

LOCAL GOVERNMENT COMMITTEE

Tuesday 29 January 2002
(*Afternoon*)

Session 1

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LOCAL GOVERNMENT COMMITTEE

4th Meeting 2002, Session 1

CONVENER

*Trish Godman (West Renfrewshire) (Lab)

DEPUTY CONVENER

*Dr Sylvia Jackson (Stirling) (Lab)

COMMITTEE MEMBERS

*Mr Keith Harding (Mid Scotland and Fife) (Con)
*Mr Michael McMahon (Hamilton North and Bellshill) (Lab)
*Tricia Marwick (Mid Scotland and Fife) (SNP)
*Iain Smith (North-East Fife) (LD)
*Ms Sandra White (Glasgow) (SNP)

*attended

WITNESSES

Maggi Allan (Convention of Scottish Local Authorities)
Sam Baker (Scottish Executive Education Department)
Mr Andy Kerr (Minister for Finance and Public Services)
Councillor Helen Law (Convention of Scottish Local Authorities)
Margaret Orr (Glasgow City Council)
Neil Rennick (Scottish Executive Finance and Central Services Department)
Christie Smith (Scottish Executive Finance and Central Services Department)

CLERK TO THE COMMITTEE

Eugene Windsor

SENIOR ASSISTANT CLERK

Irene Fleming

ASSISTANT CLERK

Neil Stewart

LOCATION

Committee Room 1

Scottish Parliament

Local Government Committee

Tuesday 29 January 2002

(Afternoon)

[THE CONVENER *opened the meeting at 14:01*]

Items in Private

The Convener (Trish Godman): I ask members whether they agree to take items 5, 6 and 7 in private. The reason for that is that item 5 is a discussion of candidates for the position of budget process adviser and items 6 and 7 are draft reports.

Tricia Marwick (Mid Scotland and Fife) (SNP): I have been concerned over the past few weeks that papers are coming to us less than an hour before the start of the meeting. I received the stage 1 report on the Public Appointments (Parliamentary Approval) (Scotland) Bill by e-mail at 1.21 pm today. The draft report on the Land Reform (Scotland) Bill arrived not much earlier than that. It is absolutely unacceptable that we are being asked to make decisions on reports that we have only just seen and that we have not had an opportunity to read. I propose that both items 6 and 7 be held over until next week to allow us to examine the draft reports fully.

The Convener: I challenge the member's assertion on the frequency of late reports—the clerks to this committee are rarely late with reports. Something in particular held us up this week, and we will come to that when we discuss the reports. It is not the norm for committee draft reports to be late. I was aware that these reports would be late and that members would simply have to read them when they received them. That is what I had to do—I did not receive them any earlier.

We must produce a report on the Land Reform (Scotland) Bill. We are not the lead committee on the bill and there are time constraints, although we may have one more week in which to produce the report. However, we also have to consider our draft report on the Public Appointments (Parliamentary Approval) (Scotland) Bill this week because we are the lead committee on it and the report will go to Parliament the week after next.

It has been proposed that we move the item on our draft report on the Land Reform (Scotland) Bill to next week, but we must consider it today because we have to finalise it next week. This is

the first time that I can remember the late submission of draft reports. That is not the norm for this committee—the clerks do not regularly submit reports late. I propose that we continue with the agenda as it stands.

Mr Keith Harding (Mid Scotland and Fife) (Con): I second Tricia Marwick. This is not the first time that we have received reports late. It may not have been two reports, but we have certainly received individual ones late. I left my office at 1.30, at which point I had not received either report by e-mail.

I had meetings all morning and at 1 o'clock I received a 28-page brief on the presentation by the Minister for Finance and Public Services, which I devoted half an hour to reading. I have just now received another 30 pages of text, which will be impossible for me to read unless I am discourteous to the people giving evidence and read the document while they are talking. I agree with Tricia Marwick that the two items on the draft reports should not be discussed. If necessary, we should have another meeting later this week.

The Convener: I do not think that we could fit in another meeting later this week. I suggest that, once we have cross-examined the minister—and you will all be aware that the minister is here to deal with two agenda items—we could adjourn to allow you to read the new document.

Dr Sylvia Jackson (Stirling) (Lab): I want to suggest a compromise. As I have just raced here from Stirling, I have not seen the two reports either. However, I accept that we must deal with the draft stage 1 report on Alex Neil's Public Appointments (Parliamentary Approval) (Scotland) Bill today. As it will be difficult to arrange a second meeting later in the week, we could postpone our consideration of the other report until next week.

The Convener: Sylvia Jackson has suggested that we deal with the one paper that we have to deal with because of time constraints and deal with the other one next week. Are we agreed to do that?

Ms Sandra White (Glasgow) (SNP): I want to make it clear that no one is attacking the clerks. However, as Keith Harding said, this is not the first time that this has happened. I left my office just after 1 o'clock and did not receive the papers. Perhaps some legislation is being pushed through far too quickly—

The Convener: That is another question and is a matter for the Executive.

Ms White: I am entitled to my say, convener. As you know, this committee has sometimes sat until 6 o'clock or later on a Tuesday. The lateness of the reports means that there is no way in which we can do them justice.

The Convener: I want to clarify the situation for the record. On Thursday nights, the clerks give me a folder. Nine times out of 10—if not 9.9 times out of 10—everything that I need to know is in it. If you have not been getting reports until half an hour before you come to the meeting, I suggest that you should have raised that with me before, but you did not. You are telling me that that has happened not only this time, but on several occasions. I will take that up with you when the meeting is over.

We have before us a suggestion for a compromise. Sylvia Jackson has suggested that we leave consideration of the draft stage 1 report on the Land Reform (Scotland) Bill to next week but that, because of time constraints, we deal with the draft stage 1 report on Alex Neil's Public Appointments (Parliamentary Approval) (Scotland) Bill today. After we have cross-examined the minister, I will give the committee an opportunity to read that report.

If we have been sitting until 6 o'clock at night, perhaps it is because we cross-examine thoroughly. If you have a complaint about the Scottish Executive giving us far too much business—and I might agree with that on occasion—we can take that up elsewhere.

I suggest that we agree to Sylvia Jackson's compromise suggestion that the committee defers consideration of the stage 1 report on the Land Reform (Scotland) Bill to the meeting on 5 February 2002 and follows the agenda as published with regard to the stage 1 report on the Public Appointments (Parliamentary Approval) (Scotland) Bill. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Godman, Trish (West Renfrewshire) (Lab)
 Jackson, Dr Sylvia (Stirling) (Lab)
 McMahon, Mr Michael (Hamilton North and Bellshill) (Lab)
 Smith, Iain (North-East Fife) (LD)

AGAINST

Harding, Mr Keith (Mid Scotland and Fife) (Con)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 White, Ms Sandra (Glasgow) (SNP)

The Convener: The result of the division is: For 4, Against 3, Abstentions 0. The proposal is agreed to. Do members further agree to take the items in private?

Members indicated agreement.

Local Government Finance Inquiry

The Convener: We have with us Andy Kerr, who is the Minister for Finance and Public Services, Neil Rennick, who is head of the local government expenditure and council tax branch of the Scottish Executive, and Christie Smith, who is head of the local government finance and performance division of the Scottish Executive. They are here today because, at last, we have seen the light at the end of the tunnel of our massive examination of local government finance.

The Minister for Finance and Public Services (Mr Andy Kerr): I know that I join you at the end of your deliberations and I will rely on my officials to answer detailed questions that relate to matters that may have gone before.

I welcome the Local Government Committee's commitment to its investigation of local government finance and to the report that it will produce. I know that the committee has taken evidence from a wide range of organisations, agencies and individuals as well as commissioning research. There will be considerable interest in your report. Many people—including me—have been awaiting it with bated breath.

I hope that members found the paper that I submitted to the committee useful. I will attempt to keep my opening remarks brief, although I hope to cover the main points.

Members will be aware of the significant reforms that have been introduced into the local government finance system over the past two years. In particular, I refer to the establishment of three-year budgets and to additional flexibility for local budget decisions. Members will also be aware of our developing work on reviewing the arrangements for local authority capital controls and on establishing local outcome agreements with councils. I am pleased to report that we are making positive progress on those matters.

As well as reforming the local government finance system, we are committing substantial additional investment to local government and local services. It is clear that there will always be arguments for even more resources, just as there will always be worthwhile uses in our communities for additional resources. However, over the three years of the current spending review, the Scottish Executive revenue support grant for local government will increase by £1.4 billion to more than £7 billion, which is an increase of 25 per cent. The allocations for local authority capital investment are increasing by 40 per cent. I would argue that that is a substantial level of additional investment in anyone's terms.

Later this week, Parliament will have an opportunity to debate the revenue grant allocations for individual authorities—I know that a number of members present are looking forward to that debate. The changes that we have introduced to the grant distribution system will ensure that, as happened this year, all councils will receive increases that are well above the current rate of inflation.

The Executive is committed to ensuring high-quality public services. We are also committed to the vital role that local authorities play in delivering public services. We cannot focus narrowly on the local government finance system alone, or on local government services. We have announced our intention to introduce legislation to strengthen local democracy and to encourage local authorities to develop joint planning partnerships in their communities. We offer a stable financial platform for local government, which will be vital in taking our agenda forward.

That is all that I want to say as an opening statement, convener. I look forward to our discussion.

The Convener: I will kick off with a general question—it is a big question, but I would be grateful if you could answer it in a few words.

Where do you envisage your vision for local government in Scotland and for local government finance leading? What are your ideas on those matters?

Mr Kerr: Those are indeed big questions. My vision for local government is that I want us to reach the point at which ministers are in regular contact with the Convention of Scottish Local Authorities in order to ensure that we understand one another's pressing requirements. That may involve discussing delivery of either the priorities to which the Scottish Executive is committed or the priorities to which local authorities are committed.

The work that we are doing on best value—the end of compulsory competitive tendering—is also critical. I believe that our work on community planning will become the heart of the delivery of high-quality and accountable local public services. A white paper will be produced in due course to examine local government governance issues, such as how local authorities are run. It will also take on thorny questions, such as councillors' allowances and expenses, which remain issues for local authorities, and electoral reform.

There is a big agenda for local authorities and, in my short time as Minister for Finance and Public Services, I have seen, and continue to see, the dynamism and innovation that exists in the delivery of public services and in the partnership work that we undertake. Local government, as a

provider of public services, is one of the main vehicles for delivery, as far as the commitment of Executive resources is concerned. Eighty per cent of the Scottish Executive's budget goes to health or to local authorities and it is clear that local authorities play a massive role in the delivery of services.

The issues that are involved include community planning, best value, a power of well-being—allowing local authorities the freedom to provide for their communities—and how capital is controlled within local government. The Executive is trying to loosen up, engage positively and give power—that is what we are trying to achieve. However, local authorities and their partners will have to take on more responsibility with that power. We want to ensure that, through local outcome agreements, we garner the positive commitment to public services that we all hold dear in our hearts in order to deliver for real people. People who live in our communities use parks, bin services, social work services, education and other vital services. For many local authorities, providing those critical services is seen as a somewhat thankless task. It is only when services fail—which happens occasionally—that people miss them.

That is the bigger agenda. It is not all about money. We meet COSLA and individual authorities regularly and local authorities argue with me daily about other issues. We want to engage with front-line deliverers of services to reduce the burdens on them of organising services and to provide best practice across all public sectors—not just local government, but across departments and beyond. We want to achieve a good quality of service delivery—the way in which we manage our services and deliver them at a local level—backed up by a massive increase in resources.

People always argue that they can do more and I do not dispute that—they can do more. We have provided substantial extra resources to local authorities and I want to continue that process of the de-ring-fencing—or the unhypothecation—of resources. I want to become more engaged in discussion with local authorities about how we deliver services and about the use of local outcome agreements—there are substantial pilot schemes running in certain areas. That is the bigger vision that the Executive and I have for local government. We recognise the role of local authorities as key deliverers of services and we want to give them the power, responsibility and duty to undertake that.

14:15

Mr Michael McMahon (Hamilton North and Bellshill) (Lab): I know that you dedicate a lot of

time to your brief, minister, but if you are waiting for our report with bated breath you really should get out more.

I am glad that you touched on grant distribution because it has cropped up repeatedly in the evidence that we have heard. More than one contributor to our inquiry has pointed out the need for a review of the current revenue grant arrangements and the need for a reduction in the number of separate grant-aided expenditure allocation assessments. Do you have a view on that and do you accept that there is a need for such a review?

Mr Kerr: What I have learned in my short time as a minister is that there is a yin and a yang—everything that we do has another effect. My discussions with local authorities to date have confirmed that.

A certain amount of money is available and there is a formula for its distribution. As long as the formula is agreed, that is the mechanism that we will use. I am happy to discuss the distribution arrangements with COSLA, including options for simplification and alternative terminology and structure. COSLA, however, must command the support of all councils involved in the process. Many people sign up to the formula at a national level, but then approach me individually, telling me that it does not work for them. I am sure that we will hear more about that later on.

When we consider the issue we find that despite all the changes to the formula—the inclusion of deprivation, rurality and so on—that have been made over the past years, the actual amount of resource going into any authority has not changed dramatically. The yin and yang thing does not have much effect overall. I understand that COSLA provided the committee with a spreadsheet of the changes. The information that I have available shows that 15 authorities have seen no net change in their share of total grant; the shares of 12 authorities have changed by 0.1 per cent; the shares of four authorities have changed by 0.2 per cent and the share of one authority has changed by 0.6 per cent. Is that the best way to examine how to use our money effectively?

The grant-aided expenditure assessments create a lot of tension and division. They do not deliver any services for our communities and at the end of the day they do not deliver anything for the authorities concerned. I am happy to talk to local authorities that have ideas about how we could do GAE assessments more effectively. Is there value in the exercise? Will it work and will it make our services any better? According to COSLA's submission, the net change is fairly marginal.

Mr McMahon: You have been talking to COSLA and using its statistics. Has your department set aside any moneys for its own research, so that the dialogue with COSLA is based on information that you have determined?

Mr Kerr: When we engage with COSLA on the distribution formula, the research, advice and back-up are part of the engagement, so that we can ensure that the resource is available. Christie Smith might have something to add on that. We have not gone out proactively to do that research, on the basis that if the Executive was seen to be doing it, there would be a relationship problem. It is a question of a joint view by COSLA and the Executive. It would not help if the Executive was to act by itself.

Mr McMahon: If you were considering any proposals for changing the grant distribution system, would not you need to research that and produce information, so that that information was available when you met COSLA?

Mr Kerr: We do that.

Christie Smith (Scottish Executive Finance and Central Services Department): Until we made the three-year settlement, we had an annual programme of distribution reviews. Over time, we have worked through all the GAE allocations and have reviewed some of them several times. Every year a research programme backs our programme of reviews. We use independent researchers and consultants, who consult all the authorities for evidence of the need for change and so on. Part of the benefit of the three-year settlement is not to have to review everything all the time. Since we announced the three-year settlement, we have not been engaging in distribution reviews. This year we will prepare for the next three-year settlement. We have been talking to COSLA about that. If we agree that there are any aspects of the distribution formula that need to be reviewed, we will put in place the research and the resources to do that.

Dr Jackson: When the first budget came out after the Scottish Parliament had come into being, an emerging issue was that there seemed to be an adverse effect for smaller councils, such as Stirling—as a result of disaggregation—and for those councils whose populations were increasing very quickly, such as West Lothian. It seemed that the budget distribution formula did not meet the needs of those councils. You have talked about research into the distribution formula. Will you say something about taking those factors on board? I remember that they were quite significant at the time.

Mr Kerr: In my short time as Minister for Finance and Public Services, I have learnt that every local authority is unique and has particular rural, deprivation, population, transport or

education problems. We need some way of doing things and I am open to talking about and adopting a better way. The mechanisms that we have deployed to date and the reviews that we have had of those systems have not delivered anything more effective. That is where I start and finish on your point about individual authorities.

We try to build in certain resources around the fringe of local government finance—for example, through challenge fund projects or better neighbourhood moneys and resources—to allow intervention to be made outwith the system. Admittedly, that is very much on the margins; most of the work is done through the usual grant settlement process. I fully understand that certain areas feel that they are being let down by certain processes.

I have had many consultations with authorities about McCrone. As an Executive, we put into the McCrone settlement the money that is necessary and the system that was agreed with COSLA. Some authorities say that they have special problems. I recognise the difficulties that they have in their locality. However, those authorities who have received “too much money” have not returned to chap my door to admit that they have gained a bit more than they should have out of the settlement process and to invite me to give that resource to X authority down the road. Once we start to undo the process at one end, there is always an effect somewhere else.

I am trying to say that what has been done with the reviews so far and the COSLA profile that members have in their papers has not made a heck of a difference overall—despite the number of distribution formula reviews and all the effort that has gone into them over all that time.

Mr Harding: In your submission, you draw attention to the improvements in local government finance that have come about since devolution, but say nothing about a number of the issues that have been raised by councils and others who have given written and/or oral evidence to the Local Government Committee. Many of the witnesses who gave evidence to the committee have expressed concern about the present balance between central and local funding of local government services in Scotland and have suggested that that balance weakens the accountability of councils to their local electorates.

Will you tell the committee the Executive's views on the funding balance and the effect that that has on the accountability of councils in Scotland?

Mr Kerr: That has always been an issue for local authorities. When I worked in a local authority, the relationship and the balance between central and local funding were issues. The COSLA evidence to the committee

acknowledges that there are no simple solutions and, to a degree, I would argue that that is absolutely correct. If we start to change the balance, what will be the net effect on the yin and the yang?

I return to the fact that we are in the present position because of historical development. However, everything that we do in this relationship can change. Some people have said that we can take services out of local government control and centralise them. I do not believe in doing that, but it would change the balance of resources. If we start to play around with the big money in local government and the big services, it is possible to rebalance resources overall.

The issue is one of accountability and how local authorities work. Clearly, the levels of council tax that are set and the services that are provided in communities help to form people's relationship with their local council. So does the effectiveness or otherwise of their local councillor. When people go to the ballot box to vote for their local councillor, they do not have in the forefront of their minds the fact that there is a mighty imbalance between central Government resources and locally raised finance. They talk about the services that they are getting, the services that have been cut back or introduced, the innovations that the local authority has introduced and that may or may not have worked, and their relationship with their local councillor.

I do not mean to dismiss Keith Harding's question. I acknowledge that he raises a very significant issue and one that I discuss with local authorities. However, there has to be a balance between central and local government resources. If we changed the current balance of resources, that would have an effect. I am not sure that it would be a desirable effect.

Mr Harding: I would like to pursue that. Many witnesses have expressed concern about the effect that the present balance of resources has on the gearing of council tax. Does the Executive accept that council tax is highly geared and that that high gearing is likely to give local taxpayers a misleading impression of their local council's spending decisions?

Mr Kerr: Having been a councillor myself, I fully accept that increases in the amount of resources raised locally are geared and understand how those affect council tax figures. However, when the Executive places commitments on local authorities to ensure delivery of Executive policy, those are fully funded and should not have a net effect on gearing locally. Gearing is affected when local authorities take their own decisions, which is why they exist.

Mr Harding: To address what is called the

democratic deficit, many councils and COSLA have suggested the return of business rates to local councils. When he was Minister for Finance, the First Minister ruled that out. Is that still the Executive's position?

Mr Kerr: That remains the Executive's position.

Mr Harding: I am pleased to hear that. The Executive has my support.

The funding balance between central and local government in England is similar to that in Scotland. The Westminster Government has agreed to undertake further analysis of the effects of the present funding balance in England and to establish a high-level working group to consider all aspects of that balance, to review the evidence and to consider options for reform. Will the Executive undertake a similar review in Scotland?

Mr Kerr: We are in constant dialogue with our colleagues in local government. I have had a series of meetings with COSLA and will have further meetings with that body. At those meetings, issues are raised and we pick off specific work programmes. When matters relating to the funding balance between central and local government are raised, we will consider them seriously.

Some of the things that Keith Harding has suggested are on the agenda, but others are not. My immediate agenda is to discuss with local authorities what we can do for them and how we can assist them. That helps to build a relationship between a key service provider—the democratic institution of local government—and the Executive. Some of the issues that Keith Harding raises have been picked up, but my agenda for local government is based very much on my discussions with COSLA.

Mr Harding: We all acknowledge that there has been an increase in local government funding. You referred to "massive increases". Can you explain why councils throughout the country are now examining their budgets and cutting central services because funding is insufficient? If the increases have been that great, why do they need to make cuts?

Mr Kerr: Let us get the facts on the table. A total of £7 billion has been made available to local authorities. That is a massive resource—going on for 40 per cent of the Executive's budget—which requires support. I cannot account for every decision that local councils make. My local council, which I know best, is involved in constant service improvement. It seeks constantly to ensure that its spending is adequate and that it is getting the most for the money that it raises locally and the resources that are given to it by the Executive. It is managing those resources.

I would not like to get into discussion about particular areas in particular local authorities. I am clear that we have increased resources. The level of increase is in excess of inflation. Local authorities are fully funded for any new burdens put on them by the Executive. It is therefore up to those local authorities to make decisions about how to deal with their budgets.

Ms White: Thank you for your submission, minister.

You mentioned COSLA on numerous occasions. You will be aware of how concerned COSLA is about the extent of the ring fencing that the Executive seems to be imposing on local government. Your submission recognises that COSLA is concerned and refers to

"around £150m in ring-fenced programme funding transferring to unhypothecated general grant".

Your submission says that you are expecting something to come out of the outcome agreements. When do you expect to complete the review of the remaining ring-fenced grants? Have you set any terms of reference for that review?

14:30

Mr Kerr: I have two things to say as a preface to my answer. In my discussions with local authorities, I always have to re-emphasise that the Executive, too, has priorities. Those priorities require to be delivered and, as long as they are resourced adequately—and it so happens that local authorities are often the delivery vehicle for those initiatives—I am comfortable that those resources should be spent on those priorities.

I am determined to continue reviewing what is ring-fenced with the express wish of reducing it. That is not a start-and-finish process; it is a regular part of my discussions with officers and local authorities. The end of that process will not mean that there are no ring-fenced resources in local authorities—that is unrealistic.

We want to move on to discuss local outcome agreements, which are not simple or easy. They bind both parties into a commitment on service delivery. There are some good pilot schemes at the moment. The better neighbourhoods services fund has shown that local authorities can respond to the desire to develop local outcome agreements.

I have committed a substantial length of time to hammering out with COSLA and its advisers what we are talking about. I hear the figure of 10 per cent from the Executive, and I hear 30 per cent from COSLA. I want to get into real discussion about, for example, how police and fire services fit into the calculations. How do the other Executive initiatives fit into the calculations? Then, once the

door is unlocked after hours of endless discussion and interesting comment, I hope that we will have an understanding of what we mean by ring fencing.

Ring fencing is a term that is bandied about, but there is legitimate ring fencing. Until local outcome agreements are delivered to the degree that they can be delivered, ring fencing will continue to exist. However, I think that local authorities will understand that the Executive, too, has priorities. Ring fencing is not a good thing—if we did not have to do it, we would not. We have to establish how we can deliver services through agreements, partnerships and outcome agreements.

I am committed to the Executive's priorities, which need to be funded fully. We will work extremely hard to roll out the principle and practice of local outcome agreements. There is a continuing instruction—that might be too strong a term—to reduce ring fencing as much as possible. That will all be underpinned by lengthy discussions with COSLA and its advisers to agree the issues we are discussing today. That will help the process along.

Ms White: I have another simple question and, hopefully, I will not get such a long, convoluted answer. Are you setting up reviews of ring-fenced grants? You appear to be saying that the Executive's priorities will come first.

I have an example from the oral evidence from Argyll and Bute Council. The council representatives talked about ring-fenced money acting against other initiatives. One of the witnesses said:

"We have made a succession of cuts in recent years in education. Teachers' posts were cut as part of the general need to cut expenditure. However, at the same time, classroom assistants were coming in."—[*Official Report, Local Government Committee*, 27 March 2001; c 1757.]

The belief was that, if the education department and the council had more flexibility, they could get on better in partnership.

The crucial question is whether ring fencing will continue. If not, will there be a review? If there is a review, will certain priorities be outwith ring fencing?

Mr Kerr: Thank you for your kind words. I have tried to present a vision of the Executive working in partnership with local authorities. That vision is based on understanding each other's priorities, on our requirement to resource local authorities and on revolutionising our relationship with local government by introducing local outcome agreements, which may or may not resolve some issues that you mentioned.

I am also committed to a rolling programme of examining ring-fenced areas, with a view to

reducing them. That is not a start-and-end process. The Executive may have other initiatives that the Parliament rightly votes for and that require to be delivered through local authorities by ring fencing or local outcome agreements. Therefore, I am not giving a commitment to end ring fencing; I am committing myself to a substantial agenda that has never been followed in the history of local government. I am committed to getting round the table to discuss local outcome agreements and agree, through dialogue, what ring fencing is. Of the £6.5 billion that goes to local authorities, we are focusing on the 10 per cent that has control or ring fencing around it.

As I said in my statement to the chamber on specific grant funding, ring-fenced funding has been reduced by £150 million. We are also considering reviewing controls in the education excellence fund in an effort to de-ring some of that. Our commitments are being delivered. The process is continuing and I am signed up to it.

Ms White: You mentioned the education excellence fund. The crux of the matter is that local authorities, COSLA and others are worried about your statement that you have given local authorities extra money. West Lothian Council, for example, was given an extra £10 million, but £1.6 million of that had to go to the excellence fund and was therefore wiped off the so-called extra funding. That worries COSLA and local authorities. If I understood what you said, you have given a commitment that ring fencing will not end. Is that correct?

Mr Kerr: You said that £1.6 million was wiped off funding, but that money was essential educational achievement funding for properties and for extra resources in schools, for example. It was not wiped off funding, although control of that money might have been wiped off.

There is nothing spectacular in that and you will not get a press release out of it. I have daily discussions with COSLA. To deliver the Executive's commitments, money must be ring-fenced or controlled until that happy day when local outcome agreements are agreed for all resources and we focus on what is important—service delivery, not inputs. It is important to the Executive and to the development of our relationship with local authorities that we discuss outcomes. People understand and want outcomes and regard as important how the Executive takes forward that issue.

The relationship between the Executive and local authorities should be understood. I make it clear to local authorities that we have commitments. As long as we fully fund those commitments and work in partnership with local government, we can proceed.

Through initiatives such as community planning, we can enhance the delivery of local services, bind them together and interact with the local level. Innovations will be forgotten unless we get away from focusing on inputs. Ultimately, outputs are the issue and we want to spend our money on them.

Ms White: You mentioned discussions and partnership, but there is the matter of transparency and honesty. I think that you misunderstand COSLA, various departments and me. If an Executive press release states that local authorities are given extra moneys, they must say to their electorates that they have been given extra moneys, but that some of those have been ring-fenced. You do not seem to understand the issue of transparency. If you were honest with the public about ring fencing, perhaps the public would understand more. The Local Government Committee is considering ways to finance local government properly. You should listen to those who run local government and to COSLA rather than dictate, which you seem to be doing.

Mr Kerr: That was a startling seam of information. Everything in our budget is specified, so it is clear whether things are ring-fenced. There is little point in continuing with this dialogue. We are putting record amounts of money into local government services. That is what people are interested in.

The Convener: You have answered the questions, but Sylvia Jackson would like to ask one more on the same subject.

Dr Jackson: I have two very quick questions. The first is on the proposals for new ring-fenced grants. Will you be using new criteria to judge those?

I welcome what you said about local outcome agreements, but I raise one of COSLA's concerns, which was about the infrastructure of local authorities. Although local outcome agreements will no doubt help local authorities to meet needs, that will be on a fairly small scale compared with the huge scale for non-trunk roads. There are other issues.

Mr Kerr: I hope that I understood your question about ring fencing. Christie Smith can join in if necessary. As I understand it, there is an established scheme to judge whether any ring-fenced grant is required for an area. If there is a bidding process, we require rigid analysis of various bids.

I agree with your second point. Perhaps Christie Smith will add to that.

Christie Smith: A case has to be made within the Executive for ring fencing. Everyone has signed up to the general policy of reducing ring

fencing or not using it as a first resort. Any spending proposal that might involve ring fencing has to be discussed with officials in local government finance and cleared with the Minister for Finance and Public Services. There is no first resort to ring fencing.

Dr Jackson: My question was essentially about the criteria against which you judge any new ring-fenced grants.

Christie Smith: The main criterion is whether ring-fencing the funding is necessary to secure the commitment that the Executive wants to make. Other avenues for doing that are explored, including local outcome agreements or other forms of consultation—agreements with COSLA and so on. Ring fencing is the last resort in terms of control of the money.

Dr Jackson: If I understand you correctly, you are saying that from now on there will be much more thinking about local outcome agreements and how the proposals are put forward.

Christie Smith: We are developing the local outcome agreement approach. We have four initiatives that are subject to local outcome agreements. They account for over £200 million of expenditure that might otherwise have been ring-fenced. We are working on two other ambitious pilots on educational attainment and children's services, which would account for major blocks of local government spending and could find a way through the ring-fencing argument.

The excellence fund, which accounts for about half of the existing ring-fenced amount, other than police grant, is being reviewed. A number of processes are in place to fulfil the commitment to bear down on the amount of ring fencing and to control it so that it does not just grow willy-nilly.

Dr Jackson: There are essentially no new criteria against which you will be judging new ring-fencing proposals.

Christie Smith: There are no new criteria. We have always adopted those criteria in relation to ring fencing.

Dr Jackson: I just wanted to clarify that point.

Iain Smith (North-East Fife) (LD): I would like to start with a general question. I take it from your submission that the Executive is not examining alternative sources of local government taxation, such as the domestic consumers local income tax, or non-domestic revenue, such as land value taxation.

Christie Smith: That is correct.

Iain Smith: It is worth putting that in the *Official Report*.

I refer to non-domestic rates as they are at

present. In your written submission you indicate your intention to make non-domestic rates more responsive to the circumstances of individual businesses. Will you expand on your proposals for that?

Mr Kerr: The issue of non-domestic rates is difficult, because, if the allocation were straightforward, some areas would benefit and others would not. We are in the early stages of discussions on business improvement districts, whereby authorities could provide innovations and resources that would increase the vitality of business, attract new investment or support and lever in other resources. We have an on-going dialogue with the local authorities about how we can develop that process. With regard to that aspect of the non-domestic rate, there is no fixed commitment as yet.

Iain Smith: One of the proposals is for the new rates relief scheme for small businesses. For the record, as part of our inquiry, will you say how the new scheme is intended to operate? What proportion of the relevant rates bills will it affect and how will it be funded?

14:45

Mr Kerr: Seventy per cent of businesses will benefit—parliamentary questions have been lodged on the subject.

Iain Smith: I know.

Mr Kerr: Did you lodge them?

Iain Smith: Yes.

Mr Kerr: I apologise—I knew that it might have been you. The information is not held centrally.

The scheme that we settled on is designed to maximise benefit to those targeted areas where we think we can make an impact. There was a great deal of discussion about the rates relief scheme that was introduced by the Executive. However, the scheme was designed to help the greatest number of businesses and those that we understood from the business community and others would benefit from the relief.

We introduced a fairly novel relief scheme for rural areas, which will benefit rural communities. By allocating resources to fixed pockets, we did a good job to ensure that the resources hit the greatest number of businesses most effectively. I agree that there is always room to change schemes; for example, where bandings have a direct impact on local business, they could change.

On the basis of evidence of how the scheme could work for those involved, I think that the scheme is good. In particular, a number of innovations should be welcomed for rural areas,

including those for single shops and farm-machinery circles. We tried to do our best to take account of the different needs in rural areas.

Iain Smith: The minister will be aware that the Executive's proposed scheme has been criticised on the grounds that it has to be self-funding. That means that other business rate payers have to pay for the cost of relief to the smaller businesses. Have you considered whether the Executive could fund the scheme? Will you give an estimate of the supplementary rate for businesses above the £25,000 threshold?

Mr Kerr: On Iain Smith's first point, anything could be funded by the Executive out of its budgets. The Executive's job is to make difficult decisions about the allocation of resources. I do not have the figure to hand, but I can get back to the committee about what it would cost the Executive to introduce the scheme. I understand from Christie Smith that the cost would be about £45 million. That is £45 million from a fixed allocation of resources.

A number of letters have been published in newspapers misinterpreting the Executive scheme. Businesses above the £25,000 threshold should have no more than a 3 per cent increase. That is the indication that I have been given of how the scheme will roll out.

The Convener: In your paper, you refer to a relief scheme that will benefit

"an estimated 70% of Scottish businesses, and various rate relief measures for rural communities."

What proportion of bills will be covered by the relief scheme?

Mr Kerr: It is all down to the rateable value of the property. We have set out a banded scheme, under which properties with a rateable value of less than £3,000 get 50 per cent relief. The relief spreads to properties with a rateable value between £7,000 and £10,000, which get 5 per cent relief. I can provide details of the staged bands and the impact on those businesses.

The Convener: That would be helpful.

Mr Harding: Are you not concerned that that will place large and medium-sized businesses on an even less competitive basis? Having been moved away from the UK universal business rate, they are already paying 9 per cent more than their counterparts down south and you have added another burden on to them.

Mr Kerr: I disagree with the comparison that Keith Harding made with the situation down south. Detailed information is available on that, which we will pass to him.

Earlier, we discussed gearing in local authorities, whereby much of the money that is

available is raised locally and the rest comes from the Executive. The impact of what we can do is greater for a small business and less for a bigger business. We are trying to focus resources so that those who can get a net gain do so. There are many ways of doing that. I spent long, weary hours considering the schemes that are available, but it was felt that, given the resources that are available, this is a fair, affordable scheme. That money comes out of the pockets of other people in the business community, but it was felt that the effect of the scheme is to benefit small business and that the net effect on bigger business and on big business is marginal. The 3 per cent figure that I gave Iain Smith refers to the impact that the scheme would have on those businesses' rates.

Dr Jackson: Your submission says that the relief scheme will benefit an estimated 70 per cent of small Scottish businesses. You will know that the Forum of Private Business has always challenged that figure and continues to do so. It maintains that the 70 per cent would include those who are in the buffer zone and not just those who get relief. I would just like to get the record straight on that point. Could you give us background figures to prove what your submission states?

Mr Kerr: We can certainly supply those figures. Another business organisation, the Federation of Small Businesses, supports the scheme. In fact, the FSB represents far more businesses than the organisation that you mentioned.

Iain Smith: The figures for each band are included in the answers to the parliamentary questions that I lodged some time ago and are therefore available to members.

I would like to move on to wider issues concerning improvements to the local government finance system. I would like to talk about the capital prudential system, but perhaps I could begin by examining in more detail the issue of business improvement districts. Are you considering—perhaps in relation to the power of well-being that the local government bill is likely to introduce—other areas in which local government could make a specific charge on specific groups or areas, in order to provide specific services? Business improvement districts are one example, but there are others. For instance, a local community might want to improve a local facility, but that might not fit into the council's main budget. However, if the community is willing to pay a certain amount of extra council tax over a certain number of years to fund it, would you consider giving powers to local authorities to raise that money, subject to referenda or other safeguards?

Mr Kerr: I shall invite Christie Smith to comment on that in a moment. The committee's report will have a fairly sizeable impact on how people will discuss local government finance. It is an area that

the Executive has discussed with COSLA, and we are happy to pick up the points that the committee will make. I do not want to commit the Executive to anything at the moment, but I am sure that those matters will feature in the committee's report, and it will clearly be incumbent on the Executive to respond in detail to that. By the time we do that, we will have had a chance to mull the report over and discuss it with local authorities. Perhaps Christie Smith can tell us whether there is anything in the machine at the moment with regard to those issues.

Christie Smith: We are aware that proposals for BIDs—business improvement districts—have been taken forward in England. We assume that the committee's report will deal with local taxation issues in general, and we shall consider BIDs in the light of that report. On charging, we may consider whether authorities should have more powers to charge for discretionary services, but we think that that would be a case for charging service users rather than a council tax issue. We have not previously heard the suggestion that there should be local enhancements in council tax for certain council tax payers. The debate has focused more on charging service users directly for services.

Iain Smith: One improvement that is being considered is a move to a prudential scheme of capital funding. What is the Executive's current thinking on that? What proposals will you make and what sort of time scale would be involved for the introduction of such a scheme?

Mr Kerr: I was at the Finance Committee this morning to discuss the Budget Bill. I told that committee that the Executive is positively looking at those matters and is engaging with local authorities on them.

I hope to have a positive outcome, once we have fully thrashed out the issues internally and in partnership with COSLA. There is a positive agenda with regard to the issue and I hope to present the results of that process to the Parliament in due course. I am interested in the scheme and think that it can be done. We are working away at it. Iain Smith is pushing against an open door, because the Executive has a mind to investigate further and deal with the issue.

Iain Smith: You are indicating clearly that you are still at an early stage of developing the proposals. What sort of guidelines would have to be applied to such a scheme? Would councils be able to set their borrowing levels, within the overall framework of the capital prudential system? If not, would you retain reserve powers to control local government borrowing?

Mr Kerr: To be honest, I would rather leave that issue until I have had further discussion with

COSLA. In the past, COSLA complained—perhaps with justification—that it was not involved at the right stage of delivering policy decisions. We are in discussion about the matters that you referred to. It would be more appropriate to think them through and discuss them further with COSLA. There is an absolute, positive commitment to come back to Parliament with proposals about those matters, but they need to be more thoroughly fleshed out in that discussion process.

Iain Smith: Have you any idea of what time scale we are talking about?

Mr Kerr: We have many discussions on many different issues, but the answer to your question is no. I am sure that the matter will be raised on Thursday. Perhaps I will then be able to have a further look at it, but I make no promises. However, I will come back to you in due course with a time scale.

Tricia Marwick: You made no specific reference in your written submission to private finance initiative and public-private partnership schemes. However, the capital value of PFI/PPP done deals is £1.8 billion and the value of future deals is £866 million. West Lothian Council said that councils must give a commitment for 30 years, which means that the council must top-slice its budget one way or another for 30 years. Therefore, PFI/PPP will impact on local councils for a long time.

Councils gave evidence that they enter into PFI/PPP schemes because that is the only game in town. They expressed concern about the long-term nature of the schemes and about their flexibility. Other witnesses told us about the higher costs of financing PFI/PPP schemes. A witness from the Executive's PPP unit conceded that the demand-side risk remains with councils and their PFI/PPP schemes. What are the benefits of PFI/PPP?

Mr Kerr: The benefits can be seen in our streets and communities every day. We have new schools, new technology, new information technology, new access to computers for schoolchildren, new sports facilities for schools and new hospitals. In my constituency there is a new £67.5 million hospital, which has equipment that is worth £10 million.

The benefit of PFI is in drawing in additional resources to the envelope that is available to us. Members should remember that PFI represents only 10 per cent of our capital work. PFI allows local authorities to do things that they could not otherwise dream of doing. For example, Glasgow revolutionised and modernised its secondary school estate in three years. Even in the most generous financial settlements of recent history, it

would have been impossible for a local authority to do that.

Another point is that the public sector owns the PFI process. The public sector provides the specification, the quality standards and the designs. The public sector controls the whole innovation and the job of the provider, which is the special purpose vehicle—SPV—is to respond to that. The control rests within the public sector, which sets the quality and the staffing resource. All those aspects are in the hands of the public sector. Therefore, PFI is not a privatisation route, but simply a levering-in of resources that we have not been able to access in the past.

Every project must be judged on a value-for-money basis. That is the local authority's responsibility for any resource that is within its control and spend. I see PFI/PPP as a route forward because it levers in additional resources that are outwith the massive increase in capital, to which I referred in my opening remarks, that we have put into the local government arena and other arenas that are within the Executive's control.

The benefit of PPP is to ensure that local authorities continue to have options. I disagree with Tricia Marwick's comment that PPP is the only game in town, as that is not a fair or adequate reflection of the situation. The public sector has a great ability to innovate, to develop and to take up new ideas and work with them, which is why it has survived many difficult periods in the recent and distant past. The public sector is getting much better at PFI/PPP projects. Local authorities use them to benefit their communities on a value-for-money basis that is assessed against traditional funding techniques.

PPP represents only 10 per cent of what we do, but we should consider the benefits for authorities. I work with trade unions and local authorities on the operation of the schemes, which we review and discuss regularly. The communities that I represent want top-class new public services. Consumer demand for public services is increasing dramatically; we must try to fulfil that demand. PPP is one route—there are many others—to providing investment and resources. It levers in money that we would not otherwise have and delivers for communities for which we could not otherwise deliver. It is a positive innovation for local authorities.

15:00

Tricia Marwick: You said at least three times that PPP/PFI offers better value for money. Are you seriously arguing that it offers better value for money than the conventional arrangements?

Mr Kerr: People forget that the conventional

arrangements have costs, too. There is no such thing as free money.

Tricia Marwick: No, but is PPP/PFI better value for money than conventional arrangements?

Mr Kerr: Yes. As the convener of the Transport and the Environment Committee, I spent four months examining the water industry in great detail and I found that that is the case.

Tricia Marwick: So you believe that all PFI/PPP projects offer better value for money than conventional funding routes.

Mr Kerr: One of the litmus tests of a project is to compare it against traditional funding routes. I spent four months examining the water industry with the aid of specialist advisers. The projects that we considered provided better services. The public sector agrees on the components of the asset—or whatever the service happens to be—and monitors the provision of the service. Whatever the relationship with the SPV, the asset returns to the public sector if that is part of the contract. PPP is about delivering the services that people need. It is not about being hide-bound by political strategies that, bluntly speaking, have resulted in so many of our public services being underfunded.

Tricia Marwick: Another criticism of PFI/PPP is that the profits are not reinvested in services, but go to shareholders. Also, unless the service providers transfer to a private company, they are sometimes not included or are no longer part of the delivery of the service.

In his evidence to the committee, Dougald Middleton of the Ernst & Young partnership mentioned community investment trusts. I know that some councils are considering community investment trusts or public sector trusts. Does the minister favour those? Will he review the guidelines for councils on PFI/PPP projects to give more encouragement to public sector trusts?

Mr Kerr: There were many questions and issues in what you said. The Finance Committee is investigating PFI/PPP. It is doing a lot of hard work and I am interested in the findings. Part of that work is on public sector trusts. Some models are being developed, but the information is not yet available, because the trusts have not hit the streets. I am happy to consider such ideas.

Unlike some, I am not hide-bound to a delivery tool politically or by the way in which the Scottish Executive operates. If a tool works, we should use it. If it works to the benefit of our communities, we should use it. Work should be undertaken on deciding which services are included in PFIs, such as the soft services as they are classically defined in some PFI/PPP arrangements. Teachers, nurses and doctors are not part of PFI/PPP arrangements

as we know them. It is essential to transfer some services with an asset because they involve the maintenance of the asset, but other services can be dealt with in other ways.

Tricia Marwick touched on the two-tier work force. The Scottish Executive has a high benchmark for staffing arrangements in the Hairmyres agreement. Work is being done nationally with trade unions on the staffing arrangements in PFIs and PPPs, so all those issues are being dealt with. The core of the matter is that we need to deliver the services. If we can use such a tool, we should use it. If something better comes along that is more cost-effective and delivers to our communities, I will be happy to consider it.

Tricia Marwick: Dougald Middleton told the committee that community investment trusts or public sector trusts were not finding much favour with the Executive and that the Executive was, perhaps, slow to pick up on innovative ideas. I understand that the guidelines that are issued to councils do not encourage public sector trusts. Will you consider reviewing the guidelines to make public sector trusts an option for councils to propose as an alternative to PFI/PPP projects?

Mr Kerr: I argue that the Executive is not slow to pick up on innovation—that is why we are having our discussion. The Finance Committee is conducting an inquiry into PFI/PPP schemes and I will be in close contact with it.

I am unaware of the points that have been made about the Executive. I said to Christie Smith that we would consider such points, but they are not his responsibility. They are mine, as they relate to another part of my portfolio. I will discuss the matters, but I do not substantiate what Tricia Marwick said about the Executive's view.

The Convener: I will change tack and talk about council tax. One aspect that has come screaming out from what I think has been a long inquiry into local government finance—I speak as a member of the Local Government Committee from day one—is the need to examine council tax. Most witnesses said that council tax needed to be studied and agreed that its administration system was good. I do not want to follow everything that Westminster does, but I know that the UK Government is reviewing council tax and considering revaluation and banding. Those involved hope to produce results in April 2007, which seems some time away.

As the minister knows, the committee has advisers who have produced a report on council tax. When we started the inquiry, that seemed a fundamental issue that had to be considered differently. Does the Executive have plans for revaluation and rebanding of council tax? The

minister might not be able to answer my next question. Is the Executive considering extending council tax rebates to water and sewerage charges? That may be a reserved matter, but if so, Scottish ministers may be involved in dialogue with ministers at Westminster.

Mr Kerr: Both your questions relate to the basis for my interest in the committee's report. All that I have been able to do is read *Official Reports* and have summaries of people's responses to the committee. I am interested in how the committee views such matters. I wish to respond to the committee's report as quickly as possible.

I agree about the council tax system. It is regarded by most, including COSLA, as stable, effective and manageable. I pay close attention to what happens down south. We cannot separate the issues. On local government finance, I would rather consider the overview of what the committee and the evidence say and how the Executive should respond to that before I make specific commitments.

Mr McMahon: I want to raise a slightly different matter, although it partly relates to ring fencing: the amount of money allocated and disagreement between local authorities and the Executive over what is delivered. It relates to the burdens that the local authorities believe are placed on them. Has the minister considered the criteria applying to those burdens in the context of how the settlement for local authorities is calculated? Is there any mechanism in place for reviewing external burdens? I am thinking in particular of the aggregates tax and its impact on the funding of local authorities, given that any additional costs passed on from contractors must be met through the existing local government settlement.

Mr Kerr: There are two sides to this. First, there is the Executive's actions and commitments. For example, the care development group said what the number was for long-term care, and we negotiate with local authorities on how the sums involved are distributed. That number is £125 million a year for two years, and the money will be allocated via the delivery agents.

The other side is additional commitments, for example the McCrone settlement, for which we have to develop a distribution formula. In the case of McCrone, we agreed the distribution with COSLA, the money went in through the normal education channels and it came out the way that it came out. We have an absolute commitment to ensure that anything that the Executive does—our policy commitment—that requires actions from local authorities is resourced by the Executive.

External pressures and situations that arise have a bearing on the Executive as well as on local authorities—I have the same problem.

External influences that bear upon us and affect the Executive budget include review body settlements for pay issues in the health service. My response to the question is that local authorities need to deal with matters that come up in their localities, just as we have to do for other matters.

When it comes to the next round of spending reviews, and when people are beginning to add up their budgets and find out what they need to do, issues surrounding additional costs come back out. Within the period of the spending review, when we allocate the resource, unless negotiations reach the point where we can agree some form of settlement, it is up to local authorities to deal with such matters in-house, by and large. I defer to Christie Smith to find out whether there are any more specific examples.

Christie Smith: Whenever there is a burden, it is all costed and agreed with COSLA, and the cost of it is signed off. The aggregates tax, which Mr McMahon mentioned, is completely different. That is a tax that is intended to change behaviour. It would defeat the purpose of that tax to compensate local authorities for any costs associated with it. It acts as an incentive to do business in a different way.

Mr McMahon: I will give a practical example. If a contractor is building a mile of road for £X and if the aggregates tax is introduced as proposed—although I think there may be some re-examination of it—it will cost the contractor more for that mile of road. The local authority concerned may already have committed itself to building that mile of road, but the additional finance for doing so is not included in its settlement. How do we take account of that? Is there a mechanism in place to address such burdens?

Neil Rennick (Scottish Executive Finance and Central Services Department): It will cost more if the authority continues to use virgin aggregates. If it finds an alternative to that, the aggregates tax will not apply and the project will not cost as much.

Mr Kerr: A comparison may also be drawn with the landfill tax. That was a burden on all communities, through their council tax payments, but it was designed to increase recycling rates and to reduce the need for landfill. As Christie Smith said—I did not pick up the point of Mr McMahon's question, but his dialogue with Christie illustrated it to me—these mechanisms are in place in order to change behaviour. If we are committed to sustainable development along with other Executive and Treasury priorities, then landfill tax, like the aggregates tax, is a suitable mechanism to deploy to change behaviour. That presumably has a net effect on the Scottish budget. We are involved in trunk road activities, and I am sure that

we are having to find resources within our budget for those.

Mr Harding: Could Neil Rennick expand on what he said? Neither Sylvia Jackson nor I understood his answer.

Neil Rennick: I was explaining that the aggregates tax only applies to certain materials, specifically to virgin aggregates, which have been newly quarried. The idea is to encourage local authorities and other bodies that use aggregates to find alternatives that will not have that tax applied to them, which will be cheaper.

Dr Jackson: I have two quick questions. First, in your submission you mention options for improving the framework for local authority capital investments through a prudential system. We have heard quite a bit about that in our inquiry. What progress are you making on a prudential system? Secondly—and you would expect me to ask this question—what issues do you expect to address in the forthcoming white paper?

15:15

Mr Kerr: I have already said what I have to say about the introduction of a prudential system. Perhaps Christie Smith can provide further details, as he has been involved in the direct negotiations on that issue.

Christie Smith: We have a joint working group with COSLA on how to design a new system for regulating and supporting local authority capital investment. There is a considerable amount of technical work to do concerning the type of financial health indicators that local authorities could use to reassure themselves that the investment that they were undertaking and any borrowing to support it were affordable.

A new system for accounting, auditing and reporting the decisions of local authorities is also planned. At the moment, local authorities have complete cover for any decisions that they make after receiving consents from the Executive. We have to consider how the accounting for Scottish Executive public expenditure will be treated by the Treasury, because at the moment local authority capital investment is a line in the Scottish Executive's accounts. We are having discussions with the Treasury about that.

We have been talking about all those issues for a few months and are making good progress. However, we have to design a number of components for the new system. If we can design them properly, we are committed to introducing that system. As soon as we finish our work, the minister will be in a position to take decisions about it.

Dr Jackson: Do you have a time scale?

Christie Smith: We are not committed to any time scale. We already have three years of capital allocations for local authorities under the existing system. We will want to give ministers the option of introducing a new system in time for the next three-year settlement. If ministers want to move more quickly than that, we will support them. At the moment the issue is how quickly we can finish designing a new system, which will put ministers in the position of being able to decide whether to go for it.

Dr Jackson: When do you think you will have finished designing the system?

Mr Kerr: Can we come back to you on that question? There is something fundamental happening here. I am trying to develop a very close relationship with local government, through frequent discussions with COSLA. The last thing that I want to do before this committee is talk about the detail of those discussions. The committee can rest assured that, as soon as we know what is happening on particular issues, it will be fully briefed on those matters. We need to work within the systems that we have. The more detailed dialogue and discussion I have with COSLA the better.

That leads me on to Sylvia Jackson's question about the white paper. The white paper builds on what we have been doing to date in partnership with local government. It builds on the best-value regime, community planning and the power of well-being. In the paper we want to consider issues of governance—the role of local government, where it fits in and how it works. We want to pick up some of the issues raised by Kerley and others, with which the committee is far more familiar than I am. We want to bring together the work that has been done in a consultation document.

I want the paper to consider issues such as how we make our local authorities more attractive and bring new people into local government. I call it the menu selector for local government. Some people come into local government to be back-bench councillors. That is their focus. Others want to be more involved—by serving as conveners of committees, for example. We need to work through such issues with people in local government, as they are on the front line and know better than I how things work. The white paper will try to address those bigger issues and to bring together the work that has been done by Kerley and others.

It is no great secret that the white paper will address the issue of allowances and pensions for councillors. As I recall, someone from Michael McMahon's part of the country has 55 years of local government service. That represents an astonishing commitment to local government. It is

also no great secret that, through the white paper, the discussion of electoral systems that is taking place in the Executive will be taken out to local government and others.

Dr Jackson: Will the white paper also cover the possibility of secondments to get people into councillor roles?

Mr Kerr: Yes.

Mr Harding: When will it be published?

Mr Kerr: The target date is March—that can be 1 March or 31 March.

Tricia Marwick: March 2002 or March 2003?

Mr Kerr: Definitely March 2002. I make that commitment to Tricia Marwick.

Mr Harding: Will the white paper deal with the issue of electoral reform?

Mr Kerr: Yes.

The Convener: Minister, you are the last person to be cross-examined by the committee in our local government finance inquiry. I find it interesting that the last question that you were asked related to proportional representation, because the inquiry is leading us on to another issue that, to be honest, I would rather not face. However, I will have to face it.

I thank the minister and his officials for their attendance. As the minister is the last witness in our inquiry, I intend to celebrate by having a five-minute coffee break. After that break, the minister will return wearing another hat.

15:20

Meeting adjourned.

15:28

On resuming—

Education (Disability Strategies and Pupils' Records) (Scotland) Bill: Stage 1

The Convener: Okay, comrades, we can start again. We have with us once again Andy Kerr, the Minister for Finance and Public Services, and Neil Rennick, who is the head of the Executive's local government expenditure and council tax branch. We also welcome Mrs Sam Baker, who is from the pupil support and inclusion division, and Lindsey Wright, who is from the teachers and schools division of the Scottish Executive. The witnesses have been sitting at the back, so they know the drill. The minister can make an opening statement and then I will open up the meeting for questions.

Mr Kerr: The Education (Disability Strategies and Pupils' Records) (Scotland) Bill, as the committee knows, aims to improve access to two separate areas of education. First, it will require education authorities and independent and grant-aided schools to prepare and implement strategies to improve, over time, access to education for pupils with disabilities. That will be an important part of helping to ensure that children with disabilities get the best possible start in life and make a great contribution to our society. It is needed to help education providers to ensure that pupils with disabilities can achieve their full potential in education.

Although there are many examples of good practice throughout Scotland, there are many areas in which more work requires to be done. To include pupils with disabilities in the planning process, we need to remove barriers to participation in schools and nursery schools across Scotland and to ensure that pupils can really benefit from mainstream education.

The bill is linked to the new duties in the amended Disability Discrimination Act 1995, which will come into force throughout Great Britain in September. Those duties will make it unlawful for education authorities to discriminate against any child on grounds of disability. The requirements for accessibility strategies will complement and support that because the bill will require responsible bodies to take positive action in planning for the future of all pupils with disabilities in all the education establishments for which they are responsible.

In addition to the £9 million that is being provided by general grant in 2003-04, ring-fenced funding through the excellence fund inclusion

programme will increase from £14.3 million this year to £19.5 million by 2003-04. We expect the majority of the inclusion programme resources to go towards establishing and implementing councils' accessibility strategies.

It might be helpful if I place the additional funding in the context of our other work. Local authorities already allocate significant resources to assist the pupils who will be covered by the bill. That includes provision from their £240 million annual revenue expenditure on special education and more than £2 billion of annual mainstream expenditure in primary and secondary schools. During 2000-01, local authorities invested around £130 million from the single capital allocations into schools. The additional support that we have announced for school refurbishment will generate an additional £500 million of investment into the school estate.

I expect that, in directing the existing expenditure, local authorities are already considering the needs and interests of all pupils, including those with disabilities. The bill and the additional funding that we are providing will help to focus local authorities' existing activities and expenditure to promote accessibility through structural adaptations, training or equipment. Consideration will be given in the forthcoming spending review to funding beyond 2003-04.

The bill will also enable us to reinstate an independent right for parents in Scotland to access their children's school records. Parents were given that right in 1990, but it was unintentionally removed in March 2000 when the Data Protection Act 1998 came into force and extended data protection legislation to manual files as well as electronic files. Therefore, in the second part of the bill, we want to create the powers necessary to enable us to reinstate that right. We acknowledge that there may be some information in a child's record that should remain confidential and we will ensure that children's rights to confidentiality are protected in accordance with the 1998 act. However, we believe that, in general, parents should be able to access information about their children that is held by schools and education authorities.

The Convener: I will kick off with a question about funding. You said that you have an additional £9 million from the GAE for the financial year 2003-04 that would be allocated if the bill is implemented. How will that be distributed among Scotland's local authorities? Is there a system by which a council's education department could ask for extra funding for a specific service, such as Braille, which is particularly expensive?

Mr Kerr: I will answer one of your questions and pass the other one to Sam Baker. Resources are allocated through the GAE and the allocation is

based on school populations. That has been discussed with and approved by COSLA.

Sam Baker (Scottish Executive Education Department): It is for local authorities to provide Braille and any other extra provision that they want to put in place as a result of the bill from their share of the £9 million or any other funding that they have for accessibility strategies.

Mr McMahon: Minister, the financial memorandum states that the provisions in the bill that relate to parents' access to pupils' records will not result in any additional costs to local authorities. How did you arrive at that conclusion?

Mr Kerr: The administrative demands of providing that access are nothing new because the ability to access the information existed until it was inadvertently removed in March 2000 as a result of the Data Protection Act 1998. That suggests that reinstating the provision of access will not have any significant impact on the demand for that service or mean that there is any significant additional cost. We will remain in close contact with local authorities and consult them on the situation.

Mr McMahon: If there are additional costs, have you any plans to ensure that they are not passed on to those who seek access to the records?

Mr Kerr: The regulations will allow a fee to be charged for the issuing of copies, but we thoroughly expect that any charge will cover only the cost of supply and that charging for access to pupils' records will not be done on a for-profit basis—that might have been what your question was leading to.

Dr Jackson: Constituents have come to me with differing views about the best way of educating children with autism. That led me to think that there might be a need to make local authority staff aware of recent research and methods of working with children with certain mental disabilities. Has that issue been taken on board, particularly with regard to the allocation of funds?

Mr Kerr: I share your views. Many innovative practices are being developed with regard to autism; some local authorities have taken those innovations up whereas others have not. I will be interested to hear what Sam Baker has to say on the subject, but my view is that those local authorities are making decisions based on what they think is the right way of delivering a service. Of course, there are differences of opinion. For example, I am involved with a local autism group that does not agree with the local authority's view. However, it is not the job of the Scottish Executive to tell local authorities how to deal with such issues.

Dr Jackson: I should expand my point slightly,

as I think that you might have picked up what I said wrongly. I do not mean to be negative about local authorities. As a former teacher trainer, I am aware that teachers face many difficulties because they have not been trained to deal with autism, for example. The issue must also be a problem for local authority staff, which is why I suggested that they should be kept abreast of on-going research.

Mr Kerr: Local authorities are committed to providing that training, within the constrictions imposed by the resources that are allocated and the other funds that they can access. The issue comes back to the setting of local priorities: if that training is judged to be a local priority, it can be delivered. However, I would argue that training needs are addressed by the various resources that I mentioned in my opening remarks.

Sam Baker: The minister touched on the resources that are already available. The special educational needs grant for in-service training gives local authorities funding to provide teachers, auxiliary staff and other staff with training on autism and on other special educational needs and disabilities. Clearly, accessibility strategies have a role in promoting awareness about disability among pupils and staff. As the field of autism develops, there will be a lot more staff training needs, which local authorities will want to consider when they prepare and implement those strategies.

Ms White: I am interested in the costs of the long-term strategies. The submission explains that the £9 million increase in GAE will be delivered at the beginning and then explains about what will happen in 2003-04. I have concerns about what might happen after 2004 if local authorities are perhaps not up to scratch. What will happen in 2005, say, if local authorities are still looking for funds because schools have not been adapted? The submission mentions that consideration is being given to funding beyond 2003-04. Can you guarantee that money will be made available to carry out any work that has not been completed?

Mr Kerr: We are providing money incrementally so that we can deal with some of the issues, but I do not think that we will easily solve the problems of every school and local authority building. I cannot go beyond the next spending review, but those projects will form part of the next bidding process and will be discussed at that point. There is an understanding that we need to put money into the system. That is being done and requires to be done under the DDA. We need to continue that process, which will become part of the spending review in future years. Perhaps one of my colleagues can add to that.

Neil Rennick: The £9 million will be part of the local government baseline and will not be time limited. It will be like other elements of the

baseline local government settlement.

Mr Kerr: Sandra White's question was about what would happen if the £9 million was not enough. We would need to re-examine the situation on the basis of what happens.

Ms White: I know that no one can pre-empt the spending review, but could consideration be given to local authorities that had fulfilled the criteria and that found themselves short in the last six months of the year? Perhaps you could look at that.

Mr Kerr: We constantly engage with local authorities. Clearly, we need to discuss seriously with them any legislative requirement that has been imposed on them. Let us see the outcome of the current increase, which we hope will provide adequate resources to do the job.

Iain Smith: To a large extent, the funding for the access improvements will come from the inclusion programme. In light of our earlier discussions on ring fencing, why have you chosen to use the inclusion programme route rather than add the additional resources to the local government grant?

Mr Kerr: In our discussion under the previous agenda item, we said that we need to ensure that the resources get to where they are required. The resources to do the job are being promoted through the excellence fund because that seemed an appropriate vehicle to use. I do not know what discussions took place in partnership with local authorities, as the decision was made before my time. The social inclusion agenda, which is being supported through the provision of resources, seemed an appropriate way of closing the gap and of ensuring that the improvements take place. I presume that that was why that route was chosen, but perhaps my colleagues can comment.

Neil Rennick: The inclusion fund money already supports accessibility. The spending review identified that the excellence fund would grow. As part of our general commitment to reduce hypothecation, it was agreed that the additional £9 million in year three should be provided through the general non-hypothecated grants system. The inclusion funding is part of the excellence fund, which is being reviewed, but the commitment has been made that the resources will carry forward. We hope that local authorities will continue to allocate funds for this area.

Iain Smith: Does the overall funding take account of the particular difficulties that remote areas experience in ensuring a level playing field for children with disabilities? For authorities that have sparse populations and small schools, the relative provision costs might be higher than in more urban areas.

Mr Kerr: The determining figure in allocating

GAE resources was school population. I am not sure whether the system has other nuances, but Neil Rennick may know more.

Neil Rennick: The relative demands for special educational needs have been discussed with local authorities. There was no agreement on any amendment to the way in which the GAE system is applied. Obviously, if local authorities have alternative suggestions at the next spending review, those suggestions will go into the pot for consideration.

15:45

Dr Jackson: I want to ask about a related issue and how it fits into the bill. The Parliament has discussed special educational needs schools and extending the school day—for children for whom that is appropriate—so that it is the same in those schools as in mainstream schools. As a result, guidance has been issued to local authorities to encourage them to make progress with that. Does the bill cover special needs schools? Is that mentioned in the guidance that local authorities have received?

Mr Kerr: That is a detailed question and I can answer only one part—yes, the bill covers special needs schools. I will leave the substantive answer to Sam Baker.

Sam Baker: Special schools are covered in the same way as mainstream schools are. There is more work to be done with mainstream schools, especially as a result of section 15 of the Standards in Scotland's Schools etc Act 2000, which includes a presumption in favour of mainstreaming. Obviously, special schools will still have a role to play, because a number of children have more complex difficulties. Special schools will also require accessibility developments.

The Executive encourages local authorities to achieve an equal length of school week in special schools and mainstream schools. Guidance has been—or is about to be—issued on that. Local authorities must take reasonable steps—not because of the bill, but because of the Disability Discrimination Act 1995—to provide children in special schools with the same education as children in mainstream schools.

Dr Jackson: So if local authorities do not make progress with extending the school day for pupils when appropriate, the bill will not force them to do so, but the Disability Discrimination Act 1995 will.

Sam Baker: A special school might be the subject of a challenge under the 1995 act if someone could prove that it had not taken reasonable steps to ensure that the school week in the school was in line with that in mainstream schools.

The Convener: Your submission says that the Executive will define, in guidance, associated services to be covered by the disability strategy. That guidance will be published later this year. What are those services? Have their costs been included in moneys that have been allocated for the requirements of the bill?

On a similar theme, have you considered whether there will be extra-curricular activities—sports, for example—in the evening or during the day, which may require extra money? What will happen during school holidays? Have you considered play schemes for younger children? If such initiatives are to apply to disabled children and able-bodied children alike, there will be extra costs. Have those costs been included in the £9 million, which, it seems, will stretch all over the place?

Mr Kerr: I have focused on the financial issues, but I see that Sam Baker has a big list in front of her, so it is probably more appropriate for her to answer your question.

Sam Baker: To define associated services, we would use the list of services that is in the Disability Rights Commission's code of practice, which will be published shortly. Associated services would include preparation for entry into a school, the curriculum, teaching and learning, classroom organisation, timetabling, grouping of pupils, homework, access to school facilities, activities to supplement the curriculum—such as a drama group visiting a school—school sports, school policies, breaks and lunch times, serving of school meals, interaction with peers, assessment and exam arrangements, school discipline and sanctions, exclusion procedures, school clubs and activities, school trips, schools' arrangements for working with agencies and preparation of pupils for the next phase of education. That list is wide-ranging and includes extra-curricular activities and trips, which you mentioned.

The Convener: There are no more questions, so I thank the witnesses for attending. You can go home now.

Mr Kerr: I wish.

The Convener: I welcome Councillor Helen Law, who is COSLA's education spokesperson and a member of Fife Council, and Maggi Allan, who is an executive director for education resources at South Lanarkshire Council. They have been watching the meeting. We will have a few words from the councillor, then members will ask questions.

Councillor Helen Law (Convention of Scottish Local Authorities): COSLA welcomes the bill in principle. Local authorities have a good record in looking after the needs of all children, especially those with disabilities. However, we are

concerned about the bill's financial implications. We need clarity on the future of funding and guarantees on flexibility and the ability to roll out programmes over time. COSLA has given the committee a written submission.

The Convener: I note what you say about the amount of grant that will be provided in the first year and the need to clarify future funding. Is £9 million enough?

Councillor Law: On its own, £9 million will not be enough. Maggi Allan will give details on how the funding breaks down for local authorities and on the funding that would be required, down to pricing exact programmes, such as those for stairlifts.

Maggi Allan (Convention of Scottish Local Authorities): South Lanarkshire Council has undertaken some work on the bill's implications and I have obtained information from another council to find out whether the figures that my council produced were reasonable. The figures that I received from Renfrewshire Council concurred with our findings.

It was reassuring to hear much of what the Minister for Finance and Public Services said this afternoon about the increase in the excellence fund for inclusion and about the £9 million. However, I will put that figure in context for the committee. For an authority such as South Lanarkshire Council, which has 124 primary schools and 21 secondary schools, this year's inclusion fund is worth about £800,000 from the excellence fund. Our allocation of the £9 million will be £600,000. With the increase of the excellence fund plus that £600,000, in the forthcoming years we will be looking at a figure in the region of £1.6 million or £1.7 million. I ask you to bear that figure in mind as I run through some of the costings that we have undertaken for South Lanarkshire Council.

We have considered only primary schools in our costings. In the PPP bid that we submitted to the Executive in December, we dealt with our 21 secondary schools to ensure that all our secondary provision complied with the terms of the Disability Discrimination Act 1995 and the requirements of the bill. However, we also have 124 primary schools, 40 of which require lifts. On a modest estimate of the cost of the installation of a lift, for us to bring those schools up to standard would cost £3.2 million. For the 114 schools that have been identified as requiring access improvements—ramps, handrails and adapted toilets—the costings would total about £5.5 million. We estimate that around £10,000 per school would also be required to improve our 10 relatively new schools, which will add a further £100,000 to the costs. Finally, it would cost a further £1.5 million to make our schools appropriate for

youngsters with visual and hearing impairments.

Taking the rounded figures—whether rounded up or down—for primary education, we are talking about a figure in the region of £9.5 million to £10 million. Renfrewshire Council is a much smaller authority, with 52 primary schools and 12 secondary schools. Nevertheless, the director in Renfrewshire estimates that around £10 million to £10.5 million would be required to make primary and secondary schools there compliant. Although COSLA and local authorities welcome the bill—as Councillor Law said, local authorities have a good track record in working to make both the physical environment and the curriculum accessible to young people with disabilities—it is only appropriate that the committee is aware of the bill's potential cost implications.

On funding and the Executive's approach, COSLA and local authorities would like two issues to be clarified. First, will the £9 million be recurring funding or one-off funding? I am not sure about the response that the Executive official gave this afternoon. I understood that the money is going into baseline GAE, in which case it will be recurring. If that is the case, it will be good news. However, the financial memorandum that accompanies the bill does not imply that the funding is recurring.

My second point is to do with the extent to which, in recognising the cost implications, the Executive might agree—perhaps through the guidance—to allow for some flexibility in the time scale for the implementation of the bill. The minister accepted the fact that implementation could not take place overnight. Local authorities are looking for flexibility and a reasonable articulation of a time scale.

The Convener: I understand that the £9 million is baseline funding. I am sure that that is how the Executive official answered, but we can check the *Official Report*. I am sure that there will be flexibility.

You say that you put in a bid to the Executive for PPP funding for your secondary schools. At the moment, that is sitting out there and you have not received an answer about whether you are going to get the funding.

Maggi Allan: No.

The Convener: If you did not get it, your implementation costs would change.

Maggi Allan: Indeed.

Iain Smith: You implied that some of the modifications would be necessary anyway, because of the Disability Discrimination Act 1995. Is that correct? I am trying to clarify whether the bill will add extra costs or whether most of those costs would have to be met in any case.

16:00

Maggi Allan: Several pieces of legislation and parts of codes of practice all come together in that regard: the Standards in Scotland's Schools etc Act 2000, which contains a presumption of mainstream education; the recent code of practice on special educational needs; and the Disability Discrimination Act 1995. If the bill is passed there will be a requirement concerning disability strategies. As the minister said, it is important that those strategies complement the existing legislation. The expectation is that councils will, through their disability strategies, articulate how they will meet the requirements of the Disability Discrimination Act 1995. As local authorities commit to implementing the terms of the 1995 act, we need to be able to show clearly that we will not achieve that overnight; we will commit to achieving it over time and based on the allocation of resources. The various acts and codes of practice complement one another.

Iain Smith: That was helpful. I also wish to ask you about sparsity of population and remote communities. Does the distribution formula take sufficient account of the larger number of schools per pupil in remote areas? If not, the costs of making adaptations might be higher. Costs would not be affected by a pupil-based scheme. Has that been taken into account? Would extra resources be required in remote areas?

Maggi Allan: That is quite an important issue for rural areas, particularly because of the distance that young people must travel. It is a question of flexibility. For example, in the East Kilbride area, where schools are relatively close to one another, I might tell a parent that I cannot provide full accessibility in one secondary school, but that there is a suitable school six miles along the road. However, if I were the education director of the Highland Council, it would be a completely different matter; the appropriate school might be 20 or even 30 miles down the road. That would be much more problematic for a council that was faced with implementing legislation and for parents who are anxious to secure their children's inclusion rights. Therefore, it might not be unreasonable to consider rurality as a factor in the distribution of funds.

Mr McMahon: The committee is always worried about the hidden costs that might be involved in financial settlements. We notice that "other services" will be included in guidance that will come out later this year. Has COSLA costed the potential financial implications of including additional educational services under "other services"?

Maggi Allan: We have not costed those implications in detail. Our main costings have concerned making the physical environment

accessible. We welcome the fact that the bill is not just about making the physical environment accessible, but about making the full curriculum accessible. It is also about extending beyond the formal school day the provision that is available to all young people. Costs are, and will be, associated with that.

If a young person needs a school helper or an SEN auxiliary during the school day to access the curriculum, it is highly probable that the young person will also require that helper's services to access extra-curricular activity. A cost will be associated with that. We have not begun to cost such provision, but the issue is worth considering. Although the £9 million allocation is recurring—which is good—if it is used only to make schools' physical environments accessible, that will not address how to make other activities, especially post-school activities, accessible.

Mr McMahon: Another element of access relates to pupil records. The minister seemed fairly confident that no additional costs could be passed on to those who seek access to the records. Are you as confident that that would be the case?

Maggi Allan: We probably are as confident. The minister is correct. We used always to grant access to pupil records. From speaking to colleagues in other authorities, I know that we have not stopped doing that, although the Data Protection Act 1998 took away the legal requirement for us to do so. If parents ask us for records, we still provide them, but an administrative cost is generally associated with that. I concur with the minister's conclusion.

The Convener: How often are you asked to provide records?

Maggi Allan: Such requests are not frequent. On average, they are made two or three times a year.

Ms White: Thank you for your submission, which answered a number of the questions that I intended to ask. Funding is one of the most important issues raised by the bill. We all want the bill to work, but we must be realistic. Your concerns have been taken on board.

In your submission, you express concern not only about building and revenue costs, but about issues such as class sizes. I want to ask you about flexibility in the use of the £9 million that has been allocated to local authorities to implement the provisions of the bill. Would it be wise and prudent of the Executive to ask each council what flexibility it needs in the schools in its area? As you said, the bill could have an effect on class sizes. Would producing a plan have extra cost implications for councils?

Maggi Allan: I do not think that the drafting of a

plan would involve additional costs. However, it would be helpful for the Executive to liaise closely with local authorities on the implementation of their strategies. That could be secured by involving COSLA in the drafting of guidance, in order to build in a requirement for consultation. Local authorities would then be assured that their needs were being considered.

Clearly, every authority will come to the issue from a different starting point. The age and condition of properties will obviously be a factor. Sandra White is right to say that it will be important for the needs of individual local authorities to be considered. We should not expect all accessibility strategies to look the same, which is why COSLA is saying that flexibility would be helpful.

Dr Jackson: I want to return to staff development. Obviously, staff development does not have the same financial implications as the physical improvements that you described. However, do you agree that the issue needs to be considered? Through changes to teacher training, staff development will work its way through the system but, initially, extra staff development will be needed for teachers, classroom assistants and so on.

I was also trying to highlight earlier the fact that council staff in education departments—possibly at quite senior levels—might need to know more about certain issues. I referred to autism, but the same is true of other conditions. Will you comment on that?

Maggi Allan: I agree that professional development issues are associated with the bill. We need to make people aware of the terms of the Disability Discrimination Act 1995, as people could inadvertently fall foul of that legislation. You are right to say that we need to ensure that local authority officials are familiar with the terms of the 1995 act.

The growth in the number of people in mainstream schools who have special educational needs or disabilities has created a need for disability awareness training. It is important that teachers' expectations of young people who have disabilities are not too low and that they recognise that disabilities do not necessarily impair intellectual capabilities. There is much work to do in that area. I know that there are particular concerns about autism, because increasing numbers of autistic children are coming into mainstream schools and in the past their needs were under-resourced.

It is right to say that as more young people who suffer from autistic spectrum disorder come into mainstream schools, not only teachers, but all the support staff in schools come into contact with those young people.

The Convener: COSLA's written submission states the belief that

"the needs of the individual child are paramount".

I am sure that you would not challenge that, but how can individual children's needs be made paramount in the context of the bill?

Councillor Law: The presumption of mainstreaming is all very well, but we need to be mindful that some parents would still want specialised facilities for their young people. In trying to meet the needs of young people, we need to talk to the parents and the professionals and to work together to ensure that we do not create another kind of one-size-fits-all solution.

Iain Smith: In paragraph 6 of the written submission, you make some useful points about areas that might need clarification or future guidance. You mentioned preventing duplication of work. Will you comment on the sort of areas in which the bill might cause duplication or conflict such as, for example, the children's services plan and the Children (Scotland) Act 1995?

Maggi Allan: We are being asked to prepare an accessibility strategy. We will consider how that fits with our other requirements, such as the requirement for local authorities to have an annual local improvement plan, the requirement to have a plan associated with the children's services plan and the forthcoming legislative requirement around community planning. We can join all those things up. We anticipate dealing with the accessibility strategy in particular through a children's services planning process.

The Convener: We have exhausted our questions. Thank you for coming along. We will be in touch, if necessary.

We welcome Margaret Orr, who is Glasgow City Council's senior education officer. After you have said a few words, I will invite questions.

Margaret Orr (Glasgow City Council): I have two main introductory points. My specific responsibility in Glasgow City Council is for special educational needs. I have a particular interest in aspects of the Education (Disability Strategies and Pupils' Records) (Scotland) Bill. I expected to be accompanied by a colleague who has more knowledge of the buildings aspect, but unfortunately that person is on sick leave. I will attempt to answer questions, but I will get back to the committee on any matter about which I am unsure.

Our submission was relatively brief, because I expected to elaborate in response to questions. Glasgow City Council is in a unique situation because we are almost within sight of the conclusion of our secondary review. We have 29 refurbished or new-build secondary schools. All

those schools certainly comply with current statutory requirements and some comply fully with the recommendations and requirements in the bill.

Glasgow City Council's big challenge is its primary school stock. We have 202 such buildings, as well as 32 buildings in the special needs sector. Our submission focused on access to those buildings. The cost of best-value reviews in the SEN and primary sectors amounted to £40,000 and £400,000 respectively—purely for dilapidation surveys. On that basis, we estimated that a full accessibility survey of our schools could cost in the region of £100,000.

To date, local authorities have been fortunate in that moneys have come from the excellence fund, which has facilitated the meeting of many requirements in the Standards in Scotland's Schools etc Act 2000. It is important that we record our gratitude for the excellence fund, which has facilitated access.

16:15

Members asked questions about curriculum and staff development. I am happy to elaborate on those issues, if members would find that helpful.

Glasgow City Council tries as much as possible to facilitate disabled access within the constraints of the budget. We might spend about £100,000 annually to facilitate access at the most local level for children in primary schools. All our special educational needs establishments are one or two-storey buildings and therefore need disabled access. The main purpose of two of the schools in the city is to meet the needs of children who have severe physical disabilities and associated medical conditions—perhaps that is another area of interest to the committee. Members will appreciate that disabled access is not simply about installing a ramp or a lift and that, for children who have more complex medical needs, it will always be impossible to provide resources on an individual school basis. We have had detailed discussions with health officials on that as part of our best-value review of special needs.

We are proud of—and continue to develop—provision in schools such as Richmond Park School and Ashcraig School, which also serve children from outwith Glasgow. It is also interesting that Glasgow City Council is a main provider for almost 200 children who come into Glasgow for special needs provision. That links directly to authorities' past difficulties in providing access. Certainly, Ashcraig School has a healthy roll at secondary level. Developments in other local authorities have changed matters to an extent. Other children in Ashcraig School have more complex medical needs associated with their physical disabilities.

Section 2c of our submission touches on more subtle issues of access relating to blind or visually impaired children and children who have other sensory impairments. It is a big task to make people aware that we should not take just physical disabilities into account. In the new Ross Hall academy—which will take over from the Penilee visually impaired unit—detailed work has had to be done with architects and builders to ensure not only that the unit in which the sensory-impaired young children will spend a core part of their education is sensory-impairment friendly, but that the whole school is. The whole building has been considered. Knightswood Primary School has just opened and is also sensory-impairment friendly. Account has been taken of different colour shadings on the walls, routing round the walls for blind and visually impaired children and sensory-impairment sensitive rooms.

Addressing the issue of disabled access is welcome. The matter is complex and subtle, and crude costings never achieve the final result. A lot of refinement is needed.

Like all other authorities, in our department service plan we prioritise in the capital programme. Due to resources and budget implications, certain things cannot be done and, if there are a few days with weather like yesterday's, some things cannot be done because people's roofs must be put back on.

Although we are the largest authority, the issues that we face are not unique but, for Glasgow, volume is often the problem. We are also a provider for many children from outwith the authority area.

I will be happy to try to answer questions.

The Convener: In the first year, it appears that £9 million will be made available, based on school population. I would like to clarify something. You said that more than 200 pupils come into Glasgow and use the facilities—other authorities obviously buy in that provision. Are those children included in your school population? Must members of the school population have a Glasgow address?

Margaret Orr: No. All school pupils are included in the population.

The Convener: So there will be £9 million for the whole of Scotland and the distribution of that money will be based on school population. Is that amount enough? Be honest.

Margaret Orr: No. The amount is not enough if we are to address the more subtle issues. It might be enough if we were talking simply about building ramps and, perhaps, installing lifts. The last estimate that I had for installing a lift, which was in my Renfrew days, was for £150,000. That was six years ago. I doubt that £9 million is enough if we

are truly serious about ensuring access for any child who appears at the front door of a school. I would still except the medical profiles. The £9 million would give us a good start, but it would not finish the job.

Dr Jackson: I return to Maggi Allan's idea that provision would have to be phased in. Could you work the system so that two or three schools were adapted and then phase in provision gradually in other schools? Is that your intention? What sort of strategy might you use?

Margaret Orr: That is our strategy. If the required customisation were too great, we would transport the children to the nearest school that could meet their needs. However, that would depend greatly on the provision in individual cases.

The rolling programme would probably be adequate, provided that it adapted two schools per year. A lot would depend on the stock. Glasgow City Council would like to have fewer than 202 schools—we have too many. Even then, we would have almost 150 schools.

On parental expectation, we would have to be clear that the rolling programme would be fulfilled. A lot of energy is spent in discussion with individual parents, reassuring them and explaining to them that we will carry out minor adaptations. That is usually within the budget, but it takes a lot of discussion. If we were producing a phased-in game plan, the fulfilment date would certainly have to be clear and not be merely a wish to adapt all the schools in 50 or 60 years.

Dr Jackson: On the disability strategies and the information that you give to parents, are you saying that, right from the beginning, you would have to be open and transparent about what is possible so that unrealistic expectations are not built up? I think that you agree with me about that.

Margaret Orr: Yes, definitely.

Dr Jackson: Will you comment on the implications of the review of the disability strategies? I asked a previous witness what that would mean for training at the school level, the council level and in education departments.

Margaret Orr: There are probably three tiers. We have begun a rolling programme. It is essential that directorate members and council officials are well briefed on those issues. The approach is holistic: all council offices, officers and personnel should develop broad awareness of the strategy.

For education departments, the implications hit home in schools. I echo what Maggi Allan said: not only teachers need training. As inclusion develops, all staff—school librarians, janitors, cleaners—will be required to be aware of the implications of the

strategy. However, some people might be in default through ignorance and others might not recognise that that is part of their responsibility.

How we deliver that training is another issue. Because I also have responsibility for training, I think that there is an interesting tension; we have requirements in law but do not necessarily have a requirement that insists that everybody must undertake training. Training will be patchy. Some people will receive training because a disabled child—in the simplest sense of that phrase—will appear at the school and something will have to be done. Others will have an innate interest. Others will be special needs assistants or specialists in some area.

A delicate balance must be struck. The matter must be addressed in continuing professional development to ensure that all teachers and support staff take it as read that they need to be aware and know how to respond appropriately in their roles. The issue is very big. It is facilitated by access to the SEN specific grant, which complements the excellence fund. Authorities therefore have the scope to provide training.

The other issue is that training is necessary not only for education personnel. There is much evidence in favour of interdisciplinary training, which is encouraged by central Government and local government and by our professional bodies, whether in speech and language therapy, physiotherapy, social work services or elsewhere. That holistic approach is necessary. It would be rare to find a child who has a disability who does not have access to a range of services. We should all be aware of the issues.

Ms White: It all seems to come down to funding. Although you might have the will, you also need the money. The Executive has mentioned the inclusion programme and the ring fencing of moneys. How much did Glasgow City Council receive last year?

Margaret Orr: We got £1.5 million and roughly £500,000 for training. Obviously, the focus of that money was on developing practice and provision in the mainstream sector. We struck a balance. We met costs for access and adaptations, but the vast majority of the money was focused on the process model and on staff development, whether that involved direct training, staff development materials, inter-agency working or the establishment in some of our mainstream schools of better provision for children with special educational needs.

In some areas, such as sensory or communication disorders and speech and language, we reinforced the potential for specialist units to have direct contact with mainstream schools. Inclusion is not simply about children

being in mainstream schools; specialist services have a great role to play. As I said, Glasgow is proud of its range of special schools and we would not want to close them. We have to develop a stronger partnership so that specialist services can support and facilitate mainstream practice.

We were grateful for the money and are keeping our fingers crossed that funding will continue.

Ms White: Everyone is grateful for a wee bit of extra money. You have explained how you used that money for various other aspects of provision that do not appear to be included in the bill. Would £1.5 million be enough to cover the remit of the bill in future years?

Margaret Orr: I felt that the funding addressed some elements of the bill—some of the more subtle aspects of inclusion and responding to disability. If I were guided to spend all of the £1.5 million simply on physical access, that would disappoint me. We have not taken that approach in Glasgow. It would have been easy to run around flinging ramps at every school and putting in disabled toilets. The greater priority for us is to ensure that staff are well trained, in tune and sympathetic to the issues. No child is being disadvantaged. Children are accessing education, so a physical disability does not deprive them of education. Provision may not currently be as local as we would like, but no child's educational provision is being undermined in any way by the lack of physical access in schools.

I would prefer to keep a balance, with some of the money being dedicated to physical adaptation. A one-injection shot for staff development over a couple of years will get us nowhere. The process is on-going and we look forward to continuing it.

Ms White: I assume that you hope that the Executive and COSLA will take on board what you have said and that consultation and flexibility on how the money is spent will be written into the bill.

Margaret Orr: We want flexibility to be coupled with accountability. The requirement to show in great detail how money from the specific grant and the excellence fund is being spent is welcome. It is too easy just to take a broad-brush approach. Funding has been specifically targeted and sensitive to local need, which has been much appreciated, not only in Glasgow but by colleagues in other local authority areas.

Mr McMahon: My first question is for clarification. Your answer will determine what my second question will be. In how many of the schools in Glasgow that are currently being built or renovated has access for people with physical disabilities been taken into account?

Margaret Orr: We have 29 secondary schools in Glasgow, 26 of which have total access, with

lifts and ramps. The three schools that do not have those facilities are not new-builds but refurbishments. Apparently, in those three schools, the traditional style of the building prohibited the inclusion of those access facilities. We recognise that, when the bill becomes law, we will have to revisit that situation.

Among the secondary schools, there will be schools with specific provision for children with sensory impairment, from visual impairment through to blindness and from slight hearing impairment through to deafness. There will be two different schools, both of which will be specifically customised to meet those needs. We also have one school for children with communication disorder. Again, specific adaptations have been made to address their needs and those of children with speech and language difficulties. Those needs were taken into account in planning new-builds and refurbishments.

Mr McMahon: The answer was positive, so I do not need to ask why the work has not been done. Do you have an idea how much additional funding was required to deliver that level of provision?

16:30

Margaret Orr: I asked that question this morning but nobody could give me a breakdown of the funding. The new primary school, Knightswood Primary School, started off its life at an estimated cost of £3.5 million but ended up costing £4.6 million as a result of refinements. There is a proposal for another school, Lourdes Primary School, which will be a two-storey building with lifts and disabled access throughout and customised toilets. That finer brief will add to the cost and result in a building that will cost more than a basic primary school would cost.

The Convener: There is provision in the bill for access to pupils' records. The minister said that that should have no great financial implications. Do you agree with that?

Margaret Orr: Yes. I also agree with Maggi Allan that good practice has dictated for a long time that information should be made available to parents. For example, there has always been open access to the record of needs. With a bit of professional rigour, no one should have anything to fear from access to records.

The Convener: I do not think that we have any more questions. Thank you for attending.

Subordinate Legislation

Police Pensions (Pension Sharing on Divorce) (Scotland) Amendment Regulations 2001 (SSI 2001/459)

Local Government Pension Scheme (Scotland) Amendment Regulations 2001 (SSI 2001/460)

Police Pensions (Additional Voluntary Contributions and Increased Benefits) (Pension Sharing) (Scotland) Amendment Regulations 2001 (SSI 2001/461)

The Convener: We have before us three negative instruments, the names of which I will not read out quickly because Mark Ewing of the official report will not be able to write them down as fast as I read them.

The instruments were sent to members some time ago and we have received no comments on them. The Subordinate Legislation Committee considered the instruments and an extract from its report is attached to our papers. That committee considered that the attention of the Parliament need not be drawn to the Police Pensions (Pension Sharing on Divorce) (Scotland) Amendment Regulations 2001 (SSI 2001/459) and the Police Pensions (Additional Voluntary Contributions and Increased Benefits) (Pension Sharing) (Scotland) Amendment Regulations 2001 (SSI 2001/461).

In the case of the Local Government Pension Scheme (Scotland) Amendment Regulations 2001 (SSI 2001/460), the Subordinate Legislation Committee entered into correspondence with the Executive, and that correspondence is included in its report. The Subordinate Legislation Committee drew the attention of the Parliament and the lead committee to the instrument on the ground that there is potential doubt about the vires of the instrument and whether it is in devolved competence. The Local Government Committee's main concern is with the instrument's policy implications. The potential doubt about the vires of the instrument, which was raised by the Subordinate Legislation Committee, can ultimately be resolved only through the courts. If members of this committee have concerns, the only option that we have is to record them in our report on the instrument. No motions to annul have been lodged and no other action has been taken on the instrument.

Tricia Marwick: I read the Subordinate Legislation Committee's report carefully and I think that it is worrying that a committee of the Parliament has raised doubts about the vires of

the instrument and whether it is in devolved competence. I take the point, however, that that has nothing to do with us and that we are concerned only with the policy. However, should we be concerned about the comments in paragraph 11 of the Subordinate Legislation Committee's report, which relate to the ability of civil servants to opt for membership of the local government pension scheme? That is surely an unintended consequence. Paragraph 12 is probably more relevant.

The Convener: I do not think that paragraph 11 refers to civil servants; it refers to those who are former employees of Scottish Homes.

I am not sure that we have any recourse to action, because there has been no motion to annul. We could draw that point to the attention of the Subordinate Legislation Committee and include a comment in the report.

Tricia Marwick: That would be a good idea, particularly if we comment on paragraph 12 of the Subordinate Legislation Committee's report. If that committee has brought the issue to our attention, it is incumbent on us to acknowledge its concerns. There seems to be genuine concern.

The Convener: Okay. I can clarify that paragraph 11 refers only to the civil servants who work for Scottish Homes. However, I am prepared to include a comment in the report.

Iain Smith: The regulation seems to be fairly tightly drawn. Paragraph (1A) says that only persons specified in paragraph (1B) may be members of the scheme and paragraph (1B) mentions persons who were

"... employed by Scottish Homes on 31st October 2001; and

(c) on 1st November 2001 became employed by the Scottish Ministers".

That seems to be fairly tight.

The Convener: It is quite tight.

Iain Smith: I am not sure that I agree with the Subordinate Legislation Committee that it could be interpreted any other way.

Ms White: Like most members, I am a lay person. I saw the paper on subordinate legislation and wanted to ask for guidance. I am happy to go along with the convener and voice our concerns in case something comes back. I was on the Social Inclusion, Housing and Voluntary Sector Committee when it was proposed that Scottish Homes staff be transferred. That is what drew my attention to the matter. If the Subordinate Legislation Committee has concerns, I have concerns, and I will go with the convener's guidance on what we can do.

The Convener: What are your concerns?

Ms White: I am concerned that the Subordinate Legislation Committee questioned whether the issue falls within devolved competence.

The Convener: That is not a matter for us; I said that at the beginning. We are taking the straightforward view that, if there is any doubt, the matter would have to be resolved through the courts. As Iain Smith said, the wording about civil servants is pretty tight. The civil servants are not named, but the instrument says that they were employed by Scottish Homes. We could comment on that, but we cannot comment on the vires issue.

Ms White: I do not want to make a comment. I raised the issue only because I wanted clarification, but I will go along with the convener.

Dr Jackson: Paragraph 12 of the Subordinate Legislation Committee's report says:

"Where the Committee has difficulty is whether these 'other persons' can include civil servants."

Is that the vires problem or is it something else?

The Convener: That is the vires problem. The information in the instrument is very tight. It specifies those who worked for Scottish Homes on a specific date.

Iain Smith: I am not sure that the Subordinate Legislation Committee's concerns with regard to pensions law are justified. Any member of a pension scheme can opt to have a private pension. The regulation simply states that those who used to be in the local government scheme can opt to join a scheme other than the civil service scheme. That other scheme happens to be the local government scheme. The instrument amends the local government scheme to allow that to happen. It has nothing to do with civil service issues; those people could, if they chose to, set up a private pension scheme rather than join the civil service pension scheme.

Dr Jackson: Are you saying that the vires issue does not matter?

Iain Smith: I do not think that the vires issue is relevant. The amendment is being made to the local government scheme, not the civil service scheme. That is only a personal opinion—I am not a lawyer. The Subordinate Legislation Committee has expressed its concerns. I do not think that we need to do the same.

The Convener: The Subordinate Legislation Committee has flagged up the issue. I do not think that we need to do anything with it.

Iain Smith: Our role is to decide whether, as a policy, it is right that people who used to work for Scottish Homes and were members of the local government superannuation scheme should be allowed to continue their membership of that

scheme.

The Convener: That is right.

Ms White: Perhaps I am being a wee bit too careful, but if anything like that jumps out at me, I want clarification to protect the committee.

The Convener: I want to proceed with the questions on the subordinate legislation. I do not know whether we have made anything clearer, but perhaps we have a better understanding of the issue. The Subordinate Legislation Committee has flagged up its concerns, so it can pursue the matter.

Are we agreed that the Local Government Committee has no recommendation to make on the Police Pensions (Pension Sharing on Divorce) (Scotland) Amendment Regulations 2001 (SSI 2001/459)?

Members indicated agreement.

The Convener: Are we agreed that the Local Government Committee has no recommendation to make on the Local Government Pension Scheme (Scotland) Amendment Regulations 2001 (SSI 2001/460)?

Members indicated agreement.

The Convener: Are we agreed that the Local Government Committee has no recommendation to make on the Police Pensions (Additional Voluntary Contributions and Increased Benefits) (Pension Sharing) (Scotland) Amendment Regulations 2001 (SSI 2001/461)?

Members indicated agreement.

The Convener: That concludes this part of the meeting.

16:41

Meeting continued in private until 18:19.

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