

LOCAL GOVERNMENT AND TRANSPORT COMMITTEE

Tuesday 22 November 2005

Session 2

£5.00

© Parliamentary copyright. Scottish Parliamentary Corporate Body 2005.

Applications for reproduction should be made in writing to the Licensing Division,
Her Majesty's Stationery Office, St Clements House, 2-16 Colegate, Norwich NR3 1BQ
Fax 01603 723000, which is administering the copyright on behalf of the Scottish Parliamentary Corporate
Body.

Produced and published in Scotland on behalf of the Scottish Parliamentary Corporate Body by Astron.

CONTENTS

Tuesday 22 November 2005

Col.

SCOTTISH PUBLIC SERVICES OMBUDSMAN.....	3155
IMPROVEMENT SERVICE.....	3185

LOCAL GOVERNMENT AND TRANSPORT COMMITTEE

30th Meeting 2005, Session 2

CONVENER

*Bristow Muldoon (Livingston) (Lab)

DEPUTY CONVENER

*Bruce Crawford (Mid Scotland and Fife) (SNP)

COMMITTEE MEMBERS

*Mr Andrew Arbuckle (Mid Scotland and Fife) (LD)

*Mr David Davidson (North East Scotland) (Con)

*Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP)

*Dr Sylvia Jackson (Stirling) (Lab)

*Paul Martin (Glasgow Springburn) (Lab)

*Michael McMahon (Hamilton North and Bellshill) (Lab)

Tommy Sheridan (Glasgow) (SSP)

COMMITTEE SUBSTITUTES

Colin Fox (Lothians) (SSP)

Mr Bruce McFee (West of Scotland) (SNP)

John Farquhar Munro (Ross, Skye and Inverness West) (LD)

Dr Elaine Murray (Dumfries) (Lab)

Murray Tosh (West of Scotland) (Con)

*attended

THE FOLLOWING GAVE EVIDENCE:

Professor Alice Brown (Scottish Public Services Ombudsman)

Carolyn Hirst (Deputy Scottish Public Services Ombudsman)

Colin Mair (Improvement Service)

Clodagh Memery (Improvement Service)

CLERK TO THE COMMITTEE

Martin Verity

SENIOR ASSISTANT CLERK

Alastair Macfie

ASSISTANT CLERK

Euan Donald

LOCATION

Committee Room 1

Scottish Parliament

Local Government and Transport Committee

Tuesday 22 November 2005

[THE CONVENER *opened the meeting at 14:03*]

Scottish Public Services Ombudsman

The Convener (Bristow Muldoon): I welcome members to the 30th meeting of the Local Government and Transport Committee in 2005. David Davidson has indicated that he will come to the meeting but is delayed due to other commitments.

Without any further ado, we move on to the first item on our agenda—an update on the Scottish public services ombudsman's work. In particular, the update will focus on the areas in the ombudsman's remit that affect local government, which is a substantial part of her work. Committee members have received copies of the ombudsman's "Annual Report 2004-2005" and an update report. We thank the ombudsman for that material, which made interesting reading.

I welcome to the committee Professor Alice Brown, who is the Scottish public services ombudsman, and Carolyn Hirst, who is a deputy ombudsman. As usual, we will give them the opportunity to address the committee on the key issues concerning local government that come out of the reports, after which we will move on to a question and answer session. I invite Professor Brown to make her introductory remarks.

Professor Alice Brown (Scottish Public Services Ombudsman): Thank you for inviting us. It is especially good to have an opportunity to give feedback to the committee that was responsible for scrutinising the Scottish Public Services Ombudsman Act 2002, which set up our office. I am also very pleased that Carolyn Hirst can be with me. Lewis Shand Smith, who takes the lead on local government, cannot be with us, but Carolyn takes the lead on housing and there is quite an overlap between the local government remit and the housing remit.

Our papers summarise some of the key points in what has been happening since the act was passed. There is much that we could tell you about that, but we tried to focus on some key issues on which the committee might be interested. However, we would be very happy to extend the discussion beyond that.

We should step back for a minute to remind ourselves of the background to the act. The intention was to create a one-stop shop, bringing together the work of the previous ombudsmen in Scotland to make a simplified, more accessible system for members of the public. Scotland has led the way in developing such a system—it is interesting to look at how developments in Wales have followed on from what we have done.

Our core responsibility and role is to look at individual complaints. However, it is also important that we learn from those complaints about ways in which systems and procedures can be improved. Crucially, it is important to learn how the delivery of public services can be improved in Scotland. Individual issues pose bigger questions for us and we have to feed that back into the system.

We have a very proactive role. We have to raise public awareness about what the ombudsman can and cannot do. We also have to promote good administrative practice, to prevent complaints from arising in the first place. A great deal of work has to be done on that.

Our office has brought together the jurisdictions of the old ombudsmen's offices—local government, housing, parliamentary, housing associations and health—and it has taken responsibility for mental health cases and for the enterprise network. Since October of this year, we have also had higher and further education in our jurisdiction.

A great range of issues and an incredible variety of matters come to us: one day we can be looking at the application of European legislation on grants to farmers and the next day we can be dealing with a complaint about a health authority in which things have gone wrong. There is also the huge variety of matters for which local government is responsible. One of the tricks that we have to master is making the interconnections between those issues, especially in relation to the joint future agenda and community planning. There are particular challenges in making the connection between aspects of a complaint that cover different bits of our jurisdiction.

I have given you a summary of the statistics on some of the local government complaints that come to us. I will not go through them all, but I am happy to answer questions. You will see that local government comprises more than half the complaints and inquiries that come to our office. That is not surprising, given that local government is the key deliverer of services to people in Scotland. As our annual report shows, complaints about local government comprised just over 60 per cent of those that we received in our last financial year and just over 50 per cent in the first six months of this year. That reduction is because complaints about the health service have more

than doubled. Because of changes to the internal complaints process of the health service, things come to us faster. There is a bit of a change in the distribution of complaints, but the percentages are up and growing. We have witnessed that trend since coming into office.

We divided complaints into different categories. The key—and largest—category is housing, followed closely by planning. That will come as no surprise to some people. We have broken the complaints down into the details of the type of things that people complain about under those categories.

Although there seem to be many complaints, it is important to stress that, given the day-to-day interactions that local government has in delivering services to people, the number is relatively small. We encourage local authorities to see complaints about their service as good feedback and, where possible, to resolve the complaint themselves.

I say a little in the report about our new reporting system—I can explain it in more detail if members want. We are moving to a system in which we lay a monthly compendium of reports before the Parliament. In the past, because of our founding legislation, if we did not call something an “investigation”, we could not report on it. We tried, wherever possible, to resolve complaints informally. We used a trick of the language: we said that we were “examining” a complaint. In fact, we found that, because we were very successful in resolving complaints informally, only eight reports came to the formal stage of being laid before the Parliament. That meant that a huge amount of our work remained unreported.

Members will see from our description in the paper that we are moving towards calling everything that we look at in detail an “investigation”. That will mean greater accountability for our work and for bodies under our jurisdiction. More positively, it will mean a greater awareness of the type of learning that arises from the complaints that come to us. We also want to report the good news. When things go wrong, it is crucial that people put them right quickly and learn from that mistake and use the experience to improve their service. That is what we want them to do. If we can share that good practice with others—such as the Improvement Service, from which the committee will hear later—there will be a greater collective value in the work that we all do in our individual offices.

The first of the compendium reports will be laid before the Parliament in the middle of December. I will write a commentary at the beginning, drawing out key issues. There will be a range of issues and, if any arises that members wish to hear more about, I hope that the committee will invite Carolyn Hirst, Lewis Shand Smith, Eric Drake—the other deputy—or me to give further evidence.

As I said, other aspects of our work are more proactive, such as our outreach work, in which we try to prevent complaints from arising in the first place and give feedback to people in the local government sector. We have been interacting with liaison officers in the sector who are responsible for handling complaints and we have held specific events for them in our office—in fact, the first day that Carolyn Hirst and I were appointed, we were straight in there giving a presentation to liaison officers. We have also responded to lots of invitations to give presentations.

Last year, we visited all the health boards in the country, because it is important that we deliver a service across Scotland. As we did that, we also visited local authorities where possible. This year, Lewis Shand Smith and I—Carolyn Hirst has also been involved—have been visiting the chief executives of every council. We have visited about 18 councils so far and we will finish the process by the end of January. The objective is to get across to chief executives the importance of leadership from the top in saying that complaints are a vital part of feedback in the good delivery of customer services and are part of the overall objective of delivering well-being to communities. We have had positive responses from those visits, which have allowed us to give presentations to local authority staff as well. At the end of each financial year, I will issue a letter to every chief executive drawing their attention to any issues that I want to highlight regarding complaint handling in their area. So far, I have been giving them verbal feedback.

It is important when dealing with lots of individual complaints from lots of sectors that we ask ourselves what those complaints say generally and what broader lessons we need to learn. Our annual report looked at three key things across the board. The first is a model complaints process for local authorities. We have 32 local councils and 32 varieties of complaints process. Add to that a separate system for dealing with social work complaints and the system starts to get complex for the public. Again, chief executives have been positive in wanting to endorse a model complaints process for local government. We have been working with the Society of Local Authority Chief Executives and Senior Managers and the Convention of Scottish Local Authorities to that end.

However, the process must extend wider. If organisations are working in partnership to deliver a service through community planning, the public can, again, be confused—if they raise a complaint with one body, they may be told that they have to go to other bodies, all before they come to us. That would undermine the objective of having a one-stop shop for complaints. We have been

working with the sectors to help them to work together more closely.

Our second key proposal, to which local government responded positively, has come out of our experience of handling complaints. A body can get things right in the first instance when a complaint arises after something has gone wrong by seeing that it has done something wrong, apologising and demonstrating how it will put the problem right. That is usually the end of the matter. Most reasonable members of the public want an honest response; they want to understand what and why something happened and what has been done about it.

We have looked at the experiences in other countries where legislation has been introduced to deal with the crisis that had been reached because people who were not getting answers were inclined to go to the law. We are not in that situation in Scotland, but we could change the culture here. Particularly in the health service, there is resistance to saying sorry when things have gone wrong. That is a great barrier. Making a mistake is not the same as being negligent and, in the real world, people make mistakes. What is important is what they do about those mistakes and what they learn from them.

14:15

We want to value, support and empower front-line staff and those who deal with complaints. Dealing with complaints should be seen as a serious bit of the business—not an add-on or something that we think about only when things have gone wrong. It should be integral to the quality of the services that we deliver and to the corporate governance of the institution.

We are also interested in streamlining the system. Chief executives tell us that they feel overburdened, because they are asked to do one thing after another. We want to work with them to improve the system and to reduce the burden where possible. Working with the Improvement Service is one route. It will also be important for us to share information, through our reporting. We will be able to share information with Communities Scotland, the Auditor General and so on. That must be balanced with all the work that we do with communities, through advocacy agencies, to encourage people to make complaints, if those complaints are legitimate, and to make it clear that, if they do so, there is a prospect that their complaints will be taken seriously, that something will be done about them and that, equally important, the same thing will not happen to someone else.

Last but not least, it is important in terms of the founding principles of the Scottish Parliament for

us to think about post-legislative scrutiny of our founding legislation and some of the issues that we want to report back, based on our experience. It is healthy that the National Assembly for Wales has learned from the way in which we deal with legislation. We can now learn from Wales and from developments in England about ways in which we can make some of our legislation clearer, because it lacks clarity in some areas. New bodies that will affect our jurisdiction have come on stream or are likely to do so. Sometimes we get complaints that we cannot handle, which MSPs may find frustrating. There are some anomalies that we could iron out collectively. However, the committee may want to consider that issue in detail at another meeting.

The Convener: I will kick off before bringing in other members. The annual report is useful, because it highlights the areas in which you are primarily receiving complaints. I would like to understand better what lies behind that. You have produced a graph that indicates the propensity to complain in each major postcode area. That is useful, as it shows the level of complaints that come from different parts of Scotland. Have you done any analysis of what lies behind those figures? Instinctively, one might expect that people in the more affluent areas would be more likely to complain and to take advantage of your offices. However, the figures do not completely bear that out. For example, the highest propensity to complain is in the EH postcode area, as we might expect, whereas one of the lowest figures is in the Aberdeen postcode area—AB—which we might expect to be quite high, because of the area's economic affluence. Can you explain what lies behind the figures?

Professor Brown: That is an extremely good question. The issue is complex, because different factors are involved. We have not yet carried out any detailed research into the matter, although we are considering doing so in the future. We know what the figures are saying, at one level, but we have not analysed them fully. We can provide explanations of some of the data, but not an explanation that satisfies us completely. In order to answer the question fully, we need to examine it in more depth.

Carolyn Hirst may be able to say more about housing complaints. Clearly, the figures in certain areas will be affected by whether social housing is still within the local authority's control or whether it has been transferred to a housing association. The issue of who complains is important, but a big question for us is: who does not complain, and why?

I will deal first with those who complain. The picture is mixed and we need better monitoring of the issue. Much of that monitoring must be

voluntary, so we do not get a complete picture. The sectors with which we deal in local government cover different socioeconomic groups. That is fairly obvious in areas such as housing, because we are talking about people who live in council housing. In the health sector, the position changes slightly and our impression is that the socioeconomic groups shift. That leaves us with big challenges about how we might target different sectors.

We also know that non-white communities, the young and the very elderly are reluctant to complain. The reasons for that are different for different groups, but they are interconnected. We have worked with agencies that represent those groups to ask them to help us to understand why matters are not coming to us and to enable them to raise awareness of people's right to bring things to us.

However, as I said, the crucial issue is prevention. The big question in relation to who complains to us and why is who does not complain to us and why not. The research evidence shows that those who rely most on public services are the least likely to complain, with the exception of the sectors that I highlighted. We must be much better informed on that to focus any research that we want to conduct.

Carolyn Hirst (Deputy Scottish Public Services Ombudsman): Another question that we are asking ourselves is whether it is a good or a bad thing that many complaints come from a particular area. There may be a lot wrong in that area; alternatively, the presence of the ombudsman may be well publicised there, so more people know about the office and are more willing and able to go to it.

As we raise awareness of the ombudsman in particular areas, we want to monitor whether more complaints are made about that subject or area. We have noticed that if the media report on a subject, we are more likely to have complaints about that topic. A lot of that is about awareness of our service and people knowing that we are there in the first place to bring a complaint to. People in Edinburgh might know more about us because we are Edinburgh based. We are trying to redress that by going out and about as much as we can and raising awareness in other areas of the country.

Professor Brown: The interpretation of numbers is crucial. It might be a bit perverse for an ombudsman to say that high numbers of complaints are a good thing, but I have told people that if the culture is open, complaints should be expected and should not be seen as negative. Initially, I would not worry if the numbers increased, but I would worry if the same issue returned year after year and was not addressed.

The Convener: My second question is to bore down into whether the figures indicate a more general problem. I note that the report does not break down complaints into the number per local authority or per health board, but such a breakdown would benefit parliamentarians. If one health board or local authority seemed to receive many more complaints—particularly those that you had upheld—that information would be useful. Is there any reason why you have not done that? Do you intend to produce such information in future?

Professor Brown: We will produce such information at the end of this financial year and we have told local authorities that we will do that. That information is also useful for them to have and share with one another. As I said, I give the caveat that we need to look behind the number and ask the reason for it.

One purpose of meeting chief executives is to give them feedback on the numbers and, if we think that the numbers are unusually high or low, to ask why they are so, because that might tell us something different. We are happy to share that information, which will be publicly available. It will be useful to see that in relation to the compendium reports that I mentioned, because that is the feedback that is needed when considering a local authority's overall performance.

We will also see some of the good news. Some complaints highlight good practice—the story is not all negative. Crucially, complaints also highlight what people are doing to put the situation right. If we are encouraging people to improve, we must also encourage them not to have a blame culture but genuinely to take complaints seriously, find out what happened, put it right and move on.

The Convener: I want the information in order to identify good practice as much as bad practice. I acknowledge that such reports will draw that out.

You drew attention to the fact that the pattern of local authority complaints will change as several local authorities have moved their housing stock into the control of registered social landlords as opposed to managing and running it directly. Will that make a difference to your analysis of how those organisations respond to complaints, for better or worse?

Professor Brown: That is another good question.

Carolyn Hirst: It is early days yet, but that is something that I am taking a keen interest in. Obviously, we have had three large stock transfers and a number of others are following rapidly on their heels. Housing is an interesting area, because we have different sorts of landlords doing the same type of work. It is too early to say whether we have noticed any trends or differences, but I am keeping an eye on the

situation and will be happy to report back on the matter.

Michael McMahon (Hamilton North and Bellshill) (Lab): Thank you for the briefing that you gave us, which focused on a lot of areas that we should be particularly interested in. I am keen to hear you explain a bit more about your idea for legislation allowing bodies to provide an apology without an admission of liability. That is something that has been discussed in the Parliament. A number of situations have developed in which it would be helpful to have that sort of provision, which would allow people to get on with their lives rather than facing barricades that are put up by public bodies to defend themselves against issues relating to problems that they know need to be rectified. However, I have also heard the argument that such a provision would be a get-out-of-jail-free card, in that it would allow a body to say sorry and to move on without having any retribution visited on it. What are your views?

Professor Brown: We would not see such a provision as a get-out-of-jail-free card. Not only do we investigate a complaint, but we follow up what happens after that. People were coming to us to say that, although we had said that someone was going to do a certain thing to put something right, they had not done so. As a result of that, we have made compliance part of our work as well. When someone apologises, that is, in a sense, just the beginning of the story. We would then want to see what they did next. If they simply gave an apology and carried on as normal, I would not be impressed. We follow up the case to see what action has been taken and what has resulted from the complaint about the body.

The issue is particularly acute in health cases. Recently, there have been a number of cases involving serious issues that have not been to do only with the board about which the complaint was made. Many of them concerned broader issues from which Scotland can learn. The compendium report that we will publish in December will contain a number of health issues that have a resonance much wider than the original complaint. I want an apology to be given to a complainant for what they or their family went through, but I also want what has been done as a result of that to be demonstrated to us and to this committee. The situation will not be as straightforward as some might suggest.

Michael McMahon: On the other side of the coin, I have had recent experience of a local authority that made an apology to someone because, quite clearly, something had been done that was not intended to have the consequences that it did. However, the person refused to accept the apology. In such a circumstance, how would the legislation help? Will the suggestion that you have made achieve what you hope that it will?

Professor Brown: There will be some people who, no matter what is done, will not accept an apology because they want to go to court and use every avenue that is open to them. In my experience, however, such people are in the minority. We should design systems not for the minority of people, but for the majority. We received a complaint about us from someone who was complaining that we had resolved his complaint. He did not want it to be resolved; he wanted it to go on and on. As I said, however, such people are in the minority.

Carolyn Hirst: It is up to the individual whether to accept the apology. When we get a complaint, we try to find out what outcome is sought. When we consider a complaint, we attempt to find out whether there has been maladministration. If there has been, we try to find out whether there has been injustice or hardship to the individual and, if so, whether it has been remedied appropriately. If someone has made a full apology and has said that they will implement changes as a result of the complaint, we would probably say that we are satisfied with that, even though the complainant might not be.

14:30

Michael McMahon: That was helpful—thank you.

Bruce Crawford (Mid Scotland and Fife) (SNP): I thank Alice Brown and Carolyn Hirst for giving us the chance to look at some of their work. Like the convener, I want to get under some of the figures so that I can get a full understanding of what is happening with complaints. The largest number of complaints—427—was in the area of housing. Did the ombudsman take on and investigate all those complaints? If the figure just refers to the number of complaints received, how many were considered appropriate for investigation? How many complaints were upheld and what range of actions was the ombudsman able to recommend?

Professor Brown: Again, that is a good question. Of course, the answer for anything after 3 October changes quite dramatically because we changed the language then—we stopped using the term “examination” and moved to calling everything that we look at in detail an “investigation”. I know that that is not very helpful in analysing the figures before us. However, you put your finger on the point about which we are concerned, which is that we had a large number of cases and were looking at many in great detail but were not formally calling those actions investigations. The previous housing ombudsman did no formal investigations into housing association cases—we have done no such investigations either—and very few, if any,

investigations of local authority housing cases, because the complaints never went that far but were informally resolved.

We also get a good proportion of what are called premature cases. The Scottish Public Services Ombudsman Act 2002 says that we should not look into a complaint in detail unless the body complained about has the opportunity to address the matter first. Clearly, that involves, among other issues, a proportionate issue, because clearly a body will want a chance to answer a complaint. People often make an inquiry with us and say that they want to make a complaint about X. Rather than tell them to go away because they have come to us too early, we try to give them quite a lot of advice about how to make a complaint. For example, we will pull up on our information technology system information on the complaints process for the particular body concerned—as I said, complaints processes vary—on the person to contact, on what the complainer needs to do and on the different stages. We tell the complainer to come back to us if they do not get satisfaction.

We also want to do follow-ups. Carolyn Hirst says in her section of the annual report that she sees an increasing trend in the premature cases that come to us. The question is why that is the case; we must find out more about that. However, crucially, we need to find out more about what happened to such complaints. We need to know whether the complainers were really satisfied or whether they just got fed up and went away.

Of the complaints that have come through to us for further examination and resolution, probably less than half are not upheld; the rest are upheld. Ideally, an ombudsman puts a person in the place that they would have been in had the maladministration or service failure not arisen in the first place. It tends to be easier to do that for housing complaints than for health complaints, for obvious reasons. Housing solutions are often practical. For example, if a person was not in the right place on a list, they are put in the right place, or a complaint about a roof results in a roof repair. Carolyn Hirst highlighted in the report particular aspects of housing cases, giving details about what the complaints were and what we were able to do to put things right. Because of their very nature, most housing cases do not escalate, unlike some of the more complex cases. It tends to be easier to resolve most of the housing cases and get the relevant body to do something about them.

Bruce Crawford: Can we boil that down to how many housing complaints were upheld after investigation? What number or percentage of those complaints were upheld?

Carolyn Hirst: You asked specifically for facts and figures regarding housing complaints. We received 427 housing complaints in total. We get a

significant number of inquiries, but the 427 that we reported are all complaints. What happens with them depends on the nature of the subject that is complained about. It might be easier if I give you an example. The biggest category in housing complaints is complaints about repairs. Of those that we investigated in more detail over the past year, we upheld or partly upheld 70 per cent, as we reported in our annual report. Therefore, we did not uphold 30 per cent.

In planning, the figures would be reversed. We uphold very few planning complaints, probably because the majority of them are lodged by opponents of an application who are not satisfied with the merits of a particular decision.

The situation varies across the different subject areas. However, if members are interested, we can produce more detailed figures and break them down in a number of different categories.

Bruce Crawford: I do not want you to do too much work on this, but it would be useful to find out how many of the 427 complaints were investigated and upheld. That would give us some feeling for the end result.

I wonder why COSLA has not already brought in the best-practice complaints process that you referred to. Moreover, in your submission, you mention Waterwatch Scotland. Given that that organisation, the Water Industry Commission for Scotland and the drinking water quality regulator are involved in inspections, a lot of people are playing around in this area. I am sorry—perhaps it is cruel to use the phrase “playing around”; I simply mean that many people are involved in dealing with complaints about different aspects of the water industry. Similarly, you, Audit Scotland, the Accounts Commission for Scotland and various commissioners all deal with various local government issues and, as with your organisation, the Improvement Service is concerned with joint future and community planning.

As a result—and as you have acknowledged in your submission—there is some duplication. It is clear that the whole process could be streamlined. In fact, in your submission, you say:

“We welcome the Executive’s initiative to consider and map these regimes with a view to streamlining them and reducing duplication.”

Can you give us examples of such duplication? How could the process be improved?

Professor Brown: I should begin by pointing out that there can be gaps as well as duplication, which is partly why it is important to carry out a mapping exercise.

Post-devolution, some institutions that existed pre-devolution have been reformed and other institutions have been introduced. We have always

said that we want to be involved very early in discussions on establishing new bodies to ensure both that their work does not overlap with some of the things that we think that we are here to do and that there are no gaps that people can fall into.

In any political system, one should stand back, consider what it comprises and think about whether any aspects can be rationalised. Indeed, chief executives have raised concerns with us on this matter. We have done what we can to work effectively with some other bodies and, in that respect, we have worked with Audit Scotland, the Scottish information commissioner and others to create and develop what we have called a route map that allows people to understand the roles of the different organisations.

However, that raises broader questions. We cover such a large area that we ourselves are trying to map the different people in the different sectors with which we are involved—for example, in local government, there are inspectorates as well as regulators—and to liaise with them. We have drawn up a memorandum of understanding with some bodies that allows us, with the complainant's agreement, either to take the lead in examining a complaint or to carry out a joint investigation. As a result, we do not have to ask a local authority the same questions again and again.

That said, we still have quite a long way to go to simplify matters. As Lewis Shand Smith sometimes says in presentations, the Parliament might have created a one-stop shop for complaints about public services in Scotland, but it seems that an arcade has developed around us. Although such developments might be legitimate in many ways, we have to ask some serious questions in that regard.

Opportunities have been missed. However, that is only understandable, given the work that has had to be done in the early days of devolution. We are where we are, and we must now consider ways of simplifying matters.

I feel that the real potential for dealing with that problem lies in the way in which new posts such as the Scottish human rights commissioner and the proposed police complaints commissioner come on-stream. After all, the creation of new bodies always has indirect consequences for us, because they are often concerned with advocacy. For example, the commissioner for children and young people does not investigate individual complaints, and nor will the proposed human rights commission—the complaints come to us. Even if the human rights commission is established, we will still deal with individual complaints about human rights. The creation of such bodies indirectly expands our remit. We need dialogue to take place before such developments

happen so that people understand the relationships between the different bodies.

Feedback from other people and our own experience tell us that the water industry is a highly confusing area. We can deal with a complaint if it comes through a local authority, but we cannot if it is a complaint about Scottish Water. With hindsight, we might have missed an opportunity in that regard. Hindsight is a wonderful thing; if we had it, all of us would do things differently. When we can, we try to make suggestions prior to changes going through.

Bruce Crawford: That is useful. I understand what you said, but which bits of the arcade would you shut down?

Professor Brown: I think that that is an unfair question.

Bruce Crawford: Perhaps it is unfair; if so, tell me why, and I will accept that.

Professor Brown: One would have to examine every organisation's remit and ask whether it needed to exist as a stand-alone body or whether the functions that it carried out could be connected with another body. One could do that across the board.

We have a good relationship with ombudsmen in other countries; sizewise, it is helpful to look at what happens in Wales and Northern Ireland to find out how things are done in other devolved situations. The Welsh public services ombudsman has responsibility for investigating complaints about individual councillors, but we do not. In Northern Ireland, there is debate about whether the ombudsman should follow the Scottish route and have a separate body for considering such matters or whether it should go down the Welsh route of integration. Northern Ireland might come up with its own solution and there is a good argument for saying that Scotland must consider what it wants for itself. However, we can share other countries' experiences.

Bruce Crawford: Thank you—that was a good example. At the end of the Executive's initiative, once you have had a chance to put your advice to the minister, we might well have you back to ask you exactly the same question again.

Professor Brown: I would be very happy to come back.

Paul Martin (Glasgow Springburn) (Lab): I welcome Alice Brown's report. My question is to do with people in socially excluded areas having access to the ombudsman's services. I cannot see a situation in which it would occur to someone at the Molendinar Family Learning Centre who was not happy about the service that they were receiving that the next stage for them would be to contact the public services ombudsman. Do you

think that there is an issue about the title “public services ombudsman”? All of us round this table are aware of what it signifies, but the wider public might find that the term “public services ombudsman” makes it difficult for them to clarify what the role involves.

Professor Brown: That is an extremely important point. We face a huge challenge in that regard because we do not have large resources and we must think about how we can use those that we have most effectively. The message that we have to deliver is sometimes quite subtle, because the first thing that we tell people is that they should complain to the person who delivered the service. People often think that that means that we are putting them off and not taking their complaint, but it is important that we make that point. We come in at the next stage of the process.

We are trying to work effectively with other bodies, such as advocacy agencies, that are likely to come into contact with different communities. We have done some work with citizens advice bureaux, which have good locations, and with other advocacy agencies that, in certain areas, might offer a better route into particular communities. An awful lot needs to be done to raise people’s understanding of their rights. That is part of the shift in the focus of our work. We are also working indirectly with local government. Many people go into their local government offices and it is important that they know what their rights are. Local authorities have a statutory duty to make people aware of their right to bring an issue to us—that must be written into the information that they give people.

We have to use other channels to get the message across. We have been looking for different ways of doing that more effectively; in particular, we have thought about how to target the type of group that Paul Martin mentioned. When we wrote to MSPs at the beginning of the year, we offered to talk through how we might do that in particular constituencies. We said that people could come to see us or that we could go out to constituencies. We have piloted a public event in Inverclyde and will pilot another public event in a rural area, but we really need to get some feedback from members about what you think might work most effectively. We cannot just throw money at this area; we have to be very sensible about how we use our money. Nonetheless, it is a challenge.

14:45

Paul Martin: Is there an argument for placing a statutory duty on health organisations, for example, to have information on hand for somebody who is not happy with the result of an NHS inquiry?

Professor Brown: There is such a duty.

Paul Martin: In practice, not many people come to me to say that they have been handed a charter that tells them exactly what they are entitled to. I cannot see myself sitting in a health centre and being told, “You are entitled to speak to the public services ombudsman.” Should we ensure by law that such information is provided?

Carolyn Hirst: Section 22(1) of the Scottish Public Services Ombudsman Act 2002, on “Information about right to make complaint”, states that a listed authority—an authority that can be complained about—must

“take reasonable steps to publicise the application and effect of this Act”,

including the right conferred by the act to make a complaint, the time limit and how to contact the ombudsman. Section 22 also says that any document published by a listed authority about complaints or in response to a complaint should say that people have the right to take their complaint to the ombudsman.

Paul Martin: How many complaints have you had in which such information was not provided?

Carolyn Hirst: Very few. A complainant would have to have that information in order to come to the ombudsman’s office. A team in our office has an outreach function. Members of that team go into people’s websites to look at the information that they send out. They will contact bodies to say that they have not highlighted the ombudsman contact duty on their websites, or to tell them that their website has old details about the ombudsman contact duty.

We try to be as proactive as possible. However, there is an obligation on bodies that are under the jurisdiction of the ombudsman to publicise the office of the ombudsman and the right to take a complaint to it.

Paul Martin: I would like to ask about the measures that are available to you when a complaint is upheld. Does the legislation allow you to take robust action against persistent offenders? People say, “I received a nice letter from the ombudsman, who seems quite helpful, but I have a serious complaint against this organisation.”

We talked about post-legislative scrutiny. Should we look at the legislation that is available to you to give you much greater powers of enforcement?

Professor Brown: Before the legislation went through, there was quite a big debate in the committee about whether the ombudsman should have direct enforcement powers. The view was taken—it is a view that is held generally by other public services ombudsmen in the United Kingdom—that it was not necessary for us to have

such powers, although we might have to revisit that.

Let me explain the power that we have. No one takes laying a report before Parliament lightly, because doing so makes someone publicly accountable, and our compendium reports will make many more people accountable. My experience is that the bodies involved take our reports very seriously. If we make recommendations with which a body has not complied, we have the power to lay a special report before the Parliament. Earlier this year, Eric Drake, who is another deputy ombudsman, and I gave a presentation to the Conveners Group at which we said that it would be very useful for the Parliament to think through what it would do with a special report if one came to it. We have not had to lay one yet; our recommendations have always been accepted.

There is the broader accountability issue of the annual visits to the chief executives. Given that there are 280 housing associations alone, it is a challenge to get round them all; indeed, it is not feasible to do so. However, it is feasible, and important, to get round the big bodies such as local authorities and health boards. Those visits allow me to say to the body that the same complaints have been arising, that I take that very seriously and that I have the power to lay another type of report that says that there is a systemic failure that the body is not addressing.

We have a good deal of clout that we have not had to use. That is good, because we want to work in relationships of mutual respect for and understanding of our respective roles. We also want to be taken seriously: when we make a recommendation, we mean it. In a sense, we represent the public on such occasions, and bodies have to be accountable to us.

Mr Andrew Arbuckle (Mid Scotland and Fife) (LD): Can we look at the relationship between the ombudsman and other agencies, particularly the standards commission for Scotland? You say that two thirds of the complaints made to you concerning planning are rejected. If you are looking into a planning issue, there might be no initial indication of councillor involvement. At what stage do you hand things over to the standards commission? Does that happen after an initial trawl? I ask the question because the standards commission also has a two-thirds rejection rate for complaints to do with planning. However, that is immaterial. It is the relationship between the two bodies that I am interested in.

Professor Brown: We have a memorandum of understanding with the standards commission. Elements of planning cases can overlap the jurisdictions of the two offices. Initially, we will look at a case and determine which aspects are for us.

Complaints are not necessarily nice and straightforward; I have seen examples of complaints with more than 100 itemised elements of complaint. Some of the elements might overlap and might be about a councillor. At that stage we would inform the complainant about which aspects of the complaint we could deal with. We would then ask them whether they wanted us to transfer the information to the standards commission. We can supply the contact details for the standards commission so that the complainant has the option of taking their complaint separately to the standards commission.

Feedback from local authorities can reveal confusion. When dealing with complaints, we have to consider the interrelationship between councillors and officials. The system is complex and interwoven and it can be difficult to unpick the different elements. I have a meeting with Lorne Crerar coming up and the issues that you raise are the kind of issues that he and I can explore in an effort to reduce the complexity and the time taken for complaints.

Carolyn Hirst: This may be an issue for post-legislative scrutiny. The 2002 act is strict about confidentiality and about what we can disclose as we investigate a case. The act says that there are only certain bodies and organisations to which we can disclose information, and then only under particular circumstances. At the minute, the standards commission is not one of those bodies or organisations. We could let the commission know that we have been approached and we could share information in a limited way under the terms of our memorandum of understanding. However, we could not say, "We've got this far in an investigation and have now realised it's not for us. Here you go, and you don't have to start from scratch."

Mr Arbuckle: We will come back to that issue, but let us move on. I was surprised to see in your report that one of the highest levels of complaints involved the Scottish Executive Environment and Rural Affairs Department.

The Convener: Can we stick to local government issues?

Mr Arbuckle: Right. I will convert this into a local government question. SEERAD already has a complaints procedure and—to repeat a point that Bruce Crawford was hammering away at—there may be duplication. That takes me back to my original point about the relationship between the Scottish public services ombudsman and the standards commission for Scotland. It may be that we should be considering a small bonfire of the arcades.

The Convener: I think that the witnesses have already addressed that point in response to Bruce Crawford.

Dr Sylvia Jackson (Stirling) (Lab): I thank the witnesses for their report. I am sorry that I was late and did not hear everything that was said earlier.

Alice Brown mentioned the situation in Wales and I would like to ask about various aspects of legislative review here. I am the convener of the Subordinate Legislation Committee, which constantly seeks to ensure that instruments are as clear as possible and are not being misunderstood. You can use local government regulations as examples if you like, but are there instruments that give particular problems?

Secondly, how will you go through the process of post-legislative scrutiny—not only of regulations but of primary legislation? Will you meet the Executive to find out how you can make progress on that? Are there other processes that you will work through?

Professor Brown: I will answer the first question first. Section 5(1) of the Scottish Public Services Ombudsman Act 2002, which is on “Matters that may be investigated” and is fundamental to the act, is a good example of where the act is less than clear. I will give some history. The act brought together previous legislation relating to the local government ombudsman, the Scottish parliamentary commissioner for administration and the health service ombudsman. It is clear that there have been advantages from doing so, but there are also disadvantages, because the Scottish Parliament’s aspirations for what it wanted from a Scottish public services ombudsman had to be bolted on to the legislation. Previously, ombudsmen in certain areas could consider only maladministration, although service failure in the health sector could also be considered from 1996. Quite late on in the debate on the bill, Iain Smith MSP asked why, if a one-stop shop was being created, the service failure aspect should not apply to the areas under jurisdiction. The idea was therefore brought into the act, but in a way that has led to confusion about the extent of its applicability. The Welsh have learned from that and are much clearer in defining what may be investigated. That is historical, but we can learn from it.

There is another good example. We cannot investigate personnel matters, but we can consider the process that is gone through before a decision is made. In other words, if someone complains that they were not appointed as X, we cannot challenge the appointment if the process has been properly followed. The Parliament debated a similar provision relating to contracts and commercial transactions, which it also excluded from our investigative powers, but there was an understanding that we could consider the process—indeed, the Scottish Executive’s guidance on the act said that we could do so. One

of our first challenges came from someone who brought a case relating to contracts and commercial transactions. However, the opinion that we received on the legislation was that we could not consider the process. Something had clearly happened during the translation of the aspirations of the politicians—the parliamentarians—into what was in the bill. Therefore, in the light of what was intended, there are obvious areas in which there can be improvement.

There are bigger questions. There was another big debate at the time on whether we should have the power to initiate investigations. Currently, we can only wait for cases to come to us and there can be frustrations. If we had the power to initiate investigations, it would have to be used rarely, but we often see issues out there that we cannot do anything about because we cannot investigate them. I return to Paul Martin’s question about communities that do not bring forward issues and which need issues to be raised by somebody else. It would be worth having a debate on the judicious use of that power.

On post-legislative scrutiny, I was thinking much more about the founding principles of the Parliament. Committees have reconsidered legislation that they previously considered, so I would have thought that the debate about revisiting legislation that has been passed would be one for the relevant committee in the first instance. Revisiting legislation is part of a cycle. Legislation is made in a particular context at a particular time with particular objectives in mind, but people will learn from what has happened to it in practice and can feed their experiences back into the process. Perhaps there could be fewer acts of Parliament and more improvements to acts that already exist if they have had unintended consequences or things have been missed, not through anyone’s fault, but because they occur to people with hindsight. Once openness to reviewing legislation a number of years down the line has been embedded, there will be chances to say, “This bit’s working but this bit’s not working so well.” There could be honest feedback to improve legislation.

Dr Jackson: You mentioned Iain Smith. Michael McMahon and I well remember the issue that was raised about the different remits of the different bodies and the discussion on how they would come together. We also remember discussing the name of your office.

When I asked the question, I was approaching the matter from the user’s angle, rather than yours. However, your answer was useful, because I had not thought about the particular points that you made. You said that you would identify via the committees bits of legislation—including

regulations—that were not helpful. Would that information come as reports to individual committees? How and when will you progress that work?

15:00

Professor Brown: A lot of the information will come out of the individual complaints that we examine and the reports that are laid as a result. However, we must stand back from those and ask what they tell us about particular sectors. It goes back to your having at your disposal the intelligence that we gather, so that if a particular committee—the Local Government and Transport Committee, the Health Committee or whatever—examines an area within its jurisdiction, we would be able to say, “From the cases that we have seen, we can give you an overall report on the sector on that issue.” We could even break down the information into areas of Scotland, which, to return to a previous point, members might find particularly useful. If we improved monitoring, we could also provide the socioeconomic breakdown of the people involved. It is about using the information that we have more cleverly, sharing it and feeding it back into the political system.

There is a tendency for things to happen, be reported on and then be seen in isolation. We want to ask what it all adds up to and whether that presents the same picture that comes from organisations that have different roles from us. For example, from discussions with the Auditor General for Scotland, I know that he is pleased that we are shifting to a different reporting system, because if he and his staff go into a particular service area, they will now be able to look at what we have been saying about particular aspects of the service. We are getting better at working together effectively on some of these things—it is incumbent on us to do so—but while we all want to look for savings and reduce duplication, it is important to recognise the importance of our respective roles.

Dr Jackson: To follow on from what Bruce Crawford said, you talked about the mapping exercise and how there may be a need for dovetailing across areas. Therefore, committees might not be the most appropriate bodies to approach, unless you want them to work together.

When the Scottish Public Services Ombudsman Bill was being considered, it was suggested that the ombudsman might, on a small number of occasions, wish to instigate investigations. Obviously, we did not follow that through. However, I cannot remember any more about it.

Professor Brown: The cross-sectoral issue is important. It is a challenge for us, given the different committees. There is also a challenge in

dealing with complaints that cross boundaries. For example, on care of the elderly, to which committee should we report back—this committee, the committee with responsibility for housing or the Health Committee—given the different routes from which complaints come? How can we, collectively, learn more about such areas?

It is interesting to note that it was clear from our visits to individual local authorities that they are examining their powers in relation to community planning and the power of well-being. They are saying, “Maybe we should take the lead here.” My answer to you is that perhaps the Local Government and Transport Committee could take the lead when a cross-cutting issue arises, because the Scottish Public Services Ombudsman Act 2002 came through the former Local Government Committee, so it might be the most natural place to start. However, getting better at reporting across boundaries is a challenge.

Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP): I was a few minutes late, for which I apologise unreservedly, without admitting legal liability.

I praise your recommendation that legislation should allow for an apology to be made. I will give one example to prove a point that I want to make and relating to a question that I want to put. A lady constituent of mine with a special needs son in early adolescence who required incontinence pads was told that they were rationed. She was given only five a day, instead of the number that he required. That was ridiculous and it ultimately led to a complaint and an apology. The chairman of the health board, Gary Coutts, apologised publicly, for which all credit is due to him. That made the lady feel somewhat better. I think that you make that point in your report, with which I agree.

It is important to make an unreserved apology; that is the term that you use in some of your case examples. I accept the legal liability problem and I think that how you suggested we should deal with that is fine. Do you think that, in some cases, it would be useful to have the power to stipulate that when an apology is made, it should be made in public, if that is what the complainant feels is required and you are satisfied that that is reasonable? Is that something that you would welcome?

Professor Brown: That is a very interesting point and, as far as I am aware, it is not something that we have recommended. Another thing that people sometimes want is for the particular individual in an organisation to apologise; other people might want the chief executive to apologise. That is an issue for us to take back to the office and debate among ourselves.

Carolyn Hirst: The change in the way in which we report cases means that everything that we investigate will be in the public domain, so an apology will be in the public domain by virtue of being in the report. However, I agree with Alice Brown that different people want different things from apologies. They want to feel that the apology is genuine; at the moment, people who make apologies choose their words very carefully, so the apology can sound quite grudging. If people were able to say, "I am really sorry that that was your experience of our services. That should not have happened," it would go a long way.

Fergus Ewing: The conditional apology is not really an apology at all.

Carolyn Hirst: No.

Fergus Ewing: In my experience, it can cause extra offence. For example, if the boss says, "I am sorry if my actions have caused you offence," that suggests that the person is being unreasonable in making the complaint, or is overtouchy and oversensitive. I would be glad to hear your views after you have had time to think about it.

I certainly think that there must be cases where it would be useful to be able to stipulate that publicity should be attached to the apology, or even that the apology should be made in person. It should usually be made by the head of the body that was involved, because the buck stops with the boss. I do not think that an employee should be forced to go through that sort of process, although there might be circumstances in which that is right.

Professor Brown: Carolyn Hirst is right that an apology is made public when a report is laid. The bodies also have a duty to publicise the outcomes of any investigations on their websites and elsewhere. There are other levels at which that can work.

We have also been doing some work with the medical defence unions because they clearly tell their members not to apologise. We have to bring all the different constituencies on board.

The Convener: Perhaps Fergus Ewing could take that back to the Law Society of Scotland.

Fergus Ewing: I think that that is a trade union.

Professor Brown, do you feel that whistleblowers in the public sector are adequately protected? I am thinking of the example of a nurse who feels that she is being less well paid than before or that some arrangement is not what she and the profession are led to expect. She might feel reticent about identifying herself or speaking out in public for fear of reprisal. I am sure that colleagues will know that that is part and parcel of our lives, as it is of yours. Is that something that you have to deal with? How do you deal with it? Do you believe that the law adequately protects

whistleblowers, who should be entitled to raise concerns in public to sort out any problem that exists?

Professor Brown: Audit Scotland has produced some very good materials on whistleblowing. One production is directed at those who might want to blow the whistle and sets out their rights. The other one is directed at employers and sets out how they should respond in such circumstances. We have certainly found those materials to be very helpful in our work.

We get some complaints that have aspects of whistleblowing. We cannot deal with some of those, particularly if they are to do with personnel matters. For it to be a matter for us, it has to be a complaint about the service or a concern about the actions of another individual in the service.

The confidentiality rules that we operate link quite well with that, because whistleblowers will clearly not want their names revealed, or it may be that they have relatives working for the body in question. These things have to be dealt with sensitively and we have the scope to do that at the moment. However, if individuals want to bring issues to public attention, then, regardless of the protection of the law, they will still fear reprisal, either against themselves or against other members of the public.

There is often reluctance to bring complaints—without even going as far as whistleblowing—in certain areas, particularly in health services in rural areas, where everyone knows who the complainant is. That can act as a barrier to bringing cases forward. If someone has no alternative to the general practitioner, hospital, housing association or local authority that is the subject of the complaint, and if everyone will know that they have raised an issue, it can be quite difficult.

It was no surprise to me that the 2002 act was strict about confidentiality. We try to assure people who bring cases to us that their names will not be revealed outside the body, but the names often have to be revealed if the complaint is to be pursued. We have sometimes had anonymous complaints, which can make matters difficult. How can we pursue a complaint if it remains anonymous and we cannot identify the details that are required? It is quite a tricky area and you are raising a good question for us to think about more deeply.

Fergus Ewing: I do not want to identify the body in question in my constituency, but I am told by people within that public body—which will shortly be within your competence—that they are being warned off from speaking out. The matters on which they might speak out do not relate to any confidential material that they have to keep

confidential per the contract, but are general criticisms. Is that in itself—warning off employees from speaking out, giving their views or seeing their MSP—something that you would prima facie see as maladministration?

Professor Brown: I will give the usual ombudsman's answer, which is that we would have to examine the details of the case in order to reach a decision on whether it was maladministration. There are sometimes other routes by which to challenge particular behaviours of employers; that is why we have employment tribunals and different governance arrangements to cover different aspects of complaints. I do not want to give a blanket response to that question.

Fergus Ewing: I quite understand. I guess that I would probably do the same if I were occupying your seat and you were occupying mine. I tried to raise the issue in a general way because I accept that you cannot comment on individual cases, but perhaps that is something that you could think about.

Professor Brown: Yes, absolutely.

Fergus Ewing: It seems to me prima facie wrong that people should be warned off from expressing criticism about public services, which is often well motivated.

I wanted to move on briefly to a couple of other areas, convener, but I realise that I am taking up a lot of time.

The Convener: If you are very brief, I will allow you to continue.

Fergus Ewing: Thank you.

Professor Brown, how do you respond if the body that is complained of seeks to give you information in confidence? Is your response that you cannot accept such information without revealing it to the complainant?

Professor Brown: We would not say that categorically, but we operate on the basis that everything will be shared with the complainant unless there are very good reasons not to share things. In our new investigation process, we try to get a clear understanding of what the complaint is about. We set out how we will plan the investigation and we ensure that both sides are aware of that from the outset. We also tell them that information will be shared as we go along. When we reach provisional conclusions, we give a report of our findings to both sides. We try to operate on the principle of fairness to both sides as we go along and, as I said, there would have to be exceptionally good reasons why we could not share something; that would usually happen only if it involved a third party.

Fergus Ewing: That is reassuring and it is the answer that I hoped you would give.

My final question is about the impact of the application of remedies. You have the power to recommend financial redress and I have noticed that amounts of up to £2,500 have been highlighted in some of your case studies, although you can award more than that. Of course, if that money is simply paid by a public body, it is really the taxpayer who pays. Is that satisfactory? Should there be powers—or do you have powers—to make the chief executive of Highland Council pay where maladministration has been found? If you do not have those powers, would that not be a remedy that might have some impact?

The Convener: I am sure that Fergus Ewing is using that chief executive as an example, rather than seeking redress on a particular matter.

Fergus Ewing: This is the Local Government and Transport Committee, so I thought that I would give a suitable example.

15:15

Professor Brown: Again, I will make a general response rather than a specific one. We have a redress policy, which we are developing through experience. I try to get it across to people that, in thinking about redress, we should not necessarily think about money—that should not be the point at which we start. Redress might include giving an apology, providing an explanation or demonstrating where improvements to procedures and processes have been made, but it might also involve a sum of money, particularly in situations in which we want to put someone into the position that they would have been in had the maladministration not occurred. For example, if, in a planning case, a person paid a fee that it subsequently turned out they did not need to pay, we would want the money to be reimbursed. That is the level of reimbursements. In a recent case in local government—which was reported, so I can talk about it—a person built an extension but then had to pull it down, so the sum of money involved was fairly high.

As I said, we do not have enforcement powers, which is where the power of the Parliament comes in. We consider what is reasonable in the circumstances and then make recommendations on that basis. If the body does not accept the recommendations, we could lay a special report on the matter before the Parliament. It would then be over to the Parliament perhaps to hold a chief executive to account over why they did not follow the recommendations. That is democratically accountable, which is proper.

Mr David Davidson (North East Scotland) (Con): I, too, apologise for being late. I was on constituency business and the problem was compounded by certain public transport services.

I recently learned from Professor Brown's office that people can take their case to the ombudsman if they have exhausted every official complaints procedure. Along with a constituent of mine, I have collected a file of 300 letters that have gone to three bodies. We were then told that we had to exhaust the official complaints procedure. Even though I had received responses from the chief executive and another director, the council was not dealing with the complaint officially, which I did not know about. How can you make the procedure clearer to people? In complicated cases in which a council and other public agencies such as Scottish Water, the Forestry Commission Scotland and the police are involved, do we have to exhaust the complaints procedures of every single one of those agencies or just that of the first port of call?

Professor Brown: The 2002 act lays out that people must invoke and exhaust the complaints procedure of the body that is complained about before they come to us. When people come to us, they often say that they are exhausted from trying to exhaust a body's complaints process. That is why we have been working on a model complaints process that is much shorter, simpler, clearer and faster than people may have experienced previously. However, the ombudsman can exercise discretion. If I think that someone has been asked too many questions and been sent back and forward too many times, I can intervene and say that I do not expect the person to go any further with the procedure and that I will consider the issue. Alternatively, if somebody's personal circumstances make it difficult for them to follow the procedure, I can intervene. Every case must be considered on its merits.

In the example that you raise of a complaint in which multiple agencies were involved, a person would not have to go through all the complaints procedures before coming to us. I would write to the other chief executives to say that the complaint had gone through one body and that it was unreasonable to expect the individual complainant to go up every other avenue. As we said earlier, a modern complaints process would make matters a lot simpler. Bodies are worried because, although they have different governance arrangements, they are asked to work together to deliver a service and they may not have done much to work out what to do when matters go wrong, which is not necessarily their fault.

You mentioned somebody who has had experience of many letters going back and forward. You hit on an important point when you mentioned the issue of when bodies consider a complaint to be an official one. That is an issue on which we need to give better guidance, because people who have written a letter often think that they have made a complaint, but the body thinks that it is just a letter, not a complaint. We advise

complainants that if they write to a body, they should mark it clearly as a formal complaint, as there will then be no ambiguity. We can learn from the feedback that we receive on the issue.

Carolyn Hirst: Public sector bodies are increasingly working in partnership with one another. As they come together, it is important for them to consider how they will handle complaints and whether they should designate one body as the lead agency for that. For example, within the framework of the common housing register, it is important for the bodies that are involved to agree how complaints will be handled.

Mr Davidson: I can think of another case that will probably head your way. The case has arisen between a council and a bus operator and it is about a council-supported bus route. Obviously, the planning authority is part and parcel of the council. In such cases, do you include the operator as well as the council, or is it purely an issue for the council?

Professor Brown: The operator will be acting on behalf of the council. When we do presentations, we list all the bodies that are under our jurisdiction. We always put at the bottom "and ..." because our work covers bodies in the voluntary sector and the private sector if they act on behalf of a local authority or a health board. In other words, a body comes under our jurisdiction if it uses public money to carry out its functions. Sometimes, operators write to us and say, "We are not under your jurisdiction," but we address our complaint to the local authority because it must be answerable for the operator's work.

Mr Davidson: In your report, you mention your input to new legislation and retrospective looks at existing legislation. Did you make any input to the white paper on planning? Obviously, the planning bill will come to the Parliament fairly soon and, as you said in response to other members of the committee, it is important that you are able to examine certain aspects of legislation. Even in my part of Scotland, which has the lowest number of complaints to your office—I am obviously not doing my job properly, or else I am—planning is a big issue. Are you involved in the pre-legislative stage?

Professor Brown: Yes. We were involved in the discussions that took place when the Scottish Executive pulled together all the various interests—and people with completely different views on the planning process—to draw up the consultation in the lead-up to the white paper. We gave feedback on the types of complaints that come to us and the things that people complain about. In the main, people who complain about planning are complaining about decisions, so, often, we cannot help them.

However, a big area about which people complain again and again is the process that leads up to the decision. They do not understand the process—it is unclear and it differs in different parts of Scotland. People also complain about enforcement orders. They say, “I thought that this was supposed to happen, but the local authority is not carrying through the enforcement.” We were able to give feedback on the types of complaints that come to us. There is a need for consistency, transparency and openness so that people understand the process at different levels.

We welcome the attempt to get some proportionality into the consideration of planning cases because it is clear that they vary enormously, from small things that people do to the internal structure of their houses to huge and extremely complicated developments. We have very much been a part of the process. We did not write an official submission on planning, but we are happy to feed in our experience from our investigations. We have just made a submission on the Scottish Commissioner for Human Rights Bill because we will get the individual complaints. We try to track as much legislation as we can within the constraints of our resources.

Mr Davidson: I suggest that you consider the proposal in the white paper that planners and others will be issued with guidance booklets on how people can clearly identify the complaints procedures, what the various levels are and at what point they are triggered. That guidance will be helpful. If all councils issue it, that will be even better.

Professor Brown: Absolutely. I endorse that.

The Convener: The final point that I want to throw in is, again, a suggestion. Some local authorities have divested themselves of housing stock, but others are still housing providers. When you publish the figures on complaints by local authority area, it would be helpful to be able to compare them on a like-for-like basis. Non-housing complaints and housing complaints should be separated so that we can compare apples with apples. It would be helpful if you would take that on board when you are producing those reports.

Professor Brown: Absolutely. We will do that.

The Convener: That brings us to the end of our questions. Thank you both very much for your contributions this afternoon.

Professor Brown: Thank you for your questions and for the points that were discussed. They have raised issues for us and we would be happy to come back to pick up on some of them. I would like to leave some leaflets here. We are good at producing leaflets for complainants, but we also have a leaflet that reminds bodies that are

complained about of their duties. I will leave copies of those as well as some details of our process for investigating a complaint and the commitments that we make when we investigate.

The Convener: That is very useful. Thank you very much.

Improvement Service

15:27

The Convener: Item 2 concerns evidence on the work of the Improvement Service. Members should have received a copy of the briefing paper on that work. I welcome Colin Mair, who is the chief executive of the Improvement Service, and Clodagh Memery, who is the business and best-value manager. As usual, we will begin with some introductory remarks.

Colin Mair (Improvement Service): Thank you for your kind invitation to come along this afternoon. I have advised the committee a number of times—it probably felt a lot more comfortable sitting here then than it does now. However, I look forward to hearing your remarks about us. By way of brief introduction, I will say a bit about what we are, what we are about, where we are and how we will progress.

The Improvement Service is a company that was established through a partnership between the Executive and local government in Scotland. Local government is represented by COSLA, for the politicians, and by SOLACE, for the chief executives. The establishment of our company was an unusual and imaginative development because we are also core funded by the Scottish Executive. It takes a significant amount of creativity and imagination to establish a true partnership that is accountable to a board but not directly accountable to ministers. The chair of the board in our first year has been Tom McCabe, the Minister for Finance and Public Service Reform. Pat Watters, the president of COSLA, is on the board, as are the chair and vice-chair of SOLACE. The way in which we have been set up has given us an unusual start in life and an unusual reporting mechanism but, as I will explain, it also slightly insulates us from parliamentary scrutiny. We welcome an on-going relationship with the committee so that we can have feedback from, and present our work to, Parliament.

The core purpose for which we were set up was to work in partnership with councils to improve the efficiency, effectiveness and accountability of local public services. Although that clearly implies a primary focus on local councils, I emphasise that we are interested in local public services rather than just local councils, because most councils work in partnership with other local partners in the public and voluntary sector and it is important that all those arrangements are properly accountable to service users and local communities.

15:30

Within that broad remit, we have focused on building up and developing a small number of

business themes. One of those themes goes to one of our core purposes, which is enabling the 32 councils, their partners and their partnerships to learn more effectively and easily from good practice elsewhere and to share good practice with others. The slightly pretentious way of talking about that is to say that it is about knowledge management. Practice sharing is the essence of what we want to focus on. Some of that will be done by developing a significant web capacity—as we are doing—so that people can interchange ideas and learn from others online, and some of it will involve focusing on networks and communities of practice. We will work directly with groups of people who are trying to develop and share good practice with one another.

In capacity building, we are also commissioning two major development programmes—one for senior elected council members, who will provide council leadership in future, and the other for the executive leadership of councils. Members will be aware that, as 2007 hoves into view, a 50 per cent turnover of sitting elected members is expected, but a substantial turnover of chief executives and other senior corporate managers is also expected. Support is necessary to develop the next generation that will provide the leadership of local government.

A second focal theme is partnership and joint working. I know that community planning has been a recurrent theme and interest of the committee. Our focus is partly on sharpening the operation of community planning at board level, so that clarity about direction and accountability is developed, but it is also on shaping the major partnerships that deliver public services more tightly and in a more focused way as joint ventures, which they are, and ensuring that the collaborative gains that led them to be established in the first place are realised.

A third theme is efficient resourcing, as the committee would expect. We are moving into a period in which real growth in public budgets will slow in comparison with the situation since devolution. It is critical that we use all resources to the maximum. Efficiency is a core value that local government is increasingly beginning to articulate. If we waste resources in one area, we deny service users in other areas the quality and level of service that they ought to expect. I will discuss some of the work that we have done on that in the past year.

As the audit of best value has made its way round the first 12 councils to be audited, it has raised interesting questions about the robustness of performance management systems in councils. One of our key strands of work involves supporting councils in developing their ability to set clear targets and monitor the performance of their

organisations and services against those targets. We are also interested in how that is fed through to elected members. Scrutiny is a key role of elected local politicians. We are working with them on whether they feel that they receive the type and quality of information that they need to interrogate the performance of their local services fully.

Another theme relates to 2007, which is a major system change point for local government. From 2007, a new electoral system will operate, members will be salaried for the first time and we will move to multimember wards in councils. For most people, all that will be new and virgin terrain, although we have had experience of multimember wards in the past.

We are working with COSLA, SOLACE and several member services organisations on how we can ensure that things hit the ground running in 2007, rather than with a large question mark over them. In collaboration with COSLA and the councils, we are working on developing standard induction material for new members. We expect 50 per cent of elected members to be new, so the induction pressure on councils will be much higher. The view has developed that having a common core of well-produced, sound and highly developed materials that councils can customise in their induction frameworks is much more cost effective and beneficial than materials being produced 32 times in different parts of Scotland.

We are examining tools and techniques that might allow more case-load sharing in multimember wards, because one of the opportunities that are offered by a multimember ward is that councillors can work together as a team. One of the challenges is that if they do not do that, they might find themselves competing with one another over the same complaints and end up buried in the volume of what comes through to be processed in the council. There is a big focus on 2007 because it is a key juncture for local government.

We want to do all this work in partnership with councils. One part of our operation, which we have called an innovation fund or innovation exchange, is to allow councils and their partners to come to us with ideas for innovation and improvement that they want to be supported. Rather than the work being directed all the time by us, our stakeholders can actively push us to channel our attention and resources towards certain developments. We will launch a prospectus for councils on that arrangement in December.

I have outlined broadly what we do and indicated the way in which we are focusing our attention. Over the past year, much of our work has been to develop the organisation. I am delighted to tell the convener that we are now located in Broxburn—a very sound place—in West

Lothian, in East Mains industrial estate. A staff team has been fully recruited and in place for the past two months. In the past six months, much of our work has been nationally focused because I have been something of a one-man band and a national focus has been more manageable, but now that the team is in place, the challenge is to get ourselves out the door and round the councils. In the past year, we have visited every council in Scotland to discuss what they want from the Improvement Service. We are building the considerations that have been raised into our business planning.

My final point brings us back to where I started. Because we are set up as a company, we are not reported on to Parliament by the Auditor General for Scotland. Therefore, we would welcome an on-going relationship with the Local Government and Transport Committee, both to pick up on the committee's key agendas for improvement and to feed back all our corporate documents and reports. Members will be glad to know that those comments will satisfy for introductory remarks.

The Convener: Thank you. I congratulate you on your choice of location; you could not have done much better.

Bruce Crawford: It is not a bad location; it is where the Scottish National Party had its campaign headquarters during the by-election in Livingston. That is a good place to be.

The Convener: Of course, the campaign completely failed.

Bruce Crawford: It depends what you mean by failure and how you measure success. I guess that that is part of Colin Mair's job.

The Convener: First place is success.

Bruce Crawford: Colin Mair has laid out in his comments today and in his very useful submission the role of the Improvement Service, what it is doing and how it is set up. Is the fact that the Improvement Service exists not an indictment of local government? Why has local government—in particular through COSLA—not already done what the Improvement Service does? You will know that I am a former council leader as I have discussed these issues with you in the past. Why has COSLA not managed to bring together the work programme that is ahead of you? Why is the Improvement Service rather than COSLA undertaking the role? Is local government unable to do the work?

Colin Mair: I emphasise that COSLA was one of the activating partners to the agreement. COSLA worked in conjunction with the Executive to push for the development of the Improvement Service as we move into a period of substantial change for local government, with the introduction of best

value and the new electoral system. One option would have been for the service to have been housed physically within Rosebery House and to have reported through the COSLA council leaders meeting. However, there was a genuine desire for partnership, so it was agreed that it would not be right for us to report to the Executive as a non-departmental public body or as an agency. It was also agreed that it would not be right for us to be seen as part of the local government community and nothing else. Much of what local government does—the committee has reviewed the matter in relation to outcome agreements and so on—is done in partnership with the Executive and the Parliament.

One example is education, which accounts for half the total local authority budget. Clearly, some issues within education are properly decided on, managed and focused at the local level, but much of it is about the rights of citizens to receive a given standard of education, for which the Executive has a proper responsibility. The word “partnership” is meant to express the fact that there is no dichotomy or contradiction between the Executive and local government. The key challenge is to work out how both the Executive and local government—as the political leadership at each level in Scotland—can work together more effectively and efficiently to deliver improved public services. It was not that local government could not develop ideas about what was collectively needed but that it was seen as best to develop such ideas in partnership with colleagues in the Executive.

Bruce Crawford: I ask that question because the issues that were raised in the “Code of Guidance on Funding External Bodies and Following the Public Pound”, which was published by the Accounts Commission for Scotland in the mid-1990s, have been around for some time. Best value has also been around for some time—I was involved in one of the pathfinders for best value. Some of the key objectives that are laid out for the Improvement Service hark back to those issues. If local government had been successful in implementing some of the changes that were required, perhaps the Improvement Service would not be needed.

Colin Mair: I will make two points in response. First, we have a system of 32 councils in Scotland, so some councils excel in some areas and other councils excel in other areas. The Improvement Service is predicated on the idea that sharing best practice rapidly, effectively and efficiently will raise the overall standard across Scotland. That will mean that no matter where or who a person is, they can expect the same high standards in the service that they receive from their council.

On following the public pound, in some ways each generation of change and innovation

generates new challenges. As we evolve new types of arm's-length organisations, such issues do not go away but can reinvent themselves in new and sometimes even more challenging forms. However, we do not say that we are focusing on areas of failure because there are significant strengths in all areas. The issue, rather, is how we capitalise on those strengths to ensure that the whole local government community in Scotland benefits and learns from best practice.

Bruce Crawford: That is useful. You have given a good example of how the issues to do with following the public pound move on, as people find new and innovative ways of funding things. I accept that.

Let me narrow my questions to focus specifically on best value. I agree that local authority performance management and monitoring have improved and that local authorities have probably improved their benchmarking, in that they are better at comparing their performance with that of others. However, it seems to me that little improvement has been achieved in the end result. When the work on how an authority's services compare with those of others is concluded and the authority moves to the next step to consider how it will make further improvements, it seems to me—perhaps I am now too divorced from things—that there are not many examples of how an examination under the best-value regime has resulted in a significant change to services. I may be wrong on that.

Colin Mair: Unquestionably, the introduction of the audit system has sharpened up focus, but the fact that we have well-developed, elaborate and sophisticated performance management systems is of no interest to the public if such systems do not result in improvements to services. Therefore, the link between the management and measurement activities and the improvements to public services is critical. The audit framework—along with the self-assessment that councils are now carrying out as part of that—greatly sharpens that focus because it requires councils not simply to know what other authorities are doing but to state what they have learned from that and what they are doing with that knowledge. I agree that improvement must be the core end point of such systems.

Given the variation in the scale of councils—which range from large-scale sophisticated organisations operating with finances on a level of some transnational corporations down to organisations that are very small in terms of staff resources—it is also probably true that capacity and capacity sharing are an issue. One purpose of the Improvement Service is to equalise that capacity, both in advance of and after best-value audits, to ensure that the learning is available to

councils that might not have the resources to go out and find it for themselves.

I agree that improvement should be the end result of best value, but I believe that the audit of best value is proving to be usefully challenging and is bringing about change. I have just spent five months working with Inverclyde Council and—believe me—the audit became a dramatic focal point during the summer months for discussion on how that council needed to change and develop. Some quite hard decisions about change and development were taken. There is a new dynamic there, which has followed from the audit process.

15:45

Bruce Crawford: Your paper mentions

“involvement by the Improvement Service in driving forward required improvements”

in best value. What is the difference between what the Improvement Service will do and what the Accounts Commission might do?

Colin Mair: It can be viewed as a division of labour. The job of the Accounts Commission is not to act as consultants and service providers, supporting the change and improvement that follows the audit; the commission's job is to undertake robust audits that challenge people on their current performance. The division of labour lies here: first, the commission identifies major issues; then, the Improvement Service will give support to those councils that need it.

Bruce Crawford: That is a good explanation. Thank you.

Paul Martin: I want to ask about the benefits that your organisation brings over the long term. Can we quantify the financial benefits stemming from the formation of your organisation? Substantial funding is being made available, comprising £1.7 million as well as payment in kind from COSLA. There must be something at the end of the process that allows the savings to be quantified.

Colin Mair: That is one of the things that we are working on just now. We can take our substantial involvement with Inverclyde Council as an example. We need to monitor what follows from our work there in terms of change and improvement to services. How one cash-values some of those improvements is a more complicated matter. However, we are also working on some programmes and projects on procurement, and it will be entirely possible to place clear cash values on the benefits that flow from more co-ordinated and collaborative procurement between councils. The benefits from some of our programmes will definitely be identified and measured. Whether they are cash

valuable or not is something that we will need to look into.

I would take the challenge that, wherever possible, we should seek to apply cash valuations. There will be projects that are clearly geared towards generating cash-releasing efficiency savings, which should be judged absolutely according to whether they deliver those benefits.

Paul Martin: Are you proposing to report on the particular savings that might be achieved by organisations over time?

Clodagh Memery (Improvement Service): I will mention a couple of good examples of projects. We are starting a project on national care procurement and the savings that can be made through a process that brings councils together and which has been cleared by COSLA leaders as being the way to move forward. That project will certainly consider what efficiency savings can be made. Through our investment of staff and funding, we can take forward such innovative projects. Then we can tap through what savings they gain as a project. Another project is examining how local government and the wider public sector recruit. There seems to be wastage in how recruitment is carried out and difficulty in getting staff into the public sector.

As far as our own spending plan is concerned, we are putting every project that we are currently dealing with through a benefits realisation process. We need to publish information on that in early January. In that process, we ask why we are doing a given project, what it will achieve for our partners and how it will make improvements for customers—both by identifying value improvements and by saying where services are provided through a shared service basis.

The final general point is that, as an organisation, we have declining core funding, which we have to manage across a three-year period. We will seek to gain our own 2.5 per cent efficiencies across our baseline. We are just starting out as a full organisation now, but we will seek to drive those efficiencies.

Paul Martin: The point that I am getting at is that, as far as the investment in your organisation is concerned, you will definitely find that the benefits will equate to a sum of well over £1.7 million. Effectively, we can expect the investment to reap quite substantial benefits over and above that amount.

Colin Mair: We will report on financial benefits on an annual basis. If the projects that we are working on realise the benefits that we estimate for them, a sum very substantially more than our total running costs over the three years will be generated.

I will make a point that links back to some of the questions that you raised with Professor Brown. We want to create the kind of public services that are got right first time, so that people do not have to use the complaints system, and we want to improve customer relations management. It is harder to put a cash value on that, but it is not hard to identify the value to the service user and the community.

The question has been useful in that it makes us think about how we can present clearly the different types of benefits that are associated with projects. We would welcome the opportunity to report back to the committee, perhaps annually.

Paul Martin: Why did you set up the service as a private company? This is similar to Bruce Crawford's question, but was there an opportunity to set up a sub-committee or some kind of programme attached to the COSLA partnership?

Colin Mair: The feeling was that we should have a true partnership. From the local authority side, had the Improvement Service been set up as a non-departmental public body, we would have been told, "You can have a joint board if you like, but ultimately it will report to ministers." Equally, had the Executive handed over the money to COSLA, we would have been told, "You can call it a partnership if you like, but it will report ultimately to COSLA's leaders." The company came out of the desire for a true partnership rather than a pretend partnership that reported one way or t'other to national and local government in Scotland.

Mr Davidson: We have established that you are not a standards body, that you are more of a consultancy, that you do not have enforcement powers and that you follow an agenda that the minister has set for local government to seek certain efficiencies. There are people out there whose job it is to manage change and to run effective, value-for-money services and who are controlled by elected members. They have been around for a number of years and were certainly there when I was in local government. I recall the McIntosh commission—

The Convener: Is this a speech or a question?

Mr Davidson: I am setting the scene, as you do yourself, convener—I take you as my model.

The Convener: I ask you to get to your question a bit more quickly, David.

Mr Davidson: The McIntosh commission covered much of what you said about building capacity and the skills of officers and elected members. Have you based your set-up on what was discussed by the McIntosh commission with COSLA and the Government?

Colin Mair: Yes. McIntosh is a clear locus and starting point, although we have drawn on a range

of subsequent discussions between Government and local government about developing and improving local public services. All those discussions came to a critical head around the question of what sort of partnership we should form to make it all happen and to support it happening. What we do can be traced back to McIntosh.

Mr Davidson: I was involved with the McIntosh commission on behalf of a council. McIntosh took a lot of evidence about the qualifications and suitability of people who put themselves up for election. You hinted at pre-election knowledge. How do you intend to tackle that?

Colin Mair: We are in no sense advocating—we have no locus to do so—that people should hold qualifications before they can stand for election, which would be alien to our democratic system. However, as we move towards 2007, we will see a massive outflux of existing elected members, so we want to attract new and, perhaps, different people into the system. Where do those people go to get information about what on earth it means to be an elected member, particularly if they are not part of established political parties that have mechanisms for providing that information?

Pre-election, there is a need for honest representation of the nature, demands and possibilities of the role of an elected member, and for information about the serious time demands and liabilities that people face when they are elected. That would allow people to go into the process with their eyes open, having thought through why they want the role and what they might bring to it. Part of that process has to be a guarantee to give people good information in advance of their being elected so that they are well supported and resourced once they are elected. If a person is asked to sit on a planning committee, for example, he or she would be given high-quality training that is relevant to that committee; the same goes for committees on licensing, social work and child protection. That does not happen systematically at present. Furthermore, we would provide that training in ways that are appropriate to the elected member's work and family life so that if they want to learn online, rather than at seminars and so on, they can.

Mr Davidson: Would a council purchase such training modules for its members from your limited company or would the training be part of the package that you are setting up?

Colin Mair: We are not selling training—we will develop it in partnership with councils and they will all be given it so that they can use it as part of their core suite of materials to support their elected members. My board has taken the view that we are not out to undercut the market and sell

services; we have public funding to deliver on the core agenda.

Mr Davidson: Does that mean that you think that your organisation might not need to exist much beyond about 2010?

Colin Mair: At my age, I could happily reflect on that, but my colleagues would probably wish for the company to exist somewhat longer.

About every five years, the type of challenge that local government faces shifts. The first phase of the new electoral system and, probably, the new political management arrangements that will flow from it will require quite a lot of support, but people will settle down and become clear about them. Some of the other issues that are connected with continual training and redevelopment will persist, and we wish to work with councils on those.

I suppose that we are set up on a shared-services model. The idea is that, rather than set up the service 32 times, we should do it once well and allow all 32 councils to participate. That is a possible direction for public sector reform: rather than reproduce services 32 times, we should use consolidated capacities as the support vehicles.

Dr Jackson: I will ask you about staffing. You mentioned your base in Broxburn and said that you were taking on staff. You are well known to us because you have worked with the committee a lot, but will you tell us what the other staff do and what their remit is?

Colin Mair: I will do that with pleasure; it was maladept of us not to have fed back to you on that. Clodagh Memery—whom some of you might know from her days as head of best value at the Scottish Executive—is our business manager and will lead on our best-value work with councils. That work will not only be about dealing with councils that have had bad best-value audits; it will also be about determining how to get knowledge from councils that have very good audits out and round the system.

Dr Bonnie Cheuk will lead for us on knowledge management. Until three weeks ago, Bonnie was director of knowledge management in the British Council and operated globally in support of good practice throughout the council's operations. Paul Cowan, formerly of Scottish Widows and Glasgow City Council, will lead for us on organisational development and human resources issues, of which there is a not insubstantial amount as change rolls through. We also have Alison Jaap, who led on partnerships and joint ventures for PA Consulting. We brought her in to bring a sharper edge and a focused skill set to our approach to that area. Finally, Dr Mark McAteer will lead on performance management and governance.

It is a small core team, which we will augment through secondments from councils and elsewhere as we require expertise. Equally, we and partner councils will put resources into running the major programmes that we are undertaking together. We have tried to keep the core team small, but we will draw on a lot of other expertise as we go.

Dr Jackson: I could ask you many questions, but I will keep it to two. I voiced concerns about procurement when we talked about it the other week. What checks and balances do you have in place on that? For example, local firms could be accessed, but there might also be quality issues.

Secondly, a lot of people are asking where the evidence is that community planning partnerships are operating as they should. What are you doing on that?

16:00

Colin Mair: I will address procurement first. There are linked concerns that we will begin to aggregate procurement across groups of councils, all 32 councils or the whole public sector. There are concerns about whether sustainable procurement will be lost in the drive for lower costs and there are concerns in respect of small and medium-sized enterprises. We are very clear—we have worked closely with COSLA's leadership board on this—that acceptable collaborative procurement will have to demonstrate that it accommodates all those elements. We have good examples of national contracts being set that require local delivery so that we get the benefits of scale on the one hand and the guarantee of activity in our local economies on the other. We are looking very closely at that.

In care procurement, for example, more than 50 per cent of all residential care is provided by very small providers. Therefore, a system of procurement must stabilise circumstances for small providers rather than exclude them from the market. Equally, however—care is a good example again—a fairly small number of very large-scale corporate providers have to deliver about 45 per cent of the market.

If they are operating throughout Scotland, we will find that aggregate contracts that get us full value for our purchasing power with them can be combined with local purchasing from the smaller players. We would never recommend a one-size-fits-all approach; the approach must be fairly subtle. We also have to ensure that the end-users of services do not have their choices restricted by how we go about aggregating procurement.

The issues that Dr Jackson raises are extraordinarily valid, and we have to be able to demonstrate that they are fully taken on board and that the systems are compatible.

I would like to say two things about community planning. We have had community planning partnerships for some time; some have a fairly focused identity, while others are probably still struggling to know precisely what they are about. Our sense is that almost a different language needs to be used. Community planning partnerships are boards, and boards need to be organised to have clarity about their purpose. A board has to set direction for what it has responsibility for, but it also has to be held fairly robustly to account for whether it is delivering. It is not clear to us that community planning partnerships have developed that board-level capacity yet. One part of our task will be to work with community planning boards to support them in developing board-level skills and a capacity to look across the range of delivery partnerships for which they have responsibility.

The second language that we use—which sometimes sounds a bit forced, but which usefully suggests something—is the language of joint ventures. Probably the most impressive discussions that I have had have been with the private sector on joint ventures. My learning has improved through those discussions.

It is interesting that much of what we say makes joint working difficult. The private sector thinks that properly set-up and robustly designed joint ventures are the answer. Therefore, one does not always have joint ventures with people whom one likes or with people whom one trusts. Therefore, we should set up joint venture vehicles that do not assume that the partners love and trust each other all the time. However, we in the public sector talk as if we cannot do anything until we all love and trust one another. A child or an older person does not think that the care and protection that they get should be contingent on whether people like or trust one another: the child or older person believes that people have a duty to deliver integrated services.

We want to look at how certain joint-venture design principles in the private sector can bring precision, clarity and leadership to delivery partnerships in the public sector. Our approach augments the approach of our various partners. Communities Scotland does very good work on ensuring community engagement, and we want to bring a distinctive slant to how we approach our work.

The Convener: That brings us to the end of questions. Thank you very much, Colin and Clodagh, for adding to our understanding of the Improvement Service's role.

Colin Mair: We could copy you into all our corporate documentation performance reports and we could meet the committee once or twice a year to share agendas to see whether you have identified issues that we ought to be building into our work.

The Convener: That would be very useful. That brings us to the end of today's meeting. I thank members for their contribution and I thank members of the press and public who have attended.

Meeting closed at 16:05.

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

No proofs of the *Official Report* can be supplied. Members who want to suggest corrections for the archive edition should mark them clearly in the daily edition, and send it to the Official Report, Scottish Parliament, Edinburgh EH99 1SP. Suggested corrections in any other form cannot be accepted.

The deadline for corrections to this edition is:

Monday 12 December 2005

PRICES AND SUBSCRIPTION RATES

OFFICIAL REPORT daily editions

Single copies: £5.00

Meetings of the Parliament annual subscriptions: £350.00

The archive edition of the *Official Report* of meetings of the Parliament, written answers and public meetings of committees will be published on CD-ROM.

WRITTEN ANSWERS TO PARLIAMENTARY QUESTIONS weekly compilation

Single copies: £3.75

Annual subscriptions: £150.00

Standing orders will be accepted at Document Supply.

Published in Edinburgh by Astron and available from:

Blackwell's Bookshop
53 South Bridge
Edinburgh EH1 1YS
0131 622 8222

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

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

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

Telephone orders and inquiries
0131 622 8283 or
0131 622 8258

Fax orders
0131 557 8149

E-mail orders
business.edinburgh@blackwell.co.uk

Subscriptions & Standing Orders
business.edinburgh@blackwell.co.uk

RNID Typetalk calls welcome on
18001 0131 348 5412
Textphone 0845 270 0152

sp.info@scottish.parliament.uk

All documents are available on the Scottish Parliament website at:

www.scottish.parliament.uk

Accredited Agents
(see Yellow Pages)

and through good booksellers

Printed in Scotland by Astron