



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

LOCAL GOVERNMENT AND COMMUNITIES COMMITTEE

Wednesday 24 February 2010

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LOCAL GOVERNMENT AND COMMUNITIES COMMITTEE
6th Meeting 2010, Session 3

CONVENER

*Duncan McNeil (Greenock and Inverclyde) (Lab)

DEPUTY CONVENER

*Alasdair Allan (Western Isles) (SNP)

COMMITTEE MEMBERS

*Bob Doris (Glasgow) (SNP)

*Patricia Ferguson (Glasgow Maryhill) (Lab)

*David McLetchie (Edinburgh Pentlands) (Con)

*Mary Mulligan (Linlithgow) (Lab)

*Jim Tolson (Dunfermline West) (LD)

*John Wilson (Central Scotland) (SNP)

COMMITTEE SUBSTITUTES

Brian Adam (Aberdeen North) (SNP)

Margaret Curran (Glasgow Baillieston) (Lab)

Alison McInnes (North East Scotland) (LD)

Margaret Mitchell (Central Scotland) (Con)

*attended

THE FOLLOWING GAVE EVIDENCE:

Hazel Black (Scottish Government Public Service Reform Directorate)

Colin Brown (Scottish Government Legal Directorate)

John Swinney (Cabinet Secretary for Finance and Sustainable Growth)

CLERK TO THE COMMITTEE

Susan Duffy

LOCATION

Committee Room 2

Scottish Parliament

Local Government and Communities Committee

Wednesday 24 February 2010

Cabinet Secretary for Finance and Sustainable Growth (John Swinney): Thank you, convener, and good morning. I welcome this opportunity to discuss the development of single outcome agreements and their contribution to bringing about positive change for people and communities throughout Scotland. The agreements, along with the first set of single outcome agreement annual reports that councils have produced, reflect a fundamental shift in how public services in Scotland are organised, and that shift promises better outcomes and better accountability.

For the first time, all of the public sector is united in pursuing a shared Government purpose and set of national outcomes. That approach is flexible enough to enable councils and their local partners to support the national ambitions in ways that reflect local priorities. We are freeing up local partners so that they can choose how they use the resources at their disposal to pursue their priorities. With closer partnership working behind those shared ambitions should come better use of resources and faster progress towards mutual goals.

Councils produced their first single outcome agreement annual reports last autumn. They offer a valuable new tool to promote accountability to local communities by painting an overall picture of the key ambitions for councils and their partners, towards which they work together, pulling together their collective resources.

We have substantially reduced the number of ring-fenced council funds. In the process, we have removed a great deal of bureaucracy, which is enabling councils to use their resources more efficiently in the pursuit of shared priorities. There are different views about the loss of ring fencing. To put things into perspective, only about a quarter of local government funding was ring fenced before the introduction of the concordat, and that has now fallen to about 10 per cent.

Single outcome agreements and the related annual reports provide a potentially powerful new source of information and evidence about performance. They should complement the other sources of evidence that remain available to us, including external audit and inspection reports and statistical information. The first single outcome agreement annual reports cover progress that was made in 2008-09. Progress has continued apace

in 2009-10, and I fully expect it to do so in the future.

Community planning partnerships are working together to deliver the shared local outcomes that are set out in the second phase single outcome agreements that community planning partnerships agreed with the Government last summer. We are working closely with local government to support those efforts, and we have a special focus on local outcomes relating to economic recovery or to the three major social frameworks that we have developed with the Convention of Scottish Local Authorities, on addressing poverty, combating health inequalities and giving our young people the best start in life. Work continues to improve the information base on which progress towards outcomes is measured.

Our outcomes-based approach, and the role of single outcome agreements within that, remain work in progress, but there is already clear evidence of progress and there is a shared ambition to improve the impact of public services on the lives of individuals.

I am happy to answer any questions.

[The Convener opened the meeting at 10:00]

Single Outcome Agreements

The Convener (Duncan McNeil): Good morning, and welcome to the sixth meeting of the Local Government and Communities Committee in 2010. As I normally do at this time, I ask committee members and the public to turn off all mobile phones and BlackBerrys.

Agenda item 1 is to take oral evidence on the progress reports for the first round of single outcome agreements, which have now been published. I welcome the panel of witnesses: John Swinney MSP, Cabinet Secretary for Finance and Sustainable Growth; David Milne, team leader of the Government's single outcome agreements performance team; and John Ewing, head of public service reform. Welcome to you all. The cabinet secretary wishes to make some opening remarks, and I offer him the opportunity to do so, before we move to questions.

The Cabinet Secretary for Finance and Sustainable Growth (John Swinney): Thank you, convener, and good morning. I welcome this opportunity to discuss the development of single outcome agreements and their contribution to bringing about positive change for people and communities throughout Scotland. The agreements, along with the first set of single outcome agreement annual reports that councils have produced, reflect a fundamental shift in how public services in Scotland are organised, and that

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I am happy to answer any questions.

The Convener: I thank the cabinet secretary for those remarks.

David McLetchie (Edinburgh Pentlands)
(Con): Good morning, cabinet secretary. The foundation for single outcome agreements is the not-quite-yet historic concordat. I notice that the Government's overview commentary on the single outcome agreements for 2008-09 measured the reports by reference to the 15 national outcomes that are set out in the concordat. However, I saw scant reference in the overview to the 45 national indicators and targets that are also mentioned in the concordat and which are meant to underpin the national outcomes. Can we expect to see a report that measures the progress of local authorities by reference to the 45 national indicators and targets that underpin the single outcome agreements and which are set out in the concordat?

John Swinney: Up-to-date performance information on each of the 45 national indicators is reported fully on the Scotland performs part of the Government website. It is updated frequently as new performance data on indicators become available. The up-to-date material that Mr McLetchie is looking for is available 24 hours a day, seven days a week on the Government's website.

David McLetchie: Okay. Does the Government think that the national indicators and targets that underpin the outcomes are still valid in view of the changed financial and economic situation since the concordat was drawn up?

John Swinney: Yes. Without exaggerating, it is fair to say that hundreds of indicators could have been selected to judge performance in the national performance framework. I concede that the exercise was subjective. Ministers established a set of desirable national outcomes, of which there are 15 in the concordat, as Mr McLetchie correctly said. Those were also set out in the Government's performance framework and in the 2007 spending review. Ministers considered which indicators—some of them very measurable and some less measurable—would enable the assessment of performance against the national outcomes, and we settled on them as national indicators. We will maintain those national indicators throughout the term of this performance framework.

As I said, the Government concedes that many other indicators could have been selected as

performance measurements and remains open to discussion about whether the national indicators capture all the significant points in assessing performance. Certainly for the duration of the current spending review period, the national indicators will remain valid for the Government as indicators of performance in measuring progress towards achieving the national outcomes.

David McLetchie: Let us take one of those national indicators—to increase the rate of new house building. Despite the Government's efforts in relation to the council house building programme, there is not the remotest prospect of the rate of new house building increasing in this parliamentary session. In fact, the rate of new house building has declined dramatically as a result of the economic situation. Is that not the case?

John Swinney: I am not sure where Mr McLetchie is encouraging me to go with this line of questioning. He is suggesting that when circumstances lead to the Government being unable to achieve one of its indicators, it should change the indicator and go off on to something else. My memory might be letting me down here, but I have a funny feeling that Mr McLetchie might have condemned some of my predecessors for changing targets when they were unable to achieve them. The national performance framework says, "Here is a desirable set of indicators that will measure progress towards the achievement of national outcomes."

I readily accept Mr McLetchie's point about house building, which will be a significant challenge in the current economic circumstances. The Government is doing its bit by trying to encourage and motivate greater public sector and social housing activity. We have done that by spending more on social housing in this spending review period than we committed to spend when I set out the spending review information in 2007, but we all have to accept that the private house building market has been in real difficulty over the past couple of years and will remain in some difficulty for some time to come. The Government can do one of two things. We can say, "Oh, well, that is inconvenient; we will change the target and go off on to something else." I think that we would be criticised for doing that. Alternatively, we can frankly say, "Economic circumstances have made the achievement of that target very difficult." I think that people would accept that that was an honest reflection of events and circumstances.

David McLetchie: It may be a reflection of events and circumstances, but my point is why do we persist in referencing outcomes at local and national level with reference to a framework document that was drawn up in an entirely different set of circumstances, both for the

economy and the public finances? Given all that has happened to the economy and public finances since the concordat was signed—there have been changes of a fundamental nature—would it not be appropriate to acknowledge that many of the outcomes and indicators have not the remotest hope of being achieved and instead start afresh from a more realistic basis, rather than continue on the basis of pie-in-the-sky aspirations that have not the slightest hope of being fulfilled?

John Swinney: Regardless of the difference between the economic circumstances in 2007, when the performance framework was established, and the position in which we now find ourselves, it remains desirable—to highlight a national indicator—for us to halve the gap between our total research and development spending and the European Union average by 2011. Regardless of the change in circumstances, that is desirable. Another indicator is to increase the business start-up rate. My goodness, that is essential in the current context, and many of the Government's initiatives are designed to support and encourage individuals who have lost employment to move into business development and entrepreneurship if they are able to do that. Another indicator is to grow exports at a faster average rate than growth in gross domestic product. One of the fundamentals of the Government's economic recovery plan is to internationalise the performance of Scottish companies. One of our weaknesses is the fact that Scottish companies are not undertaking enough international business activity, so we want them to do more.

There may well be difficulties in realising the indicators as a consequence of the circumstances in which we find ourselves, but there is a range of other indicators, such as the indicators to reduce overall reconviction rates and to ensure that we decrease the estimated number of problem drug users in Scotland. Those are all valid indicators, and I see no reason for us to change them. Achieving them may become more challenging, but that is not an argument for saying that we should not focus on them.

David McLetchie: Perhaps I just have a realistic approach to life, whereas you have an aspirational one. I think that Government targets should be rooted in the realities of what can be achieved rather than being, as I said, pie-in-the-sky aspirations. If you are unwilling to change the indicators or the outcomes, how is it that Mr Russell can tear up sections of the concordat relative to a specified set of commitments?

John Swinney: First, I will comment on the issue of whether targets are realistic, ambitious or pie in the sky. I make no apologies for being ambitious about what I want to achieve for

Scotland. If you set a mundane target, you are likely to deliver an utterly pedestrian performance. We have established an ambitious set of indicators to deliver social and economic change and progress in Scotland, and I make no apology for that.

On the concordat and Mr Russell's contribution as Cabinet Secretary for Education and Lifelong Learning, he has been involved—along with myself—in discussions with COSLA on the realisation of some of the policy commitments in the concordat, which are different from the indicators that Mr McLetchie has been questioning me about so far. We have reached an agreement with COSLA that reflects the changed economic and financial circumstances that Mr McLetchie has just talked about. We accept that there are significant challenges in the current financial climate. On the funding that local authorities were promised in the spending review, I have had to reduce local authorities' expectations of what they may receive, because I have fewer resources at my disposal as a consequence of the restatement of the budget position for 2010-11. We have had a realistic discussion with COSLA about what can be achieved in that context. As a consequence, the Cabinet Secretary for Education and Lifelong Learning is working to secure agreement with local authorities on the contribution that they can make to reducing class sizes.

10:15

David McLetchie: So we can have a realistic re-evaluation about the pie-in-the-sky aspiration to have everybody in primary 1 to 3 in class sizes of less than 18 by 2011, but we cannot have realism in relation to pie-in-the-sky national indicators about increasing the rate of new house building. One is a consequence of the changed economic situation, and so is the other. Why change one but not the other?

John Swinney: I do not see any reason why we should not remain aspirational about the targets and aims that we are trying to achieve across the board in Scotland as a consequence of a number of policy interventions.

I will develop the point about house building, because Mr McLetchie raises an interesting issue. The planning system is fundamental to whether we can realise the increase in the rate of new house building that is envisaged in the national indicators. The committee is aware that I have spent a great deal of time on implementing the planning regime that was agreed in the previous session and driving a process of efficiency improvement and efficiency gain within the planning system. I would like to think that that has contributed towards assisting conditions so that we might increase the rate of new house building.

None of that involves money; it involves focus, policy priority and a change of culture in the planning system in the Government planning department and in the agencies and local authorities of Scotland. On Monday evening, I met the planning conveners of all local authorities in the country to set out some of my thinking about how they should be approaching many of these questions.

The class size issue is heavily dependent on resources. Resources for local authorities have had to be reset to a level that is lower than they could have expected from the spending review, because of the budget reductions that the chancellor has applied to Scotland. We have recognised the impact of that on the class size commitment, but in relation to a variety of other indicators none of those circumstances apply and the Government's sense of ambition remains—we are resolute in trying to achieve the indicators that we set out in 2007.

The Convener: We had a recent round-table evidence session on the changing situation, how the recession might affect local government and give it additional challenges, and how it will meet those challenges. At that session, Professor Alexander suggested that the Scottish Government should renegotiate the concordat and the single outcome agreements and import into that process a way of measuring and driving efficiency. Many of us agree with the aspirations in the single outcome agreements in relation to drugs and so on, but there is a question whether single outcome agreements are the drivers to deliver the outcomes that you referred to in your opening remarks. Did your recent discussion with COSLA amount to a renegotiation to ensure that measuring and monitoring take place to determine outcomes?

John Swinney: Comprehensive performance measurement information is available. As I said in my opening remarks, local authorities have published reports on how they have developed and delivered on their single outcome agreements for 2008-09.

As for Professor Alexander's point, the new single outcome agreements for 2009-10 were formulated by all community planning partnerships, which include not only local authorities but other public and third sector partners. As a result, I contend that the single outcome agreements, certainly for 2009-10, take into account the change in economic circumstances brought about by the recession. As to whether we achieve all the objectives in the single outcome agreements, that will become apparent as the reporting takes its course, which reassures me that we have an effective way of

monitoring community planning partnerships' effectiveness in taking forward this agenda.

The Convener: But the point has been made not only by academics such as Professor Alexander. In its report "An overview of local government in Scotland 2009", the Accounts Commission highlights failures in defining and measuring outcomes and re-emphasises the need for improvements in performance management reporting. How have you addressed such criticisms?

John Swinney: I was struck by the comments of Caroline Gardner, the deputy auditor general, who in oral evidence to the Education, Lifelong Learning and Culture Committee said:

"The system under which the Government agrees single outcome agreements with each of the 32 community planning partnerships is, however, now developing well. Year on year, reports are being issued on what has been achieved, with supporting indicators to show progress that has been made in the activities that people undertake in order to achieve outcomes."—[*Official Report, Education, Lifelong Learning and Culture Committee*, 3 February 2010; c 3132-3.]

I contend that that is a positive endorsement of the approach taken by the Government and our partners. Clearly, a reporting stream has to come from the single outcome agreements, and that can be the subject of public debate in due course.

The Convener: I understand why you prefer the deputy auditor general's comments to the comments made by the Accounts Commission. You said in your opening remarks that you expected better outcomes and accountability and reduced bureaucracy. On page 17 of its report, the Accounts Commission says:

"The audits showed many CPPs to be overly bureaucratic and not focused enough on outcomes for local people. The performance management and monitoring processes of partnerships are not well developed and there is a clear need to improve the way they report performance to the public."

How have you responded to that?

John Swinney: As always, community planning partnerships will be required to take account of the Accounts Commission's conclusions. After all, the Accounts Commission is there to provide that kind of advice, and I expect partnerships to respond positively to its views.

I should point out that, as is the nature of such general reports from the Accounts Commission, that assessment covers a variety of different performances, some of which will be stronger than that. However, I imagine—indeed, I am certain—that all community planning partnerships take due account of what the Accounts Commission has said.

The Convener: In your opening remarks, you said that single outcome agreements will produce better outcomes and better accountability and will respond to local priorities and reduce bureaucracy. However, the Accounts Commission report includes a whole page of concern and criticism. Further to David McLetchie's questions about targets, I point out that paragraph 60 of the report highlights

"the need for good performance management ... Work is still needed to focus SOAs on a manageable and meaningful number of high-level outcomes".

Surely that point about high-level outcomes should be of concern to the Scottish Government, given its role in those. A whole page of the report is given to making a number of criticisms about bureaucracy, outcomes, high-level indicators and the need for clearer links to priorities. However, you seem to suggest that those issues are not for the Scottish Government but are for local authorities and community planning partnerships.

John Swinney: Convener, you and I could probably sit here all morning trading paragraphs of Audit Scotland's report for the Accounts Commission, "An overview of local government in Scotland 2009". Another paragraph on the same page states:

"Partnership Single Outcome Agreements (SOAs) introduced in 2009 have provided councils and their partners with an opportunity to plan and manage the delivery of local outcomes in an integrated and more effective way."

That is great news.

There will never be an audit report that does not criticise performance, but the key point is that our management structures at national level—which include Audit Scotland, as it is part of our management group that is looking at the whole approach to single outcome agreements—discuss such reports with local authorities to resolve those questions. My point is that those who are involved in community planning partnerships and in the formulation of single outcome agreements can reflect on all that material and adjust their practice and performance accordingly.

The Convener: On working with partners, the report says:

"a key challenge for councils is to support their delivery ... There is also a need for clearer links between SOA priorities and partners' individual service plans and budgets."

While we are encouraging all the partners to come together, there is no alignment in their budgets.

John Swinney: There is a great deal more alignment now than there was when I came into office.

The Convener: So is that issue sorted?

John Swinney: I am not saying that the issue is sorted, but the Government has concentrated on the meaningful role and activity of community planning partnerships, which we are encouraging to align public services at local level. That opportunity is clearly highlighted in the paragraph of the report that I just read out, which states:

"Partnership Single Outcome Agreements ... have provided councils and their partners with an opportunity to plan and manage the delivery of local outcomes in an integrated and more effective way."

Audit Scotland has confirmed my point that we have improved the mechanisms whereby people can work collaboratively and co-operatively at local level.

To move on to the other part of your question, an even greater challenge is undoubtedly coming the way of public services in Scotland in the form of the significant public spending challenges that we face. The arrangements that we now have in place through community planning partnerships will be fundamental in providing the necessary focus, co-ordination and cohesion at local level to manage that financial challenge. The community planning partnership model that the Government has put in place, on which it has the support of Audit Scotland's analysis, gives us strong foundations for meeting the financial challenges that lie ahead.

10:30

The Convener: We could probably trade paragraphs. There is a full-page critique of the failings. It is disappointing to hear that you have not taken on board what is said about those.

John Swinney: With the greatest of respect, if you think that I have not taken that on board, you have not listened to what I have said.

The Convener: I have listened carefully to what you have said.

Jim Tolson (Dunfermline West) (LD): Good morning, gentlemen. We do not want to keep trading paragraphs—unfortunately, we have almost reached that point—but there is one paragraph that I want to highlight and get your view on. It comments:

"These first Reports show work in progress, a process developing at different paces across the country but with a common trend towards greater local alignment of service delivery."

I read that as being a little bit contradictory and as representing an admission that the Government has not achieved nearly as much as it hoped to achieve in that area. What evidence can you give the committee that there is greater alignment of service delivery across the country and that progress has been made on that?

John Swinney: Part of the answer is contained in the paragraph that Mr Tolson just read out, which, unless I misheard him, said that we were achieving greater alignment, so I am not sure that I understand where he is coming from.

As far as the progress that has been made is concerned, the three major themes that I highlighted in my introductory remarks were tackling poverty, combating health inequalities and giving young people the best start in life. The major pieces of social framework development that we have taken forward through joint working with COSLA and through the community planning partnership process are powerful examples of how we have encouraged a focus on delivering better outcomes at local level. Tackling health inequalities is not just about the health service but about adopting a highly integrated approach to service development and delivery. Giving our young people the best start in life involves meeting a wide cross-section of different requirements through, for example, the work of the education service, the health service and, in some circumstances, the criminal justice service.

One thing that has struck me from our experience over the past few years has been the way in which community planning partnerships have focused on the need to take action to support economic recovery. CPPs have looked afresh at their own priorities to find ways of maximising their contribution to economic recovery.

Jim Tolson: I appreciate that. I read out the paragraph in question because it showed that there is a balance. I do not deny for a moment that that part of the report highlights that there has been some progress, but my concern is that that progress is quite disjointed and is being made at different paces by different local authorities, with the result that the targets that the Government set in the first place are not near being reached.

John Swinney: When, in 2007, the Government set out the approach that it intended to take and the way of working that it intended to adopt, there was a certain amount of scepticism that we would be able to secure agreement around single outcome agreements, certainly within the timescale that I specified, whereby they were to be in force by April 2008. The concept of moving towards an outcome-based approach has been talked about in Scottish public services for many years.

We secured agreement on the single outcome agreements by April 2008, and that agreement has been reinforced by the work that CPPs have done on the formulation of SOAs in 2009-10, which has had a real and robust character to it. All local authorities and CPPs are fully involved and participating in that process.

In terms of there being differential performance around the country, quite clearly some community planning partnerships were at different levels of activity in 2008. In 2008, we required all local authorities to produce a single outcome agreement. If my memory serves me right, around 15 of the 32 authorities produced plans that were based on CPP activities in year one, which was more than we asked for and a very good achievement. We had asked each authority to produce a single outcome agreement by April 2008, and in 15 cases the SOA was based on the CPP, which was very welcome—I applaud that achievement. By 2009, all CPPs had submitted single outcome agreements.

It could be said that there was a difference in performance between 2008-09 and 2009-10. However, we are there now for all CPPs, and we obviously have an approach that allows us to move forward on that basis.

Alasdair Allan (Western Isles) (SNP): Can you say a bit more about means as well as ends? It would be interesting to know whether you believe that the existence of single outcome agreements has in any way changed the attitude of local authorities to how they go about their business.

John Swinney: I think that there has been an attitudinal change. We have created, or encouraged the creation of, a much more significant level of co-operation between public sector partners at the local level. To go back to my answer to Mr Tolson, if we consider significant issues and social changes such as the tackling of poverty or health inequalities, we all accept that no one public service organisation will be able to achieve those priorities. The imperative is therefore about maximising co-operation across different public sector organisations. That has perhaps been the most significant change in emphasis and attitude, because there is now a much greater willingness among local authorities and other public sector partners to focus on what they can achieve together rather than on what drives service design from their own organisational perspective. That has been a helpful development in the perspective of different public sector bodies, but it has had an implicit impact on the attitudes of local authorities.

Alasdair Allan: The overview report comments that single outcome agreements

“represent early learning and rapid delivery in a radical shift in the way in which government in Scotland works towards shared outcomes.”

Can you offer evidence that gives examples of that or in any way suggests that that is accurate?

John Swinney: We asked authorities to move to a very different way of working very abruptly. I think that I have been in front of the committee

before answering that very question, and I have made it clear that I make no apology for driving reform at the pace at which I have driven it. I felt that a move towards a focus on outcomes in the public service in Scotland was an aspiration that, for far too long, had gone unmet as a policy approach. I also felt that there was frustration among the public at the lack of integration of public services at the local level, with members of the public having to join up public services rather than public services being joined up for them. I felt that we had to recognise that there were better ways of working and drawing together the contribution of different public service organisations. In that respect, I think that we have been able to bring together a very different approach to policy making.

Alasdair Allan: You mentioned the public's appreciation of all that. At what stage will the public have before them an easily intelligible assessment of the changes that are taking place and the benefits of those changes, as you have described them? How long a process is required before readily accessible information comes into the public domain? You also mentioned what is already being produced on a day-to-day basis at a statistical level. Can you say a bit more about that, and about how you feel things will develop?

John Swinney: The scale of the challenge of presenting information in a fashion that captures public interest and public attention is not lost on all policy makers. A very wide range of information is available, and reports on performance are available for each single outcome agreement.

It is perhaps more meaningful to examine the impact on public authorities' way of working. Do members of the public consider that they are able to benefit from the way in which public services are designed and deployed? That will become apparent in various localities, taking into account the different ways in which local authorities and community planning partnerships communicate information to the public, using a variety of mechanisms. Information should be made clear.

Using our indicators, we assess the quality of the public services that are delivered—an information flow informs that work, under the national indicators framework that we have set out.

The Convener: I am sorry to have to return to the Accounts Commission report, but it says:

“The audits showed many CPPs to be overly bureaucratic and not focused enough on outcomes for local people.”

The report goes on to make another important point about the extent to which people are aware of the good work that is going on, to which Alasdair Allan referred:

"The performance management and monitoring processes of partnerships are not well developed and there is a clear need to improve the way they report performance to the public."

You have outlined what already exists, but there is a clear need to improve awareness.

John Swinney: As I said earlier, the report forms part of the discussion involving the groups that meet to monitor the approach to community planning partnerships. Audit Scotland is a partner with us in the process of developing the approach to single outcome agreements. In developing an agenda of radical change there will be areas where we need to concentrate on making improvements, and the Government will ensure that that is addressed in our discussions.

The Convener: You would expect us to take the opportunity of using a public document—published in February 2010—that contains a critique on single outcome agreements. This is our opportunity to do that—we are excluded from the rooms where the cosy discussions take place with the people who are involved. The Accounts Commission report is a public document that raises serious concerns about how the general public are considered and the extent to which they are aware of single outcome agreements, which are a vehicle for spending large chunks of public money.

John Swinney: That is fair comment, and I of course expect the committee to examine the report carefully. The committee will not be surprised to hear me say that I, too, consider seriously such reports, which form part of the discussion that will take place on the management and monitoring of community planning partnerships and the approach to single outcome agreements.

To answer the point that Dr Allan raised, the report says:

"The Commission welcomes evidence of areas in which councils are providing good quality outcomes for citizens – for example, in targeting care services more effectively to meet needs, and in working well with local partners to deliver aspects of addiction services."

Those are practical examples of things that matter to people, which I think is what Dr Allan was getting at. I am sure—indeed, I am absolutely certain—that people are more interested in the quality of the services that they receive than in reading a single outcome agreement report card. That is the distinction that I would draw. However, those matters will certainly be fully considered as we assess the issues arising from the report.

10:45

The Convener: As I am sure you are aware, the Accounts Commission report also gives some

views about the quality of services. Those make for interesting reading. However, I am pleased that we have moved on, in that you have conceded that you will take those issues into account and that they will be taken seriously.

John Swinney: Throughout my answers today, I have said that the Accounts Commission report will be part of our discussions with COSLA and Audit Scotland, which is part of the group that supervises the implementation of single outcome agreements. It would be a strange discussion for us to have if we were not to reflect on a report that has been published by one of our partners in that group.

Mary Mulligan (Linlithgow) (Lab): Good morning. First, I have a supplementary question about reporting back, which colleagues have asked about. The SOA for Dundee City Council states:

"There will be, we expect, a similar annual report produced jointly between the Scottish Government and COSLA".

Does the Government intend to fulfil that expectation?

John Swinney: We have published the report "Single Outcome Agreement Overview Commentary—Progress in 2008-09". I am certainly considering what the appropriate level of information should be. Obviously, each single outcome agreement will be published annually. Whether the Government needs to provide an annual consolidated overview of all SOAs is a proposal that I will consider.

Mary Mulligan: When can we expect a decision on that?

John Swinney: I will consider the issue as part of the process.

Mary Mulligan: My next question is about the fairer Scotland fund. Ten single outcome agreements do not contain a statement on how fairer Scotland fund moneys will be used. A Scottish centre for regeneration report reveals concerns at the local level about the removal of ring fencing from those moneys in March this year. Is the cabinet secretary aware of those concerns, and how will he reassure the people who have them?

John Swinney: Clearly, I have heard those concerns being articulated. Ministers have undertaken discussions with local authorities about the approach that should be taken to the distribution of fairer Scotland fund resources within the work of community planning partnerships, but the community planning partnerships might reflect that differently in the terminology that they use in their single outcome agreements. We have provided advice on the approach that should be

taken to the distribution of fairer Scotland fund resources. Obviously, that will be taken forward by community planning partnerships at the local level.

Mary Mulligan: If the issue perhaps revolves around the terminology of how such moneys are referred to, are you confident that the fairer Scotland fund money is being used as envisaged, and that any future concerns can be allayed?

John Swinney: I am certainly confident that fairer Scotland fund resources will be used in a fashion that is appropriate for their purpose. My point about terminology is that different single outcome agreements will have been formulated using different wording, but the substance of what they contain encapsulates how the resources that are available to the partners through the fairer Scotland fund will be used to achieve priorities at the local level.

Mary Mulligan: Do you intend to carry out any specific monitoring to ensure that that happens in future?

John Swinney: That monitoring already takes place as part of the reporting on single outcome agreement performance. That will give us the necessary information.

Mary Mulligan: Finally, do you think that any guidance will be needed, particularly for the transition from ring fencing to non-ring fencing?

John Swinney: We have already provided that advice in our discussions with COSLA. Obviously, the reporting mechanisms are in place to ensure that that approach continues.

Bob Doris (Glasgow) (SNP): I want to begin with my own local authority, Glasgow City Council, and then make a more general point.

I am not going to make any party-political points—Mr Tolson may laugh at that, but I should tell him that I am going to praise Glasgow City Council in a second—but I have to say that, with regard to national outcome 4, which is

“Our young people are successful learners, confident individuals, effective contributors and responsible citizens”,

and national outcome 5, which is

“Our children have the best start in life and are ready to succeed”,

the council has let itself down with certain decisions on, for example, school closures and class sizes.

However, on national outcome 9, which is

“We live our lives safe from crime, disorder and danger”,

I must praise Glasgow City Council for working constructively with Strathclyde Police, its own community safety services and the Scottish Government to put more police on the beat,

change patrol patterns in local areas and so on. As a result, there has been a dramatic fall in violent crime, particularly knife crime, and people feel safer in their communities. Indeed, it is an example of how Glasgow City Council has used the single outcome agreement and the community planning partnership to work in partnership with other agencies to deliver a national strategic outcome, whereas I feel that it has not delivered on national outcomes 4 and 5. However, that is my subjective opinion on Glasgow's performance.

Widening that out, I would like to know which local authorities are excelling in certain national outcomes and which still have much to do. After all, until we have that specific information, how can some local authorities learn from others' best practice and make progress? Has there been any attempt to rank local authorities, to green-light those that have done particularly well on certain shared outcomes or to flag up those that are struggling to perform on others—not to chastise them, but to promote improvement and benchmarking with other, better performing local authorities?

John Swinney: The mechanism for all that is contained in different elements of the current arrangements. Local authorities will go through the best-value process, which assesses the effectiveness and value for money of their service provision, and will, with their community planning partners, report on the achievement of outcomes. I remind the committee that single outcome agreements are now formulated as an expression of the direction and approach taken not just by local authorities but by all community planning partners and that, as a result, they bring in a wider dimension.

As for learning lessons from other authorities, the Improvement Service, which is part of the local government community, is very active in sharing best practice between authorities and in encouraging them to learn lessons and improve service provision without perpetually having to reinvent the wheel. As I say, a number of different mechanisms are already in place, but I have not contemplated ranking local authorities according to their performance on national outcomes. Indeed, in that respect, I caution the committee against thinking that we can somehow neatly deconstruct the national indicators or outcomes, set out, say, Glasgow's proportion for each and conclude whether or not it has delivered against those. That kind of thing is impossible to calculate and, given that we know that it is impossible, we should not try to do it. Nevertheless, mechanisms in the policy framework allow lessons from individual local authorities to be learned and we will ensure that that happens.

Bob Doris: Let me look at it another way. National outcome 6 is:

“We live longer, healthier lives.”

If we do not rank local authorities, can the Improvement Service or whoever pick out five local authorities that the Scottish Government or the Improvement Service feel have, with their CPP partners, performed particularly well on that outcome? We would not chastise the other 27 authorities, but say that five CPPs have hit the nail on the head and are progressing national outcome 6 at the local level. If we can get five glowing examples of good practice in that area, other community planning partnerships could follow suit. Is the Improvement Service or the Government doing that? Which body would do that?

John Swinney: Mr Doris will see from the various points of analysis that are produced by the Improvement Service and the Accounts Commission in relation to the best-value regime, and from within the health service, that issues such as national outcome 6, which he highlighted, are not just within the province of local authorities but involve activity in the health service and in other public sector and third sector providers. It is therefore clear that examples of good and best practice can be identified and taken forward as examples of how individual authorities or CPPs could develop their services effectively.

Bob Doris: Okay. My terminology let me down slightly. I of course acknowledge the wider stakeholders who are involved in single outcome agreements. I did not mean to narrow it down to individual local authorities. I am happy to set the record straight on that. However, I still think that it would be good for one body to take responsibility for pointing out where there is good practice among all stakeholders so that other CPPs could learn from that. I ask the cabinet secretary to consider that point.

We have just completed a committee inquiry into local government finance and the idea of shared services, not in terms of stakeholders within one local authority area or CPP area, but between different local authorities. Is the cabinet secretary minded to ask local authorities to have an indicator in any future single outcome agreement on how they work in conjunction with other local authorities to push the agenda of shared services forward? After all, that is what single outcome agreements do: the health board, the police, the council and the CPP are all stakeholders delivering a shared agenda. The committee has given thought to shared services between local authorities, and I wonder whether such an indicator would be a way forward for the single outcome agreement process.

John Swinney: I am certainly prepared to consider whether an indicator on shared services might be appropriate. I am not persuaded at this stage that it is, because the Government's approach is to encourage and motivate different public bodies to co-operate in the field of shared services. I do not think that it would be particularly constructive for us to compel or require that. A number of substantial discussions are taking place. For example, a substantial discussion is under way in the west of Scotland with the different authorities that have co-operated to commission Sir John Arbuthnott's review. Obviously, there is an active discussion in that respect, which I welcome and very much support. Whether we translate that into a shared services indicator is a different matter, but I will consider that point.

The Convener: I will raise a fundamental point, following on from our earlier discussion about local people's lack of awareness of what single outcome agreements deliver for them. There is also the notion of all partners being publicly accountable—but not politically accountable—for the money that they spend and bring to the table. I understand from the guidelines for CPPs that that point was acknowledged and that a key development step was highlighted in the guidelines that would create an effective mechanism for joint accountability for SOAs, which could transfer to shared services arrangements.

What work has been done to address the problem of the council being the only elected partner in the partnerships? We are concerned that the new ways of working mean that there is a growing democratic deficit with regard to the delivery of services, which raises questions about political accountability for the expenditure of public money on services. What thinking has been done on that?

11:00

John Swinney: I agree that this is not a simple area of analysis. For example, the work of a community planning partnership will involve contributions from an elected local authority that is responsible to its local electorate, a health board that has been appointed by a minister, for which the minister is responsible to Parliament, a fire authority that, in all but one case, is responsible to a board that is comprised of representatives of a multiplicity of local authority areas, and a police authority that, likewise, is, except in one case, responsible to a board that is comprised of representatives of a number of local authorities. Although even in a CPP accountability is spread across a number of areas, crucially there are existing levels of accountability that provide for, for example, a chief constable to be held to account

for non-operational matters by his or her police board or a health board chief executive to be held accountable by a board and a minister.

When we get into some of the wider issues of shared services, it is necessary for governance to be addressed effectively to ensure that the public have comfort on how issues will be dealt with. By necessity, the arrangements may well vary from one part of the country to another, but they must all result in no diminution of democratic accountability or effective governance in relation to the use of public resources. Those considerations will be uppermost in the minds of ministers when they consider any proposed arrangements and they will also have to be uppermost in the minds of the members of any partnership that introduces such proposals, because of their responsibilities, as elected members or as accountable officers, for financial commitments.

The Convener: In your meetings with partners such as Audit Scotland, local authorities and the Convention of Scottish Local Authorities, how much time have you spent discussing the need to create the mechanisms for joint accountability that you have just described?

John Swinney: I cannot give you a time in hours and minutes, but they are an active topic of discussion in my meetings and in those that my officials hold. Governance issues are given significant consideration when it comes to shared services, which is an area of activity that involves a range of players in the Government, local authorities, public authorities and non-departmental public bodies.

The Convener: When will we be able to make those discussions more open to the people whom they affect, to the committee and to others who might be interested? When can we expect some open discussion of what I have described as a democratic deficit? When will we be able to find out about some of the work to create effective mechanisms for joint accountability?

John Swinney: Such discussion must take place as the discussions about relevant structures take place. Proposals have been made, such as the Clyde valley proposal on which Sir John Arbuthnott has been working.

We do not yet know whether, or in what form, the proposals will be taken forward by the relevant public sector partners. The discussion about governance has to sit closely alongside questions about the arrangements that may be put in place.

The Convener: I understand that that is the case in relation to new bodies in the future, but I am thinking more about the guidance that is already in place for community planning partnerships and how the guidance for single outcome agreements can

“create effective mechanisms for joint accountability for SOA commitments”.

I presume from your answer that we have not made much progress on that—or have we?

John Swinney: There is a difference between the two areas. I was talking about the point that I thought we were addressing, on a shared services agenda. I accept that there is a set of governance arrangements that have to be developed in accordance with the schemes that emerge in different parts of the country.

Guidance about accountability arrangements—from which I think the convener quoted—has already been issued to community planning partnerships. That guidance is in the public domain.

The Convener: We look forward to seeing it.

Patricia Ferguson (Glasgow Maryhill) (Lab): Good morning. I am aware from some of the reporting that there have been a number of asks—227, from memory—from local authorities. Have those been responded to positively? I suspect that not all have, because that would be impossible. How many have been responded to positively? How has the whole issue of handling such questions from local government been dealt with?

John Swinney: I am grateful for the get-out clause that Patricia Ferguson helpfully offered. Without being flippant in any way, I would say that the asks fall into two categories: those that can be delivered and those that cannot. As Patricia Ferguson will be aware, there are directors in the Scottish Government who are responsible for liaison with the community planning partnership. They have been the communication channel between the Government and community planning partnerships in trying to address some of those questions. Some of the asks are relatively straightforward to deliver, and a number of them will have been addressed. Others are more challenging, and some would require additional resources. I am in regular discussion with local authorities—collectively and individually—about their financial circumstances. As Patricia Ferguson will appreciate, satisfying those financial demands is never easy for me to do. However, we endeavour to address as many of those asks as possible.

Patricia Ferguson: I realise that, just because a lot of people ask the same question, it does not mean that it is the right question or that it should be considered positively, but are good ideas coming forward in the form of those asks? The suggestion to continue the town centre regeneration fund, for example, is good, although I am not necessarily suggesting that the cabinet secretary thinks that it is a good idea. If a number of authorities or community planning partnerships

ask for moneys or provision that could be rolled out across the country, will the cabinet secretary take that into consideration? How would you assess asks of that sort?

John Swinney: The directors who interact with community planning partnerships meet collectively in the Government. They formulate an assessment for me of the various propositions that are received. Whether it is one partnership or a number of them that are asking for those things, open consideration is given to their questions. Where resources are involved, difficult challenges must be addressed. If procedural or operational issues are raised, or changes to policy streams are suggested that we could pursue in a relatively straightforward fashion, I give open consideration to them.

Patricia Ferguson: Is there a list of responses that the committee could consult to get a feel for how things are progressing?

John Swinney: I do not think that we have a published document, but if I find any more information I will be happy to provide it to the committee.

Patricia Ferguson: That would be helpful.

John Wilson (Central Scotland) (SNP): A number of my questions have already been asked. To return to community planning partnerships, how many of them are there and, following on from Patricia Ferguson's question, how many directors in the Scottish Government oversee them.

John Swinney: There are 32 community planning partnerships in Scotland—one for each local authority area—and 16 directors in the Scottish Government interact with them. In other words, one director interacts with two partnerships.

John Wilson: There was talk that, instead of having each of the partnerships operate local authority-wide, some of the larger local authorities wanted to split them up to ensure that they concentrated on specific geographical areas. Given your response, however, I assume that each of the partnerships has been established around a local authority area. Is that the case?

John Swinney: Each community planning partnership is based around the local authority area and formal discussions are structured at that level.

Of course, there are different arrangements in different community planning partnership areas. In the Highlands, there are area-based structures, for quite understandable reasons. In the Lochaber area, for example, partners at an appropriate level, including local authority officials, a divisional commander of the police force and

representatives of the community health partnership gather together. However, although such internal structures might exist in community planning partnerships, the Government itself recognises 32 partnerships and works with each at that level.

John Wilson: An issue that comes up again and again is the role of the community in each of the 32 community planning partnerships. With regard to the partnerships, the various papers refer to statutory bodies; you have talked about local authorities, police forces, fire services and the health service, although I have to say that I am surprised that you have not mentioned Scottish Enterprise. How do community groups, which would include the local voluntary sector, residents and tenants associations and so on tie in with the community planning partnership structure? As I understand it, the whole thing was supposed to be driven by demands from the community. If it is based on local authority structures, how can we address the issues that are of highest priority for the communities that the single outcome agreements are supposed to serve? Glasgow, for example, covers a tight geographical area and has well-defined communities, whereas in the Highlands, which you have just referred to, a number of communities are spread over the whole north of Scotland. How do those communities engage with community planning partnerships to try to shape and influence delivery of the services that are most needed within the single outcome agreement priorities?

11:15

John Swinney: I have met some community planning partnerships whose boards include members of the public—they are there as members of the public—although that is not the case in every community planning partnership. One board, if my memory serves me correctly, is chaired by a member of the public as an independent figure.

In respect of assessing and identifying demand for services, many choices are the responsibility of elected members of local authorities or of board members who are selected for that purpose under statute by ministers. Decisions are also taken by joint boards, such as police boards or fire boards, members of which are chosen by individual local authorities. They contribute to decision making in community planning partnerships. We should not ignore the fact that all those organisations will have some form of community dialogue and discussion. For example, in the constituency that I represent, the health service has a patient involvement group, which meets members of Parliament, members of the local authority and the leadership of the health board. It also facilitates

meetings around the community to decide and determine local input to the design of health services.

Mr Wilson is right that there must be an effective channel of community participation to raise issues, to set the agenda and to set out the aspirations for a locality. I envisage that that would be reflected in the activities of the community planning partnership.

John Wilson: I have a background in working with—some of your officials may have worked with—the new life for urban Scotland programme, which was established in four areas in 1988 under a previous Administration. You talked about community involvement and community partnership, but the reality for many communities—I am talking about the community not as in statutory bodies but as in people and residents in those areas—is that their expectations may not be met with regard to their engagement with and influence over what is delivered locally because, although the documentation refers to political accountability, for many people that political accountability currently comes only once every five years when local government elections are held.

People do not really have political accountability over some statutory agencies, unless they take issues to the national level. As you said, a number of the statutory agencies are directed by the Scottish Government rather than at local level, so it is about trying to square the circle in relation to how communities actively engage in the decision-making process that directly affects them. I fully recognise the role of the local elected member in the process, but an expectation has been built up among a number of groups that they would have more influence in setting the priorities for communities through the single outcome agreements than they would through relying on statutory agencies to sit round a table and agree their priorities.

John Swinney: Mr Wilson raises a significant issue. I want to give the clearest signal that ensuring that the public's view and the public's attitude and aspirations are incorporated into the thinking and decision making of the community is very important.

In its October 2009 report "An overview of the audits of Best Value and Community Planning 2004–09", the Accounts Commission said:

"BV audits consistently found that there was a lot of consultation and involvement activity taking place with a variety of communities and interest groups."

That has been acknowledged within the best-value assessment. However, I certainly want to make it clear that I attach significant importance to

ensuring that community input is considered by the relevant bodies.

The Convener: That paragraph—paragraph 64, I think, in the section on citizen involvement—goes on to say that more work needs to be done.

John Swinney: I was quoting from a different Audit Scotland report.

The Convener: I am sorry to mention "An overview of local government in Scotland 2009" again, but that report refers to the same issue.

That concludes our questions to the cabinet secretary and his officials. I thank them for their attendance this morning. We will pause for a change of cast, but the cabinet secretary will remain with us for the next item.

11:21

Meeting suspended.

11:21

On resuming—

Subordinate Legislation

Local Government Investments (Scotland) Regulations 2010 (Draft)

The Convener: Agenda item 2 is to take oral evidence on the draft Local Government Investments (Scotland) Regulations 2010, which is an affirmative instrument. I again welcome the Cabinet Secretary for Finance and Sustainable Growth, John Swinney MSP. He is accompanied by officials: Colin Brown, senior principal legal officer; and Hazel Black, head of local authority accounting.

I offer the cabinet secretary the opportunity to make some opening remarks before I invite questions from committee members.

John Swinney: Provision was made in the Local Government in Scotland Act 2003 to empower local authorities to invest money in accordance with regulations. The provision was included in response to representations from local authorities that previous legislation on the investment of money was too prescriptive and did not provide them with sufficient flexibility to achieve best value from their investments.

The draft Local Government Investments (Scotland) Regulations 2010 are the result of some two years of work with local authorities and other stakeholders to agree an appropriate framework. The new framework will provide local authorities with flexibility and self-governance, but it will also ensure that they give due regard to the risks associated with the investment of money.

The regulations will require local authorities to have regard to two codes of practice that have been developed by the Chartered Institute of Public Finance and Accountancy—CIPFA, which is the professional accountancy body for public services—in conjunction with a range of external bodies. For example, the treasury code sets out the treasury management practices that a local authority should adopt. Requiring local authorities to follow the codes forms an important part of the revised framework that the regulations will introduce.

The regulations also provide that a local authority may invest money only with the consent of Scottish ministers. The consent conditions do not require a local authority to get approval from ministers each time that it wants to invest. Rather, they require the local authority to prepare an annual investment strategy that identifies the types of investments that it will permit, any risks that are associated with those types of investment and the

controls that will be in place to limit those risks. The local authority will also be required to produce an annual investment report at the end of each financial year.

The conditions are also the result of extensive consultation with authorities and other stakeholders. They complement the requirements of the CIPFA codes to which I referred. The conditions will be set out in a circular, which will extend to some 14 pages. We will issue the circular on 1 April, which is the date on which the regulations will come into force.

In summary, the draft regulations have been asked for and will be welcomed by local government. Together with the circular, they will bring more rigour to the way in which councils invest money. All of that has followed detailed engagement and discussion with councils and other stakeholders.

I would be delighted to answer any questions.

David McLetchie: Paragraph 4 of the draft finance circular that you have kindly provided, which will be issued following approval of the regulations, says:

“The new regulatory framework introduced by regulations made by Scottish Ministers under section 40 powers provides greater autonomy for local authorities in their investment activities.”

Does that mean that council funds will be more or less likely to be invested in dodgy Icelandic banks?

John Swinney: If local authorities wish to take the proposed approach and to secure Scottish ministers' consent, they will have to follow two rigorous codes that CIPFA has developed. Those codes set out for local authorities the necessary considerations before they invest public money. Therefore, local authorities will be able to make effective choices about how they make investments.

David McLetchie: Are you satisfied that the regulations put in place measures to avoid a repetition of the situation in which councils and other public bodies imperilled millions of pounds by investing funds imprudently in such banks?

John Swinney: The codes that CIPFA has developed, which have been subject to extensive consultation and preparation, create a rigorous environment in which local authorities must make choices about investment activities, so I am confident that a robust framework is in place. The provisions have been reconsidered in the light of circumstances in the past two years and will therefore give local authorities the decision-making basis on which to invest public money.

David McLetchie: I am pleased to hear that.

Paragraph 11 of the finance circular says:

“Investment properties form part of the local authority portfolio of investments.”

Their purpose is

“to earn rentals and /or capital appreciation”

and they are

“not used by an Authority for service delivery or administrative purpose.”

At what point does an asset—such as a building and its accompanying land—that was formerly used for service delivery become an investment property that a local authority might hold for an investment purpose? For example, if a council closes a school with a surrounding playground and play area, at what point does that become either an investment property or a surplus asset that is awaiting redeployment or disposal?

John Swinney: An asset becomes an investment property when a local authority defines it to be so. A local authority is not obliged to retain all its former public service facilities as investment vehicles.

The example of a school is good. When an authority decides that a school is no longer to function, it has a choice—can the asset be used as an investment property for the purposes that are set out in paragraph 11 or is it surplus to requirements, which means that it should be considered for disposal in accordance with the “Scottish Public Finance Manual” guidance on the disposal of assets? The local authority determines the purpose for which it wishes to use a facility.

11:30

David McLetchie: At the moment, we have situations in which surplus land and buildings are falling between two stools. Is that not the case, cabinet secretary? There are several examples in my constituency. A school has closed, efforts to sell the building and land for development have fallen through, and a decision is now being taken, because of the decline in land values, to make no further attempt to sell the property. Instead, it will be held—some people might say, pejoratively, “hoarded”, but let us say “held” for the moment—by the local authority until it envisages a recovery in land values and therefore, it hopes, a greater future return to the council coffers from the sale.

I presume that the point at which the council decides to hold the land in anticipation of future capital appreciation rather than dispose of it immediately, which was its initial aim, is when it becomes an investment property, because it is being held for the purpose of capital appreciation. Is that correct?

John Swinney: Colin Brown might want to give a particular legal consideration, but that certainly strikes me as being a possibility in that scenario. I think that Mr McLetchie said that some sources might say that local authorities were hoarding such assets. I would certainly not associate myself with that language. Local authorities, like the Government, have to be careful about disposing of property in the current financial climate because there might be opportunities to realise more for the public purse as a consequence of holding on to assets. That is not to say that we cannot sell any properties—clearly we can, and we do. However, it is important to the public finances to maximise the value that we achieve from doing that.

The key point in paragraph 11 is the opportunity for local authorities to define particular properties as forming part of their portfolio of investments, provided that they follow the details of the code.

David McLetchie: So, in your view, retention with a view to capital appreciation is desirable, even if it might conflict with a further policy objective of facilitating the development of affordable housing.

John Swinney: No, because on plenty of occasions we dispose of public land at levels below the higher values that could be commanded if we either retained them or disposed of them to another party in order to enable affordable housing developments to take their course. That is perfectly permissible within Scottish public finance.

David McLetchie: So you would not approve of land hoarding by public bodies that frustrates the development of affordable housing programmes, for example.

John Swinney: I suspect that Mr McLetchie is tempting me into second-guessing operational decisions by individual local authorities.

David McLetchie: Or public bodies for which you are responsible.

John Swinney: That is a different matter. If Mr McLetchie wants to marshal before me the scenario that he is concerned about, I will certainly consider it, but there are many circumstances in which public land is disposed of to facilitate affordable housing development at a level that is beneficial to that development. That is an understandable objective.

David McLetchie: Would Mr Brown like to comment on the point at which a non-investment property becomes an investment property?

Colin Brown (Scottish Government Legal Directorate): I cannot say that it is a point that I have considered in detail. I would imagine that there will be guidance on such treatment in accounting codes. Any council will end up with land that it is not using at a particular time but

which it is not especially holding for the purpose of investment. Equally, there will be occasions when councils acquire land specifically with a view to investment.

David McLetchie: If an authority has land that it resolves not to dispose of because it believes that it will appreciate in value, albeit over two, three or four years, that surplus land becomes an investment. The reason for retaining it is to generate capital appreciation. Is that not the case?

John Swinney: That is exactly what I said to Mr McLetchie some moments ago, when I said that a local authority would be able to make a choice about the designation of such a property—whether it considered it to be part of its portfolio of investments or an asset awaiting disposal.

David McLetchie: But it can stay in a limbo. My question is: can it lie in the limbo of designation for two or three years?

John Swinney: There is no limbo here.

David McLetchie: With respect, cabinet secretary, there is. You say that it is a matter of designation by the local authority. Let us use the good example of the school that I gave earlier. If the council does not designate it as an investment property but is deliberately not proceeding with disposal because it anticipates that the value of the land will appreciate, the school has de facto become an investment property even if it is not designated as such. Is that not correct?

John Swinney: You are in danger of trying to create a third way—

David McLetchie: No, I never do third ways. That is associated with another party.

John Swinney: I never thought that you would be a man for the third way, and there is no third category in this case. The property is designated either as forming part of a portfolio of investments or as an asset to be disposed of. Whether the disposal takes place today, tomorrow, in a month's time or in a year's time is a feature of the market—

David McLetchie: And what if a feature of the market is a recovery period of two, three or four years, and not a day, week or month? That is my point.

John Swinney: That is where you are trying to create the third way, Mr McLetchie—

David McLetchie: No, I am not trying to create a third way. With respect, cabinet secretary—

The Convener: I am sorry to interrupt this conversation, but we need some rules of engagement.

David McLetchie: Sorry. I just want to point out that I am not trying to create a third way; I am

trying to suggest that when an authority decides deliberately, as an act of policy, not to proceed with a disposal, that is the point at which it should make a designation under the regulations to say that the property has become an investment property.

With respect, cabinet secretary, I believe that your position creates a third way, because it permits authorities to have a limbo land, in which the property is not disposed of immediately and is held for several years. I am the man who is trying to achieve clarity on the nature of the holding, and you, cabinet secretary, are the man who is permitting confusion, because you are allowing people to leave land in a limbo between land for disposal and land held for investment.

John Swinney: I do not think that I could have been clearer that the local authority will have the option to designate the property either as part of its portfolio of investments or as an asset to be disposed of. That is clear, although Hazel Black may want to add to that.

Hazel Black (Scottish Government Public Service Reform Directorate): An important aspect, which touches on the previous point, is the intention of the local authority when it purchases the asset in the first place—whether it buys the land as an investment. It can subsequently become an investment, but nothing in the finance circular suggests that a property becomes an investment property just because it becomes surplus and an authority does not dispose of it immediately. It is not unreasonable for a local authority to hold a property and wait for the market to recover.

There will be a point when the market recovers and there is enough activity for the authority to sell the property. If the authority then chooses not to sell it, Mr McLetchie is right that at some point it will become an investment, but the fact that a property is held as surplus does not automatically make it an investment.

David McLetchie: So some investments are held for capital appreciation and some are not.

Hazel Black: Some are held for rental income.

David McLetchie: Yes, I understand that, but I am not talking about assets that generate an income. I am talking about an asset that is deliberately held for the purposes of capital appreciation.

Hazel Black: There is a difference between an asset being held for capital appreciation and its being held because this is not the right market to sell it in.

David McLetchie: Actually, I would call that being held for capital appreciation. Is that not what common sense suggests?

The Convener: The point has been made and we have had quite a long exchange on it. I do not think that we are going to make any more progress on the matter.

Jim Tolson: I want to give the cabinet secretary an opportunity to put on record a point about these investments. I am quite willing to accept his initial point that our local authorities sought out and very much welcome this information about the investments that they can make. Given the particularly tight budgets that our local authorities are dealing with, is he able to assure us that any accruals that they manage to make on these and any future investments will not be clawed back by the Scottish Government?

John Swinney: I stand to be corrected, but I think that I would be unable to do that.

Jim Tolson: That is helpful.

The Convener: As has been said, the rules are being tightened to make it less likely that authorities will get caught up with dodgy banks, and you have made it clear, cabinet secretary, that robust codes will be introduced. I also presume that you will have to sign all this off. What if after all the codes have been complied with, everything has been scrutinised and the Government has signed it all off, lo and behold something completely unexpected goes wrong? Does the fact that the Government has signed it off imply any transfer of responsibility or liability to it?

John Swinney: We must be clear about how the process will operate. If, subject to parliamentary consent, the order comes into force, we will issue the finance circular, a copy of which we have given to the committee, which sets out the basis on which investment activity will attract ministerial consent. Before a local authority makes any investment, it will have to ensure that it is complying fully with the circular, which means that it will have to evaluate the risks and reliability of the investment. As a result, the onus is on the local authority to make the decisions. Therefore, if the authority is taking its own decisions on investments, surely it is only appropriate for it to take the liability for any risk that it might assume.

The Convener: As there are no other questions, we move to the debate on the motion.

Motion moved,

That the Local Government and Communities Committee recommends that the draft Local Government Investments (Scotland) Regulations 2010 be approved.—
[John Swinney.]

Motion agreed to.

The Convener: I thank the cabinet secretary and the witnesses for their attendance and evidence.

Petitions

Public and Voluntary Sector Services (Cuts) (PE1158)

Public Service Contracts (National Framework) (PE1231)

11:44

The Convener: We move to agenda item 4, which is to consider whether to close petitions PE1158 and PE1231. Members will recall that the petitions were subsumed into our inquiry into local government finance, on which we have now reported. At our meeting on 9 September 2009, we took oral evidence from Kevin Hutchens, the originator of PE1158, and representatives of the Scottish Council for Voluntary Organisations, Unite and Unison, which were the co-petitioners for PE1231. Are members content to formally close both petitions and to notify the petitioners accordingly?

John Wilson: I propose that we refer the petitions back to the Public Petitions Committee, from whence they came—if that is permissible—rather than close them, because that committee might wish to consider them further.

Patricia Ferguson: Given that the petitions have been subsumed into the work that we have done, the very least that we can do is to keep them open until we have had the debate on the report that we have produced, so that the petitioners are aware that something at least has resulted from the effort that they have made in raising a genuine issue.

The Convener: Are there any other views?

David McLetchie: I have a slightly pedantic question. What does “formally close” mean in the context of this committee, with reference to the petitions? We might have a debate on our report and, no doubt, the issues raised in the petitions can be discussed in that debate, but what does closing the petitions mean for this committee?

The Convener: It means that we conclude our work on the petitions. We have referred to the petitions in our report on local government finance. We could notify the petitioners of the evidence that we have taken and the work that we have done on the petitions and refer them to the report and the debate. They will have the opportunity to lobby members ahead of the debate.

David McLetchie: I agree with that.

Bob Doris: John Wilson suggested that we refer the petitions back to the Public Petitions Committee. Has that happened before? Have

other committees said that they have completed their work on a petition and will not be doing any more work on it, but if the Public Petitions Committee wishes to pass it on to someone else that is up to it? Is there a precedent for that?

The Convener: I am not sure. We would notify the Public Petitions Committee of our work on the petitions. If members of that committee wished to comment on it, that would be up to them. We could do everything that has been suggested: draw to the petitioners' attention the work that we have done; inform them of the future debate and the references in the report; and notify the Public Petitions Committee of the work that we have done. Hopefully, we can formally close both petitions on that basis. Is that okay?

Members *indicated agreement.*

Social Care Procurement

11:48

The Convener: Item 5 is to consider the Scottish Government's draft guidance on social care procurement. Members will recall that we took evidence last June on the tendering methods used by local authorities in the procurement of social care services—specifically home care services for the elderly. We followed that up in correspondence with the Cabinet Secretary for Finance and Sustainable Growth and draft guidance was published in January. The consultation on that is due to end in April.

I invite members to consider whether they wish to undertake any further work on social care procurement in light of the draft guidance.

Mary Mulligan: I am glad that the guidance has been issued. I have a question about the letter that we received from Annie Gunner Logan, who suggests that we ask the Social Work Inspection Agency and Audit Scotland to pursue the matter further. How would that work and what are the practicalities of it?

John Wilson: Annie Gunner Logan has highlighted the issue that I raised during the inquiry: although a local authority might be the procurement agent and might outsource the work, when it comes to accountability for delivery of the service, the local authority seems to be able to step back and not face any criticism. Annie Gunner Logan is correct that we need to hear from the Social Work Inspection Agency what procedures, if any, will be put in place to ensure that the contracting local authority is held accountable for the services that are delivered. I support the request that we make further inquiries. In the past, we have been told that some of these issues might be addressed in the Public Services Reform (Scotland) Bill. We need to get clear guidance on how the Social Work Inspection Agency views the delivery of these services and who would ultimately be held accountable for any failures in that delivery.

David McLetchie: I agree with John Wilson. The suggestion in the letter that there be a review of the process is sensible and I would like us to support it. I appreciate that that might happen a bit further down the road, but it would lend weight to what we have done so far, on which Annie Gunner Logan has kindly complimented us. It would round off quite well the work that we have done and it would create something that would hopefully be of lasting value.

The Convener: No members disagree with that approach. Something might come out of the

consultation, which will end in April. We will draft a letter. Is that okay?

Meeting closed at 11:51.

Members *indicated agreement.*

The Convener: That concludes our business for today. Thank you all for your patience and participation.

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