

LOCAL GOVERNMENT AND COMMUNITIES COMMITTEE

Wednesday 3 June 2009

Session 3

£5.00

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LOCAL GOVERNMENT AND COMMUNITIES COMMITTEE

17th Meeting 2009, Session 3

CONVENER

*Duncan McNeil (Greenock and Inverclyde) (Lab)

DEPUTY CONVENER

*Alasdair Allan (Western Isles) (SNP)

COMMITTEE MEMBERS

*Bob Doris (Glasgow) (SNP)

*Patricia Ferguson (Glasgow Maryhill) (Lab)

*David McLetchie (Edinburgh Pentlands) (Con)

*Mary Mulligan (Linlithgow) (Lab)

*Jim Tolson (Dunfermline West) (LD)

*John Wilson (Central Scotland) (SNP)

COMMITTEE SUBSTITUTES

Brian Adam (Aberdeen North) (SNP)

Paul Martin (Glasgow Springburn) (Lab)

Alison McInnes (North East Scotland) (LD)

Margaret Mitchell (Central Scotland) (Con)

*attended

THE FOLLOWING ALSO ATTENDED:

Bruce Crawford (Minister for Parliamentary Business)

THE FOLLOWING GAVE EVIDENCE:

John Baillie (Accounts Commission)

Tom Barrie (South Lanarkshire Council)

Tricia Campbell (City of Edinburgh Council)

Caroline Gardner (Audit Scotland)

Annie Gunner Logan (Community Care Providers Scotland)

Nick Kempe (Glasgow City Council)

Helen Morgan (City of Edinburgh Council)

Gordon Smail (Audit Scotland)

Jim Wilson (South Lanarkshire Council)

CLERK TO THE COMMITTEE

Susan Duffy

SENIOR ASSISTANT CLERK

David McLaren

ASSISTANT CLERK

Ian Cowan

LOCATION

Committee Room 2

Scottish Parliament

Local Government and Communities Committee

Wednesday 3 June 2009

[THE CONVENER *opened the meeting at 09:30*]

Scottish Local Government (Elections) Bill: Stage 2

The Convener (Duncan McNeil): Good morning and welcome to the Local Government and Communities Committee's 17th meeting in 2009. As usual, I ask members and the public to turn off all mobile phones and BlackBerrys.

Agenda item 1 is stage 2 consideration of the Scottish Local Government (Elections) Bill, for which I welcome Bruce Crawford, the Minister for Parliamentary Business. We have no amendments to deal with, but the minister and his officials must attend the committee for stage 2. Under standing orders, we must consider and formally agree to each section of and schedule to the bill and the long title. Standing orders allow us to put a single question when sections or schedules are to be considered consecutively. Unless members disagree, that is what I will do.

Section 1 agreed to.

Schedule agreed to.

Sections 2 and 3 agreed to.

Long title agreed to.

The Convener: That concludes stage 2 consideration. I thank the minister and his officials for being here.

The Minister for Parliamentary Business (Bruce Crawford): I am grateful to have been here.

The Convener: That took one minute and 19 seconds.

Bruce Crawford: That is a record.

Local Authority Audits 2008

09:31

The Convener: Item 2 is evidence on the "Overview of the local authority audits 2008". I welcome John Baillie, who is the Accounts Commission's chair; Caroline Gardner, who is the deputy auditor general and controller of audit; and Gordon Smail, who is a manager at Audit Scotland. I ask John Baillie to make a brief opening statement.

John Baillie (Accounts Commission): I thank the convener for inviting us to brief the committee on the local authority overview report for 2008. I will make a short opening statement, after which we will be pleased to respond to questions.

The overview report brings together all aspects of our local government audit work in the calendar year 2008. It covers the 32 councils and related local authority organisations, such as the police and fire and rescue authorities. We draw on the report to highlight important issues for the local government sector.

This year, we welcomed the evidence of improvement in a range of local authority services. However, we also highlighted the significant challenges that councils face from the recession and in making partnership working achieve its full potential.

Our overview report identifies six crucial areas on which councils should focus, to ensure that they are fully equipped to meet the challenges. They are: having robust performance management and monitoring; maintaining a strong best-value attitude; ensuring competitiveness of key services; giving more priority to shared services; making partnership working real and effective; and supporting the continuous development of elected members.

I will briefly highlight three key aspects of the Accounts Commission's continuing work. First, we have a programme of cross-cutting work with the Auditor General. The Accounts Commission, Audit Scotland and the Auditor General work together to ensure an efficient approach to the audit of topics that affect local government and other parts of the public sector. Secondly, the Accounts Commission has a key role in co-ordinating scrutiny, as requested by the Scottish Government. We are working with the service inspectorates and others to develop a shared risk assessment and joint scrutiny planning for each council.

Finally, we have now completed the best-value audits of all 32 councils, and are well advanced in developing our approach to the second phase—the best-value 2 audits. We will start all over again

much later this year. Those audits will be more risk based and proportionate and will focus more strongly on partnership working and on what local people have to say.

We are happy to answer members' questions.

The Convener: Thank you for that opening statement.

Jim Tolson (Dunfermline West) (LD): Good morning. Your report makes interesting if, at times, difficult reading. I am looking at what it says about single status and equal pay, on page 21. There are many concerns about those, which, I think, we all share. I would like to consider some of the detail in the report and how local authority services have been affected.

The report states:

"The delay in implementing single status continues to affect employer/employee relations and, in turn, service delivery".

Obviously, that is a great concern for the public. The report says that a Scottish Trades Union Congress survey last year

"estimated that cases have cost Scottish councils £1.6 million in legal fees alone."

How does Audit Scotland intend to monitor progress in that area? Does it believe that councils can meet equal pay and single status costs from within existing budgets and reserves?

John Baillie: I will deal with that question first and then pass it on to Caroline Gardner.

We monitor what is happening in that area quite closely. I think that, at the last count, nine councils still had to achieve full agreements. There is monitoring on a monthly basis, or more frequently, depending on what is happening. As the report says, we are concerned about the effects of not reaching agreements on morale and about the failure to reach them being a diversion from the delivery of services.

I ask Caroline Gardner to pick up the story so far.

Caroline Gardner (Audit Scotland): As Mr Baillie said, we ensure through the annual audit process that our auditors consider what progress each of the 32 councils has made and the wider impact on things such as achieving changes in people's jobs—for example, getting greater flexibility in people's work roles in return for additional money being made available, so that people receive equal pay and single status is achieved. We also ensure that the auditors consider the effect on the wider personnel function in councils. For example, we have often found in our best-value audits that councils that have managed to implement single status agreements have not made as much progress as they would

have liked on staff surveys and other aspects of personnel work because so much effort has gone into achieving single status.

We know that we are coming to the end of the process. Nine councils still have to achieve full agreements, but there is a lot of appeal work in many councils to go through. It seems important to us not only that councils keep a close eye on the provisions that they make for that, but that they do what they can to finalise implementation as quickly as possible, simply because the case law keeps changing and everything becomes more complicated every time it changes. The matter is high in the priorities that our annual auditors apply to all 32 councils. We pull things together each year in an overview report to give the committee and the public a picture of the progress that is being made.

Jim Tolson: I appreciate that information. However, you say that nine of the 32 councils still have to reach a final agreement. Good progress seems to have been made, but it seems to me and to others that the remaining councils are in danger of losing some of that progress, given the litigation that is carrying on back and forth. I am therefore not sure that, in definitive terms, we are as far ahead as you may wish to indicate that we are by saying that only nine agreements are still to be completed. I would appreciate your views on that.

In light of the problems with councils that are highlighted in the work that you have done with them, is the employees' view that the principal problem is financial recompense, or is it more a concern that, to help the budget, there may be restructuring or other approaches taken in their council that may put their jobs at risk? Real concerns exist, but what has been the major concern?

Caroline Gardner: I will deal with your first question first, on the progress that is being made. You are absolutely right. The fact that nine councils still have to reach a final agreement is a significant problem. Nine out of 32 councils is a big proportion—almost a third—and we know that the longer the risk is left open, the more difficult it will be to resolve matters, because the case law keeps evolving and the settlements that were acceptable two years ago are not acceptable for the future. Things get harder.

For those nine councils, the priority is to finalise implementation as quickly as they can, by working well with staff and trade unions. For the other councils—the ones that have settled—a problem has been the number of appeals that are still to go through tribunals. That problem is United Kingdom-wide, and we have to consider the number of cases and the capacity of tribunals to deal with them.

We are certainly not complacent about the progress that is being made. We are knocking off councils; between February and now, two councils reached implementation—Clackmannanshire Council and Shetland Islands Council. However, the remaining nine really need to carry on making progress.

On your second point, I do not think it is possible to say that one problem is more important than the other. As we all know, the financial consequences are difficult to pin down; if cases go against councils, the amount of compensation will vary a great deal, and significant numbers of people could be affected, so it is hard to be sure about the consequences. Although we cannot ignore the issue, especially in the current financial climate, the time of managers and personnel specialists is being spent on such issues rather than on all the issues that might actually help councils to overcome the effects of the financial problems that they face. For example, it is hard for people to find the time to talk to staff about more flexible ways of working or about identifying improvements and bedding them in. People's time is all taken up with contentious discussions on equal pay and single status claims. The opportunity cost of that is hard to quantify, but it seems to us that, in the longer term, it will be as important as the direct financial cost.

Jim Tolson: It is claimed that £1.6 million has gone on legal services—money that could otherwise have gone on front-line services. I am sure that we all feel that the figure will rise, unfortunately. Has Audit Scotland had any thoughts on the level that the figure may rise to?

Caroline Gardner: I do not think that we can help you to quantify that any further. We are looking at the costs incurred by individual councils, but the figure given in the overview report is clearly an estimate at this stage. The estimate that was made by the trade unions earlier this year is as good an estimate as exists, despite all the caveats that surround it.

The Convener: I seek clarification from the witnesses. The committee has heard in evidence that six councils have yet to reach an agreement. I note that you have used the phrase “full agreement”. Are the nine councils to which you referred half way or three quarters of the way through the process? Are you confident that the figure is nine, and not six, as we have heard?

Caroline Gardner: Our figure is nine, as of the end of May, which is obviously very recent. We have the names of the councils and we could compare notes with you outside if that would help.

The Convener: On the issue of legal costs, we have heard evidence that some of the claims in the system are very strong. We are anxious that

such claims are evaluated. Would your organisations have a role in that evaluation? That might ensure that no unnecessary action was taken on claims, which might assist in clearing up some of the human resources and morale problems that you have mentioned.

Caroline Gardner: Auditors work with each council on a rolling basis, and part of that work involves testing the councils by asking them what they are doing to ensure that the claims going through the system are the right ones. However, you will understand that our staff are not lawyers, and that councils take their own legal advice.

If we think that councils are either taking an unduly passive stance or are putting in efforts that are unlikely to succeed, we will have discussions with them—but we are not lawyers making judgments about individual local cases.

The Convener: Is such evaluation being done with all local authorities just now?

Caroline Gardner: We want to ensure that councils themselves are going through the process of testing that the claims in the system are the right ones. We are not evaluating the claims; we are asking the councils what they are doing to evaluate the claims.

The Convener: How many councils are involved in that?

Caroline Gardner: Our auditors are asking the question of all 32 councils, but the financial year, and therefore the audit process, has started only in the past six weeks. I cannot give you a full answer yet.

Bob Doris (Glasgow) (SNP): Good morning. Your overview report covers a heck of a lot of material for us to try to digest. In paragraph 44 on page 15, you mention the dramatic reduction in ring fencing and say:

“The reduction in ring-fencing gives councils more flexibility in how they allocate and use resources.”

There have been many discussions about ring fencing. One argument is that there should be a quantifiable saving to local authorities in relation to their procedures for reporting to the Scottish Government. Has Audit Scotland considered each local authority and tried to quantify how much it has saved because of the reduction in ring fencing and reporting?

09:45

John Baillie: I am afraid that that is another question directly into Caroline Gardner's quarter.

Caroline Gardner: The short answer is no, we have not done that. There should be some saving to councils from not having to report back to the Scottish Government on how they have used ring-

fenced funding. However, the bigger saving or improvement relates to councils' ability simply to use funds more flexibly. Rather than having to spend money on a particular set of services or staff groups, councils can think about what they are trying to achieve and the best things that they can do to contribute to that. Audit Scotland does not aim to measure that. We think that councils may want to do that for their own purposes, since the reduction in ring fencing is such an important part of what they have been asking for from Government for years.

Bob Doris: So that is not something that is likely to be in your work programme.

In paragraph 47, on page 15 of the overview report, you mention a variety of corporate and service pressures on local authorities, in areas such as class sizes and free school meals. Demands are placed on local authorities by a number of agencies, one of which is the Scottish Government. In paragraph 71 on page 19 of the overview, you say:

"There should be clear links between councils' budget-setting processes and their service planning".

Has Audit Scotland considered the service pressures and obligations on local authorities and whether their three-year rolling budgets—which are also recommended in the report—align to those service pressures and obligations?

Caroline Gardner: That issue is considered at a certain level every year as part of the annual audit work. Good financial management dictates that people should be very clear about what it is that they want to do, and they should ensure that their budgets, staff and so on follow that.

We consider the issue in much more detail as part of the best-value audits that Mr Baillie referred to earlier, which involve a far less frequent in-depth look at what a council and its partners say that they are there to achieve and how a council organises itself to achieve that. As part of that process, we have been asking each council to identify the pressures that they anticipate in future. Those pressures include demographic change, which faces all councils, and the changing economic circumstances of particular councils. Some pressures will be purely local and relate to the council's priorities. We are looking for a clear response from councils and their partners and for them to say, "We know we've got rising school rolls, which is why we're moving resources into that area. We're looking at how we can work with other organisations to meet the demand, and we're generally ensuring that we're doing everything we can to meet the needs of this community." To me, that is the value of local government, and it is what the best-value audit is designed to test.

Bob Doris: Can we expect a judgment from Audit Scotland in future that will result in all 32 local authorities aiming to align their budget process with their commitments at the national level? Is such an exercise likely to happen? I realise that there are two aspects to that. First, there is the policy aspect: does local government agree with the national objectives? Secondly, however, assuming that local government attempts to implement the national objectives, there could be two reasons why, ultimately, they are not implemented: lack of funds and poor financial planning or financial mismanagement. Our job as a committee is to discern which is which.

Caroline Gardner: To a certain extent, you can already see that in the 32 best-value audit reports that the Accounts Commission has published. Some councils—West Lothian is a good example—demonstrate very well that they move money around to meet the priorities that they set themselves. Other councils have a much more historical and traditional approach to budgeting, and it is hard to see money moving to follow priorities. I add the caveat that most of the best-value audits were done before the advent of single outcome agreements, and were therefore primarily about the things that the council and its community planning partners had agreed in the community plan.

The central focus of BV 2 is on single outcome agreements and service performance. When we get into that work, it should be much more straightforward to see whether money is following the commitments to outcomes that councils have made with their partners. We will look at that.

Bob Doris: That work will be helpful and useful. Audit Scotland's role in the process seems to be increasing.

Audit Scotland has a role in scrutinising whether local authorities are following financial best practice and aligning their budgets with their priorities, but it is also a member of the concordat oversight group. Does being a member of that group conflict with the external auditing role?

Caroline Gardner: We are conscious of the potential for conflict, which the Accounts Commission considered closely before I took up the invitation to join the initial high-level group on outcome agreements, which is now the concordat oversight group. It is an old cliché that auditors come in after the battle and bayonet the wounded. Our view was that it would be more useful for us to join the group and do what we could to ensure that the governance, accountability and reporting arrangements were robust when they were put in place, rather than to do the easy task of coming along afterwards to report that the arrangements were not good enough.

It is fair to say that the oversight group's members are conscious of the independence of the Accounts Commission and Audit Scotland. Sometimes, I step back from group discussions or decisions. Members will have noticed that the group's submission for last week's committee meeting was from the Government, the Society of Local Authority Chief Executives and Senior Managers and the Convention of Scottish Local Authorities, but not from Audit Scotland, because of our independent position.

On balance, it is much better for us to contribute to the development of the new approach than to be precious about our independence and step back from that. The balance is fine, but we think that we can manage it.

John Baillie: For a few years, the Accounts Commission and Audit Scotland have been going on about the need for councils to have proper performance management and proper performance management reporting. Those arrangements are just as valid when dovetailing them with reporting on single outcome agreements as they were before the single outcome agreements were adopted. The basic machinery must exist to provide services and to monitor the production of those services—to measure their quality and cost and whether they are delivered effectively and efficiently. Concerns have existed for some time about the extent to which councils are improving their performance management and reporting on that. The issue is mentioned in the 2008 overview report and has of course been mentioned in previous overview reports.

The Convener: Audit Scotland's name is not on the "Interim Report on the 1st Phase SOAs in 2008-09" and Audit Scotland is careful about its contact with the oversight group, but we were told last week that Audit Scotland is content with the report.

Caroline Gardner: We have made it clear that the interim report on progress to April 2009 is by the Improvement Service. The overview report says clearly that single outcome agreements are a medium-term development. Nobody would get them right in 2008-09, but we hope for and expect further development in the agreements that have just been made between councils, community planning partnerships and the Government for 2009-10. That development will continue.

Our interest is in the individual council reports that are due in September, which will start to show progress towards implementing the outcome agreements, rather than in the interim report from the Improvement Service on how far councils have gone. We know that the data should be available to start to show movement towards the outcomes. We also know that it will take years for progress on many outcomes to show, so our interest lies in

getting under the skin of the direction of travel and what councils and their partners are doing to achieve the outcomes. I would be comfortable to return to the committee next year to talk about the analysis of the September reports, in the context of the outcome agreements that have just been signed for 2009-10.

The Convener: So it was unfair to suggest that you were content with the interim report.

Caroline Gardner: It is not unfair to say that we are happy with the interim report, but that report is by the Improvement Service. Our work will focus on the individual council reports that are due to be published in September.

The Convener: We know that you have several concerns, which is why we were surprised that you could be content with the interim report, which says little in its 12 pages. We know from your "Overview of the local authority audits 2008" that you are concerned about accountability and governance, the connection with communities and the failure to understand communities. We are getting back to the crux of your involvement with the oversight group as a scrutinising body. What support and drivers are you providing to get us to a stage at which we can monitor and understand the outcomes?

Caroline Gardner: We contribute to the guidance that the oversight group has produced on single outcome agreements. For us, the most significant piece of guidance was the one that was published in February on governance, accountability and public performance reporting because it seems to us that the Accounts Commission's interest primarily lies in ensuring that all the partners involved in an outcome agreement are properly accountable for the resources that they put in and the results that they achieve. We will not be in a position to take a view on that until September, when councils and their partners report on progress on the first set of outcome agreements.

As I hope we said in the overview report, we are also clear that the process will not be got right overnight. Moving from examining individual services to examining outcomes requires quite a shift in the way that councils and their partners work, and it will take time to be able to see the improvement in many outcomes. For instance, it will take a number of years to show the improvements in the life chances of children and young people.

The Convener: Have you a view on the four bullet points that appear under the heading "Actual Outcomes" in the interim report, which last week's witnesses said Audit Scotland was content with? Have you given any advice about how those

outcomes could be better described, measured and presented to the committee?

Caroline Gardner: Yes, as John Baillie said, guidance on performance management and public performance reporting was published last year. That guidance takes a step back and considers how councils and their partners should unpack an outcome and ask what contribution each of them can make to it and what that means for the services that they provide, the money that they put in and the ways in which they engage communities. When we examine individual councils as part of the best-value process, that is exactly what we will consider. In September, we should be able to tell what is happening from the 32 progress reports from councils.

The Convener: In the interim report from the Improvement Service, we have four bullet points under the heading "Actual Outcomes". The guidance indicates that more explanation should have been given of what those actual outcomes were and how they were achieved and measured. Should you not have expressed concern that, under the existing guidance, the Improvement Service could have given us more information than four bullet points in a 12-page document?

Caroline Gardner: The concern that you express is related to timing. That report was published in April 2009, which was immediately after the end of the financial year that was covered by the first set of single outcome agreements. We are clear that, come September 2009, and increasingly in future years, councils should be able to demonstrate not only what outcome target they have set themselves but what they are doing to work towards that outcome. At this point, that information is not publicly available and it is not contained in the interim report, but our expectation is that it will become available and that the quality of information will improve as time goes on.

The Convener: With all the indicators in all the single outcome agreements, the Improvement Service took time to mention four actual outcomes, which came as four bullet points on a piece of paper. You are saying that the information to substantiate those actual outcomes is not available.

Caroline Gardner: I am saying that it certainly should be available when councils report in September on their individual single outcome agreements, and we will seek to ensure that it is available as part of our best-value work.

The Convener: So are we saying that, in September, under actual outcomes, we will have a better, page-by-page explanation and, if it falls short of that, it will not be good enough?

Caroline Gardner: We hope so. We fully accept that single outcome agreements are a long-term

process, and we will seek to ensure that councils go beyond simply stating an outcome as an aspiration to having plans and milestones for how they will get there. We will report on our analysis of the outcomes as part of the best-value audits of individual councils and in next year's overview report, which will follow the publication of those individual reports on outcome agreements in September.

10:00

John Baillie: I made a general point about the best-value process, the annual audits and the machinery of performance management, all of which support the reporting on single outcome agreements. As people become more practised in measuring outcomes, reporting and the extent of reporting will improve, as will the confidence with which people will be able to speak to the achievement of outcomes. The performance management systems and the other aspects that I mentioned will underpin that. The single outcome agreements are a particular way of focusing the Government and local authorities' main aims.

The Convener: Single outcome agreements are the key delivery measure, as I understand it. The Local Government and Communities Committee is a scrutiny committee and the Accounts Commission is a scrutiny body. Why are we not working in partnership to drive the process, so that we and, more important, the public can understand what outcomes and priorities have been set and why, and why budgets are being shifted? We are both involved in scrutiny, but you seem to be more concerned with being part of the oversight group than with your scrutiny role.

John Baillie: Let me clarify that the Accounts Commission is not part of the oversight group. As you know, the commission and Audit Scotland work hand in glove but are separate organisations, for good and proper reasons. Audit Scotland is involved in so far as it can bring its valuable expertise to the oversight group—that is why that circumstance has arisen.

Caroline Gardner: It is important that the position is clear. The convener is right to say that we have a common interest in scrutinising how well the single outcome agreements are being delivered and what effect they are having on people's lives in communities throughout Scotland. However, until councils produce their progress reports in September, it will be too soon to take a view on that. There has been a progress report on the process; in September councils will report for the first time on what they are doing. We look forward to coming back to the committee at that point to discuss the matter.

Mary Mulligan (Linlithgow) (Lab): I want to explore how authorities will develop their programmes, given the financial pressures on them. In your report you talked about the influence of local decision making in setting priorities and responding to local demands. Bob Doris mentioned the removal of ring fencing, which means that there are fewer pressures from the centre, but the concordat created national pressures. How are councils responding to the issue of national versus local pressure? How could the situation be improved?

John Baillie: It seems to me that, if the Government's aims and national priorities have been dovetailed into each single outcome agreement, each local authority will have agreed how to address those priorities in its area. The question is the extent to which the local authority has managed its affairs to enable those aims to be achieved—I think that that is what lay behind your question. How much change has been needed to achieve the outcomes that were identified in a particular local authority's agreement? Have money and other resources been organised to enable those outcomes to be achieved? We will know the answer to those questions pretty soon, because the audit season is upon us and all sorts of people are diddling away to see what is happening.

It is early days for us to be able to comment on specifics, but if a local authority and the Government have agreed a particular series of outcomes, that suggests that the resources are being managed to achieve those aims. Time will tell whether that is the case.

In the report and other Accounts Commission findings, we have commented on the need for resources to be joined up. The people, the property and the pounds must be managed as one and linked to one another, rather than kept as separate bits that somehow never meet.

Caroline Gardner: I will complement what John Baillie has said and seek to drill down a bit further.

At the beginning of this calendar year, we asked all our auditors of councils to look at what councils were doing to take stock of the financial pressures that they were facing and what they needed to do to address them. It is fair to say that we found a varied picture. It is not appropriate for me to name individual councils, because the examination was an informal look and not part of the audit process, but some councils appeared to think that, although things would be difficult, something might turn up or the situation could be managed from reserves. Others were doing a much more rigorous job of identifying the ways in which they expected income, demand for services and central Government funding to change and of setting out options for dealing with the situation.

We know that not all councils are starting in the same place in relation to the national commitments. If a council already has surplus school places and a declining population, it will be much easier for it to meet the commitment on primary 1 to 3 class sizes than it will be for councils in areas with increasing populations and rising school rolls. We expect individual councils to make assessments of such issues. We know that that work is part of a much bigger picture of changing financial pressures and forecasts of what will happen to public spending in future, but at the moment some councils appear to be doing it much more rigorously than others.

Mary Mulligan: Have the resources that have come from central Government to local authorities enabled them to deal with the demands and local pressures that you have identified, or has the money been allocated purely to meet national priorities?

Caroline Gardner: It is hard to say for sure at this stage. We know that councils face different circumstances and pressures, but until they have been through a rigorous process of examining the demands that they face and how they might meet them, and until they have discussed the matter collectively with Government, none of us will know the answer to your question.

Mary Mulligan: I suspect that I am not alone in finding it difficult to decide whether the changes that councils make are efficiencies or reductions because they do not have adequate resources—cuts by any other name. How can we understand whether a council is responding effectively and making efficiencies or whether it has problems?

Caroline Gardner: You are right to say that it is difficult to distinguish clearly between efficiencies, cuts and changes in the volume of services. A couple of years ago, we published a report on the first efficient government programme, which identified some of those problems. On the back of that, we are doing a piece of work across the public sector that will look not just at efficient government but at managing efficiencies in response to the current financial climate. That will give assurance to both the committee and the Parliament about what is happening, and it will give guidance to councils and other public bodies on how they can improve. I cannot answer the question at this stage, but we know that it is real and have work in hand that we hope will shine some light on it.

John Baillie: It comes back to the point that I made about performance management reporting and information. If that can be relied on by both senior officers and elected members, it will allow for better scrutiny and provide an answer to Mary Mulligan's question.

Mary Mulligan: My final question concerns a related matter. The report makes the point strongly that little progress has been made on sharing of services between local authorities. How could that approach benefit local authorities by allowing them to make efficiencies?

John Baillie: The Accounts Commission homed in on the issue after going through a draft of the report. We say in the report that we were disappointed to see that there has been a relatively small amount of progress on shared services. In the meantime, we have inquired further into the barriers to shared services. They include issues such as equal pay, which we discussed at the beginning of today's session. Equal pay is difficult enough to achieve within a council, but what happens if councils put together a partnership or some form of shared service and people compare the different pay rates? We sense that potential partnerships and shared service operations might be held up a little because of apprehension about that issue.

Another issue is the willingness of potential partners in any given shared service to give up a little bit of power and effective single decision making in order to share the bigger benefit. We have identified those barriers, but what we do about them is another matter. They are real human problems, and they need to be addressed.

Gordon Smail (Audit Scotland): There are fundamental issues around the definition of shared services. There are good examples in local government that have existed for many years, such as joint committees and Tayside Contracts. The focus tends to be on how councils work together to share services, but the idea of shared services also applies to the way in which individual councils bring together payroll systems. We need to consider what we mean by shared services, and look at some of the issues and barriers that Mr Baillie mentioned.

The issue of shared services seems to be at the top of the list, but we are not really getting underneath, thinking about what we mean by it and looking at the good examples of what is happening.

Mary Mulligan: I am conscious of time, so I will not explore that issue further at the moment.

The Convener: I have a question on the efficiency savings that have been made to date. If I understand you correctly, we are not in a position to assess those efficiency savings as genuine, as we do not have a means of judging that. Is that the case?

John Baillie: Are you referring to the efficiency outturn report?

The Convener: My question relates to whether we can measure what is an efficiency saving and what is a cut. We are often told that there have been efficiency savings of 2 per cent, but I gather from the answer to Mary Mulligan's question that we are not currently in a position to judge whether they are genuine efficiency savings. Is that correct?

John Baillie: That would have to be the answer if we were considering the entire range of 32 councils across Scotland. Some councils are much better at that than others. I ask Caroline Gardner to fill in the blanks.

Caroline Gardner: We know, as Mary Mulligan said, that there are difficulties in identifying and measuring what is an efficiency saving and what is a cut. In many cases, demand is increasing at the same time that costs are increasing or reducing, so it is hard to be clear about whether people are getting more for the same money or the same output for less money.

Some councils are much better at measuring and tracking that than others. The aim of the work that we are currently undertaking is, first, to get a sense of how much of the reported efficiency savings really are efficiencies rather than cuts or service reductions and, secondly, to provide guidance to councils on how they can make such changes in ways that are much more transparent to us—and, more importantly, to you.

The Convener: So if the Scottish or UK Government imposes an efficiency saving, there are no means of measuring whether that is actually an efficiency saving or a cut.

Caroline Gardner: It is not that there are no means; it is more to do with the fact that some councils and public bodies are good at tracking what else is changing so that they can show it as an efficiency saving, while others are not so good.

The Convener: But currently the easier option is to make cuts, as Mary Mulligan mentioned.

Caroline Gardner: I am not sure that council chief executives and leaders would agree that it is the easy option, but it is not possible to be clear about whether something is a true efficiency saving as opposed to a cut or a reduction.

John Wilson (Central Scotland) (SNP): Before I come to my main question, I would like clarification and confirmation that the interim report on single outcome agreements, to which the convener referred and that Ms Gardner mentioned was produced by the Improvement Service, was actually produced on behalf of the concordat oversight group, rather than just by the Improvement Service.

Caroline Gardner: I spoke earlier about the different roles of the members of the concordat

oversight group, and the committee heard last week that the core members of the group are the Scottish Government, COSLA and SOLACE. The report was produced by the Improvement Service at the request of the concordat oversight group, but we are not signatories to the report in the same way that we are signatories to the guidance. Our interest, as I said, is in the reports on progress that are due to be produced by the 32 councils next September.

10:15

John Wilson: Thank you for that clarification.

My main question is on the “Governance and accountability” section of your report “Overview of the local authority audits 2008”, which specifically refers to the role of elected members in the decision-making process. The section goes as far as to suggest that there should be continuous professional development for elected members, and the report refers to the fact that almost half the 2007 intake of councillors were new to the role. Do you acknowledge that some new and existing councillors bring skills and experience from the work in which they were engaged prior to becoming elected members—and in which they may continue to be engaged as elected members—which can aid local authorities in their decision-making processes?

Do you also acknowledge that governance issues arise from the decision-making process for single outcome agreements? In many respects, the agreements are established and agreed by community planning partnerships and not by the local authorities themselves. I would argue that that raises an issue about elected members’ governance role in the context of establishing single outcome agreements.

John Baillie: I will take the bulk of the question and others will fill in.

First, we regard elected members’ development as a key part of scrutiny. Members should be up to speed and able to dissect the information that is provided to them, assuming that it is adequate in the first place—that goes back to my point on performance, which I will not belabour. It is important that the recipient of the information knows what he or she is reading, can dissect it and thereby scrutinise and challenge. That is why members’ development is so important and why we stressed it in our findings.

As an aside, approximately half the elected members in Scotland do not have a personal development plan, but that is not the same half who are new—it is just a coincidence that the two proportions are much the same. I agree with John Wilson that we should not simply ignore the skills that new members bring to councils. The point is

well taken that they bring fresh blood and new skills.

On the governance issue, it was clear to us that the better-performing councils tend to have better and more effective corporate systems and corporate governance: one seems to be the base for the other. We did indeed make something of that in the report, because it is important that the governance arrangements are determined clearly among the partners in community planning partnerships. It must be clear who does what and when, and who is responsible. I do not apologise for reiterating that a performance management reporting system must underpin the process so that the progress of identified outcomes can be monitored. However, I agree that the governance arrangements for each partnership are critical for the effective completion of the mission.

John Wilson: Just to follow that up, it could be argued that, when you refer to continuous professional development, you are referring to the competence of elected members to deal with the issues that are before them. What do you propose to do about elected members who might be felt to have failed to participate in CPD or not to have the competence to deal with the issues on which they are asked to decide?

John Baillie: All that the Accounts Commission and Audit Scotland can do is keep drawing attention to the issue. It is fair to say that COSLA and the Improvement Service have also been considering it for some time—I think that they produced a report in 2006 that advocated some form of almost compulsory development. That issue is therefore not the territory, so to speak, of only two bodies, because several bodies are making the same point. All that the Accounts Commission and Audit Scotland can do is continue to lobby, shout about and draw attention to CPD and let others who make the decisions in the executive process take up the fight.

David McLetchie (Edinburgh Pentlands) (Con): Good morning, everyone. I was interested in the earlier discussion about your role in the concordat oversight group and the emphasis that you have placed on the importance of good governance, performance management, accounting, reporting and all the rest in relation to the single outcome agreements. Of course, the concordat is more than just the content of the 32 single outcome agreements. Will you describe how you see the accounting, reporting and monitoring process in relation to the specified set of commitments on pages 4 and 5 of the concordat and what your role is in that respect?

John Baillie: I say briefly that it starts with the foundations about which I have been speaking. I will not belabour the point about performance

reporting and so on, but instead invite Caroline Gardner to take up the question.

Caroline Gardner: Three elements of the concordat need to be properly monitored, accountable and transparent. The first element about which we have spent time speaking this morning is the 32 single outcome agreements this year between community planning partnerships and the Government. We are due to see the first progress reports on them in September.

The second element is the Government's commitment to the overarching national purpose—the 15 national outcomes. I understand that the national performance framework is the vehicle that will be used to make those outcomes transparent.

The third element is the other aspects of the concordat, including the commitments to which Mr McLetchie referred. It is a question for Government about how it intends to report progress on them. There might be a role for Audit Scotland in providing assurance on the reporting that happens, but it is not part of the work of the concordat oversight group on the outcome agreements or the national performance framework that we have spoken about this morning.

David McLetchie: I am glad to have that clarification and categorisation, which suggests to me that the concordat oversight group in this context is a misnomer, because it oversees only one of the three categories of the concordat that you just described.

My understanding is that there are no fewer than 12 bullet points to the specified set of commitments, which cover important areas of responsibility. Some contain within them a number of targets and objectives, all of which are capable of being audited, monitored and reported on. Is that your understanding?

Caroline Gardner: I agree, but with the caveat that I would reverse the order—it is necessary to first have a report that auditors can then audit. That is the case for financial statements and the single outcome agreements. There would need to be a report on progress against the commitments, and then it would be possible to audit them. We have not yet had that conversation with Government.

David McLetchie: So we need a report that we can then audit—I understand that that is the normal order of things. You might correct me, but it is my understanding that there is no mechanism to produce any annual report on progress towards the achievement of those objectives. Is that correct?

Caroline Gardner: That is a question that you need to direct to the Government. We are not

aware of an annual report. It might be that another form of reporting would be appropriate, but the starting point for audit would be the progress report that is produced by the Government, which could then be the basis for audit.

David McLetchie: I do not quite understand how you can say that you want to be proactive, which I think you said in response to Mr Doris's question, and that you should get involved at the start because there is no point in standing on the sidelines, in relation to only one aspect of the concordat and your participation in the concordat oversight group.

When it comes to the important specified set of commitments that are the crux of the concordat agreement, everybody says, "Well, it's not up to us," or, "We can't be involved in monitoring that or participating in the discussion." A curious hands-off approach is being taken, and no mechanism exists for reporting or telling the public exactly what is going on and what progress is being achieved.

Caroline Gardner: The background to your concern is the way in which the concordat oversight group was formed. You heard last week from Scottish Government representatives that the group was formed from a merger at the beginning of this year of the previous high-level group on outcome agreements with the existing concordat oversight group. Our membership specifically relates to the single outcome agreements, and I was invited to join the predecessor high-level group.

There is now a question about how the other concordat commitments will be reported on and how people will be held accountable for them, but that conversation has not yet been had. The new group was formed in February so, in some ways, it is early days. The question about how the progress on the concordat commitments will be reported has not been addressed in the discussions of which I have been a part.

David McLetchie: You say that we should address the question to the Government, but I understand that, as your report says, the Accounts Commission and Audit Scotland are independent bodies that can use publicly available information and their own inquiries to decide what to audit and report on. Is that correct?

Caroline Gardner: It certainly is correct. The best starting position for all of us is a report that has been produced by the people who are accountable for spending public money, whatever that is connected to—whether that is outcome agreements, concordat commitments or the run-of-the-mill services that bodies provide every day. An audit can then report against that. We might be in that position and, with the Government's

agreement on how the concordat commitments will be reported on, an audit can then provide assurance. If that does not happen, you are right to say that the Accounts Commission can ask Audit Scotland to do work on the concordat commitments separately, but we are not yet in that position.

David McLetchie: So the pace of your decision making is in effect determined by the Government's pace of decision making. If the Government sits back and says, "No—we won't have any annual report and we won't produce something that's capable of audit," we will lie in a state of limbo, despite the importance of the commitments, which are supposed to drive key aspects of policy nationally and locally.

Caroline Gardner: I do not think that that interpretation is fair. The first move lies with the Government. If that move is not made, audit can step into the requirement to have such assurance, but I am not sure whether we are in that position yet.

David McLetchie: Why not?

Caroline Gardner: Because we do not yet know the Government's plans for reporting on the commitments and we are only just at the stage of agreeing the second round of single outcome agreements.

David McLetchie: I can tell you the Government's plans on the basis of the evidence that the committee has heard. According to Mr Mair of COSLA, COSLA trots along every two months for a private meeting with the Cabinet Secretary for Finance and Sustainable Growth at which the commitments are discussed. No papers or outcomes are published. The rest of us sit here, completely in the dark, while they carry on their private meetings about whether they are achieving all the high-level objectives. Is that not what is happening?

Caroline Gardner: That is the current basis on which the commitments are being monitored; I do not know the Government's plans for publishing performance against them. If the public performance reporting that the commission expects of councils is not undertaken, you are right to say that audit can fill the gap. However, the starting point should be to ask the Government what its plans for public reporting are and to follow up with what might be needed at that point.

David McLetchie: The single outcome agreements are supposed to link everything together, but 15 local authorities made no reference to the target to reduce class sizes

"as quickly as is possible"

in their single outcome agreement last year.

Just the other week, the committee heard evidence from officials in Glasgow City Council, Moray Council and Perth and Kinross Council on how they were getting on with producing their second single outcome agreements. I asked them whether those agreements would contain anything about how the class size policy might fit in with the commitments and all the rest of it; the answer was no. I asked whether the Government had asked the councils to include an indicator about progress on reducing class sizes; again, the answer was no.

How have we arrived at a situation in which we have a cornerstone document with two pages of specified commitments, but no monitoring of it other than what goes on at a bimonthly private meeting from which no papers or reports are published? The Government is not telling us what is going on, and nobody is bringing all the elements together. With respect, the witnesses represent an independent audit body, but you tell us that we will just have to wait and see what the Government does. I must say that that is not the least bit satisfactory. That is not a specific criticism of you—the whole process is fundamentally deficient.

10:30

John Baillie: I hope I can clarify the issue a little. The first stage in advancing the process is for the Government to decide what it wants to be reported. If that is not acceptable, I presume that people will say, "That's not good enough—we want other things to be reported." That issue will be determined one way or another.

The second stage will be to consider the extent to which that report should be verified by independent audit. At that point, either Audit Scotland or probably the Accounts Commission will be asked to commission a report, and the matter will proceed from there. If the Government decides that it does not want the report to be independently verified, that will be an issue—and that is the issue that Mr McLetchie points to. However, for the Accounts Commission and Audit Scotland, the issue is whether either of those bodies has a statutory remit that allows it simply to decide to audit such a report.

David McLetchie: The concordat is an agreement between local authorities and the Government. All 32 councils in Scotland are, allegedly, signed up to the specified set of commitments. Is it not possible for your organisation to carry out some reporting work, irrespective of what the Government says and the time that it takes to make up its mind to do anything? We have a set of objectives, so can you not decide to produce a report this year on the progress to date on the specified set of

commitments? Can you not just do that of your own account? What do we have to wait for?

John Baillie: You are right that we could do that on the basis of deciding to do a particular report. However, I was trying to make a distinction between a report that would be under the aegis of statutory machinery—with the Government referring it to us, as it refers the best-value work that is part and parcel of the current round of regular work—and an ad hoc report that we would simply go off and do. My concern about an ad hoc approach is that it would not be ad hoc, because the work would obviously have to be done every time such a report was produced.

David McLetchie: Excuse me, Mr Baillie, but there is no such thing as every time a report is produced. There is one agreement.

John Baillie: Yes, indeed.

David McLetchie: Right. There is one agreement that has two pages setting out a specified set of commitments. That is your starting point. Everything in the specified set of commitments can be analysed and reported on within the framework of the reports that you produce on local authorities, because the local authorities have made those agreements. I do not understand why your organisation does not exercise its independent statutory powers to audit the progress on that set of commitments. The concordat might not be legally binding, but we are told that it is a politically binding commitment that has been made by all 32 councils in Scotland.

John Baillie: I have not explained very well the distinction that I was trying to draw. At present, the Accounts Commission commissions work from Audit Scotland among others on best value and the annual financial statements. The Accounts Commission is required by statute to secure that work, but there is no such provision in law for the Accounts Commission to secure the audit or review—call it what you will—of each single outcome report that might be produced annually. There is no opportunity in that context.

What I was suggesting—and it may have been what you were suggesting as well—was that there is nothing to prevent the Accounts Commission from considering whether it would be worth while, as a separate piece of work, to produce a report that commented on the single outcome reports in each case. But it would not—

David McLetchie: I am not talking about the single outcome reports; we may be at cross-purposes here. Caroline Gardner identified three elements in the concordat. I am not talking about single outcome agreements and single outcome reports; I am talking about the specified set of commitments on pages 4 and 5 of the concordat, with the commitments made by 32 councils on

what they are going to achieve in partnership with the Government—obligations that they willingly and publicly took upon themselves in areas for which they have responsibility. At the moment, there is no mechanism for reporting and therefore auditing what is going on and what progress is being achieved.

I want to establish whether it is competent for your organisation—an independent body—to take the concordat, look at the specified set of commitments, and tell us how people are getting on in implementing them.

John Baillie: I understand the distinction that you are drawing. Thank you—that has helped my understanding. No mechanism currently exists for reporting on the comprehensiveness of the commitments. I will hand over to Caroline Gardner.

David McLetchie: You say no mechanism currently exists, but I do not quite understand—

The Convener: David, we are running out of time. Would Caroline Gardner like to make an additional comment?

Caroline Gardner: I would like to add to what John Baillie has said. It is likely that we will, at some point, report on progress against the commitments. We can do that through our powers to audit the 32 councils and through the overview report that I produce, as controller of audit, at the request of the Accounts Commission.

Earlier, I was trying to suggest that it would be more productive for everybody if we were reporting against a report—produced by Government or by the councils—that showed their progress, rather than if we were reporting in the absence of such a report.

I fully accept that that does not give a clear answer on when such reporting might happen, but audit normally reports on somebody else's statement of what they have done and then provides assurance on whether or not the statement is accurate. If the Government planned to produce such a statement with COSLA, we would audit that, but, if there were no such statement, it would be entirely proper for us to consider the issues as part of our annual audit work and for me to report on them as part of my overview report. I do not yet know which route we will take.

David McLetchie: One final—

The Convener: David, we need to move on. We can also write to the Cabinet Secretary for Finance and Sustainable Growth.

David McLetchie: One final question—

The Convener: David, you missed an earlier discussion when we said when we would finish

this evidence session. Unfortunately, we need to move on, although I am sure that this issue will run and run. We will be able to write to the cabinet secretary about producing a report that would allow the witnesses to develop their work.

I thank the witnesses for their attendance this morning and for their helpful evidence.

10:38

Meeting suspended.

10:41

On resuming—

Home Care Services for the Elderly

The Convener: Item 3 is to take evidence on home care services for the elderly from two witness panels. I welcome Annie Gunner Logan, director of Community Care Providers Scotland, and invite her to make some opening remarks before we move to questions.

Annie Gunner Logan (Community Care Providers Scotland): Thank you for giving me the opportunity to come and talk about this subject on behalf of CCPS, which is a membership association of upwards of 60 of Scotland's most substantial providers of care and support services in communities. Our members support considerable numbers of individuals and families, usually under formal contractual arrangements with local authorities, using public money. Our members' experience of social care tendering encompasses home care services for older people and extends to many other areas of care where procurement is an equally significant issue, including services for people with learning disabilities, mental health problems, sensory impairment, addictions and, increasingly, children and family services.

For the past couple of years we have been working to identify and address providers' concerns in the area of services for the elderly. In our view, the main issues arise from an apparently intractable tension between two sets of policies. On the one hand, social care policy emphasises personal involvement in how services are planned and delivered so that people have choice and control over what happens to them, their services and their lives. On the other hand, there is a set of policy imperatives around public procurement that are about seeing care services primarily as contract opportunities, which are awarded in competitive tendering exercises that comply with regulations. We have been working to raise awareness of the problems that result from that tension and we have been able to galvanise some action on it, which I hope that I will be able to tell you more about as the evidence session continues. I am pleased that a committee of your stature and influence has taken an interest in this area, because there has to be a bit of a push behind the action to sort out the problems.

I sent you a number of our publications through the clerk, so I will not go over those again. I am happy to answer your questions, but before we get to that point, I thought that it might be useful if I set out briefly and unequivocally where we stand on

procurement in care and, in particular, on procurement processes in which existing good-quality services are put back on the market to be bid for by a variety of organisations. Our experience of tendering is that of bidding organisations; that is our perspective. Our members have found that, in general, procurement processes are costly and disruptive and are dominated by paperwork at the expense of any real opportunity to investigate quality or the capacity to deliver the service. Those processes are a cause of significant anxiety and instability for people who use services, their families, the workforce and the organisations that manage the service. Evidence is emerging that points to real concern about the impact of those exercises, although the evidence for the supposed benefits is a bit thinner on the ground.

10:45

Our members' experience of bidding in procurement exercises is that the procurement process is simply not adequate to assess sufficiently the quality of the service or the capacity of the bidder to deliver it. That has risks for the wellbeing of the people who will end up at the receiving end of these services, and who, invariably, get no choice in the matter. Voluntary organisations that are caught up in the retendering of services face the choice of bidding against other voluntary organisations and private companies in flawed processes or simply walking away from the people whom they have supported for, in some cases, 20 years or more.

We understand and appreciate the increasing pressure that many authorities are under to comply with procurement regulations and to make serious financial savings and we would never support the simple rolling forward of contracts for service providers that are performing poorly. However, the evidence that is emerging about the impact of the procurement process is sufficient for us to say that local authorities should not retender any more services until procedures are developed that are more appropriate to care services. That is where we would like to see the process heading and work is being done around that.

I hope that that lays on the line for you where we are coming from.

The Convener: Thank you. Before we move to questions, I give members notice that we will finish this evidence session at approximately 11:30.

Alasdair Allan (Western Isles) (SNP): You mentioned some of the tensions around the procurement process. Will you say a bit more about your member organisations' experience of electronic auctions, which was one of the most contentious issues covered recently in the media?

Annie Gunner Logan: So far, only two authorities have used an e-auction for care services: the City of Edinburgh Council and South Lanarkshire Council. No other authorities have used that process. One or two of our members participated in the South Lanarkshire process. Only one or two participated, because the starting price—the indicative price—was such that most of our members wrote themselves out of the process right at the beginning.

With the e-auction process, you bid the price down—the whole idea is to reduce the price. It is fair to say that our members who participated found the process extraordinary, particularly in the context of social care and the values to which we subscribe. The way the auction works is that you are invited to an online auction. You can see where your bid is in the ranking. You do not see who the other bids are coming from, but you can see how far up or down the table you are.

The process in which our members took part was supposed to take about 45 minutes, but it ran to about an hour and a quarter. In effect, you are bidding against the clock. Our members said to us that, as a provider, you know what your minimum price is and you cannot go below that without cutting corners.

Our worry was about the expertise of the commissioners of the service. We feel that the commissioner's responsibility is to assess the consequences of a drop in price, because the price is cut by reducing staff costs, management costs or training costs—the cut has to come from somewhere. Our view was that in a process where providers bid against the clock, the commissioners would not really have the capacity to assess the consequences of the cut in price before the auction was closed. There has not been another e-auction. It is already a slightly discredited process in some respects.

Some of the issues around e-bidding and e-auctions are the same as those in a paper tendering exercise that does not have the electronic element. I would not want the committee to focus all its attention on the evils of e-auctions, because some of the same problems exist in more regular tendering.

Alasdair Allan: Indeed, I do not want to focus all our attention on e-auctions, although they sound a bit like eBay in reverse—

Annie Gunner Logan: That is exactly what they are.

Alasdair Allan: Can you say a bit more about those two e-auctions? Did your member organisations start with a bid that was higher than what they anticipated the final price would be? You mentioned the dangers of cutting corners. What calculations were your member

organisations making during the hour and a half—or whatever it was—that they had? What corners were they cutting?

Annie Gunner Logan: Our members made their calculations beforehand, which is why a number of them never entered the process in the first place. If we come on to consider how the unit costs of voluntary organisations differ from those of services that are provided in-house, we can discuss that further.

The starting price for the South Lanarkshire Council auction was, I believe, £11.75 an hour. The purpose of the e-auction is to reduce that price by encouraging providers to bid against each other. The local authority sets the amount—it was chunks of 5p or 10p, I think, in the South Lanarkshire auction—by which bids can be reduced. Therefore, any provider that enters such a process needs to know already where its bottom line is. Obviously, the higher the price, the more that a provider can do with the money; the lower the price, the less that it can do. The provider has the responsibility of understanding what its cost drivers are, so if the price goes below £10 an hour—as happened in the South Lanarkshire auction—the provider needs to understand what consequences that would have on its service. My point is that the authority that is running the auction should also have the responsibility of understanding what those consequences are. However, that is not really a reasonable proposition when people are working against the clock like that.

Alasdair Allan: From the point of view of your organisations, how does £10 an hour compare with what would be considered to be the going rate, or a respectable or reasonable price? Is £10 an hour an abnormally low figure?

Annie Gunner Logan: Yes. For our members, that would certainly be the case. For voluntary organisations that provide home care services, the mid-range price would be somewhere between £14 and £18 an hour, depending on the needs of the individual and on the required skills mix, such as the level of qualifications and the level of management supervision. Obviously, the more support the individual needs, the more resources we need to put behind that. For in-house services—home care for the elderly is still pretty much dominated by in-house council teams—our information is that local authorities would struggle to go below £20 an hour. It would be north of £20 an hour. However, for some home care services for older people that have been tendered—including the South Lanarkshire auction—the starting price has dropped below the level at which the majority of our members would enter the competition.

Alasdair Allan: Obviously, the South Lanarkshire Council area includes some reasonably rural locations. To what extent are you confident that e-auctions—and procurement processes more generally—take into account the driving times and distances involved? The fact is that a lot—as it is rather uncharitably called—in Clydesdale might be rather more difficult to get to than a lot in the city.

Annie Gunner Logan: Absolutely. The expectation is that providers will build that into the hourly rate in their bid. Highland Council currently has a live home care tender and such issues will obviously be a terrific consideration for any providers that submit a bid. Up in Sutherland and so on, such issues really need to be taken into account. The expectation is that providers will build that into their rate for the job.

The Convener: You said that you do not want to reduce our inquiry to the issue of e-auctions, but is not a danger of e-auctions that people might get caught up in the process and go below the level that they think is best?

Annie Gunner Logan: That is the risk, certainly. For many organisations, and for private sector companies in particular, this is their business and their livelihood. When I have talked to people who have been involved in any e-auction—admittedly, I have seen only a dummy run and have not personally participated in an e-auction—the words “frantic” and “panic” have been used. People are absolutely against the clock. They are bidding for services that are being retendered. That means that the business already exists and is not a new service that has developed, so people are not simply growing their organisation. In effect, they stand to lose the business of providing those services, so the sense of needing to hang on to them is probably quite significant.

The Convener: You also said that there have been only two or three e-auctions. Is there an expectation that people will not engage in them or that they will not be used in the future?

Annie Gunner Logan: I cannot speak for local authorities, but I suspect that, because of the level of concern that there has been about the e-auctions that have already taken place, and some of the publicity that they are attracting, there is a feeling among local authorities that they do not want to go there. As far as providers are concerned, if an e-auction is set up and that is how funding is to be acquired, then providers will respond to it. However, as I said, the starting price is might knock out a lot of organisations right from the off.

The Convener: Would it be useful if it were stated that the practice is morally repugnant and

that care services should not be traded like cheap jewellery?

Annie Gunner Logan: That would certainly be my view.

The committee might not be aware that, last August, the Scottish procurement directorate produced a policy note on social care procurement—I can give the clerk a reference for it if you have not seen it. It says that local authorities should consider the idea of e-auctions with “extreme caution”, which I understand to be civil servicespeak for “don’t do it”. The directorate is not saying “don’t do it” in so many words, but it is being pretty harsh.

The Convener: Perhaps we need to be absolutely clear about that.

Annie Gunner Logan: Yes.

John Wilson: We have focused on e-auctions, but I understand that other local authorities are engaged in bidding down, which involves them setting a figure and contractors bidding below it. How does that run in relation to the voluntary sector? Community Care Providers Scotland, which represents many members, talks about full cost recovery for the services that are provided. However, is there not a contradiction between your members asking for full cost recovery on the one hand and, on the other, having to bid for contracts at a price that does not match what they would expect the full cost of the service to be?

Annie Gunner Logan: That question helpfully draws out some of the issues.

There are two ways of dealing with full cost recovery. You either set your full cost at a certain level and then run at a deficit, or you set your full cost at a lower level and make savings in the organisation in order to achieve that. When you are talking about dropping prices for care services, the kind of thing that you are talking about would involve negotiating staff pay and conditions downwards and closing final-salary pension schemes—that has happened in most voluntary organisations, which now have employer contributions of around 6 per cent, compared with around 17 per cent and upwards in local authorities. It would also involve stripping out layers of management, so managers would have oversight of more services.

Any number of things can be done to make the full cost manageable within the context of a competition that is based on finance. Our point is that there has to be a limit on that somewhere. The difficulty that we have is that, in care services, there is no floor, apart from basic legal protections around the minimum wage. Starting in 2012, there will be a requirement for employers to pay a certain pension contribution, which means that

those that do not currently do so will have to deal with that in three years’ time and build that into their full costs.

In nursing, teaching, police, the fire brigade and all the other public services, there is a minimum level for pay and conditions, but that is not the case in care. Full cost, therefore, is whatever the organisation says that it is. That is where we have a problem.

11:00

I think that the point that you are making is that we should perhaps say, “We want £17 an hour for this and we will not go any lower, because that is the full cost of a decent service.” Organisations have been trying to do that, but the downward pressure in the competitions is such that organisations now have to consider their costs very seriously. There is nothing wrong with stripping out waste—no one is arguing that organisations should not try to be more efficient and economical—but we are getting to a point at which the situation is just getting silly, because you cannot deliver anything approaching a quality service for £10 an hour or thereabouts.

Care services were supposed to be moving towards greater consideration of outcomes for people rather than inputs, which would mean that, instead of counting how many teaspoons we have in the drawer, we will consider the value of what we are achieving for people. Costing services in which there is no floor or protection, particularly with regard to pay and conditions, is risky.

John Wilson: The converse to that is the quality of the service that is delivered. The “Panorama” programme on the services that Domiciliary Care (Scotland) Ltd provided showed that the quality of care and attention that the end user was receiving was disgraceful. Some of the service users were not receiving a service at all and others were receiving scant attention, contrary to our expectations of what level of service should be delivered to people in a civilised society.

Do your members have concerns about how we treat the end users of the service? Alasdair Allan mentioned that people are seen not as human beings but as lots in a bidding process that is designed to deliver a service at the lowest cost value that is possible. Do you see any contradiction in relation to the local authorities’ stated aims of best value for the services that they are supposed to deliver?

Annie Gunner Logan: There is an absolute contradiction.

Your point about the terminology is well made. That has been of concern to our membership ever since we first saw the words written down. “Lot 1—

56 people with a disability; Lot 2—35 people with a disability. The authority reserves the right to hold an auction in relation to these lots.” That is not the business that we are in, and that is not the language that we should be using. Services should not be described as commodities.

In my opening statement, I spoke about the different policy tensions that we are dealing with. Public procurement policy encourages all that kind of stuff, and social care policy is the polar opposite of it.

Your initial point involved service quality. I saw the “Panorama” programme, and I thought that it highlighted a massive issue of training, because the people who were providing the support could not meet the needs of the people they were dealing with.

The programme also showed the short amount of time that people have in which to provide the service. There is a big issue around the commissioning process, which looks for 15-minute slots for visits, particularly in relation to old people’s home care. We ask whether it is feasible to support a person and respond to their needs in a 15-minute slot. The general view of our members is that it is not.

Patricia Ferguson (Glasgow Maryhill) (Lab):

How does an organisation get onto a tendering list, whether it is an e-tendering list or a general tendering list?

Annie Gunner Logan: Current procurement policy means that a lot of tenders are open. Organisations used to be on an approved providers list, which involved their having to jump through various hoops in relation to their legal and financial standing, their experience and so on. However, that is being phased out, and the new procurement process uses a compliance process to do part of the same work.

We examined 14 tendering exercises in Scotland for the survey report that you have seen, and 13 of them used an open/restricted process, under which all comers can put in an expression of interest and then fill out a pre-qualifying questionnaire or PQQ, which knocks out a number of organisations from the off. The questionnaire asks about the provider’s accounts, whether it is a viable organisation, whether it has the appropriate insurances, whether it is registered with the appropriate regulatory bodies, and so on. If it does not pass that stage, it will not go on to the next one, which is the invitation to tender—it is at that stage that the provider is invited to bid for the service.

The provider gets the contract specification and information on the standards that it is expected to meet, and it is then invited to fill in the questionnaire to tell the authority how it would run

the service. A score is attached to each element of the questionnaire. I spoke to a provider the other day who was involved in an exercise recently, and he said, “We were just asked to write essays. How would I deliver the contract? I would deliver it like this. How would I respond to this scenario? I would respond like that.” The problem is that there is no process of independent verification of what the provider says. Their questionnaire is scored based on what they say. We have a problem with that. That is how procurement processes for paper clips work, but it is not the right approach for care services. We need independent, objective evidence to test the provider’s capacity to deliver what they say they will deliver.

The provider is scored on its quality documentation, and it also receives a score for the price, which it is required to give. Local authorities have different approaches to that. We have seen exercises in which 80 per cent of the score related to quality parameters and 20 per cent to price, and we have seen exercises where only 30 per cent related to quality and 70 per cent related to price. Exercises happen every which way, depending on the tender and how the authority has chosen to set it up. The City of Edinburgh Council’s approach is for 70 per cent of the score to relate to quality and 30 per cent to price.

It then becomes a kind of adding-up exercise. The authority ends up with its list of front runners—the providers that have the highest scores. At that point, some authorities invite the providers in for a clarification meeting, a presentation and an interview, at which the authority can test and probe things a little, but, again, the approach is, “I will ask you a question and you will answer it.” The lack of independent, objective evidence to back that up is a serious issue.

Patricia Ferguson: I do not want to put words into your mouth, but given that that is the situation, I wonder whether the committee can be confident that all those who provide services as a result of tendering for them are fit and proper organisations that have fit and proper systems and provide appropriate levels of care.

Annie Gunner Logan: There are no nationally agreed parameters for that. The authority or department that constructs the tender sets its own parameters to define a fit and proper provider and it will have its own processes to determine the accuracy of the information that it receives. We are saying that that process is flawed, so I suppose the short answer to your question is, “Probably not.”

Patricia Ferguson: If a care provider is changed as a result of whatever process is used, how is the transition managed? I realise that there could be 32 different answers to that, but in

general, is care taken to ensure that the transition from one provider to another is as seamless as possible?

Annie Gunner Logan: Providers do what they can to facilitate that, but it is not always easy. A big difficulty is the fact that the people involved are not included in the decision. Sometimes, they are not even aware that the support that they receive is being retendered and put back on the market. Some of our members have actually been instructed by the authority not to tell people that a change is taking place. The intention behind that is to reduce anxiety, but there are other ways to do that, and not telling people what is going on is not an especially effective way.

Providers strive to make transitions as smooth as possible, but it is an enormously costly exercise. Our members will tell you that many months of management time go into managing that process. The biggest single headache is the Transfer of Undertakings (Protection of Employment) Regulations. In fact, TUPE offers fairly minimal protection to staff who transfer from one organisation to another. Most providers will tell you that it is an absolute nightmare. Most local authorities take a completely hands-off process for it. They say that TUPE is an issue for "all of you lot" to sort out after they have reshuffled the pack. One comment in our survey report, from a service manager, was that the transfer process took up time that should have been spent improving service, developing capacity and improving outcomes for people. Instead, managers were tied up in a massive nightmare of sorting out TUPE, in some cases for months and months after the actual transfer.

Patricia Ferguson: We would all like the users of the service to be able to input into the decision making, although I realise that that would be a big and complicated ask. Do you think that we can at least imagine that we might get to that stage?

Annie Gunner Logan: I do. We have a sort of fantasy commissioning model—it has yet to appear in physical form. If there could be a competition involving an authority trying to select providers for personalised services and offering people choice, control, high quality and so on, that would be the gateway into the approved provider's framework. Individual service users and their families could even have their own contracts under the framework. That is where we are going when we talk about self-directed support. We are a very long way from that, though—that is why I call it a fantasy commissioning model.

Such a model would be an interesting way to go. I do not think that there would be a problem with retendering if it were the individual who was expressing opinions like, "This service isn't up to much," or "I'd rather have something else that was

different or better." If that were the trigger for a retender, we would not have anything to complain about. Those people are our customers. At the moment, all the decisions are being taken over their heads.

It is certainly possible to involve people in the process, but it would be time consuming and costly. The Scottish procurement directorate's advice to authorities is that they should not really be retendering if the cost of doing so is disproportionate to the likely outcome—to the savings that will be made and to value of the contract. Investment by local authorities in consulting and involving service users before launching retendering exercises would have an interesting bearing on that advice.

Jim Tolson: A number of concerns have been mentioned. Thank you for your report, in which you clearly state at the start that

"competitive tendering is a 'fact of life'"

for your member organisations. That is appreciated. However, I ask you to outline, in a broader sense, what you feel the benefits of the tendering process are. Where does it work well? There will possibly be some cases where it does not. Forgive me if you do not have this before you, but the committee was given some information last week in relation to a petition with the highly unexciting name of PE1231.

Annie Gunner Logan: I know it well.

Jim Tolson: The petition made suggestions about various aspects of tendering, including the idea of five-year budgets. Would that be likely to have a positive or a negative effect? What particular changes could such an approach make regarding the salaries and conditions of people who provide the service?

11:15

Annie Gunner Logan: I am probably the wrong person to ask about the benefits of tendering, given our position. It can have benefits where there is a poorly performing service. A process can be opened up that enables better-quality providers to come in and do something different and more supportive. Tendering can have some benefits for local authorities, which might want a more economic or efficient provider to come in, and which could make financial savings.

Our position is that how procurement processes are currently conducted means that the risks outweigh the benefits. The petition that we and our partner organisations submitted considered the matter. If some of the proposed measures were introduced, it would make the competition much more exciting, as we would be competing on quality, rather than endlessly competing on cost.

The point about five-year contracts is to introduce stability into the progress. As I think I mentioned, our members have sometimes been supporting individuals for 25 years and more, working with the same family. The disruption that is caused when a perfectly good service, which everybody is happy with, is put out to tender in order to shave another 50p off the hourly rate seems to indicate that that should not be the way forward. Our pitch was for five-year contracts for public services as a minimum. In some cases, contracts could go beyond that.

The Scottish procurement directorate's policy advice discusses the possibility of lifetime contracts in some cases, for instance if somebody with a learning disability will clearly require support over the course of their life. Why would we retender that service and, potentially, change the provider every three or five years? That goes back to what John Wilson was saying about treating people as commodities, passing them from pillar to post and causing disruption on a cyclical basis. That is where the idea of a five-year contract comes from.

The question of parity in pay and conditions is really interesting. Way back in 1991, which is when the National Health Service and Community Care Act 1990 was just coming in, the Scottish Council for Voluntary Organisations and pretty much every local authority signed up to a code of practice, in which they said that they would endeavour to pay voluntary organisations that were providing public services on behalf of authorities sufficient funds to enable them to keep up with local authority in-house direct rates, including pensions.

I can read this out, in fact. "Community Care Contracting: A Voluntary Sector Code of Practice" is almost an historical document now, but it is very relevant. It says:

"Employees in the voluntary care sector need to be employed on terms that reflect their responsibilities in comparison with their statutory sector equivalents. This will help discourage discontinuity of service through excessive labour mobility".

The code also said that it was "sensible to adopt" that approach

"because it will avoid the need for a myriad of locally negotiated arrangements and the creation of a new class of low paid employees if competition brought wage rates down."

That is precisely what has come to pass, in fact. Now, authorities will fund the voluntary organisations that provide services to a much lesser degree than they will fund in-house services. For us, that in effect creates what our colleagues in the unions call a two-tier workforce.

Jim Tolson: I wish to challenge a couple of points. You said that the benefits of the tendering process come where a service is performing poorly. I understand that, but is that the only reason why an authority might wish to retender at any time? Are there other reasons for doing that?

On the point about five-year contracts, which is covered in the petition, given that a lot of budgets are on a three-year cyclical basis, would it not put things out of kilter to have some services tendered through local authorities on a five-year basis? We will be coming to it fairly soon—some local authorities will have four-year, or possibly five-year, terms. It might make budgeting much more difficult if some services are being provided according to a totally different timescale. Do you agree?

Annie Gunner Logan: Yes. We raised that issue with the Public Petitions Committee.

A local authority can be pretty sure that certain groups of people will need support not just for three years but for 30 years. I am talking not about people who need short-term intervention but about people who have long-term disabilities and conditions that will not go away. Those people will require support throughout their lives. It seems to me that an authority must realise that such individuals will always need support, so the more stability that can be introduced into the support arrangements, the better. Even though the authority gets its budget in three-year chunks, it knows that a proportion of the budget will have to be devoted to those people, because they are not going to go away. I agree that five-year contracts might be out of kilter with three-year budgets, but I would argue for even longer periods, in some respects.

Jim Tolson: Many adults require long-term care. It would be unfair to suggest to a local authority or other provider that care must be provided by the same people or organisations for the whole period. The ability to review the cost and quality of services must be built into the system.

Annie Gunner Logan: That is true, which is why there must be performance review, contract monitoring and so on. I do not suggest that an authority should give an organisation a contract and then wander off and never trouble it again.

The trigger for retendering should be the performance of the service. You asked about other reasons for retendering; in our view, the predominant reason is to save money. Retendering is mainly happening to save money or to comply with regulations and is not really about the performance of the service.

In the west of Scotland recently, about 200 staff in learning disability services were TUPE-ed over to a different provider on the basis of a difference

in score of 1.5 out of 100. The scoring process was not particularly robust, for all the reasons that I talked about. The people concerned were not consulted, there was huge disruption and significant costs were incurred. The original provider had had no problems. The authority had told it that it was doing fine, the users were happy, user feedback information was good, there were no complaints, and the performance and quality issues that were described on “Panorama” had not arisen. A perfectly good service changed hands on the basis of a score difference of 1.5 out of 100. That needs to stop.

Mary Mulligan: When I watched “Panorama”, I was struck that, after the tender was awarded, nobody checked how the service was being delivered. Did that surprise you, too? In response to Patricia Ferguson, you said that providers say what they will do, but how they deliver services in practice might be different. Do your members comment on the evaluation and monitoring of services? Can the process be improved?

Annie Gunner Logan: Every authority is different, although there is no doubt that intense financial scrutiny of performance is universal. As you said, scrutiny of quality can be less intense. I remember a discussion at the Health Committee in the previous session of the Parliament, when Duncan McNeil was a member of that committee. We were considering the work of the Scottish Commission for the Regulation of Care and we were concerned that some local authorities were almost duplicating the work of the care commission. A little bit of that still goes on in some authorities; in other local authorities monitoring is minimalist.

A service can be monitored in a number of ways after the contract has been awarded, but my view is that, in the procurement process, the local authority must ensure that a provider has a decent system of internal audit and scrutiny and a quality assurance system, so that it can be trusted more. Currently, that does not happen enough in procurement. That means that we must rely on external systems such as the local authority’s contract monitoring and care management—care managers are supposed to look after and monitor individuals’ care packages. There is also the regulator. Any number of people, including local general practitioners and community nurses, could, if necessary, complain or blow the whistle. I watched the “Panorama” programme as a viewer—I was not involved in the process as a professional. It seemed to me that any number of monitoring roles could have but had not been activated.

We have a choice with procurement. If we develop a procurement process that tests a provider’s capacity to deliver, quality assurance

and internal audit, we can be reasonably confident about what will happen afterwards. If we use a procurement process that does not do that adequately, we must sit on top of the provider and make absolutely sure that everything is complied with to the letter. We prefer the first approach, as we think that it is more cost effective than the second.

Mary Mulligan: You mentioned a number of ways in which contracts should be monitored, none of which seems to have been used in the example that we are discussing. At the end of the day, the service user needs to be empowered to make complaints, which has not happened. How can we improve the process?

Annie Gunner Logan: CCPS has done a lot of work with members on how to develop and finesse quality audit and assurance systems in organisations. We believe that the quality of the service is the provider’s responsibility; the commissioner’s responsibility is to figure out which providers will take the issue seriously. In our view, the procurement process does not do that adequately.

The system must be based primarily on user feedback. A number of things can be done in that area. It is necessary to go beyond the six-month satisfaction survey and to have a system that responds constantly to what people are saying about the service. The provider must not be frightened of comments from users and must act on them. Any number of jargon terms, such as total quality management and continuous improvement, can be cited, but that is the essence of what must be done. If we had a procurement process that tested our capacity to respond to user feedback, we might end up with some different consequences.

David McLetchie: In recent years, when CCPS members have taken over service provision from councils as a result of a tender process in which they have won, has that resulted in a drop in the standards of care provided to clients?

Annie Gunner Logan: The short answer is no. The contracts that our members win or lose tend not to be for in-house services, which have been exempted from retendering processes. Committee members may want to know that that is a cause of significant consternation to our members. Some of the services that our members are running have never been provided directly by local authorities. Learning disability and mental health services, in particular, were developed in the voluntary sector; local authorities now fund them because they have become mainstream services. Contracting out from local authority services relates mainly to residential care and some home care services for older people, where the private sector is dominant.

Some very interesting information on standards of care is emerging from the care commission. Since 2008, the commission has been grading services, which are inspected against a series of quality themes and statements and are graded on quality of care, environment, staffing and so on. The evidence that has emerged from the care commission so far is that the externalised services perform better than the in-house services, certainly in the area of home care. I have some information about it somewhere—I cannot put my hands on it right now, but it is broken down by sector, as a proportion of the services that are achieving 6s and 7s, which are the top grades.

In support services, which include home care, about 6 per cent of direct local authority services are achieving 6s and 7s. The equivalent figure for the voluntary sector is around 17 per cent. That suggests that the voluntary sector services are of a higher quality than the in-house services.

11:30

David McLetchie: That is fairly satisfactory, particularly if it can be combined with producing a lower cost to the taxpayers.

I will pick up on an issue that previous questions have touched on. It seems to me—please feel free to correct me if I am wrong—that one of the key elements involves ensuring that all the people who are allowed to bid in the first place, and from whom tenders are invited or accepted for consideration, are fit and proper. Do you contend that some of the organisations that have been invited to tender, or from which tenders have been considered to date—whether through an e-process or some other tendering process—are not fit and proper?

Annie Gunner Logan: To couch it in slightly different terms, some organisations do not have the capacity to deliver a certain level of quality within the terms of the contract that they are offered.

David McLetchie: Therefore, those organisations are not fit and proper to meet the service specification that is laid down at the start of the tender process.

Annie Gunner Logan: If you put me on the spot, I would say that that would be the answer. I would qualify that by saying that the fit and proper bit often relates to the parameters that authorities set in the PQQs, which are concerned with legal and financial standing and whether any of the directors of an organisation have been made bankrupt—that type of stuff.

It is interesting that one question in a PQQ that I saw recently says, “Where is the evidence of your experience of delivering significant services of this

type?” The score for that was 5 out of 430. That speaks volumes because, as I have said, much of the PQQ and the whole tender questionnaire asks organisations to talk about their capacity and what they would do, but when it comes to getting independent objective evidence to back that up, the system falls down.

I am not suggesting that there is a whole range of scam organisations out there that are winning the contracts and running amok. That is not the case. Organisations go into the processes with the best of intentions and with quite a good track record in many respects. However, when an organisation comes to deliver the service under the terms of the contract to which it has signed up, it finds that very difficult, which is where the drop in quality comes in.

David McLetchie: In effect, those organisations should withdraw once they reach their bottom line in the tender process.

Annie Gunner Logan: One would think so.

David McLetchie: And your organisations always do so.

Annie Gunner Logan: We have a number of organisations that will go so far and no further. Voluntary organisations in particular find it difficult when the service that is being retendered is one that the organisation has been delivering for the past 15 years. It will have a sense of obligation to the people whom it has been supporting, because the alternative is simply to abandon the support that it has been providing. The pressure to drop costs may therefore come not only from the local authority but from the organisation itself, which has been supporting certain individuals and families for many years and views that as its mission.

We have recently experienced situations in which voluntary organisations have withdrawn from contracts and gone back to an authority to say, “You know what? We can’t do this any more to a level of quality that we would feel happy with, so you will have to find someone else to do it.” In one such instance, there were 30 expressions of interest when the contract notice was subsequently published, and 17 full tenders thereafter, at a price at which one of our members decided that it was not really feasible for it to keep its quality standards high enough. That is the market in which we are operating.

I return to the point about there being no lower threshold. Higher thresholds for prices and so on are set, but there is no lower threshold. As I have said before, it is a bit silly to expect decent home care for £10 an hour or less.

David McLetchie: I think that it was suggested earlier that the in-house price is £20 an hour.

Annie Gunner Logan: That is a minimum.

David McLetchie: Indeed. What is the difference for the client between a £20-an-hour service and a £10-an-hour service? What specifically will the client lose out on?

Annie Gunner Logan: I think that the "Panorama" programme may have given answers to that question. I will change it slightly and deal with the difference between a £20-an-hour service and a £15-an-hour service. We have evidence from the care commission that shows, arguably, that the quality of the services that the voluntary sector provides is higher than that of some in-house services. The interesting question is why in-house services cost so much compared with other services that are able to maintain good quality standards. However, that is a slightly different matter.

David McLetchie: I want to return to the petition. You ask why in-house services cost so much. If your members can provide a better service for significantly less money, why do you want to sign up to a parity agreement that will push all your costs up and result in no better services being rendered at a higher cost?

Annie Gunner Logan: If we are looking for parity, we have to ask why local authorities still continue to deliver so much themselves. That turns the question around. I think that I have said about parity that we are a long way from having exactly the same pay and conditions as local authority workers get, but we are diverging, and we need to consider up front how we can stop the disparity getting any worse. The parity argument is to do with bringing things back to somewhere reasonable.

To return to your initial question about the difference between services that cost £10 an hour and those that cost £20 an hour, let us consider how the costs are made up. If a service costs £10 an hour and staff are paid only the minimum wage, there will be no room left after national insurance and overhead costs for workforce development, the training and management support that people need, and the internal scrutiny of services that is required. I would not argue that the higher the price, the better the quality. That is not true.

David McLetchie: As I understand the evidence, if you achieved the objective in full of closing the parity gap, not just narrowing it, which is the object of the petition that has been referred to us, there would basically be higher costs to the taxpayer with no higher standards of service. Your members might never win another contract because of the level playing field. The cost base would be levelled, and you might work your way out of jobs.

Annie Gunner Logan: I do not think that I properly understood what you were saying before. We are not saying that we should get the same hourly rate for a service that a local authority should get. The parity issue is to do with pay and conditions for front-line support workers.

David McLetchie: I see. When the petition refers to

"equitable wages and conditions between front line voluntary sector workers ... and public sector workers",

it does not mean that there should be equal wage rates.

Annie Gunner Logan: That is the idea, but the difference between getting £20 an hour and getting £10 an hour is not all about the salaries of front-line workers.

David McLetchie: I am referring to the petition that has been referred to us, which is specifically on wages and conditions. It calls on the Scottish Parliament

"to urge the Scottish Government to ... ensure equitable wages and conditions between front line voluntary sector workers delivering public services and public sector workers".

What does that mean? Does it mean that your workers and those who perform the same services in local authorities should have equal pay? Should they have the same hourly rates?

Annie Gunner Logan: Yes, that would be the petition's ultimate goal, but—

David McLetchie: Hang on. This is quite a serious issue, because earlier you suggested that equity does not mean absolute parity. Is that the case?

Annie Gunner Logan: We are talking about equity in the rates of pay of front-line workers rather than equity in the hourly rate for the service, which includes a lot more than the cost of the pay and conditions of front-line workers—it includes overheads.

David McLetchie: With respect, the petition is about the pay and conditions of workers.

Annie Gunner Logan: Yes, it is.

David McLetchie: Is it your objective that you want all your workers to be paid exactly the same hourly rate, and to have the same holiday and pension entitlements, as equivalent workers who are employed by councils? Is that your position?

Annie Gunner Logan: That is the objective.

David McLetchie: How serious an objective is it?

Annie Gunner Logan: It would certainly make some voluntary sector services more expensive, but our view is that they would still be less

expensive than comparable in-house rates, which involve overheads as well as staff costs. We have an issue with the £20-plus in-house rate for care services, a large proportion of which is accounted for by overheads. In a local authority, overheads tend to be hidden, but they cannot be hidden in a voluntary organisation because they have to be paid for. In a large local authority, some of the overheads will not necessarily be reflected appropriately in the hourly rate, so we are not comparing like with like.

David McLetchie: Yes. We are familiar with such tendering process issues. Thank you.

The Convener: We have just had a description of the negative effects of market forces. Why is it that those negative effects fall disproportionately on the voluntary sector in the delivery of services to our most vulnerable and on the low-paid workers in that sector? Why should that be?

Annie Gunner Logan: I am not sure that I can answer that. As I said, we are finding that procurement policy is impacting on public services in general. Social care exists in a market, so it is inevitable that if certain procurement regulations and processes that are about driving down costs are brought in, that will be the consequence. That is what we are trying to stop.

The Convener: Thanks very much for your time and your evidence. We will take a short break to set up for our next panel.

11:42

Meeting suspended.

11:46

On resuming—

The Convener: I welcome the second panel of witnesses. From Glasgow City Council, we have Nick Kempe, who is head of strategic management, older people and physical disability; from social work resources at South Lanarkshire Council, we have Jim Wilson, who is head of older people's services, and Tom Barrie, who is head of performance and support services; and from the City of Edinburgh Council, we have Tricia Campbell, who is joint programme manager, older people, and Helen Morgan, who is joint programme manager, learning disability. Thank you all for your attendance.

It might cause time difficulties if we allowed everyone to make an opening statement and it would be difficult for one witness to make a statement on behalf of everyone else, so if you have no objection, we will move straight to questions.

Is e-auction procurement an appropriate method of procuring care services?

Jim Wilson (South Lanarkshire Council): When South Lanarkshire Council conducted its e-auction, that was consistent with what the regulations and the guidance were deemed to be at the time, but it was not consistent with what subsequent guidance suggested. When we examine the situation at the end of our existing tender, as we will have to do, we will take note of the guidance at that point in time and of a range of other factors, such as best practice, lessons that we have learned from the present tender and the outcome of the committee's inquiry.

The Convener: Would anyone else like to respond?

Tricia Campbell (City of Edinburgh Council): The e-auction that we participated in a few years ago was part of a much wider tendering process, 70 per cent of which was about quality and 30 per cent of which was about cost.

Like South Lanarkshire Council, now that we have taken account of the new procurement guidance and the Social Work Inspection Agency report that we received last year, the City of Edinburgh Council will not use e-auction again as part of the tender process.

The Convener: So the City of Edinburgh Council will definitely not use it again.

Tricia Campbell: Not for social care.

The Convener: South Lanarkshire Council will not use it again.

Jim Wilson: I think that that would be unlikely. We would certainly look at the guidance and the regulations that pertained at the relevant time.

Nick Kempe (Glasgow City Council): In Glasgow, we have never used e-auction.

The Convener: And you are unlikely to, given what has happened.

Nick Kempe: We would not use it. It is important to distinguish e-auction from e-tender, because the determinant in an e-auction is price but standards are the key in our tender evaluations. Any tender evaluation of ours also has a financial component, but price is only a small part of that because other elements of finance, such as whether the right infrastructure is in place, are important in evaluating tenders. For example, unless we see costs and returns for training, we would not consider the tender to be financially sound.

The Convener: It looks like the death of e-auctions for social care has been announced here this morning. We are all relieved about that.

Patricia Ferguson: I was intrigued by something that Tricia Campbell said—I am sorry to put her on the spot. She mentioned that one of the reasons why the City of Edinburgh Council would not use e-auction again was an inspection report. Were specific difficulties highlighted in that report?

Tricia Campbell: I think that the difficulties that were highlighted concerned the unpopularity of the process with the people whom the Social Work Inspection Agency consulted during the inspection. I ask Helen Morgan to confirm that.

Helen Morgan (City of Edinburgh Council): Yes, that was very much the case.

Patricia Ferguson: Were those people potential providers of services?

Helen Morgan: They were providers and service users.

Patricia Ferguson: That is helpful.

The City of Edinburgh Council said that price did not come into the decision but, according to its submission, prices ranged from £11 to £22 per hour prior to the e-auction. Was the price stabilised into a single cost as a result of the process?

Helen Morgan: It was not stabilised into a single cost, because each provider had their own costs. However, the range was much narrower once we had contracted.

Patricia Ferguson: Have you found the quality to be similar, the same or better?

Tricia Campbell: I examined that point before we came today and discussed it with a range of people. Our customer satisfaction surveys for the in-house and external services show that people are happier with the in-house service. However, the care commission gradings—to which Annie Gunner Logan referred—are higher for the tendered service for older people. There is no easy answer to your question; it depends on what methodology is used to measure quality.

Patricia Ferguson: That is interesting.

Helen Morgan: There were lots of providers before we went out to tender, but far fewer once we awarded the contract. Some of the existing providers who did not win the contract lost it because of quality, not because of cost.

Patricia Ferguson: That is helpful.

Mr Kempe, some of the evidence that we have taken suggests that, when Glasgow City Council tendered the services, the scoring balance was 70 per cent on cost and 30 per cent on quality. You may have heard Ms Gunner Logan say that, but it does not chime with your earlier comment.

Nick Kempe: We are undertaking our first home care tender at the moment. The scoring balance for that is 60 per cent on quality and 40 per cent on finance. However, as I mentioned before, only a third of the finance marks are cost; the other two thirds are to do with having appropriate budget lines in place and showing appropriate accounting and financial mechanisms. Therefore, cost is only a small proportion of our evaluation. If all other things are equal and someone can provide the same service for a different cost, cost obviously becomes the crucial determinant, but it is only a small part of our formal scoring.

The Convener: How do we measure quality? I am thinking of Tricia Campbell's example of the care commission saying that the voluntary sector is doing well but customers saying in the internal survey that they are happy with the in-house service. Different elements make up the quality of the service that is provided. Is there a standard for measuring it or do we all make up our own?

Jim Wilson: I can certainly comment on the tendering exercise. One myth is that people simply had to fill in a questionnaire, which was far from the case in our exercise. The PQQ issue that Annie Gunner Logan mentioned was certainly looked at, but when we reached the invitation to tender stage we put together a list of 20 documents and other pieces of supporting evidence that we were looking for from each of the companies. I will not go through the whole list, but it included the company's training plan, supervision and appraisal procedure, discipline procedure, medication procedure, adult protection procedure and so on.

The Convener: How many companies reached the final tender stage?

Jim Wilson: Twenty-seven.

The Convener: So 27 companies had to supply 20 documents each. It must have been some task to follow all that up. How many hours did that take you?

Jim Wilson: That massive task was dealt with by our contract section. I had toyed with the idea of bringing in the documentation for one company's submission—

The Convener: How many people are in your contract section?

Jim Wilson: Five.

The Convener: So for this single tender exercise, five full-time employees had to examine and follow up 20 documents from 27 companies and to provide an evaluation for every one of them.

Jim Wilson: Yes. I make the point to dispel the myth that the tendering exercise was simply a

matter of sending in a questionnaire. That was far from the case.

The Convener: Did your contract staff suspend their work in other areas to focus on the exercise?

Jim Wilson: It was obviously a priority and a major exercise for key staff at the time. Of course, we do not do that kind of work all the time.

Jim Tolson: You heard me mention to the director of CCPS the petition that has been submitted to Parliament, which has been referred to the committee. What would be the effect on your authorities if not only the five-year budget proposals but the petition's other elements were introduced?

Tom Barrie (South Lanarkshire Council): If private sector or voluntary sector costs increased significantly, South Lanarkshire Council simply would not be able to afford the number of hours that it provides at the moment and would have to either cut the level of care provided or find the money from elsewhere in the system. In any case, it would be detrimental to part of the system, because we would have to prioritise how we spent our money.

Nick Kempe: As I have said, we have a £60 million budget for home care, only £2 million of which has been allocated to private and voluntary sector providers. We have never tendered for such services before because we put providers on a restricted standing list, which means that they have been approved for basic processes. Their rates vary between £9.30 and about £18, whereas our comprehensive rate for home care is £16.30. As a result, although the proposals in the petition would have an effect, it would not necessarily be enormous.

Jim Tolson: What is Edinburgh's view?

Tricia Campbell: I do not quite understand your point, Mr Tolson. Are you talking about the five-year contracts in particular?

Jim Tolson: No; I merely wonder what the implications for Edinburgh would be if the proposals in the petition to which I referred came to fruition. Do you concur with the other local authorities' view that the main issue would be cost?

Tricia Campbell: I think so. As 55 per cent of our care-at-home services are purchased, any increase in salaries would have a knock-on effect on contract prices.

Jim Tolson: It is helpful to hear that, as far as the elements that are set out in the petition are concerned, the local authority's main concern is cost. That brings us back to some issues that we touched on earlier. When I deliberately asked the director of CCPS about the benefits of the

tendering process, I was told that one of them was to save money. If the various elements of the petition were enacted and the costs proved to be higher, would you simply retender or possibly even reconsider your decision not to use an e-bidding system?

12:00

Jim Wilson: I want to be clear: e-tendering is the electronic process of tendering, whereas e-auction is something completely different and, as I think I said earlier, it is very unlikely that we will pursue it again.

It might help if I explained our situation before the tendering exercise. We were sitting with 27 providers and about 300 different rates—because people started at different times, and charges were different for evenings and weekends, for example. For private care, we were paying anything between £9.60 an hour and £19.20 an hour. However, we could not determine whether the companies that were being paid the higher rates were providing a better quality of care. I agree with what Annie Gunner Logan said: it does not necessarily follow that the companies on the higher rates give the best quality.

For us, the important thing is the quality of care. Price was a component, but quality was more important. Service users were concerned about high turnover. Most of us, or our parents, would want the same carer, or the same small corps of carers, coming to our home; we would not want constant change. Before the tendering exercise, there was a high turnover, but we now have a reduced number of companies. Our intention was to stabilise the market by having a smaller number of companies, and we hoped that that would lead to less turnover and to greater consistency for service users. That was our aim.

Jim Tolson: I want to continue on this point, because I am not sure that you understood what I am getting at. To be fair to you, I should try to explain.

If the suggestions in petition PE1231 were enacted in law, costs would increase for all local authorities. Costs may not be the most important part of the tendering process for the provision of care services, but they are a significant part. You are representatives of local authorities, and I want to ask how you would deal with that challenge.

The committee has to decide what to do with the petition, and to consider the repercussions if its suggestions were put into action. Would you have to alter your services in some way? Would the quality of care be reduced?

Helen Morgan: Are you referring to the part of the petition that suggests that voluntary sector

staff should have the same terms and conditions as local authority staff? Is that the crux of the question?

The Convener: I am not speaking on behalf of the petition, but how can you create continuity of service and a reduced turnover by pushing down wages for front-line services? That links to what Mr Wilson was saying.

Helen Morgan: A high hourly rate does not necessarily equate to better pay for front-line workers. People assume that it does, but often it does not.

From the care providers that we are now contracting with, we can see that the providers to whom we pay lower rates sometimes offer pay grades that are as good as, or better than, the providers to whom we pay higher rates. High rates do not necessarily equate to a well-paid or well-qualified workforce.

We must be cautious about making assumptions, and we must consider the role of the care commission in evaluating the quality of services—not only at the point of tendering, but once the services are in place.

The Convener: It is interesting to hear local government representatives arguing for a stronger role for the care commission in the regulation of services—that was not my experience when we were considering residential care. It is an interesting point, and I am sure that we will take it up.

Bob Doris has to leave soon, for which he has apologised, so I invite him to comment now.

Bob Doris: I appreciate that, convener.

We know that the hourly rate does not correspond to how well paid front-line staff are in the voluntary sector, but I would have thought that a key aspect of any social care service would be how well motivated the staff on the front line are. As part of tendering or retendering, do you ever get specific details of what staff on the front line will be paid? Are those details taken into account when you make your decisions? Do you also take into account any professional support services that the contracted agency provides for the staff? By all accounts, one organisation could be paid £19 an hour but pay its staff members only £6 an hour, whereas another organisation could be paid £16 an hour, pay its staff £8 an hour and provide far better support. How far do you drill down in the tendering and retendering process to see how well front-line staff are supported?

Nick Kempe: When Glasgow City Council is tendering, mainly for home care services, all providers must prepare a care proposal budget form that breaks down all the lines in the budget. That includes staff wages. Legally, in choosing a

service provider, we are not allowed to make direct comments on wages or to allow wages to inform what goes on. However, if wages are very low, one of the things that we take into consideration—this is the importance of tying finance into standards—is how the provider deals with staff turnover and career development. If the provider has a flat management structure and there are no opportunities for learning development, it is reasonable to assume that it may have difficulty in retaining staff.

The matter is taken into consideration, but we do that from the perspective of care standards. I do not know whether that answers your question.

Bob Doris: That would form part of whatever matrix you had—your scoring grid—for working out what would provide best value to the local authority.

Nick Kempe: Yes.

Bob Doris: It would not be a comment on the individual hourly rate, but it would inform you, as part of an overall package, how likely the service provider was to retain, recruit and support its staff. What weighting is given to that in Glasgow City Council's matrix or scoring system?

Nick Kempe: As I said, the weighting is 40 per cent overall for finance, which is broken down into various bits. A third of the finance score concerns whether the provider has covered basic budget lines such as training and travel time; travel time is very important because, unless the provider allows its staff to travel between service users, the service will not work. We look for a range of budget lines.

Bob Doris: Is that assessment part of the finance side of things, rather than part of the overall quality of care side of things?

Nick Kempe: Our finance staff who are involved in the scoring very much work together. To return to an earlier point, the scoring process is labour intensive. At the moment, we have 36 returns for one tender, and three people have been locked in a room for three weeks going through all the returns. One finance person is working closely with two commissioning officers. Our finance staff raise points for our commissioning staff and vice versa, to ensure that everything ties together.

Bob Doris: Glasgow City Council looks at the hourly rate not in isolation, but in relation to other aspects. What about the other local authorities?

Tricia Campbell: I echo what Nick Kempe has said. We are not formally allowed to use the hourly rate as a quality measure. However, if a provider's staff were to be paid the basic hourly rate, we would ask it how it could deliver a quality service for that price.

We must be clear that local authorities tender for a service. The components of the service are part of the tender evaluation, but we are tendering for outcomes for people. We consider how the external agency can deliver those outcomes for the price that it asks. The hourly rate of its staff is part of that, but it is not by any means the whole issue. We are more interested in training and staff development when we tender for services.

Bob Doris: However, you accept that someone who earns £8.50 an hour is likely to be better qualified and more highly motivated than someone who earns £6.50 an hour, and who has poorer conditions of service and fewer opportunities for professional development. You could look at the raw data of the hourly rate not in isolation, but as part of a range of things.

Tricia Campbell: I think that we could.

Bob Doris: That would allow residents in Edinburgh to make a judgment call—whether fairly or unfairly—if they were to find out that care staff in Edinburgh were paid a pittance in comparison with care staff who worked for other local authorities.

Tricia Campbell: Yes.

Tom Barrie: We, on South Lanarkshire Council, echo that position. As a result of the tender that we went out to, to demonstrate that we concentrated mainly on quality, the hourly rate went up. During the tender process, we did not look in great detail at the hourly rate that is paid to employees.

Alasdair Allan: In the previous evidence session, we heard about South Lanarkshire Council's use of the e-auction process—various opinions were offered on the subject. Am I right in saying that £10 was where the clock stopped? What was the hourly rate that you arrived at?

Jim Wilson: The hourly rates that we ended up with range from £9.85 to £11.90. As I said, that compared with rates prior to our going out to tender of £9.60 to £19.20.

Alasdair Allan: When you saw the figures, did you have any doubts whether they were unreasonable in any way?

Jim Wilson: They were consistent with the ballpark rates that were being paid across authorities. We all had experience of companies that had charged us much higher rates. The point that was made earlier was on the difficulty for us of determining the added value we were gaining from companies that we were paying much in excess of those figures. The range seemed reasonable to us.

Alasdair Allan: The problem for us is that the rates did not seem reasonable to our previous

witness. She described the rates as “silly” and, when asked whether they were respectable, she said that they were not. What is your response to that?

Jim Wilson: The starting rate was higher than we were at before the tender exercise. The rates are probably consistent with those that are paid across the country. They are not out of kilter—generally—with rates that are paid across the country.

Alasdair Allan: Those of us outside the process are curious to know how, when the minimum wage is £5.70 an hour, you can get any service for £9 or £10 an hour. The rates may be consistent across the country, but how on earth can any service for anything be provided at that price? Over and above paying the minimum wage, how can overheads, management and training all be covered for £4? How is that possible?

Jim Wilson: Home care is very much a volume business. Obviously, companies with larger volumes of business spread their overheads. By moving from having 27 providers to having only six, we were looking to stabilise the market and give a smaller number of companies longer-term security of employment and, therefore, greater stability for their staff.

Alasdair Allan: You referred to volume. As you alluded, the guidance is that e-auctions are not a very good idea in this regard. When you embarked on the e-auction process, did you see any floor for the tender price? Would you have been happy with a tender price of £8, or would doubts have entered your mind at £7.50 an hour?

Jim Wilson: Yes. Ahead of the tender exercise, we were conscious that there was a rate beyond which we would have said, “That is not practicable.”

Alasdair Allan: But you did not get there.

Jim Wilson: No. We did not have bids at that level.

Mary Mulligan: Good afternoon. I am conscious of the reply to an earlier question from the convener that you would not seek to use e-auctioning again. However, I would like to take you back to the decision to use it. What was the reasoning behind using that system in the first place?

12:15

Jim Wilson: I have answered that in part. We were keen to reduce the number of companies and to introduce stability to the market. Our priority was quality, which was why in the exercise we gave a greater weighting to quality than to price. However, we were conscious of the need to

deliver best value. Some things have changed as a result of the tender exercise. Previously, we were often charged more than half the hourly rate for half an hour of care, but in the tender exercise, we asked for the half-hourly rate to be half the hourly rate. Therefore, with the same money, additional hours have been provided for service users in South Lanarkshire—we now deliver an additional 2,000 hours of care. That was important for us.

Mary Mulligan: What was the City of Edinburgh Council's situation?

Helen Morgan: One issue—which has been touched on—was the hugely divergent rates for care at home in Edinburgh when we went out to tender. I think that the hourly rate varied from £11 to £22. We wanted to achieve more consistency and a narrower band of hourly rates. Before the e-auction, many providers had been sifted out of the process through a pre-qualification questionnaire. Initially, 36 providers applied, but that reduced to 27. By the e-auction, we had 16. Providers were sifted out because they did not meet the quality standards; we carried out a quality ranking. After the e-auction, we carried out site verification. We went out to the care providers to check how the points on quality in their bids compared with what happened on the ground and to check the systems that were in place. That was a further check, once we had done the financial ranking of the bids.

Mary Mulligan: I will return to checking. The City of Edinburgh Council and South Lanarkshire Council were the only local authorities that used this process. Were you aware at the time that you were the only two?

Helen Morgan: We were aware that the City of Edinburgh Council was the first authority to do so: we had already used the system for agency staffing.

Tom Barrie: We were aware of that, because we had worked with the City of Edinburgh Council and had seen how it carried out the e-auction part of the process, which related only to the price and came at the end of the e-tendering process.

Mary Mulligan: I was careful to say that you were the only two councils that were involved in e-auctioning. E-tendering is different and therefore allows a different process. Through the e-auction, you drove down the initial bids. Did it occur to you that the companies would have to make savings if they reduced their initial bids? We are talking about a service, not goods or something tangible. Did that not make a difference?

Jim Wilson: It does not follow automatically that staff were being paid a higher rate by the companies that were charging us significantly higher rates.

Mary Mulligan: It did not follow automatically that those companies would pay less as a result of reducing their bids but, from what we have seen, they clearly did. After the auction, the City of Edinburgh Council went out to examine quality, but it is clear from the "Panorama" programme that South Lanarkshire Council did not. How did the council ensure that, having driven down the bids, you could still deliver a service that was anywhere near the expected quality?

Jim Wilson: We think that what was shown on the programme was totally unacceptable. There is no question but that the standard of care for the two service users from South Lanarkshire was totally unacceptable. Ahead of the programme, we visited every service user who was getting a service from that company so that we could ascertain, on a range of measures, their views on the service. We went out again more recently and we will report the results back to our committee. It is fair to say that the views that we have had from the service users whom we have visited—approximately 700 visits—are, I am thankful, not reflective of what was shown in the television programme.

Mary Mulligan: I hope that it is not the case that all the other service users were getting such treatment, but it is clear that some service users were treated appallingly. That was clearly a result of the way in which you tendered for services, which reduced costs to such a level that the service could not possibly be delivered. At what stage was South Lanarkshire Council going to wake up to that?

Jim Wilson: Our view is that what was shown in the programme was totally unacceptable. As I said, we have launched an internal inquiry into a range of matters, but I would not associate all of what was shown in the programme with cost.

I will give you an idea of the volume of care that is provided. We are responsible for 54,000 hours of care being delivered each week. Half that is delivered by the council's home care service and half is delivered by the private and voluntary sectors. The nature of home care is such that it is a service that is delivered in people's own homes and, largely, by a sole provider or carer. In my book, one instance of a poor level of care being provided is unacceptable, but we have to accept that with 54,000 hours of care being delivered in any week, there will be some variation in what is delivered. As far as this particular company is concerned, we have made every effort to be clear that the people who are getting care from it are happy with the service.

Mary Mulligan: I could ask a series of questions about how you monitor and evaluate your services, but I suspect that others will come on to that. I will ask a final question in relation to the

submission that the committee received from Councillor Jim McGuigan of South Lanarkshire Council. Do you now accept that e-auctioning is not appropriate for delivery of social care services and that it was never intended for social care services but for completely different things, such as goods, and that councils—I include the City of Edinburgh Council—made a mistake in taking that approach?

Jim Wilson: Our understanding is that the guidance that was available to us at the time did not preclude e-auctioning's being used for delivery of care. We are clear that, after we had tendered, subsequent guidance came out that suggested that "extreme caution" should be exercised before the approach was considered for social care. We would accept that.

Tricia Campbell: We would echo that. As I said, we will not use e-auction again for social care services.

Mary Mulligan: So, was there no question that common sense told you that it was a risky way to manage the service? Unless it was written down in black and white in front of you that that was the case, you were going to go ahead and do it.

Tom Barrie: You must remember that, on the other side of the fence, we are charged with delivering best value. E-auction was a process that was being promoted at that time—without our having much experience—as a way to ensure best value. Given that we had ascertained that the main split in the tender was 60 per cent quality, 40 per cent price, we were comfortable at that time that we were meeting the two criteria. We were ensuring that the service user, who is the most important person in the process, was getting a quality service, and that we were getting best value as a council in providing that service.

Mary Mulligan: I can assure you, Mr Barrie, that I understand completely the need to get value for the public pound, but I do not understand why somebody somewhere did not use a bit of common sense and say, "This is not the way to deliver home care services." Many people have seen clearly from the "Panorama" programme that it was not the way to do it. However, I appreciate that you have now learned that and I hope that we will see improvements.

The Convener: I am not sure whether we are hearing a bit of contradiction. We heard in evidence this morning that cost savings were made, which was an objective, and claims that quality was unaffected; that more hours were made available; that front-line workers got an increase in salary; and that service users said that the service was fine. Why are you giving up on e-procurement if everything worked out fine?

Jim Wilson: The current wisdom is that e-auction is not an appropriate method to use for care.

The Convener: But you are not apologising for it. Both parties involved have defended it on the basis that you have made cost savings, retained quality and whatever else you claim. That is a contradiction.

Jim Wilson: I can speak only for South Lanarkshire. We are now dealing with six companies as opposed to 27, as was the case previously. We believe that that has stabilised the market and that it will lead, and has led, to less staff turnover. Importantly, we are trying to give service users greater stability by reducing the number of people who visit their homes. For many older people, the carer is their sole contact with the outside world. They want the same person or small number of people coming into their homes. That is absolutely crucial.

As regards the additional hours, by reducing the top level of money that we were paying to some private companies and because the band is now tighter, we have been able to purchase an additional 2,000 hours for people in South Lanarkshire.

The Convener: Those same companies, or at least one of them, were skimming hours from vulnerable people. They were diddling the hours. They were not giving people more hours; they were giving them fewer. In the programme, they were giving them 10 or 13 minutes and running in and out of their homes. I do not know whether you have any facts and figures about continuity of service. Have you eliminated situations in which different carers turn up on different days? Three or four different carers can arrive at different times of the day or they can arrive at inappropriate times, such as arriving at seven o'clock at night to put people to bed. Have you eliminated all that? Was that a prime consideration?

Jim Wilson: I can comment on both parts of what you asked. On the reduced time that people were receiving, that matter has been passed to our audit section where it is being addressed, and it will be referred to our social work committee.

The Convener: Have all the businesses that deliver the service for you been audited on whether they deliver the appropriate amount of time to your clients?

Jim Wilson: I am happy to move on to speak about monitoring arrangements if you wish, but the other question that you asked was about whether the situation had improved. I have recently received some of the feedback on the second stage of visits that we made to the company that was referred to in the programme. Comments from

the service users have been that they have noticed a significant difference in past weeks.

David McLetchie: I will follow on from the convener's questions. Mr Wilson has properly said that the standard of service given to service users, particularly those highlighted in "Panorama", was unacceptable and that is a welcome acknowledgement. However, the key issue is whether what was depicted in the programme is representative and whether the basic thesis of the programme, namely that quality was sacrificed for cost considerations, is true not just in relation to South Lanarkshire, but as a general proposition about the provision of such services by local authorities. My assessment of what has been said in evidence so far is that there is no correlation between quality and cost—that such a generalisation cannot be made. Is that a fair assessment of what you have all told us at different points this morning?

12:30

Jim Wilson: It is fair to say that we cannot make a direct correlation between quality and cost.

David McLetchie: On the provider that was highlighted in the "Panorama" programme and its fitness to be awarded a contract, are you satisfied that that provider was—despite the specific failures in service provision—fit and proper, that its fitness for the job was properly evaluated and that it had appropriate experience for that level of care provision?

Jim Wilson: When we went out to tender, that company was an existing provider in South Lanarkshire. Not all the successful companies were from there—some came in from outwith South Lanarkshire. The company therefore provided services primarily in one geographic area. I was clear that I wanted detailed information from my managers in that area about the level of care that was provided by that company. Prior to the tender, I received very positive feedback about the level of care in that geographic area. In addition, between January 2006 and when the contract was awarded in October 2007, South Lanarkshire Council received no formal complaints about the company.

David McLetchie: I want to broaden this out so that other panellists can comment from the perspective of their councils. A previous witness suggested that some organisations or commercial businesses who are permitted, or invited, to tender through e-tender, e-auction or a conventional tender auction are not fit and proper, and that their fitness is not properly evaluated before they are allowed to tender. Is that a fair criticism in respect of anybody whom your councils have allowed on to your tender lists?

Nick Kempe: I will answer of behalf of Glasgow City Council. A tender is a public process. We must advertise it and anyone is free to tender: we cannot prevent people from tendering. Our basic requirement is that anyone tendering for any service must be registered with the Scottish Commission for the Regulation of Care, which has primary responsibility for standards. If it thinks that a provider is not fit—reference was made earlier to duplication of what local authorities do—it will deregister it. Local authorities' starting point must therefore be that, if a provider is registered with the care commission, we allow it to tender and we evaluate whatever documentation it produces. We sometimes work with the care commission and share concerns about services, but the starting point for local authorities must be registration and who can tender. In addition, the local authority will have particular criteria for particular services and will assess how far providers that are registered with the care commission can meet those criteria. That is obviously part of our tender process.

Tricia Campbell: The City of Edinburgh Council would echo that. Our assessment prior to undertaking the full tender takes into account care commission registration, the fitness of the company to operate and a range of other issues. As Nick Kempe said, anybody can apply, but we do rigorous checks on the fitness of the organisation before it can get through to the next stage.

David McLetchie: If I understand it correctly, the award of the contract is not based wholly on price, because the quality and level of service provision is evaluated and an extensive service specification must be met.

Tricia Campbell: That is correct.

David McLetchie: We come back to the fundamental purpose of the inquiry. Regardless of whether auctions, e-tenders or traditional tenders are used, are the procurement processes that are in place at national level, through the care commission, and in local authorities, fit for the purpose of ensuring that those who require home services receive them from people who are fit and can provide services of the requisite quality? What is the evidence that that is not the case?

Nick Kempe: I have been responsible for a lot of tendering and know that it is a difficult process. We have commissioned care home services. People may return all the right documentation because they have hired a consultant who is good at doing that. As local authorities, we try to get practical evidence behind the tender documentation that is submitted. We must rely partly on what the regulator reports—to some extent, the information that we get is as good as what is in inspection reports. Everyone knows that the care commission has been involved in a

developmental process, and reports have become better and more informative. However, we started work in a number of areas with an organisation that had just started out, which impacted on our ability to evaluate it.

We have become more aware that service user outcomes are critical. Getting feedback from service users and carers who experience the service is key, but we should not underestimate the challenge of checking that in a tender process—it is not easy.

Tendering is only the start of the process that determines the quality of services. A provider may tender, be fit, be appointed and provide excellent services, but that does not mean that the services will not change. The experience in Glasgow is that we end up with challenging problems, although we have gone through many rigorous processes and have not appointed providers based on price. Managers change and people go; if key managers leave, an organisation can go downhill in a very short period—it may be only weeks before services collapse. That key point is relevant not only to commissioned services but to directly provided services. If our managers leave and the right appointments are not made, or if something is wrong in the process, it is easy to end up with serious problems quite quickly.

David McLetchie: Thank you for your honesty—that was a thoughtful contribution. Mr Wilson, I think you said that half of home care services in South Lanarkshire are provided in-house and half are contracted out. If I recall correctly, the relevant figures for Edinburgh were 35 per cent tendered out—

Tricia Campbell: No, it is the other way round—about two thirds are tendered out and about a third are in-house.

David McLetchie: I am sorry—I thought that I had noted the figures correctly. So, 65 per cent of services are tendered out and 35 per cent are in-house.

Tricia Campbell: Approximately.

David McLetchie: In South Lanarkshire, there is a 50/50 split. How would you assess the proportions in Glasgow?

Nick Kempe: For home care, £2 million of £60 million is contracted out.

David McLetchie: So the figures are 4 per cent and 96 per cent. Given the different ratios that exist, is there any evidence, born of your experience, of a difference in quality and standard of service—from the perspective of service users—between the services that are provided in-house and those that you purchase, following the award of contracts?

Jim Wilson: We have asked all our council service users for feedback on that service, which has been positive. It would be wrong to suggest that the council service is always better than the service from other providers, because that depends on the service user's experience of the carer who goes into their home. None of us has a monopoly on good carers. A service user will talk about their carer in first-name terms—that is important for the service user.

We have received positive feedback about our in-house service and we have had no significant complaints about any private provider in South Lanarkshire. Some people prefer a council service—that applies not just to home care, but to care homes. Sometimes, people prefer to be with the council. I do not necessarily think that we are given the credit to which we are not entitled, but sometimes people prefer to be cared for by an organisation that does not make a profit.

Tricia Campbell: The City of Edinburgh Council does not see purchased care services as being distinct and separate from the in-house service. The council is developing a model of care that is called home care reablement, under which everybody will have the in-house service for up to six weeks to allow them to become more independent and achieve their goals. Only after those six weeks will we do an assessment. We will still aim to deliver the most complex care in-house; the private and voluntary sectors will deliver less complex care. We are still developing that process. I suppose that is a bit tangential to the question.

As I said, if we ask customers whether they prefer the in-house service or the external service, they say that they prefer the in-house service. That also applies to care home services. That is people's general view.

David McLetchie: Is that view instinctive or is it based on experience of poorer services?

Tricia Campbell: I cannot answer that. All I can say is that the customer satisfaction survey shows that people prefer the in-house service.

David McLetchie: Do people prefer that service in the abstract or are they saying that they have received a bad service elsewhere? Does your customer satisfaction survey ask about the service that has been given or about who people would—in theory—like to provide the service?

Tricia Campbell: I understand that the survey is about the service that has been given, but I will have to check that.

David McLetchie: It would be interesting for us to know the answer.

Jim Wilson: We have had a number of cases—not a huge number—in which the council could not

pick up the whole care package at one time, so it was split between the council and another provider. In those cases, people have by and large asked the council to pick up the whole package as soon as it can.

The Convener: Jim Wilson said that no formal complaints had been received about any company. How strong is that evidence? How frequently do elderly people and other people who are being supported in the community make formal complaints?

Jim Wilson: We all recognise that older people in particular are often reluctant to complain. That might be to do with their relationship with their home carer or with concern that they do not want to complain. That is why we have tried actively to ensure that we receive comments back. I referred to the visits that we have made, particularly in relation to the company that the “Panorama” programme was about. Council staff have twice had direct contact with everybody who has received that company’s service.

The Convener: I am trying to figure out how significant the evidence about the lack of complaints is, given that people are reluctant to complain—in the residential care sector, that is because they fear retribution or worsening care. Do we need to develop ways to engage with people who receive care, to obtain the information that we need to improve services? Should those who receive care not have some rights regarding whether services should be outsourced or changed dramatically, given your evidence about the importance of continuity of care? Indeed, they are the people who are involved person to person with the carer.

12:45

Jim Wilson: Obviously, when care managers and social workers visit people, they are constantly looking to see whether service users have any concerns about the quality of care that they receive. That is important. Although I can speak only for my organisation, I think that we all have a variety of mechanisms in place to encourage feedback on services. For example, in South Lanarkshire Council, we have a consultation exercise and we are involved with the South Lanarkshire Carers Network and with the better government for older people programme. Both those groups are involved in our joint services management group, as are other local groups. We try hard to ensure that people are represented and that we hear their views. We had a housebound survey because we were concerned that our feedback might be skewed if it came only from those who attend meetings. We try very hard to get comments back from people about the services that they receive.

The Convener: Do other members of the panel want to mention any other innovation in getting people’s views?

Tricia Campbell: In the City of Edinburgh Council, we have considered having an electronic monitoring system, although we have not yet managed to develop that. The “Panorama” programme highlighted the fact that some carers did not give the service users the full time that they had been allocated. We could perhaps take up at national level how we might develop such a system so that, at the very least, we could know that the carer was in the house for the time that they were supposed to be there. One of the main complaints that we get is, “I didn’t get my time. She came in for only 10 minutes.” I should say that we get that complaint about our in-house services as well. For such groups of workers who cannot be directly supervised, it would be good if we could develop nationally a means of checking that they are where they should be at a given time.

Jim Wilson: The company that was highlighted in the “Panorama” programme is putting in a tracker system in South Lanarkshire.

The Convener: Is South Lanarkshire Council helping the company to do that? Is the council meeting any of that cost?

Jim Wilson: No, the company will meet the costs, although the council is considering installing a similar system.

However, I think that the important thing is the task that is delivered. We commission in blocks of half an hour and in blocks of an hour. If a carer is in someone’s home to undertake a particular task, the important thing is the quality of the delivery of the task. For me, the manner in which—and the dignity with which—the service user is treated is probably more important than whether the carer was there for 25 minutes rather than 30 minutes. The quality and how the person is treated are the important things.

Notwithstanding all that, there should be mechanisms in place to record when a carer arrives at someone’s home and when they leave. An important point is that the system should record situations in which a carer has not arrived at the person’s home. As someone who has responsibility for a home care service, I know that my greatest worry is always that a carer—for whatever reason, which might include that the carer has had an accident—does not turn up. Such a system would flag up that a carer who was due to be at someone’s home has not arrived and would alert a central contact.

The Convener: Given that South Lanarkshire Council delivers half of the services in-house, what systems does the council currently have in place to show that, for example, a carer did not turn up

at someone's home this weekend or was two hours late in doing so?

Jim Wilson: We have a 24-hour call-centre service. Clients can contact us if a carer has not turned up, and we can make emergency arrangements for somebody else to go. All our carers carry mobile phones and we can direct a carer straight to the client's home.

John Wilson: We have had the figures thrown at us today of 54,000 hours and 2,000 additional hours of services being provided in half-hour or one-hour blocks. I want to know how many people are receiving services, on average, and how those services are being delivered. Do they get three half-hour blocks in a day, which gives them 10 and a half hours of care a week? Do they get more than that? Are assessments made to identify individuals with a higher level of needs?

When we drill down into the cost of the delivery of services, is £9.70 an hour sufficient to deliver a service to somebody who has been assessed as having a higher level of needs? Are the skills of the carer who delivers that service adequate for the type of service that the local authority and, more important, the individual service users are looking for? Are those people receiving the care that they need, rather than just being allocated three half-hour blocks a day because that is what the council can do?

An issue that came out clearly in the "Panorama" programme is that domiciliary care staff complain about how long they are allocated to get from one client to another and say that travel time eats into the time that they have to spend with clients. My colleague from South Lanarkshire mentioned earlier the distances that staff may be asked to travel to get from one client to another. Is travel time factored into the overall delivery of the services?

Jim Wilson: I can give you some figures that may be helpful. South Lanarkshire Council provides the second highest number of care hours of any local authority in Scotland. Our average care package is about 14 hours a week, but the decision about what care is delivered is based on an assessment of need. Some people will need a relatively small amount of care. Their family may support them throughout the week, but there is one day when the family cannot do that and they need somebody to go in at tea time. Individual circumstances range from somebody receiving a small amount of care to people at the other end of the continuum receiving what we refer to as a seven-by-four package. That means that they are visited by somebody in home care four times a day, seven days a week.

You asked about the number of services users. The 54,000 hours of care that we deliver weekly are delivered to 3,835 service users.

Nick Kempe: We have approximately 8,000 users of home care at any one time, who receive a weekly average of 10 hours of care each. However, we have somewhat different systems from those that operate in other local authorities. There is a huge turnover among older people, and an area with one of the largest turnovers is that of hospital discharge. The committee will know that, although the guidance is changing, there is currently an entitlement to four weeks of free home care on discharge from hospital. In Glasgow, we have a system whereby the nursing staff in hospitals can order home care directly, which helps us to get people out of hospital quickly. If someone is ready for discharge, the nurse picks up the phone and our home care service is there within 24 hours to enable people who need home care to go straight home. We then have a review process. At least a fifth of our 8,000 service users are people who have been discharged from hospital with an entitlement to four weeks of home care, rather than even medium-term care packages.

Increasingly, as with other services, a lot of the home care for older people tends to be focused on people who are nearing the end of their lives. The number of people who have been receiving home care for many years has been reducing over the years. I am afraid that I cannot, off the top of my head, give a breakdown of how many of the 8,000 service users have been receiving care for more than two years or more than five years.

Tricia Campbell: Edinburgh has 4,664 clients, who receive 41,307 hours of care, so the intensity of service is lower than it is in South Lanarkshire. I would guess that the average is just under 10 hours a week, although included in those people are about 1,100 older people who receive more than 10 hours of home care a week.

I mentioned earlier the home care reablement service that the council has started within the past 12 months. The aim is to provide an in-house service to everybody who is new to home care services. We find that, when we reable people and promote independence with them, we can properly reduce their hours after the six-week period. Overall, we can achieve a 40 per cent reduction in hours. In the past, we unintentionally created dependence in some people. The reablement service promotes independence and lets people do more for themselves than they were able to do in the past.

I should say that some people's hours increase after the six-week period. There is no assumption that people's hours will be reduced, but the early indications are that this is a successful service that

will change how services are delivered in Edinburgh in future.

John Wilson: My final question is directed to Mr Barrie and Mr Wilson. The "Panorama" programme stated that a neighbouring authority had been asked to comment on the services that Domiciliary Care delivered. I would not say that its response was wholly critical, but concerns were raised because it said that it was constantly monitoring the delivery of services by that company. Will you comment on that?

Also, you mentioned that tracking systems will be put in place. Are you wholly satisfied that the company will maintain an appropriate level of service and that you will be able to monitor that to your satisfaction and that of the users? I am conscious of the convener's comment that elderly people are fearful of complaining in case, ultimately, the service is withdrawn. We must assure elderly people that they will not lose services if they complain about them. Part of the problem is that elderly people might not be content with the visits that they get but they do not want to complain because they worry that the service will be withdrawn.

Jim Wilson: I agree that we must continue to strive to get feedback from older people, who by their nature are often reluctant to complain. I accept that.

We did receive a reference from North Lanarkshire that said that issues had been brought to the company's attention, but North Lanarkshire had and continues to have service users with the company. The company was not new to us. It was providing a service to us in South Lanarkshire at the time, and the feedback that I received from my manager in the area where it predominantly provided the service was positive.

Where we end up with the company is a matter that will subsequently be referred to our social work committee. It will take account of the fact that we have examined the legal position and the fact that the matter has been referred to audit. Also, as I said, we have conducted reviews with service users. I cannot say what the outcome will be. It is a decision for elected members.

The Convener: Is there a mechanism for the exchange of information between local authorities when one of them expresses concern? I accept that there are various degrees of concern, but if there is a serious or very serious concern, does it go around the system so that other local authorities know about it? Would people know, through the care commission, for example, that you had concerns and were carrying out investigations? Would there be an exchange of information?

13:00

Jim Wilson: There is a variety of ways in which that might happen. Often, if there are concerns about a company that is providing services in neighbouring areas, contracts officers will exchange information. We would probably look to the care commission to provide information more formally. Through the Association of Directors of Social Work, committees share information about issues that are of concern to everyone. There are a number of levels at which information might be exchanged.

Nick Kempe: We have a memorandum of association on sharing information with the care commission, as do all local authorities. There is an agreement that we will tell the care commission about our concerns, and in turn the care commission will inform us about its concerns, in particular if there is an impact on service users.

The care commission's structure is based on five regions and, although it has a system for trying to link up with national providers, there can be boundary issues, as is the case with local authorities. Although we have systems, we are probably not at the stage of having a systematic, countrywide approach to sharing concerns.

The Convener: Would a countrywide system be useful, for example in the procurement process, when you evaluate bids for the provision of services?

Nick Kempe: Yes. That would avoid duplication.

Jim Wilson: We receive audit reports and gradings from the care commission, which is helpful. We welcome the ability to get the care commission's evaluation in a number of areas.

Tricia Campbell: Although there is probably no systematic approach to quality throughout the country, evaluation of care homes is much more robust than evaluation of home care agencies, perhaps because such agencies tend to be local or franchises of larger organisations. We could develop a more national approach.

The Convener: Thank you all for your evidence, which has been valuable.

Budget Process 2010-11

13:02

The Convener: We will consider our approach to stage 2 scrutiny of the Scottish Government's draft budget for 2010-11. I refer members to the approach paper. Do members agree that the committee's budget scrutiny should focus on the communities side of our remit, on issues such as support for housing, town centre regeneration, child poverty and fuel poverty?

Members *indicated agreement.*

The Convener: Do members agree in principle to seek to appoint a budget adviser?

Members *indicated agreement.*

The Convener: Do members agree to the proposed remit and person specification for the post, and do members agree to consider in private a list of candidates at a future meeting?

Members *indicated agreement.*

Subordinate Legislation

Firefighters' Pension Scheme Amendment (Increased Pension Entitlement) (Scotland) Order (SSI 2009/184)

Local Government Pension Scheme Amendment (Increased Pension Entitlement) (Scotland) Regulations 2009 (SSI 2009/186)

Local Government (Discretionary Payments and Injury Benefits) (Scotland) Amendment Regulations 2009 (SSI 2009/187)

13:04

The Convener: We will consider three Scottish statutory instruments that are subject to the negative resolution procedure. The Subordinate Legislation Committee considered all three instruments and expressed concerns only about SSI 2009/187. The concerns were to do with defective drafting, which does not affect the legality or intent of the regulations. Members have received copies of the instruments and have raised no concerns.

Do members agree to make no recommendation to the Parliament on SSI 2009/184?

David McLetchie: I wonder whether we can obtain information on the costs and implications of the order and of the regulations on the local government pension scheme. The instruments arise because of a previous error, and they seek to preserve entitlements in pensions being paid to council employees and firefighters. However, the same benefit is not being applied to national health service staff or to teachers, as the notes that we have been provided with make clear. The Scottish Government has chosen this course of action for local government employees and firefighters, but the pensions for teachers and NHS staff are a matter for determination by Her Majesty's Government, which has taken a different approach. The Scottish Government's Executive note on the order says that NHS pensioners and teacher pensioners will have

"seen their pensions reduced from 6 April 2009."

I would like to know what that reduction is.

John Wilson: Or the effect of the reduction.

David McLetchie: Indeed. If we approve SSI 2009/184 and SSI 2009/186, that will obviously not apply to firefighter and local government pensioners.

The Executive note also states that, if we approve the SSIs, overpayments of pension that were made because of previous errors in calculation

“will be written off and the affected pensioners will not be required to repay any of the overpayments.”

That is fair enough, but does that mean that NHS staff and teachers in Scotland, in addition to having their pensions reduced from 6 April 2009 because of the error, are being required to repay the element of their pension that was previously overpaid? If so, what does that mean for them? There are equity issues here regarding there being potentially unfortunate consequences for some groups of public sector workers but not for others.

The Convener: Or benefits.

David McLetchie: Or benefits. Yes, you can look at it one way or the other.

The Convener: I presume that you do not wish to make any recommendation on the instruments.

David McLetchie: All I am saying is that we must consider the equity issues here. The Scottish Government has chosen, as a matter of policy, to take a different route from that which Her Majesty's Government has taken. However, the point is that the Scottish Government has, unfortunately, not been able to take that route in respect of all public sector employees. We are therefore creating a differentiated situation whereby the SSIs will preserve and sustain benefits for some workers' pensions, while other pensioners will in effect be disadvantaged because of their different payment-setting mechanisms. There is an important policy issue here.

The Convener: I think that we have the right to ask for clarification and views from the Cabinet Secretary for Finance and Sustainable Growth on the issue, but the order is a negative instrument, so it will go through unless someone moves a motion to annul.

David McLetchie: When does the 40-day period elapse? Is it 26 June?

The Convener: We could reconsider the instrument next week, if you want to move a motion to annul. We have had no notice of such a motion, but if you wish to delay the amendments to the pension schemes for firefighters and local government employees, we can reconsider them next week. If you want to move a motion to annul, you can do so.

David McLetchie: I may do, but if we get answers to my questions, that might be sufficient.

John Wilson: Another question that arises, which the cabinet secretary may or may not be able to answer, is what impact there is for Her

Majesty's Revenue and Customs if the United Kingdom Government claws back overpayments for the pensions that are in its control. Some people who may have received pension overpayments will have paid tax on them. Has there been clarification from Her Majesty's Government on the impact for HMRC of people having overpaid tax on the taxable element of their pensions?

David McLetchie: That is fair comment.

The Convener: We can get a letter away to cover those two points.

Do members agree that we will make no recommendation to the Parliament on SSI 2009/187?

Members indicated agreement.

13:10

Meeting continued in private until 13:21.

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