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Pàrlamaid na h-Alba

Official Report

FINANCE COMMITTEE

Tuesday 15 June 2010

Session 3

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Tuesday 15 June 2010

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FINANCE COMMITTEE

16th Meeting 2010, Session 3

CONVENER

*Andrew Welsh (Angus) (SNP)

DEPUTY CONVENER

*Tom McCabe (Hamilton South) (Lab)

COMMITTEE MEMBERS

*Derek Brownlee (South of Scotland) (Con)
*Malcolm Chisholm (Edinburgh North and Leith) (Lab)
*Linda Fabiani (Central Scotland) (SNP)
*Joe FitzPatrick (Dundee West) (SNP)
*Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD)
*David Whitton (Strathkelvin and Bearsden) (Lab)

COMMITTEE SUBSTITUTES

Gavin Brown (Lothians) (Con)
Lewis Macdonald (Aberdeen Central) (Lab)
Stewart Maxwell (West of Scotland) (SNP)
Liam McArthur (Orkney) (LD)

*attended

THE FOLLOWING GAVE EVIDENCE:

Margaret Duncan (Scottish Government Health Delivery Directorate)
Fiona Montgomery (Scottish Government Health Care Policy and Strategy Directorate)
Lauren Murdoch (Scottish Government Health Care Policy and Strategy Directorate)
Alastair Pringle (Scottish Government Health Care Policy and Strategy Directorate)
John Swinney (Cabinet Secretary for Finance and Sustainable Growth)

CLERK TO THE COMMITTEE

James Johnston

LOCATION

Committee Room 2

Scottish Parliament

Finance Committee

Tuesday 15 June 2010

[The Convener *opened the meeting at 14:01*]

Subordinate Legislation

Budget (Scotland) Act 2010 Amendment Order 2010 (Draft)

The Convener (Andrew Welsh): Good afternoon and welcome to the 16th meeting of the Finance Committee in 2010, in the third session of the Scottish Parliament. I ask everyone to turn off mobile phones and pagers, please.

Agenda item 1 is consideration of the Scottish statutory instrument that provides for the 2010-11 summer budget revision. The draft Budget (Scotland) Act 2010 Amendment Order 2010 is subject to the affirmative procedure, which means that Parliament must approve it before it can be made and come into force. A motion has been lodged by the Cabinet Secretary for Finance and Sustainable Growth, John Swinney MSP, inviting the committee to recommend to Parliament that the draft order be approved. Before we come to the debate on the motion under item 2, we will have an evidence session to clarify any technical matters or to allow explanation of detail.

I welcome to the committee John Swinney, who is accompanied by Alyson Stafford, director of finance at the Scottish Government. You are both welcome. I invite the cabinet secretary to make an opening statement.

John Swinney (Cabinet Secretary for Finance and Sustainable Growth): As I am sure the committee will be aware, this is only the third time since devolution that we have had a summer budget revision. It happened previously in 2003 and 2004, and is largely a technical exercise. In common with the previous summer revisions, the proposed changes are mostly about the cost of capital. In 2003, the cost of capital was introduced for the first time. In 2004, the rate at which it was calculated was reduced from 6 per cent to 3.5 per cent. This year, it has been removed completely from all central Government budgets. The headline impact, as set out on page 5 of the supporting document, is a reduction in the 2010-11 budget of approximately £1 billion. However, that is a non-cash reduction for an item that we will no longer budget or account for and, as such, it has no impact on the Government's spending power.

The cost of capital charge was first introduced in 2003-04 as part of the move to resource accounting and budgeting and with the intention of making explicit the cost to Government of its holding assets. In economic terms, it is the opportunity cost of not undertaking an alternative investment; in financial terms, it could be the interest that the Government incurs on borrowing to finance investment. However, it is fair to say that, as both a budgeting and an accounting mechanism, it was generally poorly understood and, consequently, failed to influence asset management significantly, as it was intended to do.

In 2007, Her Majesty's Treasury carried out a wide-ranging consultation on the effectiveness of the cost of capital charge with internal and external stakeholders. The results of that consultation showed a clear consensus in favour of change in recognition of the fact that, although its introduction was an important step, other factors had proved more significant in promoting improved asset management. Consequently, and following the agreement of the Financial Reporting Advisory Board, it was decided to remove it from budgets and accounts with effect from 2010-11.

The committee will recall that, with the adoption of international financial reporting standards across central Government, we are required to convert our United Kingdom generally accepted accounting practice-based budget to an IFRS-based one. Following the inclusion of the bulk of IFRS adjustments in the budget bill for 2010-11, a small number of final adjustments for 2010-11 were agreed with Her Majesty's Treasury. The £17.3 million included in the draft order represents the final element of those adjustments in 2010-11. Again, they are spending-power neutral and are largely non-cash adjustments or transfers from resource to capital, which reflects the different treatment of certain transactions under IFRS.

The final changes that are reflected in the revision relate to the Barnett consequential allocations resulting from the 2009 pre-budget report, which I announced in the final budget debate on 3 February. The additional resources total £23 million, of which £10 million has been allocated to higher education, £2 million to the boiler scrappage scheme, £10 million to home insulation and £1 million to the post office diversification scheme.

The committee will appreciate that the changes under consideration in connection with the cost of capital charge and IFRS have no impact on the spending plans for 2010-11 that the Parliament previously approved. I will do my best to answer any questions the committee might have about those and the other consequential decisions that have been made.

The Convener: Thank you. I invite questions from committee members.

Derek Brownlee (South of Scotland) (Con): Will the minister clarify whether the Barnett consequentials from the last pre-budget report are the only part of the revision for which he technically needs to seek parliamentary approval and authorisation to allow the spending of the resource? I am sure that it is good practice to revise the budget to take account of the changes in the way that the information is presented, but they have no net effect on spending power.

John Swinney: I would have to defer to the parliamentary draftsmen on some of those issues. From my perspective, it is essential good practice to demonstrate at all times the up-to-date spending totals that we are managing. The practice that I and my predecessors have followed is that, when there are changes to published spending totals, we seek—expeditiously—parliamentary consent for them.

The other, supporting consideration is that all budgets have to be realistic under the guidance under which we operate. Therefore, it is essential to update the information.

Derek Brownlee: When you last appeared before the committee, we discussed the treatment of the 2010-11 budget and your decision not to take the negative Barnett consequentials—the reduction in spending for that year. We discussed whether you needed parliamentary authority in that regard, and you rightly said that you do not need parliamentary authority to spend less in the budget. However, today, you are presenting a revision in which, in every single area bar one, you are reducing the total. It seems an odd precedent. If you are asking us for parliamentary approval to reduce budget lines for the revision, would it not have been appropriate to give the Parliament the opportunity to approve or reject a decision not to reduce budget lines for 2010-11 as a result of those significant consequentials?

John Swinney: With the greatest respect, you rather ignore political choice. On the changes in relation to the cost of capital charge and IFRS, I am raising with the committee under the proper protocol material changes to budget issues over which I have no discretion. Clearly, I have discretion in relation to the public expenditure changes that the chancellor announced a few weeks ago, on which I have opted to take a particular stance. Obviously, I have explained that to the committee. However, the two cases are fundamentally different.

Derek Brownlee: That is a very good rationale, although I do not entirely agree with it. Will we find the First Minister standing up and denouncing the fact that there is £900 million less in the budget, or is he fully up to speed with the fact that the reductions are merely technical, non-cash items?

John Swinney: As I am sure that Mr Brownlee well knows, the First Minister speaks authoritatively and emphatically on all these questions. I am also sure that Mr Brownlee will enjoy the First Minister's remarks on this and all other subjects.

Derek Brownlee: I have the luxury, which you do not, of not having to enjoy the First Minister's remarks on every topic, but I will leave it there.

Malcolm Chisholm (Edinburgh North and Leith) (Lab): I want to concentrate on the decisions that influence spending powers. As you said, cabinet secretary, the budget revision contains only the earlier Barnett consequentials, and I suppose that this is a question about the time lags, which I think I raised with you the last time you came to the committee with a budget revision. At that point, there seemed to be enormous time lags between your announcement of the deployment of Barnett consequentials and their appearing in a budget revision. The current example is your announcement in March of the £76 million of extra spending power, which three months later is not in the summer budget revision. I am curious as to why there needs to be such a lengthy time lag before the announcements are reflected in budget documents.

John Swinney: Decisions are taken on each occasion about the most appropriate opportunity for us to seek parliamentary approval for proposed changes. This felt like the most timely opportunity to bring forward the particular changes that were announced as a result of the consequentials that arose from the pre-budget report in 2009, which were obviously material to the announcements that I made during the budget process in February. I simply bring the changes to Parliament at what I consider to be the most appropriate time to set out the details.

Malcolm Chisholm: I have not really thought much about this point since I last asked you about it, but it might be argued that that practice involves putting such changes into a budget revision once most of the money has been spent, so that they cannot be voted down by Parliament. I do not particularly disagree with the changes—in fact, I strongly agree with the money that you have allocated to affordable housing—but I presume that, if somebody had wanted to oppose them, theoretically they would not have had an opportunity to do that today. Indeed, I do not know when they would have had such an opportunity. There is a general procedural point that, in principle, it would be good practice to bring to Parliament as soon as possible any decision to allocate new money. That would mean that, if a member disapproved of the decision, they would have an opportunity to vote against it and to suggest an alternative.

John Swinney: I suppose that there is a point there, although that opportunity is available to individuals—the committee could decide not to recommend the approval of the draft order today, the consequence of which could be that the money envisaged in the revision could not be allocated.

The particular provisions that I made reference to in connection with the £23 million of additional departmental expenditure limit spending were material announcements that I made as part of the budget bill process in February and which were endorsed in Parliament by a majority. I am sure that the committee will recall that the different provisions in the revision were all the subject of announcements that I made to Parliament and for which I said that I would seek consent through a budget revision, as the opportunity to do that did not present itself in the budget process. That was clearly stated to Parliament, and the appropriate parliamentary consent is now being secured.

Malcolm Chisholm: Okay.

Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD): I want to go back to the general points that follow from Mr Brownlee's questions on the use of data in relation to the impact of the revision. If the DEL budget is reduced, even though, as you said in your opening remarks and as the booklet that comes with the revision says, there is no cash impact on spend, how will the Scottish Government use the revision in the presentation of the 2010-11 DEL?

14:15

John Swinney: In all budget documents, we show allocations on a like-for-like basis. In other words, if the cost of capital is stripped out of 2010-11, it will also be stripped out of 2009-10 and 2008-09 in the presentation of financial information in future. As far as those changes are concerned, we will deal with a restated budget line for technical reasons and to take into account the additional £23 million in DEL consequentials arising out of the pre-budget report.

Jeremy Purvis: I assume that the Government will not treat the £279 million reduction in DEL as part of the percentage difference in DEL in 2010-11.

John Swinney: That goes back to my point about showing these allocations on a like-for-like basis. If an in-year revision in the budget involves stripping out, say, the cost of capital, we strip that element out of previous years' figures to ensure that we have what the Treasury describes as a clear line of sight from one number to another and that there can be comparability.

Jeremy Purvis: And it would be a relatively straightforward exercise to make such like-for-like comparisons over the spending review period from 2007-08 onwards.

John Swinney: I do not have the current spending review document in front of me, but the annexes at the end of the document contain a comparison table that sets out the numbers for this review on a like-for-like basis going back at least to 2003-04—and perhaps even earlier than that. In setting out the data for the next spending review, I will take the same retrospective approach in taking these factors into account.

Jeremy Purvis: So this revision will have no meaningful impact on next year's baseline block grant.

John Swinney: As I said in my opening remarks, these technical adjustments, which relate to cost of capital issues, are spending-power neutral. We will show them on a like-for-like basis.

Jeremy Purvis: On the use of capital, the committee has previously discussed with you the need to provide what you have termed in the past "capital cover". Does this revision have any impact on any decisions that you might make in that regard?

John Swinney: There is no impact in that respect. Clearly we must show—and will continue to show—the allocations of capital expenditure, but some of the capital cover issues that we have discussed in previous meetings will have related to the application of IFRS, which has now been resolved with clarity.

Jeremy Purvis: In previous evidence to the committee, you said that you could not or would not look at funding Scottish Water differently because you would have to cover the associated capital expenditure and capital charges, which you could not do with a fixed budget. This revision removes all that, does it not?

John Swinney: In the budget document we showed two items: support for Scottish Water borrowing and cost of capital charges. The cost of capital charges are removed—they are £195 million in the 2010-11 budget—but we are talking about the removal not of £195 million of spending power but of £195 million of non-cash arrangements. That is a practical illustration of how the budget document will look different. Nothing has changed, but the document will look different, because that line has been removed.

Jeremy Purvis: However, if Scottish Water was funded through borrowing not from the Scottish Government but from other sources, there would no longer be a requirement to include the budget element in relation to the cost of capital, which you have previously said that you would have to include.

John Swinney: I think that I have answered your point. We do not have to recognise the capital charges in that fashion—that is the line that is coming out. Of course, if the borrowing that had been undertaken was from a third party and not from the Scottish Government, the £150 million would not show in the "Support for Scottish Water Borrowing" line, either—

Jeremy Purvis: Absolutely—

John Swinney: However, a few steps would have to be gone through before that could arise, with which I am sure that you are familiar.

Jeremy Purvis: You have said to the committee in the past that even if Scottish Water borrowed from another source, there would be budgetary consequences, because you would still have to provide the capital cover with regard to the interest charges—

John Swinney: I know your affection for the *Official Report*, so I am sure that you are referring to a comment that I have made. However, I cannot think that I would have marshalled such an argument for not taking the step that you are urging me to take—or rather, speculating that one might take—on Scottish Water, because a range of other issues would be involved. I do not think that the accounting treatment would necessarily have been a major factor in my arguments, but I stand to be corrected if I have not remembered everything that I have said.

Jeremy Purvis: I should be fair and say that I know that that is not the main reason why the Scottish Government is not changing how Scottish Water is funded. I am just exploring one of the areas in which an obstacle has been presented. We will both look into the issue.

John Swinney: I am happy to do so but I am not sure that I recollect the discussion to which you are referring.

Jeremy Purvis: Why has the Government not taken this opportunity to include other revisions in relation to consequentials that arise from decisions that have been taken at Westminster, which you have announced to the Parliament?

John Swinney: The only consequentials that I have not yet sought the Parliament's consent to spend arise from the UK budget of March 2010. I took the view that we would not show those consequentials in the draft order because, in essence, I wanted to take a cautious approach and see what steps the incoming Administration would take in relation to those announcements before I sought the Parliament's consent for expenditure. I will seek the Parliament's consent in the autumn budget revision.

Jeremy Purvis: Does that mean that what you announced on 14 April in the debate on the economic recovery plan might be affected?

John Swinney: No. I intend to spend those consequentials, but I was waiting to see what stance the incoming Administration would take in relation to the 2010-11 budget. I now know what that stance is.

Jeremy Purvis: I am not sure why that could not have been brought forward in the current revision if you intend to spend the money in the way in which you announced in April.

John Swinney: The United Kingdom Government was not formed until about 13 May and we have been interested to see exactly what further decisions would be taken about the 2010-11 budget. We now have confirmation of that, in the statement that came out, I think, last Monday from the Treasury.

Jeremy Purvis: With regard to the impact on this year's budget, you previously told the committee that you wished to defer all the reduction until 2011-12, but you indicated that, if there were elements that you thought would not have an impact on economic recovery, you would consider making those reductions now. Is it your view that there can be no reductions anywhere in the budget for 2010-11 without there being an impact on the economy?

John Swinney: There might be particular lines of expenditure that are not absolutely fundamental to economic recovery. The Government can take a view as to whether it is appropriate to spend that resource in the current context. That is the purpose of the comment that I made in answer to a question from, I think, Mr Brownlee, when I was in front of the committee previously. Obviously, much of the Government's thinking about the issue is tied up with the question—to which we do not yet have an answer—about the treatment of end-year flexibility by the UK Government. If there is to be an underspend in 2010-11, it will be material to me to understand how that will be treated and whether access will be provided to that resource to offset the budget reduction of £332 million that we currently face for 2010-11.

David Whitton (Strathkelvin and Bearsden) (Lab): My question is a brief follow-up to Mr Purvis's question. At First Minister's question time last Thursday, the cabinet secretary was accused of having some kind of secret list of potential spending cuts. Would he care to illuminate us on whether such a thing exists? If it does, where is he thinking about making the cuts?

John Swinney: Miss Goldie was perhaps rather excitable in her interpretation of evidence that I had given to the Finance Committee, in which I made the fairly routine point that, in advance of the United Kingdom election, I had asked my officials to consider what the approach would be and what issues we would have to consider if there was an in-year reduction in our budget for which we did not have the ability to defray expenditure. I asked for that work to be undertaken, which I thought was a sensible precaution to take. However, Miss Goldie rather inflated the significance of what was involved.

David Whitton: Just so I am clear, is it still your intention to continue to defer any impact of the £332 million of cuts until next year's budget?

John Swinney: Yes, but I have given the committee a caveat to that previously, which is that if I identify areas of expenditure that I do not think are material to economic recovery, knowing that I now have to face a £332 million budget reduction in this year, I may well take the step not to undertake that expenditure. However, a lot of my view on that relates to how end-year flexibility is treated and whether the UK Government will take the view that any end-year flexibility that is held at the Treasury at the end of 2010-11 will be considered as resources that can be allocated against the £332 million budget cut that we have to deliver in 2010-11.

14:30

David Whitton: And you have received no indication yet of the stance that the UK Government might take towards that.

John Swinney: I have no confirmation of the UK Government's stance. It is still being discussed, and I have no issue with that—it has to work its way through our discussions with the Treasury.

David Whitton: Was it discussed at the recent joint ministerial committee?

John Swinney: It has been discussed with the UK Government; I cannot recall whether it was discussed last Tuesday at the joint ministerial committee. I have certainly discussed it with the Chief Secretary to the Treasury. I will confirm to David Whitton whether it was discussed at the joint ministerial committee, as I cannot remember offhand.

David Whitton: Which chief secretary was it? We have had two already.

John Swinney: It was the original chief secretary, David Laws.

David Whitton: So it has not been discussed with the new chief secretary.

John Swinney: No, but a lot of discussions are under way with ministers and officials in the Treasury about working arrangements and the approaches that the UK Government will take. Those discussions are all very open, and I have no issue with the way in which they are being conducted. We will address those points in the context of a wider discussion on financial issues.

David Whitton: The previous Government was particularly generous about the use of and access to end-year flexibility. Is there any indication that the new Government will not be like-minded?

John Swinney: I cannot remember whether Mr Whitton was present for my explanation about end-year flexibility decisions in Parliament last Thursday—my recollection has let me down a couple of times today. I made the point that the year in which the single largest amount of end-year flexibility was utilised was 2007-08, when I inherited budget provisions and commitments from the previous Administration. In the succeeding years I have never managed to spend as much end-year flexibility in one go as the previous Administration managed, but that is, of course, all now on the parliamentary record.

The current UK Government's approach to end-year flexibility is work in progress. It would not be fair of me to expect a definitive answer on that yet, but I am sure that I will get one fairly shortly. That will be one of the issues that we discuss in the finance ministers' quadrilateral meeting.

It is now coming back to me: the issue was discussed at the joint ministerial committee last Tuesday. We share a perspective on it with the other devolved Administrations. We are now in a financial climate that is substantially different from the climate that existed in 2007 when the previous agreement on the use of end-year flexibility was reached. It is clear that I need to be satisfied with the discussions that are progressing.

Tom McCabe (Hamilton South) (Lab): The cabinet secretary is keeping his secrets secret, which is wise; but I digress.

The revision includes a £17.3 million increase in DEL, the bulk of which is taken up by Transport Scotland to deal with depreciation in the motorway and trunk road network. Could that have been identified earlier? Would you have expected it to have been identified earlier?

John Swinney: There were a number of discussions about IFRS. We are going through a number of different processes with the Treasury, and we have made changes to budget provision as we have reached agreement. This particular issue was only just resolved in January with the Treasury, and the Budget (Scotland) Bill was already on course, certainly to be published by that time. That was our first opportunity to secure agreement on the issue.

Joe FitzPatrick (Dundee West) (SNP): To go back to the decision to postpone the £332 million reduction, local government will expect to take its share of that amount, and councils throughout Scotland will be pleased that they are not being forced to make the reductions this year. However, some councils might seek to make some of the reductions this year to increase their reserves and take away some of the pain from next year. What is your stance on that?

John Swinney: Individual local authorities may decide to take that course, which is available to them under their financial arrangements. The size of the local authority budget in 2011-12 will be a material part of my discussions with the Convention of Scottish Local Authorities, which will have to take into account the consequences of our decision to defer the £332 million reduction in this financial year.

Linda Fabiani (Central Scotland) (SNP): When we had to start using IFRS, there was a great deal of discussion of how private finance initiative/public-private partnership charges would be treated under the new accounting standards. Is that matter settled, or is discussion still on-going?

John Swinney: The issue is settled. The United Kingdom decided to implement IFRS—I hope that I get this the right way round—by applying them for accountancy purposes but not for budgetary purposes. I was concerned that if IFRS were applied for budgetary purposes—this goes back to one of Mr Purvis's points—we would have to secure appropriate budget cover for the PFI schemes that were coming on balance sheet, as well as the capital budgets that we would ordinarily be in a position to deploy. There is no guarantee that that would have been achieved. The arrangements that were ultimately arrived at of applying IFRS for accounting purposes but not budgetary purposes avoided the problem.

Linda Fabiani: Will the increasing annual cost of PFI/PPP project charges have an impact on budgets in future years, especially during difficult times?

John Swinney: A revenue cost arises annually from PFI schemes. At the close of this parliamentary session, that cost, which must be paid from revenue budgets, will be close to £1 billion per annum. That has nothing to do with IFRS—it arises from the fact that there is an annual repayment of the unitary charge for the schemes. We must deal with that factor. The costs in question are fixed, negotiated contractual costs that are unavoidable. They must be paid in the context of a revenue budget that is likely to reduce in real terms. That will be a significant challenge with which to wrestle.

Jeremy Purvis: Does the treatment of the unitary charge as a revenue cost not apply equally to the Aberdeen western peripheral route, the Borders railway, the Falkirk schools and the Aberdeen schools that the Government has signed off? Is the approach not identical?

John Swinney: A revenue charge arises from the projects that Jeremy Purvis has mentioned. Equally, a revenue charge will arise from the Network Rail regulated asset base, which is another of the repayment mechanisms that we must show.

Jeremy Purvis: I return briefly to the points that you made first to me and then to Mr Whitton about the potential use of the underspend as a means of providing cover for the in-year reductions that have been mentioned for 2010-11. Given everything that you and the Government have said about the importance of getting Government expenditure out of the door in Scotland now, because of the economic situation, it must be pretty inconceivable that the Scottish Government will have any underspend at the end of this financial year.

John Swinney: As Mr Purvis will appreciate, I must operate within a fixed budget. I have managed to do so in 2007-08, 2008-09 and 2009-10, and I intend to do so again in 2010-11. As my predecessor probably appreciates, I have absolutely no alternative—I must underspend to ensure that I avoid overspending, if that is not too much of a statement of the obvious. There is no doubt that there will be an underspend this year—that is a natural product of our financial arrangements.

The point that I was making to Mr Whitton and, earlier, to Mr Purvis was that if opportunities exist in areas in which the deployment of expenditure is not necessary to support, or is not central to, economic recovery, subject to the arrangements that we arrive at on end-year flexibility, there may be an argument for not spending that resource, principally because we must begin to prepare for the challenging years ahead. I will make that judgment.

In his question, Mr Purvis made a remark about getting expenditure out of the door. That is not how I look at such matters. I seek to ensure that public money is used as effectively as it can be, particularly against the test of whether it will support economic recovery. That is the approach that we will take.

Jeremy Purvis: You overbudgeted by £100 million in an effort to keep the underspend as low as possible.

John Swinney: That is correct.

Jeremy Purvis: So any meaningful underspend will have to be over and above the £100 million by which you overbudgeted.

John Swinney: That is correct. I point out that that is what the Government has done in each financial year for which it has been in office. It has succeeded in delivering that financial performance on exactly the same model in each financial year.

Jeremy Purvis: Will it change the way in which Government departments operate if the finance secretary is now saying that he would like them to deliberately underspend on the present budget lines?

John Swinney: That is not what I am saying; I am saying that we have routine arrangements in place, which have been in place for the best part of 18 months, whereby for items of expenditure over a particular level, agreement must be secured from the director of finance for that expenditure to be undertaken. That is a routine part of the financial management architecture that we have in place now and is the test that gets applied to all decisions. In some circumstances, items of expenditure have to be referred directly to me to be judged. There is additional scrutiny of the effectiveness of expenditure, which allows me to deploy the tests that I set out earlier.

Jeremy Purvis: That is quite significant. I had understood an underspend to be something that happens when there is an intention to spend in a particular financial year but, because of circumstances beyond your control, to do with the signing of contracts, weather conditions or whatever, some projects cannot be completed, but you are now saying that judgments will be made about the timing of expenditure outside the financial year, the budget for which the Parliament has voted on, in an effort to offset the effects of a decision that the Treasury has taken. How will the underspend happen if you are saying that judgments will be made about the timing of spending in a deliberate attempt to ensure that some money is available in the next financial year?

14:45

John Swinney: What I am saying to the committee is exactly what I said to it the last time I was here, which is that in undertaking financial management during the year, the Government observes all the patterns of public expenditure. I have referred to the procedures that are in place that allow me the maximum amount of control over the way in which public expenditure is deployed within the Government's budget.

If we identify areas in which we think that expenditure will not be able to be undertaken—and that could be for a variety of reasons, such as a procurement taking longer or because of difficult weather conditions on a project—we can judge whether the resource can be redeployed to some other project, which is what I do ordinarily and frequently. I come to the committee with autumn and spring budget revisions because I have to judge how to move resources around from time to time. It would be lovely if things happened to a neat plan, but judgment has to be applied at all times about where expenditure can be deployed because of a number of factors. I have £332 million of cuts to deal with in the current financial year, so if I judge that resources cannot be effectively deployed to boost economic recovery, I might well—subject to the agreement on end-year flexibility—look to use some of that resource to deal with the reduction in public expenditure that I face.

The Convener: I think that we have had a fairly good run up to now. There will be an opportunity to debate later, and we are almost debating rather than having straight questions and answers. If there are no further questions, we will move to the debate. I invite the cabinet secretary formally to move motion S3M-6480.

Motion moved,

That the Finance Committee recommends that the draft Budget (Scotland) Act 2010 Amendment Order 2010 be approved.—[*John Swinney*.]

The Convener: Cabinet secretary, as you do not wish to make an opening statement and no member wishes to contribute to the debate, I invite you to wind up.

John Swinney: I have said enough for today, convener.

Motion agreed to.

The Convener: The committee will now communicate its decision to Parliament formally by way of a short report, which will provide a link to the *Official Report* for the meeting. Are members content with that?

Members *indicated agreement.*

The Convener: Before the next item, I will allow a short suspension for the officials to change over.

14:47

Meeting suspended.

14:49

On resuming—

Patient Rights (Scotland) Bill: Financial Memorandum

The Convener: Item 3 is evidence from the Scottish Government's bill team on the financial memorandum to the Patient Rights (Scotland) Bill. I welcome Lauren Murdoch, bill team leader; Margaret Duncan, policy lead for the treatment time guarantee; Fiona Montgomery, head of the patient support and participation division; and Alastair Pringle, head of patient focus and equalities. I invite our witnesses to make an opening statement.

Fiona Montgomery (Scottish Government Health Care Policy and Strategy Directorate): The Patient Rights (Scotland) Bill establishes in primary legislation key provisions to put patients at the heart of the national health service in Scotland, including person-centred principles, support services and a treatment time guarantee. To support staff and to help them to understand the rights of patients better, the Scottish Government is funding training and education materials and awareness raising through induction and continuous professional development that is costed at £94,000 this year and £800,000 in each of the next two years. The patient advice and support service, which will be staffed by patient rights officers, will build on the work of the current independent advice and support service, which is provided for health boards through contracts that are negotiated locally with citizens advice bureaux.

To support patients in exercising their rights, to widen access and to ensure consistency of quality, the Scottish Government proposes to commission the service nationally and to provide funding for the patient advice and support service of £1.25 million a year on top of current board funding. That could provide a total of around 65 to 80 full-time equivalent patient rights officers throughout Scotland. Patient rights officers will support people who want to make a complaint, raise concerns or provide feedback on the health care that they have received. The right to do that is established in the bill.

The consultation on the bill and the equality impact assessment highlighted the fact that communication support and advocacy are key to ensuring that more vulnerable people are able to exercise their patient rights. Advocacy services should be available where they are needed, but more work is required to establish what is available and what is needed. That is why, this year, the Scottish Government is providing funding of £500,000 to help boards to undertake an assessment of need and to draw up advocacy plans. From 2011, the Government will provide boards with an additional £500,000 a year to provide additional advocacy services. Translation, interpreting and communication support is funded by boards from their general allocation. To support NHS Scotland's action plan to improve support and ensure greater uniformity of approach and provision throughout Scotland, the Scottish Government is providing £250,000 per annum for three years.

The bill introduces a treatment time guarantee for eligible patients to start treatment within 12 weeks of their treatment being agreed. That guarantee is part of wider work on driving down waiting times, for which substantial funding has already been provided. Delivery of the 12-week treatment time guarantee is an integral part of the 18-week referral-to-treatment time target.

The money that has been allocated to the bill shows a commitment to supporting patients in the exercising of their rights.

The Convener: Thank you. I invite questions from members.

Malcolm Chisholm: I think that people would definitely support the objectives of the bill. However, having read the evidence from health boards, you will be aware that they are concerned that the costs may be greater than has been stated. Obviously, the context of that is more difficult budgets than the boards have known for a few years.

Three areas of concern have been highlighted, one of which is the training. Boards are saying that the full costs of that training have not been taken into account, as they must in-fill if people go on training courses. You mentioned advocacy and said that the funding would go to services. There seems to have been some ambiguity about whether it would go to the national organisation or to services, and boards are anxious that they may need to provide more services than the £500,000 would fund.

The third area, which is the most interesting, is the waiting time target—the flagship policy in the bill when it was first drafted. The target has now been modified and people will ask what difference the bill will make, but that is a policy question rather than a financial question. The financial question is whether recurring costs will be involved in achieving the waiting time targets. I am aware that some money has been provided this year. I would like to hear some response to the boards' concerns on that. Is the money that has been provided for waiting times this year recurring, and will it be sufficient to maintain the waiting time right in the bill?

Fiona Montgomery: On training, we have been speaking to representatives of NHS Education for

Scotland, which delivers all the education materials and so on for the NHS. We are getting involved in pre-registration training, induction training and other training, rather than taking some people out every day to do a whole day away from their normal duties.

Alastair Pringle (Scottish Government Health Care Policy and Strategy Directorate): Given the 150,000 staff in the NHS, it would cost a lot more to offer any coherent programme of work around person-centred care than is set out in the bill. NHS Education for Scotland provides an opportunity to develop a national set of principles and training, with a consistent quality of materials and provision throughout the NHS, including in remote and rural areas.

The focus needs to be on the development of a range of materials, on e-learning and on building the principles of person-centred care into the knowledge skills framework, for instance. Working across continuous professional development and existing packages offers by far the most effective mechanism.

There is also an opportunity, through working with NHS Education for Scotland, to deliver some of the training to front-line staff. There has perhaps been a slight misunderstanding over what the money will be used for—it is not just to go to a national board; it is intended to build patient rights training and person-centred care training into existing packages.

Fiona Montgomery: Your second point was on advocacy. We are spending some money this year to find out what is actually happening on the ground and to ascertain whether there are any gaps. The money will then go towards addressing those gaps, which might not be the same across all boards.

As far as waiting times are concerned, the bill's treatment time guarantee provisions are what we are discussing, and that guarantee is inextricably linked to the 18-week referral-to-treatment time target. Money that is going towards meeting that 18-week target, as well as the waiting times, will be covered through recurring funding.

Margaret Duncan (Scottish Government Health Delivery Directorate): This year's funding is £70 million, and that is recurring funding—that will go forward next year.

Malcolm Chisholm: I suppose that that covers most of the matter. NHS Ayrshire and Arran has had to put in some non-recurring funding, but I do not know how typical that is of other health boards. NHS Ayrshire and Arran, at any rate, says that it will face an additional cost each year. What is your comment on that?

Margaret Duncan: There are problems at individual boards, which might need to put in some extra capacity. However, we will continue to deal with that through the support and delivery of the 18-week referral-to-treatment time. The issues around the financing of that and the treatment time guarantee will continue to be discussed in order to ensure delivery.

Malcolm Chisholm: So the requirements could be a bit more and, if so, you will just have to cover that, as the target is so important.

Margaret Duncan: Yes, although the £70 million has not yet been allocated. We are in discussions with boards on the appropriate allocations.

Malcolm Chisholm: As you have clarified, there has been some ambiguity about how many patient rights officers would be required. There was a discrepancy between the policy memorandum and the financial memorandum in that regard. You quoted the figure of 65 to 80 officers; I think that that is from the financial memorandum. I suppose that the boards are concerned about that, too—perhaps it is the biggest area of concern, in some ways.

The question is how you arrived at that figure, and whether there is any flexibility for the boards given that some of them are saying that that is not necessarily the right number. I am just reflecting the anxiety of boards, which will face tough budgetary decisions—they are already having to make them. To what extent is that figure for the number of officers an indicative one? Is there some flexibility with it?

15:00

Fiona Montgomery: Although the service will be different from the current independent advice and support service, we arrived at the figure by looking at current case worker costs and basing our look forward on that. With procurement people in NHS National Services Scotland, we are looking at the specification of a national contract for the future. That is partly because there have been inconsistencies in the quality and amount of service across boards. We are trying to make that more consistent. We have looked at the numbers and, as the contract is worked through and we discuss local needs with boards, we are trying not to be too specific by saying that we need X number of patient rights officers in every board. We are allowing for a bit of leeway, which includes how much the organisation that will get the contract wants to spend on marketing, central support and so on. That is why we have tried to cover a range of figures.

Tom McCabe: A number of organisations have expressed concerns about the financial memorandum. For example, Citizens Advice Scotland has indicated that it cannot see any provision for inflation or salary uplifts over a three-year period. Clearly, if that was the case, that would be a pretty substantial real-terms decrease in the money available over three years. Secondly, CAS said that there does not appear to be any marketing budget for the new organisation. Given the nature of the work that the organisation will do, one would think that marketing would be pretty important in bringing the service to the public's attention and making people aware that this is a route that they can take.

Lastly, you touched on the national contracts. What will the relationship be between the new organisation and each individual board? Will service-level agreements be set to accommodate local circumstances, or will a national approach be taken through the contract?

Fiona Montgomery: On inflation and salaries, we have produced a package with an amount that we think will take us forward. Obviously, though, we are still in discussion about the exact specifications of the contract; costs may be slightly less in the first year, which would allow a bit for an increase for inflation in future years. However, we are still working our way through that.

On marketing, other things are going on. For example, we will look at patient-facing information for people who might not go through a patient rights officer but who still want information. In addition, NHS inform will come on stream with a national strategy to inform people of everything about their health care, including rights, patient advice and support. Again, we are going through the contract specification with the boards, and the procurement people have been speaking to Citizens Advice Scotland about what it does, so we will build in something for how we market the service locally and nationally.

On the national contract, it has been quite clear that individual boards' relationships with their local CABx are an important part of taking that forward. We want a national contract to ensure that there is equality of service, but we will still have some sort of local arrangement so that relationships between complaints officers, patient rights officers and so on can be built up.

The Convener: How can you ensure value for money and how would you measure it?

Fiona Montgomery: It is very difficult to measure value for money in this area. There is quite a lot of evidence about improving a patient's experience and about information that has an impact on a patient's health care and health outcomes. We tried to quantify the amount in our work on the regulatory impact assessment. We can do qualitative work and talk about a case study in which we can see that, if somebody is better informed about their health care, they may be better at, for example, taking their medication and attending consultations.

If people get a better health outcome, they might not come in and out of the service so much. However, that is difficult to quantify. We did not put too much about savings in the financial memorandum because we could not justify that with the evidence, but we definitely think that savings will be achieved.

David Whitton: I am pleased to hear that you think that savings might be made, but most major health boards that have given evidence expect not savings but increased costs. What consultation have you had with boards about the bill's financial implications and particularly about the concerns in their submissions?

Fiona Montgomery: We have consulted boards all the way through the bill process. The bill was introduced in March, but consultation took place for some time before then. We have talked to national boards such as NHS Education for Scotland about contracts to do pieces of work—that board has given us its estimate for the work. We have spoken to the territorial boards—the local boards—throughout the process and we continue to speak to them and a range of stakeholders.

Lauren Murdoch (Scottish Government Health Care Policy and Strategy Directorate): We have spoken to several chief executives at their regular meetings with the Government. We have also met patient focus and public involvement representatives as part of general work on patient support and participation.

David Whitton: I will quote just the submission from NHS Lothian, for example. It was asked the standard question:

> "If the Bill has any financial implications for your organisation, do you believe that these have been accurately reflected in the Financial Memorandum? If not, please provide details."

The board's answer was "No." It gave details of why the memorandum did not reflect the costs.

The other point that is made is that, at a time when boards such as NHS Greater Glasgow and Clyde and NHS Lothian have announced staff cuts—including cuts in nurses—you ask them to recruit patient relationship officers. I understand that boards must strike a balance between what is in the bill and what they are asked to do with their finances, but how much has that been taken into account?

Fiona Montgomery: On patient rights officers and the patient advice and support service, we ask boards only to continue to provide their current funding level for the independent advice and support service. We will fund centrally the additional costs.

David Whitton: So somebody might just change their job title. Do most health boards not have somebody who deals with complaints?

Fiona Montgomery: Patient rights officers are independent and do not work for boards. Case workers who currently provide such a service are employed by citizens advice bureaux. Under the new system, the contract will be open—we do not know who the supplier will be. In response to the consultation, patients and stakeholders said clearly that they wanted an independent advice service and that they wanted to approach somebody who was not employed by the health service. No matter how good and helpful a complaints officer might be, some people wanted independence at some point.

The contract for the service will not be funded at the expense of nurses. The Scottish Government is keen to emphasise that helping people through their health care journey—especially those people who need a bit more help; not everyone needs a bit of help, but some do—produces a better outcome. The service will assist people to access front-line services.

David Whitton: Are you confident that enough is being allocated to help with the staff training that Mr Pringle mentioned and that boards will not have to carry an extra burden in the end?

Fiona Montgomery: We are packaging that training with a range of other training on the NHS quality strategy that was launched recently, on equalities and on human rights. NHS Education for Scotland has told us that it can deliver the package of materials, which we can embed in staff training.

Alastair Pringle: The costs were based on the previous experience of NHS Education for Scotland in delivering similar NHS-wide programmes of work, such as the patient safety programme. We are fairly confident that the costings are accurate. We would not necessarily expect any additional cost to health boards if we are building the training into the existing programmes and delivering it through existing training and practice managers networks and the like. We are quite confident that the networks and infrastructure are in place to deliver the training.

David Whitton: I want to pin down exactly how many patient rights officers there will be. Is it 40 to 50, or 60 to 80?

Fiona Montgomery: The 40 to 50 would be the additional ones, with the additional central funding. There are already 30 or so independent advice and support service workers. The 40 to 50 are the additional workers that we could provide with the £1.25 million from central funding.

David Whitton: On central funding, NHS Lothian said:

> "Translations of leaflets should be produced and paid for nationally"

rather than locally. Have you any sympathy with that view?

Fiona Montgomery: Perhaps Alastair Pringle could say something about NHS inform.

Alastair Pringle: I thought that the point was valid. We are doing some work on national quality assurance and the accessibility of information through NHS inform, which is the new national patient information service. Over the next year, a bit of work will be done with health boards to look at how we co-ordinate and ensure better efficiency and effectiveness in the translation of materials centrally. That work is under way.

Jeremy Purvis: I see that there will be quite a bit of money for the bill in 2011-12 and 2012-13. How do you know that you will have that money?

Fiona Montgomery: We put this forward at the end of March. We recognised that within the health care strategy and policy directorate we would be able to find the money by reprioritising work because certain things will be coming to an end and so on. Obviously the budget situation gets tighter as we look forward. We still think that we will be able to deliver, but we will have to consider it if things change in the overall budget for health. I would not like to say that the amount of money involved is modest, but it is quite small in the scheme of the health budget. Assisting patients to access front-line services is seen as a priority area.

Jeremy Purvis: So, whatever happens in the spending review period, this spending is set. You have been told by ministers that it is an absolute priority to have 40 to 50 additional PROs, rather than nurses, for example.

Fiona Montgomery: We do not know what the spending review will provide, but the best that we can say at the moment is that these figures are what we are working to. As with all things, as we work our way through, we will look to see whether we can get the same outcomes for slightly less or get better value for money elsewhere.

Jeremy Purvis: Previously, when the committee scrutinised the health boards elections pilot, the Health Boards (Membership and Elections) (Scotland) Bill team told us that they could not give us any indication of expenditure post-2011, because that is in the spending review period and it is out of their hands. Here, the expenditure seems to be quite set. I do not know which is—

Fiona Montgomery: The figures are the current projections. On the financial memorandum, we are usually asked to look three years ahead. This was the best that we could do with the information available to us.

Jeremy Purvis: I turn to some of the bill's other impacts. One of the big elements is the impact on Citizens Advice Scotland, given the services that it currently provides. Forgive me, because this might be in the papers, but I could not see it: has a regulatory impact assessment been carried out and, if so, what was its conclusion with regard to the impact on an existing body operating under contract?

Fiona Montgomery: A regulatory impact assessment has been carried out. I cannot give the exact figure for that, but we can certainly pass on any information that we have.

The Convener: Perhaps the information can be submitted in writing to us afterwards.

Fiona Montgomery: Certainly.

Jeremy Purvis: Does the financial memorandum or policy memorandum mention that a regulatory impact assessment has been carried out?

Fiona Montgomery: Possibly not, but a regulatory impact assessment has been carried out.

Jeremy Purvis: Why is that not mentioned?

Fiona Montgomery: I am not sure.

Lauren Murdoch: The financial memorandum makes a brief mention of the regulatory impact assessment.

15:15

Jeremy Purvis: What did the regulatory impact assessment conclude about the proposal to remove the contract from the organisations that currently deliver those services?

Lauren Murdoch: The regulatory impact assessment primarily looked at the impact on patients. It did not look at the impact on the contracts with citizens advice bureaux, which are due to come to an end anyway.

Fiona Montgomery: NHS National Services Scotland is looking into the contract, including whether arrangements under the transfer of undertakings and protection of employment regulations will be required. As Lauren Murdoch has referred to, some of the contracts started in 2006 and some of them started in 2008 but we have extended them all to the end of March 2011. That is the specific timescale.

Jeremy Purvis: I see that paragraph 64 in the financial memorandum states:

> "NES will undertake this work including the recruitment of staff where necessary".

However, in the NHS workforce projections that the cabinet secretary published recently, NHS Education for Scotland forecasts a net reduction of six in the number of its staff. Why is there not consistency between the workforce planning exercise and the financial memorandum, which suggests that the extra work will be incorporated within NHS Education for Scotland? I cannot see how those projections match.

Fiona Montgomery: I would need to go back to look at the NES workforce plan, which I am not familiar with. We can certainly provide that information later.

The Convener: Yes, those are very detailed questions. It would be helpful if the committee could be given that evidence in writing.

Jeremy Purvis: Thank you, convener. In essence, the point is that every health board is projecting reductions in staff numbers, including in the number of clinical staff posts, whereas the bill will require that further investment is made in additional PROs. Indeed, NHS Greater Glasgow and Clyde—I refer to paragraph 4 of its written submission—suggests that the £831,000 for patient advice and support services is an underestimate. The submission states that, of the £831,000 recurring cost,

> "NHSGGC might actually incur as much as £249,000. This would be substantially higher than the current IASS contract."

What is your view on that?

Fiona Montgomery: The £831,000 is what all the boards told us they are paying for their contracts in the current year. If NHS Greater Glasgow and Clyde is paying slightly less than what might be expected from its population average, perhaps that shows why we are moving to a national contract, which should provide a bit more consistency of service.

Jeremy Purvis: NHS Greater Glasgow and Clyde's concern is that, because of the size of the health board area,

> "NHSGCC ... tends to incur 20-30% of the costs of any national initiative."

Therefore, it estimates that its actual share of those costs will be £249,000. Are you saying that no health board will be asked to contribute any additional expenditure as a result of the bill?

Fiona Montgomery: For the patient rights officers, the additional money from the centre will be spread out across the boards, based partly on how the national resource allocation committee allocates funding but more on how the contract works and on the local needs of the different boards. The funding may just continue at the current level.

The Convener: We have reached the end of our questions. As you have no final comments to make, I thank you for your attendance and for the evidence that you have given us, which will be helpful to the committee.

Decision on Taking Business in Private

15:20

The Convener: Item 4 is a decision on whether to consider item 7 in private and whether consideration of the committee's report on the financial memorandum to the Patient Rights (Scotland) Bill should be taken in private at future meetings. Is that agreed?

Members *indicated agreement.*

Historic Environment (Amendment) (Scotland) Bill: Financial Memorandum

15:20

The Convener: Item 5 is consideration of our approach to scrutiny of the financial memorandum on the Historic Environment (Amendment) (Scotland) Bill. The paper from the clerk suggests that we might wish to adopt level 1 scrutiny and provides a list of affected bodies from which we might wish to seek written evidence. Are members content with the suggestions in the paper?

Members *indicated agreement.*

Members' Bills: Financial Memorandums

15:21

The Convener: Item 6 is consideration of our approach to scrutiny of the financial memorandums to eight members' bills. The paper from the clerk suggests the level of scrutiny that we might wish to adopt for each bill and affected bodies from which we might wish to seek written evidence. Are members content with the suggestions in the paper?

Linda Fabiani: I have two wee questions. The first is just for clarification. I think that a couple of the bills have a lot more to them than we might initially think. It has been suggested that we adopt level 1 scrutiny of their financial memorandums. Can we subsequently change that to level 2 scrutiny if we wish, when we have received the written submissions? I see the clerk nodding. That is fine.

David Whitton: Which bills are you concerned about?

Linda Fabiani: One is the Protection of Workers (Scotland) Bill. By the way, the paper states that the bill was introduced by Patricia Ferguson, but it was actually Hugh Henry. The clerk might want to change that for the website record. It is in paragraph 24. The paper states that the financial memorandum to the bill states that it is not anticipated that there will be significant costs, but that there are uncertainties. I would like us to have some leeway so that, if we hear that there are large uncertainties, we can change our level of scrutiny.

I also worry a wee bit about Patricia Ferguson's Property Factors (Scotland) Bill, because I know from experience that these things are never quite as simple as they initially seem.

My other comment is on the Criminal Sentencing (Equity Fines) (Scotland) Bill, which is Bill Wilson's one. It is suggested that we seek evidence from the Confederation of British Industry. The suggestion obviously relates to our getting the employers' point of view, but I am not convinced that the CBI necessarily represents all the employers who might be affected by the bill. Perhaps we should seek evidence from the Federation of Small Businesses as well, in order to get smaller companies' views.

The Convener: We will take those comments on board.

Joe FitzPatrick: On the Criminal Sentencing (Equity Fines) (Scotland) Bill, should we not seek evidence from some of the trade unions as well?

The Convener: Is that agreed? It is.

Derek Brownlee: I agree with Linda Fabiani, but there are six organisations in Scotland that claim to represent businesses, so why do we not ask them all?

The Convener: Okay.

Some of the expenditure that is mentioned is quite high. For example, the cost of one of the bills would be about £400,000 a year. I think that the committee should again issue an alert that, given the tightness of public funding, we expect value for money, a careful approach, and careful scrutiny of all such spending.

That concludes our public session.

15:24

Meeting continued in private until 15:38.

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