

# **LOCAL GOVERNMENT COMMITTEE**

Tuesday 29 October 2002  
(*Afternoon*)

Session 1

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## LOCAL GOVERNMENT COMMITTEE

26<sup>th</sup> Meeting 2002, Session 1

### CONVENER

\*Trish Godman (West Renfrew shire) (Lab)

### DEPUTY CONVENER

\*Dr Sylvia Jackson (Stirling) (Lab)

### COMMITTEE MEMBERS

Mr Duncan Hamilton (Highlands and Islands) (SNP)

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

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

\*Elaine Thomson (Aberdeen North) (Lab)

Ms Sandra White (Glasgow) (SNP)

### COMMITTEE SUBSTITUTES

Robert Brown (Glasgow) (LD)

Angus MacKay (Edinburgh South) (Lab)

\*Tricia Marwick (Mid Scotland and Fife) (SNP)

\*John Young (West of Scotland) (Con)

\*attended

### WITNESSES

Jonathan Belford (Aberdeen City Council)

Jim Brown (Scottish Executive Health Department)

Brenda Campbell (Convention of Scottish Local Authorities)

John Dow (Fife Advocacy)

Mr Andy Kerr (Minister for Finance and Public Services)

Colin McKay (Scottish Executive Health Department)

Kate Milliken (Fife Advocacy)

Mrs Mary Mulligan (Deputy Minister for Health and Community Care)

Fiona Palin (Aberdeen City Council)

Councillor John Pentland (Convention of Scottish Local Authorities)

Neil Rennick (Scottish Executive Finance and Central Services Department)

Mike Sawyer (Fife Council)

Christie Smith (Scottish Executive Finance and Central Services Department)

Kate Thomson (Fife Council)

Norie Williamson (Convention of Scottish Local Authorities)

### CLERK TO THE COMMITTEE

Eugene Windsor

### SENIOR ASSISTANT CLERK

Ruth Cooper

### ASSISTANT CLERK

Neil Stewart

### LOCATION

Committee Room 2



## Scottish Parliament

### Local Government Committee

*Tuesday 29 October 2002*

*(Afternoon)*

[THE CONVENER *opened the meeting at 13:38*]

### Items in Private

**The Convener (Trish Godman):** Okay, comrades, we can start. We have an early start today because we have a busy agenda. After item 2, we propose to have a short private session before we continue in public. I know that that is unusual and I tried to arrange matters otherwise, but I could not. Therefore, I ask members to agree to take item 3 in private in the middle of the public meeting and to take item 6 in private at the end. Under item 3 we will consider questions for the Minister for Finance and Public Services; item 6 relates to the appointment of an adviser. Do members agree to take those items in private?

**Members** *indicated agreement.*

## Budget Process 2003-04

**The Convener:** We return to consideration of the budget process at stage 2. Again, we welcome to the meeting the committee's adviser, Ken McKay. We also welcome yet again representatives from the Convention of Scottish Local Authorities: Councillor John Pentland, who is the COSLA finance spokesman and will be the lead speaker; Norie Williamson, who is the director of finance for COSLA; and Brenda Campbell, who is the head of finance.

I certainly do not need to tell our witnesses the drill, so I ask John Pentland to open and anyone else who wishes to speak should catch my eye. I will then open up the session for questions.

**Councillor John Pentland (Convention of Scottish Local Authorities):** Thank you for again allowing COSLA the opportunity to give evidence on the spending review process, which has improved considerably in terms of our discussions with the Scottish Executive. I would like to say that we are working in partnership, but the closest that we have is perhaps a relationship. Things are improving, but there is a long way to go. Certainly, a better understanding is required between the Executive and local government.

**The Convener:** That was short but sweet. I will kick off the questions. What do you think of the proposed level of aggregate external finance of £7,337 million for 2003-04?

**Councillor Pentland:** Positive outcomes have come from that announcement, such as the mainstreaming of the better neighbourhood services fund procedures, the quality-of-life resources being built into the base, and full recognition of COSLA's estimate of increased national insurance costs in the next year. However, much detail has still to be found within the figure of £7,337 million and we are working through that detail.

Another issue that arises from the headline figure of £7,337 million is that once non-discretionary expenditure is stripped away, the settlement for local authorities perhaps does not meet the headline figure.

**The Convener:** How much of the increased figure is new money and how much is intended to meet new burdens or initiatives that the Executive may put on you in terms of policy initiatives?

**Councillor Pentland:** Again, because COSLA does not have all the detail, it is hard to identify what the cost of new burdens would be. As I stated earlier, the finer detail in the headline figure has still to be worked through. When the non-discretionary element of the headline figure is

stripped away, the moneys to local authorities perhaps do not meet the headline figure.

**The Convener:** In terms of service delivery, will you be standing still, will you be able to implement some of your initiatives and ideas locally, or is the situation worse than it was?

**Councillor Pentland:** In our written submission, we identified from information provided by the Executive a funding gap of some £163 million in the first year. Over the three years, we identified an overall funding gap of some £440 million. That is for delivering core services in local authorities and does not take into account new burdens or initiatives that the Executive may introduce. Therefore, we have identified a funding gap of £440 million over the next three years. The cost of any new initiatives or burdens should be met by the Scottish Executive. It is of paramount importance that we identify the true cost of delivering core services before we move on to new initiatives or new projects.

**The Convener:** To get to where you are just now, you have obviously negotiated with the Minister for Finance and Public Services. Part of the procedure is that you talk to each other. What does the minister say when you put it to him that over three years you will have £440 million less than you need?

13:45

**Councillor Pentland:** Are you asking what the minister thinks?

**The Convener:** Yes. Does he agree with you on that discrepancy?

**Councillor Pentland:** No. To date, the minister has not said whether our figure is right or wrong. We have provided details to the minister on the fact that COSLA has identified a funding gap of £440 million.

**The Convener:** Negotiations have taken place with the minister—a dialogue, rather than letters going back and forth—so what has the discussion been about? What does the minister say when you put that to him?

**Councillor Pentland:** Nothing.

**Norie Williamson (Convention of Scottish Local Authorities):** We are still to have that dialogue over the table with the minister. There is a ministerial meeting on 5 November. We came up with that figure only recently on the back of clarifying some of the figures from the Scottish Executive, which are given in annexes A and B to our submission. Only once we had those details were we able to go back and compare them with our costings. We believe that we have been open and transparent in discussing the detail of our

costings with the Scottish Executive. If a direct comparison is made with the most recent details from the Scottish Executive, one comes up with a funding gap of £440 million. That is a recently calculated figure, and we hope to discuss it at our quarterly ministerial meeting on Tuesday.

**The Convener:** It may be a recently calculated figure, but it is not a new occurrence for the committee to hear such comments from COSLA and the opposite comments from the minister. In the time that we have been here, as a committee in this Parliament, the situation has not changed. According to one side, there is still a clear deficit, but according to the other side there is not quite the deficit to which you referred.

I have one last question. I know that it might be difficult, but you are representing COSLA. Is there any area in which the financial constraints and pressures that you believe you are under will affect a particular service? Can you see that clearly, or is it not clear?

**Councillor Pentland:** There appears to be an imbalance between delivering central or national priorities and delivering local priorities. As I said, we do not yet have the fine detail and the breakdown of the budget figure, but given that we have identified a funding gap, there is every possibility of a knock-on effect on local service provision.

**Dr Sylvia Jackson (Stirling) (Lab):** I wish to ask a supplementary to the convener's question. What extra information do you need from the Scottish Executive to be clear about the funding gap and the knock-on effect on services?

**Councillor Pentland:** Norie Williamson will be able to give the fine detail. My view is that we still do not know what new burdens, if any, will be introduced. We do not have that information.

**Norie Williamson:** We understand that there is an on-going process in the Executive's departments. The Executive has tried to clarify the details that are listed in annexes A and B. Annexe A is an extract from a letter that the minister gave to the committee in April. Annexe B details a split of the headline increase in overall local government resources arising from the spending review 2002 exercise. That analysis shows the central targeting of resources to particular service areas. We need to discuss with the Executive how it will deliver on the resources.

We do not yet have any further information on which to base our reaction, but our initial reaction is that the Executive is telling local government how to spend that money. We need some reassurance from the ministers that local authorities will be allowed the flexibility to take forward the initiatives on a best-value basis at a local level and that there will not be a direction to

spend on certain areas and a threat that local authorities will be hauled over the coals if they do not do so, which is implied in the analysis that has been provided by the Executive.

**Dr Jackson:** Could you give me a couple of concrete examples of areas in relation to which you do not have detailed information?

**Norie Williamson:** The information is not forthcoming in relation to the better neighbourhood services fund, for example. We still do not know how that will be delivered. The quality-of-life resources were a successful injection of £95 million from end-year flexibility and we would hope that a similar approach would be adopted in relation to the moneys that have been mainstreamed within the settlement. However, there is a lack of clarity in relation to that sort of area and until local authorities have access to detailed information, they will not be able to prepare their budgets strategically on a three-year basis.

**Dr Jackson:** On the issue of the capital budget, your written submission talks about the need for

“a massive injection of revenue resources by the Scottish Executive.”

We have talked before about the prudential framework, which the Executive saw as a way to allow substantial increases in investment in local infrastructure. From information that we have received from the minister, it looks as if the school infrastructure is being addressed to a certain extent. As you know, however, I am extremely concerned about roads infrastructure, particularly the maintenance of local roads. In my constituency, it will take around £30 million to bring local roads up to a certain standard. When the prudential framework comes on stream, will it be able to cope with the massive backlog of work that needs to be done on local roads, or will distinct amounts of extra money have to be devoted to dealing with local roads? Are there other infrastructure problems that led you to state that you need a massive injection of revenue resources?

**Norie Williamson:** We made that statement because the gearing effect on council tax—the 80:20 split—means that there is a lack of flexibility for local authorities to significantly address the massive capital investment need without having a dramatic impact on council tax levels. We welcome the development of the prudential framework and we are working closely with the Executive and the Chartered Institute of Public Finance and Accountancy to develop it. The principle is that the regime should be self-regulating, rather than centrally controlled like the regime that operates under section 94 consents.

We need to be realistic about what can be achieved through that mechanism and we need to

work with the Executive to find ways in which we can address the investment need for existing infrastructure and give councils the flexibility to implement spend-to-save projects where initial capital investment might result in longer-term revenue savings.

As Councillor Pentland said, there is a lot of detail outstanding on the revenue side but there is significantly more detail outstanding on the capital side. We have not really made any progress with the Executive on the issue of getting behind the headline capital figures. However, we hope that we can do that and introduce flexibility in years to come.

**Iain Smith (North-East Fife) (LD):** I want to be clear about the way in which the funding shortfall has been calculated. There seems to be a bit of a contradiction. On the one hand, you say that the Executive should fund fully any new burdens but, on the other hand, you say that it should not target resources as it should give more flexibility to councils. Surely the Executive would have to indicate which new burdens it was funding in order for you to know that they were being funded. That appears to be what is happening in annexes A and B.

**Norie Williamson:** It is all part of a process, as Councillor Pentland indicated. There have been improvements in the process in the past two years, but improvements still have to be made. That process will have to start now for the spending review in two years' time. We will have to start to think about developing priorities and finding realistic funding. Unfortunately, we started this year's process fairly late in the day and lessons can be learned from that. There is only so much improvement that we can make this year. There have been improvements, but we need to develop those improvements during the next two years.

**Iain Smith:** The table on page 4 of your written submission shows the calculation of year-on-year figures that leads to the £440 million shortfall. We are considering the budget for the financial year 2003-04, so I will refer only to that. The shortfall is made up of £87 million in pressures not specifically recognised in the Scottish Executive's calculations; £85 million in pressures recognised but under provided in the Scottish Executive's calculations; and provision for pay and prices of £119 million.

Will you give the committee more detail on how those figures were arrived at?

**Brenda Campbell (Convention of Scottish Local Authorities):** I will take the figures line by line and start with the provision for pay and prices. When we made our original submission on the spending review, we did so along with professional

associations and we made assumptions for pay and prices based on the information that we had, and on future projections. The Scottish Executive makes an allowance in its settlement for pay and prices. However, the provision that is made—2.5 per cent for pay and 1.25 per cent for inflation—does not match the need. That line in the table shows the difference between our costing and the Executive's assumptions.

An example of a pressure that is recognised but underprovided for in the Scottish Executive's calculations is modernising the teaching profession. There is certainly a difference between the Scottish Executive's assumption of what that will cost and our determination of what it will cost.

Pressures that are not specifically recognised are ones that we have identified as those that the Scottish Executive has not funded. I cannot think of an example at the moment, but I will come back to you on that.

Everything in our submission is quite realistic. We identified new burdens that we could not possibly put a cost on, but the Scottish Executive has excluded them.

**Norie Williamson:** The example that comes to my mind is the massive increase in insurance premiums as a result of September last year. That has not been specifically recognised in the settlement calculations.

**Iain Smith:** That is an additional cost, but it is not a burden that has been imposed by the Scottish Executive. It is something that has just happened.

**Norie Williamson:** Yes.

**Iain Smith:** Not all the additional burdens have come from the Executive.

**Norie Williamson:** No. They are spending pressures that will be faced by local government.

**Iain Smith:** In the calculations that you have done, have you arrived at an estimate of the settlement's implication for next year's council tax levels?

**Councillor Pentland:** It is difficult to predict what the level of council tax might be until we can finalise the detail. I cannot emphasise enough that our paper shows COSLA's view that there is a funding gap. If the funding gap is not filled in some way, there could well be some movement in council tax. I say that without pre-empting council tax decisions, because they are always local decisions.

**The Convener:** I worry about the huge differences between what the minister tells us and what you are telling us. I want to pick up on the example of national insurance payments that I think Norie Williamson mentioned. It seems to me

that it would be relatively easy to work out what that payment would be. I would have thought that there should not be a massive difference between what the Executive is saying and what you have said. Councils must have half an idea of how many people they employ and how much national insurance costs them. Is that too simple?

**Norie Williamson:** National insurance is a good example of where we have achieved consensus on cost. There was an earlier difference in our views but the Executive recognised our costings and, as we understand it, it has provided £40 million in the calculations.

**The Convener:** So you have kind of resolved that matter. Between 2002 and 2003 the increase in your aggregate external finance will be about £585 million, or approximately 9 per cent. That sounds like a reasonable deal, even taking into account the Executive's new initiatives. Compared with last year's deal, is not this year's deal better?

14:00

**Councillor Pentland:** You say that the increase is nearly 9 per cent, but when we strip away all the non-discretionary expenditure from the headline figure we find that the percentage increase for each council is probably only about 2.5 per cent—very little is left to authorities to provide current services. We must bear it in mind that that 2.5 per cent is to provide for all the current service provision. If workers settle for between 4 per cent and 5 per cent in the wage negotiations, there will be a new burden on authorities to find the extra 2.5 per cent.

**The Convener:** Would you have been happy if you had received an extra £440 million on top of the £585 million?

**Councillor Pentland:** Yes. We would have been extremely happy if we had got that £440 million—that is what the debate is about. We have produced the figures, but no one has told us that they are incorrect.

**Norie Williamson:** There is a combination of factors. We would love to get another £440 million, but the other aspect of the problem is the level of central direction of resources. There could have been a general uplift within the settlement to recognise the core service pressures that are faced by local government as a result of demographics; for example, as we understand it, no allowance is made for the increased elderly population in the settlement calculations. Taking that into account would have eaten into the £440 million, so that money would not have been targeted to new initiatives that have been identified by the Scottish Executive.

**The Convener:** Are we back to ring fencing again?

**Norie Williamson:** Yes.

**The Convener:** I take it that there is again a discrepancy between what the Executive will tell us is the percentage of funding that is ring fenced and what you will tell us?

**Norie Williamson:** Ring fencing can be defined in several ways. The Executive has a literal interpretation of ring fencing of its being money that is funded by a specific grant. We prefer the term "non-discretionary expenditure". Local authorities do not have discretion in how they can spend particular items of resource; rather, they are directed by the Scottish Executive to spend in certain areas and if they do not do so the Scottish Executive can, in some cases, come down very hard on them.

**Dr Jackson:** I know that you said that you are not able to give precise answers because there are matters that you do not know about, and that you will go back and have other discussions with the Scottish Executive. However, we are trying to get a feel for what it will mean for core services if provision is as you state in your submission. Will it mean cutbacks in core services? Will they stay the same, or will they stay the same only if you get the £400 million-odd extra that you say is the funding gap?

**Norie Williamson:** As Councillor Pentland indicated, that is a very difficult question for us to answer from the centre. There are undoubtedly pressures on the core services of local government. We want to look innovatively at how we can join up public sector resources. That is one of the major outstanding issues, but we are aware that resources in other programmes—for example, health improvement programme moneys—will come local government's way. Although we do not yet know the detail of those resources, we hope that they will be used by health boards and throughout the public sector to address some of the difficulties.

However, individual difficulties with core services are very much matters for local decisions. As local authorities will not know their individual settlement figures until early December, only then will they be able to start thinking about preparing three-year budgets and making announcements about them next February.

**Dr Jackson:** In all fairness, you represent councils and you raise the points that they make. I am sure that each council will tell us whether it will be able to maintain its core services at a reasonable level. However, is not it about time that you were able to tell us about the situation in relation to core services? We also need that information and we depend to an extent on your providing it.

**Councillor Pentland:** Much of the detailed information has already been provided. You say that COSLA should be able to tell the committee about the decisions that have been made, but COSLA reaches a corporate point of view on such matters. From that position, we can tell the committee that the situation is being underfunded by a certain amount of money. Norie Williamson is trying to point out that COSLA cannot pre-empt decisions that councillors make locally.

**Dr Jackson:** Would it be useful to carry out a couple of case studies to discover how the situation pans out in different council areas?

**Councillor Pentland:** We can certainly take that suggestion back to headquarters and ask that it be taken on board.

**The Convener:** Before I introduce Tricia Marwick and John Young, I apologise for not mentioning that they are both substitute committee members. They are very welcome, because they both work very hard.

**Tricia Marwick (Mid Scotland and Fife) (SNP):** Convener, you are forgiven. I must apologise to our COSLA colleagues for being late. I am used to committee meetings starting at 2 o'clock, not at half-past 1.

This is a bit like groundhog day, because we went through almost exactly the same process last year. COSLA told us that there would be underfunding; we brought in the minister, who denied it and claimed instead that COSLA had not interpreted the figures properly. COSLA then came up with something completely different. Have we made any progress since last year on the transparency of the figures that are being used?

**Councillor Pentland:** The process might have improved ever so slightly. However, there is still a gap between COSLA's on-going figures and the Executive's on-going responses to them. COSLA's submission is very open and transparent and is based on realism. We always welcome chances to sit down with the Executive and discuss fully our reasons for thinking that it will cost so much for local authorities to deliver core services, although the Executive might have different figures. However, that debate must take place and we are more than happy to take part in it.

**Tricia Marwick:** Sylvia Jackson touched on the essential point. We get bogged down in discussing who says what about the funding gap, about whether a funding gap exists and so on but the committee never gets the opportunity to find out what the money is being provided for and what it can do. I am sure that you are as frustrated by that situation as I am.

I accept that it would be difficult to project the impact of a £440 million funding gap on to

individual local authorities. However, COSLA claimed last year that there was a funding gap, although the Executive denied it. If you cannot describe the projected impacts of a gap on next year's local authority budget, could you run through some of the funding gap's impacts on this year's budget?

**Norie Williamson:** There are examples: provision for children's services and special educational needs are specific difficulties for local authorities, and the social work service in general has a funding problem. To be perfectly frank, local authorities can be victims of their own success. We recognise that we will never get as much as we want, but over the years we seem somehow to have managed. The recent trouble concerns the extent of central direction, which has pushed local authorities' management of the process to breaking point. We need more flexibility in direction of our resources. We have managed until now, but if central direction continues for much longer, I foresee major difficulties for some councils.

**Tricia Marwick:** Let me play devil's advocate. We hear from COSLA every year that there are great difficulties. You talked about how councils suffer because they have been so good, but would people not say that that is COSLA crying wolf? By the time that it comes to the settlement, will the impact be as great as you claim now?

**Councillor Pentland:** It would be easy to start crying wolf, but we have asked persistently for discussion about the figures that we have provided. COSLA is more than happy to have that discussion with the Executive. When we have had meetings in the past, we never reached conclusions on who was right and who was wrong. If it were proven that our figures were wrong, we would be the first to put our hands up to that but, by the same token, we would ask the same of the Executive.

**Norie Williamson:** In some respects, we recognise the issues from the past. One difficulty in the spending review processes in the past was that COSLA said one thing while professional associations said another. It must have been difficult to know who was saying what. We have addressed that this time; our submission in April was developed jointly by COSLA and professional associations. It had professional backing and is a much more robust document. As we have said, we have fully opened up the costings with the Scottish Executive.

**Tricia Marwick:** But the Scottish Executive is still not willing to accept that there is a £440 million revenue gap.

**Councillor Pentland:** That discussion must take place. COSLA identified that the ring fencing

amounted to some 30 per cent, but the Scottish Executive maintains that it is only 10 per cent. That discussion has not been concluded either.

**Tricia Marwick:** I move on to capital. In your submission, you talk about the need for capital investment and say:

"It needs to be recognised that because of the impact revenue financing costs flowing from investment would have on council tax levels, the capacity of local authorities to address this investment need is seriously constrained. The need could only be significantly addressed by a massive injection of revenue resources by the Scottish Executive."

That is revenue to fund the continuing capital costs. What sort of "massive injection" are we looking at?

**Norie Williamson:** The amount needed to address the overall investment would be so horrific that it is not worth quoting on paper: we are talking about a £4 billion investment need in addition to the continuing public-private partnership projects in education. The revenue cost that is associated with that is not worth quoting because it is unachievable in current circumstances. That suggests why we have to sit down with the Executive. We are in discussions with the Executive already and hope to produce a schools estate strategy to help local authorities prepare corporate asset management plans and to consider investment needs for the future.

**Tricia Marwick:** Looking only at the public-private partnership arrangements that are in place, what impact will the revenue costs to local authorities have on councils' ability to set council tax rates and the like in future?

**Norie Williamson:** I do not have the exact figures, but I can get back to the committee with that detail. However, the figures are incorporated in our costings and have been recognised fully by the Scottish Executive.

14:15

**John Young (West of Scotland) (Con):** As the convener knows, I was hauled out of a Scottish Parliamentary Corporate Body meeting five minutes before this meeting. Even if I was the world speed-reading champion, I could not get through all the papers, so the witnesses will bear with me if I ask questions to which they think I should know the answers.

One thing intrigues me and, as a former Glasgow councillor of 30-odd years' service, I have some sympathy with COSLA and councillors, even with my MSP hat on. On national priorities versus local priorities, your submission suggests:

"The targeting of the substantial proportion of the year-on-year increase in resources by the Scottish Executive demonstrates an unhealthy concentration on national

priorities. It is essential that resources are made available to local government on a flexible basis. In particular, the Scottish Executive needs to demonstrate a 'light touch' on the delivery of Quality of Life resources in order that these may be used to address local priorities."

I appreciate that my question might not be easy to answer, because it is very broad. If you were in our seats and we were in yours, how would you react to the suggestion that the Scottish Executive should revise its priorities because it concentrates too much on national priorities? What would your response be to that if you were in our seats—or in the Scottish Executive?

**Councillor Pentland:** I would probably ask the same question. However, bearing it in mind that we are representatives of COSLA, we would be failing in our duty if we did not make the case that local priorities can work in tandem with national priorities. That is what we must identify. The word "local" in "local government" means local. Local authorities are perhaps the only democratically elected bodies that receive money from the Executive with restrictions on how we can spend it.

We realise that we have a responsibility to deliver nationally, but I am sure that, as a former councillor, John Young knows that councillors also have a responsibility to deliver on local priorities. That is where the partnership approach to delivering services locally must be welcomed with open arms. Let us move away from the current relationship and instead move into that partnership.

**John Young:** Have you any suggestions—I am not trying to destroy your case—for improving that partnership? Obviously, COSLA perceives that there is some form of imbalance on the Executive's part. I am not castigating the Executive because, if my party was in the Executive, the same situation might arise. Do you have any ideas? Could channels of communication be improved? Are they inadequate? Are there other methods?

**Councillor Pentland:** As we mentioned, communication has improved and the process has improved, but there is room for further improvement and for better understanding. We have not so much thrown down the gauntlet as perhaps—I am looking for the words—offered a glass of wine or the hand of friendship. We have said, "Come along. Sit down and discuss the issues with us." At the end of the day, we are responsible for delivering the national priorities as well as the local priorities. That is where the dialogue will take place.

**John Young:** I have not had a chance to go through all the papers, so the answer to my final question might be in them. COSLA's membership is drawn from right across the political spectrum. Is

there unanimous feeling in COSLA that the Scottish Executive concentrates too much on the priorities that are listed in the budget—in other words, national priorities—at the expense, to some extent, of local authority priorities?

**Councillor Pentland:** We realise that the Executive has the responsibility to deliver on national priorities. We end up having to deliver those priorities, but it must be acknowledged that local priorities must also be delivered. Local priorities cannot be delivered if we cannot sit down and debate the funding gap that we talked about earlier.

**Dr Jackson:** I want to follow up John Young's point about national and local priorities. I might have remembered this wrong, but I thought that we discussed local outcome agreements as a way forward. Will the fact that you do not know how those agreements will operate make it difficult for you to work out your finances? Where do local outcome agreements come into the equation? Although you have said that everything is pretty bad because there are too many national priorities, you have not mentioned local outcome agreements.

**Norie Williamson:** National and local priorities are not mutually exclusive concepts. We have developed considerably. We met the ministers who are in charge of public services in May and June, in the lead-up to the national announcements for Scotland. The difficulty was that we anticipated that we would meet them again in mid-July after the announcements and say to them, "You now know your total figures, so how do we take them forward jointly and deliver the services on the ground?"

We are keen to agree national priorities and to discuss with the ministers how to address them. We welcome the First Minister's more focused five priorities, but we need to consider how we will deliver on them. There is a tendency to deliver on them through initiatives rather than by giving local authorities the flexibility to agree and deliver on strategic outcomes. Until now, the outcome concept has been piloted only in certain areas. There has not been joined-upness in the outcome agreements and they have been directed towards particular areas.

There are examples of councils delivering on outcomes, but the Executive maintains an input focus and has rapped them across the knuckles for not spending enough money in a particular area. We want to move away from having a plethora of individual outcome agreements and instead to arrive at a strategic outcome agreement that can deliver on the five national priorities.

**Dr Jackson:** Are you saying that that is the way in which we should proceed?

**Norie Williamson:** Absolutely.

**The Convener:** We seem to have exhausted the questions. The witnesses started off by saying that the process has improved, but that there is still a long way to go. After deliberations of just over three quarters of an hour, the committee probably agrees with you. You commented on the lack of information on the better neighbourhood services fund and the quality-of-life fund and you said that you did not know how they will be processed in the coming financial year. You talked about funding new burdens and you made an interesting point in response to Sylvia Jackson's question about local outcome agreements. We thought that local outcome agreements were a good idea, but I take the point that you made about them.

John Pentland said that councils want to move from a relationship to a partnership; that reminds me very much of couples with whom I worked as a social worker who were having trouble with their marriages and who said that they were trying to move from a relationship to a partnership or, indeed, the other way around. Perhaps the committee has a role to play in that. There appears from the witnesses' point of view to be a large deficit in funding and, as Tricia Marwick pointed out, you said exactly the same thing last year. Here we are again and you are saying the same thing—nobody appears to have changed his or her position on that.

Thank you very much for coming. It will be helpful if you write to the committee on a couple of matters. If we need you to come before us again we will call you.

14:23

*Meeting continued in private.*

14:41

*Meeting continued in public.*

**The Convener:** Okay, comrades, we can continue. We welcome again the Minister for Finance and Public Services, Andy Kerr. We also welcome from the Executive Christie Smith, who is the head of the local government finance and performance division, and Neil Rennick, who is the head of the local authority expenditure and grant distribution branch. The three of you have been here on more than one occasion, so I do not need to explain the drill. It is over to Andy.

**The Minister for Finance and Public Services (Mr Andy Kerr):** Thank you, convener, or should I say, given earlier comments, my favourite marriage guidance counsellor?

I am pleased to be able to give evidence to the

committee in its stage 2 discussion of the budget process. As members will know, there have been a couple items of correspondence between us. The first was my response of 23 September to the issues raised in the committee's stage 1 report, and there was further correspondence last week. I hope that the committee found that correspondence useful.

I understand that COSLA gave evidence earlier. I am pleased about COSLA's contribution to the spending review process. I had regular meetings with COSLA elected members, and Executive officials also met them frequently to discuss matters of mutual interest. In addition, portfolio ministers met portfolio councillors in relation to COSLA's specific committees and structures, which was also useful. I am sure that we will do better, but we had a good start and I want to make that work better in the future.

Soon after I made the spending review announcement—probably about three or four hours later—I met local authority leaders to go through the impact of the spending review on local government in Scotland. I certainly put into the public domain our commitment to local government and its financing. That was done within hours of the spending review statement.

Members will know that the spending review provided for a £1.3 billion increase in revenue grant support to local government over the next three years, which is a 20 per cent increase to more than £8 billion by 2005-06. The increased funding includes full support for key policy initiatives, an allowance for pay and prices for existing council services, support for local quality-of-life priorities and flexibility to increase capital spending. Those were the priorities that COSLA identified during our spending review discussions and the Executive sought to meet them.

The substantial increased resources are identified, along with a number of other commitments in the budget that affect other portfolios in the Executive and affect local government in various ways, particularly spending on transport, the environment, health, enterprise and justice.

I made clear during my statement to the Parliament on spending plans that we are concerned not only with the level of resources but with what the money buys and the difference that it makes in local communities. That applies to me as it applies to the Minister for Health and Community Care, the Minister for Enterprise, Transport and Lifelong Learning and every other minister with a portfolio in the Executive, and to the rest of the Executive. That new approach, which features clear targets for improvement and service delivery, applies fairly rigorously across all that we do. As someone who has been involved in

local government for many years, I am aware that local authorities have been working with that kind of philosophy for many years as well.

14:45

The Scottish Executive is committed to best value and wants to ensure that there is best value for every pound that it spends. That is reflected in some of the work that we are doing on the Local Government in Scotland Bill. We have provided for general pay and price inflation on existing services. However, that does not mean that all services must continue to be provided in the way in which they are provided today. Services change, evolve and develop over time. We tend to stick to historical numbers rather than future expectations and I am in continual discussions with COSLA to ensure that we can more effectively allocate and use our resources.

When people talk about the adequacy of local government spend and the resources that are given to local authorities, ring fencing is important. We continue to discuss that matter with COSLA and I have made public and practical commitments to reducing ring fencing. I want to ensure that we can move away from the system of ring fencing. We are engaged in a positive dialogue. The process of developing local outcome agreements is slow but sure and will enable us to work more effectively at a local level.

COSLA shares some of the Executive's key priorities in relation to education, health, transport and so on and, in turn, we respect COSLA's right to provide for locally agreed priorities. In June, the reallocated £95 million helped local authorities through the quality-of-life initiative, from which there were many positive outcomes. The mechanism for the distribution of those resources had a light touch, which was agreed with COSLA and represents an improvement in how we allocate resources.

Much more important, as members will have seen in local papers in their constituencies across the country, that investment, which was made possible by end-year flexibility, has had a positive impact in local communities, allowing for free swims for schoolchildren, skateboard parks, changes to the environment, spending on local roads—which will particularly interest Sylvia Jackson—and so on.

In this round of the spending review, we have allocated £180 million for other quality-of-life initiatives and I look forward to a discussion with COSLA about how we can work in partnership to ensure that the money is spent in a way that meets the needs of local communities. On 5 November, we will meet COSLA to finalise the arrangements for allocations to individual local

authorities, which, through discussions and debate, will come before Parliament in early December. One of the important features of the arrangements is that the budgets will contain a three-year grant allocation to local authorities, which will help them to plan more effectively for service improvements.

From 2004-05, councils will benefit from the new prudential framework for capital. That is an interesting area that we are working hard on. I strongly believe that we are building a much more positive and flexible relationship with local government in relation to the work that the Executive wants done in communities and the priorities of local authorities. More important, the process will greatly enhance the opportunities for people in our communities to benefit from services. I am happy to continue my positive dialogue with COSLA.

When COSLA came to us at the start of the process, it asked us to take account of pay and price inflation and national insurance; to provide full support for Executive key priorities; to make provision for local priorities; and to allow flexibility for an increase in capital spend. I believe that the Executive has delivered in all those areas.

**The Convener:** The committee has a problem, and we have been here before. We were here last year, the year before, and we are here again. It is the same dilemma. There appears to be an increase—and in this case a substantial increase—in funding to local authorities, but COSLA, which was here before you, has challenged a lot of that. How did you arrive at the figure of £7,337 million? I guess that you did not pluck it out of the air. Is the Executive prepared to share with us the thinking behind and the assumptions that underlie the proposed settlement, because until you do that, it is difficult for the committee to reach a decision on whether the amount is good, bad or indifferent? It sounds good to me, but given what we heard 10 minutes ago, it is not. We need to know about the process by which you got there. What encouraged you to decide on £7,337 million rather than a totally different figure?

**Mr Kerr:** The process began by discussing with COSLA, which represents the vast majority of Scottish local councils, what it was looking for. I just went through a fairly lengthy list of what it is looking for. It is looking for the full funding of Executive priorities—they are not burdens. Free personal care, a reduction in the cost of concessionary travel for the elderly in our community, care home fees, payment of police and fire service pay and pensions, and the McCrone settlement, which brings stability and motivation to our schools throughout Scotland, are not burdens; they are positive measures that have

a positive impact. COSLA wanted us to ensure that we funded those measures fully. Through negotiations and discussions with COSLA, we agreed on numbers and distributions.

COSLA also asked for measures on pay and price inflation. We decided on a 2 per cent figure for that. As the committee will be aware, inflation is running at 1.7 or 1.8 per cent, so I argue that the 2 per cent figure is fairly good. COSLA also asked for national insurance to be funded fully. We discussed a number, analysed it and agreed with COSLA the figure of £40 million. COSLA sought a reduction in ring fencing. Through the work that we have done and continue to do, we will rigorously control what may or may not be ministers' desires on ring fencing, to ensure that if there is ring fencing, it is appropriate and adequate. As the committee will know, the education fund—I look to my colleague for this—has changed its name to—

**Christie Smith (Scottish Executive Finance and Central Services Department):** The excellence fund.

**Mr Kerr:** That is the old money.

**Christie Smith:** The national priorities action fund.

**Mr Kerr:** Yes. That trips easily off the tongue. That fund was also de-ringed and unhypothecated. It is a fairly substantial amount—more than £60 million, if I remember correctly. COSLA wanted to ensure that for quality-of-life issues and local priorities, the Executive provided councils with resources to spend as they see fit within their communities. Clearly, the quality-of-life funding supports that.

COSLA wants to see an increase in capital investment. In the past three years, capital that is available to local government has increased by 40 per cent. I suspect that we will see a significant increase in the capital that is available to local government. We are currently working on the numbers and negotiating with COSLA, and we look forward to that process. Again, that was one of COSLA's demands. It also wanted us not to make decisions based on what councils would do with council tax in their communities, so that did not form part of our calculations.

We begin with the questions, "What are we being asked for?" and "What is it reasonable to be asked for?" That applies equally across all portfolios in the Executive.

I have heard many discussions about the gap and I have seen press releases about a perceived gap. I must be honest. We all have a sense of our value and what we are worth. Sometimes, what I wish to earn and what I do earn are different. Arguably, the gap represents—quite rightly—local government's aspirations for representing its

communities and what it wants to achieve at a local level. Every minister and every committee of the Parliament could aspire to those levels as well. The difficult job that we have is to allocate resources as effectively as we can.

The gap is aspirational. I have no problem with that, but it does not make it a fact that the gap that exists between the Executive's settlement and what COSLA says is a true gap. A lot of the numbers were based on accumulated figures and actions in the past. They were about previous Government funding of local government and things that local government would like to have done, but has not been able to do. What is important is that the whole spending review process had a philosophy behind it. The philosophy was that the issue is not what you have in your resource allocation and your budget; it is what the money can do and what it can achieve.

Through my work with COSLA, we sought to address as many of its concerns about the settlement as possible. I know that that is a long way round. I have never said that this is the greatest-ever settlement for local government and I have never said that local government is awash with money. I have said that this is a challenging but reasonable settlement for local government, which allows it to deal with pressing demands on service delivery and allows it, through best value, community planning and the power of well-being, to develop and enhance its role within our society.

We provide the resources and the policy framework for local government to prosper. I get out and about as a minister and as a local constituency MSP. When I speak to local authority colleagues with whom I used to work, I find that their view, which I share, is that the barometer needle is pointing towards "sunny" in respect of local government's relationship with the Executive, engagement, consultation and the Executive listening to local government and delivering what it wants to do.

I will go back to when I worked in local government and what I would expect Government in Scotland to provide for me. I would want flexibility around the provision of services, which we are doing through best value. I would want three-year settlements to allow us safe, secure financing to project what we can do in the delivery of public services. I would want to get rid of compulsory competitive tendering. I would want well-being within our communities and community planning to work in partnership with our partners at a local level. I would argue that there will always be issues about resources and that people will always aspire for more. If COSLA had walked in here today and said, "We are happy. We have got everything that we wanted," the convener would quite correctly have said to me, "What were you

doing? Why are they so happy? Have you given away money without ensuring that the system is much more accountable?" That is the philosophy that is pursued from start to finish throughout the spending review, in every portfolio and with every minister.

**Iain Smith:** I am interested in accountability, to which the minister referred. One of the problems that the committee has is in trying to examine the figures for local government in a way that can hold both local government and the minister accountable. We have concentrated, as has COSLA, on the additional moneys, how those are allocated and the funding gap that COSLA assumes arises from that. We do not tend to examine the underlying figures. We have considered the £500 million, but we have not considered the other £7.3 billion—the core funding that was there before—to see whether the underlying funding is adequate for the education service, the social work service, the roads and transport budget, community services and leisure and recreation services.

The committee identified that problem in the budget process last year and has identified it again this year. No committee in the Parliament—this committee in particular—is able to get a grip on whether there is sufficient money to meet the overall needs of local government and the joint priorities that local government and the Executive share. How is the committee meant to make judgments on that? We do not have the basic facts. We have heard from COSLA today that there may be problems with funding social work services, children's services and services for those with special needs. We cannot get to grips with that, because we do not get information about it. In building up the budget, do you look beyond allocating additional money at how existing money is meeting the requirements?

**Mr Kerr:** I will let Christie Smith come in on the enormous dialogue that we have with local government, in particular with finance officers and COSLA finance officials, to work together to generate figures that are appropriate for the provision of services at a local level.

Grant-aided expenditure tries to address how we allocate resources based on how communities are made up and the movements and changes that occur within those communities. Of course, it is only guidance. The big numbers that are talked about in local government are arrived at through significant local negotiations. A degree of historical data has been built up. A floor is put in for authorities that might be losing population so that their services do not decrease to the extent that they can no longer deliver effectively. We also have to take account of areas where the population is growing. Such things become increasingly difficult.

15:00

I am thankful that I did not have to suffer the pain of GAE negotiations and discussions about individual aspects of the formula. However, if I remember correctly, of 30-odd reviews, the change in allocation for 12 individual local authorities was -0.1 per cent or thereabouts, and the other councils did not receive any change in allocation. After putting in all that effort to decide how we allocate money in local government, we did not make much progress.

We try to work together on demand for services. Whether we are talking about kilometres of road, the number of schoolchildren or the number of elderly people in a community, the numbers are decided by the calculation, and that is how we try to provide adequate resources for our local services. In some areas, that works extremely well; in other areas there are problems. However, the system works reasonably well. The committee knows the pain of trying to do something different. I would argue that no one has come up with a more scientific process that would allow us to do any better.

Discussions about calculations and methods of calculation are fairly sterile, especially when we are talking about urban and rural deprivation, or supersparsity and superdeprivation. I do not envy COSLA the job of keeping everyone on board in discussions about whether a particular service is funded as effectively as it should be and how the Executive can achieve that.

I will close by making the following point. On issues such as care home fees, free personal care, the Mental Health (Scotland) Bill, teachers' pay through the McCrone settlement, concessionary fares, the police and fire services, and general pay and price inflation, the Executive sits down with COSLA and agrees the absolute values involved and how the money is distributed. We do our best to do that.

There is no absolute science around all of this. The Executive tries to reflect as accurately as it can the needs of local communities, so funding is allocated through the GAE.

**Iain Smith:** I will put the question in a slightly different way. You concentrated on the distribution formula and I was not asking about that. I was really asking whether there is enough support for the social work service, for example, within the overall system, rather than how the money is allocated among authorities. Some authorities will say that they do not have enough and some might have too much.

When you were drawing up the allocations for local government, did you assume that, once the new opportunities or burdens are taken account of, sufficient money is going in to allow local

government to maintain its current level of services?

**Mr Kerr:** Yes, I would maintain that. It would have to be proved to me that that is not the case.

We live in times in which record resources are going into local government. I do not crow about that or make a big deal of it, but the increase in capital and overall available budgets in local government are facts. There are Executive priorities within those resources. I do not have the exact figures for the breakdown between national and local priorities. If Christie Smith or Neil Rennick have those figures to hand, I would be happy to hear from them.

What we tried to do differently in the spending review is to develop a way of doing business with local government. I am not the only one to meet COSLA to discuss local government finance. COSLA spokespersons sit down with the appropriate ministers to discuss pressures within social work, for example. The appropriate minister meets the appropriate councillor.

Once all that is done, it is fed into the allocation process. That is how it works for everybody; it works that way for the Minister for Health and Community Care, the Minister for Enterprise, Transport and Lifelong Learning and every other minister in the Executive. We try to assess what is reasonable and effective and what that will allow us to deliver.

At local level, we do not make authorities spend where we think they should spend. We treat the figures as an estimate. Within GAE, local authorities have discretion to spend resources elsewhere, as frequently happens in my local authority, which spends well above its GAE on local roads. The council chooses to spend above the GAE on the local road network because its work with communities, through citizens' juries, panels, questionnaires and surgeries, shows that roads are a big issue for local people.

I do not think that I would ever be in a position, backed up by hard science, to say that the allocation is sufficient, but I can say that it is a heck of a lot better than what went before when I used to work in local government. I genuinely think that the Executive is trying to build the partnership that we need to ensure that our discussions about such issues are not traded through the pages of the press but are done through proper consultation. That is why we have quarterly meetings with COSLA and why our officials meet COSLA officials frequently.

I do not have a hard answer for Iain Smith, but I think that we do adequately resource local authorities. I continue, quite correctly, to discuss with COSLA whether local authorities see things differently. If that case is proven, I shall try to do my best for them.

**Iain Smith:** In the early part of your answer, you described the process that takes place in the Executive, with portfolio ministers meeting the relevant COSLA spokespeople to discuss the allocations. It is that thinking that the committee wants to get in on, to find out how that works and how you allocate what you think needs to be spent on social work, education or community services. It is that bit of the jigsaw that is missing. For future years, but not necessarily for this year, we need to find out how we can see that jigsaw.

**Mr Kerr:** I cannot speak for other ministers, but local authorities come to me and say that they have a problem with, say, police and fire pay and pensions. We respect that problem and fund it. They came to us with issues of general pay, price inflation and national insurance, and they talked us through those issues and told us why they are a problem, so we provided funding. That is the philosophy that we are trying to adopt, but the process will not always be positive. We have difficult decisions to make, because every pound that is spent in one place is not spent somewhere else, and the Executive must deal with that issue.

On the big financial areas in local government in recent times—McCrone, free personal care and the other issues that I have mentioned—we sit down and have detailed discussions. That is how funding gets through into the final allocation of resources. I would need to speak to my colleagues before I could give you further details. They come to me to discuss their overall budgets, and they do not usually say, "And that's the COSLA bit," although the Minister for Health and Community Care did say that with regard to free personal care. My colleagues tell me what local government has told them, and that then becomes part of our discussion.

**Christie Smith:** I do not have much to add to that, but I invite members to look at the table attached to the COSLA paper. It is an adaptation of one of the Executive's tables, and quite a few of the big numbers refer to tripartite initiatives. The care home fees outcome was a tripartite agreement, as was the teachers' pay agreement. The concessionary fares money was allocated as a result of COSLA coming to the Executive and saying that there was not enough money for the concessionary fares initiative. That reflects the fact that there is a continuing relationship between departments, professional associations and COSLA spokespersons, which feeds into the portfolio ministers' contributions to the spending review.

We try to bring it all together with generic issues such as pay and inflation. The most obvious way of dealing with existing core services is to ensure that the pay and inflation impact is taken care of, and that has been done. Any other alleged

inadequacies or shortfalls are dealt with through the process of discussing matters with portfolio ministers and identifying gaps where additional funding is needed or where more has to be done.

**Tricia Marwick:** Let us accept for a moment that the minister sits down with COSLA to discuss various issues—not least the amount of money that is needed to fund national priorities. We accept that and COSLA accepts that that kind of dialogue is taking place, and the national priorities are fairly clear cut, although there might be a bit of debate about them. Beyond that, however, what the committee does not have—and what COSLA says it does not have because you will not give it—is detail of all the core services funding and the underlying assumptions. That is the level of detail that the committee needs and the level of detail that COSLA claims it is not getting.

Andy Kerr is quite right when he says that we are having a sterile debate. I have already referred to the situation as groundhog day, because we have been here before. However, the committee and COSLA need the information. Is the minister prepared to open up all the spending assumptions within the Scottish Executive and let us all work out how we got into this situation in the first place?

**Mr Kerr:** There seems to be an assumption that some of that work is not taking place between officials at that level. We do not go into the core functions and drill down into every budget heading—and have never done so—because that would be extremely difficult. Instead, we listen to local authorities when they raise particular issues that might be driven by local or national factors. Local authorities—and, indeed, COSLA—make individual representations on local needs, not national priorities. When local authorities speak with one voice about the need for more capital or money for local roads, we deliver on those requests.

I cannot get away from the interesting debate on GAE, and would argue that no one has yet come up with an alternative. The flexibility in the system and in the assessment of costs reflects factors such as population decline or growth, the level of unemployment, and the number of children at school or nursery school in a community. All those factors are played into a calculation that allows us to reflect local circumstances and we have regular discussions about them with COSLA.

I do not think that I am answering your question. Indeed, I am not sure that I can answer it, apart from repeating what I have already said about how we go about our business. For example, we do not drill down to find out how many refuse collection vehicles South Lanarkshire Council requires and the associated staffing resources that will allow the council to carry out its refuse collection service. Instead, the councils aggregate up and tell us

whether their existing service levels are being affected by issues such as landfill tax and national insurance. We then try to deal with those issues. However, we do not work things out for each individual local authority in Scotland.

**Tricia Marwick:** In your opening remarks, you said that the COSLA figure of £440 million over three years was aspirational. COSLA says that that funding is necessary. The problem that we had last year, have again this year and—if we do not get the process sorted out—will have next year is that we cannot judge who is right. Furthermore, if the information is not available, it is almost impossible for the committee to fulfil its central role of holding you to account. You have already said that you have more information than you have provided. Although we do not expect information about every waste disposal vehicle in South Lanarkshire or wherever, we do expect the Executive to provide a greater amount of information to allow us to do our job.

**Mr Kerr:** That information is being developed with local government. For example, we will discuss individual allocations to local authorities next week, and will then announce the figures to Parliament. In December, I will meet COSLA to drill down and reach both individual allocations by service area and GAE category and capital allocations through the current system. We will continue to work with that level of detailed information.

**Tricia Marwick:** So if you have that level of detailed information and are in discussions with COSLA, why is COSLA saying that it needs another £440 million and you are saying that it does not?

**Mr Kerr:** What I say to COSLA and indeed every minister is that anyone can walk into the room and make claims. Let me use health as an example. Before I do so, I should point out that what I am about to say did not happen—I do not want to get Malcolm Chisholm into trouble. However, if Malcolm walked in and said that the current funding for health in Scotland should be increased from £8 billion to £12 billion, I would not say, "That's fine, thank you very much, there's your money". Instead, I would ask him to show me his calculations, indicate what the resources would do and how such a change would fit with Executive policy and explain what the efficiency savings would be and any best-value approach in health that would allow us to deliver on some of our priorities. We do not award resources on the basis of aspirations.

I listened closely to what John Pentland said. When the issue of the funding gap was first raised with me—at a meeting with COSLA in July—I challenged the point. We know the figure for the historical allocation to local government. To that

COSLA has added backlogs of money that were not received in previous years, and previous practices and policies. It is also trying to guess how services will develop in future years and what decisions will be taken about best value and improvement.

15:15

When I started work as a manager of the cleansing service of Glasgow City Council, we had a staff of 2,500 and a budget of about £30 million. When I left, we had a staff of 1,700 and a much smaller budget. However, I would argue—and citizens agreed—that the service that we were providing was four or five times better. The issue is not how much money people receive, but what they do with that. The key factor is the innovation and creativity that exist in local government.

Those who claim that there is a funding gap, on the basis of historical costs, money that local government did not receive in previous years and things that it would like to do, are using a sterile argument. We could all do something similar. People could argue that there is a gap between their household income and the things that they would like to do.

I have difficult decisions to make. I do not recognise and have never recognised the so-called funding gap.

**Tricia Marwick:** COSLA has told us that, last year, services such as children's services and social work were affected because councils did not have enough money. It is likely that services will be affected in future. You have said that you ask ministers such as Malcolm Chisholm to show you their workings. The Local Government Committee needs to see your workings, so that it can work out whether enough money is being invested in core services. Only then can we report to the Parliament on the Executive's budget. Do you accept that?

**Mr Kerr:** I accept what you are saying to a degree. Over the next month we will work on the specific allocations that we are about to agree through discussions with representatives of COSLA and local authority finance directors. The allocations will be announced in December and reported to the chamber in a statement on the local government finance settlement. That is how we work out the figures.

**Neil Rennick (Scottish Executive Finance and Central Services Department):** In many cases the required information is already available. There is a national review group report on care home fees. The care development group reported on the cost of implementing free personal care for the elderly. The financial memorandum to the Mental Health (Scotland) Bill provides details

of the funding that is required to implement mental health policy. The published McCrone agreement provides details of the McCrone settlement. Cost details were part of the negotiations that took place in all those policy areas.

**The Convener:** I understand that it is difficult for the Executive to stray into the area of distribution when we are considering an aggregate sum. Have you estimated how much councils need to spend in total to deliver core services? I am talking about core services that councils must deliver. Can you tell councils that you have given them the £X that they need to deliver core services and Executive initiatives, although you may also try to provide them with extra funding?

**Mr Kerr:** We base many of our calculations on current delivery methods and costs of delivery. We also consider inflationary factors and extraneous influences on particular service areas. If all things remained equal, we would work out the core cost of delivering a service, factor in inflation and try to provide the resulting sum. However, if councils were affected by external factors such as a massive increase in national insurance—which authorities cannot control—we would attempt to assist them.

There is a balance to be struck in this area. You are right to want us to seek detailed information, but we need to consider the difference that our seeking that information will make. I am more than happy to continue my discussions with John Pentland, Pat Watters and others about the gap that they believe exists and about how we calculate resources.

Until someone comes up with something better or unless there is a major study to which we are all party, we have a system that works fairly effectively and painlessly and allows decisions to be made clearly. I am not sure what COSLA's views are on the question, because it has a community of interests with different pressures. Do we award more money for sparsity and supersparsity or for urban deprivation? Do we award money on the basis of the number of unemployed, young or elderly people in the community? There are many different questions.

I will consider your comments on the difficulty of proving that our actions are correct. I am more than happy to do that and hope that that provides some comfort. The effort required to conduct several reviews of the GAE delivered nothing, and I am conscious that we have a much more positive agenda with local government, especially considering its enhanced and leading role in the community and its involvement in community planning and best value. Sometimes we forget that those positive things are happening.

**Elaine Thomson (Aberdeen North) (Lab):** You said that there are record resources in local government, and the increase of four times inflation for 2003-04 certainly sounds a huge improvement on what authorities have seen in previous years. How will the Parliament be able to judge whether the extra revenue that is received by local authorities will be well spent? In particular, are you satisfied that adequate mechanisms are in place to drive more innovation and ensure that a culture of continuous improvement is embedded in local government?

**Mr Kerr:** Local government has always been creative and innovative. It has not always got everything right, but on the whole it delivers many services to communities that sometimes do not recognise what is happening for them. There are some largely invisible services that people do not understand and which go by without any thought from the community. Local authorities have been flexible and innovative and have changed and developed during the past years. Indeed, I took part in some of that process. Our work in coming up with a best-value system in partnership with local authorities relates to the questions whether they are being innovative, whether they are benchmarking against the best and whether they are looking outside their boundaries to the private and voluntary sectors to see how best to deliver services. Those are big challenges, but I have no doubt that local authorities will meet them.

The other side of the argument is the role of audit and inspection, which is a valuable way of ensuring that communities can assess the performance of their local authorities. The Local Government in Scotland Bill will set up a new audit and inspection process, which will be driven by partnership. It will judge the outcomes of service delivery, not only the inputs and cost. It will examine joint ventures, new ways of working, community planning and the joint future agenda. Much of what is happening in local government is very positive, and we must ensure that while we provide freedom and remove barriers to service development, such as CCT, we rightly retain some form of audit and inspection function. It will be carried out with a light touch and involve much more self-assessment, but nonetheless it will allow us to have some confidence in the relationship and in how services are developed on behalf of communities.

If you consider the positive work in the community planning process, which engages citizens and customers, you will see that we are getting the balance right on resources, removing barriers and letting local leaders lead, while still underpinning that with a satisfactory audit and inspection function. I remember doing my Accounts Commission returns for the performance indicators, which asked questions like, "How much

does it cost you to lift a bin?" or "How much does it cost you to sweep a kilometre of street?" What did that mean about performance and service delivery? Bluntly, it did not mean much. With best value and the enhanced role of local authorities at the head of their local communities, we are saying that we have confidence in them and that they should get on with the job. We will have an audit and inspection function, but we trust them to get on.

I have not met a public servant, a councillor or an elected member of the Parliament who does not want to provide good public services. Sometimes, we disagree about routes, methods, tactics and, I dare say, resources; however, there is a genuine degree of trust in releasing the potential of local government—to use a phrase that perhaps I should not have used—and allowing those at a local level to benefit from some of the Executive's initiatives and the partnership working that is developing between us and COSLA.

**Dr Jackson:** I shall start on a positive note about the quality-of-life initiatives and the local priorities, which have been very successful. I want to build on what has been said and consider the broader issue of infrastructure—you will not be disappointed that I am raising that issue again. It appears that the survey of the Society of Chief Officers of Transportation in Scotland—if it comes out, as we assume that it will—will recommend an amount of investment that will be way beyond what a local settlement will be able to provide. You have said that if local authorities identify a problem, you will consider it. If there are big problems with the infrastructure in local authorities, will you address any huge need that is identified?

My second question is more general and is about the capital budget. You will have heard COSLA giving evidence. In its paper, COSLA says that there would need to be

"a massive injection of revenue resources by the Scottish Executive."

In your paper, you say:

"The new prudential arrangements for local authority capital funding will allow scope for substantial increases".

It looks as if we have agreement about what will happen. However, COSLA also said that there will be a knock-on effect on the revenue budget of such an increase in the capital budget through the prudential framework. How will you address the issue of the extra amount that will be needed in the revenue budget?

**Mr Kerr:** Your first question is about the infrastructure problems that exist in Scotland. That is not just about local government; it is about health, the water infrastructure, schools and many other aspects of Scottish life. Through public-

private partnerships and more traditional funding routes, we have tried to address some of those long-term infrastructure problems. That is why we have the largest hospital-building programme in the history of the national health service; the largest school-building programme in history; and the greatest ever investment in water and water infrastructure. There is proof of our conviction. We have addressed other aspects of our infrastructure, although the predominant area is clearly that of schools.

You focused on roads. We have recognised that there is a problem with the maintenance of local roads and have tried to address that. We released £70 million and another £20 million followed that. A fair bit of the EYF money—nearly 40 per cent, if I recall correctly—was spent on local roads. We understand the problem. The Executive has a track record of recognising problems and trying to address them.

**Dr Jackson:** Nonetheless, if the SCOTS survey comes out, it will most likely recommend that a massive injection of money is needed. Will that issue be addressed separately from the local government settlement? How will it be addressed? There is no machinery—like PPP for schools—to address that big issue.

**Mr Kerr:** I imagine that the decisions on that would be for the next spending review, in terms of the time line that the SCOTS report attaches to the infrastructure investment that is required. I will not commit anyone to that process. We have a track record of dealing with such issues. I await the SCOTS report with interest, as does Lewis Macdonald. The expected numbers have been estimated as very big numbers and even bigger numbers. We wait to see what that report says when it comes out.

It will take a long-term programme to get our roads back to the right level of maintenance over the right periods. I cannot remember the exact periods. The backlog of maintenance for some roads is probably 100 years, rather than 30 years. I am not going to commit the Executive on that—you would not expect me to. I need to see what the SCOTS report says and what the impact will be of the time scale for investment that it recommends. I ask you to reflect on the fact that we have dealt with what local government has told us about the condition of schools, what communities have told us about the condition of hospitals and what the water industry has told us about infrastructure. Although I will not commit the Executive, I await the SCOTS report with interest, as does the committee.

15:30

The prudential regime is designed so that the local authority will have the freedom and flexibility

to make investment decisions. However, when the prudential agreement is worked through, one of its underpinning values will be that local authorities will not be able to borrow more than they can afford to pay back. There will be room in the settlement for us to reflect and support the decisions. I am pretty sure that we will be able to find the room to ensure that we help to cover any revenue and on-going costs with regard to the significant increase in the capital resources that are available to local authorities.

I am desperate to show the committee some of the early workings, but I had better not do so in case what they show proves not to be the case. The term “significant” is not overplayed; the number is significant. We are currently working through the proper channels, such as with COSLA and finance and local government officials. Watch this space. News about what we expect the significant increase to be will be coming before December. Work is in progress.

**John Young:** I must admit that I felt quite uplifted by your opening remarks, minister. You painted a rosy picture. You said that you were very pleased with meetings that you had had with COSLA, that enormous dialogue took place with local government and that record amounts of money were going into local government, which is quite correct. I thought that that sounded very upbeat. However, a paragraph in COSLA’s submission then happened to catch my eye. It states:

“the Scottish Executive demonstrates an unhealthy concentration on national priorities. It is essential that resources are made available to local government on a flexible basis.”

How do you view the fact that COSLA holds rather a pessimistic view in comparison with the optimistic view that you expressed?

**Mr Kerr:** I do not know—perhaps I am just a natural optimist. The feedback that I get from colleagues in local government and from people whom I meet in daily visits to local authorities shows that the mood has changed and that there is a greater understanding. Do not get me wrong—the quality-of-life money played a part in that. Colleagues in local government with whom I used to work now talk about an Executive that understands and that delivers for local government.

COSLA has a role to play and its membership’s views to reflect. It has chosen its route, but I do not think that that route reflects accurately my daily discussions with it and with local authorities in general. I took time to read COSLA’s submission and its summary of conclusions said to me that we are moving in the right direction in a number of areas. Perhaps we are not moving as fast as COSLA wants us to move or providing the

resources that it wants, but I would argue that we are taking positive steps with regard to many of the issues around relationships.

No minister gets everything that they want for every aspect of their portfolio. COSLA's job is to say where it thinks that it did not get what it wanted. It is my job as the Minister for Finance and Public Services to ensure that we have a good, challenging settlement for local government that allows local authorities to act.

Local authorities pride themselves on their ability to deliver direct services in a local environment and the Executive uses local government as a vehicle—the right vehicle—to do that. We choose to deliver services such as free personal care for the elderly or support for care homes through local partnerships with health services and local government. We choose to deliver our services to local pupils through education services. Therefore, money goes into local government for those services.

It would be worse if we chose an alternative delivery vehicle and said that we would not put the new money into local government but do something different instead. Local government would rightly say, "No, no—that is not how we want it", and I would share that view. Do not misinterpret my statements: we are not going to do that. The local delivery vehicle cannot always go on about national priorities. As long as we are fully funding that local delivery vehicle to do the job, fair is fair.

COSLA argues correctly for a bit more space for the local priorities that local authorities determine. We are trying to create that space for them through the measures that we have taken in the spending review. I mentioned all the things that COSLA wanted, such as pay and prices, national insurance and full funding of Executive initiatives. We delivered on all of them and we are trying to create space through the work that we are doing on the prudential regime with regard to capital.

Best value, the power of well-being and community planning offer huge possibilities for local government to develop and enhance its local services. They offer huge opportunities to break down the barriers that prevent joint ventures and working in partnership with other public sector, voluntary sector and private sector organisations.

COSLA has a right to its view—that is how it sees the situation—but I will argue with it until I am blue in the face and I look forward to doing so in December when it meets to discuss those matters.

I fully accept that COSLA wants us to do more. However, I genuinely believe that our relationship is better and works more effectively. We will fall out over money now and again, but we should look to the bigger picture, which is a new

environment for local government to work in. The Executive is delivering that.

**John Young:** Many years ago, when I was a councillor in Glasgow, I served on the cleansing committee. I remember arriving at a costing for emptying a dustbin, which was a relatively simple exercise compared with the one that you face today. Do you or your officials believe that new machinery is needed to improve parliamentary scrutiny of local government budgets? Could the machinery for that be improved?

**Mr Kerr:** I start from the principle that I have a great deal of trust that local government will deliver effectively, because nobody wants to go out and deliver bad services—nobody gets out of bed to go to work to waste public money. Although we can always improve, learn from each other, benchmark, use best value, compare, contrast and compete—all of which are important—I generally start by considering the situation from the other end. We could end up with an overburdening audit and reporting function that would take away flexibility, introduce barriers and take up managers' time with filling out sheets that do not help to clean the streets or make the place more effective, as happened to me when I was in local government.

Best value gives us a real opportunity to do things differently. It is developing—it has been around for a wee while, but it has a lot further to go. I will use an example from my local council because it is close to me and I understand it. Because that council was not confident about its commercial waste collection service or the civic amenity sites that it ran in the community, it had a best value review and asked whether those services were core business and whether the council wanted to run them. It decided to externalise the provision of those services and allow a contractor to come in and partner the council in delivering them.

That should be a decision for the council to make—just as if it had taken a different view and decided to keep the service in house, resource it better and provide a better service at a better-value-for-money price. The important point is that that council had the space, framework and encouragement to make that decision locally. Local authorities throughout the country are doing a very good job of modernising and improving their services. I do not want to introduce the dead hand of central Government. I do not want to measure everything that local authorities do. I do not want to measure the cost of everything and the value of—what is the phrase? The convener can help me out with it.

**Tricia Marwick:** The cost of everything and the value of nothing.

**Mr Kerr:** That is it. To a degree, some of the regimes under which I worked in the past took that approach. I believe strongly that we will get over the hump—the concern about resources. The environment that we are creating is the right one for local government to prosper.

**John Young:** I was not suggesting that we put local government in a straitjacket. My question was aimed at discovering which sort of approach the Parliament or the Scottish Executive could take to improve the process of getting information from local government.

**Mr Kerr:** I was careful to say that that was at one end of the extreme. I did not say that that was what you were saying. When I was an officer, I participated in a best value review in a number of service areas. Perhaps the committee could learn from people with that sort of experience—you could bring them in to say what best value is all about. They could tell you how they got to the point where they decided to keep services in house or to externalise them and to invest in or to reduce services. They could also describe the changes that led them to partnering and working with the voluntary or private sectors.

Everybody talks about best value, which I am fortunate enough to have experienced at a local level. We can all learn from people who know how local government works. The committee could undertake a case study of someone who has done best practice at a local level, which would allow you to examine a best practice example to see how the process works. That takes us back to the first question about whether best value is all about money. The answer is that it is not.

I tell the story about the work that I did in cleansing all too often and, sadly, I will put the committee through it again. My original involvement was to introduce a quality management system in the cleansing department. First, I spent three days a week with the scaffies, bin men and street sweepers who did the job. All the managers asked me, "Why the heck are you doing that?" My answer was to tell them to wait and see what we got out of the process. The result was that we got the insight of the people who did the job about how to organise the job better: what gloves and boots to buy; what vehicles to acquire; and how the supervisors should organise the job.

We achieved phenomenal productivity improvements just by listening to the employees. Not a bit of money went into the system; the process did not involve additional money but was about how to use people, equipment and resources better. I believe strongly that if we listen to employees and hold discussions with the community, we can get public services to improve dramatically. Money is important, but we do not have to throw lots of money at local government.

Instead, we need to listen to its consumers and to the people on the front line about how best to deliver services. The best value process allows that—it is a process that works.

When I visited Perth and Kinross Council to discuss the joint future agenda, I found people working effectively at the local level. For example, people from the council's social work department and the health trust were working collectively at local level. Not one bit of money was put in, but a much better service to the community resulted.

A key worker was appointed to every elderly member of the community. That meant that, rather than 10 public servants chapping the door 10 times, the door was chapped only once. The key worker fed back into the system that Mrs So-and-so needed a handrail, help getting into the bath or a rail fitted. Best value becomes a better way of offering services. It is not about money; it is about better management and listening more to those who use and deliver the services.

**The Convener:** At the beginning, I said that we had a problem. We have come to the end of the session and the problem remains. Although I understand where the minister is coming from, he must accept that the Executive deals with local authorities through COSLA—or directly if the councils are not COSLA members. The predicament that faces the committee is that we are not part of that system. We are part of the Parliament and we have a serious problem with the way in which you accept our role in the system.

My first question was about how you arrived at the figure of £7.337 billion. You replied that you had spoken to COSLA; you told us what COSLA said and what you did. Your answer clarified certain things that have been unclear in the past. Although you may not wish to give an answer at this point, what are your thoughts about making that process clearer by recording what the Executive says to COSLA in some sort of annual report? For example, you could set out that COSLA wanted X and the Executive gave it X or that it wanted Y and the Executive gave it Y minus 3 and the reasons for doing that. That would open up the process a bit more for us.

If I am honest, I have to say that we are still in a bit of a dilemma about the committee's role. As convener, I need to consider how I use committee time, because I ask members to come along and sit here from 1.30 pm to 3.45 pm for a process that we might feel has not provided us with much by its end.

Some positive things have come out of the process. My clear position is that the Executive has the right to implement its manifesto, which is what it is doing. However, a dilemma arises when

we listen to a group such as COSLA, which feels that it does not have the freedom to implement the national priority locally in the way in which it would like. There are problems around that. COSLA will continue to say that the ring fencing is 30 per cent, which means that there is a massive difference between its estimate and the Executive's.

Nevertheless, the budget process has been better this year than it was last year because we have pursued it differently. I know that Des McNulty has written to you. I will speak with you at a later date about how we can make the next budget process a bit more transparent and be clearer about roles, particularly that of the Local Government Committee. Although our remit is local government, we cannot get involved in discussions about services that other committees cover.

As there are no more questions, I thank you for coming and leave you with those ideas.

15:45

**Mr Kerr:** I will endeavour to deal with some of those issues. I will discuss with my COSLA colleagues the issue of minutes and how we note meetings and correspondence between us, which is part of the process. Perhaps through that we can assist you.

**The Convener:** That would be helpful.

**Mr Kerr:** The issue is not that I do not accept what the Local Government Committee does. I fully accept what you do. Our difficulty is in trying to get the exchange of information right.

**The Convener:** Thank you.

## Mental Health (Scotland) Bill: Stage 1

**The Convener:** We turn to our stage 1 consideration of the Mental Health (Scotland) Bill, for which the Local Government Committee is a secondary committee. I welcome from Fife Council Mike Sawyer, the head of the social work service, and Kate Thomson, the mental health project manager. I welcome from Fife Advocacy Kate Milliken, the co-ordinator, and John Dow, the chairperson. I understand that Mike Sawyer and Kate Milliken will make some opening remarks, after which I will open up the session for questions.

**Mike Sawyer (Fife Council):** Thank you for inviting us to the committee. I guess that one reason why you did so is that Fife is a mixture of urban and rural areas—we have to provide a service over an area that covers 70 miles. However, in some areas there is an intense need for services. We are also lucky because we have coterminous boundaries with Fife NHS Board, the health trusts and the local health care co-operatives. Therefore, there is close working within Fife, not only with the health board but with the voluntary sector, service users and carers. If you want to talk in detail about that, Kate Thomson can say more about our current initiatives.

We very much support the bill and the principles that underpin it. In particular, we welcome the fact that it will strengthen the voice of service users and focus on partnership. It tries to make provision more flexible and to make a link between people's duties and how those are delivered in order to provide people with what they need. We welcome the proposed role of the mental health officer in dealing with a number of complex areas involving people's liberty. If there are to be compulsory treatment orders, the extent to which those are successful will depend largely on the training provided, on the sensitivity that is shown and on the way in which mental health officers work with the people concerned.

Members have received our paper. We have four main points to make. The first is on the role of the mental health officer. There are major issues around the recruitment and retention of social workers, yet now we are talking about expanding the role of the mental health officer. It is crucial that we do all that we can to encourage people to enter that field of work. Some of the guidelines on the entry qualifications that are required for people to become mental health officers actively discourage people from achieving the targets. We in Fife will be struggling to achieve our targets for mental health officers—we will need more.

Secondly, a great deal of the bill deals with the duties of local authorities, although I find it strange that it does not contain more about the duties of health boards. Given the fact that we work in such close partnership, more ought to be included about the duties of health boards or trusts.

Fife Council has some concerns about the fact that clear duties—much clearer than in the past—are laid down about care and support, residential personal care, social, cultural and recreational activity, training and employment. If we are to have a duty to provide those, does that mean that we will have to meet everybody's needs in relation to those areas of work? Do the duties relate to everyone with a mental disorder, or just to people who are subject to compulsory treatment? Does a local authority's meeting its duties depend to some extent on its level of resources? The bill as introduced does not say that. It provides a blanket provision that the local authority should meet those duties.

The bill says that the local authority can call on the health board or the trusts to provide services to them. I interpret the bill also to say that, if the health board does not have the resources available, it does not have to respond to the local authority's request for assistance. That seems to be something of an imbalance in the responsibilities of local authorities and health boards.

Thirdly, we have a number of concerns about the adequacy of the financial memorandum, which details the money that is being put to one side to implement the legislation. We think that there ought at least to be a system to monitor the bill's impact and the demands that are made on resources.

Let me illustrate that point. My estimate of the amount of money that would come to Fife under

"Improvements in the packages of care available to people subject to community-based compulsory treatment"

is £136,000 over three years. Members need to know that some of the packages that we provide to individuals at the moment cost between £50,000 and £100,000. That is not the norm, but the matter needs to be reviewed.

My fourth point relates to advocacy, although the representatives of Fife Advocacy are far better qualified to make it than I am. We welcome the fact that the bill places advocacy at the centre of the system. However, we must ensure that we do not impose advocacy on people who do not want it. We must consider the ability of advocacy schemes to respond.

**The Convener:** Kate, would you like to make a statement at this time?

**Kate Milliken (Fife Advocacy):** Members may want to put questions to us first.

**The Convener:** Do you agree with the definition of advocacy that is contained in the bill? Do you think that it is wide and clear enough?

**Mike Sawyer:** I do not have a problem with the definition of advocacy that the bill contains. However, I am concerned about the extent to which people would automatically have access to advocacy. They ought automatically to have access to information about advocacy, but it should be for individuals to decide whether they want to make use of advocacy.

**Kate Milliken:** The definition of independent advocacy should be clearer. The word "advice" should be removed from the bill, because it is misleading. Independent advocacy is not about advice, although advocates seek to ensure that people have enough information to enable them to make an informed choice.

**The Convener:** In its written submission, Fife Council social work service states:

"to make it a duty to provide"

an independent advocacy service

"for everyone with mental health problems, will seriously jeopardise the ability of such a service to make their own decisions about priorities and reduce the independence of the organisation."

Can you explain in more detail what you mean by that? Can you suggest an alternative approach?

**Kate Thomson (Fife Council):** We want to be sure that people have the opportunity to know fully about advocacy and to understand what it involves. We want to encourage referrals and to ensure that people are given every opportunity to make use of advocacy. However, we want the advocacy service to have the bottom-line responsibility for deciding what it will do about referrals. We should not dictate to the service the kind of involvement that we want it to have. We want to ensure that advocacy retains the independence that it has had until now.

**Kate Milliken:** Fife Advocacy has always made decisions independently and we assume that it will continue to do so.

**The Convener:** How is Fife Advocacy funded?

**Kate Milliken:** We have different sources of funding.

**The Convener:** You indicated that in your submission. Will you receive any money from the social work budget next year?

**Kate Milliken:** Yes.

**The Convener:** How independent does that make you?

**Kate Milliken:** We are mental illness specific grant funded on a year-to-year basis. That funding

has sustained us for quite some time. An organisation cannot be truly independent if it is funded by the health service or social work department. However, we try to minimise any conflicts of interest that may arise. In Fife we are free to bite the hand that feeds us.

**The Convener:** Do you believe that you are sufficiently independent as regards delivery of service, rather than funding?

**Kate Milliken:** We are as independent as we can be. There are some funding issues that I would like to address later.

**Tricia Marwick:** I, too, want to talk about funding and independence. Do you think that there is a conflict of interest between the bill placing a duty on local authorities and health boards to provide independent advocacy and their seeking to do that through organisations such as Fife Advocacy, which they fund? Can you say that you would act independently at all times, in the best interests of the client?

**Kate Milliken:** Although some conflict of interest is always inevitable, we try to minimise that risk as much as possible. However, in order to do so, we must raise awareness of independent advocacy. Fife Advocacy regularly provides staff on the acute side of the trust with such awareness raising. Such an approach should be extended to the primary care side.

On the whole, we try to be as independent as possible. Advocacy 2000's document entitled "Principles and standards in Independent Advocacy organisations and groups" and Scottish Executive documents make it clear to local authorities what advocacy is and how we can remain as independent as possible. After all, it is in everybody's best interests that we do so.

16:00

**Tricia Marwick:** Do you agree that there is a conflict at the heart of the bill, because it places a duty on local authorities and health boards to collaborate to ensure provision of independent advocacy services in their area? Presumably that means that they will also have to collaborate to provide funding. Given that they will have to provide both funding and services, will that not cause a conflict of interest with an independent advocacy programme that relies on those two bodies for funding?

**Kate Milliken:** We certainly rely on the health board and the council for funding. However, from my 10-year experience of advocacy programmes in Fife, I would say that we have been free to act as independently as possible with the funding that we have been allocated.

**Tricia Marwick:** But we have never had a mental health bill that places such duties on local

authorities and health boards.

**Kate Milliken:** No.

**Tricia Marwick:** That is why I have suggested that there is a conflict at the heart of the bill. Is it possible to introduce another funding mechanism that is separate from local authorities and health boards? Those bodies could still encourage advocacy projects, but should they also continue to fund them?

**Kate Milliken:** It would be ideal if advocacy organisations could source funding from outwith health boards and councils. However, I do not think that that will be possible right at the beginning and we have to start somewhere. Most advocacy projects—certainly the two in Fife that I am aware of—seek their funding from a variety of sources to reduce any potential conflict. We receive a minimal amount of money from health boards; most of our funding comes from the council.

**Tricia Marwick:** Would placing the money that the bill will allocate to the advocacy service somewhere other than with the local authority and the health board not guarantee the advocacy service's independence from those bodies?

**Kate Milliken:** Yes, I agree. I do not know whether this would be a possibility, but it would probably be better if that money were placed with the Advocacy Safeguards Agency or a similar body, which could oversee it.

**John Dow (Fife Advocacy):** That would be the ideal target in relation to perceptions of what Fife Advocacy offers. The bottom line is that the user of Fife Advocacy services should feel that he or she is getting an independent service. Whether we feel that Fife Council is going to try to impose some kind of control does not enter into the matter, as far as the practical delivery of Fife Advocacy services is concerned. In an ideal situation, it would be brilliant if the funding was totally separate from Fife Council and/or Fife NHS Board. However, as we have heard, although the ideal is the target, asking how long it will take to reach that is like asking how long a piece of string is.

**Mike Sawyer:** We have always attached great importance to advocacy, which is one of the reasons why the schemes have been funded for more than 10 years. This is not something that we have just done yesterday. The schemes work well. The issues that Tricia Marwick raises also apply to the relationships between local authorities and the voluntary sector in relation to the activities in which they engage. I accept that there are issues around the separateness of the funding source. However, there are also issues about the importance of people working in partnership locally.

The proof of the pudding is in the eating. If people in the advocacy service do not feel that they have been unduly influenced in advocating—which is their role—there is no evidence that the current system is not working. Okay, the bill is new legislation, but we have had to face some quite difficult situations. Another advocacy scheme in Fife relates to the closure of Lynebank hospital. There has been quite a lot of active representation and advocacy on behalf of people coming out of that hospital.

**The Convener:** Are you supervised by an officer from social work services?

**Kate Milliken:** Yes.

**Kate Thomson:** There is a link officer.

**The Convener:** What kind of involvement does that person have? For example, how often do you see them?

**Kate Milliken:** They come to our management committee meetings.

**Iain Smith:** I declare an interest, as I know Mike Sawyer from my previous employment and, as an MSP, I have done some work on behalf of clients of Fife Advocacy. A further interest is that Stratheden hospital, which is the main psychiatric hospital in Fife, is in my constituency.

My first question is for Kate Milliken and John Dow of Fife Advocacy. Do you feel that there is a danger that the requirements of the bill may result in your having to narrow the areas in which you work? Might you be so busy dealing with the statutory functions that you will not have time to undertake some of the other work that you do?

**Kate Milliken:** Yes. We are currently funded to carry out advocacy work at Stratheden hospital for people who are moving back into the community through the reprovisioning process there. However, funding for that work will end in March and we have absolutely no guarantee of funding after that. The issue will go to a board of directors on 4 November, but the staff who are delivering the advocacy may well face redundancy. I am concerned because Fife NHS Board is committed to joint funding for advocacy provision only until the end of March. That flies in the face of what will happen under the bill. I would like more appropriate funding for advocacy to be put in place. It is a concern for us.

**Kate Thomson:** I appreciate the current situation regarding advocacy funding. There is no lack of commitment from the council and the health board to continuing the advocacy service. It is just a matter of timing and the way in which things have happened. We are actively considering the issue.

**The Convener:** Is your funding yearly, rather than three-yearly?

**Kate Milliken:** The health board funding, through the health improvement plan, is for three years. That is the only health funding that we receive and it will end at the end of March.

**The Convener:** What about funding from the local authority?

**Kate Milliken:** That is MISG funding, which we receive on a year-to-year basis. It is not quite ring fenced; it is semi-guaranteed. We would like that funding to be allocated on a three-yearly basis.

**The Convener:** Do you know what your budget will be over the next three years?

**Kate Milliken:** No, not yet.

**Iain Smith:** My second question is for the Fife Council representatives. In your submission, you state that, in relation to the provision of care and support, you feel that

“there is a danger that this part of the Act will see a move away from investment in prevention and recovery for people in their own localities towards increased use of compulsion.”

Why do you have that concern? What amendments could be made to the bill to ensure that that does not happen?

**Kate Thomson:** We have been trying to get our heads round the potential implications of the bill and the demand that would come our way. When one looks at the figures, the worry arises that the funding might not be sufficient. The hospital discharge programme means that more people will be able to be supported in the community. Although we fully support that aim, we do not know what the financial implications will be. If there is not enough money, pressure will build and people might have to become the subject of a compulsory treatment order to get the resources that they need. That would be unfortunate.

**Iain Smith:** In your written submission, you indicate that you are more concerned about people than about money. It is difficult to get social workers and mental health officers. On the health side, difficulties are being experienced in attracting appropriate specialists in mental health—both nurses and doctors—to Fife. There might be problems in attracting people to take on advocacy work. In promoting the bill, is there anything that the Executive should do to encourage more people to go into such areas?

**Mike Sawyer:** I welcome the current campaign on the recruitment and retention of social workers, which is important. However, improvements in standards and training have had an unintended consequence. There is a new requirement for people to have undertaken the post-qualifying award part 1 training before they can train as mental health officers. It takes six months of full training to become a mental health officer, which

represents a heavy commitment. A number of people who have worked for two years and who would be prepared to train to be mental health officers—one must have worked for two years after qualifying, because the job of mental health officer is an onerous and responsible position—have not taken the PQ1 training. In future, people who have not done the PQ1 training will not be accepted on to training courses for mental health officers.

We support the introduction of post-qualifying training for social workers, but I do not think that it was intended that it would end up causing a potential shortage of mental health officers. We face that problem. This year, we would have put forward another two social workers for mental health officer training. We did not do that because they had not done the PQ1 training.

**Iain Smith:** Will the bill have other unintended consequences for aspects of the council's operation? For example, might the bill conflict with the joint future work?

**Mike Sawyer:** No, the joint future programme is very positive. There is an issue that perhaps I do not understand. The bill imposes explicit duties on local authorities. Will people have a right to services, irrespective of the state of a local authority's resources? Will that right extend to anyone in the community who has had a mental disorder? The bill lays out duties to provide residential accommodation, personal care, training, employment assistance and social, cultural and recreational activities. If an assessment indicates that someone could benefit from any of those services, will the local authority have a duty to provide such services, irrespective of its resources?

Most legislation includes a qualifying factor, which makes reference to the resources that are available to a local authority. The Mental Health (Scotland) Bill indicates that the responsibility of a health board to respond to a local authority is dependent on such action being compatible with the board's remit and resources. If we asked a health board to help us with a case, the health board could say that it could not help us, because to do so might cost £100,000. The health board might not have that money and it might be difficult for the board to find it. On that basis, it would be legitimate for the health board to say, "We're sorry. We would like to help you, but we can't." The bill contains no such qualification for a local authority. I am concerned that we might raise people's expectations about the service that we can provide and that there might not be sufficient resources to meet those expectations. That factor will have to be considered.

Another worry that several bodies have mentioned is whether compulsory treatment will

escalate. There needs to be built into the system not only Scottish Executive research, which I welcome, but mechanisms that require the Mental Welfare Commission for Scotland, local authorities and health boards to produce information to examine the trends in compulsory treatment in their area and across Scotland, so that, if the legislation has unintended consequences, we can examine them.

16:15

**Dr Jackson:** Iain Smith has asked many of the questions that I was going to ask. Is it possible to get more information about the resource implications? You say that you cannot be certain because you are unsure how the bill will be interpreted, and of course the bill may be altered as it goes through Parliament, but would it be possible to get an idea? You mentioned various duties that are put on local authorities, described by phrases such as

"promote the well-being and social development"

of people. As you say, that can be interpreted very broadly. There are also staffing and training issues, and the fact that it might be difficult to recruit staff. Would it be possible to cost various interpretations of the bill?

**Mike Sawyer:** Yes, we are prepared to do that. This is just guesswork, but we reckon that, as a result of the bill, Fife would get an extra three MHOs. We operate mental health services in three different areas of Fife, so we would get an extra MHO for each. MHOs' role is increasing significantly, and rightly so as they have to take great care over their work. However, the volume of people using the service will also increase. People who had, for want of a better phrase, personality disorders were not included in the past, but we know that they will be included now. It is impossible for anyone to say what the increase will be, but because mental health needs a 24-hour service, we are concerned about how we will provide it.

It is difficult with new legislation to estimate the costs, but we could provide you with information. It would be helpful for a review to be built in so that what people get right and wrong in estimating the increase in demand could be examined.

**Tricia Marwick:** Sorry, my question goes back to money again, because it is important. The financial memorandum allocates £1.5 million per annum to support advocacy services throughout Scotland. Will Kate Milliken and John Dow tell me how much they receive at the moment from their various funding sources?

**Kate Milliken:** At the moment, our mental illness specific grant funding is £89,600. Our Stratheden advocacy project, which is funded by Fife NHS

Board, receives £49,493. Volunteer advocacy receives £10,666 from the Nationwide Foundation, £8,000 from the Lloyds TSB Foundation for Scotland and £848 from Fife Council under section 10 of the Social Work (Scotland) Act 1968. That comes to a total of £19,514. Our volunteer advocacy funding is due to stop at the end of March, but we are seeking other sources.

**Tricia Marwick:** I did not catch what you said about the Fife Council money and the total.

**Kate Milliken:** Section 10 money is £848, and the total for volunteer advocacy is £19,514.

**Tricia Marwick:** So roughly we are talking about £140,000 in total per year for one advocacy service in Fife. It is suggested that £1.5 million per annum will be used to support advocacy services and that local authorities will get their share of that, but Fife is likely to receive a heck of a lot less than the amount of money that we are talking about at the moment. Perhaps Mike Sawyer can help me out here. Is it possible that the £1.5 million allocation to support advocacy services might be the maximum, and that neither Fife NHS Board nor Fife Council will give any more than it is allocated?

**Mike Sawyer:** We are committed to the sums that we are currently making available. Actually, we have three-year funding agreements with voluntary organisations. The difficulty is that the MISG is not provided on a three-year basis; it is annual. We know who our long-term partners are and they know that we will not deprive them of funding and that we will continue to make the investment. I am not the best person to speak about this, but health gets money for advocacy, which is dealt with separately and is not included in the figures. That would need to be examined separately.

Our share of what Scotland gets is between 6.3 per cent and 6.8 per cent, which means that we would get an additional £35,000 to £104,000 for advocacy. There would be £35,000 in year 1. When the total goes to £1.5 million, that would mean about an extra £104,000 over three years, but that would be in addition to health's plans.

**Kate Milliken:** May I comment on that? I have a memo from discussions with the Advocacy Safeguards Agency, which states:

"Please note that as things stand"

under paragraph 470 of the financial memorandum to the Mental Health (Scotland) Bill

"Fife NHS Board will not be receiving any additional funding to develop advocacy, rather the SE"—

the Scottish Executive—

"see this funding as already committed through *Our National Health*."

To meet the duty in the current Bill, this would suggest that Fife NHS Board should be committing £100,000 to advocacy for people with mental health problems, including people with dementia, acquired brain injuries and learning disabilities, by 2005/06 through *Our National Health*."

That is important.

**John Young:** First, I give my apologies for missing a large part of the beginning of the meeting. That was due to an urgent phone call, which I will explain to the convener after the meeting.

In the late 1960s I was the first sub-convener of social work in Glasgow and, frankly, we did not know what social work was. I am not sure that I know quite what it is even today. My question, which is relevant, is about people who leave long-term hospital care without relatives or friends to support them. That body of people is probably growing, in particular because people live longer. I know that this may be difficult, but do the witnesses have projected figures for their area for the next five or 10 years? As a layman, I imagine that the figures may be increasing.

**Kate Thomson:** We examined the potential number of people who, over the next period of time, could manage in the community if we were able to build up the support infrastructure that is required to prevent hospital admissions. We are probably looking at the potential for another 100 people over the next 10 years, or however long the programme takes, so it is a considerable number.

**John Young:** We all accept that it is a bit of a guessing game, but does that mean that you are desperately trying to train more staff to handle what could come in the future? Is that premature? I know that it is not easy to do that.

**Kate Thomson:** I suppose the point is to be sure that there is a support infrastructure in the community before people are discharged, because people need to leave long-term care knowing that the support services are there for them. That is fundamental.

**The Convener:** I will ask a question for clarification. When I was a mental health officer, I had a case load over and above my work as a mental health officer. Does the situation remain the same? If so, we are not talking about a group of people who do only mental health officer work. That needs to be clarified for the committee and other members. In reading the evidence, people might think that a mental health officer did mental health work and nothing else. That was not the case when I practised, but I do not know whether that remains the situation.

**Kate Thomson:** The situation varies in Fife. The mental health officers who operate in mental health teams do almost exclusively mental health

work in their working week. However, mental health officers in other community care teams, in criminal justice and in child and family teams tend to be involved in mental health work that revolves around a rota and set pieces of work per month. That could be measured in hours a week rather than as full-time work. The situation varies, but we can usually quantify the amount of work.

**Mike Sawyer:** About 50 per cent of our social workers who are mental health officers are in mental health teams. The others are in other teams.

**The Convener:** You talked about the mental illness specific grant. I remember that Michael Forsyth made increases in the grant, which will thrill John Young. We have increased the grant each year, but we could consider putting it on a three-year plan, like the rest of our budgets. I do not know why that slipped through; perhaps there is a reason for treating specific grants differently.

Is the six-month MHO training full-time training? Are people taken out of the system to be trained for six months, or do they work while they are trained?

**Kate Thomson:** The six-month commitment involves a teaching programme, placements and study time. For six months, people spend minimal time in their normal place of work, so we tend to think that their work must be covered for that time.

**The Convener:** We noted that people cannot undertake MHO training without the PQ1 qualification. Fife Council's evidence suggests that some staff would have trained if they had had that qualification. The thrust of what you said and what others have said in written evidence is that we will not have enough mental health officers when the bill is implemented.

The bill also needs to be qualified to say that authorities should not have to provide a service come what may—resources should be considered.

Fife Advocacy's submission says that it

"would welcome properly resourced and appropriate monitoring and evaluation."

We probably agree with that. We need to examine what advocacy is being provided and how the job is going.

Interest was expressed in a report on trends. It is interesting that it is suggested that a report should come from the coalface, so that people who work with the bill can tell us about the appearing trends and whether we must address them.

We have no more questions. I thank the witnesses for attending. As Sylvia Jackson said, the bill will no doubt be amended.

I welcome the representatives from Aberdeen City Council. I noticed that you arrived some time ago—I am sorry that you have had to wait for so long, but we have a busy meeting today. I welcome Fiona Palin, Aberdeen City Council's social work manager, and Jonathan Belford, the council's principal accountant. I understand that Fiona Palin will say a few words after which I will open up the meeting for questions.

16:30

**Fiona Palin (Aberdeen City Council):** We are grateful for the opportunity to meet the Local Government Committee to discuss the Mental Health (Scotland) Bill. As Aberdeen is a city area, we work with one health board and one trust but three local health care co-operatives. Issues result from the overlapping boundaries.

I will highlight five areas in relation to local authority responsibilities, after which I hope that we will be able to discuss the resource implications. The five areas are care and support services, charging for services, mental health officers, advocacy and commissioning.

We welcome the increase in funding for care and support services, well-being and social development. We hope that that will enable us to provide more flexible packages of care. However, I issue a word of caution in respect of the high cost of some of those packages—one of the witnesses from Fife referred to that. A package of £350 per week would involve us in funding a package of more than £18,000 per year. Some of the people with whom we work require long-term care—possibly for 10 years or more. We are not talking about one-off costs for one year.

On occasion, lack of flexibility in our funding has meant that we have struggled to provide evening and weekend services. We set up an assertive outreach team and were able to provide funding in the pilot stage, but when we set up the service on a more permanent basis we found it difficult to achieve the flexibility of funding for evening and weekend care. I hope that the additional funding will enable us to consider more flexible services in that area.

We welcome funding that promotes well-being and social development. We welcome in particular funding that allows us to work with voluntary organisations, as that enables people to move on to use community education services and other services in the community.

We are concerned that the bill allows for charging for services and, in particular, for charges to be forced on people who are subject to compulsory care measures, as those people would previously have been cared for in hospital. Although local authorities have the flexibility to

waive charges, it would be helpful to have clearer guidelines on such charging arrangements.

The previous witnesses touched upon a number of issues in relation to mental health officers. We want to focus on whether supply will meet demand. In Aberdeen, we have 26 mental health officers and six additional officers in our out-of-hours service. We have set up a separate rota to deal with our duties under the Adults with Incapacity (Scotland) Act 2000. We will need to consider the staffing structure for mental health officers. At the moment, we have no one in a senior practitioner role. We will have to ask basic grade workers to assume additional responsibilities, but we have no additional funding to do that.

We need to consider continuing support for mental health officers to ensure that they have the skills to embrace their extended roles. In addition to the need to train more mental health officers, we must also support those who are already in post. We must ensure that the role of the mental health officer is not extended to the detriment of other services. Earlier witnesses touched on the fact that mental health officers are social workers who undertake other roles. We have no full-time mental health officers.

Aberdeen City Council and Grampian NHS Board currently fund an advocacy service in Aberdeen. We have two specialist workers in mental health. One works in the hospital and the other works in the community. We welcome the enhanced role that the bill gives to advocacy and look forward to receiving additional funding for that.

As we indicate in our submission, there is concern about the lack of acknowledgement of joint commissioning. Mental health services in Aberdeen are commissioned on a joint basis, through the mental health framework. When we devise packages of care for people who have previously been looked after in hospital, it is important for us to recognise that both the health service and the local authority have a role in commissioning services.

The resources that are required to commission new services have not been touched on. We are talking about services for a wide range of people with mental health problems. Resources are required for drawing up service specifications, selecting providers of new services, and monitoring and evaluating services. Those are onerous tasks for the local authority.

We are very happy that the bill strengthens the role of local authorities under mental health legislation. That should allow us flexibility in providing services to people with mental health problems. However, it is important that we work in

partnership with the health service. Jonathan Belford will be happy to provide additional information about resourcing.

**The Convener:** The bill places a duty on local authorities and health boards to collaborate to ensure the provision of an independent advocacy service in their area. Do you agree with that approach? You have indicated that Aberdeen City Council provides an advocacy service. The bill will place a duty on local authorities and health boards to do that. Do you think that that is appropriate?

**Fiona Palin:** Yes. We commission all mental health services on a joint basis, through the mental health framework. The local authority and the health board have worked in partnership to fund an additional advocacy worker. That is the most appropriate way of proceeding.

**The Convener:** Is the supply of independent advocacy services in Aberdeen sufficient to cope with the new bill, which will make significant changes?

**Fiona Palin:** We will need to consider where advocacy workers can be accommodated, but the advocacy service should welcome the additional resources that it will receive.

**The Convener:** It is likely that the advocacy service in Aberdeen will receive between £40,000 and £50,000 of the £1.5 million that will be made available. Is that enough to support it, given that its duties will change under the bill?

**Fiona Palin:** Those resources are a good start. The position in Aberdeen is different from the position in some areas, because Aberdeen already has two mental health workers in post. We need to consider where advocacy services should be directed. Should services be concentrated on people who have been detained under the bill? At the moment, we provide a generic service for people with mental health problems. If we prioritise people who have been detained under the bill, the resources that have been allocated should be sufficient to begin with.

**The Convener:** In your written evidence, you suggest that a duty should be placed on local authorities, health boards and health trusts to co-operate in the provision of local services. Will you elaborate on your reasons for believing that such a duty should be placed on those bodies?

**Fiona Palin:** As the witnesses from Fife Council indicated, there is concern that local authorities' duties are spelled out clearly in the bill, whereas the duties of health boards and trusts are not. Given that in Aberdeen we are pursuing the joint future programme and have joint mental health teams and joint commissioning, it seems odd that clearly defined duties should be placed on the local authority but not on the health service.

**Dr Jackson:** We talked with the Fife Council representatives about

"Services designed to promote well-being and social development".

You seem to be indicating that that definition of section 21 might be a bit too broad and all-encompassing. Would you like to comment on that?

**Fiona Palin:** Until now, the mental health framework has meant that we have had to concentrate on people with severe and enduring mental illness. Compulsory treatment orders are for people at the more severe end of the spectrum who are being cared for in the community. My concern is that there will not be enough resources left to spend on promoting social development.

Social development is an area in which we would very much like to make progress. As I mentioned, we would like to encourage people to use community education facilities and befriending services. We should definitely promote that area, but it is not certain whether we will have the resources to enable us to do so if we have to target the more severe end of the mental illness spectrum.

**Dr Jackson:** Are you saying that that phrase is okay, but that it is a question of resourcing?

**Fiona Palin:** It is really a question of how we manage the situation.

**Dr Jackson:** Your paper mentions several times the difficulties that you think will arise. It says that

"GAE allocations will be insufficient to cover the costs that Aberdeen City will incur"

and goes on to say that it would be helpful if the level of funding for Aberdeen City Council were based on identified need rather than on population. You are saying that it is not entirely a question of finances; it is also a matter of examining the problems that the finances address. You also mention a research exercise that will examine the effectiveness of the bill once it is enacted. Should part of that research take a serious look at that need aspect?

**Fiona Palin:** That would be really helpful. We have tried to address that, but I do not think that we have done so terribly successfully. We must try to be clear about assessed needs and future needs. The fact that the city has a population drift of people who come in from the outlying areas presents us with difficulties. The hospital and a lot of the resettlement resources are in the city, so we have to fund additional resources. Although people might initially be funded by their own local authority, eventually there are additional aspects of their care that the city has to fund when they move on. It would be helpful to have clearer information to enable us to plan better for future need.

**Dr Jackson:** When we see the Deputy Minister for Health and Community Care in a few minutes' time, what questions should we ask her about finances and funding?

**Jonathan Belford (Aberdeen City Council):** It is a question of the distribution of resources, rather than the total pot. We made a clear statement in our written submission about the fact that GAE allocations would allow us perhaps 4 per cent of the total. Our spending at the moment is around 6 per cent, which highlights the fact that the population who are suffering from mental health problems in the city is larger than the GAE provides for. The distribution of the funding needs to be highlighted, because there are too many uncertainties about what will be required from the total pot when it comes to implementing and taking on the new duties and responsibilities.

**Dr Jackson:** I also read the paper by the Scottish Parliament information centre, which has done some research in that area. It says that the amount of money that councils spend on mental health depends largely on priorities rather than on need. That seems to be the same as what you are saying. If that money were to come from central funds, would you want it to be ring fenced in some way?

**Jonathan Belford:** I am not sure that we would want to ring fence money in all instances. Although that may be useful for getting services up and running, it is as useful for the local authority to have the necessary flexibility to deliver services that are appropriate to the population of Aberdeen. Ring fencing the money in every instance is perhaps not the be-all and end-all of new funding under the bill.

**Dr Jackson:** At a recent conference, an academic said that mental health is the cinderella service and that it is perhaps not getting sufficient money. Would earmarking the money offer one way around that problem?

**The Convener:** That could be done through the mental illness specific grant, for example. What if money came directly from the centre rather than through the council, which would require the council to make decisions on how much mental health should get? I can hardly believe that we are talking about ring fencing.

**Jonathan Belford:** The mental illness specific grant comes through us. In Aberdeen, it is distributed among a large number of organisations. However, there are issues around the funding because there have been very few increases over the past six years. The announcement of some additional funding for next year is obviously welcome, but I think that there was only one increase over the previous five years. This year, the level of funding has been

static. There would be concerns about ring fencing if the level of funding ended up static for a number of years. If growth in the sector required more funding to meet it, where would the money come from? Local authorities would, in that case, be left with a decision to increase the funding by drawing on resources elsewhere.

16:45

**John Young:** Mention has been made of the fact that Aberdeen has 26 mental health officers.

**Fiona Palin:** That is right.

**John Young:** Aberdeen City Council's written submission says that

"when social workers do not receive further remuneration for undertaking this role"

there may be major problems. Is it possible to compare the figure of 26 with the position in the other three large cities? How many mental health support officers are there in Dundee, Edinburgh or Glasgow? It might not be easy to make such a comparison—and I purposely left out rural areas. Do you think that 26 is an adequate number of mental health officers for Aberdeen? I am sure that the answer is no. What number would be adequate for Aberdeen? I appreciate that that is like asking, "How long is a piece of string?" but I would like to hear your opinion. It will depend, of course, on the level of support that is required by various people.

**Fiona Palin:** The 26 officers work during the day; additional mental health officers work for an out-of-hours service. Given officers' extended role, particularly under the Adults with Incapacity (Scotland) Act 2000, their number is not adequate. We would probably benefit from having at least another five mental health officers.

**John Young:** So you need between 30 and 40 officers.

**Fiona Palin:** Yes. Two people are currently undergoing training, and should be coming on stream fairly soon. We hope to train a further batch of three people and that the correct number of staff will have attained their PQ1, which was referred to earlier. We also hope that we will be able to fund the number of trainees who are coming through.

**Iain Smith:** Do you share the concerns expressed by Fife Council that the duties under sections 20 to 27 are not sufficiently specific? If they are too wide, they will potentially place burdens on councils that they will be unable to meet.

**Fiona Palin:** Yes—those points have been well made. The bill's description of our duties is very wide. We have to prioritise services, so local

authorities are left in a difficult position if, because of a lack of resources, they are not able to provide a service for someone whose needs are not as great.

**Iain Smith:** Do you have any suggestions about how the bill could be tightened up so as to avoid that problem? Have you had a chance to consider drafting an amendment to that effect?

**Fiona Palin:** It is a difficult matter. Eligibility for services is normally determined on the basis of need, so the question arises whether some sort of hierarchy of need could be drawn up. That would be my suggestion.

**Iain Smith:** Your written submission mentions the problem of "unmet" needs that might need to be addressed. Do you mean unmet or unidentified? Are you referring to people in the community about whom you do not know?

**Fiona Palin:** There are always people about whom we do not know and there are unmet needs. As I said, we are not funding everyone whom we identified as needing a befriender; we are not able to meet the level of need for services such as befriending.

**Iain Smith:** Do you foresee any difficulties in operating the proposed duties in the bill where local authorities and health boards do not have coterminous boundaries—where the health board area boundary runs across several local authority areas—such as Fife has?

**Fiona Palin:** We deal with that issue daily. It has arisen in the context of the Adults with Incapacity (Scotland) Act 2000 and for our multidisciplinary mental health teams covering general practices. I do not know whether the bill would increase those difficulties, because we have worked out systems for dealing with cases in which there are overlaps.

**The Convener:** I do not think that there are any more questions. You have the distinction of having come to the committee for us to tell you that funds should be ring fenced, although we seem to spend our lives trying to do the opposite. Thank you for coming. I apologise for your having had to wait so long. If we need to get in touch with you again, we will do so.

Okay, comrades. We have reached the last part of this rather long meeting. I welcome Mary Mulligan, the Deputy Minister for Health and Community Care; Jim Brown, the head of the public health division at the Scottish Executive; Colin McKay, Scottish Executive team leader on the Mental Health (Scotland) Bill; and Ian Turner, the Scottish Executive policy officer for the Mental Health (Scotland) Bill. I declare an interest in that I knew Colin in my former employment. I am sure that Mary Mulligan has attended many committee meetings—she will know the drill. I hand over to

the minister before I open the debate for questions.

**The Deputy Minister for Health and Community Care (Mrs Mary Mulligan):** Thank you. I am aware that the meeting has been long, so I will keep my opening comments brief. We are here to discuss the Mental Health (Scotland) Bill. The Executive's aim is to improve the way in which we deliver mental health services throughout the country. That will be facilitated through several agencies. The committee's specific interest will be local authority provision, and I am more than happy to answer any questions.

**The Convener:** Could you outline for the committee what you consider to be the principal aims of the bill and how the bill will improve mental health services in Scotland?

**Mrs Mulligan:** The main aim of the bill is to bring into statute the recommendations of the Millan report. We want improved day care and improved aftercare services. We want to ensure that support for people who have mental health problems is available not only in hospitals, but in the community. We want to ensure that the staff who provide services—particularly mental health officers—are fully resourced and trained, and that they are given the support that they need. We want to ensure that those who suffer from mental illness are able to have a major say in the decisions that are made about their treatment. They will be given the support that they need to do that through development of advocacy services. We have picked up various recommendations of the Millan report that we believe will bring about improvement in mental health services.

**The Convener:** What do you regard as being the main difficulties that affect the provision of mental health services in Scotland?

**Mrs Mulligan:** There is confusion about who is responsible for providing mental health services and there is a perception that professionals do not always involve the individuals concerned as much as they could. People feel that they do not have the control over their lives that they should have, so the bill seeks to co-ordinate the different aspects of the service to ensure that everyone knows what they are responsible for and how to deliver the service coherently. We want individuals to feel that they are a part of the service that they receive.

**Iain Smith:** A key aspect of the bill is the provision of an independent advocacy service. In the Executive document "Independent Advocacy: A Guide for Commissioners", which was published in 2001, you state:

"A clear conflict of interest arises from having funding from any source that might be challenged by the organisation or advocates or the people they support".

The bill proposes that the principal sources of funding for independent advocacy will be health boards and local authorities, which are the bodies that advocates will challenge. Is not there a contradiction?

**Mrs Mulligan:** I do not think so. The advocacy organisations to which we spoke when drafting the bill made it clear that there is always a funder. Those organisations are used to managing professionally the possibility that their funder might be a body that they have to challenge; they are not unhappy with that situation. Obviously, we want clear guidelines to be set out that will ensure that advocacy services do not encounter interference when providing support to individuals. I believe that that can be delivered.

**Iain Smith:** Is there an argument for setting up a separate stream of funding, directed by the Scottish Executive or by an agency on behalf of the Scottish Executive? It would then be clear that there was no conflict of interests between the advocacy service and the funding bodies.

**Mrs Mulligan:** So far, it has not been suggested to us that such a step is necessary. People will be keen to put in place strict frameworks to ensure that there is no interference in provision of advocacy services. We expect advocacy agents to deliver an independent service—their role is to provide independent advocacy to individuals. My colleagues who took part in discussions with advocacy groups may want to comment further on that issue.

**Jim Brown (Scottish Executive Health Department):** The Executive would not want to be too prescriptive because we want to allow the development of appropriate models in the field. The bill's proposal that there be a general duty placed on local authorities and health boards to deliver that service is conducive to that objective.

**Colin McKay (Scottish Executive Health Department):** The bill is intended to build on the non-statutory development of advocacy. As members will know, the Executive has funded the Advocacy Safeguards Agency as an independent body designed to safeguard the independence of, and standards in, advocacy provision. The agency will act to support advocacy services and commissioners of advocacy services.

Commissioners of advocacy services are represented on the mental health legislation reference group, which has acted as a consultative body on the bill. That group has given its input to discussions on the bill. Although it has made one or two comments on the drafting of particular aspects of advocacy duties, it certainly has not intimated to us any difficulty with the general structure of advocacy being funded by local authorities and the NHS. Commissioners of

advocacy services have been clear about the need for the contracting process and the commissioning process to guarantee independence in contracts, but they have not mentioned any difficulty with the way in which that is set out in the bill.

**Iain Smith:** The financial memorandum provides £1.5 million per annum to support advocacy services. Is that additional to the moneys that are already in the system for supporting advocacy services, such as those that are provided through the NHS plan?

17:00

**Mrs Mulligan:** Yes—the moneys will be additional. We expect expenditure on advocacy to be £3.7 million this year. The £3 million that has been identified is additional.

**Iain Smith:** How was that figure arrived at? Whom did the Executive consult? How was it decided that that was an adequate sum?

**Mrs Mulligan:** The group that has been considering the development of the bill examined the advocacy that is provided at the moment. We are not starting a completely new service; we want to build on the good practice that exists. We need to look at how that good practice can be developed while recognising that everything will not be turned on immediately when the bill is enacted and that services will need to be developed incrementally. Over the next three years, we will build up the advocacy service and develop the provision that is already available. That is the way in which the moneys that are identified within the financial memorandum will address the development of the service.

**Iain Smith:** I have a final question on advocacy. At the moment, there is uneven provision of advocacy services throughout Scotland—some areas are better than others. It is obvious that there will be particular difficulties in providing adequate services in rural areas, so how does the Executive propose to improve on the existing advocacy service to ensure that there is an adequate service wherever people live in Scotland?

**Mrs Mulligan:** As I said, we recognise that there is some provision of advocacy at the moment but, as Iain Smith mentioned, that provision is not available throughout Scotland, nor is it at a level that would meet the requirements of the bill. Therefore, we need to develop that.

As Colin McKay said, the health department is funding the establishment of the Advocacy Safeguards Agency, which will promote and develop independent advocacy. The agency is already up and running and will work with other

statutory agencies to ensure that, through examples of good practice, they are able to develop facilities in their areas. The department is also funding the Scottish Independent Advocacy Alliance, which will provide a support network to allow advocacy projects to share information and ensure that advocacy provision is developed.

We are looking to ensure that advocacy is supported throughout the country. Where the service already exists, we want to improve it and where it does not, we want to ensure that it is developed.

**John Young:** In recent years, several pieces of legislation have placed additional duties on local authorities in relation to mental health services. Is there a danger that the bill will simply place additional burdens on an already overstretched service that is provided by local authorities? I am playing devil's advocate in asking that question.

**Mrs Mulligan:** We are aware that enactment of the bill will result in additional burdens for local authorities. The financial memorandum is designed to address those additional burdens. However, we are also aware that, over the past two to three years, local authorities and NHS boards throughout Scotland have received substantial increases in resources. The projections for the next three years also show increases in resources.

Local authorities should be able to address the demands that are placed upon them to fulfil the requirements of the bill, and ensure that they provide the mental health services that people in their communities demand. The resources are in place and local authorities and health boards have every opportunity to take decisions, in line with local influences, about how they will provide mental health services.

**John Young:** In a submission from a witness who gave evidence earlier it was suggested that social workers do not receive additional remuneration when they act as mental health officers. I assume that social workers would act as MHOs only if they had appropriate training and qualifications. Do you know whether additional remuneration will be made available?

**Mrs Mulligan:** I understand that in some areas that may be the case. However, local authorities have the power to reward those who take on additional responsibilities. I have to say that, as that point was put to me only today, I am still checking it. My colleagues may want to respond, but the decision comes down to local authorities.

**John Young:** The situation can be variable. Thank you.

**Colin McKay:** I would have to check the statutory position. It is certainly the case that

people are not paid extra for acting as mental health officers. However, one of the issues that is being considered as part of the review of mental health officers is whether other incentives should be made available that would make it worthwhile for people to train as mental health officers or to take on that role for reasons of professional development or personal satisfaction. The issue is not only about remuneration.

**Dr Jackson:** I want to ask about finances. One of the duties that is to be placed on local authorities is the promotion of well-being and social development for people who have mental health problems. It could be argued that that provision is very broad—in saying that I am looking at Colin McKay, who drafted the provision. One would think that the financial implications of that provision could be enormous. I would like to hear ideas on that issue.

The minister also mentioned the year-on-year increases in finance. The Local Government Committee is interested principally in local authority finance; research by the Accounts Commission for Scotland has shown that variation in spending on mental health through social work budgets reflects local authority priorities rather than need.

I think that you said that you would undertake research after the bill was introduced to examine implementation. Will need be examined as part of that research? Should mental health funding be ring fenced? If not, do you envisage that the funding will be given out in such a way that it can be targeted, or does that not need to happen?

**Mrs Mulligan:** I will answer the last point before I hand over to my colleague who will reply on the original point. Ring fencing is often raised in respect of the moneys that are made available to local authorities for specific duties. It is also discussed in respect of the moneys that are made available to health boards.

Local authorities will be placed under a duty to deliver on the provisions of the bill as enacted and it is up to them to make decisions on spending their resources in the light of local circumstances. Therefore, we will not seek to ring fence moneys that are made available to local authorities through GAE. However, as Dr Jackson mentioned, we are instigating further research that will follow the introduction of the bill. We want to consider what will be the impact on local authority areas in the light of the resources that are available and the decisions that local authorities have to make.

**Dr Jackson:** Are you considering increasing the specific grant?

**Mrs Mulligan:** The MISG has been increased by £1 million this year and it will be increased to £20 million next year. The reasoning is that we

recognise the benefits of a specific direct grant that is ring fenced. Local authorities are spending additional amounts of their own money—money that is not ring fenced—on mental health. The benefit of not ring fencing everything is that it offers the best of both worlds. Although we will continue to offer the MISG to local authorities, we do not intend to ring fence other moneys in relation to the bill.

**Colin McKay:** Sylvia Jackson asked about the research that was likely to be undertaken in relation to the bill. A manager has been appointed to establish a research programme for the bill. The financial memorandum identifies £250,000 a year to run a research programme for a five-year period. We have not been too specific about what that research should involve. We will consult on that and the shape of the research will develop as the implementation process develops.

A research element was included in the system because it is good practice to conduct research on the introduction of a major piece of legislation and because the Millan committee identified a dearth of proper statistical information and research on mental health law. We have some difficulties in knowing exactly what is going on with many services. The report to which the member alluded said that it is sometimes difficult even to get basic management information about how much services cost.

The research programme is intended to evaluate how well the bill works and to identify whether it does all the things that we hope it will do. Much of that work might concern the detailed statutory processes rather than general issues of local authority services. Other sources of information exist. The NHS information and statistics division has instituted a mental health information project, which seeks to obtain much better baseline information on many mental health service issues. Work on financial accountability is taking place. A variety of programmes are in train, which should give us a better picture of how well the bill works and how well the local authority services operate. The precise detail of the research has still to be worked out.

**Dr Jackson:** Have you had discussions on the bill with COSLA or with individual local authorities? If so, have the bodies to which you have spoken mentioned the phrase

“to promote the well-being and social development”

of people, which the services that local authorities will have to provide should be designed to do? Local authorities will feel responsible for delivering such services. Their ability to deliver them will depend on resources. Have you received any feedback on that issue?

**Colin McKay:** We have not received any great criticism of the phrasing of the bill. There is a mental health legislation reference group, which involves a variety of stakeholders. COSLA and the Association of Directors of Social Work are represented on that group. Although we have probably had more direct discussions with the ADSW than we have had with COSLA, they are both involved in our consultative networks.

The general feedback has been that the approach in sections 20 and 21 has been supported as being consistent with the general duties on local authorities to promote social welfare that are set out in the Social Work (Scotland) Act 1968. The requirement to which you refer has been viewed as an extrapolation of those general duties for people with mental disorders.

The phrasing of sections 20 and 21 was also influenced by "A Framework for Mental Health Services in Scotland", which was published in 1997. It is meant to build on that framework of what one would expect to see in terms of the community services for people with mental health problems and the clinical standards for people with schizophrenia that have been identified by the Clinical Standards Board for Scotland. The general approach is that the sections do not come out of nowhere and do not put totally new burdens on local authorities. Rather, they update and modernise existing duties and responsibilities in a way that tries to allow some flexibility in how the work is done locally.

17:15

**Dr Jackson:** I have just one more question. I know that it is difficult in my area to deliver a 24-hour crisis service, for example. You have said that the phrase already exists, but will you not be raising expectations? Such services do not happen at the moment, so how will we ensure that we can provide them in the future?

**Mrs Mulligan:** We want to raise expectations. We want people to demand a better service and are willing to support that demand, financially and in other ways. We want to see the improvement so that we can respond to people who need such services 24 hours a day, seven days a week. The point of introducing the bill and putting such phrases into statute is to ensure that people recognise their importance and that they must fulfil the demand.

**Iain Smith:** I want to follow up on the duties that are imposed on local authorities. Fife Council, supported to some extent by Aberdeen City Council, was concerned that the duties in sections 20 to 27 are too open-ended and without any clarification. It seems that anyone who has or has had a mental disorder or illness may be able to

demand open-ended services. There is no counterbalance of needs and resources, so will you examine the drafting to ensure that it clearly provides for such a counterbalance?

Fife Council and Aberdeen City Council were both concerned that, together with the duties imposed on local authorities, there should be a matching responsibility on health authorities to provide services and co-operate with local authorities. Fife Council also expressed a concern in its written evidence that some of the duties imposed in the bill, particularly on compulsory measures of care, might detract from its current investment in preventive work. If it becomes so involved in the compulsory duties, it may not be able to do preventive work. The advocacy service expressed a similar concern, so will you examine those points?

**Mrs Mulligan:** On the open-ended nature of certain sections, we would be willing to examine suggestions about how we could make those sections clearer. However, the wording is deliberate so that it allows the flexibility that we want in the system. We have to strike a balance, but we would examine any suggestions.

You asked about the duties on local authorities and joint working with health authorities. Local authorities have always been given duties, while health authorities represent the Executive through the health service, so the same duties have not been placed on them. However, through the joint future agenda, we are saying that we want to see a sharing of responsibilities and joint working on the provision of services to the individual. We want to see that developed further, and there is no question of us placing a duty on one but not the other and thinking that that is how to deliver a service. We want to see a joint approach, which is about delivering a service to an individual rather than questioning who is delivering it.

On the final point about the emphasis on compulsory work rather than preventive and support work, it will obviously be up to local teams to develop their own responses according to their local situations. The way in which that develops will have to be relatively flexible to respond to those situations. That is why we want the bill to be phrased as flexibly as possible. We must be able to offer that service according to the needs of the individual rather than according to the response of the service.

**The Convener:** We heard evidence from Aberdeen City Council and from Fife Council, particularly about advocacy. They seem to be concerned not so much about the amount of money that they get as about the way in which they get it. It sounded to me as though they were going through the whole hassle of having to apply for funding again every year, although I thought

that we had already done something about that. Is there a reason why the MISG is not allocated on a three-year funding basis, so that councils know what they are going to get? They seem to be saying that it is not, and that is where some of their money comes from.

It takes six months to train someone as a mental health officer, although obviously they have another qualification to start with. However, there seems to be another qualification—I think that it is called a PQ1—that people need before they are allowed to train as a mental health officer. Fife Council witnesses said that they had 10 people who were willing to train as mental health officers, who will be needed once the bill is enacted, but that those people could not do the training because they did not have that qualification. My memory of such matters is that qualified social workers could, if they wished, undertake training as mental health officers. I think that the existing qualifications that those people hold are in social work, rather than the PQ1, although I may be wrong about that. You may not be able to explain the situation now, but perhaps you could look into that. It appears to be a stumbling block to allowing people to undertake further training.

There was also a suggestion that we could follow up what happens with the legislation. As a Parliament, we tend to implement legislation and then let it float away. I am not saying that we should have a House of Lords to check on what the Parliament is doing—that is not the way forward here—but in two or three years' time, we should perhaps have a report on the local trends that people are picking up. That could be fed back to the Executive and we could perhaps have a miscellaneous provisions bill at that stage.

You may not be able to answer all those points right now, but they are issues that have arisen today that the committee would like you to examine so that the bill can be amended as appropriate.

**Mrs Mulligan:** I happened to be passing through the office when the question on annuality for the mental illness specific grant was being asked, and I realised that that is perhaps an anomaly. In other areas, we are tending to move towards longer-term awards, or at least longer-term indications. I am more than happy to consider the practicalities of making such a move on the MISG. I recognise that annual allocations can prove difficult, particularly for voluntary sector groups that await their award each year, so that is something that we must examine.

On training for MHOs, as I said to John Young in response to his question on development, I would have to examine the specifics, particularly in relation to the PQ1, which I had not really heard of before.

**The Convener:** Neither had I.

**Mrs Mulligan:** I am in good company.

We must examine how we develop social workers to enable them to take on the role of mental health officers, recognising the added value that they have. Work is going on at the moment to study the responsibilities of MHOs and how that work is shared. Some qualified MHOs are not performing MHO duties as part of their job, so we are losing the benefit of some people who are already trained, while others are doing that work as part of their job. We need a fuller picture of where those people are, what role they are fulfilling at the moment and whether, with some restructuring, we could deliver a better service to give us the people that we need.

As Colin McKay said, we have not determined the remit for the research that will progress after the bill. However, we recognise the need for a continual review of legislation from the centre to see how it pans out in practice. We must be able to adjust accordingly so that we deliver the service that we intend to deliver and so that the bill has the effect that it is meant to have for those who are involved.

**The Convener:** Thank you very much.

17:25

*Meeting continued in private until 17:29.*



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