refer to the ECHR and to the preparation that is involved, but it goes on to say that there might be resource implications for future ECHR challenges. To a degree, the comments in the strategic plan are self-congratulatory with respect to the Crown Office's incorporation of the ECHR. The public's perception, however, is based on the fact that every other day we seem to see another challenge regarding incorporation.

You quoted £0.9 million as being part of the cost of incorporation. I would have thought that you would have had projections for the future and that you would know where exactly you would be required to spend money.

Andrew Normand: One of the difficulties is that we cannot anticipate the outcomes of challenges. Our preparations included an attempt to anticipate the nature of challenges and, in certain circumstances, we adjusted our practices to meet what we regarded as the requirements of the convention.

10:45

We have used resources for training and other preparations, but the impact of the ECHR is, to an extent, uncertain and difficult to forecast. There are areas where, if the court decided to apply the convention in a particular way, there could be serious resource implications for us. At present, we have not planned to cope with an increase in, for example, the requirements on disclosure of material, which is very expensive in England and Wales. There has been a High Court decision that recognises and approves the current practice in Scotland. However, it is always possible that the

issue will be addressed again with a different outcome. We cannot forecast what that outcome will be, so there is an area of uncertainty.

We are already aware of pressures and we are responding to them. That is why we are trying to strengthen our resources to ensure the quicker processing of some of our more serious cases.

Phil Gallie: To a degree, you have answered another question that I was going to ask on freedom of information.

You mentioned increasing pressures from the Drugs Enforcement Agency. You are looking into the future and budgeting ahead. What added burdens do you think will come from the involvement of the DEA?

Andrew Normand: As a result of the involvement of the DEA, we expect an increase in the number of serious cases relating to drug trafficking. I have a meeting with the director of the agency next week, which will help to determine more exactly just what the implications of the creation of that body are likely to be. Although part of the intention in creating the body was, as I understand it, to improve deterrence, we expect, at least in the shorter term, an increase in the number of cases that will be reported to procurators fiscal and that will require to be prosecuted at the highest level in the High Court.

Phil Gallie: What happens to funds that are confiscated? Does that money feed back into the Crown Office or into the police service? Where is that money allowed for in the budget?

Andrew Normand: Unlike the case in some jurisdictions—that of the United States, for example—the law enforcement and prosecution agencies in Scotland do not benefit from the confiscation of assets of drug traffickers and other serious criminals. Perhaps the policy on that should be considered. The proceeds go into the general kitty, as it were, of the Government.

There are arguments on both sides as to the appropriateness of the investigators and prosecutors benefiting from such money, but at present we do not benefit. The latest figures that I have, for 1999-2000, are that proceeds of crime of the order of £800,000 have been confiscated as a result of the activities of the police and the Crown Office.

Gordon Jackson: With hesitation, I am going to ask you about the legal aid figures. I say "with hesitation" because I have to declare an interest. I need to do so with some care because the last time I said that I had a small income from legal aid I was reported to the Standards Committee by a member of the public for careless use of language. I will therefore simply declare that I have an interest.

I am puzzled by the fact that, in the table giving figures over four years, the figure for legal aid is probably the only one that always goes down from year to year. The figures for the police loan charges are the only other example of that. Does the figure in the second column—the £130 million in 1999-2000—include an underspend from the previous year?

Niall Campbell: No, the legal aid budget, as you may know, is a demand-led budget, not a cash-limited budget. That means that everyone who is entitled to receive legal aid receives it. The budget figures reflect a forecast of what is likely to be required in the years ahead for legal aid. The figure does not include underspends that have been retained in the budget in the way that figures for a cash-limited budget might.

Gordon Jackson: So no underspend at all is connected with the figures in those columns?

Niall Campbell: Obviously, the legal aid budget can underspend. However, these columns do not contain an element of underspend.

The Convener: The figures will include an amount for staffing and so on as well.

Niall Campbell: Yes, that is right. The figure for running the Scottish Legal Aid Board is about £7.5 million, and there is the legal aid fund, which is the money that is actually paid out in legal aid. Those are the two components that are combined in these figures.

Gordon Jackson: The budget is demand-led, but I presume that there is some kind of budget figure.

Niall Campbell: The figures here are our best estimate of what is likely to be required in the years ahead. However, if more is required, that demand has to be met. If more people qualify for legal aid than forecast, the money has to be found. Similarly, if fewer people qualify, there will be a saving.

Gordon Jackson: What is the basis for the projection that the figures will go down over the next two years?

Niall Campbell: If you look back at the figures for outturn in the past two years, which are not provided here, you will see that there has been a fall in the amount of legal aid paid. That is principally the product of two things: the increase in the use of fiscal fines in 1998-99 and the effect of fixed fees for summary criminal legal aid in 1999-2000. Those two things have led to falls in two successive years, and the effect of those falls has been projected ahead into the 2000-01 and 2001-02 plans.

Gordon Jackson: Let me get this clear. The reason for the fall is a combination of less

prosecution and smaller payments to lawyers.

Niall Campbell: Yes. Two factors are at work.

Gordon Jackson: I am thinking of what you referred to as fixed fees.

Niall Campbell: That is fixed fees for summary criminal legal aid.

Gordon Jackson: Your projection is that the figure will continue to decrease in real terms.

Niall Campbell: It will take it down a step. It is worth noting that the fixed fee arrangements were the subject of a challenge in the sheriff courts and the decision has been appealed to the High Court. The case has not yet been heard. There is an element of uncertainty, but no allowance has been made for that in the figures.

Gordon Jackson: Has any allowance been made for the possibility of there being greater access to legal aid? I am not thinking of my own particular field of criminal matters, but of concerns that have been expressed in this committee about access to justice in non-criminal matters. Has the possibility of greater access been factored in, or do you just take things as they are at any given time?

Niall Campbell: Certain other demands have been taken into account. For example, the recent legislation on adults with incapacity will have legal aid implications. That has been taken into account, as have the recent policy decisions on immigration and asylum that might have an impact on legal aid in Scotland. A total of £3.5 million has been included in the figures for this year, and £5 million for next year, for extra legal aid that might be required in connection with cases affected by the European convention on human rights. Various additions have been taken into account.

We are very much aware, especially in relation to cases of domestic violence, of the case that has been made for changes and for improved access to justice in civil cases. The Scottish Legal Aid Board has a pilot scheme that changes the period of repayment for contributions, and we expect to hear from the board fairly soon.

Being able to move further on other changes in legal aid in civil cases in part depends on what economies can be made in other areas. Legal aid is looked at as a whole. The quick answer to your question is, yes, we know that there is pressure for more civil legal aid. Whether that can happen depends in part on what happens with criminal legal aid.

Gordon Jackson: Is there a figure for the saving, if that is the right word, that introducing a fixed fee for summary matters has made?

Niall Campbell: To give a rough figure, about £9 million or £10 million has been saved in a year

on summary criminal cases. We have only just seen the effects of the first year of fixed fees, so that is a rough estimate.

Mrs Lyndsay McIntosh (Central Scotland) (Con): I declare an interest. I am a former serving justice of the peace with an interest in the activities of the District Courts Association. I want to put on record also my displeasure at the lack of paperwork provided. Representatives of all parties have made similar comments.

Page 3 of your strategic plan for 2000 to 2003 includes a comment on fully funded diversion schemes. Will you expand on when those will be reported on and on the period over which development is likely to take place?

Andrew Normand: I am afraid that I do not have that information to hand, but I will write to the member.

Mrs McIntosh: In that case, I will press on. I was also curious about the modernising Government agenda and the steps that you are considering to develop information technology. How far down the system is that likely to go? Will it affect the district courts?

Andrew Normand: We are implementing a major project for the integration of information systems around the criminal justice system in Scotland. From my contact with prosecutors and other people in criminal justice in other parts of the world, I have learned that Scotland is ahead of many other countries on such integration. A key element of the project is upgrading the procurator fiscal service's computer system. The project is managed by the justice department, so Niall Campbell may want to add to what I have to say. We are currently developing linkages with the sheriff courts but, as I understand it, links with the district courts to allow the electronic transfer of information are in prospect.

Niall Campbell: I do not have a lot to add. We can give you more information about everything that we are doing on information transfer within the criminal justice system, which is quite a large project, if that would be helpful.

Mrs McIntosh: It certainly would be. I am sure that former colleagues sitting in commission areas will be pleased with those developments.

Page 6 of the Crown Office submission mentions responses to reports of crime. I notice that you intend to publish a prosecution code. Have you considered a disposal code as well?

Andrew Normand: I am not sure that I fully understand the question.

Mrs McIntosh: I am hinting at whether there should be some kind of routine that people follow to do away with the public perception that there is

too much disparity in the sentences handed out. I am not hinting at it; I am stating it.

Andrew Normand: I am glad to say that that is not a question for me to answer, as the prosecution service is not responsible for sentences. One of my colleagues from the Scottish Court Service or the justice department may be able to answer that.

Niall Campbell: The issue of consistency of sentencing is a difficult one. One of the main steps that has been taken is the publication of a document, which we can send to you, on sentencing profiles.

Mrs McIntosh: I have it here.

Niall Campbell: The document attempted to provide information to allow people to refer to what was happening in other courts. However, it is felt that sentences are a matter for the independent judgment of sentencers, subject to any mandatory sentences that may have to be imposed.

Mrs McIntosh: On pages 6 and 7 of the strategic plan, you talk about the Scottish partnership on domestic abuse to which you will contribute and the implementation of awareness training programmes by September 2000. Awareness training is an issue that has cropped up in the committee before. Who are you consulting on that?

Andrew Normand: I do not have that information to hand. Dr Brown may have it but, if not, we will send it to you.

Mrs McIntosh: I will expect a big postbag.

Let us move on to drugs-related crime. Have drug courts figured in the estimations?

Andrew Normand: Not in the planning for the Crown Office and the procurator fiscal service, because the creation of drug courts would essentially be a policy decision for the Minister for Justice and not for the Lord Advocate. I am aware of growing interest in drug courts. I have limited knowledge of how such courts operate, but I can see that there may be some benefits in operating them. Equally, there may be some disadvantages. Essentially it is a policy matter for the Minister for Justice.

11:00

Mrs McIntosh: Finally, I would be grateful if one of you could expand on a couple of points on page 8 of the strategic plan. First, what is the definition of "an automated service"?

Secondly, you mention that you will provide victim awareness training for legal and precognition staff. How far is that likely to go and when can we expect staff to be fully trained and

fully aware?

Andrew Normand: The plan covers a three-year period. The proposed training will start from this July and should be completed well before the end of the three-year period. Indeed, I hope that it will be completed by the end of this calendar year.

Mrs McIntosh: Will you expand on the sort of training you have in mind?

Andrew Normand: We have been liaising quite closely with Victim Support Scotland, whose assistance we are seeking in delivering the training. Equally, we will contribute to training being undertaken by Victim Support Scotland in relation to the development of some of its court-related services.

What was the other point that you wanted me to clarify?

Mrs McIntosh: The plan says that you will work with

"the Justice Department and other criminal justice agencies towards creating an automated service for the provision of case progress information to victims of crime."

That is one of the things that crops up in my postbag, as I am sure it does in the postbags of other members. I get letters from people who are aggrieved at the way in which they have been treated by the courts system and who voice their displeasure at the way in which they hear about such progress.

The Convener: Lyndsay, I do not want to pull you up, but we are supposed to be conducting a budget scrutiny exercise. This is not an opportunity for you to work through your own concerns.

Mrs McIntosh: Yes, but we do not have the paperwork to scrutinise the budget.

The Convener: I know, but you should at least make a stab at bringing your question into the broad ambit of budgetary issues.

Mrs McIntosh: In that case, by how much and when will it be completed?

Andrew Normand: The current investment in the development of IT systems, including the integrated system that I mentioned earlier, is relevant to the budget. I also mentioned the proposal for increased investment in information systems and computer technology in fiscal offices. All that will help us to provide an improved service and better information to victims and witnesses.

The pilot exercise in Aberdeen, as has been mentioned, is resource-related. Admittedly, it is a limited experiment, which attempts to improve the service provided to victims and, in more serious cases, next of kin, in that particular area.

The Convener: I have a question on potential income, which is not something that one hears much about in the justice field. Forgive me, I do not know the figure for last year, but, each year, somewhere in the region of £25 million is collected in Scotland by way of fixed penalties. The district court that collects that money gives a small percentage of it to the local authority. The remainder, which generally works out at about £17 million or £18 million, is sucked up directly by the Treasury, for reasons that have always escaped me. The money never emerges in the Scottish justice system. Are there any plans to review the fixed penalty money that goes to the Treasury, and to have it retained in Scotland? That would provide another £17 million to £19 million a year for reinvestment in the justice system here.

Mark Batho: I will answer the question on the financial matter first. I suspect that the Treasury would see that one coming. If we were to retain fines income here, there would be a reduction in the overall grant that came from the Treasury; in other words, that would be finance neutral in terms of spending power for Scotland.

The principle as I understand it—and others will correct me if I am wrong—was hinted at earlier. There should not be specific incentives for the criminal justice system to maximise its fines income; the decisions of the court should be neutral on where the fines income goes. On that basis, I do not think that there are any plans at the moment to change the present system. From a financial point of view, to do so would be financially neutral; from a policy point of view, it would introduce other incentives that would need to be considered carefully.

The Convener: Incentives must exist, as a proportion of the money is retained or goes to the local authority, although I cannot remember the exact percentages.

Niall Campbell: The local authority may just retain a handling or administration charge.

The Convener: Out of an annual sum of £25 million, the figure amounts to £6 million or £7 million, which is a considerable sum of money. Although it is spread over several local authorities and does not amount to a great deal for each, it is nevertheless retained by those authorities.

Niall Campbell: I think that we can find out, but I understand that it is a sort of handling charge. There may be ECHR implications of a court having an interest in the level of funding that it can raise—that is a recent issue.

The Convener: That would apply if the money were to be redirected back to local authorities. I was considering redirecting it into the general justice budget.

Niall Campbell: Yes.

Phil Gallie: People will be pleased that you are examining road traffic deaths and seeking to promote consistency and public confidence in their investigation. Will that be an on-cost to your budget? What will the implications be?

Andrew Normand: We have recently invested around £250,000 in the creation of a quality in practice review unit for the Crown Office and the procurator fiscal service. That unit is completing its first review on complaints against the police. It will then move on to undertake the review to which you refer, into the way in which decisions are made in cases of road accidents, particularly fatal road accidents. The investment in that unit has been made, and we propose to strengthen it by investing more in its staffing. The effects of that on policy and practice remain to be seen. There are issues surrounding the holding of fatal accident inquiries and we hope that the review will help to inform policy decisions.

Phil Gallie: That answers my question. I wanted to know whether you had budgeted to cover that element.

My final question has implications for policy, but I am asking it in the context of the budget. Current sentencing policy allows individuals to come out 50 per cent of the way through sentences of between one and four years. That must have quite an impact on Crown Office resources, given the recycling effect of repeat offenders. Has anybody considered the cost of that and tried to determine its effect on Crown Office resources?

Andrew Normand: No. We have not considered that. Niall Campbell may be able to provide information about the reoffending rate. Your point would apply not only to the prosecution service, but to the activities of the police in the prevention, investigation and detection of offences. However, the issue hinges on the impact of imprisonment on criminals and on reoffending rates, and I do not have information on those factors.

Phil Gallie: Might somebody undertake that research in the future?

Niall Campbell: Yes. We intend to publish a statistical bulletin on reconviction rates, which will provide some of that information. Information is already available on levels of reconviction after different types of sentence. You are implying that letting people out halfway through their sentence leads to extra costs in one part of the justice system; however, keeping them in longer would lead to extra costs for the Prison Service.

Maureen Macmillan: I have a question on legal aid—a subject that Gordon Jackson addressed earlier—which I ask more in hope than in expectation. You said that £9 million had been

saved in the legal aid budget, through fiscal fines and so on. Do you have an estimate of the possible cost of the changes in regulation that were mentioned earlier? For example, I am thinking about if the regulations for accessing criminal legal aid were subject to the same criteria as those for accessing legal advice and assistance. Has anybody calculated the extra cost that might be involved?

Niall Campbell: We could make some estimates, but the cost depends on take-up. It can be difficult to make such estimates.

Maureen Macmillan: Would it be possible to give a rough estimate?

Niall Campbell: It would depend on the changes that were made.

Ian Allen: To make an estimate would be difficult, as the board from which we would receive information in the first instance does not collect financial information from applicants for criminal legal aid. The only way in which to begin to estimate the cost would be to get financial information from a random sample of applicants and run it through the civil legal aid tests. That could not be done quickly, as the information is not available to test. There is no requirement to provide financial information to the board.

Maureen Macmillan: You could not make even a best guess at the cost?

Ian Allen: I would be reluctant to make a best guess.

Maureen Macmillan: I thought that that would be your answer. I really wanted to know whether there is any way of assessing whether the £9 million that is being saved could go some way towards funding a programme through which legal aid would be made more accessible to poor people.

Niall Campbell: Do you mean civil legal aid?

Maureen Macmillan: Yes.

Niall Campbell: The savings that have been made have been redeployed within the justice budget as a whole. For example, there have been benefits in relation to non-custodial penalties. The savings are not retained solely within the legal aid budget.

Maureen Macmillan: I appreciate that, but people have been saying that it would be expensive to change the regulations. I now find that the legal aid budget has been reduced, and I wonder whether that money could have been used to provide better access to civil legal aid. However, that is a policy issue.

Niall Campbell: Yes, that is a matter for the ministers.

The Convener: I do not think that there are any further questions, although there will be a lot of follow-up on the issues that we have covered. I thank our witnesses for coming along and answering our questions. I hope that the procedure was not too brutal. I am not sure that we are much the wiser at the end of it, but we will see.

I now ask the witnesses from Victim Support Scotland to come forward. I thank Elizabeth May, assistant director of finance and administration of Victim Support Scotland, and David McKenna, assistant director of operations, of Victim Support Scotland, for coming along this morning. I am sorry that you have had to wait so long, but you will appreciate that general questions have to be asked before we can begin to examine more specific issues. Furthermore, we are rather frustrated today by the fact that the figures that we were supposed to be working from are not really to hand. As a result, we have had to change some of the questions that we were going to ask. I know that Michael Matheson has some questions. I am sorry, Michael; have I just put you on the spot?

11:15

Michael Matheson: No, of course not. I suppose that I am the guilty party here. I asked for representatives of Victim Support Scotland to be invited because the initial figures indicated a reduction in funding to victim support services, although I see that those figures are now included in the criminal justice and social work services figures.

I am interested to hear your views on the present funding mechanism for victim support services, particularly the current level of funding and the projected funding. I am aware that some of your funding mechanisms are labour intensive and expensive and I understand that there are variations across the country. For example, the Data Protection Act 1998 has affected the number of referrals in some areas, which has impacted on those parts of your budget and consequently on local services. The "Investing in You" document states the intention to increase the number of referrals to Victim Support Scotland from 41,000 in 1998-99 to 48,000 in 2000-01, which obviously means that there will be an increasing demand on your services. With that in mind, what are your views on the present system of funding allocation and on the level of funding itself?

David McKenna (Victim Support Scotland): Good morning. We are very pleased to have this opportunity to bring victims' issues to the heart of Scotland.

I will deal with Michael's questions in reverse order, if I can remember them all and if we want to

finish before lunch time. On overall referral levels and data protection, around 1 million crimes a year are committed in Scotland, which means that 1 million people are directly affected by crime. Of that million, about 160,000 to 200,000 victims of crime could benefit from some practical and emotional support in the aftermath of crime. The target of 40,000 to 50,000 that Michael mentioned only begins to address the actual need.

Data protection is an important issue in giving victims access to support. About 85 per cent of referrals come through the police service, and data protection impacts on the police's ability to pass information to Victim Support Scotland about victims' needs without the express consent of the victim concerned. In the immediate aftermath of crime, it is not always appropriate to ask victims for their permission for referral. We are working closely with the Scottish Executive, the Home Office and Victim Support in England and Wales to resolve that problem, as it is having an impact on access to the service.

Michael Matheson: Is the problem having an impact on local authority funding to victim support services, which is dependent on referral rates?

David McKenna: There has been a reduction of about 40 to 45 per cent in the number of people accessing victim support in the west of Scotland, primarily in the Strathclyde area. Over two or three years, that has had a knock-on effect on the availability of resources through Victim Support Scotland to local victim support services.

As for funding, Elizabeth May can provide specific figures, but the committee might be as confused by them as I am—I came in here believing that I could add and am now beginning to think that I might need to take a new course.

Victim Support Scotland has a vision of a Scotland where all victims of crime can access high-quality service. That is not just rhetoric: we want victims to be able to access help and support as easily as they can access a post office, police station, social work office or library. Although Victim Support Scotland provides a basic minimum service—which is of a good standard within the resources available—many victim support services still operate from towers in churches and from back alleys with facilities that do not even have indoor toilets. We have a vision of reaching a point where victims receive the quality of services to which they are entitled.

This financial year, our funding arrangements with the Scottish Executive have resulted in an increase from £1.5 million to £1.57 million. Although that £70,000 was very important to us, we still raised about 30 per cent of our income from non-governmental sources. When we made a commitment to do that, we wanted to involve local

business, the local authority and the community in the ownership and delivery of our services. However, we still face substantial financial challenges in relation to our core budgets. For example, the grant award from the Scottish Executive for this financial year fell about 30 per cent short of our basic needs for core costs, such as renting of accommodation, postage, heating, light and telephone costs. We will work with the Scottish Executive and the Parliament on such challenges to find a more appropriate funding arrangement.

Ideally, we want to be able to formulate three-year plans. I was interested in this morning's discussion about carrying forward large surpluses; victim support is the only area of justice that is carrying forward large deficits. A three-year funding programme would let us know what funding we were likely to receive, which would allow us to plan and use resources more effectively.

Scott Barrie: Could Elizabeth May illustrate the different funding mechanisms in Scotland? As well as some central funding, there are local authority grants and local fund-raising. Does the same pattern hold for everyone, and do amounts vary from authority to authority?

Elizabeth May (Victim Support Scotland): Victim Support Scotland is a national organisation. It received £95,000 from local authorities in the past financial year. Furthermore, 29 area services throughout Scotland receive roughly the same from local authorities for operational development. As my colleague pointed out, although most of our money comes from the Scottish Executive, we still have to raise 30 per cent of our resources from a combination of local authority funding, income generation, fund-raising, donations and lottery board income.

It might also be worth saying that this financial year we have received a 4.7 per cent increase from the Executive, which, although welcome, is not what we had hoped for. Although the Executive funding accounts for 70 per cent of our total projected expenditure, it will pay for only 32 per cent of what we need for core provision.

In fact, on the imminent roll-out of court services, we will receive 100 per cent of the funding that we asked for. On funding for local services, we anticipate that we will receive about 93 per cent of the funding that we asked for. As I said, on core provision, we will receive 32 per cent of the funding requested, which leaves us in the position of having to fund-raise for heating, cleaning, rental and so on.

That takes our eye off the ball, when we should be looking to the development of our services for victims of crime. Members will appreciate that we

must raise funds in excess of £600,000 over and above the Scottish Executive's contribution. We anticipate that we will be able to raise £400,000 of that amount, but that still leaves the organisation with a huge fund-raising burden.

Mrs McIntosh: In your opening remarks, David, you said that you wanted victim support services to be as readily available as those of libraries, police stations and post offices. In rural areas, those are probably the most rare services that you could have picked as examples.

How much would it cost to roll out the pilot court support services to other courts and what would be the funding implications of that for Victim Support Scotland?

David McKenna: Liz will be able to give the detailed figures, but our understanding of the Scottish Executive's position is that the service for witnesses is to be funded 100 per cent. Therefore, in theory, rolling out that service should have no impact on the funding of other victim support services.

Elizabeth May: The full roll-out, which we anticipate will take place within the next two and a half years, will cost £967,000—just under £1 million.

Mrs McIntosh: Are there any points from the discussions that you heard this morning that you would like to challenge?

David McKenna: For a start, we would challenge the figures. However, it was helpful to hear the different agencies saying that there is a need to do more for victims of crime, and to hear the Crown Agent say that he is working closely with Victim Support—the Crown Office is indeed doing that. Victims are much higher up the agendas of other justice agencies than they were.

Mrs McIntosh: I am glad to hear you confirm that.

The Convener: Could you indicate the extent to which Victim Support was consulted before the exercise that has produced "Investing in You"?

David McKenna: We had no advance information about the process or the report.

The Convener: You had not been consulted on your funding?

David McKenna: We were not consulted about the report, although we had discussions with the Scottish Executive about budget plans for this financial year, for the next financial year and for the year after that. We completed that process in the past two months.

The Convener: Although you may not have a copy of "Investing in You", are those figures reflected in the document?

Elizabeth May: We downloaded the document from the internet, and so we have chapter 5, which is on justice.

The Convener: Do you have table 5.4?

Elizabeth May: The current year figure for victim and witness support is noted here as £1.3 million, which is incorrect—it is slightly higher than that.

The Convener: Is that for 2000-01?

Elizabeth May: Yes. The figure is actually £1.57 million, so the figure in the document is incorrect.

The Convener: Table 5.4 gives an outturn figure of £1.5 million for 1998-99. For 1999-2000, the table gives an “estimate”—which presumably means an estimated outturn—of £1.5 million.

Elizabeth May: Yes, that is correct.

The Convener: The figure given for plans for 2000-01 is £1.3 million, and the figure for 2001-02 is £1.3 million. What do you think is wrong with the figures?

Elizabeth May: The allocation for this year from the Executive is not £1.3 million—it is £1.57 million.

Maureen Macmillan: You receive money from the Executive and local authorities, and then fund-raise. The difficulty is getting the balance right. What is the right balance for Victim Support? My background is in Women's Aid, and I know that organisations must get that balance right. I also know that it is important to fund-raise at a local level, as fund-raising increases an organisation's profile. Could you indicate the balance that you are looking for?

David McKenna: Victim Support Scotland is not just a charity—it is a voluntary organisation that relies on the good will of more than 1,000 people in Scotland who work day in, day out, to help victims of crime. It is important to take that fact into account. Those volunteers came into the organisation primarily to help victims of crime, not to fund-raise, although many local victim support services carry out fund-raising activities for the very reasons that you mentioned, and I would encourage those activities.

11:30

The key issue for our volunteers, for victims and for the staff of the organisation is that the funding from central Government and local government together should be able to pay the core bills—heating, rent, lights, telephones and postage stamps. Fund-raising should be a tool to be used to develop services—a lot of development work needs to be done. As Liz said, we have raised many hundreds of thousands of pounds from the

National Lottery Charities Board to help development. However, we feel that the core costs—the costs that we must meet before we can open the doors—should be met by a combination of central Government and local government funding. We want to work with businesses and local communities to raise funds for additional services. For example, we should be able to pay for a flip-chart for training through core funding, while fund-raising for the video recorder. Instead, we are fund-raising for the flip-chart and the pens.

Liz, do you wish to add anything?

Elizabeth May: I agree with my colleague to the extent that we appreciate that we have an obligation to fund-raise.

It was interesting to hear from some of the other witnesses that they are considering projects to strengthen IT in their areas, as we also have to do that. We did not ask the Executive whether we should do so, but we must develop that area in order to take Victim Support into the 20th century—I am not even talking about the 21st century, as some of our local offices are still functioning without computers, far less modems and e-mail. We are submitting an application to the lottery board for £400,000 over three years for that type of work.

We also have funding in excess of £100,000 a year for our project on support after murder, which is in its final year. Therefore, it is not the case that we feel that Victim Support should be funded 100 per cent by the Executive—we are aware that we need to fund-raise. However, it is difficult to raise funds from the corporate sector or trusts for core activities; they may wish to fund a new project or initiative, but they do not want to fund an organisation's rent and so on.

Maureen Macmillan: It is difficult to raise funds for on-going expenses. I attended your seminar in Inverness on IT and on your website, which is a tremendous project. I wish you every success with it.

Do you have service level agreements in place over a three-year period? I presume that there is give and take, but how does the process work?

Elizabeth May: Some of the local authorities have service agreements with Victim Support Scotland—it is a case of negotiating those agreements with each local authority. We do not have such an agreement with the Scottish Executive. We submit three-year funding applications, so that the Executive has an indication of what we hope to achieve over a three-year period, but the only indication of funding that we get is for year 1—that is, for the current year. It would be helpful if we could know what our funding was to be for three years, to enable us to plan.

Michael Matheson: I want to ask a slightly loaded question. If you were to be provided with new funding, would your priority be to target that funding at core activities?

David McKenna: No. For a balanced approach, we must consider victim support at both local and national levels. For example, if you were to give us an additional £1 million tomorrow, the vast majority of that money would go into local victim support services, because they need funding as much as the core organisation does. The two parts of the organisation co-exist successfully, but it is important that the national organisation leads the development of local services, rather than following the development of those services. That is why it is important to have a solid core national organisation.

However, local services need money as well. Most of their running costs are met by local fund-raising. In areas such as North Lanarkshire and South Lanarkshire it is difficult to raise funds; the competition is intense, people do not have much money and there is not much business. There are real challenges for local services if we are to realise the vision of a high-quality service for victims of crime.

Michael Matheson: Is it fair to say that the majority of any new money that comes in is absorbed by local victim support services?

David McKenna: Yes.

Michael Matheson: Does funding that comes from the Executive have built into it additional funding for core services alongside local victim support services?

David McKenna: A gap has built up in core funding over the past four or five years. Although we have had an increase this year of £70,000 and some increases last year, our core budget has effectively been at a standstill for three years. That has created a gap in our overall funding.

Michael Matheson: So what is important is not only the level of overall additional funding that you require, but what it is targeted at.

David McKenna: That is right.

The Convener: I return to the figure before us. You think that you have £1.57 million for 2000-01 and the Executive thinks that you have only £1.3 million. Do you have any idea why that disparity has occurred? Is it caused by something that has happened quite recently?

David McKenna: I suspect that the information that has been brought into the document has come from a rather old source. I do not know what the sources for the document were, but I suspect that that was a baseline figure that has been around for some time. It is a little bit discouraging

that other agencies' baseline figures have been increased but the same has not happened for Victim Support Scotland. I think that £1.3 million may be what was allocated 24 months ago. Victim Support Scotland will probably get more than that; it got more than that in the present financial year. However, we have not yet decided on a figure.

The Convener: I notice that the figure is shown as £1.3 million for 2001-02 as well.

David McKenna: It was not £1.3 million even last year.

The Convener: When did you negotiate the £1.57 million?

Elizabeth May: We heard from the Executive about a month ago, so that figure has been confirmed.

The Convener: I do not think that there are any further questions. Thank you for coming to speak to us.

Judicial Appointments

The Convener: The next item on our agenda is judicial appointments. This is another consultation exercise. It was deferred from the previous meeting because the Executive consultation paper was not published in time for that meeting. Every member should have received a copy of that consultation paper now—I can see a number of copies around the place. It was published on 20 April and the closing date for consultation is 31 July. If we are to input to that consultation process, we can do so, in my view, only by appointing a reporter, as we did with the stalking and harassment consultation exercise. The committee's timetable and work programme are such that it will be impossible to deal with it at committee level in any other way. I seek the agreement of the committee to our proceeding on that basis.

Gordon Jackson: I am not entirely sure about this, but I suppose that, technically, I should declare an interest, as I am eligible for judicial appointment in a somewhat theoretical way. You might be right about timing, but how we appoint judges at every level is an important issue and a matter of huge public interest. Is there no possibility that we could deal with it once the consultation answers are in and make our views known in the light of that?

The Convener: That will be in the middle of the summer recess, Gordon. The consultation process ends on 31 July and we should input to that process within a reasonable time. The Executive is probably fairly relaxed, but I do not think that it would be relaxed to the extent of delaying matters by a month and a half or two months, which is how long it would take. The likelihood of our having a meeting between now and the summer recess at which we could reasonably deal with this is remote and getting ever more remote as we speak because of the work that is planned.

I agree that it is not ideal, but I do not see what we can achieve in the consultation process if we do not take the approach that we have already agreed for stalking and harassment, on which Pauline McNeill will be the reporter. That does not stop us coming back to the issue subsequently. This committee can enter into the process of judicial appointments at any stage. We can return to the issue when the submissions are published, if there is time to deal with it. However, if we wait until 31 July and say that we will input once we have seen the rest of the submissions, we will not be able to act until August or September.

Gordon Jackson: I thought that our input would be more important and meaningful if we made a statement, rather than simply had a reporter deal

with it as another consultee. Like the minister, we would consider all the submissions and set out our position in the light of those.

The Convener: There is nothing to preclude our doing that as well. At issue is whether we want to be part of the consultation process, as we tried during the consultation on freedom of information. At some point we may want to take a broader view on how we deal with consultation documents. We need to decide whether the Justice and Home Affairs Committee should automatically assume that it will make a submission in any consultation process or whether it can run a parallel consideration of its own, which is effectively what Gordon Jackson is proposing.

Gordon Jackson: My fear is that on this issue—it may be true of every issue—all we will get from a reporter is an individual view, rather than a committee view. This is an issue on which individuals take very different views, depending on where they are coming from.

The Convener: The reporter's job is to dig up the various issues, questions and answers and to bring them back to the committee for it to decide on. We decided what would be included in the letter that we submitted as part of the freedom of information consultation process. Ultimately, the committee decides whether it wants to accept or reject the reporter's information. I cannot see any alternative to the approach that we have agreed previously, short of not doing anything until we return after the summer recess, which I would regard as unsatisfactory. Our timetable is such that it will be difficult to find time even for a reporter to report back to the committee on this issue.

Do we agree that we should proceed in the way that I have outlined? I suggest that Michael Matheson should be the reporter on this issue.

Members indicated agreement.

The Convener: That is agreed. Michael Matheson can discuss with the clerk how best to proceed, given what is contained in the appointments document.

Future Business

The Convener: As members will recall, discussion of future business was initially intended to take up the entire meeting but has now been reduced considerably, mainly in recognition of the fact that it is highly unlikely that in the near future we will be able to do anything that appears on the list that is before us.

The document that outlined all the bits and pieces that have been suggested to us as items for future consideration was circulated to everyone. It includes all the things that members raised at the very first meeting of the committee as well as issues that have been suggested by other MSPs, outside organisations and members of the public, and some other matters that have come up in the course of our work.

11:45

We have a little bit of time, so we can discuss how we should proceed. We are in some serious difficulty as regards the forward programme. The programme for Easter to summer 2000 gives us very little leeway to take up any other matters. Members will have received a note from the clerk about future business.

Maureen Macmillan: I received the dates of the meetings only today.

The Convener: That is because the dates have been changed because of the move to Glasgow. I was given a rather peculiar grid, which I gave to Andrew Mylne in order to clarify the dates. Things have been rather difficult. We did not know whether we were spending two or three weeks in Glasgow. We have tried to shift meetings, because we cannot afford to lose them.

Pauline McNeill: On that point, why have the meetings in Edinburgh on those two Mondays? We do not usually meet on a Monday.

The Convener: Parliament is meeting in Glasgow during those two weeks. On Wednesday afternoon and all day Thursday, members are expected to be in Glasgow. We would struggle to get through to Glasgow for the Wednesday afternoon if we were meeting in Edinburgh in the morning. That would be particularly difficult for members who were planning to take part in debates. The pressure on committee meeting rooms and staffing means that we have been pushed into a Monday slot.

Maureen Macmillan: I had no idea that we would be meeting on a Monday. I have my hands full on those days.

The Convener: The problem is that if we do not

meet on the Mondays, we run the risk of losing those meetings altogether. The alternative programme that was offered to us was to have meetings that were only two hours long. That would not allow us to do our work. If we stayed on Tuesdays and Wednesdays we would lose about a third of our meeting time. We are in an extremely difficult position and one that does not suit me better than anyone else.

Maureen Macmillan: Would it not be possible to meet in Glasgow on the Wednesday morning?

The Convener: No. Wednesday mornings are being used for chamber work. The Parliament will be meeting all day Wednesday and Thursday when it is in Glasgow. That means that we would lose one of our Wednesday meetings altogether because committees cannot meet at the same time as Parliament. All the committees that were due to meet on either of those two Wednesday mornings will either have to lose those meetings or meet at other times. It is a difficult situation. In order for us to do what is expected of us, we need to have meetings in both those weeks—we cannot afford to lose meetings.

I am being advised separately that the Executive is considering having all-day Wednesday meetings for the last couple of weeks before the recess to get through all the business. We are so up against it in terms of time that we might find ourselves struggling.

Effectively, we are being asked to deal with an increasing work load in a decreasing amount of time. We are being presented with Hobson's choice.

Pauline McNeill: I use Mondays for constituency business and have appointments pencilled in until the summer. Displacing those will cause problems.

The Convener: There is nothing I can say other than that I am in the same position. The alternative would have been to reduce the meeting time of this committee by about a third.

Gordon Jackson: Why not meet on Tuesdays?

The Convener: Because we are not the only committee that would be affected by Parliament meeting all day Wednesday. All of the Wednesday morning committees will have to find some other time to meet. They cannot all meet on a Tuesday.

Gordon Jackson: One of our meetings was supposed to be a Tuesday meeting anyway. If we have a load of work that we are being told we have to do, we will have to make that clear to other committees. We should not give in to them. If anyone should get a space on a Tuesday, we should. I am prepared to say that.

The Convener: If the conveners liaison group's

decision had been adopted, we would have lost a third of our meeting time because the other committees preferred not to meet on a Monday. The only way for us to avoid meeting on Mondays would be to lose a third of our time.

Gordon Jackson: If that happened, the Executive would just have to lose a third of its business. If we are to do the work, we should be given the time. It is the Executive's business. The Executive is insisting that we deal with the legislation.

The Convener: What can I say? We will simply be told that we have the time: Monday.

Mrs McIntosh: How did you get on when you made representations to the Executive about the amount of work that is being piled on us? We are getting stuck with stuff that was not even in the Executive plan.

The Convener: The process of negotiating some kind of solution is on-going. The minute I have something concrete to tell the committee, I will do so.

Mrs McIntosh: I appreciate the difficulty that you are in, but the Executive has to realise the difficulty that we are being placed in.

The Convener: Absolutely. If the committee wants to make a stand on this point, we should discuss that now. I am not sure how we will proceed if the committee refuses to meet on those two Mondays, but I can communicate that to the Executive.

Mrs McIntosh: We have already had almost to agree that we will not be able to carry out our forward plan and examine things that we wanted to examine. The forward plan is history—we will not be able to deal with it this side of the recess. At what stage do we draw a line in the sand and take a stance? We cannot be the only committee that is getting dumped on like this, but we must be the foremost.

Scott Barrie: We could all talk about how inconvenient all of this is. We all have things planned. For instance, I had agreed to chair a conference for the whole day on one of those Mondays. However, we must appreciate the logistical difficulties associated with the Parliament's having 16 committees.

We all agree that we have an incredible work load and that there are other matters that we want to discuss. We should bear it in mind that the less time for which we choose to meet, the more we will be able to do only the business that we are given. That will be to the detriment of the committee and the way in which the Parliament works. We should be careful about taking a stance, as Lyndsay McIntosh suggested. That would be cutting off our nose to spite our face.

The Convener: For the committee's information, the breakdown of the differential work load of the committee has been done—I am grateful to whoever spent the time preparing it. It shows the marked change that has taken place and bears out members' concerns. During 1999, we spent slightly more than half our time—52 per cent—doing work on our own initiative. This year, since 11 January, that proportion has fallen to 14 per cent. Eighty-six per cent of the committee's time has been devoted to business that has formally been referred to it by the Executive or some other outside source—that figure will include petitions and members' bills.

There is no sign that that situation can improve under the present structure. That has serious implications for our proposed list of subjects for future inquiry, as well as more generally for the ability of committees to operate effectively. First, we need to consider the forward programme. Let us put the issue of meeting on Mondays aside and consider what potential there is, if we accept that forward programme, to do anything beyond what is listed, which is almost entirely legislation.

Phil Gallie: I wish to make a personal comment. Those two weeks—happily in my view—are Glasgow weeks. To come through here and go back again costs us about four hours in travel time. I probably have the scope to rearrange my diary to allow me to attend meetings on those Mondays, but not to spend four hours travelling on each day. I offer a concession from a west of Scotland point of view: provided we confine ourselves to meeting in Glasgow on a Monday afternoon, I will be able to adjust my diary. I do not quite understand the full implications on staffing of committee meetings overlapping. Is it the case that the clerk is servicing other committees? Do the problems that overlapping causes relate to space or the official report?

The Convener: There are problems with space and with the official report. Not all committees have dedicated clerking teams and many share clerks.

Phil Gallie: Do we have a dedicated clerking team?

The Convener: That is neither here nor there. The problem is the imposition on the whole work load.

There is no ideal solution. There are two options: either we meet on Mondays or we reduce our meeting time by a third during the fortnight concerned.

Phil Gallie: What about the venue for the meetings on Mondays?

The Convener: I do not know whether the question of the venue can be considered. Do

members feel happier about meeting in Glasgow?

Several members *indicated disagreement.*

The Convener: This is where we run into difficulties. The venue will not make much difference for some people.

Kate MacLean (Dundee West) (Lab): As a convener, I know that it is very difficult to set meetings by committee.

We should leave it up to the convener to do her best in the circumstances we find ourselves in. Whatever we come up with, it will not suit everybody, so we should let the convener get on with it and set the meetings.

The Convener: Says one convener to another.

Gordon Jackson: I can feel one of my turns coming on.

12:00

Pauline McNeill: An issue of principle is involved. Like Phil Gallie, I could change my diary, in exceptional circumstances, to try to fit in; I would be willing to do that. A compromise will be involved for all of us, whether or not we move venues. However, in relation to Gordon Jackson's point, we should just get this sorted out. The committee has agreed to meet every week the Parliament meets; that was a concession for many of us, because it meant that we had less time to do other things. We committed ourselves to that, but no allowance whatever is made for the amount of time we spend in the committee—we do not even get a cup of coffee. *[Laughter.]* To be serious, we get no priority in terms of meeting space, and no allowance is made for the work we do, even though we are handling more legislation than any other committee, with the possible exception of the Rural Affairs Committee.

We were due to meet on the Tuesday, and that concession should be made to us for the sake of our programme. We should not reduce the number of weeks. We were due to meet on Tuesday 16 May—that is our slot—and that should leave us with one Monday meeting, which will be an exception to the rule. We will also have additional hours when we are meeting in Glasgow. If we do not make our position clear, this will carry on for the next four years.

Meeting on the Monday is not the problem, for any of us. I could rearrange my diary for the rest of the year, but the problem arises if I am coming here on Monday, Tuesday, Wednesday and Thursday—that means four days' travel, or four times four hours. The problem is the management of our time and our parliamentary activities, not the fact that we have to meet on Mondays. The problem for me, and for others, is that we also

have to come to Edinburgh on Tuesdays for other committee meetings. We need to be economical with our time. I speak only for myself, but I can devote that amount of time to the Justice and Home Affairs Committee only if some concessions are made regarding other parliamentary committees, to give us some sort of—

The Convener: One of the difficulties is that I cannot simply sit at the conveners liaison group and lay down the law by saying, "I want it this way for the Justice and Home Affairs Committee and the rest of you can go hang." The group decides things jointly. That approach simply would not work.

I have raised, in some quarters, the need for a general acceptance of the requirement for flexibility to be built into the system to allow a committee, such as this one, to get favoured treatment in some cases. In two years' time, it might be not us but another committee that is in this situation. The difficulty is that our structures do not operate on that basis, and every other convener could—and will—have an argument about the priorities that their committee is involved in and the impossibilities that they face in timetabling their work. Members may find that difficult to accept in relation to some other committees, but those committees, and their conveners, feel exactly the same. We are in the business of competing demands, and that is extremely difficult to manage.

We must try to come up with a best scenario out of those that are available, none of which are very good for all of us. Kate MacLean knows how difficult that can be. At the conveners liaison group, I am competing with other interests, and we are not given a favoured place.

Michael Matheson: Surely a simple way of deciding whether a committee should be given precedence would be on the basis of the amount of parliamentary business that that committee is having to deal with.

It is clear that we are dealing with a lot of legislative business on behalf of the Executive, and that should be taken into account.

The Convener: That is the case, and I hope that some consideration is being given to it, but it is also the responsibility of individual committee members to put on the maximum pressure they can where they think it will be most effective. I do not need to spell that out.

Phil Gallie: The problem does not come from the other committees; the problem comes from the change in the programme of business going through the Parliament. This Parliament is a rolling Parliament: we do not have to complete all parliamentary business in any one year. If the managers of the Parliament are saying that they

want to force through business, they will have to recognise that some of their business will have to suffer in other areas. That is where the problem lies. If the committee takes a stand on that issue, we will not be having a go at the other committees, because this is nothing to do with the other committees. We will simply be saying to the business managers that they will have to consider the facilities that the Parliament was given when it was set up.

The Convener: Do members have proposals as to what—

Mrs McIntosh: I certainly do not want to turn you into a moaning Minnie when you go to the conveners liaison group, but the Executive has to realise that—

The Convener: Can I stop you right there? The Executive is not represented at the conveners liaison group.

Mrs McIntosh: Is it not?

The Convener: No.

Mrs McIntosh: Is there no way of channelling our concerns? I am sure that the other conveners share them.

The Convener: Of course there is a way of doing that—but I am not in control of the Executive's legislative agenda. No member of this committee is. Some members of the committee might have a greater capacity to exert pressure on relevant ministers than others, but I am not in control of that agenda.

If committee members want to take a stand, I need a concrete suggestion as to what that stand should be.

Michael Matheson: I stand by Phil Gallie. I suggest that we do something along the lines of what he said. Can we, as a committee, write to the business managers, and state clearly that, because of the scheduling, it is becoming impossible for us to deal with the level of business that is being passed on to us before the summer recess? It would then be up to the managers to decide what business could not be put through before the summer. It would be up to them to decide what they want to be chopped off, because we cannot deal with it all. Give them an ultimatum: decide what you want to chop off, because we cannot do it all.

The Convener: I can tell the member what the response would be: that none of the business is dispensable.

Michael Matheson: Should we suggest the things that we think the committee cannot deal with before the summer?

The Convener: I can write to the managers in

such terms, if that is what the committee wants—and I can predict what the response will be. However, I would prefer to work these things out in a less overt way.

Gordon Jackson: I do not suggest that we should write to the Executive to say that it will not get its business done. However, we are entitled to write to say: "If you want your business done, make sure that we have the facilities, the time and the place to do it." The Executive is entitled to ask for business to be done, and we are obliged to do it, but it is monstrous for us to be told that we cannot even have our Tuesday meeting. I can understand why the Wednesday meeting might have to change to Monday but, when the Executive wants all its business to be done, for us to be told that everything has to go to Mondays, that we are bottom of the list, and that there is no accommodation, is outrageous. Whoever is responsible should be told in the strongest possible terms that we are not happy.

Michael Matheson: And that we want something done about it.

The Convener: That is the harder part.

Michael Matheson: I do not want you just to tell the managers that we are not happy and them not to do anything.

Mrs McIntosh: It is not our fault that they have not tooled up for the amount of work that they want to get through.

The Convener: Whether we like it or not—and I would be the first to say that I do not like it—the Justice and Home Affairs Committee is nowhere regarded as some kind of king committee that can get its own way whenever it wants, which is how it will be seen. At the moment, the Justice and Home Affairs Committee is no greater or lesser than any other committee in the Parliament. When decisions are made, we are simply put into the pot along with all the others. I agree that that position will not be tenable for very much longer, given our work load. However, that is the position that we are in; that is our difficulty. As I have said, the Executive is not represented on the conveners liaison group.

Pauline McNeill: I think that we should go along with Gordon Jackson's suggestion: if the Executive says that it wants the work to be done, it needs to give us a wee bit of assistance. We are not asking for special treatment; we are just saying that we need the facilities. We are already putting in a lot of effort into making sure that—

The Convener: What does that boil down to? Shifting Monday meetings back to a Tuesday?

Pauline McNeill: The first thing it boils down to is that we should have that slot on Tuesday as a point of principle.

The Convener: We can try.

Pauline McNeill: How can it be demonstrated that there is a commitment to give us what we are asking for unless something shifts?

The Convener: We can try, but it will throw everything into complete confusion.

Pauline McNeill: There is complete confusion already. I will try to reschedule my appointments—as I am sure will Maureen Macmillan and Phil Gallie—but I cannot give a guarantee that that will be possible.

The Convener: Potentially, we could have exactly the same problem before the recess. I am advised informally that the Executive is considering meeting all day on the last few Wednesdays before the recess to finalise business.

Pauline McNeill: That is exactly why we should get things sorted out now.

The Convener: Therefore, at this stage we should flag up the fact that we will not tolerate being pushed into Mondays then either. I must inform members, however, that the Presiding Officer will come back with the same point that he has made to me privately—that Mondays were not meant to be constituency days; Fridays are meant to be members' constituency day.

Maureen Macmillan: I object to the lack of notice. All of a sudden, we are faced with having to cancel appointments. I would appreciate more notice.

Scott Barrie: I am sorry to prolong this discussion. I have a great deal of sympathy with what Pauline McNeill said but, if we insist on a Tuesday, those of us who are on other committees will run into problems, because they are already scheduled for Tuesdays.

The Convener: There will be huge scheduling difficulties if we dig our heels in.

Gordon Jackson: It is the existing Tuesday meeting that we want to keep, not the Wednesday meeting.

Scott Barrie: Pauline McNeill's suggestion is that, if we cannot meet on Wednesdays, we should insist that the meeting be transferred to a Tuesday.

The Convener: Pauline was saying that we were due to meet on Tuesday 16 May.

Scott Barrie: I mean for the last few Wednesdays.

The Convener: The final Wednesdays are a slightly different issue, because that is not yet a formal proposal.

We are not getting terribly far. We are spending a lot of time whingeing. We must at least have a look at the proposed subjects for future inquiry. There is also the list of petitions that are in progress, need to be completed or are yet to be discussed. The Carbeth hutters' petition can probably come off the list. The petitions from the Dekkers and Tricia Donegan can be dealt with together. The committee must also discuss the petitions by James and Anne Bolland and by a group called Concern for Justice. We also have petitions from Eileen McBride, James Ward and Contact Rights for Grandparents. Three of those petitions have yet to be discussed at any level by the committee. On others, we are waiting for responses. An instrument under the negative procedure, on the Census (Scotland) Regulations 2000, has been referred to us, and we also have a long list of issues and concerns that have been raised with us or by us during the past nine months.

At this stage, there is not much more that we can do. We can go through some of the issues and amalgamate some and prioritise others. We could say that we will not get round to some of them, but that we want to keep half a dozen on the list, or we could say now which of those issues we would want to proceed with if and when we ever got some time to do so—as members know, we can sometimes find some bits and pieces of time. Perhaps we should just pick one of them. However, we must remember that we will be trying to continue with the prisons issue.

12:15

Kate MacLean: If we had to choose one issue to consider, it should be access to legal aid. The worst way in which to be denied access to justice is through not being able to afford it. I am concerned about legal aid for victims' families in fatal accident inquiries. I was involved in a case that is now all over the press—that of the death of Amanda Duncan in Dundee, in 1997. I am also concerned about non-harassment orders, whereby women do not have access to legal aid, which puts their lives in danger.

We have heard today that the budgets are underspent, and that money would be available if the system was different, which would allow people easier access to legal aid. If we had time to consider any issue, that is probably the most important one that the committee could address.

Gordon Jackson: I have no objection to that. If one issue must be chosen, access to justice is a good one to choose. It is a big issue, however: there is much evidence to be taken and work to be done, and we would probably not be able to focus on any other issue.

At the risk of being repetitive, I would like to put on record the fact that reading the list again makes me think of what is happening. There is a range of issues that we should be discussing, and on which the committee would make a difference. This sort of committee was designed to do that, but we are being burdened with legislation—although burdened is perhaps the wrong word to use. We will become a legislative committee to the extent that we simply will not function and do the job for the Parliament and the people that the committee was meant to do. When I read the list, I become aware of that. I assume that the whole committee wants to make it clear that we are not entirely happy with that situation.

The Convener: Does anybody have any other suggestions? Scott Barrie and Christine Grahame talked about legal aid early on, and I also wanted legal aid to be addressed.

Phil Gallie: I recognise the importance of the issue of legal aid, particularly in respect of the civil implications. However, I am also concerned about another issue. The police are under scrutiny for their self-regulation, although the procurator fiscal also deals with that matter. Many people have contacted me about the Law Society of Scotland and the fact that the legal profession is self-regulating. When we consider the self-regulation of the police, we might also consider the self-regulation of the legal profession.

I agree with the point that Gordon Jackson made. It is frustrating to see on that list the issues that we should be addressing, but which we are not addressing.

Pauline McNeill: I agree with Kate MacLean that legal aid is a priority issue for all sorts of reasons, and hope that we can find time to address that. If we had to narrow our attention to one issue, I would not be unhappy for it to be that one.

We must also find a sub-issue to continue with our inquiry into prisons. If we were to leave that alone, it would not look very good. We started to prod away there, and we need to find a thread—even if it is a sub-issue—that we can all agree on, to carry on that inquiry.

The Convener: I suggest that, as we will consider our draft report next week, we address that issue in the context of that draft report. Because we have already made the decision to continue with our inquiry into the Prison Service, I have not included that issue on the list.

Pauline McNeill: I would be happy with that.

I shall not repeat what everyone else has said about the committee's timetable, but I feel that much of our work concentrates on criminal law. It is important to emphasise that the committee also

deals with civil law. Following the answers that I received about the civil courts, I intend to undertake more research. I do not think that they are meeting the 12-week targets. There are other issues that are related to the civil courts, regarding cancellations—particularly as they deal with personal injury. Civil law is an important area of the law, and minor changes need to be made to speed up the court process and ensure that people get a better deal from the system.

I realise that there is a problem of priority for now, but I would like to put the matter on the agenda for consideration some time in the future. We have to bear it in mind that we are supposed to be dealing with civil law as well as criminal law. A reminder of that would not go amiss.

Maureen Macmillan: I second Pauline McNeill's comments.

The Convener: That narrows it down to two or three potential subjects. Legal aid has received the most immediate support for discussion; given that so little time is available, it is probably academic at this stage. However, we should revisit the three issues when we have more time, whenever that might be.

I remind members that next week's meeting will be upstairs in the Hub. At least it is not as far away as the Festival theatre. For broadcasting reasons, the meeting cannot start earlier than 10 am, so we are losing half an hour. That is a logistical problem that I wish the committee did not have to be subjected to.

Phil Gallie: What are we doing then?

The Convener: There are some slight problems with next week's meeting. The Sheriffs Association has declined the offer to come and talk to us. The Law Society of Scotland is likely to send someone, but that is not yet confirmed. The Scottish Legal Aid Board cannot come to give evidence on the budget next week. This is the other problem: given the nature of the notification for witnesses for the budget scrutiny exercise, it is very difficult for people to come.

Kate MacLean: Can you clarify what you meant when you said, "The Sheriffs Association has declined"?

The Convener: The Sheriffs Association has declined to be involved.

Kate MacLean: Is it allowed to do that?

The Convener: The concern of members of the Sheriffs Association is about commenting on the budget in their position as sheriffs.

Gordon Jackson: I have some sympathy with that.

The Convener: We should note the ease with

which we can stray into policy issues, and sheriffs are of course not meant to be political.

Phil Gallie: Could we ask the police to come?

The Convener: The expectation was that we would receive evidence on the budget from three different organisations. In fact, it looks as if only one of those organisations will be able to attend. I am not sure whether we can get the police to give evidence, but we have invited lots of people and are waiting for confirmation.

We will be doing more budgetary work next week. At the moment, that is all that is on the agenda, so we might be able to discuss the draft prisons report. Some of the petitions might well get on to the next meeting's agenda so that we can clear some of them out of the way and initiate responses and so on.

The draft intrusive surveillance bill is not expected to be published until 5 May. We will have to look out for that, and members should get hold of it when it is published.

I wish to raise a point about the meeting on Wednesday 10 May. We have invited the Minister for Justice, who has told us that he can give us only one hour and that that hour can be only between 9 am and 10 am. That will also be part of the budget exercise, and we are negotiating about the time. I have to say that I do not think that the time that we have been offered is very helpful, as the whole budget exercise is being imposed on us by the Executive. It is incumbent on members of the Executive to make themselves as fully and freely available as the committee thinks necessary. Members should mark in their diaries that there is a possibility that that meeting, on Wednesday 10 May, will have to start at 9 am.

I will see you all next week.

Meeting closed at 12:24.

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