



The Scottish Parliament  
Pàrlamaid na h-Alba

## Official Report

### **PUBLIC AUDIT COMMITTEE**

Wednesday 15 September 2010

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**PUBLIC AUDIT COMMITTEE**

**14<sup>th</sup> Meeting 2010, Session 3**

**CONVENER**

\*Hugh Henry (Paisley South) (Lab)

**DEPUTY CONVENER**

\*Murdo Fraser (Mid Scotland and Fife) (Con)

**COMMITTEE MEMBERS**

Willie Coffey (Kilmarnock and Loudoun) (SNP)

\*George Foulkes (Lothians) (Lab)

\*Bill Kidd (Glasgow) (SNP)

\*Mr Frank McAveety (Glasgow Shettleston) (Lab)

\*Anne McLaughlin (Glasgow) (SNP)

\*Nicol Stephen (Aberdeen South) (LD)

**COMMITTEE SUBSTITUTES**

Derek Brownlee (South of Scotland) (Con)

\*Linda Fabiani (Central Scotland) (SNP)

James Kelly (Glasgow Rutherglen) (Lab)

John Farquhar Munro (Ross, Skye and Inverness West) (LD)

\*attended

**THE FOLLOWING ALSO ATTENDED:**

Mr Robert Black (Auditor General for Scotland)

Caroline Gardner (Audit Scotland)

Claire Sweeney (Audit Scotland)

**THE FOLLOWING GAVE EVIDENCE:**

Jenny Gilmour (The Gathering 2009 Ltd)

Lord Sempill (The Gathering 2009 Ltd)

**CLERK TO THE COMMITTEE**

Jane Williams

**LOCATION**

Committee Room 2



## Scottish Parliament

### Public Audit Committee

*Wednesday 15 September 2010*

[The Convener *opened the meeting at 10:00*]

### Decision on Taking Business in Private

**The Convener (Hugh Henry):** Good morning and welcome to the Public Audit Committee's 14<sup>th</sup> meeting in 2010. I remind members, guests and others to switch off all electronic devices. I have received apologies from Willie Coffey. I believe that Linda Fabiani will attend in his place.

We come to agenda item 1. Do members agree to take items 5, 7 and 8 in private?

**Members** *indicated agreement.*

## Section 23 Reports

### "The Gathering 2009"

10:01

**The Convener:** Item 2 on our agenda is on the section 23 report "The Gathering 2009". I welcome Lord Sempill and Jenny Gilmour, who are directors of the company The Gathering 2009 Ltd. Members will be aware of the exchange of correspondence with the Presiding Officer and of the advice that we sought from him. Before we begin the oral evidence session, I make it clear that, as liquidation procedures are on-going in the courts, members should refrain from saying anything that has the potential to prejudice that court process, as advised by the Presiding Officer in accordance with rule 7.5 of the standing orders, on sub judice.

I believe that Jenny Gilmour would like to make an opening statement on behalf of herself and Lord Sempill.

**Jenny Gilmour (The Gathering 2009 Ltd):** Thank you for inviting us. The gathering was undoubtedly the centrepiece of homecoming 2009—for many, the gathering was homecoming 2009. The Gathering 2009, which was incorporated as a limited company prior to the year of homecoming and independently of it, had a clear mission: to create the world's biggest ever clan gathering and highland games in Scotland and to develop future gathering events and extend the gathering brand. While the previous Scottish Executive-led homecoming project continued to misfire throughout 2006 and 2007, costing the taxpayer a reported—in the press—£1.5 million, The Gathering 2009 was forging ahead with its own global promotion.

Before VisitScotland and EventScotland took over the homecoming project and before any homecoming events were announced, The Gathering 2009 team had spent 12 months cultivating sales at overseas highland games and clan society meetings. Overseas clan activists saw the gathering as a once-in-a-lifetime experience. It was the reason why they came to Scotland in 2009, despite the unforeseen global banking recession that hammered international tourism. International clan members travelled in their thousands. They also stayed far longer than average tourists, spent more per head and dispersed across Scotland as a natural outcome of connecting with their clan homelands.

There was no blueprint for an international clan gathering on such a scale in Scotland. As is the nature of events, there were risks inherent in its income, from sponsorship to ticket sales and other revenue-generating streams. It is important to

point out that the gathering was a purely entrepreneurial undertaking that secured seed funding and sponsorship from Scotland's private sector during its launch phase. That support allowed us to develop the business plan over a year during which we benefited from advice and assistance from VisitScotland, EventScotland, Scottish Enterprise and the City of Edinburgh Council—the organisations that later comprised the public sector funding partnership and the steering group. They signed off on our budget scenarios and the key performance indicators that we had to meet to secure the release of funds.

The steering group met monthly from mid-2008 as both an advisory and planning platform for public sector stakeholders. The steering group enabled due diligence and governance to be applied at every stage of the project, both financially and logistically.

On opening our box office in May 2008, we saw a phenomenal rate of sale for the gathering passports from overseas. In fact, 65 per cent of the total passports sold were purchased from overseas and from 32 different countries. Shortly afterwards, however, the global recession impacted badly on our income projections, with sponsorship agreements collapsing and passport selling somewhat stalling as consumer confidence hit a 30-year low in the United States, our primary overseas market.

With our revenue streams diminished, cash flow was compromised as our credit card payments were held by WorldPay. That had a serious impact on our ability to manage deposit payments for infrastructure. At one point, WorldPay was holding more than £250,000 of our revenue. We talked to our bank Adam & Company—which, like WorldPay, is wholly owned by the Royal Bank of Scotland—to ask whether it could help us with either extending our overdraft and/or asking WorldPay to release some of the funds. WorldPay refused.

We therefore had to inform our steering group partners of the situation, and the issue escalated to the point at which we presented a proposal to the Scottish Government that provided detailed options for additional event funding, assistance in negotiating with WorldPay or a loan. At all times, we provided Scottish Government officials with cash-flow budget projections, as requested. Their decision was to offer a loan, and we entered into a contractual agreement with the Scottish Government.

As has been stated previously and in the statement by Minister Russell, the leading agency of our public sector steering group, EventScotland, was fully aware of the loan. Its explanation for not informing the steering committee is given in paragraph 34 of the Audit Scotland report.

We would also like to underline that at no point leading up to the event, or at the time when the loan was offered, was The Gathering 2009 Ltd trading insolvently.

Come the hour, many elements contributed to the significant financial underperformance. Undoubtedly, the global economic meltdown was a major contributor, as was the swine flu virus, which many people have forgotten about but which at that point was escalating to alert level 5. We also had adverse weather on the Sunday morning, which impacted on walk-up sales and our secondary revenue streams.

Another significant issue was that our public catering provider, Supreme, reneged on a signed contract and to date has refused to provide tens of thousands of pounds that are owed to The Gathering 2009 for a percentage of takings. The Gathering's liquidators, Campbell Dallas, are pursuing that through the courts. It is also important to point out that the gathering was not a one-off event and that many income streams were predicated on post-event merchandise sales and future gathering brand events.

Almost immediately after the event, we knew that we faced a significant shortfall and promptly informed EventScotland and the Scottish Government. From August to October 2009 we were in constant negotiation with the Government and the banks to help us alleviate the situation. For our part as directors, our driving force during that time was to ensure the best results for our creditors. We looked at many different scenarios, including private funding, bank loans, overdraft facilities and company voluntary arrangements in order to find a solution. We would like to state now that at all times the First Minister and his staff worked tirelessly to reach a settlement that would ensure that the event and its integrity remained viable.

During that time, we had three separate financial analyses done of the gathering, which included two Insolvency Practitioners Association valuations to provide a market value for the event.

At the end of October 2009, when it looked like we were out of options, we were told that a solution had been found and we were called to St Andrew's house to read an approved tripartite news release by the Scottish Government, the City of Edinburgh Council and Destination Edinburgh Marketing Alliance that detailed the purchase of The Gathering 2009. That was released to the media, and on national news that evening the deputy leader of the council confirmed the agreement. Sadly, someone had forgotten to tell the leader—

**George Foulkes (Lothians) (Lab):** That was Steve Cardownie.

**Jenny Gilmour:** Yes.

**The Convener:** Hold on please, George.

**George Foulkes:** I just wanted to know who it was.

**Jenny Gilmour:** The resulting very public spat and media storm saw another two months of uncertainty and another IPA valuation, which ultimately resulted in a call on 27 January 2010 to say that the deal could not go ahead. The next day, we had to call in the liquidators and, as we have said, the company is still in the liquidation process.

From then until now, we have fully engaged and complied with all requests for information. I have had detailed and lengthy discussions with Audit Scotland to assist it in producing the report that has been placed before the committee by the Auditor General for Scotland.

Jamie Sempill and I would like to express our deep and heartfelt sadness at the situation that this has placed our creditors in. Without the hard work and commitment of those creditors, many of whom I have worked with for more than 15 years—and, ironically, whom I lead, as I am the biggest private creditor—we would not have been able to put on such a magnificent event.

We also want to say that, despite the financial failure of The Gathering, we are incredibly proud of the event that we created and the legacy that it has around the world. We only hope that the debate will diminish soon, and that the event can be seen for its huge and on-going potential to harness the love and passion that people around the world have for Scotland and its people.

**The Convener:** Thank you for your statement. Did George Foulkes want to clarify something?

**George Foulkes:** No, I think that Jenny Gilmour confirmed that Steve Cardownie, the deputy leader of the council, had agreed but had not informed the council leader, Jenny Dawe. Is that right?

**Jenny Gilmour:** I assume that that is the case. The next day, Jenny Dawe went on the record as saying that the agreement was not in place. You would have to ask the City of Edinburgh Council and its officers about that discussion.

**The Convener:** I have some general introductory questions. Has either of you ever managed an event of this scale before?

**Jenny Gilmour:** Not of this magnitude. The event was unprecedented in Scotland.

**Lord Sempill (The Gathering 2009 Ltd):** I was involved in an event of this kind in South Africa, but in a totally different context. I worked on behalf of a large brewer, and we spent a substantial

amount of time putting together what is probably the biggest musical roadshow that has ever been undertaken in Africa. It ran for five years, using the funding of the South African Breweries Ltd.

**The Convener:** But you have never had personal responsibility for funding and organising something on the scale of the gathering.

**Lord Sempill:** Not as part of my personal endeavours.

**The Convener:** Jenny, you said that this was a purely entrepreneurial project and that you had received seed funding from the private sector. How much was that funding?

**Jenny Gilmour:** We received £30,000.

**The Convener:** Although you say that the event was a purely entrepreneurial project, that money is insignificant when matched against the funding that came in from the public sector.

**Jenny Gilmour:** I agree, in the first instance. However, after that, we accrued more than £200,000 of private sector sponsorship, and the initial seed funder also became one of our main sponsors.

**The Convener:** So, you received £200,000 of private sector sponsorship.

**Jenny Gilmour:** I think that the total was close to £230,000.

**The Convener:** Again, that is less than the public sector put in.

**Jenny Gilmour:** Yes, it is.

**The Convener:** So, although it was a purely entrepreneurial event with seed funding from the private sector, it was largely funded by the public sector.

**Jenny Gilmour:** In ratio terms, yes.

**The Convener:** You say that you had a contractual agreement with the Scottish Government. At what point was that contract signed?

**Jenny Gilmour:** I am not sure of the exact date—I think that it is in the report—but I believe that it was in May.

**The Convener:** What were the conditions or terms of that contract? What was the Scottish Government obliged to give you, and what were you obliged to give back to the Scottish Government?

**Jenny Gilmour:** The terms of the contract were that we would be given £180,000 as a short-term loan to offset our cash-flow scenario, and that we would return that money after the event.

**The Convener:** So the contract was signed after the problems started to develop. It was not signed at the inception of the event.

**Jenny Gilmour:** No, it was meant to alleviate the short-term cash-flow situation that arose because of WorldPay.

10:15

**The Convener:** We will return to the WorldPay issue later.

Neither of you had managed, sponsored, run, or taken responsibility for an event of such a scale, although Lord Sempill indicated that he was part of a large project in South Africa that was funded by South African Breweries Ltd. From the information that we have been given, it appears that your financial projections showed that the event would make a loss if it did not attract the most optimistic gate numbers, so you went into the event with a reasonable anticipation that it would be loss-making.

**Jenny Gilmour:** Or profit-making.

**The Convener:** Or profit-making in the most optimistic of scenarios.

**Jenny Gilmour:** Yes.

**The Convener:** However, as business people, presumably you do not just base your assumptions on the most optimistic of scenarios. You realised that there was a significant chance of the event making a loss.

**Jenny Gilmour:** It would have been remiss of us if we had not looked at three scenarios. Obviously, the event was two and a half years in the future and many factors can affect an outdoor event of such a scale. However, we projected and focused on making the event very successful.

**The Convener:** When you went into the contractual agreement with the Scottish Government, was it aware that only in the most optimistic scenario would the event make money and that other scenarios indicated that it could quite easily make a loss?

**Jenny Gilmour:** We provided detailed information to the steering group and the Scottish Government.

**The Convener:** Did that detailed information include the most up-to-date figures?

**Jenny Gilmour:** Yes.

**The Convener:** Did those up-to-date figures indicate that you were on course to make a profit or a loss at that point?

**Jenny Gilmour:** That is a difficult statement to make, because most of the income revenue

streams were predicated on the day, so everything was a future projection.

**The Convener:** It was the most optimistic analysis. I presume that you have seen the report that the Scottish Parliament's Economy, Energy and Tourism Committee commissioned. That report is critical of the projections and the analysis in relation to the homecoming, and it also looked at the impact of the gathering. What is your opinion of the criticism of that economic analysis?

**Jenny Gilmour:** It was only criticism. I do not recall that Dr Riddington offered up hard evidence in figures.

**The Convener:** So you think that the report lacked evidence.

**Jenny Gilmour:** I would have thought that that would have been the brief and that Dr Riddington would have applied his methodology to producing figures that he could compare. I do not think that he did that, although I might be wrong.

**The Convener:** That is fine.

What information did you use to develop the financial projections?

**Lord Sempill:** We used a variety of information. We put a lot of research into the project as early as late 2006. As the committee is aware, I travelled to the United States extensively, primarily to the large highland games that are held there, so I had a fairly good idea about gate projections. I researched costs and the potential charges that we were thinking of making for the tickets at the time across three fairly well-recognised highland games in the United States. I also knew the local games circuit here reasonably well.

We had the advantage, as Jenny Gilmour mentioned, of having quite lengthy discussions with individuals from VisitScotland and other organisations who supplied us with tourism data that showed, for instance, what one could expect an average visitor would spend at a highland games, which we used as our calculation.

If we had to take a stab in the dark on anything, it was on footfall. However, right from the word go, I was confident that we would get a minimum of 30,000 people; the issue was how much higher than that we could go. In hindsight, when we put all the projections together, the events that occurred in the latter part of 2008 were way in the distance and we could not have foreseen what impact that economic meltdown would have and how it would affect the end result.

**The Convener:** I presume that your projection of 30,000 was the minimum number of people that you required to break even.

**Lord Sempill:** Yes. When Jenny Gilmour and I started working on the costs that we felt would be



incurred in putting on the event, we had to take stabs in the dark to a large extent. It was the first time that an event of such scale had taken place on Holyrood park or that anybody had ever thought about marching the best part of 8,000 clanspeople up the Royal Mile. Also, a lot of important parties—namely, Historic Scotland and the City of Edinburgh Council—had to come back to us with costs and I have to tell you that some of those costs did not arrive until a month to two months prior to the event.

**Jenny Gilmour:** The infrastructure costs for an event of such scale were massive. We had a highly experienced production team working on the management of the event. The team worked on costings from a year and a half before the event took place, so we constantly examined those costings and analysed the budget and spend.

**The Convener:** How many of the 30,000 people that you projected as necessary for the event to break even were anticipated to come from overseas and how many did you anticipate from Scotland?

**Lord Sempill:** I always had confidence, which proved correct, that we would get more than 5,000 people from overseas and that the rest would come from within the United Kingdom.

**The Convener:** What was the breakdown for those who came from within the United Kingdom? How many did you anticipate coming from Scotland?

**Lord Sempill:** I have that figure recorded somewhere. If you want total accuracy, I would prefer to give it to you post the committee meeting. The reality is that the majority of clanspeople are likely to be resident in Scotland, so it had quite a large representation. However, the United Kingdom—specifically, England—is still far and away the biggest tourist contributor to Scotland.

**The Convener:** It would be helpful to get that information. Was the projection purely based on what you describe as clanspeople?

**Lord Sempill:** No, no. I am talking about the day sales. As you are aware, attendance broke down into two different types of visitors: those who came from overseas, who bought into a product called the passport; and those who just rocked up during the event itself. Obviously, the majority of the latter were local.

**The Convener:** Even forgetting what subsequently happened, I am not sure that the gathering made a huge impact on the consciousness of the public in Scotland. Notwithstanding the fact that people may have been put off coming from abroad by economic

recession and fears about swine flu, it did not seem to make any impact at all in Scotland.

**Jenny Gilmour:** That is your opinion, but I think that it did.

**The Convener:** We can exchange opinions, but I would rather deal in fact.

**Jenny Gilmour:** I do not think that it is a fact.

**The Convener:** Do the facts of the numbers sustain your contention?

**Lord Sempill:** I said earlier that we would have more than 5,000 from overseas and I suspect that it was closer to 7,000 over the weekend. If we take away that 7,000 from the 47,000 footfall that we recorded, that means 40,000 people from here came to the event over the weekend, which is more than most football matches in Scotland.

**Jenny Gilmour:** Very significant numbers attended the first event.

**The Convener:** Was the steering group aware of your financial projections?

**Jenny Gilmour:** Yes.

**The Convener:** At all times?

**Jenny Gilmour:** Yes.

**The Convener:** And was it aware of any shifts in analysis?

**Jenny Gilmour:** Yes.

**The Convener:** So the steering group was fully informed at every step of the way. Did it make any comment on the realism of your projections?

**Jenny Gilmour:** We had very detailed discussions with the group. The members were aware of working in events in Edinburgh and the Lothians, and in Scotland, so they advised us, and we took on board many of the things that they said. The discussions were very constructive: we were trying to make the event the best that we possibly could, so when they suggested, for example, that we did not charge for the literary auditorium because it might be seen as a double sale, we took that on board. Sadly, we should probably have carried on with that, because every single session was over capacity and a huge number of people were disappointed that they could not attend.

**The Convener:** At what point did you start to indicate that the event would run at a loss?

**Jenny Gilmour:** We did not know that it would run at a loss until after the event.

**The Convener:** So when you asked the Scottish Government for a loan, you were still anticipating at that point that there would be a profit.

**Jenny Gilmour:** Everything was in place for the event to go ahead, and therefore, if we hit all our income streams, it would have either had a slight shortfall or made a profit.

**The Convener:** So the suggestion that we have heard—that from an early date in your planning and development the financial projections were showing that the event was likely to run at a loss—is not true.

**Lord Sempill:** Can I—

**Jenny Gilmour:** Unfortunately, we could not obviously state that it was going to run at a loss. Most of the income streams are predicated on the day; we would not have known what they were until the day.

**The Convener:** Sorry, Lord Sempill—did you want to come in?

**Lord Sempill:** I just wanted to reiterate what Jenny Gilmour just said.

**The Convener:** In your planning and development process, and in preparing the financial projections, was it the case at an early date that those projections were showing that the event would run at a loss?

**Jenny Gilmour:** It could run at a loss.

**Lord Sempill:** It could run at a loss, but I would like to pick up on a point that we made at the beginning of the meeting. The Gathering 2009 Ltd was set up to run more than one event. We had, between us as directors, taken on the reality that we may have to carry through a loss on our business. We already had a good overdraft in position with our bank, and we felt that, provided that we remained in that overdraft position, we would be safe going forward.

Secondly, there were secondary income streams post the event that were critical to the company's performance in the future. When we drew a line under the event on the day, we felt that although we may have been showing a loss, we could, provided that it was within the figures that we had in our budget, live with that going forward.

**The Convener:** So you were providing information to the steering group on your financial projections, and it was aware at every stage of what you were anticipating. You were giving the group information that was showing at every stage that there was a possibility of a loss, but you were also giving it information that was showing that there was a possibility of profit.

**Lord Sempill:** Correct.

**The Convener:** So you were giving it two scenarios all the way through, with detailed figures in relation to each scenario.

**Lord Sempill:** Correct.

**Jenny Gilmour:** From April 2009, there were three different scenarios.

**The Convener:** Okay. Did you give any opinion to the group at any stage on what was the most likely scenario?

**Jenny Gilmour:** That is a difficult analysis to make, which is why we created three projections.

**The Convener:** Right. But no one asked for your opinion on which was the most likely.

10:30

**Lord Sempill:** At all the meetings that we had, the issue of footfall was probably the biggest discussion point. Everybody who has been in the event business in Scotland would support us in saying that the weather plays a huge role. In our case, we were reasonably fortunate on day 1. I do not expect any of you to remember this but, at 12 o'clock on the night prior to the gathering, there was a storm in Edinburgh with unbelievable rainfall. I dreaded having to open the gates the following morning, primarily because I thought that the storm would rage on through the night. However, we were fortunate that sunshine broke out the following morning and, although it was wet underfoot, the crowds came. The Sunday proved the point. It was dull and overcast with slight drizzle and, frankly, the park was empty until about 11.30, when the sun started to break quietly through the clouds. We could not guarantee to the committees in the run-up to the event that it would be X or Y, as that was always impossible to call.

**The Convener:** So the steering group was fully informed of your financial projections at every stage and it was aware of potential losses and profits.

**Lord Sempill:** Correct.

**Murdo Fraser (Mid Scotland and Fife) (Con):** I want to follow up on some of the convener's questions, just to get clarity. You had three financial scenarios for the outturn—pessimistic, likely and optimistic. On the most likely scenario you were scheduled to run at a loss, but you said that you believed that that was acceptable, as the company would perhaps run on into the future. On the most optimistic scenario you would have made a surplus of £118,000, and on the most pessimistic scenario there would have been a loss of £223,000. If the optimistic scenario had occurred and the company had made a profit, would any of that have gone back to the public sector funders?

**Jenny Gilmour:** With the contract that we had in place for the loan, yes.

**Murdo Fraser:** So there was an element of repayment.

**Jenny Gilmour:** Yes.

**Lord Sempill:** Yes.

**Murdo Fraser:** Even with the most pessimistic scenario that you had forecast, would the company still have been solvent?

**Jenny Gilmour:** Yes.

**Lord Sempill:** Yes.

**Murdo Fraser:** So all the creditors would have been paid, even on the most pessimistic outcome.

**Jenny Gilmour:** Yes.

**Lord Sempill:** Yes.

**Murdo Fraser:** The actual loss was substantially more than that predicted in the most pessimistic scenario—it was more than double that amount.

**Jenny Gilmour:** Yes.

**Lord Sempill:** Yes.

**Murdo Fraser:** How could that not have been foreseen?

**Jenny Gilmour:** When we came to the event, many factors influenced spend on the day and the number of people who came through the gate. Very soon after the event, we had to cease spending and accruing any more credit, so we could not market the post-event merchandise, which resulted in a significant shortfall.

**Lord Sempill:** It would probably help if I mentioned a couple of lines in our budget, just to clarify why the loss was substantially greater than we ever thought it could be. Spend per individual on the day was far lower than we had anticipated. As I said, we based the figure that we used in our budget on years of research by VisitScotland. It was based on expenditure of £8 per head, but that figure worked out to be closer to £6 per head.

Another issue was programme sales. As I said, we were convinced that we would have 30,000 people. I believe that we were reasonably conservative. We thought that the event was significant in how it was placed and marketed and we believed that, realistically, we would sell somewhere in the region of 15,000 brochures, but the reality is that we sold about 7,000. In our budget, we had 15,000 brochures at £5. Losing 8,000 brochures at £5 each is a big chunk. All the guesstimates that we made at an early budgetary stage were considered by all the members of the various steering groups. At the time, we all felt that the figures were reasonable.

**Murdo Fraser:** I hear all that you say, but my difficulty is that you have given us three outcomes,

one of which was the most pessimistic, but it was not pessimistic at all. In fact, the reality turned out to be far worse than your most pessimistic scenario. That suggests a rather serious failure in your financial planning.

**Lord Sempill:** I am happy to accept that criticism, as that is the reality. We put the budgets together, as does every company, with the best management foresight that we could use and with the maximum input. I repeat that a project of this scale involving what we were trying to do had not been done before. We took our best shot at the time, with a lot of input. Unfortunately, as you point out, we called it wrong.

**The Convener:** I wish to clarify a couple of figures. You talked about the brochures, and said that you had anticipated that there would be 30,000 people at the event.

**Lord Sempill:** I return to the earlier point. I said that we would have at least 30,000, and that is what we based most of our revenue streams on.

**The Convener:** So you based your revenue streams on the most pessimistic scenario.

**Lord Sempill:** No—the point is that each scenario catered for the footfall that we put into it, but we based all our raw cost assumptions on having 30,000 people, to use our worst-case scenario. If there were 30,000 people, how many brochures would we realistically expect to sell? We felt that 15,000 was a reasonable shot.

**The Convener:** Based on projections of 30,000 people, your budget outturn showed a deficit of £223,000.

**Lord Sempill:** Yes.

**The Convener:** If, based on having 30,000 people, you anticipated figures—

**Jenny Gilmour:** That was required to order the programmes. We had to assess how many we thought we could sell.

**The Convener:** You said earlier, Lord Sempill, that 40,000 people attended over the weekend, yet ticket sales were 32,400.

**Jenny Gilmour:** Forty-seven thousand people attended over the weekend.

**The Convener:** Forty-seven thousand? So 15,000 did not pay.

**Jenny Gilmour:** No—the passports are delineated out of the budget and are separate from footfall and walk-up. The passports would be double-counted, because they came on the second day.

**The Convener:** So it was not 47,000 people.

**Jenny Gilmour:** It was: 47,000 people came through the gate—that was the gate figure.

**The Convener:** But some of them possibly attended twice.

**Jenny Gilmour:** Yes, and then we had the performers—

**The Convener:** The number of people who attended was presumably 32,400 or fewer—not all of them necessarily attended on both days.

**Jenny Gilmour:** No—32,000 is the actual number of people who paid on the day. The passport holders come on top of that, and they are double-counted. There were also the performers and complementary tickets. There is a breakdown, which takes the 47,000 figure down to the 32,400 figure. That gets us to the number of unique payers who came through the gate on the day.

**George Foulkes:** I wish to confirm a couple of points. Do you have the Auditor General's report in front of you?

**Jenny Gilmour:** Yes.

**George Foulkes:** Paragraph 6 says:

"The company owned the event and, as a result, its directors legally carried the associated financial risk, benefiting from any profits made".

You said to Murdo Fraser, however, that you were not going to benefit fully from any profits made. What is the position?

**Jenny Gilmour:** If we had had to return the loan, we would probably have reached about parity.

**George Foulkes:** I am talking about before the loan—the loan comes later. When you set up the company and agreed the arrangements with the steering committee originally, you were going to benefit from any profits made.

**Jenny Gilmour:** Yes.

**Lord Sempill:** Correct.

**George Foulkes:** Yet you were not legally required to pay back any of the money that was given to you by the public sector.

**Jenny Gilmour:** No—that was funding.

**George Foulkes:** That was not clear in the answer to Murdo Fraser's question.

**Jenny Gilmour:** I am sorry.

**George Foulkes:** That paragraph in the report continues:

"but also bearing the consequence of any losses."

**Jenny Gilmour:** Yes.

**George Foulkes:** That is obviously what we are talking about now. Red Sky at Night Ltd, of which

you are a director, Jenny, is an events company. Is it still in existence?

**Jenny Gilmour:** Yes.

**George Foulkes:** Is it profitable?

**Jenny Gilmour:** Possibly not this year.

**George Foulkes:** But it has assets.

**Jenny Gilmour:** Yes.

**George Foulkes:** What sort of assets?

**Jenny Gilmour:** Very little in cash, because Red Sky at Night and I combined are the biggest private creditor of The Gathering 2009 Ltd.

**George Foulkes:** I see. I want to clarify another point. In reply to a question, Lord Sempill said that this was the first time that anyone had done this. Maybe that is because most people thought that it was a daft idea that would not make money because people would not turn up to it.

**Lord Sempill:** It has to be a possibility that some people thought that, but let us not forget the purpose of the homecoming, which I believe was put in place by the previous Scottish Executive. It was to run a year of events in Scotland, which—

**George Foulkes:** But homecoming and the gathering are two separate things. We could have had homecoming without the gathering. Homecoming was the Executive's idea, but the gathering was your idea—you came up with it.

**Lord Sempill:** If I may, sir, I just point out that the original remit of the homecoming was to attract people of Scottish descent or people with an affinity for Scotland to come home during 2009. I propose that probably the greatest connection is that of people of Scottish descent who are involved in clan activities.

**The Convener:** We are not going to get into that argument. I want to move on to cash flow and financial difficulties, but Anne McLaughlin has a question first.

**Anne McLaughlin (Glasgow) (SNP):** Jenny, you talked in your opening statement about the reasons for the financial failure. We should emphasise the word "financial", because I agree that the cultural impact was significant, and we should never underestimate the international impact. I think that you said that people from 32 countries came to the clan gathering.

As a former event organiser—I did not work on events of the scale of the gathering, but I certainly worked on outdoor events—I am well aware that we are very much dependent on the weather. Any taxi driver in Glasgow or Edinburgh is aware of that, too. People's habits are determined by the weather, to an extent.

You also talked about being unable to rely on post-event sales because of what you could not have foreseen. I wonder whether you can give us a bit more information. You said that swine flu was one of the reasons. Will you go over again the reasons why you believe that the event failed financially and explain again what prevented you from making the post-event sales?

**Jenny Gilmour:** To answer your last question, when we reached the point at which we were aware of the significant shortfall, we could not, as directors, make that any worse, so we could not accrue any more credit. In order to realise the post-event sales, we would have had to market quite extensively. That was in our planning, but we could not do it, so we lost the revenue from CDs and DVDs and the significant future brand events that we hoped to plan. All of that had to be put on hold.

**Anne McLaughlin:** Because legally you were not allowed—

**Jenny Gilmour:** As directors, we were aware that it was essential that we did not accrue any further credit, because of the holding pattern that we were in, in terms of our negotiations.

**Anne McLaughlin:** I understand why you were unable to accrue any more credit. If you had been able to do that and you had managed to realise money from post-event sales, what impact would that have had on the overall figures?

**Jenny Gilmour:** It is a question of adding on sales of things such as CDs and DVDs. We had projections that took us through to Christmas, and there would therefore have been a major return on that. We had income of £60,000 to £80,000 in our budget for CD and DVD sales, and we had significant orders for the DVD.

**Anne McLaughlin:** Okay. Thank you.

**Mr Frank McAveety (Glasgow Shettleston (Lab):** I am relatively new to the committee discussion on the subject. Forgive me, but I am trying to get further clarity. My first question is for Lord Sempill. In terms of your financial projections at the outset, how many passports did you put down under expected sales?

**Lord Sempill:** We wanted to sell 8,100 passports. Right up until late 2008, we looked very well on track for that. We eventually sold 7,500.

10:45

**Jenny Gilmour:** Just over 7,200.

**Lord Sempill:** Seven thousand five hundred. The figure of 8,100 was a specific one; it related to the number of people who can be seated on the castle esplanade for the tattoo, which has a maximum capacity of about 8,500. We felt that we

could sell 8,100 passports across the globe—that was the projection.

**Mr McAveety:** And were different figures given? Earlier, you mentioned spend per visitor at the gathering, whether for overseas visitors or for people from Scotland and the UK. Was there a differential in spend per head between American visitors and Scottish residents who popped along on the Saturday?

**Lord Sempill:** I am not certain that I can answer that question. Obviously, the spend on buying the passport was a given, then there was the spend at the event itself. We have taken the total footfall at the event, but we could break out that figure. We are aware that the vast majority of those who came long distances spent the best part of two weeks in Scotland, of which only two to three days were spent in Edinburgh. I am sure that their spend outwith Edinburgh on hotel accommodation and travel was used in the EKOS report on the gathering. That report confirmed that £10.4 million came into the Scottish economy on the back of the gathering.

**Mr McAveety:** Your opening statement addressed areas where you eventually had financial problems. In most of your target areas, such as overseas sales, brochure sales and post-event sales, you did not reach the target.

**Lord Sempill:** Correct

**Mr McAveety:** So cumulatively, you arrived at—

**Jenny Gilmour:** In terms of income, each budget line shows where the significant loss came. Obviously, we kept our expenditure within 1 per cent of our projections for the day. We could expend a lot of time and energy on that area to get the correct figures.

**Mr McAveety:** In your opening statement, you referred to the homecoming theme, which was clearly an issue for the former and present Scottish Government, so we all have a commitment to making homecoming successful. You had concerns about the lack of clarity for homecoming Scotland, and saw the gathering as a key element that needed to be brought to the fore to try to fulfil the potential of homecoming. Could you amplify that argument, because I have not heard it before?

**Jenny Gilmour:** In 2006 and 2007, no events were in place. There was a break before VisitScotland and EventScotland took on board the planning of the project, so there was a bit of a hiatus. At that time, we were out there developing and selling not only the gathering but the concept of homecoming. We were getting it out into the diaspora countries. People were already starting to engage with the concept. We did a lot to promote not only the gathering but the ethos of

homecoming. We started to create excitement. The many visitors from, for example, New Zealand and Australia needed a lead time. The gathering was a once-in-a-lifetime event for them; they invested huge amounts of money into coming across for the event and homecoming.

**Nicol Stephen (Aberdeen South) (LD):** Page 13 of Audit Scotland's report "The Gathering 2009" refers to the financial projections. The report states that the final financial projections were presented to the steering group on 15 July 2009. Am I correct in saying that those budget projections did not include the £180,000 loan from the Scottish Government?

**Jenny Gilmour:** Yes.

**Nicol Stephen:** So you were looking purely at the budget, rather than cash flow. Did you give cash-flow projections to the steering group at any stage?

**Jenny Gilmour:** I am not sure that we definitely did so—I think that we did. We also gave them to Scottish Government officials, when we were looking at the loan.

**Nicol Stephen:** When did you give cash-flow projections to the steering group?

**Jenny Gilmour:** I would have to look back at the agendas to identify the months in which we did that, as the number of meetings escalated in the run-up to the event. However, I can give you the information.

**Nicol Stephen:** Did you give cash-flow projections on 15 July, when you presented the final financial projections?

**Jenny Gilmour:** I am not sure—I would have to look back at the agenda for the meeting.

**The Convener:** In response to an earlier question from me, you said that cash-flow projections were given to the steering group at every stage. Now you seem to be uncertain.

**Jenny Gilmour:** Not cash-flow projections but budget projections.

**The Convener:** So cash flow was not part of your budget projections.

**Jenny Gilmour:** We were not asked to provide that information.

**The Convener:** So the steering group did not ask for it.

**Jenny Gilmour:** No.

**Nicol Stephen:** These are important distinctions. It would be valuable to the committee to have as soon as possible the detailed information that I have requested.

**George Foulkes:** We need to move on. When did it first dawn on you, as directors, that you could not manage your cash flow without financial assistance?

**Jenny Gilmour:** In April 2009.

**George Foulkes:** You said that the problem was caused by WorldPay's failure to release funds, but was that not part of the contract with WorldPay?

**Jenny Gilmour:** Yes.

**George Foulkes:** So you knew that that would happen.

**Jenny Gilmour:** Yes.

**Lord Sempill:** We clearly understood the reality of our contract with WorldPay and accommodated that in our budgets. However, as Jenny Gilmour said in her opening statement, we started to suffer shortfalls in areas such as sponsorship and various other income streams that we were trying to get together. That put more pressure on us financially.

One of the first things that we did was to look for another credit card supplier. We went to PayPal, which agreed that it would be happy to release funds to us as they came in. Subsequently, it looked at the situation much more closely and declined to do that. That left us in the situation of still being in bed with WorldPay. Because both WorldPay and our bankers were owned by the Royal Bank of Scotland, we thought that it would make sense for us to approach the Government, to see whether it could help us to release the funds.

**George Foulkes:** We will come to that issue in a moment. Earlier you said that your financial difficulties were caused by WorldPay's failure to give you the money; you made the same point to Audit Scotland. Now you say that the problem was not that, because you understood the terms of your contract with WorldPay, but sponsors withdrawing their support. Which sponsors withdrew their support?

**Lord Sempill:** No. We forecast that X amount of sponsorship would come in at certain periods in the run-up to the event, over two to three years, but we did not get the level of sponsorship that we initially wanted. That meant that we had to recalibrate certain areas. We recalibrated our budget as we got closer to the event and started to understand what the costs were.

**George Foulkes:** So the problem was caused not by sponsors withdrawing but by failure to obtain sponsors.

**Lord Sempill:** That is correct.

**George Foulkes:** You realised that you would not get the money from WorldPay and wanted to get help with cash flow. Whom did you approach? How was the approach to get the loan made?

**Jenny Gilmour:** First, we informed the steering group of the WorldPay situation.

**George Foulkes:** When did you inform it of the cash-flow problems?

**Jenny Gilmour:** That was in April 2009 as well.

**George Foulkes:** Oh. Okay. That seems to be different from what you said earlier. So you did not inform the steering group. You said to the convener, Hugh Henry, that you informed it about the budget projections, but not about the cash flow. You are now saying that you did—

**Jenny Gilmour:** I am sorry. Obviously, we informed it about the WorldPay cash-flow shortfall and how the WorldPay situation was affecting our cash flow.

**George Foulkes:** But you knew about the WorldPay contract. That did not change.

**Jenny Gilmour:** No.

**George Foulkes:** You had cash-flow problems. When did you inform the steering group about them?

**Jenny Gilmour:** In April.

**George Foulkes:** How did the proposal for the £180,000 loan arise? Who came up with that idea?

**Jenny Gilmour:** Obviously, the steering group could not help us in any way, so we spoke to EventScotland and then the Scottish Government.

**George Foulkes:** Both of those were represented on the steering group.

**Jenny Gilmour:** EventScotland was the lead agency on the steering group.

**George Foulkes:** So the Scottish Government was not.

**Jenny Gilmour:** No.

**George Foulkes:** Whom did you approach in the Scottish Government?

**Jenny Gilmour:** We went through EventScotland.

**George Foulkes:** Who made the approach?

**Jenny Gilmour:** Paul Bush.

**George Foulkes:** Sorry?

**Jenny Gilmour:** I assume that the chief executive of EventScotland, Paul Bush, did.

**George Foulkes:** When and how were you informed that £180,000 would be made available as a loan to you under the terms that it was made?

**Jenny Gilmour:** We were called to a meeting at which we discussed the issue.

**George Foulkes:** Who was at that meeting?

**Jenny Gilmour:** We were called to a meeting with Mike Russell because we wanted to talk to him about broadcasting issues. We were trying to get the event broadcast.

**George Foulkes:** So you had a meeting with Mike Russell about broadcasting. Did he say—

**Jenny Gilmour:** We then informed him that we were having a problem.

**George Foulkes:** Did he say that he could give you £180,000? Where did the idea come from to give £180,000 under the terms in which it was granted? Your company is the only private company to have received a loan under those terms. Who came up with that idea? It was very clever, and whoever came up with it deserves credit for it.

**Jenny Gilmour:** We presented a proposal regarding potential options to the Government. The options included event funding, assistance with approaching WorldPay to discuss matters at that level and a loan.

**George Foulkes:** Who came up with the idea of a loan? The idea was very clever. Come on—give them credit.

**Lord Sempill:** The reality is—

**George Foulkes:** Did you come up with the idea?

**Lord Sempill:** The reality is that both Jenny Gilmour and I as directors of the company realised the critical position that we were in.

**George Foulkes:** Yes.

**Lord Sempill:** Obviously, we looked for various scenarios in order to cover our cash-flow shortage.

**George Foulkes:** We know that.

**Lord Sempill:** One scenario was a loan.

**George Foulkes:** The question is very simple. Even a lord could answer it.

**Mr McAveety:** A lord can ask it.

**George Foulkes:** You could have had £180,000, robbed a bank, asked Brian Souter to give you money—he has plenty money—or got a loan from the Royal Bank of Scotland.

**Jenny Gilmour:** We could not have done that.

**George Foulkes:** No, you tried that. Exactly. So you get my point. Who came up with the idea that

you should get a loan of £180,000 from the Scottish Government under those specific provisions?

**Jenny Gilmour:** We saw the loan as a possible option. We looked at every scenario. We looked at all of those things that you are talking about to try to receive money. Our proposal was about how things could work. We did not know; we made a suggestion to the Government.

**George Foulkes:** So you made a suggestion to the Government, which said, "Okay. The idea that we should give you a loan is a good one." Who came up with the idea that it should be made under the particular legislative provision?

**Lord Sempill:** Unfortunately, we cannot answer that. All that we know is that we eventually received a call from the Government, which said, "Okay. We've looked at the various options that you have put before us, and the best option that we think we can come up with is to provide you with a loan." You can imagine that both Jenny Gilmour and I were thrilled.

**George Foulkes:** Who said that to you?

**Lord Sempill:** It was conveyed to us by the First Minister's—

**George Foulkes:** Private secretary.

**Lord Sempill:** Yes.

**George Foulkes:** I am answering your questions for you, now.

**Lord Sempill:** Well, thank you very much.

11:00

**George Foulkes:** So the private secretary to the First Minister phoned and said that you would get a loan of £180,00—

**Lord Sempill:** No. He said, "We feel the best option is to provide a loan to The Gathering", and we said, "That would be absolutely fantastic."

**George Foulkes:** I can imagine that you would.

**Lord Sempill:** At that stage, the amount of the loan was not clarified. We had a subsequent meeting to discuss the level of the loan and, from then on, it went through what I consider—

**George Foulkes:** Who was that subsequent meeting with?

**Lord Sempill:** The private secretary, a representative of the tourism department and two other ladies—I cannot recall their names, but we have them on file and I can provide you with them.

**George Foulkes:** When did you know that you would not be able to repay the loan?

**Lord Sempill:** When we eventually counted up the total proceeds of the weekend. It took us about four or five days to count in all the revenue streams, which was when we realised that we had a substantial shortfall. It was around early August that we recognised the magnitude of our loss.

**George Foulkes:** And, at that point, you met Michael Russell to say that you could not repay the loan.

**Lord Sempill:** No. The first thing that we did was to call EventScotland to tell it of our predicament, and it opened up various channels of discussion with the Government.

**The Convener:** We will come on to that later. First, I would like to clarify something. When you met Michael Russell to discuss broadcasting options, you indicated to him that there were certain difficulties, and a number of options were presented, including the possibility of a loan. Is that correct?

**Jenny Gilmour:** Not at that time.

**Lord Sempill:** When we met Michael Russell, we went specifically to talk about broadcasting. In the process of the discussion, he asked how things were going and we said, "We think things are well on track. We have one major concern, and that is our cash flow." We then went into the cash-flow issue in a bit more detail with him, and he said that he would have to review the situation and get back to us.

**The Convener:** You did not ask for a loan at that point or even mention the possibility.

**Lord Sempill:** That is correct.

**The Convener:** He went away and thought about the situation and the next thing that happened was that you got a call from the First Minister's private secretary.

**Lord Sempill:** No. The next thing that happened was that we were asked to put together a paper to clarify exactly what the status was and what our concerns were, so they could review it in some depth, and we did that.

**Jenny Gilmour:** At that time, we were also in discussions with our bank, to try to resolve the situation in that way.

**The Convener:** After you submitted that paper, the next contact was from the First Minister's private secretary, who said that a loan was being considered. Is that correct?

**Lord Sempill:** I am not certain that I could confirm that that is exactly the right sequence of events.

**The Convener:** We can check the *Official Report* to make sure, but I believe that, earlier, you



said that, following the meeting with Michael Russell, you got a phone call from the First Minister's private secretary.

**Lord Sempill:** All that I am pointing out is that it was a key moment for us when we got the call from the First Minister's private secretary informing us that the Government had considered the matter and felt that a loan was the best option and inviting us to come to discuss the matter further.

**The Convener:** You cannot answer this but, from my experience as a minister, I know that it is unusual for someone to meet a cabinet secretary, submit information to officials and then get a phone call from the First Minister's private secretary to indicate that options are being considered. That is a matter that we can pursue separately, but we need it to be clarified. You offered to give us more information about who was at those meetings. That would be helpful.

On the difference between financial projections and cash-flow projections, you provided financial projections at all times to the steering group, but you did not necessarily provide cash-flow projections. Is that correct?

**Lord Sempill:** We updated the cash-flow projections every 24 hours. They were available and we used them where requested and required. The further back we go to the events that took place prior to the cash-flow problem, the less relevant the cash flow is. It became much more relevant as we went into the final part of 2008 and the six-month run-in to the event itself.

**The Convener:** As the cash-flow problem started to develop, it was not reported to the steering group as an influence on your financial projections.

**Lord Sempill:** Earlier, I made a point about costs. When they started to come in, some of them were considerably higher than we had anticipated, so they in turn had quite an impact on our cash flow. A highly competent team of individuals was negotiating with the various suppliers, but the spend on the build that was done in Holyrood park, behind us, was of the magnitude of £0.75 million. When we first started looking at that, the cost was not down as £0.75 million. By the time the costs started to come in, we had requested the level of support that we needed, but you can imagine the pressure on expenditure in the budget, and that had to be recalibrated.

**The Convener:** As the costs started to increase in a way that you had not anticipated, did that influence the financial projections that you were still giving to the steering group?

**Jenny Gilmour:** Yes.

**Lord Sempill:** Yes, absolutely.

**The Convener:** So the financial projections started to be downgraded at that point.

**Jenny Gilmour:** They were being recalibrated the whole time.

**The Convener:** You also said that there was a shortfall in sponsorship.

**Lord Sempill:** Correct.

**The Convener:** Did that impact by reducing the financial projections that you were giving to the steering group?

**Lord Sempill:** As we started to see doors shutting, we had to recalibrate the budget. Our initial aspiration was to get more than £350,000 in sponsorship, then suddenly, come 2008, a massive recession appeared on our doorstep, as we all know. It is significant to point out that when we went to that event, we did not have one single cent from the finance community of Scotland. We had had discussions with various companies and it all seemed to be quite hopeful in the later part of 2007. When it was obvious that the sponsorship was not going to manifest itself, we had to adjust those income lines, which put considerable pressure on the contingency, which was eventually entirely used up in trying to cover some of the income shortfalls.

**The Convener:** So while you did not give cash-flow projections to the steering group, your downgrading of the financial projections made it aware of the problems of rising costs and the failure to attract additional sponsors, both of which would have had a significant impact. The steering group knew that early on. What did it say at that point about the event's ability to make a profit?

**Lord Sempill:** When we made adjustments to various income lines, there would be a discussion with the steering group about that. The reality was that the profit was being squeezed all the time and became less likely. We then decided to raise marketing spend, with the help of EventScotland, to ensure that we maximised the gate. More and more pressure was put on that weekend to deliver the footfall and the spend within the event. We were always optimistic that we would have a reasonably good footfall and relied on the hope that the spend that we had allocated to certain lines would manifest itself. Sadly, it did not.

**The Convener:** Before we move on to talk about liaison with Government bodies, Bill Kidd has a point.

**Bill Kidd (Glasgow) (SNP):** I would like a wee bit of clarification on the cash-flow issue. Jenny Gilmour, I think, mentioned briefly that at one point you were talking to the bank. The bank was the Royal Bank of Scotland, which owns WorldPay, which was retaining—admittedly, as part of the

initial contract—the payments from the passports and suchlike.

You have obviously been in contact with the Royal Bank of Scotland to inform it of your cash-flow issues. Considering that it owns the company that was withholding the money, which was causing most of the cash-flow problems, was it not sympathetic to the idea that some of the money could be released to ease the cash-flow situation?

**Jenny Gilmour:** It tried very hard, and there were weeks of negotiation, but WorldPay would not agree.

**Bill Kidd:** And your own bank, which is in the same group, could not influence that at all?

**Jenny Gilmour:** No, unfortunately not.

**Bill Kidd:** That says a great deal about the Royal Bank of Scotland.

**Anne McLaughlin:** You both seem to have been fairly happy with the support that you got from the Scottish Government. The Auditor General has been much quoted as saying that it was understandable that the Government would want to loan the money so that the event could go ahead. I dread to think what would have happened had it not done so. Perhaps you can tell us what would have happened if you had not received the loan.

**Lord Sempill:** The worst-case scenario would have happened: we would have had to realise that we did not have the money to put on the event. If that had happened, our list of creditors would have been substantially greater, as you can imagine. Some would not have been on the list, but there would have been the best part of 5,500 passport holders to start with. From our perspective, it would have been exceptionally damaging.

**Anne McLaughlin:** People might not have travelled.

**The Convener:** That was the worst-case scenario.

Presumably, the loan was one of the options that you were looking at.

**Lord Sempill:** Yes.

**The Convener:** So even if the loan had not come through, you had other options for how to keep the event going.

**Lord Sempill:** Yes.

**The Convener:** So the loan was a welcome bonus, but it was not absolutely critical.

**Jenny Gilmour:** It was to assist the shortfall during that period so that we could pay the invoices. In event management, a lot of invoices are deposit invoices, and the magnitude of the site

infrastructure—the marquees alone involved a significant six-figure sum—meant that 50 per cent deposit invoices involved significant up-front payments.

**Nicol Stephen:** You became aware that there would be—and you were projecting—a cash shortfall in April 2009. Is that correct?

**Lord Sempill:** *indicated agreement.*

**Nicol Stephen:** What level of shortfall were you projecting at that time?

**Jenny Gilmour:** We would need to—

**Lord Sempill:** We would have had budgets at the time.

**Nicol Stephen:** At the time that you met the minister, on 28 April 2009, what shortfall were you projecting?

**Lord Sempill:** Are we looking at the three case scenarios?

**Nicol Stephen:** No—I am talking about cash.

**Lord Sempill:** The actual cash shortfall.

**Nicol Stephen:** I am talking about the cash shortfall.

**Jenny Gilmour:** The eventual figure that we were looking at for the shortfall was £180,000, given the advance deposit invoices that we knew were coming in. We already knew the terms and conditions of all our suppliers, so we knew that that would be the level for which we would need to get some cover for that short period of time.

**Nicol Stephen:** I have a briefing note here that refers to the company

“anticipating a cash shortfall of £260,000 in June 2009”.

Is that a figure that you are familiar with?

**Lord Sempill:** That is probably about right, because we were using our £100,000 overdraft facility too.

**Nicol Stephen:** So the cash shortfall that you were projecting—which you could presumably be reasonably certain about, because it was prior to the event, so the uncertainties of the event would not affect it—was around £260,000 to £280,000.

**Lord Sempill:** Which we were confident would be covered by WorldPay.

**Nicol Stephen:** I understand that better now. You believed that you could cover it.

**Lord Sempill:** Yes.

**Jenny Gilmour:** We had it covered by our—

**Nicol Stephen:** You did cover it, eventually, with the £180,000 from the Scottish Government, plus your £100,000 bank overdraft. Is that correct?

**Lord Sempill:** That is correct.

**Nicol Stephen:** That is helpful.

You said that, following the meeting with Mike Russell, you prepared a paper. Is that paper available to us? Can we see it?

**Jenny Gilmour:** We do not have it here today.

11:15

**Lord Sempill:** The convener might need to rule on this, but the company, of which Jenny Gilmour and I are no longer directors, is in liquidation, and all the correspondence that we had, including the critical correspondence, has been handed over to Campbell Dallas. We have copies of some papers—

**The Convener:** I would not wish to ask either Lord Sempill or Jenny Gilmour to get involved in such issues. However, we can ask the Scottish Government for a copy, as it was the recipient.

**Nicol Stephen:** Indeed. That is what I was going to suggest. That is the most obvious route to obtaining that paper.

You mentioned that the First Minister's private secretary called you to say that a loan was being considered—that was the preferred response of the Scottish Government. Is that the best way to describe it? Did the Scottish Government wish to pursue the issue of the loan? When was that phone call?

**Jenny Gilmour:** We would need to look at our diaries.

**Nicol Stephen:** It does not form part of the detailed timeline of information that has been provided to us in the report "The Gathering 2009". Will you be able to give us that date?

**Jenny Gilmour:** I am sure that we can.

**Lord Sempill:** We could get very close to it, although I do not know if we will be able to give you the actual day. We can get to within a week or so.

**Nicol Stephen:** Did you or anyone representing you contact the First Minister or his office between the date of the meeting with Mike Russell and 1 June, when the offer of the loan was finalised?

**Jenny Gilmour:** Did we contact him?

**Nicol Stephen:** Did you or anyone representing you contact the First Minister or his office during that period?

**Jenny Gilmour:** No.

**Lord Sempill:** I do not think so.

**Nicol Stephen:** So the first contact was from the First Minister's private secretary to you. To which one of you?

**Lord Sempill:** It probably came through to me. I am sorry to sound a bit vague about it, but quite a bit of time has passed and, as you can imagine, there have been 1,000 phone calls.

**Nicol Stephen:** It was a very memorable call. You said how important it was.

**Lord Sempill:** It was. It was a memorable—

**Nicol Stephen:** It was critical to the gathering, was it not?

**Lord Sempill:** We were being called to a meeting, and it sounded really positive. I would have to look in—

**Nicol Stephen:** You think it was a call to yourself.

**Lord Sempill:** Yes.

**Nicol Stephen:** You were being called to a meeting. What was the meeting that you were called to?

**Lord Sempill:** The meeting transpired to be about an agreement whereby the Government would offer us a loan with the proviso that we met the terms that it would put before us.

**Nicol Stephen:** Who was at that meeting, and when did it take place?

**Lord Sempill:** Lord Foulkes asked that earlier, and I was unable to answer, primarily because I cannot remember the names of the people who were there.

**Nicol Stephen:** Did the officials or ministers who were involved in the meeting seek payment of interest on the loan?

**Lord Sempill:** No. It was an interest-free loan.

**Nicol Stephen:** Would you have paid interest if interest had been sought?

**Lord Sempill:** Yes.

**Nicol Stephen:** You would have had to, would you not?

**Lord Sempill:** Yes.

**Nicol Stephen:** Because the loan was critical to the survival of the event and of the company.

**The Convener:** I call Murdo Fraser and then Anne McLaughlin.

**Lord Sempill:** I wish to add one thing first, on the issue involving the First Minister. Obviously we had met the First Minister before, but in slightly different circumstances, to brief him on the event itself. As I am sure you will all realise, we had royal patronage, which was an important aspect of

the gathering. We had a very informal discussion—we are talking way before any of what we are discussing now.

**The Convener:** Using your notes, can you indicate when that discussion took place? We can also ask the Scottish Government to provide the information.

**Jenny Gilmour:** Yes.

**George Foulkes:** Who was your royal patron?

**Lord Sempill:** Prince Charles.

**George Foulkes:** Prince Charles? He has a lot of money.

**Lord Sempill:** Not since what I read subsequently about the estate.

**The Convener:** Anyway, I call Murdo Fraser, and then Anne McLaughlin.

**Murdo Fraser:** On the Scottish Government loan, you met Michael Russell and discussed the cash-flow situation. After that, I presume, there were discussions with officials and then you had the telephone call to say that the loan would be forthcoming. In that intervening period, were you asked to provide financial information to the Scottish Government on the company's financial position?

**Lord Sempill:** Yes.

**Murdo Fraser:** In your view, was proper due diligence done by Scottish Government officials into the financial viability of the company at that time?

**Lord Sempill:** Obviously, we cannot comment on discussions that might have happened internally between the Scottish Government and, let us say, EventScotland, but EventScotland, as the lead body in the steering group, would have been well aware of all our projections. Over and above that, we supplied further information as requested.

**Murdo Fraser:** That is interesting, because the Audit Scotland report says:

"The Scottish Government did not complete robust checks of the company's ability to repay the loan".

**Lord Sempill:** That might well be the case, but we were not party to any internal discussions that might have happened at Government or agency level.

**Murdo Fraser:** But you were asked for financial information.

**Lord Sempill:** Yes.

**Anne McLaughlin:** I want to return to the question that I asked earlier. I seek a bit of clarity, as I think that the convener's understanding of your response was slightly different from mine. I

asked what the impact of not receiving the loan would have been. The convener said that there were other options so that, even if you had not had the loan, the event would have gone ahead. However, I understood that, without the loan, the event would probably have had to be cancelled and, as Lord Sempill said, the list of creditors would have been even bigger. Did you need the loan for the event to go ahead? Had the event been cancelled, what would have been the impact on Scotland's international reputation? That is speculation, obviously.

**Jenny Gilmour:** The impact would have been massive.

**Lord Sempill:** I do not know whether the committee is aware that a letter was sent to one of the ministers recently from an organisation in the United States that is called the Council of Scottish Clans and Associations. If I may, convener, I will read it. It states:

"Dear Mr. Mather:

By unanimous vote at our July 10, 2010 Annual General Meeting, the members of the Council of Scottish Clans and Associations ... representing approximately 80,000 Scottish Americans, wish to commend and thank all those responsible for putting on what we believe is the most successful ancestral tourist initiative ever to come out of Scotland. This event did so very much to foster goodwill and strengthen the bond between clan and country; many of us felt that it was a peak life experience for us."

**The Convener:** Obviously, their definition of success does not extend to making money.

**Lord Sempill:** If I may continue, the letter acknowledges that point.

**The Convener:** Oh, right.

**Lord Sempill:** It states:

"We know that The Gathering suffered a substantial loss, which has created a lot of negative publicity. Despite that, we feel that this event very clearly met Scotland's original objective for the Year of Homecoming ... to appeal to those of Scottish descent or with an affinity to Scotland to visit the country. The Gathering certainly achieved this objective. The future will show that The Gathering and the Clan Convention were crucial in helping to establish strong relationships and communication between the Scottish government, Scottish clan and society members, Clan Chiefs and the Scottish diaspora worldwide."

**The Convener:** I want to clarify the point that Anne McLaughlin asked about, as it is important. It relates to the question that she asked earlier and what I subsequently asked. She asked whether, if the loan had not been forthcoming, the event would have been cancelled. We will have the *Official Report*, but I think—correct me if I am wrong—that you subsequently said that, in the worst-case scenario, the event could have been cancelled. However, you also said that you had other scenarios and that, potentially, the event

could still have gone ahead had the loan not been forthcoming. Is that correct?

**Lord Sempill:** The answer is that our ultimate fallback position was that the bank would have extended our overdraft considerably. However, as I think we are all aware, the banks were by that time taking a very different line. That was potentially a good option for us. We had quite a few meetings with our bank about extending our overdraft, but the bank became less and less willing to do that. By the time the Government got involved and talked about extending the loan—for all I know, there might have been discussions between the bank and the Government—we were happy to accept that solution.

**The Convener:** Absolutely, but the question is whether you were considering other scenarios to keep the event going had that loan not been forthcoming.

**Lord Sempill:** Another scenario could have been an injection of a similar sum of money from a sponsor or one of the public events companies.

**The Convener:** So you had other options that you were looking at.

**Lord Sempill:** There were other options.

**Jenny Gilmour:** We were looking at many options right up until the event. We were also pursuing sponsorship, and some did come in.

**The Convener:** I appreciate that you were probably working round the clock by that time.

**Lord Sempill:** In our first couple of years of running the event, total Government funding was only £300,000, which represented only 14 per cent of our budget. Although we were incredibly grateful for the public funding that eventually came to us, it did start off, as I said, at the lower end of the scale. Sadly, it obviously rose substantially after that.

**Anne McLaughlin:** The other options clearly were not coming through and the event was getting closer. Had you not got the money from whatever source—and it seems that the Government loan was the only option that was open to you at that stage—would you have had to sit down and look at cancelling the event?

**Jenny Gilmour:** Yes. You can imagine the impact of that. Some £10.4 million would not have come into the Scottish economy.

**The Convener:** Can you clarify that? Are you telling us that, if the loan had not been forthcoming, the event would have been cancelled?

**Lord Sempill:** No.

**Jenny Gilmour:** No.

**The Convener:** You are not telling us that. There were other options that you were considering, but clearly the loan was very welcome.

**Jenny Gilmour:** It eased the shortfall in cash flow in the short term. In the month or two before the event, our deposit invoices were due and we had to make those payments in order to move forward to the event. The release of the revenue streams would then have come in. We had to get to the event.

**The Convener:** Okay. We move on to questions on liaison with Government bodies, from Frank McAveety.

**Mr McAveety:** Who set up the steering group?

**Jenny Gilmour:** It was EventScotland.

**Mr McAveety:** EventScotland pulled together the City of Edinburgh Council, the local enterprise company—

**Jenny Gilmour:** Scottish Enterprise.

**Mr McAveety:** —and yourselves. How often did it meet?

**Jenny Gilmour:** Initially, it met every month, and then, as we got closer to the event, it met bi-monthly and then weekly.

**Mr McAveety:** Okay. What was on the agenda? Was it overall cost projections or cash flow?

**Jenny Gilmour:** It was the budget.

**Mr McAveety:** Right. I am a humble person. Can you tell me the distinction between the budget and cash flow?

**Jenny Gilmour:** Well, obviously, our budgets were our projections. Cash flow was not requested.

**Mr McAveety:** Okay, so we have a situation where the city council was sitting on the steering group with the enterprise company and EventScotland, both of which are Government creations. Did they raise issues at the meetings? You mentioned Paul Bush earlier. Did he suggest that you should approach the Government with one of the options that you mentioned?

**Jenny Gilmour:** No.

**Mr McAveety:** So there was never a discussion at the steering group about the cash-flow problem.

**Jenny Gilmour:** We discussed WorldPay, which was on the agenda of our meetings to allow us to tell the steering group about the situation and how it was affecting the immediate cash flow.

**Mr McAveety:** Can you remind me of the arrangement that you had with WorldPay? Surely

that was in place from day one and never changed.

**Lord Sempill:** It did not. WorldPay works on the principle that it releases the moneys that it has received after the event.

**Mr McAveety:** That was always in your assumptions.

**Lord Sempill:** Yes.

**Mr McAveety:** So there was no change. In a sense, the philosophy that we are trying to develop around the issue is that the WorldPay arrangement, difficult as it was for you, was not the central issue around cash flow.

**Jenny Gilmour:** It was at that point because—

**Mr McAveety:** That issue would have been there at the very beginning as well. What is the difference?

**Jenny Gilmour:** Yes, but a significant level was being retained. The pre-sales and credit card payments held at WorldPay were greater than we thought they would be, as we were also looking to use PayPal, which is a form of payment that does not have the same terms and conditions.

11:30

**Lord Sempill:** PayPal operates on a slightly different system. As I mentioned earlier, that is why we went to that company. PayPal tends to take the money and hold it for the best part of 90 days before releasing it.

**Jenny Gilmour:** You can pull it down.

**Lord Sempill:** We used PayPal extensively for the highland games tickets. It played a role in the latter part of the event. The overseas money was predominantly held by WorldPay.

**Mr McAveety:** Did you act on any recommendations of the steering group?

**Lord Sempill:** Yes. I think—

**Mr McAveety:** And did you not act on others?

**Jenny Gilmour:** Yes. I think that that is true.

**Lord Sempill:** The steering group raised its concerns. It made recommendations, one of which Jenny Gilmour mentioned earlier, which was to strip out charges for the literary tent, which we did. It was also concerned about our pricing of the highland games. We looked very carefully at that. EventScotland expressed quite a lot of concern on the matter. In the end, we all agreed that the pricing structure was pretty accurate.

I return to the budget. I think that the report mentions that we had a much higher level of concessionary sales than we did of standard full-price sales. All those things were discussed in

quite a lot of depth. The average steering group meeting would run for an hour.

**Mr McAveety:** Did any agency on the steering group that was a Government creation make use of any formal reporting mechanisms to Government ministers and departments?

**Lord Sempill:** Not that we are aware of. We assume that, in the end, EventScotland, as part of VisitScotland, responds to the ministry of tourism.

**Mr McAveety:** There was no formal Scottish Government representation on the steering group other than through the agencies. Did you have any other formal arrangement with the Scottish Government for the project?

**Jenny Gilmour:** No.

**Mr McAveety:** Did you have any informal arrangements?

**Lord Sempill:** No.

There were informal discussions on the issue of royal patronage. As you can imagine, that required a lot of input from the local police and so forth, and we had those discussions at the local level. Obviously, the Government was party to some issues. I understand that the royal household communicated with local officials and the Government.

**Mr McAveety:** Was it a formal proposal by the Scottish Government not to inform the steering group of the loan?

**Jenny Gilmour:** No.

**Lord Sempill:** No.

**Mr McAveety:** If it was not formal, how informal was it and how was it met?

**Lord Sempill:** Obviously, we treated it confidentially, as is the case when any limited company takes out a loan. That is how we handled it. As I said, EventScotland was informed of the loan. We let it take the lead on how it wanted to communicate that to the steering group.

**Mr McAveety:** The information that I have says that

"The steering group members were not informed of the Scottish Government loan".

EventScotland is on the steering group. How do you square that one?

**Jenny Gilmour:** It was informed of the loan.

**Mr McAveety:** It was?

**Lord Sempill:** Oh, yes. EventScotland definitely knew of the loan.

**Mr McAveety:** And were representatives of the capital city informed of the loan?

**Jenny Gilmour:** We do not believe that they were.

**Lord Sempill:** We do not think so.

**Mr McAveety:** And Scottish Enterprise?

**Jenny Gilmour:** We do not believe so.

**Mr McAveety:** Right. So, EventScotland was told.

**Jenny Gilmour:** Yes.

**Mr McAveety:** And it was a member of the steering group?

**Jenny Gilmour:** Yes.

**Mr McAveety:** There is a contradiction between what you say and the information that I have in front of me.

A number of members asked about the informal arrangements. Other than the phone call that you claim to have had from the private secretary—it may be possible to clarify that at a later stage with the First Minister's office—did you receive any phone calls from the First Minister's office on the matter?

**Lord Sempill:** No.

**Mr McAveety:** Ever?

**Lord Sempill:** No.

**Jenny Gilmour:** No.

**The Convener:** I seek clarification on the loan. Did you indicate to the Scottish Government at any point that the provision of the loan might jeopardise delivery of the event's economic impact?

**Jenny Gilmour:** We were not focusing on that at the time.

**The Convener:** You are the company that was handling the event. You are the company that was the recipient of the loan. You are the company that was dealing with the day-to-day arrangements and the media and yet you never said, "Look if it comes out that we've had a loan, it could impact adversely on the event's economic success."

**Jenny Gilmour:** We were not focusing on that.

**The Convener:** So that opinion did not come from you. If it was there, it was formed by the Scottish Government or EventScotland—it had nothing to do with you.

**Jenny Gilmour:** We were obviously aware that the thousands of people who were coming here would contribute massively to—

**The Convener:** Yes, but you never said to them that there would be an adverse impact if it came out that a loan had been made.

**Jenny Gilmour:** That was never in discussion.

**Nicol Stephen:** Frank McAveety asked about WorldPay. Did WorldPay give a reason for its unwillingness to release the funds early? Is there a justification or explanation for its inclusion of that contract term, which was there from the outset?

**Jenny Gilmour:** The terms are there to protect its purchasers.

**Nicol Stephen:** Did it ever give the explanation that it would not change the conditions in case the event was cancelled?

**Jenny Gilmour:** No.

**Nicol Stephen:** If the event had been cancelled, it would have had to repay the moneys that had been received, to protect its customers.

**Lord Sempill:** That is correct.

**Jenny Gilmour:** Yes. That is why it retained the money. That is what it does for events.

**Nicol Stephen:** Is that a standard policy that it has for all events with which it deals, to protect its customers in the event of cancellation?

**Jenny Gilmour:** We talked to WorldPay in detail about the issue and tried to persuade it to release the funds. However, because the event was happening for the first time and had no precedent, WorldPay wanted to protect its customers.

**Nicol Stephen:** Was it unwilling to release even a percentage of the funds?

**Jenny Gilmour:** Yes.

**Nicol Stephen:** We are told that, at the time when the loan was being negotiated, WorldPay held income of around £160,000, which was expected to reach around £250,000 by the end of the event. It was quite a substantial debtor. Did you consider in some way releasing funds to your company by assigning the rights to receive the money from WorldPay?

**Lord Sempill:** The straight answer is no. I do not think that that was an option for us.

**Jenny Gilmour:** It was not an option.

**Nicol Stephen:** Why was it not an option?

**Lord Sempill:** The response that we received from WorldPay when we tried to unlock funds was that the contract states clearly that the event must take place. We were hoping to use another lever on it, but I am not sure to what extent anyone else was in a position to do that. When our bank tried, it found that, unfortunately, WorldPay's policy had to remain in place.

**Nicol Stephen:** If you have a solid, reliable debtor such as WorldPay, you can often arrange

to generate cash for your business by assigning the rights to that money.

**Lord Sempill:** The comfort zone for the Government was the fact that the money was tied up in WorldPay.

**Nicol Stephen:** I move to my final and most important question. Did the Government ever seek to gain rights to payment from WorldPay, so that WorldPay would pay the £180,000 loan, instead of the money flowing to the company?

**Lord Sempill:** We do not know whether the Government had that discussion.

**Nicol Stephen:** You would have had to be involved.

**Lord Sempill:** Absolutely.

**Nicol Stephen:** Clearly, you were entitled to the money from WorldPay, which subsequently gave the money to you. That money is now lost.

**Jenny Gilmour:** We did not have that discussion with WorldPay.

**Nicol Stephen:** There was never that discussion with the Government, so the Government did not seek to claim interest on the loan or look at ways of securing repayment on it involving WorldPay.

**Jenny Gilmour:** It may have done so independently of us, but it did not do so through us.

**Bill Kidd:** I want to ask about the potential purchase of The Gathering 2009. As Lord Sempill said earlier, it has been calculated that approximately £10.4 million accrued to the Scottish economy through the holding of the event. Therefore, there was no desire on anyone's part to lose the brand that had been built up during that time. The Scottish Government could not make it a state-owned company, obviously, so the desire was that someone might take over the company by purchase.

The Royal Edinburgh Military Tattoo was approached but, from what we have been told, it seems that the preferred approach involved using DEMA, which meant that the Royal Edinburgh Military Tattoo dropped out of the picture.

What did you, as the company directors, understand to be the position with regard to the potential purchase of the company? How did you become aware that there was a potential purchaser? What part in any negotiations did you have?

**Jenny Gilmour:** We were aware that the Government had an intellectual property valuation done of the event, in order to create a market

value for the IP. That would be the asset that could be sold on, rather than the company.

We were aware of the negotiations with the tattoo because of the analyses that were conducted by KPMG, on behalf of the tattoo, and PricewaterhouseCoopers, on behalf of the Government. Shortly after we were told that the tattoo would not be proceeding, we were told that a solution had been put forward, which was that DEMA would purchase the IP of the event.

**Bill Kidd:** Were you aware of press releases that had been put out about that?

**Jenny Gilmour:** As I mentioned in my opening remarks, we were called to St Andrew's house to have sight of the written press release that was issued on behalf of the Government, DEMA and the City of Edinburgh Council.

**Bill Kidd:** It must have been exciting for you, having been involved in the project for so long, to learn that it would not just be a one-year thing.

**Jenny Gilmour:** It would have been wonderful for the event to continue but, as you can imagine, for Jamie Sempill and myself, it was a hard time. We desperately wanted the debts to our creditors to be honoured.

**Bill Kidd:** Did you manage to keep the creditors up to date with developments? Were you allowed to pass the information along?

**Jenny Gilmour:** We felt very strongly that we were honour-bound, as directors, to inform our creditors of the situation. Once we were told that blocks had been put on to the agreement, we asked the council whether we could send a weekly e-mail to our creditors to inform them of how the discussions were going. The council agreed that we could, and it had sight of those e-mails.

**Bill Kidd:** Were you involved intimately with discussions around the purchase by a partner, with DEMA being the most likely purchaser?

**Jenny Gilmour:** We were not involved in the discussions.

**Lord Sempill:** We were very much in the dark about the discussions and negotiations.

**Bill Kidd:** You owned the company at the time, did you not?

**Lord Sempill:** At that stage, yes.

11:45

**Bill Kidd:** Were you in negotiations with the steering group? Were you part of the steering group's discussions on what was taking place?

**Jenny Gilmour:** If you mean the gathering 2009 steering group, I do not think that it was involved in the discussions.



**Bill Kidd:** Had the group dissipated by that point?

**Jenny Gilmour:** Yes, in essence it had finished. The steering group's meetings finished just before the event. We were not party to those discussions. We were just informed when we were asked to witness the press release.

**The Convener:** The Gathering 2009 Ltd was a private company limited by guarantee and you and Lord Sempill were the directors. However, you were in the dark—if I may use Lord Sempill's phrase—about the negotiations over who, if anybody, was going to take over the company.

I have not been involved in company dealings and takeovers; you have more experience than I have. If a company is being taken over and negotiations are taking place between various agencies or parties, is it usual for the company itself to be completely in the dark about the negotiations?

**Lord Sempill:** It is not usual.

**The Convener:** Is it very unusual?

**Lord Sempill:** I would say so.

**The Convener:** Did no one from DEMA, the City of Edinburgh Council, EventScotland or the Scottish Government tell you at any time about any of the negotiations?

**Lord Sempill:** I would have a weekly telephone call with someone in the City of Edinburgh Council, to try to get an update. The reality was that the city was obviously at an impasse about whether it could support the proposition. For weeks the response was the same: "We haven't resolved the issue or come to a final conclusion."

That put me in a pretty invidious position, because by then we had more than 100 creditors to whom we were trying to communicate progress. Our e-mails were anodyne, at best. We just said that we hoped that there would be a positive outcome. That was the message that we had to keep conveying.

**The Convener:** I sympathise, given the position that you were in. As directors you knew that you had a legal and financial responsibility and you felt that you had some kind of moral responsibility to the people who were affected. You were attempting to communicate with those people, but no one was willing to tell you what was happening in relation to the company's future.

There is a strange contrast between the situation earlier in the process, when the Scottish Government had an interest in stepping in, for whatever reason, and you had a phone call from the First Minister's office to tell you what was going on, and the end of the process, when no one from the First Minister's office, the Scottish

Government or EventScotland was prepared to tell you what was going on and you were left to communicate with the creditors in an anodyne fashion.

**Lord Sempill:** It is important to note that our clear understanding was that the Government would take care of the public sector debt with the proviso that the City of Edinburgh Council would come to the party and take care of the commercial debt. The Government was clear, and we were clear, about its role in all that. I suspect that the Government, like us, had to wait for the city to come to a conclusion.

Correspondence was always very much directed at the city making the decision. I had one meeting prior to Christmas with the city, which was related to a discussion with the company that it brought in to revalue the IP. The IP had been valued—certainly on one occasion—but the city wanted its own valuation, so I went to the city and met the company that was going to do the valuation. The company's representative subsequently came to the office and we took them through all the facts and details that they required so that they could come to a valuation. That was the only meaningful discussion that we had.

**The Convener:** But even if it was the case that the Scottish Government would deal with the public debt, the City of Edinburgh Council would deal with the private sector debt and the Government was waiting on the City of Edinburgh Council to come to a decision, that does not square with the communications trail, which shows that the Scottish Government was writing the press releases and was very much in the driving seat about what would be said and what would happen. Leaving aside all the misunderstanding about who knew what, it is clear that the Scottish Government was driving matters. This is not for you to answer for, but there seems to have been a very different relationship at that time. The Scottish Government was firmly in control. However, we will take up that point with the Scottish Government.

**George Foulkes:** I just want to follow up Jenny Gilmour's remarks. She helpfully said that she was called to St Andrew's house to be given sight of a press release. Who was present at that meeting?

**Jenny Gilmour:** Again, I would need to refer to my notes for that.

**George Foulkes:** Who was present from the city? Was Steve Cardownie there?

**Jenny Gilmour:** No, Steve Cardownie was not present.

**George Foulkes:** Was a council official there?

**Jenny Gilmour:** I would need to refer to my notes on that.

**George Foulkes:** Who called you to ask you to attend the meeting? Who phoned you up to say, "Come and have a look at this press release"?

**Lord Sempill:** A Government press officer, I think.

**George Foulkes:** A Government press officer?

**Lord Sempill:** There were a couple of press officers, so I assume that one of them represented the city and the other represented the Government.

**George Foulkes:** Our understanding is that the press release was drafted by the Government press office. Is that your understanding?

**Lord Sempill:** I had to make the assumption that the city had had something to do with the release.

**George Foulkes:** However, we now know that council leader Jenny Dawe had not seen the release. That is what I understand to be the position.

**Jenny Gilmour:** We do not know.

**George Foulkes:** The press release was issued on 15 October.

**Lord Sempill:** That is correct.

**George Foulkes:** Did your meeting take place on the day that the press release was issued?

**Jenny Gilmour:** Yes, I think so.

**George Foulkes:** So you were called into a meeting on 15 October to be shown a press release, which was issued that very same day. In the words of the Auditor General, that press release

"raised expectations, contained misleading information and was issued before all the facts were known".

The press release was really meant to deceive the private creditors into believing that they would get their money, was it not?

**Lord Sempill:** We certainly did not interpret it in that way. We clearly saw that the city—to our great relief, too—would come to the party and fulfil its side of the arrangement.

**George Foulkes:** The Auditor General states that

"A press release raised expectations, contained misleading information and was issued before all the facts were known".

It raised expectations that the private creditors—and, indeed, the public creditors—need not worry about anything. That is pretty bad, is it not?

**Lord Sempill:** If I may, let me say that the misinformation to which you refer was

misinformation between officials in the city. As far as Jenny Gilmour and I were concerned—

**George Foulkes:** No, I am not blaming you in any way.

**Lord Sempill:** As far as we were concerned, the information that was being released about The Gathering was correct.

**The Convener:** It is important to put it on record that you went into that meeting in good faith. Where the press release referred to how the public and private creditors would be handled, you accepted at face value that the press release indicated an intention by the City of Edinburgh Council and the Government to do the right thing by your creditors.

**Lord Sempill:** That is correct.

**George Foulkes:** I am glad that the convener has clarified that. In case anyone misunderstood, I did not intend in any way to blame either Jenny Gilmour or Lord Sempill. You were called in at short notice and given the press release, which was issued the very same day. You would not have known, but in fact the press release followed a series of meetings involving ministers and a series of contacts between ministers and the Royal Edinburgh Military Tattoo, VisitScotland, DEMA and Scottish Enterprise. All those were attempts to try to find someone to take over from you. This misleading press release followed that sequence of events. Is my understanding of that right, as far as you are concerned?

**Jenny Gilmour:** That is our understanding. We were not at those meetings.

**George Foulkes:** You were not at any of those meetings?

**Lord Sempill:** No. We were not privy to those discussions.

**George Foulkes:** You were not involved in any of the discussions that were taking place between ministers and third parties—behind your back, effectively. You were called in, and the misleading press release was issued.

**Anne McLaughlin:** As we are coming to the end of the question session, it is worth acknowledging a number of things. First, this has been a long and tough session—and a long and no doubt personally difficult year—for both of you. Secondly, you both have strong professional track records; I know that because I have read up on you.

Thirdly, it is clear from what you have said and the way in which you have presented the issue that you are very distressed about the creditors that could not be paid. It is also clear that you accept your responsibility and tried very hard to turn things around.

Finally, aside from the financial aspects, I want to acknowledge—and the letter that Lord Sempill read out supports this—that you organised an incredibly worthwhile event that contributed to bringing £10.4 million to the Scottish economy. I just want to put that on the record.

**George Foulkes:** That figure of £10.4 million was actually challenged last week in evidence to the Economy, Energy and Tourism Committee, in which it was stated that the figure was only about a quarter of that. That was after nearly £5 million was spent by the Scottish Executive to publicise homecoming 2009 and the gathering. The return on investment was not very high.

**The Convener:** Okay. You have both had your chance to put things on record.

**Nicol Stephen:** When did the Scottish Government and the other public sector bodies that were owed money by the company write off those sums—the debts—that were due to them?

**Jenny Gilmour:** We do not know.

**Lord Sempill:** We are not certain of the specific dates that relate to that. The process was that the Government—

**Nicol Stephen:** Sorry—your company owed that money, but you are telling us that it was not informed of the write-off process?

**Lord Sempill:** We were eventually informed that the Government intended to cover the public debt. The discussions happened at ministerial or Government level, and they must have decided among themselves that they would waive the debt. There was a clear understanding, however, that that was with the proviso that the commercial debt would be met by the city.

**Nicol Stephen:** But on page 18 of the report, exhibit 6 lists the amounts that were written off by public sector creditors. It gives a total amount of £291,508.

**Lord Sempill:** Yes. Eventually, once the city had decided that it could not pick up the commercial aspect of the debt, the original arrangement that the Government had structured—I am making assumptions here—with the other public bodies ceased, and those bodies in turn became creditors.

**Nicol Stephen:** So those debts were never written off.

**Lord Sempill:** Not as we now—

**Nicol Stephen:** They remain as—

**Jenny Gilmour:** They are claims on the creditors list—they are on the list. They have lodged claims to try to recoup some public funds.

**Nicol Stephen:** Okay—that was not clear to me until now. So everything was structured to allow the public sector to write off those amounts, but they were never written off, and so those bodies are part of the list of creditors.

**Jenny Gilmour:** They sit on the creditors list.

**Nicol Stephen:** Okay, that is helpful.

How much did WorldPay give you and when?

**Lord Sempill:** The sum of money from WorldPay came after one week. On the Monday—not the Monday post the event, but the following Monday—the money came into our account. The amount was just under a quarter of a million.

**Jenny Gilmour:** We can give you an exact amount if you like.

**Nicol Stephen:** Around £250,000?

**Jenny Gilmour:** Yes.

**Nicol Stephen:** Under your contract with the Scottish Government, you were under a liability to repay that money to the Scottish Government within 14 days or by 31 August, whichever was the earlier.

**Lord Sempill:** Correct.

**Jenny Gilmour:** Yes.

**Nicol Stephen:** So why did not you do that?

**Lord Sempill:** We obviously had other costs to meet as well, and we took a decision to pay some of those other costs. Eventually, the money was not there.

12:00

**The Convener:** Did anyone from the Scottish Government contact you to remind you that the money was due?

**Jenny Gilmour:** No.

**The Convener:** You had still not gone into administration at that point.

**Lord Sempill:** We informed the Government that we could not pay it before the deadline.

**Nicol Stephen:** From that date of default until the issuing of the joint press release by the council, the Government and EventScotland, did you make any representations to or have any contact or communication with ministers?

**Lord Sempill:** Yes.

**Nicol Stephen:** Of what nature?

**Lord Sempill:** The first body that we went to was EventScotland; that was the procedure. It opened the door for us to have a discussion with ministers, and we had such a discussion. By then, we had drafted the reality of the bottom line and it

was a question of looking at those figures and seeing to what extent there were options to rescue the situation.

**Nicol Stephen:** I think that you said earlier that you were not involved in the discussions that are listed in the report. You said that you were not involved in those meetings with ministers, but I am asking about discussions or communications of any kind that you were involved in with ministers. Can you tell us what those were?

**Lord Sempill:** We had—[*Interruption.*]

I am sorry. There was a sequence. We are talking about a very brief period of time—about a week to 10 days. Initially, we met Paul Bush of EventScotland. That resulted in a meeting with Paul Bush and Mike Russell. We eventually had another meeting, involving the First Minister, Paul Bush and ourselves.

**Nicol Stephen:** Not Mike Russell?

**Jenny Gilmour:** Not at that point.

**Lord Sempill:** I do not think that he was at that meeting.

**The Convener:** We can clarify with the Scottish Government what subsequent meetings took place with ministers that are not recorded in the report. It may well be the case that they are all recorded in the report, but we will seek clarification of that.

**Nicol Stephen:** Obviously, the witnesses could tell us the dates of those.

What was the outcome of those discussions? What was said to the witnesses by Paul Bush and by ministers?

**Lord Sempill:** The initial outcome was very much one of, “We will have a really good look to see what we can do to try and help retain the integrity and the legacy that you have created.” They made it clear to us that it was a substantial loss and that they were not certain how easy it would be to deal with. We were not party to whatever discussions took place subsequently.

**Nicol Stephen:** Those are the ones that are listed.

**Lord Sempill:** Yes. Then they held a series of internal discussions and eventually, as I think we discussed earlier, they went down the route of a joint partnership relationship, which it was hoped would involve the city, but that never transpired.

**Nicol Stephen:** Thanks very much.

**The Convener:** Before we conclude, Jenny, can I just clarify that you are a director of Red Sky at Night?

**Jenny Gilmour:** Yes.

**The Convener:** And Red Sky is one of the listed creditors.

**Jenny Gilmour:** Yes.

**George Foulkes:** You personally are one of the creditors.

**Jenny Gilmour:** Yes.

**The Convener:** I thank you both very much for coming along. It has been a long session—longer than anticipated. I appreciate that you have been caused some anxiety and that it has been a difficult time for you, and I value your attempts to provide as much information as you have been able to. It is clear that some of what has transpired is your responsibility as far as the conception and the management of the event are concerned, but there are other things that have happened subsequently that others will have to answer for and which we will attempt to find out about.

Thank you very much for your candour and your time. If we need any further clarification, we may revert to you in writing at a later date.

We will have a break for five minutes.

12:05

*Meeting suspended.*

12:12

*On resuming—*

### “Emergency departments”

**The Convener:** The next item is consideration of a section 23 report entitled “Emergency departments”. Before I invite the Auditor General to give us a briefing, I note that Caroline Gardner is with us. She will not be here again for a while because, as members might know, she is taking up a secondment to the Turks and Caicos Islands.

**Members:** Wow!

**The Convener:** Indeed.

**George Foulkes:** I can tell you a thing or two about that.

**Mr McAveety:** Don’t, George—your microphone’s on.

**The Convener:** Suitably, she has waited until winter approaches before deciding to depart. The appointment is significant—the Administration there has been in significant financial difficulty for a period—and I am sure that Caroline Gardner will relish the challenge.

I invite Mr Black to give us a briefing on the report.

**Mr Robert Black (Auditor General for Scotland):** In this case, I think it right and appropriate that Caroline Gardner should introduce the “Emergency departments” report.

**Mr McAveety:** From accident and emergency units to the Caribbean, eh?

**Caroline Gardner (Audit Scotland):** I am afraid that there will be no fact-finding visits, convener. I thank members for their good wishes.

This report looks at emergency care in the national health service in Scotland. As we know, such care is a vital part of the health service. The numbers of people attending emergency departments are increasing, reaching about 1.4 million attendances in 2008-09, the cost of which was around £150 million or about 1 per cent of overall health service spending.

12:15

I will briefly highlight three key issues in the report to inform the committee’s consideration of what it might want to do with it. The first thing to say is that although several policy documents set out the broad approach to emergency care, fundamental challenges remain, some of which relate to the fact that the type and location of emergency services have evolved over time. Moreover, during that time, new initiatives such as NHS 24 and various minor injury units have been introduced. The fact that there is no consensus on which place of treatment is best for which type of patient or condition can be confusing for patients and it is important that they are clear about when they should go to a minor injuries unit rather than an emergency department. However, that is not always the case.

As I said, demand for emergency services is increasing, which means that costs over the past few years have increased significantly. We think that more can be done to manage the costs of services more effectively. For example, with regard to workforce pressures, staffing levels have increased over the past few years, but the impact of the European working time directive, the new consultant contract and changes to junior doctors’ training have reduced the number of available working hours in emergency departments. Not all of those pressures can be handled locally, and there is a need for clearer strategic direction for emergency services to ensure that the national element of the planning is being done as well as it can be.

Although limited information is available on the medical condition of all the patients who attend emergency departments, we know that more than half of them are classified as having minor injuries or illnesses. That raises the question whether such patients are best treated in A and E. Indeed, the

question of appropriateness is highlighted by the fact that we also know that the patients who arrive at A and E and leave without treatment cost more than £2 million a year.

Another area of service management that we think merits attention relates to waiting times and the quality of care. Although it is good news that the length of time that people wait to be seen in emergency departments has in recent years decreased significantly and that patients are happy with the treatment that they receive, we know that at the moment it is difficult for emergency departments to maintain the four-hour waiting time standard. That difficulty is likely to increase in future.

In addition, we think that there is scope to improve the quality of services for vulnerable groups such as children, vulnerable adults and people with a disability. More generally, we know that there is limited monitoring of and reporting on the quality of care provided. The report highlights some examples of quality monitoring and reporting, but such approaches are not consistent across the country.

Finally, given that the demand for emergency services is continuing to rise, it is important that everyone involved in such services in the NHS and social work work together to make the best use of resources. Medical and nursing staff in the emergency departments that we surveyed registered concerns about referrals to emergency departments, particularly from NHS 24. We think that there is scope for NHS boards, the Scottish Ambulance Service and NHS 24 to improve information sharing to meet patients’ needs. All emergency departments should have access to care plans and get advance warning of patients who are being brought to the department by ambulance, but that does not always happen across Scotland.

There is a perception among emergency department staff of a growing number of inappropriate self-referrals, but we know—and have had it confirmed in a wide range of research—that it is difficult to define who those patients are. However, we think that there is limited evidence that the health service has explored real alternatives to emergency departments, whether they be minor injuries units or other ways of meeting that need, or has assessed properly the impact of those alternatives. That seems to us to be a very important direction for the future of these services and to ensure that they are sustainable in the longer term. NHS boards have been asked to prepare local targets for what they will do to reduce attendances at emergency departments and are due to publish those targets later in the year.

I hope that that has been helpful. The team and I will do our best to answer your questions.

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

Something that has often struck me about A and E services is that they are, as you have indicated, under a great deal of pressure. However, with the changes to out-of-hours doctor support, people who are desperate for medical advice and treatment, often when children are involved, do not stop to consider the niceties of whom they should go to. All they want is some support and A and E is the most obvious and visible medical help available. Moreover, it can be quite time-consuming to contact NHS 24 or your own out-of-hours service. Do we have any quantification of how many cases are being dealt with by accident and emergency that could be better dealt with by other parts of the health service?

**Caroline Gardner:** It is difficult to define exactly which patients need to be in emergency departments and which patients do not. Our estimate is that a little over half of the people who turn up at an emergency department could be classified as having minor injuries or illnesses, rather than the serious ones for which those departments are designed. The question of where else those people might have gone is a complex one, however. First, patients do not always know about the alternatives that are open to them. Secondly, the number of patients who arrive at emergency departments who are referred by either general practitioners or NHS 24 is very small. It is about 4 per cent for NHS 24 and 10 per cent for GPs. The whole question of who is being treated in emergency departments and whether that is the best place for them is ripe for exploration, and that is one reason why we are concerned that the NHS is not collecting better information about the patients who arrive and the quality of care that they get.

**The Convener:** I anticipate that the committee will wish to examine this subject more closely, but is there anything that members wish Caroline Gardner to clarify at this stage?

**Murdo Fraser:** I have a follow-up question on the point about changes to GP out-of-hours cover. The report contains a helpful discussion on the matter at page 11. There has been a 9.4 per cent increase in attendances at emergency departments over the past 10 years. You acknowledge in paragraph 23 of the report:

"It is possible that a lack of available alternative services may be another cause of differences in rates of attendance across Scotland, for example if GP services are limited."

I assume that you mean out-of-hours services. When you produced your report, the British Medical Association Scotland issued a press release in response. It states:

"The report confirms that rising demand is not the result of the new GP contract introduced in 2004."

I do not think that your report actually says that. Do you have any comment on that?

**Caroline Gardner:** We say that we cannot tell. At the moment, it is not clear that patients are being treated in the right place. More than half of them appear to have minor illnesses and injuries, rather than more serious ones. On the other hand, only 10 per cent of patients are being referred by their GPs, and that figure has not changed significantly over the last period. There is a question there.

The wider issue is that, across the NHS in Scotland, we need to know more about which patients are in A and E and whether there is a more appropriate place for them to be treated, which might be closer to home, with more flexible treatment that could be better value for money. At the moment, we do not know.

There is probably also an effect from the fact that the standard time for treatment in A and E is four hours, whereas it is 48 hours for a GP appointment. Some patients going to an A and E department will have been affected by that factor—rather than waiting for an appointment with a GP. The situation is complex and it needs to be better understood.

**Murdo Fraser:** It sounds like the BMA is putting a bit of a spin on your report that is perhaps not justified.

**Caroline Gardner:** Its comment certainly goes further than we have gone.

**Murdo Fraser:** I was interested to note a reference in paragraph 49 to the cost of patients who attend emergency departments but who leave before receiving treatment. The report says that, in 2008-09, 9,500 people were

"brought to hospital by ambulance, at a cost of £2.3 million",

but presumably they decided that they could not be bothered waiting, or they were not really all that unwell, and they just wandered off home. It seems extraordinary that 9,500 people in Scotland feel so unwell that they phone up to get an ambulance, but decide when they get to hospital that they are not really that ill after all. Can you tell us what is being done to try and reduce those figures?

**Caroline Gardner:** I will ask Claire Sweeney or Angela Canning to answer the second part of that question. On the overall picture, you are right to say that it is an extraordinary figure. We know that the situation is more complex than it looks, however. We know that some of those patients will have been removed from emergency departments by the police—they will have been brought in drunk and when they started to come round they

will have caused a disturbance and been removed. It is a complex picture.

**Claire Sweeney (Audit Scotland):** There is a general point in the report about the need for education for people using the service. A lot of work has been done to explain to people which services are available, where they can go and when they should use them. There is a message there about how people are using services.

The point has already been made about the lack of clarity. The system is very confusing for people to find their way around but, throughout the report, we have identified definite ways in which the service could be managed more efficiently. That is not the emergency departments themselves; I am talking about working with partners such as the Ambulance Service and NHS 24.

**Bill Kidd:** I have worked in accident and emergency departments and alcohol consumption has a great deal to do with it, although people get the chance to sober up during the four hours that they sometimes have to wait.

Triage has made a huge difference to prioritising illness. Things move on much more effectively than they did previously. However, some hospitals are simply much busier than others. In some areas, more people use the hospital accident and emergency department than in others. The numbers must affect the percentage of people who are seen within the four-hour period. Does the report mention that at all?

**Caroline Gardner:** Claire Sweeney will pick up on that.

**Claire Sweeney:** One of the challenges that we faced with the report was trying to build up a picture of who is using the service. It comes through quite clearly that there is little information available about what is coming through the door. Even the triage categories are very broad. It is difficult to get a handle on complexity and case mix. We struggled with that because the information is just not there at the national level. We were not able to go on to make some of the conclusions that we would have liked to have made about the impact of the complexity of the work on cost, activity, and cases seen per staff member because the information is not collected in that way—it is not available.

**Bill Kidd:** Information is collected that way in the hospitals, so I am quite surprised that it is not made available. I imagine that the health boards collate it in some way, but I do not know whether it goes into national figures.

**Claire Sweeney:** There is something. Two exhibits in the report give indications about triage and the condition in which people come through the door, but they are such broad categories that

they are relatively meaningless in terms of our trying to understand which patients could be seen in, for example, a primary care setting. It is difficult to see that from the information that we have.

**The Convener:** Exhibit 13 mentions Monday and Saturday attendances. Apart from the period between midnight and 8 o'clock in the morning, attendances are higher on a Monday than on a Saturday. That seems to be counterintuitive.

**Caroline Gardner:** We also thought that that looked odd. The pattern is the same in England and it appears to be because of patients who go to their GP on a Monday morning and are found to be ill enough to require referral at that stage. That is particularly true of elderly patients.

**The Convener:** Thank you for that. We will come back to the report at a later point in the agenda, and when we come to our conclusion, you will be somewhere warmer, Ms Gardner.

**Caroline Gardner:** I will be thinking of you.

**The Convener:** I am sure that you will. Good luck; it is a fantastic opportunity and I am sure that you will do well.

## Section 22 Report

### “Transport Scotland: report on the 2008/09 audit”

12:28

**The Convener:** We have a response from the accountable officer, and members will also be aware of the further information that we received from the Scottish Information Commissioner. Does anyone have any comment to make or do we simply want to note the response?

**Nicol Stephen:** Can you remind me what the Scottish Information Commissioner said?

**The Convener:** Essentially that the Scottish Government’s approach is acceptable and that we do not have the right to that information.

**George Foulkes:** We have had a very helpful note from the clerk, but I am not sure that it will be useful to pursue the issue much further.

**The Convener:** I do not think that we can do anything further. It is interesting to note the changes that are being considered by the UK Government, some of which have already kicked in. It is currently considering whether to bring out information about salaries further down the scale. If the rest of the changes come about, some of that information might well be put on the record, or, at the very least, be made available to look at when we are comparing one year with another. Unfortunately, as things stand, we do not seem to be able to do anything further.

12:30

**Nicol Stephen:** I understand that point and, obviously, I support the steps that the new UK Government is taking towards greater openness and transparency. If Transport Scotland was able to reveal pretty much immediately the names and salaries of those who are earning more than £150,000, which I assume is quite an arbitrary figure, I do not really understand why there is a problem with the names and salaries of those who are on the senior civil service pay grade and earning more than £58,000. No doubt that will be explained to us in due course.

I like the committee paper’s suggestion that we should consider agreeing that some of the issues that have arisen should be included in the committee’s legacy paper, so that the issue can be picked up again in session 4, when the new public audit committee comes into being. That is a good way forward.

**The Convener:** Do we agree to note the accountable officer’s response, and consider raising the issue in our legacy paper?

**Members** *indicated agreement.*

12:31

*Meeting continued in private until 12:35.*



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