

LOCAL GOVERNMENT COMMITTEE

Tuesday 26 June 2001
(*Afternoon*)

Session 1

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LOCAL GOVERNMENT COMMITTEE 20th Meeting 2001, Session 1

CONVENER

*Trish Godman (West Renfrew shire) (Lab)

DEPUTY CONVENER

*Dr Sylvia Jackson (Stirling) (Lab)

COMMITTEE MEMBERS

*Mr Kenneth Gibson (Glasgow) (SNP)

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

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

*Mr Gil Paterson (Central Scotland) (SNP)

*Iain Smith (North-East Fife) (LD)

*attended

WITNESSES

Iain Gray (Deputy Minister for Justice)

Bill Hepburn (Scottish Executive Justice Department)

CLERK TO THE COMMITTEE

Eugene Windsor

SENIOR ASSISTANT CLERK

Irene Fleming

ASSISTANT CLERK

Craig Harper

LOCATION

Committee Room 3

Scottish Parliament

Local Government Committee

Tuesday 26 June 2001

(Afternoon)

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

Items in Private

The Convener (Trish Godman): Welcome to the final meeting of the Local Government Committee before the recess. I hope that the meeting will be short.

I would like members to agree to take items 3, 4 and 5 in private. The reasons are self-explanatory. Item 3 involves discussions of the merits of proposed witnesses, including representatives of councils. Proposals under item 4 will need to be ratified with the convener and staff of the Health and Community Care Committee. Under that item, we will also need to discuss the relative merits of witnesses, which we should not do in public. Item 5 concerns the committee's draft work plan, which contains information on legislative proposals and other matters that are not yet in the public domain.

Like some committee members, I am not too happy at taking items in private. However, I propose that we accept the clerk's recommendations and do so in this instance. Do members agree to take items 3, 4 and 5 in private?

Members *indicated agreement.*

Police and Fire Services (Finance) (Scotland) Bill: Stage 1

The Convener: Item 2 is consideration of the Police and Fire Services (Finance) (Scotland) Bill. The Deputy Minister for Justice and civil servants will be present, but we will have to adjourn briefly because Iain Gray has not yet arrived. I apologise for that.

14:01

Meeting adjourned.

14:04

On resuming—

The Convener: I welcome the Deputy Minister for Justice, Iain Gray, whose first time this is at the Local Government Committee; Bill Hepburn, head of the justice department police division 1 branch 1; Bill Giles, head of the justice department fire service and emergency planning division branch 1; and Alan Williams, from the office of the solicitor to the Scottish Executive. I apologise for the size of the room. We all hate it, but we have to take Buggins's turn and it is our turn today. Minister, the procedure is that we will ask you to say a few words, after which we will ask questions.

The Deputy Minister for Justice (Iain Gray): Thank you for inviting me to give evidence. With the committee's forbearance, I will give some background to the need for the Police and Fire Services (Finance) (Scotland) Bill and set it in context. It is easier if I deal with the two services in turn. I will begin with the police.

The police are funded differently from other local authority services, as the committee will know. Each force has a police authority or joint police board, with responsibility for setting force budgets. The Executive pays a grant of 51 per cent to cover eligible police expenditure up to a cash limit and joint police boards requisition the balance from their constituent local authorities or, in the case of unitary police authorities, from the local authority.

Until 1996, the Scottish Office set a maximum number of police officers for each force and then paid grant at 51 per cent of all eligible police costs. Since then, the controls on officer numbers have been removed and police grant has been paid up to a cash limit. That change was aimed at giving chief constables and police authorities more freedom to manage their budgets and to vary the proportion of officers to support staff or invest in technological or other aids to policing. However, it left the police facing a quandary. The police are an emergency service and so have to keep in hand sufficient reserves to meet unusual demands.

Prudence dictates the holding of a reserve, but the police want to ensure that budgets are spent as wisely as possible and they prefer not to rush to spend money at the end of the financial year.

In November 1998, the Accounts Commission for Scotland and Her Majesty's inspectorate of constabulary published the report "Credit to the force", which examined police funding. Among other things, it concluded that, given the pressures that I have mentioned, better value would be obtained if forces could carry forward a working balance from one year to the next. As members will know, we have introduced three-year budgets for local authorities and the police, which provide the stability that the report sought.

The Police and Fire Services (Finance) (Scotland) Bill seeks to amend the Police (Scotland) Act 1967 to provide for the carry-forward of working balances. Section 1 of the bill deals with the carry-forward of unspent police funds by joint police boards. Those boards were put in place in 1996 by amalgamation orders. At present, joint police boards estimate how much money they will need to provide a police service for the combined police area and then requisition funds from each of their constituent authorities, based on that estimate. At the end of the financial year, joint police boards must return to their constituent authorities any money that they have requisitioned but not spent.

Amalgamation orders make provision for the payment by constituent authorities of expenditure incurred by the joint police board. Amalgamation orders cannot make provision for the carry-forward of unspent requisitions; they can make provision only with regard to expenditure incurred and not what it is estimated will be incurred. Section 1(1) of the Police and Fire Services (Finance) (Scotland) Bill seeks to amend the Police (Scotland) Act 1967 to require amalgamation orders to make provision with regard to payment by constituent authorities for the amounts that the joint police board estimates will be incurred.

As I mentioned, as well as the money requisitioned from constituent authorities, joint police boards and unitary authorities receive police grant direct from Scottish ministers, which normally covers 51 per cent of net eligible police expenditure. Police grant is paid after an order is laid under the terms of section 32 of the Police (Scotland) Act 1967 before the beginning of each financial year. After the end of the year, when final figures are known, the order is redetermined to show the actual grant paid. Section 1(2) amends the 1967 act to ensure that joint police boards and unitary police authorities can carry forward unspent police grant where a redetermination has been carried out.

"Credit to the force", from which the proposals

originate, related only to the police. However, it would be remiss of us not to have regard to the read-across to the fire service. As much the same considerations apply to the fire service, we have included in the bill provisions relating to the carry-forward of working balances by joint fire boards. There is no equivalent to police grant payable to fire authorities, which is why the part of the bill on joint fire boards is shorter. Apart from that, and some minor adjustments to the existing legislation dealing with administration schemes, the provisions for those boards are to the same effect as the provision for joint police boards.

Some safeguards have been built into the bill. Balances can be carried forward only with the consent of the constituent authority whose contribution constitutes, or is part of, the money that it is intended to carry forward. There is also a requirement that any proposal to carry forward requisition funds or police grant should have the consent of Scottish ministers before it can proceed. In addition, there is a limit on the carry-forward of an individual year's money. The limit is 3 per cent of the amount of police grant or requisitioned money paid. That limit can be varied by a statutory instrument made by Scottish ministers.

The bill is sensible and will help financial management in the police and fire services. It is based on a report by two independent bodies—the Accounts Commission and HM inspectorate of constabulary. I hope that my explanation of the background to the bill has been helpful. I am happy to take questions.

The Convener: I am interested in the consultation prior to the bill, particularly with the constituent authorities. The authorities may well be used to moneys occasionally being returned to them, but the bill would affect that. What is their position on that?

Iain Gray: The consultation prior to the drafting of the bill was with the Convention of Scottish Local Authorities and the two services. The authorities have been involved through the aegis of COSLA.

The Convener: Do you have any indication of what the authorities are saying about the bill?

Iain Gray: The discussions focused on the drafting of the bill. The comments that were made in those discussions are taken into account in the bill as it has been presented.

Mr Kenneth Gibson (Glasgow) (SNP): In what circumstances would Scottish ministers not grant permission to carry forward working balances?

Iain Gray: The idea is that the carry-forward of the balances should be for fairly specific purposes. If Scottish ministers felt that the reasons that had

been given for the carry-forward were not what we had in mind, such as building a reserve to prepare for contingencies, we might refuse the request. If a grant is agreed as a carry-forward in one year, it is possible to carry it forward year on year, without seeking further permission. However, any addition to that reserve would require the consent of ministers. Ministers could take the view that the reserve was already big enough; in those circumstances, they would refuse permission.

Mr Gibson: You have included fire services in the bill. Do you have any evidence to suggest that the current funding arrangements for fire boards have caused significant problems in their budgeting processes?

Iain Gray: The driving motivation for the bill comes more from the situation in the police service than in the fire service, but it seems logical to make the same provisions available for the fire service, which might want to build up a reserve to deal with the fact that costs can fluctuate because of the weather, as long, hot, dry spells can cause forest and moorland fires. The fire service must deal with flooding as well, for which it would be useful to have a reserve.

14:15

Dr Sylvia Jackson (Stirling) (Lab): I want to ask a similar question to the one that Kenny Gibson asked, but to focus on the constituent authorities. COSLA has had an input into the consultation so far. Why did it want to have an input into the granting of consent to the carrying forward of moneys from year to year? Does the proposal mean that administrative structures will have to be put in place to track the money through the system, or will existing structures be able to deal with that?

Iain Gray: COSLA argued, quite rightly, that as the money that was to be carried forward belonged to local authorities, the local authorities should have decision-making powers over whether it goes forward or is returned to them at the end of the year, which would be the alternative in the case of there being an underspend. I presume that COSLA feels that it has an obligation—I was about to say “the right”—to consider whether it believes that to be the best use of the resources of local authorities. That seems reasonable.

The question on the administrative structures is a fair one as it looks like some of the arrangements could get quite complex. In the case of a joint police board, for example, it would be entirely possible for one or other of the constituent authorities to refuse permission for the balance to be carried forward, which would not stop the other authorities from agreeing to their share being carried forward. However, the mechanism is

relatively straightforward. It would be assumed that 51 per cent of any underspend was part of the direct grant on the basis that 51 per cent goes in in that form. The division of the other underspend would be based on the proportion from each authority in the original budget. Although some administration would be involved, I do not think that it would be overly burdensome.

Dr Jackson: It would not be overly burdensome because a simple formula would be used.

Iain Gray: Yes.

Iain Smith (North-East Fife) (LD): Why is it necessary to put a percentage limit on the carry-forward, given that the Scottish ministers and the constituent authorities have a veto over the carrying forward of any addition? Might the percentage limit cause problems at some point? For example, if there were a general agreement that a police board or a fire board could carry forward a working balance from year to year under the provisions but an unexpected event in one year led to the expectation that money that was not spent in one year would be spent early in the next financial year, would not the percentage limit cause a problem?

Iain Gray: The answer is threefold. The limit that appears in the bill and the initial arrangements that we envisage if the bill becomes law are based on the recommendations in the report of the Accounts Commission, which specifically said that the carry-forward should be limited to 3 per cent.

Some of the problems that were suggested in the question might be dealt with by the capacity for a carry-forward to be taken into another year, which I talked about earlier in response to Mr Gibson. It would be possible to build up a reserve of more than 3 per cent over a number of years, if that was felt to be worth while.

The real answer to your question is that the bill allows statutory instruments to vary that 3 per cent. There is an element of suck it and see. If the arrangements caused problems through such situations as you described, Scottish ministers would have the capacity to make a change without returning to primary legislation.

Iain Smith: I may have misunderstood the operation of the 3 per cent limit. I assumed that even if the limit were carried forward, it would remain at 3 per cent, year on year. You suggest that it could be 3 per cent one year plus 3 per cent the next year plus 3 per cent the next. In theory, the limit could grow by 3 per cent per annum.

Iain Gray: The latter is the case. The limit can be accumulated.

The Convener: Will you have any control over money being built up somewhere?

Iain Gray: The carry-forward of police grant will always require ministers' consent. As I said to Kenny Gibson, consent might be withheld if ministers suspected that a reserve was being built up to no purpose, for example.

Mr Keith Harding (Mid Scotland and Fife) (Con): I welcome the minister to the committee. Will you expand on what Sylvia Jackson talked about—the implications of a constituent authority's withholding its consent? From your answer, I gather that it could do that. I presume that it would then retain its contribution. What would happen to the 51 per cent? If ministers have given their consent, would that remain in the reserve? If the constituent authority had not contributed to the reserves, how would it be penalised when they were used?

Iain Gray: For your first question, we can imagine a sum of money—the underspend—that would first divide into two. Fifty-one per cent of that would be considered direct grant. If there were a desire to carry that forward, application would have to be made to Scottish ministers. If they agreed to the carry-forward, the amount would go forward to the next year. Hypothetically at least, the other 49 per cent would be divided among the authorities, and individual authority consent for carry-forward would have to be given. If there were three constituent authorities and two said yes, that money would go forward to the next year's budget, and the remaining tranche would revert to the authority that did not give consent.

You ask an interesting question about how the other constituent authorities would view the budget for the next year, given that they might well feel that they had contributed more to it than their sister authority. The bill is silent on that, but the expectation is that that would have to be negotiated within that constituent authority, which, of course, has responsibility for how policing is conducted in its area. I would hope that they would be able to reach an amiable agreement. I would hope that the situation that was described would be uncommon and that agreement would be reached that the carry-forward was in the best interests of policing in the area.

Mr Harding: I agree. Do you not feel that it would be better to incorporate in the bill the fact that the constituent authorities should reach unanimous consent?

Iain Gray: We considered that approach. The downside to that would be that it would give a power of veto of that section of grant to one authority. We did not feel that that would be appropriate.

Mr Michael McMahon (Hamilton North and Bellshill) (Lab): You mentioned that we will have to be careful about the building up of reserves.

Have you considered the administrative changes that might be required at local authority level to allow monitoring of the build-up of resources?

Iain Gray: Once the reserve is carried forward, it becomes part of the budgeting process for the next financial year. Accountability for that budget lies with the unitary authority or the police board. I estimate that that would cover accountability. However, you make a fair point of detail. I do not know whether officials would like to comment on that. Perhaps I could write to Mr McMahon.

Bill Hepburn (Scottish Executive Justice Department): Financial arrangements are in place to keep track of expenditure. The amount involved would become part of the next year's income, so the usual processes that examine income would allow us to say, "We have £X—so much is made up of grant and so much is made up of money that was brought forward from the previous year." The usual accountability would prevail in those circumstances.

Mr McMahon: That is what I was asking. Through the consultation, do you envisage that anything else is required to allow the monitoring of the expenditure? Are the current mechanisms sufficient to allow that to happen?

Bill Hepburn: The current mechanisms will be sufficient.

Iain Gray: It is no excuse for complacency, but the fact that we are implementing an Accounts Commission proposal gives some comfort. That implementation means that levels of accountability will be acceptable.

Mr McMahon: I had better be careful, but it sounds as if the minister has made up his mind that the bill is good and that he would like us to support it.

The Convener: I suggest that the minister does not say anything.

Dr Jackson: I want to ask about timing. Is permission to be given to the two boards at the end of the financial year, or is it to be done earlier? As Iain Smith has suggested, if the latter were the case, an element of projection could be involved.

Iain Gray: At the end of the financial year, there is always an element of looking backwards over the previous year. The redetermination of the police grant is part of that. It is envisaged that a unitary police authority or a joint police board would write to the Executive at some point before the end of the financial year to make its proposals. On the assumption that its proposals were agreed, the work would be undertaken around the end of the financial year.

Dr Jackson: Will the minister indicate how long it would be before they would write to you?

Iain Gray: Does Sylvia Jackson mean how far in advance of the end of the financial year?

Dr Jackson: Yes.

Iain Gray: I do not have an answer to that question. Perhaps I could come back to Sylvia Jackson on that point.

Dr Jackson: If it were to be a while before the end of the financial year, quite a bit of projection will be involved and, as was alluded to earlier, the type of emergencies that do not happen may be built into the process.

Iain Gray: That is a fair point. The bill includes a requirement for an element of projection to be built in as a contingency for emergencies. In some cases, those projections will be more speculative, including the situation where, if the provisions had been in place, they could have been used to prepare funds for the additional police services. The millennium is an example of that. It was an unusual event, not an emergency, but it was predictable.

To return to the issue of timing: proposals would have to be made as close to the end of the financial year as possible. That would allow projections to be as realistic as possible, but to allow orderly administration.

Dr Jackson: Thank you.

The Convener: There do not appear to be any further questions for the minister. I thank him for appearing before the committee today.

Iain Gray: Thank you.

The Convener: To give trainee reporter Jim Madden an easy first day, the *Official Report* reporters can now leave, as can members of the public. We are about to move into private session.

14:27

Meeting continued in private until 14:43.

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