

LOCAL GOVERNMENT COMMITTEE

Tuesday 9 May 2000
(*Afternoon*)

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LOCAL GOVERNMENT COMMITTEE

15th Meeting 2000, Session 1

CONVENER

Trish Godman (West Renfrewshire) (Lab)

DEPUTY CONVENER

*Johann Lamont (Glasgow Pollok) (Lab)

COMMITTEE MEMBERS

Colin Campbell (West of Scotland) (SNP)

*Mr Kenneth Gibson (Glasgow) (SNP)

Donald Gorrie (Central Scotland) (LD)

*Mr Keith Harding (Mid Scotland and Fife) (Con)

*Dr Sylvia Jackson (Stirling) (Lab)

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

*Bristow Muldoon (Livingston) (Lab)

*Mr Gil Paterson (Central Scotland) (SNP)

Mr Jamie Stone (Caithness, Sutherland and Easter Ross) (LD)

*attended

WITNESSES

Brian Jamieson (Scottish Enterprise)

Mr Jack McConnell (Minister for Finance)

CLERK TEAM LEADER

Eugene Windsor

SENIOR ASSISTANT CLERK

Irene Fleming

ASSISTANT CLERK

Craig Harper

LOCATION

Committee Room 1

Scottish Parliament

Local Government Committee

Tuesday 9 May 2000

(Afternoon)

[THE DEPUTY CONVENER *opened the meeting at 14:02*]

The Deputy Convener (Johann Lamont): We will get started and, while we wait for some members to arrive, deal with some smaller items before we reach the main items on the agenda.

I have received apologies from Trish Godman, the convener, who is unable to attend; I will chair the meeting in her absence. I have also received apologies from Donald Gorrie and Jamie Stone, who are unable to attend.

I would like to introduce Irene Fleming, the new senior assistant clerk to the Local Government Committee. We welcome her and wish her good fortune; we look forward to her working with us in the coming period.

The first item on the agenda is for us to agree that item 5 be taken in private. Are we agreed?

Members *indicated agreement.*

Budget Process

The Deputy Convener: Item 2 on the agenda is the budget process for 2001-02, on which we will take evidence from Jack McConnell, the Minister for Finance. I understand that Christie Smith, the head of local government division 1 and Bill Howat, the head of local government division 3—there is no algebra this time—are with him. I welcome them all to today's meeting.

We are all familiar with the process by now. First, I invite Jack McConnell to make a statement. The minister has indicated that he has provided a memorandum—you may wish to speak to that first, minister. He will then take questions from the committee. Thank you for coming along, minister.

The Minister for Finance (Mr Jack McConnell): I want to address three issues in my introductory remarks. First, the published figures for the local government programme for this year and next—which will, I imagine, form the subject of the committee's discussion—are now well known. They have not changed dramatically since the time of their first publication, some 18 months ago. They cover both capital and revenue and the existing system. I will be very pleased to hear the committee's views in due course, through the

Finance Committee, on those figures and whether they reflect an appropriate level of finance for local government as a share of the overall Scottish budget.

I am conscious that we are under constant pressure—Governments always have been—for more resources for local government, but I hope that the committee, in examining the figures, will bear in mind that the Scottish budget carries responsibility for other key areas, including health, transport, law and order and so on.

I hope that we can examine the system as well as the overall total that may or may not be available. That is why I thought it helpful to produce a memorandum for the committee, outlining where we are on a review of the settlement and the arrangements with local government.

It was right and proper for the Executive to decide, in the first year of devolution, to stand by the existing system, and to make adjustments at the margins, whether for deprivation payments or for islands payments—as in the case of Argyll and Bute—or to provide flexibility in guidelines, which was the case with one or two authorities.

In essence, we decided to stick with the current system, and to make decisions in the first year on that basis. In many ways, the settlement was positive for local authorities, investing a lot of new money in education and in social work. It produced pressures in local authority budgets for other services, and I have been keen to recognise that in my comments and in discussions over recent months. Perhaps that balance should be reflected upon over the next few months.

The system itself also requires review. In my view, the status quo is unacceptable and does not command the level of consent that is required for an allocation of over £6 billion from our total assigned budget of around £17 billion. As I said in the memorandum, my aim is to try to create a framework for local government spending that is fair to local authorities and the systems that they represent, but that is also seen to be fair. The framework should provide stability for local authorities to plan ahead, both to invest in services and to plan on the basis of delivering real efficiencies. It should encourage those efficiencies and ensure that council tax payers get value for money, responsibility for which lies at a local level. It should also demonstrate a partnership between us and the councils to assure national priorities, but, ultimately, to ensure that citizens benefit from better services.

We have established a working group with the Convention of Scottish Local Authorities, and reviews are taking place on support for deprivation and support for services in deprived urban and

rural areas. We are reviewing the capital allocation system, and we have decided to review the overall framework.

A working group of officials and members of COSLA is considering, first, proposals for three-year local authority budgets. COSLA has been asking for such budgets for a long time, and we believe that there is now a possibility of delivering that. Secondly, proposals are being considered for simplified arrangements for distribution, to make it more transparent and therefore more accountable to the people who elected us. Thirdly, there is more focus on agreed outcomes; there is a reconsideration of the current formula, which is based mainly on inputs and, to a degree, on hypothecation and ring fencing of resources, although, in strict terms, that remains a small percentage of the overall budget allocation.

Our intention is to start a process of discussion with COSLA tomorrow on the overall national spending review. We intend to make progress on that over the summer months and will try to have changes in place for the next financial year.

I am conscious that the committee is, in essence, discussing the figures for the next financial year, and I thought it important to set that context, as the figures may change—and I hope that the system will change—as a result of those discussions.

We want to focus on what really matters. Ultimately, we want to move away from a system that provokes annual controversy—and a blame allocation exercise that serves no good purpose whatever—towards one in which we are accountable for our decisions on the share of the overall Scottish budget that goes to local services, and in which local authorities are accountable for transparent local decisions about how they spend that money and for the overall council tax levels that they set.

I intend to raise an example of that new approach with COSLA tomorrow. Before we go public tomorrow, I notify the committee that we intend this year, for the first time, to include the local authority expenditure line in the end-of-year flexibility arrangements that have operated for a few years now in most other budget heads, whereby departments that do not spend all their money in any financial year get to keep at least a percentage of that money in the new financial year. In this financial year, the local authority programme will keep at least 75 per cent of the resources that have not been used by the end of the financial year. We are finalising the figure; it may be around £12 million.

We will discuss with COSLA how best to allocate that money. We are committed to moving away from the annual row over local authority

expenditure. We are committed, where councils have not spent money that is allocated to them—for reasons of efficiency or other reasons—that they should be able to use that money the following year. I hope that our discussions with COSLA tomorrow will take that forward, but I wanted to let the committee know about it today. It is a good example of how we are trying to progress the system and improve it for future years. I am happy to confirm that today and look forward to questions and comments.

The Deputy Convener: Thank you very much. We will move to questions.

Mr Michael McMahon (Hamilton North and Bellshill) (Lab): During our consideration of the budget process, I have been trying to get a handle on where COSLA and the Executive stand on the balance between ring fencing of grant aid to local authorities and the authorities' right to raise revenue locally. No matter how we look at it, there seems to be some disparity between what local authorities say is happening and what the Scottish Executive says is happening. From your point of view, what are the difficulties in changing the balance as it stands? How far do you want local authorities to be trusted with revenue raising? What impact would that have on moneys from the Scottish Executive to local government in the long run?

Mr McConnell: The process is developing; I will be honest with the committee and say that there are arguments on both sides. There is a strong and powerful argument that such a large amount of money—£6 billion—should be subject to more ring fencing and more specific allocations, to ensure that the money that we allocate, as a national Parliament and as an Executive, goes on the services that we want and that there is accountability. However, another strong and powerful argument says that if councils had more flexibility—within each year, as well as between years—they could still plan improvements in services, but could perhaps deliver efficiencies across the council to help to improve other services.

Currently, strict ring fencing occurs in less than 10 per cent of the overall budget, but there is a ring fencing of expectations. The grant-aided expenditure system does not allocate the money straight into local council departments budgets. When we say that £20 million is allocated to a council for a specific budget heading in our formula, that does not mean that the council has to spend the money in that department. It is a method of deciding how we distribute the money.

In recent years, because there has been a significant increase at a national level in budgets for social work and education and a relative degree of stability in the other local authority

departmental budgets, there has been a ring fencing of expectations. Councils have, rightly, tried to spend the money that has been allocated to them on education. Although we have not ring fenced that money, the councils have carried out the national priority at a local level. Ring fencing occurs in less than 10 per cent of the overall budget, but in practice the increases and improvements in services are pretty much ring fenced around certain agreed national priorities.

As part of this process, I hope that we can enable councils that are under pressure, locally or collectively, on matters such as maintenance of roads or parks—those are the two examples that I am given most often—to be more flexible in the local budget and to allow for that as the years go by.

Mr McMahon: Some of the rules that apply when grants are given to local authorities also seem to cause a problem. I know one example in which money that everyone believes went to a local authority is not there, because the local authority would have had to raise its council tax levels to free up the funds to get access to the grants. Are the rules on grants being examined to allow available money to reach local authorities without impinging on local taxation?

Mr McConnell: I do not think that we can examine parts of the framework without examining the overall framework. It is right and proper to do that. It is not easy to relax guidelines on local authority expenditure as a whole, or controls on capital expenditure. We should not underestimate the fact that there might be an impact in doing that. I have made clear to COSLA and local authorities that I am prepared to examine the whole guidelines system and its impact on specific councils, and to examine the capital control system to see whether the other controls are right and appropriate, or whether a more flexible approach might help councils and us to deliver what we are trying to achieve.

14:15

The difficulty with guidelines and council tax at a local level, in my experience over the past eight months, has been that almost every council says vociferously, publicly and privately, that it wants more flexibility to raise revenue locally and to spend more money on services, and that the guidelines stop them from doing so. Over the past few months, when I have suggested to councils that they might get an individual relaxation of the guidelines to enable them to raise their council tax by more and raise that extra revenue, they have been out the door almost as soon as they arrived. Rightly, politicians do not want to increase taxes by substantial amounts. We talk a lot about increased flexibility and increased resources, but

when it comes to the bit, councils do not always want to put up their council tax to go above guidelines when they have the opportunity to do so.

There is a balance to be struck. One of the problems is that the system has become so complicated that it is not always transparent, and people do not always know where the decision has been made. It is easy for us to blame the councils and for the councils to blame us. I would prefer a much simpler system, in which everybody would know where the different bits of money come from and who makes the decisions that have an impact on services. That may be a bold aim but, if we can achieve it, it will be better for us all.

Mr Keith Harding (Mid Scotland and Fife) (Con): In a parliamentary question, I asked if new burdens were being financed and you said yes. Strictly speaking that was correct, as they were financed, but in real terms the budget has gone up by only £26 million from last year to this year. The new burdens on councils are way in excess of that, so the consequences have been increases in taxation and reduction in some services. Can you give an assurance that any further new burdens that may be introduced this year will be financed with new moneys? Will there be a relaxation on the funding of pay awards, or will they still have to come from efficiency savings?

Mr McConnell: The problem is that different local authorities, but especially local authorities and the Executive, can have very different definitions of what is meant by a new burden. The fact that the current policy says that pay increases outwith specified areas, such as police, fire and education, have to be financed from efficiencies within existing budgets does not mean that that is a new burden on councils; again, we are involved in discussions on that matter. If the pay increases cannot be financed from efficiencies, it means that that national policy has not been achieved at a local level.

Mr Harding: I was referring to the new burdens arising from policies that you have introduced.

Mr McConnell: I am coming to other examples. Councils could claim that pay increases are a new burden. Every year, there is a burden due to pay increases, which we do not meet. Historically, we have claimed that, in the main, pay increases should be financed by efficiencies and are therefore not automatically a new burden each year, although we are prepared to examine that for future years.

Another good example is environmental taxes. Local authorities could claim that they should receive additional money from us to pay landfill, climate change or other environmental taxes.

However, the whole purpose of environmental taxes is to change behaviour. It is not for Government to subsidise those who have to pay the tax, as the aim is to discourage behaviour that damages the environment. It would be contradictory to create those taxes and then to finance them in full from Government expenditure.

What the councils sometimes describe as new burdens may be new burdens in their eyes, but they are not necessarily new. The policy of the Government may be to force certain efficiencies or changes at local level. That is all up for discussion, but it is important to be open about it. Where there have been genuine new burdens due to, for example, changes in pensions, the investment required for the national waste strategy or, in years gone by, the millennium bug, the money has been allocated to councils on an agreed basis. The fact that we disagree about what the new burdens are does not necessarily mean that it is a statement of fact that the Government does not fund new burdens. We do not agree exactly on what those burdens are.

Mr Harding: I was referring to the burdens imposed by the Executive's policies, which will amount to way in excess of the £26 million real-terms increase in the budget. If we continue down the path that we have taken for the past two or three years—indeed, longer than that—whereby councils continue to have to meet such funding, that can result only in a reduction in services or increases in taxes. How high are you prepared to see council tax go, bearing in mind that there were some substantial increases this year?

Mr McConnell: We try to impose a degree of guidance on council tax rises each year to protect local taxpayers. You mentioned the example of pay. It is easy to generalise and say that it is difficult for local authorities when Government does not allocate money for each annual pay rise, but I have heard you say on many occasions that you believe that local authority staffing can be more efficient. A balance may have to be struck. Perhaps working practices can be more efficient. Priorities can also change. There may be, for example, a higher priority on education than there was a few years ago, which means that other services have to be given a lower priority. We must recognise that there has been pressure on councils as a result of that and that they have found it difficult to respond.

I am open to discussion and to suggestions of solutions, but solutions are not easy. Anybody who suggests that, every year, we should simply open the cheque book and fund whatever national pay rise the councils and employees agree is not being realistic. There are alternatives: we could cap the national negotiations, take them over, or cap the number of staff in local authorities. However, as

employee costs form such a large part of local authority budgets, there would have to be some way for us to determine what they would be each year.

I am not saying that we have to stick with the current system, but I am saying that whatever replaces the current system will have to be reasonable in terms of national spending and local services and must take into account the fact that the cheque book cannot simply be left open. The councils understand that. The discussions that we have will be constructive. If we have a solution by the end of the year, I will be delighted.

Mr Kenneth Gibson (Glasgow) (SNP): I thank the minister for some of the positive comments he has made, particularly on three-year budgets and simplifying the arrangements for distributing resources, which will be welcomed by all in local government. However, I have some concerns.

When Sylvia Jackson, Trish Godman and I visited North Lanarkshire Council, which is close to the minister's heart, the leader voiced concern about efficiency savings. In his view, the council has striven over a number of years to meet efficiency targets to achieve best value. I realise that some people will argue that best value can never be achieved, but once an optimum has been reached—given the services being delivered and the resources available—the difficulty is that the Executive seems to want to impose further efficiency savings. A lot of people in local government want to know whether the drive for efficiency savings will continue indefinitely. If not, to what extent can greater efficiency savings be squeezed out of the local government system?

Mr McConnell: The comment made to me most often by local council leaders is that they recognise the need for constant change and review and that they would like to introduce new efficiencies constantly to provide funds for other services. Some of their concerns centre on the fact that the drive for efficiencies focuses on saving money to hit financial targets, rather than on freeing up money to do new things or improve services. There must be a better incentive for councils and a better way in which we can support them in their endeavours.

Council leaders also say that they would be able to work more efficiently if they had the option to plan budgets in the longer term. That is related to capital controls and the possibility of investing now in equipment, new buildings or resources, which would lead to savings in the longer term. That is why we must seriously consider three-year budgeting and the relationship between capital and revenue.

There are real opportunities out there. There are councils across Scotland that would like to talk to

neighbouring councils or other public authorities about sharing buildings or equipment and working more closely together to operate more efficiently and to free up resources for front-line services. There are also councils that reckon that if they could invest in and modernise particular services now, they could be saving more in three years than we are asking them to save this year; however, because they cannot make the initial investment, they will not make the savings over the next three years.

In any organisation—public or private—there are always efficiency savings to be made. We need to find the best system of providing incentives to ensure that efficiency savings are made and that the benefits are felt locally. We also need to recognise that sometimes money has to be put in to get money out. Councils would welcome the opportunity to do that. If we adjust the system to allow for that, it will be an improvement.

Mr Gibson: Can efficiencies be made indefinitely, given the fact that a significant proportion of a local authority's resources is spent on wages? In some areas—home helps are an obvious example—there comes a time when front-line services must be trimmed, as Glasgow is having to do this year.

Mr McConnell: I do not agree that all front-line services are being affected in that way. Across Scotland, there are examples of improvements in front-line services, even outwith the education and social work sectors. There are always opportunities to make working practices more efficient and to maintain and, indeed, improve standards of service.

In the Parliament, the Executive and elsewhere, we talk a lot about joining up different levels of government to work more closely together—that is possible. It is possible to run our buildings and property more efficiently, to make better use of energy and maximum use of the space that we own or lease.

The single-tier structure that was introduced at reorganisation largely broke up the big regional purchasing consortiums that delivered discounts and good procurement for local authorities. We must examine opportunities for joint procurement strategies for services and equipment. There is a range of possibilities.

The problem with the current system is that, because the budget is annualised and because of the pressure to deliver efficiencies related directly to the pay settlement, everyone is focused on one kind of efficiency and on trying to survive the coming 12 months, rather than on planning ahead or looking across a wider range of opportunities. Councils of all political colours would welcome using money saved from property, procurement,

equipment and joint working across Scotland for front-line services. That should be our target.

Mr Gibson: I have a small supplementary question, convener.

The Deputy Convener: I am timing you.

Mr Gibson: Thank you for your indulgence.

Does the Executive intend that the proportion of Government-supported expenditure raised from non-domestic rates and council tax will continue to increase?

14:30

Mr McConnell: That raises two separate issues. I have given a public and clear guarantee—as much as anyone can give a guarantee, given that the economic circumstances that affect Scottish businesses can change—that the amount of tax raised through non-domestic rates, year on year, should stick with the rate of inflation and should not increase dramatically above that rate, as that would be wrong. It is important to continue with that policy.

We come across the same difficulty with council tax. Across Scotland, many councils—although not all—are demanding the power to raise more money locally. Most councils are being asked to have more money available to spend. In most cases, the impact of that is an above-inflation increase in council tax. As a Parliament, we must have a dialogue with councils and be clearer about what we are seeking to achieve, because there are clear pressures on council tax at a local level. However, we cannot say that we want councils to have more flexibility while restricting their ability to raise extra money through council tax. At the end of the dialogue that we are having with COSLA, I hope that the projections for the next few years will be clearer and perhaps a little more consistent than they have been in the past.

Dr Sylvia Jackson (Stirling) (Lab): My question centres on the negotiations that are taking place with COSLA. We have received a letter from Norman Murray, which is related to a letter that he sent to the Executive about local government pay pressures. Quite rightly, he seems alarmed; he says:

“From the Executive's letter it appears that there seems to be little intention to change its policy”.

Your comment that there might be room for discussion is a welcome sign, minister. I do not know whether you want to say more about that.

I am a bit confused about the budget process for 2000-01, the negotiations that you would have with COSLA anyway and the process of reviewing the wider issues. In the memorandum, you speak about working closely with COSLA. You say:

"We are already reviewing the way deprivation is accounted for in the distribution system".

You go on to say:

"In parallel, the Capital Planning Committee is reviewing the framework for capital spending . . . I have also set up a strategic working group with COSLA to come up with proposals for:

- 3 year budgets".

That working group will also consider two other issues. Will only that group explore the wider review? Can you give us some more detail on that point, as I am getting a bit confused about what is happening with COSLA, given the letters that it has sent out on pay.

Mr McConnell: When someone writes a letter that asks for a statement of current policy on pay settlements, they will receive a reply that sets out the policy.

Dr Jackson: Why does COSLA not discuss the issue with you?

Mr McConnell: It does. There is no conflict between what was in the reply that COSLA received—the statement of current policy—and our commitment to be open to ideas and suggestions for improving that policy in future. However, I stress that local authorities must be committed to proposing alternatives to the current procedure. We cannot have a situation in which open-ended negotiations take place each year on pay for local authority employees with the Executive having to pick up the tab. If the current system is to be replaced, we must have options on the table to discuss. I think that COSLA understands our position, which I hope to discuss further tomorrow.

On the overall framework, reviews are taking place in a number of areas. The distribution committee has an on-going programme of work for improving data collection and it will examine aspects of the current distribution system. That happens every year. We also planned a specific review into capital allocation and capital arrangements—that review is under way. Last autumn, we agreed to establish in spring a specific review of the impact of deprivation on local authority services and the financial settlement. A team of officials is conducting that review, steered by a joint committee consisting of COSLA and ministers. I am happy to provide further information on that review group as progress is made.

That work was agreed during the autumn and winter—some of it would proceed in any event. However, from the final arrangements for the settlement and the parliamentary debate on 1 March, it became clear to me that it was time for us to consider the wider agenda. The working group that has been established to consider the

future framework has a specific agenda. It has a short-term life and will, I hope, come up with some solutions. It is considering three-year budgeting, ring fencing, whether we can identify desired outcomes and where guidelines and other controls fit into those outcomes. COSLA has welcomed that working group.

To my knowledge—and I have been fairly close to this subject for 16 years—tomorrow's meeting with COSLA is the first opportunity that local authorities in Scotland have had to input directly into a Government-level spending review at an early stage. Our usual ministerial meeting with COSLA has been brought forward to give it that opportunity. Different bilateral discussions are taking place at the same time. That may sound like myriad complicated discussions, but my view is that the more dialogue we have with COSLA searching for solutions, the more likely it is that we will come up with those solutions.

This year's budget is as set out and the distribution is as agreed. The allocations identified for next year are laid out in the papers, but they are up for review as a result of these discussions and our overall review. The money that I am announcing this afternoon will stay in local authority programmes this coming year. At the end of every financial year, there is money—usually in the capital programme for local authorities—that has not been spent, because of slippage in projects or whatever. Until this year, that money always went into the general national Government pot. Today, I am guaranteeing that at least 75 per cent of that money will be retained for the benefit of local authority services for the coming financial year. We are giving the same guarantee to all Executive departments.

We will discuss that change with COSLA tomorrow and the Cabinet will make decisions about it this month. We will reinvest that money in local services—it will not go back into the general pot. I hope that that indicates both to local government and to the committee that we are serious about moving away from annualised budgeting and that we want to see the benefits of carrying money forward, so that that money remains in local services and is spent for the benefit of local people.

Mr Gil Paterson (Central Scotland) (SNP): I have a quick question for you on that point, minister. I welcome the idea of a system where underspending rolls over. Although 75 per cent is a big step forward—it is better than 0 per cent—is there a technical reason why 100 per cent of the money is not rolled over? Often, local councils rush to spend at the end of the financial year, when the community might benefit from that money in a subsequent year.

I will move on to a question that I raised with you

previously. A couple of weeks ago, we had a visit from your officials, who produced a paper for the committee. That was quickly followed by a visit from Professor Arthur Midwinter, who produced a document that was rather thinner, but easily understood. We understood that document well because we have visited many councils that have argued that, as they warned, they were having to make real cuts in core services. You and your officials tell us that the Executive's decisions have not caused cuts, whereas the councils have given us evidence that cuts are being made. Arthur Midwinter said that he was using the Executive's figures. Is he telling us the truth or are you?

Mr McConnell: I found Arthur Midwinter's paper interesting and easy to understand. As I have been discussing such matters with him for a long time, that is just what I would have expected. However, it is easy to take the figures for the local authority line in the Scottish Executive budget and to use them to portray a picture that is not entirely accurate.

For example, Arthur Midwinter's figures showing a decline in the percentage of the Scottish Office, now Scottish Executive, budget going to local authority support grant hide the fact that the money for water and sewerage used to be paid out of the local authority line—that is no longer the case. Furthermore, the money for the Strathclyde Passenger Transport Executive used to come through the local authority line, but is now a specific addition to that. The money for the urban aid programme, now called social inclusion partnerships, now comes from a completely separate line—the communities budget. New amounts are also included in the local authority line, such as funding for community care, which used to come under the health budget. Several factors affect those statistics—the effect works both ways. The figures do not reflect the long-term trend entirely accurately.

I have never said that giving priority to education and social care—whether for the elderly or for children—and a degree of priority for police and fire would not put pressure on other council budgets. One would have to be very willing to ignore basic facts if one did not take that on board. As I said, councils may have identified problems accurately, perhaps in the funding for parks and road maintenance, and we should be aware of that. In some councils, the shift in resources and the concentration of new resources in education and social work in particular has put pressure on other budgets. However, that is a result of a conscious decision of the pre-devolution Administration; the post-devolution Administration should review and decide whether to continue with that policy. Part of the process of the committee consideration of the budget is to help us to identify whether new money should be allocated mainly to

education and to social work or whether that policy should be relaxed. I hope that every MSP will be involved in that process, rather than simply ask questions from the sidelines.

The Deputy Convener: Please make your questions brief, Gil.

Mr Paterson: There are many questions to be asked, convener.

The Deputy Convener: I am afraid that you have only two.

Mr Paterson: The minister mentioned water charges, which have risen substantially; business rates have risen above the rate of inflation and council tax has also risen. Do you accept that we are experiencing problems in Scotland and that the root of those problems is the Barnett formula and the fact that Scotland's block grant is being squeezed? The pain that we are experiencing will continue if the block grant continues to be affected by low inflation. Is that not the real cause of the recent problems faced by councils?

Mr McConnell: That is a political point, made from a certain perspective.

Mr Paterson: It is a fact.

14:45

Mr McConnell: It is a dangerous argument. Local authority spending per head of population is significantly higher in Scotland than it is in England.

Mr Paterson: That is because there are fewer of us.

Mr McConnell: We would find ourselves on dangerous ground if we suggested reopening the formula; it would give others the opportunity to reduce the gap between the high spend in Scotland and the slightly lower spend south of the border. The stability that we get from the Barnett formula is good for Scotland; we should use it to provide stability for local authorities.

We can argue for a long time about the total cake and how to share it at a national level, but our real job is to ensure that the money that we distribute is spent to good effect and is producing the local benefits that people expected when the Parliament was set up. I am trying to look to the future, rather than dwelling on the recent bad years for local authorities, which came about largely because of decisions made by the previous Tory Administration.

Bristow Muldoon (Livingston) (Lab): I welcome your announcements on increased flexibility for end-year spending, minister. I am sure that the whole committee welcomes your attempts to work with local authorities to get away

from the annual battle over expenditure; everyone who has been involved in local government would welcome that.

The phrase “new burdens” has been bandied around a lot and I think that all sides need to take a more mature approach. Many things that are described as new burdens are positive service developments; we should all recognise that. In some discussions, it seems as though people see those service enhancements as an imposition. People in national Government and local government want those developments to be introduced. There may be associated costs, but the phrase “new burden” can be misleading.

There are increasing pressures on local authorities because we are all living longer and might require care in our older years. How can we improve partnership working between the national health service and local authorities in terms of funding services for the very elderly? I know that some limited work has been done on the use of winter allowances to fund social services. A big step forward could be to have a formalised joint funding arrangement for social care services for the elderly. That would involve support for the increased costs for the local authority and, by freeing up health service resources, would enable the NHS to meet the targets set by Government.

Mr McConnell: The idea of formal agreements is an interesting topic for discussion. I can guarantee that the Executive’s commitment is absolute to joint working and to encouraging local authorities and health boards to work together more closely. One of the key elements of the future budget review is that each department should not bid for its own money incrementally; we should take a view across departments to see how money can be better spent in a joined-up way. That is an important development, particularly at a local level. I know of an example from Bristow Muldoon’s constituency, which involves the housing sector and the health service working together to provide appropriate accommodation for elderly people. That is exactly the sort of provision that we should be encouraging.

I agree that what we talk about as burdens are not always burdens, which is partly why these new developments are such a challenge for financial decision making. When a minister, the Executive or the Parliament wants to introduce a new service development, whether for children, schools or the elderly, deciding how best to finance that development—whether by directing councils to spend the money in a particular way, by spending the money directly ourselves or by adding it to the general council pot and hoping that it is spent in the right way—is the challenge that we all face at a time of increasing resources and commitment to improving services. That is why the discussions on

ring-fencing hypothecation outcomes are delicate, although absolutely important. We are talking about a big chunk of the overall budget of this Parliament, and it is important that that money is spent as the Parliament wants it to be spent, as well as in the way to which local choices point.

Bristow Muldoon: I have one more question on partnership working. I asked about service delivery. Another way in which we could advance partnership working—and I take it that this is what you were alluding to in your contribution—is through providing support services for the public sector. There is potential for efficiency savings to be made through the national health service, local authorities and other public agencies working together to provide services in IT, finance and personnel. Do you want to promote that? Would you consider providing local incentives, whereby any net savings that were generated by such projects could be reinvested in communities?

Mr McConnell: I hope that—in the bids for the modernising government fund that we are about to receive from public agencies—we will not receive bids from local public bodies, whether councils or other agencies, only for opening new offices or information centres that will bring them together in a way that is accessible to the public. I hope, rather, that we will receive bids for plans to pull together existing facilities and services, perhaps to save money in the longer term or to allow money to be reinvested in front-line services. It is, however, crucial that services to the public are improved.

There is a serious issue in that, in public buildings the length and breadth of Scotland, it is rare for more than one public agency, public body or level of government to use the same facility, or even the same reception space. In this day and age companies that are responsible to different shareholders, that have their own legal entities, that employ their own staff, that have their own profits to make and that operate—financially—in secret are sharing facilities and operating from one-stop shops. I would like public agencies in Scotland to do the same. That would be better for the public and the public purse and it would, ultimately, improve local services. If that were the direction in which the committee is pointing, such partnership working would receive my support. If I can direct support for that sort of investment through the budget, I shall do so.

The Deputy Convener: I would like to raise two brief points. On the second page of your memorandum, you talk about a partnership in which local delivery of national priorities can be assured. Can you assure the committee that that partnership is also concerned with reflecting locally identified need in national priorities? Local government is not just about delivery of services; it

is in a strong position to identify what must be delivered.

In the same memorandum, you talk about being fair to local authorities and the citizens that they represent. We have taken evidence from the women's budget group and Engender and have reflected on the importance of the budget process in ensuring that we deliver for all the citizens who are represented by local authorities. Far be it from me to praise either you or the Executive, but the witnesses made it clear to the committee that they felt that Engender had received a warm and positive response from the finance department and the committee welcomes that. Would you like to comment on the way in which the budget process could be enhanced by meeting more specifically the needs of women than has been the case in the past?

Mr McConnell: I hope that we can build into our budget process and review a role for either the Equal Opportunities Commission or Engender to advise us as we try to change our culture and raise awareness. That role might not be a formal part of the process, but we might be able to involve those organisations formally. We have had good initial discussions with them about that and officials are discussing with them how to implement it. I shall keep committee members informed of the process and it might be helpful to involve other MSPs in that scrutiny.

I believe strongly in the power of local democracy and the importance of local councils, not just as deliverers of services, but as planners of those services. They are key local entities that are at the centre of a network of service providers and representatives of the community, which determine local need and make choices for which they can be held accountable. That is not easy to achieve in the current financial set-up, but we should rise to the challenge. I hope that, as a result of the process on which we have embarked, we can establish a local government finance system that is clear about national and local responsibilities, that is transparent to the public, that has consent among authorities and that takes a longer-term approach that will allow local authorities and their elected members not only to make decisions on the basis of local needs, but to be held properly accountable for those decisions. That is what we want to achieve.

The Deputy Convener: Thank you for giving evidence to the committee, minister. The meeting has been very productive. We will, no doubt, engage in this dialogue again as the process continues. Thank you for your time.

Mr McConnell: Thank you.

The Deputy Convener: We will now move on to item 3 on the agenda, which is the Ethical

Standards in Public Life etc (Scotland) Bill. We will hear evidence from Scottish Enterprise.

Mr Gibson: Before we move on to item 3, I would like to raise a point.

The Deputy Convener: What is it about? Perhaps we can deal with it at the end of the meeting.

Mr Gibson: I shall not be here then. Only seven out of 11 committee members are here. If all members had been here, I am not sure that they would have had time to ask questions of the minister. I realise that ministers' time is valuable, but would it be possible for them to attend for a full hour when we invite them, so that all committee members have an opportunity to ask questions?

The Deputy Convener: To be fair to the minister, he did not impose that kind of discipline on us. It would have been possible for members to ask further questions. I did not sense that members desperately wanted to continue their questioning. If I had, I would have been more flexible. I am conscious that we have a long agenda—I was exercising discretion in moving the debate along. The minister did not indicate that he would be here only for 45 minutes.

Mr Gibson: I am aware of that, but I would have liked to ask more questions. If all members had been here, they would not have been able to question the minister at length. On an important issue such as this, we should set aside enough time to allow all committee members to ask supplementary questions, if that is possible.

The Deputy Convener: Everyone who wanted to ask supplementary questions was able to do so. However, I take your point that, if the full committee had been here, there would have been less time for each question. The minister was, however, prepared to be flexible to allow for that.

We need to consider the number of items on our agendas. You will not be here for the end of the meeting at five o'clock. All members are under similar time pressures. We need to consider how much we can practically include in an agenda and the priority that we should give to an item such as the questioning of a minister. We will note that when we plan future discussions.

Ethical Standards in Public Life etc (Scotland) Bill: Stage 1

The Deputy Convener: I welcome Brian Jamieson, who is the secretary of Scottish Enterprise. We have invited you to give evidence to the committee because there has been discussion about the possible inclusion of local enterprise companies in the Ethical Standards in Public Life etc (Scotland) Bill. The Executive's view is that that is not possible. The committee, however, felt that it ought to be possible and that it might be desirable. We are keen to know your views on that.

The usual procedure is that I ask the witness to make an opening statement and then take questions from members.

15:00

Brian Jamieson (Scottish Enterprise): I am the secretary of Scottish Enterprise and my responsibilities include corporate governance issues, of which this is, obviously, one. I will give a brief statement of Scottish Enterprise's view on the matter and on the context in which that view has been formed.

Scottish Enterprise is a statutory, non-departmental public body. We welcome the bill's proposals because they are likely to increase public confidence in bodies such as SEN. We operate a code of corporate governance, which was revised following recommendations from the Scottish Affairs Committee and from the Nolan committee. We keep that code under review and introduced further refinements to it on 1 April.

The local enterprise companies are not statutory and were not mentioned in our founding legislation, which was the Enterprise and New Towns (Scotland) Act 1990. They are not public bodies and their board members are not public appointees. The LECs are private companies and are subject to the Companies Acts and to an operating contract with Scottish Enterprise, which obliges them to operate a code of corporate governance that is similar to that which Scottish Enterprise operates but takes into account their status as private companies. The Companies Acts contain a detailed code for the dealings and actions of directors, to which the boards of local enterprise companies must pay heed.

The Nolan committee considered the corporate governance of LECs and found examples of good practice, which they recommended to other bodies. They made recommendations, which the LECs incorporated in their codes of corporate governance and on which they report to us

annually.

It is Scottish Enterprise's view—a view that is shared by Highlands and Islands Enterprise and by the Scottish Executive, with which we have discussed the matter—that it would be inconsistent with the structure of Scottish Enterprise and its devolved LECs to impose statutory obligations directly on the LECs. It would be unnecessary to do that because it is open to the Scottish Enterprise board to pass on the same obligations that one would find in the statutory code to the LECs through operating contracts. Scottish Enterprise must also ensure that those obligations are consistent with the Companies Acts, to which the LECs are subject. That is the route that we have taken in all previous matters of corporate governance.

If a statutory code were imposed directly on the LECs, there would be a risk of conflict with the Companies Acts because there might be areas that overlap. The codes that we have developed might, in some respects, be more stringent than the statutory code and the LECs would have various documents to refer to. The statutory route would also imply a change of status for LECs, which would, properly, be a separate policy consideration for the Government. As members will be aware, a ministerial review is under way of their powers, functions, operations and structure, which is due to be completed by the summer recess.

An analogy could be made with the position of higher education bodies. The Scottish Higher Education Funding Council is a statutory body, so the new legislation will apply to it. However, the higher education bodies, which are funded by SHEFC and some of which are companies, are not included in the bill. That seems to be the appropriate way to deal with local enterprise companies. In higher education, SHEFC lays down recommended codes of corporate governance, which are followed by the higher education institutions.

I will be happy to answer members' questions.

Mr McMahon: The committee had already identified many of the points that you made. Unfortunately, we do not agree with you. We are concerned by the fact that LECs and higher education bodies are exempt from the bill. You said that you were a non-departmental public body; the key word there is public. Although I accept that LECs have many good practices, the bill is aimed at dealing with bad practices. As Scottish Enterprise is a public body, and we are trying to ensure good practice, we want the local enterprise companies to be covered by the bill.

You consider yourselves to be public bodies. You deal with the public and with public money

and services, but you want to be exempt from the remit of a bill that aims to encourage good practice in public bodies.

Brian Jamieson: We do not wish to be exempt from the demand for good practice. The only matter on which we differ is the method by which good practice should be implemented. We are delighted that, as an NDPB, Scottish Enterprise is subject to the bill. We think, however, that the imposition of obligations on the local enterprise companies—which are not, technically, public bodies—would be done best in the way in which good corporate governance has been achieved until now. We think that the LECs have a good story to tell—the Nolan committee gave them a good report and their corporate governance is good. LECs have often adopted principles of corporate governance from the private sector because they have private sector board members, who are often from large companies. They have used various initiatives such as the Hampel report and the Turnbull report to improve their corporate governance. Therefore, we think that they would have no difficulty complying with the obligations in a statutory code, but we do not think that that would be the best method of applying those obligations to them.

Mr Harding: The committee has encountered a difficulty in that many councillors are appointed to local enterprise companies because they are councillors. They would be subject to the new legislation, but the other members of LEC boards would not. That is the anomaly that we are trying to address.

Brian Jamieson: I noticed that the committee had discussed that matter—in the context of area tourist boards, I think. I am not an expert on the constitution of area tourist boards. However, I know that councillors are on LEC boards because they are councillors, but they do not sit on them as councillors; they do not represent councils and they are not nominated by them. While they sit on LEC boards, they do so as board members of private companies. Their primary duty is to discharge that responsibility. I doubt whether the new legislation would apply to them while they act as local enterprise company board members, because they are not discharging the functions of councillors in their roles as board members.

Mr Harding: The Executive is examining that question.

Can you give an example of the conflict that would arise with the Companies Acts, if LECs were covered by the bill?

Brian Jamieson: I am handicapped by not knowing what would be in the statutory code. However, if it laid down obligations on conflicts of interest, as the Companies Acts contains

provisions on conflicts of interest, one would need to decide which statute ruled. That seems to be an unnecessary complication, given that board members are already governed by an extensive code in the Companies Acts.

Mr Harding: In your experience, when you discuss matters or policies that affect councillors' areas—councillors are appointed to boards in the areas that they represent—do councillors declare an interest before they take a decision?

Brian Jamieson: Yes. Previously, I worked for a local enterprise company. The councillors on the board regularly declared interest in matters in which the council had a role—which was often, in view of the level of joint working by the two bodies.

Mr Gibson: I acknowledge all that you have said. You say that the codes that you have developed are, if anything, stricter than those that we are proposing in the Ethical Standards in Public Life etc (Scotland) Bill. The committee will, therefore, have to re-examine the matter.

Surely the key issue is that the public should be aware that there is an overarching bill that deals with all companies that handle public money and work in the public sector. Any organisation that the committee spoke to could point to this or that exception to rules in the Companies Acts. It is important to restore public confidence, not just in elected members of local authorities, but in NDPBs by accepting the code. Surely no possible conflict with the Companies Acts is insurmountable. It might be an irritation, but it would not prevent the bill from being applied effectively to LECs.

Brian Jamieson: It is possible to conceive of the code being drafted in such a way, but one would need to draft different codes for different purposes. Scottish Enterprise would regard that as an unnecessary complication. If the code were extended not only to LECs, but to other companies, one would need to consider codes that were custom-made for each body. We already have custom-made codes for our network.

Mr Gibson: We are saying the opposite—we want one overarching code. You have your own codes, but so do many local authorities. For seven years I was a member of Glasgow City Council, which has a code. The idea is that there should be one overarching code, so that the public knows where it stands, rather than every organisation or institution that deals with the public sector having a different code. In such a situation, an issue of ethics might involve a breach of one code but not of another. That would lead to anomalies such as those that the committee is concerned with.

Brian Jamieson: That is why I said that the Scottish Enterprise board, which has discussed the matter, is entirely open to the suggestion

that—so far as is practicable—we should impose all the provisions of the statutory code on the local enterprise companies. However, we would like to do that in the way in which we have proposed, instead of going down the statutory route. Technically, LECs are not public bodies. Applying the code to them by statute would create a precedent and would suggest a change in the status of those bodies. It is for Government policy to determine the status of local enterprise companies. Since their establishment under the 1990 act, they have not been public bodies.

The Deputy Convener: Are you saying that this cannot be done, or that it ought not to be done? Are you saying that, if the Parliament so decided, it would be possible for it to apply the code to LECs, but that you think that that would be undesirable?

Brian Jamieson: I am not aware of anything that would make what you suggest a constitutional impossibility. However, it would not be our preferred option.

Dr Jackson: Do we have details of the code that Mr Jamieson is talking about? Could you tell us a little about the policing of the code?

Brian Jamieson: I do not think that you have the code. I can supply copies of the current code as it applies to local enterprise companies. Local enterprise companies submit an annual report to Scottish Executive on their compliance with the code and the steps that they have taken to enforce it. That is the formal route. In practice, I am consulted regularly by the company secretaries of local enterprise companies about issues arising from declarations or conflicts of interest and the appointment of board members. There is a constant dialogue.

The Deputy Convener: We will end the discussion there. When we are dealing with the bill at stage 2 we will reflect on what has been said. Thank you for your attendance. It was useful to get Scottish Enterprise's perspective on the matter.

Before we leave this item, we must agree the order of consideration of the bill. Are we agreed that during stage 2 of the Ethical Standards in Public Life etc (Scotland) Bill, each schedule should be considered immediately after the section that introduces it?

Members: Yes.

The Deputy Convener: The purpose of that is to ensure the smooth handling of the bill when it comes before the committee at stage 2.

Before we move on to item 4, I would like to return quickly to item 2. I should have indicated that Jack McConnell's contribution was the last evidence that we will take in the budget process. At our meeting on 23 May, a draft report—to be

submitted to the Finance Committee—will be available for the committee to consider. If members have specific comments that they want included in the draft, they should contact Eugene Windsor.

15:15

Petitions

The Deputy Convener: We have responses from the Scottish Executive to two petitions, which we have already considered and on which we have been provided with a briefing paper. PE75, from Mr Frank Harvey, relates to the issue of circuses with live animals. A number of options have been outlined. The petition system is important, but so are the priorities that have been identified by the Executive and by committees. It is important that petitions are taken on board, but we must be clear about our priorities, because petitions can be submitted in a slightly random way.

Mr Gibson: I agree. We should support the third option that is listed in section 3.b. of the briefing paper. It is possible for a member to introduce a bill that would create legislation that governs the use of live animals in circuses.

The Deputy Convener: Are any members minded otherwise? Members have indicated that they concur with the petitioner on the substantive policy issue. We note that the option of a member's bill is available to any member who wishes to make the matter a priority. Is that agreed?

Members *indicated agreement.*

The Deputy Convener: The next petition is PE90, from Aberdeenshire Council. We have, in the past, discussed the issue that it raises and the reply that we have received is for information. Do we agree to note the minister's reply?

Members *indicated agreement.*

The Deputy Convener: We agreed earlier to take item 5 in private. We will take a short break to allow the official report to depart.

15:17

Meeting continued in private until 16:17.

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