

AUDIT COMMITTEE

Tuesday 2 October 2001
(*Afternoon*)

Session 1

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AUDIT COMMITTEE

14th Meeting 2001, Session 1

CONVENER

*Mr Andrew Welsh (Angus) (SNP)

DEPUTY CONVENER

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

COMMITTEE MEMBERS

*Scott Barrie (Dunfermline West) (Lab)

Margaret Jamieson (Kilmarnock and Loudoun) (Lab)

*Paul Martin (Glasgow Springburn) (Lab)

*Mr Lloyd Quinan (West of Scotland) (SNP)

*Mr Keith Raffan (Mid Scotland and Fife) (LD)

*attended

THE FOLLOWING ALSO ATTENDED:

Mrs Margaret Ewing (Moray) (SNP)

Dr Winnie Ewing (Highlands and Islands) (SNP)

Caroline Gardner (Audit Scotland)

Barbara Hurst (Audit Scotland)

WITNESSES

Mr Eddie Frizzell (Scottish Executive Enterprise and Lifelong Learning Department)

Dr Jim Logan (Moray College)

Professor John Sizer (Scottish Further Education Funding Council)

CLERK TO THE COMMITTEE

David McGill

SENIOR ASSISTANT CLERK

Anne Peat

ASSISTANT CLERK

Seán Wixted

LOCATION

The Chamber

Scottish Parliament

Audit Committee

Tuesday 2 October 2001

(Afternoon)

[THE CONVENER *opened the meeting in private at 13:33*]

14:00

Meeting continued in public.

The Convener (Mr Andrew Welsh): I call the meeting to order and welcome everybody to this meeting of the Audit Committee. I will make my usual announcement about mobile phones and pagers—switch them off. The committee gets very annoyed if such modern implements disturb our proceedings.

I have an apology from Margaret Jamieson. Are there any other apologies for today's meeting? There are none. I believe that Margaret Ewing MSP hopes to be here later. She will be welcome if she attends.

Item in Private

The Convener: I seek the committee's approval to take agenda item 6, which is further consideration of the Moray College inquiry, in private. Is that agreed?

Members *indicated agreement.*

“Mind the gap: Management information for outpatient services”

The Convener: Agenda item 3 is “Mind the gap: Management information for outpatient services”. Committee members should have a copy of that report by the Auditor General for Scotland. I understand that the director of performance audit, Barbara Hurst, will brief the committee today. I invite Ms Hurst to comment on the contents of the report.

Barbara Hurst (Audit Scotland): Good afternoon, and thank you for that introduction, convener. I will give a brief summary of the report, because I know that you have a fairly full agenda today.

We examined the management information that is available on out-patients because it is such an important service in the national health service. We are talking about nearly 5 million attendances and just less than £300 million of expenditure: it is an important service. We looked at nationally available management information, particularly that on waiting times, attendance rates and the cost-effective use of resources. We found that a lot of information is available nationally, but there are significant gaps. We have no national information on out-patient clinics that are held by staff such as physiotherapists. We also have limited patient-specific information, for example on race and ethnicity. If we are serious about equity in access, we must examine that at a national level.

I will address the three themes of national information that I mentioned. First, there has been a steady rise in waiting times over the past couple of years. For instance, 11 per cent of people who were referred for a first out-patient appointment in the quarter ending December 1998 had to wait more than 18 weeks. By the time we got to December 2000, that figure had risen to 15 per cent, so there is a gradual climb upwards.

Secondly, people failing to turn up to out-patient appointments is a significant issue for the health service. Around one in five people do not attend their appointments at the main surgical and medical clinics, which we estimate costs the health service in the region of £10 million per year. That may not all be the patients' fault, so we want to do further work on why people do not attend out-patient appointments.

Finally, on cost effectiveness, we would expect to see some cost variations between specialties, but we found significant variations within specialties. If we take ear, nose and throat out-

patient clinics, for example, the cost ranges from £34 to £60 per attendance, depending on the hospital clinic that is attended. We are not sure whether that is due to variation in accounting practices, the case mix, or inefficiently run clinics, so we want to examine it in more detail.

The future work that we want to do on the back of the first baseline report will involve issuing trusts with a self-assessment handbook to evaluate the effectiveness of the running of their clinics. We will validate and audit their action plans to ensure that they are robust.

We will collect information locally because we think that it is important to get information for benchmarking, to improve the performance of clinics. That is pretty weak at the moment. In April, we will run a census of out-patient clinics in which we will collect information about patients' experiences of clinics and about the clinical management processes—whether the case notes and test results are present for patients. We will bring that work back to the committee probably late next year.

Mr Keith Raffan (Mid Scotland and Fife) (LD):

Did you discover a big variation in performance between one health board and another?

Barbara Hurst: We did at a hospital level. There is significant variation because of the marrying-up of hospitals or trusts with health boards. We want to understand why there is such variation.

Mr David Davidson (North-East Scotland)

(Con): There is a new model of roll-out, which is mentioned in your report: taking the consultants out to the patients, particularly in rural areas. That means that some clinics are being run in cottage hospitals. They do not have a critical mass for cost effectiveness. Will that be picked up in any of your work?

Barbara Hurst: Yes. We want to examine different models of clinic appointments, which is why we want to get at the patient experience. That is clearly a factor that we want to balance against the cost of the service. We will consider different models. We will consider the model of clinics where patients can turn up and get their tests done at the time. It would be interesting to follow that model through.

Mr Davidson: What I described happens mostly in rural areas. Will you be able to factor in some evidence for rurality and inconvenience of travel and inaccessibility?

Barbara Hurst: We will try to do that.

The Convener: I note what you said about information gaps in certain areas and about the financial importance of the study that you are conducting. You have told us about on-going work and information gathering.

It would not be suitable for the committee to take evidence on the report at the moment, given that it is a baseline report. I note that the follow-up report will be published in the near future. At that point the committee will have the opportunity to hear more detail and decide whether to call for evidence. Do members agree with that?

Members indicated agreement.

Audit Scotland (Work Programme)

The Convener: Item 4 is on the long-term work programme. Members should have a copy of it before them. The deputy auditor general for Scotland, Caroline Gardner, is with us today. I invite her to outline the contents of the programme to the committee.

Caroline Gardner (Deputy Auditor General for Scotland): This is the first time that the committee has seen our proposals for a future work programme. Until now, the work that members have seen has been the result of issues such as the national health service in Tayside, or Moray College, or of work that was started under the previous audit arrangement of the Accounts Commission for Scotland and the National Audit Office—before the Auditor General's post was established and Audit Scotland was set up to provide services to him.

The future work programme will be annual from now on. That will provide a chance for the committee to give us its views on what it thinks is a priority for us to consider and a chance for us to give the committee a picture of how our work hangs together across the programme rather than just report by report.

The work programme contains proposals for the planned performance audit work that we intend to carry out between now and December 2002. That work has two purposes: to provide assurance on how well public bodies are performing and to act as a catalyst for improvement where there is room for that.

The programme includes studies that are for both the Auditor General and the Accounts Commission for Scotland and it contains a number of deliberately identified studies. It capitalises on the ability of both to look jointly across the public sector at policy areas and services that involve local government, the health service and a range of other bodies, to give independent evidence on how well performance is going. For the first time, we are capitalising on the fact that Audit Scotland, on behalf of the Auditor General, and the Accounts Commission for Scotland cover most of the public services and they are not being restricted by traditional boundaries.

It is important to note that the programme does not include either the audit review work that comes out of issues that need to be investigated in the short term, such as the situation relating to the NHS in Tayside or the Moray College work that you are considering today, or the overview reports that you will be getting on a routine basis, which pull together the important messages coming out

of the audits of health service bodies or further education colleges. You will get those in addition to this planned programme of forward work.

The programme is based on a couple of key sources of information. The first is the consultation exercise that you may have been aware of over the summer. We wrote to most of our stakeholders in the Scottish public sector, asking for their views on what it was important for us to examine. We also have a range of criteria, which have been agreed by the Auditor General and the Accounts Commission, that cover obvious elements such as the amount of money that is spent on a particular service, the impact that that has on citizens and service users and the evidence that there is room for improvement, either because there is variability between bodies or because of comparisons with other countries.

We have deliberately included in the programme a balance between starting new work in new areas and ensuring that we are protecting time to follow things such as the out-patients work that you have heard about today and other studies that you have seen in the past 18 months. We have also tried to build in a balance between studies that examine the effectiveness of big areas such as special educational needs or youth justice and studies that are more focused on management efficiency improvements such as those relating to hospital catering, the improvement of which is important to patients but which is not as complex or wide-ranging an issue as, for example, youth justice.

We are committed to determining whether there are equality issues that we should be picking up on in each study at the stage at which we are scoping them and agreeing the project specification. Such issues might be to do with obvious areas such as ethnicity, gender and disability but they might also be to do with limited access to services due to rurality or income.

The proposals are on the second page of the sheet that you have before you and fall into two main groups. The first couple of columns of on-going work and follow-up work list items that the committee has already seen or inherited when the audit arrangements came into place. We are committed to further consideration of out-patient services, waste management, medical equipment and so on. The final two columns detail the projects that we are proposing to start work on in the near future and a few areas on which we might do some more scoping work to ensure that we are clear about what the issues are and what the benefits would be of investing our resources in them.

At this stage, we would welcome your comments on whether our suggestions are in touch with the committee's priorities. We will report back to you with a more detailed programme once the Auditor

General and the Accounts Commission have agreed their proposals and we have done some more resource planning.

Scott Barrie (Dunfermline West) (Lab): How did you decide on the new projects and the areas on which further scoping is required? Did you use the feedback that you got from the stakeholders or were they suggested by Audit Scotland?

Caroline Gardner: There is a balance. We consulted our stakeholders because we are keen to know what people who work in the services and set policy think. We also asked organisations such as the Scottish Consumer Council for their views. However, that is not the only basis on which we made our decisions: issues such as early retirement will not have been given a high rating by people working in councils but it is an area that we believe it important to consider.

We also took account of the criteria that we have set, which relate to how much is spent in an area and what impact that has on service users. We try to balance all of that with the view of the Auditor General and the Accounts Commission to arrive at a programme that we can deliver with the resources that we have.

Mr Raffan: Special educational needs can be seen as a cross-border issue as, since the change in local authority structures, a number of local authorities collaborate on the issue. In my part of Scotland, there is considerable concern about the variation in special educational needs provision. As well as the cross-border issues, there are cross-cutting issues. I do not expect to see that in the paper before us, of course. Numerous items that might be included are not in the paper—drug misuse, for example, on which the Scottish Executive has made significant announcements of additional money in the past year. There is concern about how that money is to be spent and how an equality of service can be delivered throughout the country. Those are the kinds of cross-cutting issues—which is the trendy term of the moment—and cross-border issues that you are focusing on.

Caroline Gardner: Absolutely. For the first time there is an audit body that is able to look across councils, the health service, the Scottish Executive and its agencies. We have tried to consider the areas that were not easy to get at before, because they often account for a lot of money and have a substantial impact on the people who are affected by their services. We are keen to build into the approach to each study a demonstration of variation between areas, because that often suggests where there is room for improvement. People who are not doing as well may have good reasons for their poorer performance, but they may have room to raise their game and reach the level that is being achieved by the best. We would

always build in that cross-boundary comparison, as well as cross-cutting in a single area.

14:15

Mr Lloyd Quinan (West of Scotland) (SNP): I have a question about the new projects, particularly those that are joint studies. I have an interest in special educational needs. With whom will that study be jointly carried out?

Caroline Gardner: I should have made that clear. We are proposing that the joint studies be done by Audit Scotland for both the Auditor General and the Accounts Commission. The Accounts Commission still has responsibility for the audit of local authorities. By making them joint agreed studies, we can consider the local authority role alongside what is happening with health services, psychology provision, for example, and any other local partners. The same applies to the report on youth justice. We can include the council dimension, rather than have to consider the policy or the Scottish Court Service exclusively.

Mr Quinan: Was that informed by submissions that you received, perhaps from the voluntary sector, in response to your consultation document?

Caroline Gardner: We had some response from those groups, who suggested that it would be a worthwhile study, but we were particularly interested in the presumption for mainstreaming in special educational needs. It may well be possible to provide a good quality of service to those children in mainstream schools, but it certainly needs careful planning and perhaps additional resources. We are interested in how that is being balanced to ensure that children's needs are being met in mainstream schooling.

Mr Quinan: I am happy to hear that that is the basis from which you are considering the issue. Much as mainstreaming is a laudable desire in certain areas, the implications in other areas, where mainstreaming is simply not applicable in terms of cost, for example, would be interesting to know.

The Convener: The committee has had a trailer of forthcoming attractions. I thank Audit Scotland for a comprehensive and detailed report, covering a range of topics from the NHS to education, housing and the environment, in addition to specific topics yet to come. On behalf of the Parliament and the people, we wish you well in your work.

Moray College

The Convener: I welcome the witnesses: Dr Jim Logan, the principal of Moray College; Professor John Sizer, the chief executive of the Scottish Further Education Funding Council and Mr Eddie Frizzell, head of the Scottish Executive enterprise and lifelong learning department. I also welcome Margaret Ewing MSP.

Will the witnesses confirm that the facts in the report have already been agreed?

Witnesses indicated agreement.

The Convener: We will ask questions in three main areas: the financial governance arrangements at Moray College, the apparently deteriorating financial position at Moray College during the period of the report and the roles of the Scottish Further Education Funding Council and the Scottish Executive enterprise and lifelong learning department in relation to the difficulties encountered at Moray College.

I ask Mr Frizzell to outline the relationship between his department, SFEFC and individual further education colleges. Paragraphs 2.1 to 2.12 of the Auditor General's report describe the respective roles and responsibilities in the FE sector. Can you explain the lines of accountability that have operated in recent years between the department, SFEFC and individual colleges?

Mr Eddie Frizzell (Scottish Executive Enterprise and Lifelong Learning Department): The report sets that out very well. In a nutshell, the department is responsible for setting up the funding council. Ministers make appointments to the council and the council is constituted according to ministers' decisions. We fund the council and expect the council to abide by the financial memorandum that we issue to it.

We also issue a management statement that sets out the relationship between the department and the funding council. In turn, the funding council funds the colleges. The department does not have a direct locus in funding individual colleges; that is a matter for the council, which meets every so often to make decisions. The relationship between the department and the colleges is therefore at one remove, with the funding council in between.

The Convener: What do you consider to be the strengths and weaknesses of the arrangements? For example, are they adequate if the department or SFEFC has serious concerns about management or performance issues in a college?

Mr Frizzell: The Government has taken the view that there is a strength in involving a body directly between the department and the colleges, which

can bring together the expertise that is necessary to provide appropriate funding to discharge the Government's responsibility to ensure that adequate further education is provided. The benefit of that is that responsibility for decisions about funding do not lie directly with the department and politicians; there is a body between them and the colleges that can make a non-political assessment of matters.

The Convener: Does either of our other witnesses wish to comment on roles and responsibilities?

Professor John Sizer (Scottish Further Education Funding Council): I would be happy to answer any questions that members have. Mr Frizzell has explained clearly that our body lies between the Executive and the institutions. The funding council operates within the limits of a financial memorandum from the Scottish Executive, against which it monitors our performance. Similarly, I issue a financial memorandum to the management boards of the colleges and provide them with guidance, against which I monitor their activities.

The Convener: Dr Logan, do you wish to add anything?

Dr Jim Logan (Moray College): No, I am happy with that response.

The Convener: You have all entered the situation during its most recent stages. As well as considering the immediate past, I would like to think about the future. What assurances can you give that lessons have been learned and that past mistakes and bad practice have ended?

Mr Frizzell: The assurances that I can give are based on the action that has been taken and the fact that there has been close consultation between the department and the funding council on the follow-up. Several recommendations have been made in the different reports on the issue, which are either being implemented or—in the vast majority of cases—have been implemented. We expect and believe that, following implementation of those recommendations, similar situations should be prevented from arising.

I cannot guarantee that people in positions of trust will not sometimes do something unacceptable. What is important is the fact that we have systems in place that make it as difficult as possible for something to go wrong and which make it relatively straightforward to intervene and deal with a situation.

The Convener: Can the other witnesses give us guarantees? How can we ensure that past bad practices will not be repeated?

Professor Sizer: As I retire at the end of the year, it would be easy for me to give you a

guarantee, but I shall not do that. No one can guarantee that there will be no examples of the misuse of public funds or weaknesses in governance and management. There would be no work for the National Audit Office, or the Auditor General in Scotland, if such guarantees were given and were watertight.

I can only repeat what Mr Frizzell has said: we are learning all the time. I am also the accountable officer for the Scottish Higher Education Funding Council, which position I have held for nine years. I diligently analysed reports that came from the National Audit Office and ensured that the lessons of those reports were made known to institutions in the higher education sector before the Scottish Further Education Funding Council was established. I now do that for both councils, and I report regularly to their audit committees the findings of all the investigations. We are continually learning from our experience and passing it on. We have monitoring procedures in place, but the boards of management of the colleges are the first line of public accountability.

The Convener: So you are both saying that at central Government level and funding council level, the mechanisms that are in place cannot stop such bad practice.

Professor Sizer: I did not say that. You asked whether I could guarantee—

The Convener: But what you are saying is that the mechanisms cannot stop such bad practice taking place.

Professor Sizer: No. As you know, there are always examples of misuse of public money. We cannot guarantee that people will not be deliberately malicious and wish to misuse public money. The important thing is to create a framework in which it is difficult for that to happen and, if it does happen, to learn lessons from it. Those lessons can then be permeated throughout the sector so that, in my case, every governing body—whether it be in a higher education institution or a further education institution—learns from them. I would regularly issue reports from, say, the Auditor General and, previously, from the National Audit Office, and I would ask the governing body of the institution and its audit committee to analyse their practices against that report, draw up an action plan and ensure that that action plan has been implemented effectively.

We also have an internal audit and the external audit undertaken by the Auditor General, and my own people undertake reviews of internal control systems. We have all the pieces in place. The assurance I can give you is that, in the nine years I have been here, I have done one major investigation in Glasgow Caledonian University and I inherited the investigation in Moray College. I

have no other on-going investigations. That is two examples in nine years. We have to get that down to no examples in nine years.

The Convener: So you are saying that you cannot give a guarantee but that you can give us an assurance that the mechanism will stop those kinds of practices. Is the machinery you have at central level adequate—yes or no?

Professor Sizer: I am sorry that I am not giving you a direct answer. As the Auditor General's report—

The Convener: I would just like to know the actual situation. You have had some time now to act on the problem at Moray College and you have introduced some reforms. Are those reforms adequate? Can you assure us that the bad practices that took place could not happen again under your monitoring system?

Professor Sizer: The Auditor General's report recommends that the Scottish Executive undertake a review of the governance and management arrangements, to review the powers that the funding council and ministers have. Clearly, that review has to be undertaken before I can give you a yes/no answer.

The Convener: If the present powers are not adequate, I presume that you would expect them to be expanded.

Professor Sizer: The recommendation in the report—that the Scottish Executive and Scottish ministers undertake a review—is appropriate. I agreed with the conclusion in the report; it is now for the Scottish ministers to decide whether they wish to undertake that review. The funding council and I would be happy to provide evidence to that.

The Convener: I get your drift, Professor Sizer.

The matter seems primarily to be the responsibility of the board of Moray College. What assurances can the board—as it exists now—give us?

Dr Logan: It is important to realise that in any system of governance, people who are avaricious and intent on feathering their nests will attempt to thwart the control mechanisms that are put in place. What is necessary—I think that this is what the committee wants to hear—is greater confidence in the ability of boards of management to supervise the management of the college. We have to draw on people from the local community who have an understanding of the dynamics of that community and who are committed to ensuring that public moneys are appropriately spent, with probity and propriety. Such people are a major force.

However, it is much more fundamental than that—it comes down to the individual. Every

individual member of college staff has a duty to ensure that they conduct themselves in a way that assures the public that there is propriety in the way Moray College spends the Government money that is given to us for further and higher education.

We produce financial regulations and procedures that are undoubtedly much tighter and firmer than those that existed previously. The scheme of delegation that has been brought in is robust. It clearly sets out the responsibilities of committees. The standing orders assure us that the conduct of those committees is open, testable and made public, and that staff can see what is being done in the college with public resources.

To ask me to give the committee a guarantee that what happened could never happen again—

The Convener: If you cannot give us a guarantee, can you give us an assurance?

Dr Logan: I give you an assurance that we will have a rigid system of audit, both internal and external, and a properly functioning audit committee that will bring such practices to light sooner rather than later. That is the best assurance that I can give.

14:30

The Convener: I am perturbed at the lack of assurance on mechanisms to prevent people from acting as they should not.

Mr Frizzell: We may be a little constipated in saying that we cannot give guarantees. It is always difficult to ask civil servants whether they can give guarantees.

The Convener: I am happy to accept assurances, so try them.

Mr Frizzell: There is a distinction between whether the procedures that are or should be in place under existing powers are adequate and the wider issue of the Government's powers. I assure you that we believe that we have done everything possible to ensure that the procedures that are in place are as watertight as they can be to prevent a recurrence of what happened at Moray College.

All I was saying was that there is human frailty—everyone is human and one cannot legislate for that. We have sought to put in procedures that are as watertight as possible. Considering what happened at Moray College—I came to the matter late—I believe that, if some of the procedures that are in place now had been in place then and had been observed, some of what happened would not have happened. The new procedures are as watertight as possible. The question of powers is another issue.

Mr Raffan: I want to zero in on an answer that

Professor Sizer and Dr Logan gave about boards of management. Professor Sizer said that boards of management are the first line of accountability and Dr Logan mentioned the importance and value of the boards being rooted in the community. Paragraphs 2.2 to 2.4 of the report set out how boards of management are appointed—existing members appoint the subsequent members, which is self-perpetuation and a bit like the way in which the Tory party used to elect its leaders or the way in which popes emerge from conclaves. Does that system ensure a high enough calibre of boards of management? As Professor Sizer said, those boards are the first line of accountability, so is there a way to tighten up the appointment process to ensure that the people on the boards are of sufficiently high calibre and that we do not have inefficient or incompetent boards that are self-perpetuating?

Professor Sizer: Is that question for me?

Mr Raffan: It is for you all to comment on, as you all mentioned the importance of boards of management.

Professor Sizer: The position on the appointment of boards of management is set out in legislation. The issue is to balance the autonomy of incorporated colleges with proper accountability. Boards of management have not taken it on themselves to appoint their members—that process is set out in the legislation. Nevertheless, it is important that a board has an appropriate mix of skills. Financial skills are an obvious need. It is helpful to have people with legal experience and experience of managing property and physical assets. It is also helpful to have people from the community who have an interest in various aspects of education. When I give guidance to chairs in discussions about the boards, I stress the importance of having a balanced team.

The committee should recognise that these events in Moray College started a long time ago, well before the Scottish Further Education Funding Council was established. If one considers the change in membership of the board over the past year or so and particularly since Dr Logan's arrival, one sees that the board has been considerably strengthened. That is not easy because, in drawing people from rural communities who will be unpaid and subject to increasing demands, one has to balance recognising the circumstances with making sure that those people understand and fulfil their role fully.

Moray College has learned that lesson and we are working with the Association of Scottish Colleges and the Scottish Further Education Unit to develop a more comprehensive guide to governance. I regularly talk to chairs of governing

bodies at the conference of the Association of Scottish Colleges or when I am invited to meet them in groups; at those events, I emphasise the importance of the chair's role. If you were to speak to them, you would find that many of them say that they now have a much clearer understanding of their role. They may be a bit frightened by it, but they certainly understand it.

The Convener: I make two pleas. First, I ask for shorter answers. Secondly, I remind members that we are about to consider this matter in more detail, so I ask them not to stray into areas that we shall consider more fully later.

Mr Quinan: I am surprised that Professor Sizer, Mr Frizzell and Dr Logan have referred to avaricious people, financial impropriety and such practices. I did not find that in your report, Dr Logan. That gives me the impression that there was something going on and that you know something that we might find out later in the day.

Mr Frizzell, when you were asked about the practices that have now been put in place, you said that you cannot give an assurance or guarantee that we will not have a repeat of the unfortunate problem at Moray College involving avaricious people, financial impropriety and such practices, because of human frailty. If we leave behind human frailty, which can intervene, as in other circumstances, how robust do you think the structures are? You said that they are as robust as they can be. Does the problem lie in having arm's-length structures?

Mr Frizzell: I do not think that the Auditor General has suggested that the problem lies in having arm's-length structures. I did not think that the report suggested that.

Mr Quinan: I was referring to Dr Logan's report.

Mr Frizzell: I do not think that one could draw that inference from what has happened in this case. It is possible to have arm's-length structures that work effectively in the interests of service delivery, but they need to be backed up with robust procedures. We have sought to make the procedures as robust as possible.

Mr Quinan: Within the confines of the structure that you have to operate in.

Mr Frizzell: Within the legislation.

The Convener: I welcome our colleague Dr Winnie Ewing MSP to the meeting and I ask Paul Martin to start the questioning on whether initial allegations of impropriety were brought to a satisfactory conclusion.

Paul Martin (Glasgow Springburn) (Lab): The allegations of misconduct at Moray College were first raised with the Scottish Office in an anonymous letter in May 1998. The report shows

that some of the results of the examination into the allegations were presented to the college's board. Dr Logan, can you give us any insight into the discussions that took place and into the way in which the board reacted to the issues that had been raised?

Dr Logan: I cannot give you a first-hand account but, from my analysis of what transpired, I would say that there were allegations against the former principal regarding the operation of his expenses. Concerns were raised about that. Shortly after he was suspended, he went on long-term sick leave; the matter was disposed of when he took early retirement on health grounds. I can say no more than that.

Paul Martin: Did the board consider referring the matter of the alleged fraudulent activity to the police?

Dr Logan: That was the first question that I asked myself: why was the matter not referred to the police? The board seemed confused about its real role. It seemed to be dealing with information that was arrived at through an investigation by another organisation and it did not feel confident or comfortable dealing with that other than by the way in which it proceeded.

Paul Martin: Do you think that the board should have referred the matter to the police?

Dr Logan: In my view, given the circumstances, the matter should have been referred to the police. I do not know all the circumstances but, on the prima facie case, I think that the matter should have been referred.

Paul Martin: Why did the council not recommend to the board that the matter be referred to the police?

Professor Sizer: I am trying to recall whether that issue was raised—I might need to be prompted by a colleague. In our report, we raised the issue of the tax position and said that the tax authorities should be informed of the parts of the report that implied that there had been some disregard of that position. I will check with my colleague on the police situation.

My colleague, who did the detailed work, informs me that, having been through the due process, we did not think that there was a prima facie case to put to the police. That is not to say that the college, which had an opportunity to consider the matter in far more detail, should not have done so. That was a judgment for the board to make.

Paul Martin: Was that set out in your report to the board?

Professor Sizer: No, that was not in my report because my report was about the misuse of public funds, the investigation and the allegations. You

have seen the report and the recommendations that are in the summary of the Auditor General's report.

Paul Martin: I do not want to labour the point, but it is an important one. Would you have considered it inappropriate for the council to recommend considering legal action?

Professor Sizer: That was something that I needed to consider. The investigation put me in a difficult position. I did not direct the investigation; I inherited the papers relating to the investigation from the National Audit Office and the Scottish Executive. I took it upon myself to write up the investigation, to clear the investigation with all the parties involved and to produce the set of recommendations, which are incorporated into the action plan in the Auditor General's report.

I do not have the same feel for this investigation as I had for the investigation that I carried out into Glasgow Caledonian University. I conducted the whole of the latter investigation and was therefore able to reach conclusions. The judgment that I made about Moray College was not easy. That is as honest as I can be about it.

The Convener: I know that Dr Logan wants to speak, but does Mr Frizzell want to respond to Paul Martin's question?

Mr Frizzell: The question is difficult to answer because I was not there at the time either, so I do not know what was going through anyone's head.

I say by way of observation that the committee is in some difficulty because it does not have in front of it the details of the allegations or of what was discovered. If we take into account proportionality, which is always a consideration, this was not a matter that would have been judged necessary for the attention of the police because it could be disposed of adequately through internal procedures. Once the first phase of the investigation had been dealt with—whether there was a case to answer—the second phase would be to pursue the case. A proportionality view would have been that the matter was probably one for internal resolution, which is not unusual in such circumstances.

Dr Logan: It might be helpful to the committee if I were to produce a written response, given the sensitivity of the issue.

The Convener: That would be helpful.

Mrs Margaret Ewing (Moray) (SNP): I do not have access to all the papers that members of the committee have, but I have access to other papers. I am surprised that it took so long for the investigation to commence, because I have folders of material—I was raising concerns about Moray College long before the investigation began.

What attention was paid to the internal auditor's reports from previous years, which stated that there were no major weaknesses in the system of internal control and that Moray College had a sound framework of control that provided reasonable assurance about the efficient achievement of the college's objectives? Is there a mechanism whereby the council or any other organisation can review such internal audit reports?

Professor Sizer: The reports to which you refer were made prior to the establishment of the Scottish Further Education Funding Council and I cannot comment on what went on before its establishment. As part of my team's work in the financial appraisal and monitoring services, we monitor all those matters.

Mrs Ewing: It seems to me that there was an element of complacency, as I had been asking questions and writing to ministers about my concerns. As a local MSP, I might not know all the intimate details, but a number of people wrote to me—not necessarily anonymously—or visited me at constituency surgeries raising deep concerns. I drew that to the attention of the minister with responsibility for education when I was still an MP in the House of Commons.

Mr Frizzell: I regret to say that I cannot comment on that, as I was running the Scottish Prison Service at the time. The department received allegations in May 1998 and the investigation commenced in August 1998.

14:45

The Convener: Under your current monitoring systems, how quickly would the council or the department pick up any such problems if they recurred?

Professor Sizer: As Mrs Ewing said, usually these matters arise when people send me anonymous letters setting out allegations. Often those letters are copied to the Auditor General. As soon as I receive those letters, I ask Mr McCabe, who is my director of financial appraisal and monitoring, to make contact with the Auditor General's staff, so that a judgment can be made on the seriousness of the allegation. Frequently we are able to inform the institution concerned of the allegation and to request comments on it. Sometimes I send the letter to the chairman of the audit committee of that institution. Periodically we receive allegations that have considerable substance. I have in mind the allegations relating to Glasgow Caledonian University. In that case, I agreed with the National Audit Office that we should initiate a detailed investigation. I think that I am being pretty diligent.

The Convener: I am rather perturbed by the

suggestion that you rely on anonymous letters to bring problems to your attention. What monitoring do you do of colleges throughout the year?

Professor Sizer: I am responsible neither for the external audit of the colleges, which is the responsibility of the Auditor General, nor for the internal audit of the colleges, which is the responsibility of boards. The board appoints the internal auditors and establishes the programme. My staff undertake an evaluation of the systems and procedures that are in place and produce a report. The committee has seen the report that we produced on Moray College, which sets out our view on where weaknesses exist in the college's systems and procedures. I am not responsible for carrying out audit, but I am responsible for ensuring that the boards and management understand that any allegations should be investigated fully. On their visits, my staff examine the internal audit reports. I receive and examine copies of management letters from auditors. I also follow up rigorously any allegations that I receive. However, audit is the responsibility of the internal and external auditors of the institution concerned.

Mrs Ewing: Do you give clear guidance to the remuneration committees that have to deal with principals' salaries? Why did Moray College's remuneration committee begin to minute its meetings and deliberations only from 13 August 1998? Do you regard that as satisfactory?

Professor Sizer: My post was created only in July 1999. I do not regard the practices that the member describes as satisfactory. As the committee can see, in my investigation I commented on the inadequacy of some of the college's minutes. I provide detailed guidance on severance arrangements to senior staff of Scottish further education colleges. I would be happy to let the committee have a copy of the circular letter setting out that guidance.

The Convener: We would be glad if you would.

Mr Quinan: On a point of order, convener. Is there much sense in our proceeding with this investigation when the three principal witnesses were not in post at the time and are constantly telling us, "I am sorry, I cannot tell you about that because I was not there"? Would it not be more sensible for them to come before the committee with the papers that cover the period that we want to investigate or for us to invite the three individuals who were in post at the time to give evidence?

The Convener: I understand your frustration but, although the witnesses were not in post at the time, they have investigated the matter and should know what happened. You wanted to ask why the college has taken so long to remedy the weaknesses that have been identified. If you pose

your question, it may receive an answer.

Mr Quinan: I think that the witnesses will know what my attitude is before I ask any questions.

My question is for Dr Logan. The report says that between July 1999, when Professor Sizer was in position, and January 2001, SFEFC produced reports that highlighted "significant weaknesses" in the governance of the college. Why was action to resolve those problems so slow?

Dr Logan: That is a fair point. I agree that the college's response was slow. We must take on board several factors. When the colleges were established, the arrangements at incorporation for providing outline or draft financial regulations, procedures, schemes of delegations and standing orders did not exist. Our concept of probity and propriety began to develop. We are more acutely aware of impropriety today than we were seven years ago.

When the issue broke, however, many members of the board of management were on the point of resigning—some of them left as the issue broke. A new board of management was appointed and did not have a great deal of confidence, as it was just learning the ropes. In my time at the college since April, we have put in place robust financial regulations and procedures, a scheme of delegation and standing orders.

It is also important to realise that the situation was new for those managers. They had little understanding of the issues and few of them had any legal training. They relied on professional legal advice. The development of a robust system, which the committee seeks, will be an iterative process. We must ensure that we have better communication between the boards of management and the staff of the college. That is a key issue, which we are addressing.

The slowdown was also an effect of the college's being caught in the headlights of publicity. People felt insecure. Their attitude was that they could not do right for doing wrong. They over-analysed every situation. I am afraid that we had paralysis by analysis.

Mr Quinan: That is fairly clear from your written submission. You say that most members of the board were about to resign and a new board was put in place. It strikes me—you and Mr Frizzell have said this—that what could be at fault, or could be a key element of the governance failure, is the structure of the board of management. What do you say to that?

Dr Logan: You are right. The problem at Moray College was a lack of governance. The board of management had a structural problem.

Mr Quinan: Where did the principal breakdown in the structures of governance lie?

Dr Logan: The principal breakdown lay in the failure of the then chairman of the board to exercise due control.

Mr Quinan: Was that a problem with the individual or the structure? You have said that we want to find the best structure to prevent the situation from being repeated.

Dr Logan: I believe that it was a problem of the structure. The role of the board of management and the role and status of the colleges were misunderstood.

Mr Quinan: Who misunderstood—board members, the chairman of the board, the management of the college, the funding council or the Scottish Executive?

Dr Logan: I do not think that the problem lay with the Scottish Executive, which was giving out clear signals at the time. We had the Nolan committee's report on standards in public life and a whole new concept of local public spending bodies. The problem had to lie within the college, in the understanding of the relationship between the board of management and the principal.

When I arrived on 2 April to take up my post, I was met by two members of the board of management. They told me in no uncertain terms that I was a member of the board but that I was also an agent of the board and accountable to it. For the previous incumbent of the post, that clear message had been missing, which was wrong.

Mr Quinan: In light of that statement, clearly you would find it difficult to agree that the structure for governance was sensible. What steps have you taken to improve that structure and to enlighten individuals on their real responsibilities? When do you expect those improvements to bear fruit?

Dr Logan: They have already begun to bear fruit. By the time I arrived, the board of management had become more confident in itself. The iterative process of the development of financial regulations is apparent. Over the past three months, there has been a good example of that kind of growth in confidence and there has been discussion about the appropriate level of control. The answer to your question about preventing things from happening is not to let anyone spend any money. A college cannot be run like that. The situation must move on.

On the board of management, there has been a great deal of debate, particularly about financial regulations and procedures. The scheme of delegation and the roles and functions of committees has been discussed. The board has also engaged in discussions with the staff about achieving better relationships and a better understanding of what is going on. We are moving towards open surgeries, which allow members of

staff to meet board members in college to raise matters. It is far better that staff should go to the board rather than to their MP or to the newspapers, as some of them did.

Mr Davidson: I have a brief supplementary to an answer that you gave to Mr Quinan. You said that your role was laid out clearly as being an agent to the board. That implied that in all things you are a servant of the board, albeit a servant working with freedoms granted by the board. By that statement, were you implying that, at the time of the difficulties at the college, there was not an adequate control relationship between the board and the chief executive?

Dr Logan: Absolutely. Without a doubt.

The Convener: Please explain that, because three principals are involved. You are one; there were two others. What was the relationship between the two before you and the board?

Dr Logan: I cannot comment. I am not sure which three principals you are talking about. There was the chap—

The Convener: Dr Chalmers. There was also an acting principal. Were they agents of the board or did they have a different role?

Dr Logan: Without a doubt, the acting principal was an agent of the board. The previous principal, Dr Chalmers, had a relationship with his board of management.

The Convener: Which was what?

Dr Logan: It appears that he did not recognise the responsibilities or the role of such bodies as a remuneration committee and that he frequently thwarted requests for information from the board of management.

Professor Sizer: The situation with Dr Chalmers—a dominant principal with a weak governing body—was a classic, as a number of reports have shown. I recall that, at my first meeting with Dr Chalmers and some of the governing body, I had to spell out that he was accountable to the governing body and explain the governing body's role.

Since then, the board of management has made it absolutely clear that the chief executive is accountable to the governing body, which appoints him as its accountable officer. Mr Cooper was the acting principal for a longish period—nearly a year—and fully understood that role. Given his background, he did a good job. He was plucked from within the institution and had limited experience of that level of management. He certainly worked closely with the board.

The board was faced with the Dr Chalmers situation—and such situations tend to have complicating legal aspects—with raising the

morale of the college and with ensuring that the college delivered to students. Relatively recently, Her Majesty's Inspectorate of Education published a good report. The board also had to address financial management—which we will no doubt discuss—and ensure that Government procedures were in place. In the circumstances, Mr Cooper and the board did their best, but a lot of time was consumed by the situation involving Dr Chalmers. The finger should be pointed clearly at Dr Chalmers.

15:00

The Convener: You have clarified matters.

Mr Raffan: Can I ask my supplementary question on the board of management, convener?

The Convener: You can ask it later.

Mr Raffan: Dr Logan's submission says that

"many staff of the College were in denial"

and were not

"aware of their own limitations and failings"

in respect of financial management. Is there sufficient induction or training for senior managers in the college in particular, either directly by the department or through the funding council? The question is important.

Dr Logan: The college's board of management has responsibility for staff development.

Mr Raffan: The problem is that we always return to the board of management. Perhaps I will be able to ask my supplementary question eventually. However, the question is important: could the funding council do more to help with staff development, training and induction?

Dr Logan: That would be of great benefit. There is much to be said for such help through the funding council or other organisations. There is growing realisation that there is a need for much more robust management of finances and human resources, particularly in colleges such as ours.

The Convener: I apologise to Paul Martin. Do you want to ask another question on the funding council, Paul?

Paul Martin: No.

The Convener: We will move on to discuss why Moray College incurred a financial deficit of £2.5 million.

Scott Barrie: On Lloyd Quinan's point of order, it is difficult to question people who were not around at the time. However, the witnesses who are before the committee today should try to answer the questions.

Dr Logan, the Auditor General's report states

that the college has recorded a deficit in five of the seven years since incorporation. Why has Moray College consistently failed within its resources?

Dr Logan: There are a number of factors. The easiest reply is that we needed a bigger cake—however, people are appointed to manage within the resources that are allocated.

My submission mentions

"the logistical challenge of serving a diverse population base, which required the College to undertake a fundamental review of the means of delivering post 16 education"

in the areas that we serve. Clearly, that was not addressed robustly enough.

We talked about governance and the responsibility of the college. Providing governance and a high level of management is not inexpensive, particularly if you consider financial control systems and human resource management.

The college did not collaborate with other partners in the university of the Highlands and Islands project, which were facing similar problems with the further education and higher education developments that were required of them. If the college had been committed to the realisation of the political will to establish a university of the Highlands and Islands, we could have done a lot more to produce more robust management and collaboration with other colleges in the UHI project.

There was a paradigm shift to lifelong learning and enterprise, which the college failed to undertake. The college did not engage with the community that it was there to serve. That was partly to do with interpersonal relationships within the college between the principal and senior managers and partly to do with the relationship between the principal and those who should have been our strategic allies, such as the education department of the local council, the local enterprise company and local employers. There were problems.

It all goes back to a central point. The college claimed to be a community college, but if one read its prospectus, as I did before I applied for the job, there was nothing in it to make one think that the college was a community college. It certainly did not give one the impression that it was a community college of Moray, as there was virtually no mention of it. All the apparent trappings of things being right were there. We had a prospectus, we had staff, we had buildings, but we were not using the resources that we were given in the most efficient or effective way.

We also failed to address some significant issues. If the unit of resource is being reduced as

part of an efficiency drive—there is nothing wrong with that, as the public are entitled to expect value for money—one must respond to that imaginatively and in time. The biggest problem was that we did not respond in time. When we talk about the deficit, we should bear in mind the fact that £1.7 million of the income and expenditure deficit is a pension liability. The college failed to take up the challenge and restructure in a way that reduced its labour costs rather than escalating them. That is the fundamental problem with Moray College.

If one can maintain labour costs and expand income by engaging with local employers in lifelong learning and external income generation—moving the paradigm from total to partial dependence on grant in aid—there is no problem, but that was not done. That is the fundamental problem.

Scott Barrie: I accept an awful lot of what you say, but it seems to me that there is something more fundamental going on. The Auditor General's report catalogues poor financial management at the college and failure to produce annual accounts on time, and highlights the fact that there was a delay in the accounts being audited, as the college did not meet even the revised deadline. The report also highlights the college's inability to manage its own budget, with a budget deficit forecast at £200,000 turning out to be nearly £750,000. That is not all the result of the reasons that you gave us. There seems to be something more fundamental wrong with the internal financial organisation of the college, as opposed to all the external factors that may or may not have a bearing on that.

Dr Logan: One of the other problems that we have just addressed is the question of who is financially accountable. We had a centralised control system and the expenditure took place at the periphery. We have moved responsibility for financial management down to the unit of activity. We now have monthly management reports—not only on expenditure against budget, but on activity against target. We are moving towards having a much more robust financial management system that will enable us to control costs.

Professor Sizer: As soon as I had finished writing my report on the allegations, I asked my financial appraisal and monitoring team to visit. Members have seen that the team's report found significant weaknesses in the financial management control systems and in the budgeting and reporting arrangements. The data that we were receiving were not robust. We have pursued the issue vigorously and have given as much help as we can.

Now that Dr Logan has arrived, I can see significant progress. I am confident that he and the

restructured board are addressing the issues. As I said, we had found significant weaknesses. The board had many things to deal with—with an acting principal—and it was struggling to cope with all those things simultaneously.

The Convener: We will come to financial appraisal and monitoring services later.

Mr Quinan: Would you say, Professor Sizer, that the weaknesses that you found in Moray College were unique to that college, or are there similar weaknesses across the further education sector in Scotland?

Professor Sizer: I would not say that such weaknesses existed across the FE sector. As I said earlier, I have not had to investigate allegations of misuse of public money in any other college. Few of the current members of the committee were present when I commented—as, I think, the first witness to come before the committee—on the financial health of the sector. I will report on that again later in the year.

We have had to give a number of colleges advice on strengthening their financial management and control systems. We have now visited and reported on 42 of the 43 colleges. One or two of them have still not wholly got to grips with their financial problems. A minority of institutions still have problems; the Minister for Enterprise and Lifelong Learning has been concerned about that and I am focusing my attention on those institutions. No doubt, the next time that I appear before the committee, we will have a more detailed discussion.

Mr Quinan: Are those weaknesses related to incorporation? Dr Logan spoke about what happens when there is no grand plan. Clearly, the circumstances at Moray College were, as you have implied, partly to do with the individuals involved, so those weaknesses were unique to the college. However, apart from financial weakness in individual colleges, are there structural financial weaknesses in FE in Scotland?

Professor Sizer: I would not say that there are weaknesses across the sector. As I said the last time I gave evidence, when many colleges became incorporated, many of them had principals and teams who were not familiar with such systems. There had been excessive reliance on the local authorities, so there was a period of transition and that was difficult for some management boards and some principals.

In the past few years, we have seen changes in boards of management and the emergence of a new group of principals. A high proportion of colleges now have good systems and the boards and accounting officers understand their roles.

Mr Quinan: In how many colleges have you

intervened to make suggestions on how the colleges could have more robust financial management?

Professor Sizer: I would not say that I have intervened. I have produced reports of varying—

Mr Quinan: Okay—for how many colleges have you felt the need to produce a report on such issues?

Professor Sizer: I have produced reports on 42 colleges. All those reports contained recommendations. That is the whole purpose of having an appraisal and monitoring service—to comment on the systems, given that the institutions do not have the experience—

Mr Quinan: How many colleges have a deficit?

Professor Sizer: How many have a deficit? At a particular point in time? We inherited 13 colleges, I think, and when I last appeared before the committee—

Mr Quinan: Today. How many colleges have a deficit today?

Professor Sizer: I cannot tell you how many colleges have a deficit today, but I can tell you how many have forecast deficits for this year. Perhaps the figure will pop out of the woodwork in a second.

The Convener: You said that some colleges have not wholly got to grips with their financial problems. To put Moray College's position into perspective, are those problems small or large? What size of deficits are we talking about?

15:15

Professor Sizer: I am having difficulty in getting a robust recovery plan from one college, and my powers are limited in that respect. In 1999-2000, 19 colleges had a historical cost deficit. I just reported to the funding council on the financial forecasts that give rise to those figures. I shall provide them to the Auditor General, who will include them in the report that he will produce on the sector, which I shall discuss with you.

Mr Quinan: So, just under 50 per cent of the colleges on which you wrote reports had deficits.

Professor Sizer: No, I am saying that the financial forecasts of 19 colleges for 2001-03 show a deficit for 1999-2000. It must be remembered that the minister is allocating significant extra funding. The forecast is that the number of colleges will rise to 20 in 2000-01, then fall to eight, three and five in the years to 2003-04. Those situations are under control, although there is one college for which I am not satisfied that the board has recognised the need to produce a robust recovery plan. I shall invite the chair and

the accountable officer of that college to visit me in Edinburgh for a robust meeting. A number of other colleges are implementing recovery plans.

The Convener: Let us now consider the way in which the college proposed to recover from the deficit.

Scott Barrie: Moray College was asked to produce a financial recovery plan by June 2000, but the attempts failed and the college's deficit increased further. Why was it so difficult for the college to produce a recovery plan?

Dr Logan: It is hard to know where to begin. First, the staff denied the existence of a problem. It may be hard to believe, but they could not believe any information that was given to them because of the level of mistrust that existed as a result of the actions of the previous incumbent of the post. They did not engage with the local community or address the issue of enterprise, but continued with their practices. That was partly influenced by the fact that, in essence, funding is based on teaching hours, although lifelong learning and enterprise require us to move to much more facilitated learning rather than didactic teaching.

Lots of things went wrong. People had confidence in the business plans that were produced, but they seemed to lack the inspiration to turn them into reality. The resource management issue was a complete and utter failure. I forecast the problems in December, but when I arrived in April, there was no recovery plan. There was a desire to downsize the college, yet analysis of downsizing would have told people that that would prevent them from delivering the service that they were there to provide.

We are considering a much more innovative way of engaging with the staff. That is what we must do. Downsizing is not an issue, but the staff got locked into that concept. When I arrived in April, the staff were picketing on the street, saying that they wanted a pay rise and that they did not want anyone to lose their jobs. I had to try to persuade them that, if we contained our salary costs, accepted radical restructuring, increased the number of people who were involved in the delivery and facilitation of teaching and had fewer people in support, we could progress to a much more enterprising college community that addressed the requirements of our commitment to the UHI Millennium Institute and to further education—or post-16 education, as we should call it now—for the community that we serve.

Scott Barrie: I understand you to be saying that a recovery plan was produced but that no one at the college believed that it was necessary or valid. Is that right?

Dr Logan: The board of management certainly realised that it was necessary. The senior

management—or the college executive, as it called itself in those days—realised that it was necessary. Senior management failed to engage the rank-and-file staff of the college. Even today, there are members of staff in the college who honestly believe that a big pot of money will come from Edinburgh or somewhere else and solve their problems. We must get across the message that Moray College's situation may have been the result of poor management in the past, but that the solution to the problem lies in the future and depends on the staff, the senior management and the board of management working constructively to do what the Government funds us to do, which is to deliver high-quality higher education and post-16 education for the community that we serve.

Scott Barrie: Does the college have a satisfactory recovery plan?

Dr Logan: We do.

Scott Barrie: What difference has it made? Has it been signed up to, or are you still experiencing the same difficulties?

Dr Logan: Our recovery plan requires major restructuring. Some people, obviously, are concerned about the future of their jobs. I have assured them that, if we achieve 36,000 student units of measure—we can consider an SUM as a taught student on a module—we may have to make posts redundant, but no members of staff should have their contracts terminated on the basis of redundancy.

Scott Barrie: What assurances can you give us that the current recovery plan will be successful when the previous recovery plan, in which some staff apparently did not believe or which some did not think necessary, was not successful? What will be different this time?

Dr Logan: The college staff now realise the importance of having an effective training unit that delivers rapid-response short courses to fit the requirements of the population that we serve. That has caused us to increase from around 32,000 SUMs to 34,100 this year between April and August, which is quite a big jump. Consider the recruitment to date and compare it with the recruitment this time last year: we see an 11.9 per cent increase in recruitment activity. All that indicates that Moray College will hit the 36,000 SUMs mark and get close to the 38,000 SUMs target that SFEFC has given us. That alone shows that the college has a much more enterprising culture.

We are building strong, strategic alliances with local employers, the local council and the Royal Air Force. That is also important and will make a big difference. We are building a business, but we are also looking to diversify to what are called the

non-grant-in-aid areas—research and consultancy. We want to see how we can generate more money, because, by becoming more enterprising, we will serve our community better and create a stronger community in Moray. By doing that, we will be able to provide the level of job security that my colleagues should expect.

Mrs Margaret Ewing: I will visit the college shortly to meet Dr Logan. One of the aspects of the restructuring plan is that there will be no conservation of salaries or terms and conditions if staff are moved sideways. How is that being negotiated with the staff? Having the staff on side would seem to be critical.

Dr Logan: One of the college's major problems was the tendency to pay certain grades of post more than the sector norm. We have to examine how the Moray College salary structure fares against the salary structure not of the central belt, but of the Highlands and Islands region.

The college ended up with an anomaly whereby—following streamlining of the college's senior management team—someone who may have earned a large salary as part of the senior management team might now be delivering lectures and being paid much more than their fellow lecturers. At present, some people in the college get paid more than others for doing the same job. That is a major source of frustration and anger for the other staff, especially if the people who are getting paid more than others are not prepared to go the extra mile.

Members must realise that the contract for further education lecturers, which was put in place when the college was incorporated in 1992-93, no longer has any relevance to the job that is required of the college's academic staff. We need to develop a new post of college lecturer and we have consulted the staff on that. Details were sent out to staff way back in June and much debate has resulted. The new post offers a role for the academic lecturer who takes more responsibility for the academic development of their subject area and its vocational application, and who takes more of a managerial role. We plan to bring in paramedics—I am sorry, I meant to say para-academics. However, we may well need paramedics.

Paul Martin: In common with many FE colleges, Moray College is a small organisation. The college lacks expertise in the financial aspects that have been mentioned in connection with the business plan. What advice and assistance did your organisation provide to ensure that the business plan was robust?

Professor Sizer: Before Dr Logan's arrival, the college did not have a robust recovery plan that was owned by the staff. Early in 2001, it became

clear to me that the acting principal of the college was not able to produce a recovery plan on his own. As is set out in the report, I had a meeting with the chair and the acting principal, first of all to remind them of their responsibilities, and to make it clear that they had to produce a robust recovery plan.

The meeting started as a hard-hat meeting, but turned soft hat when we discussed how the council could help the college. I agreed to fund a consultant to assist the college to develop a robust recovery plan.

Dr Logan inherited that work. There has been constant interaction between my colleagues in the financial appraisal and monitoring services and Dr Logan and his colleagues. I have received the recovery plan. I believe that it is challenging and the board is confident that it can deliver it. However, I have insisted that it have a contingency plan. As Dr Logan said, there are some key assumptions in the plan about growth aspirations. In November it will become clear whether the key assumptions for this year will be met. If they are not, the contingency plan will have to be brought into play. My colleagues are monitoring the situation carefully and are available to give advice. However, I cannot remove responsibility from the board of management and the principal. My role is to give advice, not to manage the college. I will continue to do that for Moray College and for a number of other colleges.

15:30

Paul Martin: How do we overcome the problem of lack of financial expertise? We know that that is an issue throughout the further education sector and that it will always be present.

Professor Sizer: We are discussing with the Association of Scottish Colleges various aspects of staff development, from chairs and governors down. Dr Logan commented on the role of the funding council in staff development. We are working very closely with the sector. My colleagues meet the finance directors and finance officers of the colleges regularly. Nevertheless, the review of the management of colleges, on which the committee will receive a report fairly soon, highlights the need for colleges, particularly smaller colleges, to work collaboratively and to share expertise. No doubt the committee will want to discuss that report with me. For example, Glenrothes College and Fife College of Further and Higher Education share a finance director, which has allowed them to make a high-powered appointment. I have encouraged such developments, of which there are good examples in the Glasgow colleges group.

I have made at least five or six consultants

available to different colleges, to help them to get over the hump of lack of expertise. I have also assisted them in obtaining secondments or appointments to the board. For example, Clydebank College has just appointed to its board the University of Glasgow's director of finance. I was able to facilitate that appointment through some informal contacts. I am doing all that I can to help.

Colleges' problems do not stem only from a lack of financial expertise. As I mentioned at a previous committee meeting, they also have weak balance sheets. Unlike large universities, which may have strong balance sheets and be able to ride fluctuations in their income streams, FE colleges have no reserves. Colleges have a volatile mix of activities and fluctuations in their income streams can have a rapid impact on their financial health. There is a need to put in place forward-looking systems and to generate attention-directing information for the board, so that it is aware of what is happening and can act quickly. We are doing all those things.

The Convener: I want to refocus the discussion on Moray College. We need to ask whether the funding council could have done more to ensure that improvements in governance arrangements were implemented and to support Moray College in addressing its financial difficulties.

Mr Raffan: If I may refer back to Professor Sizer's previous answer, I recently visited Fife College and had lunch with the principal and the finance director, who impressively left lunch early to dash off to Glenrothes. I may return to this point later, because I do not want to incur the convener's wrath, but I think that the sharing of best practice between colleges is important. That was brought home to me during my visit.

My question arises out of previous answers and relates to governance. Margaret Ewing talked about the staff being on side and Professor Sizer said that it was important that the staff own the robust recovery plan. Dr Logan has been very honest and open about his staff. What is his relationship with his staff like? They will read this report and his evidence. This is not a them-and-us situation. I hope that Dr Logan now has his staff on side. So far progress has been painfully slow.

Dr Logan: If one were to map the rate of progress on a monthly basis, one would see that progress has been rapid over the past six months. The majority of the staff are on side and realise the gravity of the situation in which they find themselves. Having read the Auditor General's report, it would be difficult for them not to realise that Moray College has a serious financial problem. There is more and regular consultation with the staff. This week I will meet staff groups to discuss the next stage of the restructuring. Staff

have contributed significantly to the restructuring. They have also contributed to the discussion about how many schools we should have and how we should group subjects together. We engaged the staff in the idea of taking responsibility. The staff realise that they must become more enterprising if they are going to be able to enjoy pay increases in future.

Mr Raffan: I am slightly concerned about the rapid progress, but I want to talk about the FAMS visits and reports, which are covered in paragraphs 4.2 onwards.

FAMS highlighted significant weaknesses. Paragraphs 4.7 to 4.14 point out that FAMS reported something in 2000 and then, in 2001, reported back that not enough had been done. I will give a minor example. The 2000 FAMS report

“recommended that an independent clerk to the board should be appointed. The 2001 FAMS report found that, although a clerk had been appointed, the role, remit and terms of reference for the position have still to be agreed.”

Paragraph 4.9 refers to the board of management—not quite my obsession although it is becoming so because all roads seem to lead to that particular Rome. It states:

“The 2000 FAMS report recommended that the college’s board of management should recruit board members with financial expertise. The 2001 report found that, although new members had been recruited, it was unclear what financial experience and expertise they possessed.”

The next paragraph goes on to make a similar point about the register of board members’ interests.

I do not know how close Dr Logan is to the Highlands, where people have a different idea of speed from those of us who live further south—I am in the north-east and I do not mean that unkindly—but progress is not happening quickly enough.

Professor Sizer: Paragraph 21 of the executive summary of the report states:

“SFEFC has not, despite considerable efforts, persuaded the college to make all the necessary changes.”

The report also states that

“SFEFC was diligent in pursuing matters”.

My understanding is that the board has addressed most of the outstanding issues in the past month or so. Dr Logan can confirm that. The board approved a revised scheme of delegation on 24 September. The review of corporate governance and the comprehensive overhaul were discussed at a special board meeting on 25 September. There has been a problem with the clerk to the board because of long-term sickness absence. Dr Logan might comment on that. A chartered accountant was appointed to the board on 10 September to bolster its financial expertise.

By January 2001, all existing board members had had their details updated. All new board members are now included in the register of interests. The priority task of the temporary clerk to the board is the code of conduct. My understanding is that the board intends to adopt a finalised code of conduct at its meeting in October 2001.

If things are not right, I shall pursue the chairman. Perhaps Dr Logan can confirm the brief that I have received.

Mr Raffan: Before he answers, are you happy with the way that the audit arrangements are being carried out? Not only was the board not implementing an earlier recommendation, it was acting contrary to a FAMS recommendation.

Professor Sizer: It is easy to trawl through the past—

Mr Raffan: I am talking about the current report.

Professor Sizer: I have confidence in the board and in Dr Logan now that he has arrived. There have been significant changes. I am confident that the board fully understands what has to be done.

I was talking to one member of the board recently—a former prison governor who understands fully the requirements of public accountability—and she told me about all the things that were being addressed. I really feel that they have been addressed. It is unfortunate that it is taking so long, but I am confident. I assure you that I will pursue the matters until the end of the year.

The Convener: I am happy to hear that those points were addressed last month, but it does not take away from the fact that over a full year, there were eight major failures to take action, following a clear report on fundamental issues of conduct. Why did it take a whole year? In other words, if SFEFC makes recommendations, what can it do to implement them? You were ignored for a whole year.

Professor Sizer: I referred earlier to hard hats and soft hats. I am a pretty hard-nosed person, so I can be pretty tough. I can start off having a soft hat, then I can move, if things are not progressing, to being very hard, but the only sanction that SFEFC has is to withdraw funding, and if you withdraw funding, all you do is exacerbate the situation. That has to be balanced against the needs of the students. The last thing that we want to do is to take action that damages the education of students, because the Minister for Enterprise and Lifelong Learning has passed responsibility for the adequacy and provision of education to me. There must be a balance, which is why, I assume, the Auditor General said in the final paragraph of his summary that there is a need to review the council’s powers. I rely heavily on being hard and

tough with people and most people respond, but the fact is that if people do not take action, the council has limited powers.

The Convener: Granted, but what bothers me—

Professor Sizer: You must ask your question of the board of Moray College.

The Convener: Sure, but we are talking about there being no formal scheme of delegated authority, no independent clerk to the board and no register of interests or code of conduct. Those are fundamental matters. Can we be assured that the situation that you objected to in Moray College does not exist in any other college in Scotland?

Professor Sizer: As far as I am aware, there is not another situation like this.

The Convener: And now you are clearing up Moray College and the fundamental points have been addressed.

Professor Sizer: Mr Quinan asked me about the other reports. I can say that I am not aware of any other situation like the one at Moray College. Most of my reports have been about areas where improvements can be made, rather than about a series of fundamental weaknesses of governance. As I said, in the end, members have to ask the board of Moray College why it took so long to address the issues. All I can do is keep up the pressure and I assure you that I am good at doing that.

The Convener: I have a feeling that we may ask the questions of the people whom you mentioned.

Mr Raffan: I hope that the progress in the past month—which seems to have been more rapid than in the rest of the year put together—has not been due to your imminent appearance today.

I have a question for Dr Logan, who is in a difficult position between SFEFC and the board of management, whom I would love to meet. Could SFEFC have done more to help you to win the staff round and to not just draw up the robust recovery plan, but implement it? We are talking about looking to the future. I mean that in a constructive way.

Dr Logan: The absence of bridging or recovery finance is difficult. It means that we have to go to the bank to secure it.

Mr Raffan: I was talking more about guidance.

Dr Logan: It is difficult to know what other guidance could be made available to us. The valuable service that we receive from the financial consultant on restructuring, the relationship between the funding councils and the banks and how to address their concerns is absolutely critical. It has been a great asset.

There is rightly a serious concern about the expenditure of public moneys. We have to go to the bank to persuade it to take the risk on financing the college through the recovery period—we need a £1.3 million loan. The support that we received to help us to prepare the recovery plan was valuable. I cannot think what else the funding council could have done other than give us the money.

15:45

The Convener: We move on to ask Mr Frizzell what action the department could have taken in the light of the situation that emerged at Moray College.

Mr Davidson: Much of this issue seems to boil down to the board's ability to manage the staff and—through the staff—the college.

Earlier, Professor Sizer made the point, which others have picked up, that the first line of public accountability is the board. We can take that as given, because that is an aspect of the system, but ministers have a role—they can establish, merge and close colleges and they can remove and replace people on the boards of management. In what circumstances would Mr Frizzell's department advise the minister to do that?

Mr Frizzell: That is a hypothetical question, but I will try to answer it. The key point is that we would have to be faced with a board that refused to co-operate in any way with what manifestly needed to be done. We were not faced with that situation at Moray College. I agree that we faced a situation in which it seemed to take a long time to get certain things done and improved, but the board was not in rebellion and saying, "We are not going to play ball. We disagree with SFEFC and the department." The judgment was made that to exercise the significant option of removing the entire board or individual board members would not be helpful. Removing an entire board would leave an ungoverned college and education must still be provided. Professor Sizer made the point that it is necessary to maintain continuity for the customer. That must weigh heavily in the decision on what to do with a board. If we were faced with absolute non co-operation from a board, it would be necessary to take pretty drastic action.

Mr Davidson: Did your officials investigate the board during the downturn—shall we say—in the college's performance, so that a decision or advice might be given to the minister?

Mr Frizzell: That would have been a consideration from time to time. Remember that there was an on-going process. The issue would have come up. The board was changing; key players were leaving and the opportunity arose for others to replace them.

Mr Davidson: Have those powers ever been used?

Mr Frizzell: Not so far.

Mr Davidson: Have you changed your process for monitoring board performance since this situation occurred?

Mr Frizzell: We still have the same formal arrangements between SFEFC and us. The council primarily would have to monitor the performance of colleges. There would be consultation between us and the council. If the council came to us and said that it thought that a board should be changed or removed, that would weigh with us strongly.

We try continually to improve the advice, assistance and guidance that are available to boards of governors in colleges. They are the people who must be competent. We must support them as far as possible—they are doing the job of their own free will and do not get paid for it. It is the duty of everybody concerned to help them and we will continue to do that.

Mr Davidson: Is the department of the view that legislation, which was mentioned at the beginning of the evidence-taking session, should be reviewed?

Mr Frizzell: The Auditor General has made a recommendation in that regard. I am sure that ministers will take it seriously.

Mr Davidson: You are not prepared to say how the department might advise the minister.

Mr Frizzell: We are not supposed to tell the committee that, but I am sure that the recommendation will be considered carefully.

Mr Davidson: Within the current systems, does the department take the view that the cross-section of abilities that are required for boards to function is properly catered for?

Mr Frizzell: That is an interesting point. If there were a review, that would be one of the areas that it would cover, to assess whether there could be provision that would ensure a spread of skills. We would have to think carefully about that, because we are talking about more than 40 colleges, which are spread around the country. It would be difficult to get the full spread of skills in some areas. It is a legitimate subject to consider.

Mr Davidson: I turn to how board members are appointed. We have had comments about the involvement of staff. Staff members are on the Moray College board, presumably to facilitate information flows and communication throughout the whole structure and to get across to the board of management what it is like to be in the front line. Are you happy that the current system of appointment and the spread of skills on the board

are adequate?

Mr Frizzell: The systems are laid down in statute.

Mr Davidson: That was not the question.

Mr Frizzell: They are the best systems we have. If there were to be a review, I suspect that it might also cover the method of appointment.

Mr Davidson: The department is currently satisfied to leave things until somebody else creates a demand for change.

Mr Frizzell: If I may say so, it is not for the department to take a different view from the statute. The statute is there and that is the position until ministers decide there should be a change. A review has been recommended and I am sure that ministers will consider the issue seriously. You have touched on areas which I think the ministers would want to consider were a review to take place.

Mr Davidson: Do you feel—this might be your personal view—that the wider public interest is well served by a board appointing its own members?

Mr Frizzell: I am not supposed to give the committee a personal view. I am here to speak on behalf of my minister and the Executive.

It is important that procedures are properly served. I do not think there is any good reason why procedures that apply to public appointments generally should not be observed in relation to appointments to boards of FE colleges. There are now well-established procedures for appointments to, for example, the Scottish Higher Education Funding Council and other non-departmental public bodies. While those do not apply absolutely to colleges, it seems to me that there is good practice there that should be observed.

Mr Davidson: Do you feel that that good practice was not observed at the time of the formation of the Moray College board?

Mr Frizzell: I have not seen anything that would enable that conclusion to be drawn. I have not seen anything about that in the Auditor General's report. That is an inference too far.

The Convener: Our last set of questions looks to the future and asks whether the powers available to the funding council and to the department are sufficient when a college underperforms.

Mr Raffan: I will make a bridge from Mr Davidson's impressions to my own, Mr Frizzell.

How long is this much-heralded, important review—for which parliamentarians will not hold their breath—going to take? It seems to be

increasingly central to everything that will happen. When will it happen and how long will it take?

Mr Frizzell: You mean if ministers decide to have a review.

Mr Raffan: We will do our best to encourage them. How long would it take, in your estimation?

Mr Frizzell: That is difficult to say. It would depend on exactly how the review was conducted, but I think it would take at least six months.

Mr Raffan: Is there anything under existing statute that would allow us to tighten up the situation? I note your answers to Mr Davidson, but much clearer guidance, for example, could be given by the funding council to colleges about the kind of people that they need. I am not saying that your language is casual, but the phrase "the spread of skills" is inadequate. The requirement for particular expertise, such as chartered accountants, should be specified. Is there a way that that can be fed into the boards?

Is there any way that boards of management can be encouraged to pass nominations to boards in front of you—without the department or the funding council going through a formal, central vetting procedure—under existing statute to ensure that people not only have the appropriate skills on paper, but can fulfil them in practice?

Mr Frizzell: Lots of things can be done informally or by persuasion and consultation, but we cannot overstep what we are allowed to do by statute. That is always the limitation on us.

Mr Raffan: But it would be quite a good idea. Let us be quite honest and get to the core of this. The whole board management process reeks of amateurishness. How strong are the department's powers of persuasion?

Mr Frizzell: We have no problem with disseminating good practice. There is always scope to spread good practice around.

If the convener will indulge me, let me say that I am a wee bit concerned about the wider inferences that are being drawn. We are talking about a serious situation at a college. The circumstances surrounding that situation are important to that college, its staff, its management and the community. The college gets £5 million of funding; the department provides £400 million-odd to the sector as whole. The college has 5,000 students; there are 400,000-odd students in the sector as a whole. The committee should not go away with the feeling that what we have discussed today is representative of the further education sector. The sector relies on volunteers to govern the colleges and employs staff in good faith. I would be sorry if the committee were to draw conclusions today that were to be applied across the sector.

Mr Raffan: Equally, I am sure that you take on board that we do not want what has been allowed to happen in that college to be replicated elsewhere on a larger scale, in colleges with much bigger budgets and a greater number of students.

The report makes it clear that the funding council has put in an enormous amount of work through FAMS—I keep on having to look up what FAMS means to check that I get it right, but it is the whole process of monitoring and so on—to get Moray College out of the hole that it was in. However, as Professor Sizer keeps maintaining, the report makes it equally clear that the funding council has relatively few sanctions, other than the nuclear option of denying funding, which might be counterproductive. When the powers of persuasion—to use Mr Frizzell's phrase—of the funding council fail, there is little that it can fall back on except the nuclear option. Does Professor Sizer think that the funding council's powers need to be increased to help it to resolve situations sooner?

Professor Sizer: That is a matter for the review. I am a bit reluctant to give a personal view. I am conscious that I retire at the end of the year and that it is important that I do not leave skeletons in the cupboard for my successor.

It is clear to me that a review is needed and that the funding council should be invited to express its views as part of that review. The funding council's view should really come through our audit committee. Instead of giving a personal view, I would want to discuss the matter with the council, but I have no problem with the recommendation in the Auditor General's report.

The key thing is that since the councils came into existence we have had a different interface with the sector and we have more staff. We originally had five accountants who were members of the council—I mean the SFEFC council as opposed to SFEFC staff—although I think that we are down to four now. We have developed and published a new financial forecasting model and a new code of audit practice. We have also published a revised financial memorandum and have issued guidance on severance and on whistleblowing. We are working on a new guide for members of the boards of management. We have had a management review and have helped boards with self-assessments. I send every report that is published to the colleges and point out the key messages that members of the boards of management are expected to address. I will do the same with this committee's report once it comes out.

The sector now recognises that governing bodies and boards of management must govern and that they must exercise their role and responsibilities in relation to the principal. The

sector is changing. As Mr Frizzell said, we should be a little bit careful. In my view, the Moray College situation primarily arose out of the actions of one individual who made significant misuse of public funds. It was unfortunate that it was not possible to take disciplinary action, but things have moved on quite a bit.

I think I might have the pleasure of giving evidence to the committee again before the end of the year to discuss the issues in a wider context. My view is that the input should come from the council and that I should not express a personal view at this stage.

Mr Raffan: Would Professor Sizer go so far as to turn to the ever-cautious Mr Frizzell to ask him to urge his minister to have a review?

Professor Sizer: I have already told him that.

Mr Raffan: The fact that you have already told him that is now on the public record. Mr Frizzell can use that as ammunition in his discussions with his feisty minister to get progress quickly.

Professor Sizer: I assure you that I would talk to the minister if I felt it was necessary. The minister and I have an excellent relationship. I am sure that she would listen to me, but I am quite happy to give my advice to Mr Frizzell.

16:00

The Convener: I suspect that we are on slightly dangerous ground.

Skeletons we do not want you to leave, but good advice we would like. Your advice would be appreciated because you have had the experience of dealing with what was a serious situation. Are you satisfied that you used all the powers that were available to you? What would have helped you to do more and to get the situation resolved sooner?

Professor Sizer: A judgment always has to be made on how far I put the board of management through the hoop. When the board of management met, I could have created a situation in which people had to walk away. The problem was that I would then have had to find an alternative board of management. There is a difference between one's formal powers and one's informal ability to frighten people off. I made the judgment that the board was changing and that the catchment area for governors is limited.

There was also a primary responsibility to the students. There was no evidence that low-quality teaching was being delivered, so it was not a case of saying that because of mismanagement the teaching in the college was poor. The HM Inspectorate of Education report confirmed that the teaching was good. I took the view that I should not apply pressure to force people to walk

away.

Mr Kerr agreed to lead the change from the old board to the new board. He had the demanding role of bringing new people in. I felt that my role was to support him in doing that. Had I felt that there was a need for a change of chairman, I would have told him—I am quite happy to take people into a quiet corner and tell them that it is time they fell on their sword, although I recognise that I do not actually have the power to make them fall on their sword.

The Convener: Thank you for that clarification.

Mr Raffan: I have a final point for Mr Frizzell. Is he satisfied that the department used all the powers that it had to resolve the Moray College situation?

Mr Frizzell: For the reasons that I have already given, we did not use our powers to remove the board. We did what we could to resolve the problem. It would have been good to have that resolution quicker, but we did as well as we could, while ensuring that continuity of education provision was maintained.

Mr Raffan: I am sure that you will contribute any lessons that you have learned to the review.

Mr Frizzell: Yes, indeed.

The Convener: That concludes questioning for today. I thank Mr Frizzell, Professor Sizer and Dr Logan for their presence and participation. We have considered important matters. The information that they have given us will be of great assistance in the committee's continuing investigations, from which I hope we will learn lessons and get advice about present and future improvements.

16:03

Meeting continued in private until 16:37.

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