



The Scottish Parliament  
Pàrlamaid na h-Alba

## Official Report

### FINANCE COMMITTEE

Tuesday 7 September 2010

© Parliamentary copyright. Scottish Parliamentary Corporate Body 2010

Applications for reproduction should be made in writing to the Information Policy Team, Office of the Queen's Printer for Scotland, Admail ADM4058, Edinburgh, EH1 1NG, or by email to:  
[licensing@ogps.gov.uk](mailto:licensing@ogps.gov.uk).

OQPS administers the copyright on behalf of the Scottish Parliamentary Corporate Body.

Printed and published in Scotland on behalf of the Scottish Parliamentary Corporate Body by  
RR Donnelley.

---

**Tuesday 7 September 2010**

**CONTENTS**

	<b>Col.</b>
<b>INDEPENDENT BUDGET REVIEW</b> .....	2401
<b>DAMAGES (SCOTLAND) BILL: FINANCIAL MEMORANDUM</b> .....	2427
<b>DECISION ON TAKING BUSINESS IN PRIVATE</b> .....	2435
<b>BUDGET STRATEGY PHASE 2011-12</b> .....	2436
<b>SUBORDINATE LEGISLATION</b> .....	2437
Public Services Reform (Scotland) Act 2010 (Consequential Modifications) Order 2010 (SS1 2010/222) .....	2437

---

**FINANCE COMMITTEE**  
**18<sup>th</sup> Meeting 2010, Session 3**

**CONVENER**

\*Andrew Welsh (Angus) (SNP)

**DEPUTY CONVENER**

\*Tom McCabe (Hamilton South) (Lab)

**COMMITTEE MEMBERS**

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

**COMMITTEE SUBSTITUTES**

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

\*attended

**THE FOLLOWING GAVE EVIDENCE:**

Crawford Beveridge (Independent Budget Review Group)  
Bill Butler (Glasgow Anniesland) (Lab)  
Sir Neil McIntosh (Independent Budget Review Group)  
Syd Smith (Thompsons Solicitors)

**LOCATION**

Committee Room 6



# Scottish Parliament

## Finance Committee

*Tuesday 7 September 2010*

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

### Independent Budget Review

**The Convener (Andrew Welsh):** Good afternoon and welcome to the 18<sup>th</sup> meeting of the Finance Committee in 2010, in the third session of the Scottish Parliament. I ask everyone to turn off any mobile phones and pagers, please, as they interfere with the broadcasting system.

Agenda item 1 today is evidence on the report of the independent budget review panel. I welcome to the committee Crawford Beveridge CBE, chair of the independent budget review panel, and Sir Neil McIntosh CBE, a member of the panel. I invite Mr Beveridge to make an opening statement.

**Crawford Beveridge (Independent Budget Review Group):** Thank you for inviting us to come and talk to you. Our other colleague, Robert Wilson, cannot be with us today. He is in Australia and sends his apologies. We will do our best to get by without him. We do not want to say very much to start with. We delivered the report to you all on 29 July and, with that, our task came to an end. We handed over to ministers and the Government the job of trying to figure out what to do with it all. If you will allow us to do so, we will get right into answering whatever questions the committee might have.

**The Convener:** I will start with two general questions. By way of introduction, and before members get into the detail of your recommendations, I will ask about the proposed Scottish Parliament cross-party working group, which you recommend in paragraph 7.11. Can you explain a bit more about how you see that working and how it would generally interact with the Finance Committee and Parliament?

**Crawford Beveridge:** I will let Neil McIntosh answer that question, too. This is a very difficult time, and we think that people will need to come together in a reasonable way to try at least to agree on the size of the problem that they are trying to resolve.

You might remember that, when I was last before you, I answered a question from Mr McCabe about the need to find a way to get consensus on what the issues were going to be. He was sceptical about whether such a thing could happen. Our feeling, as we went through all of this, was that there is a real need to put some of

the party politics aside and get together a group of people who can figure out a way forward on what is a very difficult problem, whoever the Government happens to be from here on in. The group would be less about the specifics of the financing than about getting agreement on policy positions going forward. Therefore, we did not perceive that it would usurp in any way the functioning of the Finance Committee.

**The Convener:** Thank you. I notice that, in paragraph 7.20, you mention the need to move to "a more outcomes-based approach" in the public sector. Will you expand on that and explain how you see it working in practice?

**Crawford Beveridge:** Many of the witnesses we talked to and the proposals that came to us from organisations throughout Scotland suggested that there is frequently a tendency for people to be given input-based goals such as more police on the streets, class size reductions and so on, and that they are much more comfortable just being asked to meet certain outcomes and being given the freedom to decide what they ought to be doing with the moneys that they are given to meet those outcomes. Many of the people we talked to made a strong plea for us to ensure that we get as many of their goals as possible in output form rather than as inputs.

**The Convener:** Does Sir Neil McIntosh wish to add to that?

**Sir Neil McIntosh (Independent Budget Review Group):** If I may. In many ways, the Parliament has a range of outcome approaches as part of a national framework. However, I think our feeling was that, in relation to budgeting and finance, the forecasts had tended or appeared to be on inputs on the sort of issues that Crawford Beveridge mentioned. There is a need to try to broaden that and to engage with identifying where the Parliament wishes to go in terms of the quality of the expected product of services, and then to work back and put in place the mechanisms that will ensure that we know whether the outcome is being achieved. In that way, we will be able to judge whether the investment that has been put into services is being realised in terms of delivery. That is the general approach that we touch on in the report.

**The Convener:** I invite questions from members.

**Derek Brownlee (South of Scotland) (Con):** I suppose that I should start by thanking you for the work of the review panel, which has been helpful in terms of shifting the debates further along, even if we have not yet got to firm conclusions. I want to ask two questions. The second, which I will come on to, is on a specific area.

The first is on a more general area that is pertinent to how we deal with the scale of the spending challenge that we face. In the chapter on pay and the pay bill, a number of recommendations and options are discussed, including various versions of pay freezes. You also mention a recruitment freeze, and it seems that that is probably the single quickest—although perhaps not the most effective—way in which to take a large chunk out of the budget.

In the recommendations, you state that a recruitment freeze should be considered, with

“exceptions only ... for essential staff posts.”

Will you elaborate on the discussions that you had about those exceptions? Presumably, everyone who works in the public sector feels that they do an essential job. For the proposal to be effective, some posts would need to be not filled. Can you shed some light on your discussions, particularly if you have any knowledge of expertise from other jurisdictions in which the approach has been tried that would give us a steer on how it might be done?

**Crawford Beveridge:** A recruitment freeze is a relatively easy thing to do in industry, where a chief executive can say, “Let’s stop hiring right now. Any exceptions, come to me and I’ll decide whether they’re essential.” Given the breadth and complexity of government, our conclusion was that we could not get that simple an answer. It was impossible for us to define what is essential on everything from the people who pick up our rubbish on the streets to the doctors who do specialist operations, so our conclusion was that we probably have to entrust self-regulation, to some degree, to the people at a fairly senior level who do the hiring in organisations.

We concluded that some critical people will leave jobs and that, either for skills reasons or because there just are not enough people around, it will be necessary to fill those posts. However, if we cannot get that down to very few, as you rightly say, all that we will do is fuel the problem, because we will still be faced with having to get rid of large numbers of people at the other end. That brings down the flexibility a little bit.

**Sir Neil McIntosh:** Looking at the issue from the perspective of a former chief executive in local government, I tried to think what I would be doing or recommending in the current setting. The first thing that I would want to do is to put on the brakes to keep as much flexibility as possible in the current year until we know exactly what is coming. Part of the reason for that is to protect those who are in employment and to try to ensure that, as far as possible, we create the opportunity to address the issue much more effectively. In that setting, people have to prove that a post is

essential and not just say that it is so. For example, teachers are essential, but a teacher in a single-teacher school is critical. If we take that teacher away we take the whole service away. In a different setting the situation might be quite different.

Across the piece it is possible to address the issue, if there is good will and if people appreciate that the purpose is constructive and positive. Situations will vary, including according to where the individual department or employer stands in relation to their current budget. People will be looking to stop developments that will increase costs in the following year, even if they are within budget in the current year. That is prudent financial management and control in a situation in which cuts are coming along the track.

**Derek Brownlee:** There are a lot of variables in the area. The number of posts at various levels that we conclude are essential will have an impact on how much is saved, as will staff turnover rates. Having said that, were you able even to get to an indicative percentage range for what a recruitment freeze might save, or was that too difficult to do across the sector?

**Crawford Beveridge:** We could not do that in the time that we had; the issue is too complicated. At one point we tried to find out about attrition rates, to ascertain what difference they would make. The data that we could find on attrition were very spotty. Some organisations kept the data well and some did not. We ended up with a range of 2 to 10 per cent, depending on the organisation, and we could not fine-tune it further. It was hard for us to get to a determination.

**Derek Brownlee:** Does attrition include retirements?

**Crawford Beveridge:** Yes.

**Derek Brownlee:** I move on from a big issue to a small one, although it is important in the context of public opinion. The concessionary fares issue is highly charged politically, as you acknowledged in the report. You highlighted a number of approaches that could be taken to reduce the cost. There is also a do-nothing option, which seems to be predicated on costs rising by 8 per cent per year. What is the basis for that increase? If we allow something to increase by 8 per cent per year, it seems that we are losing control from the start. The increase seemed rather frightening.

**Crawford Beveridge:** That was partly about the demographics of how many more people will come into the affected group and partly about the likely inflationary rates for travel.

**Derek Brownlee:** When you wrapped the issue up with your consideration of other support that goes to the travel industry, through the bus service operators grant and support from local authorities,

did you consider the extent to which costs could be managed down through negotiation?

**Crawford Beveridge:** As you know, the costs of the scheme were negotiated downwards for this year and next year. However, there is no guarantee of what will happen after that. There is always an opportunity to negotiate costs down, but the demographics are constantly against us in Scotland—indeed, in most of the western world. That is a problem, because the affected group goes up at a greater rate than the rate at which costs can be negotiated down.

**Sir Neil McIntosh:** It is fair to say that we thought that there were issues about the group itself and whether the scheme was wholly appropriate given need in that setting. Members will know that from the report.

**Joe FitzPatrick (Dundee West) (SNP):** The report, which we have had for more than a month, contains some unpalatable options. It is certainly not something that I would want to read before going to bed, because the implications of some of the proposals for parts of our communities are pretty severe.

On the scale of what is required, am I right in thinking that you have put forward more proposals than are required and that politicians can consider the options but do not have to do everything that you suggested?

**Crawford Beveridge:** That is correct. If we did everything that we suggested in the report we would end up saving in the region of £4.3 billion to £4.5 billion. We were trying to aim at savings of £3.7 billion. Our approach was to come up with a range of options; it is for politicians to pick and choose from the least unpalatable ones to try to get to that number.

**Joe FitzPatrick:** Did you have a target figure, or was your approach to try to ascertain what savings would be relatively easy to make?

**Crawford Beveridge:** Obviously, we did not consider every possible area. We were just trying to get enough of the easily recognisable things in there so that people could see how to do this with various options and get past the £3.7 billion.

14:15

**Joe FitzPatrick:** So there is potentially some scope for us to come forward with other suggestions.

**Crawford Beveridge:** Absolutely.

**Joe FitzPatrick:** It is not the definitive shopping list.

**Crawford Beveridge:** We were asked to put forward suggestions so that you could make the choices.

**Joe FitzPatrick:** It is helpful to know that, just because something is in the report, that does not mean that it has to happen.

On the specifics, in chapter 3 you talk about efficiency savings and the idea that recycling savings into various departments is perhaps not the best use of money. Would it be more difficult to achieve savings if the incentive that the savings can be retained was removed?

**Crawford Beveridge:** That was why we talked in the report about a range of 2 to 3 per cent, which is where the Government targets have been. As I am sure the committee knows, the reason for that is that efficiency savings get harder every year because you always pick the easy ones first and get them out of the way, so the next year you are on to the harder ones. You could have easily reached the savings number by saying, "We're going to get 6 per cent a year", but I do not think that anyone we talked to believed that that was in any way feasible. They might be able to do better than 2 per cent, as they have done in the past, but it seemed inappropriate to assume that they could do a lot better and that therefore we could take risks with the amount of budget that was in there.

**Sir Neil McIntosh:** It is perhaps also worth mentioning that the option of recycling is comfortable and attractive when resources are not under the pressure that they will be under. However, our feeling was that we are now in a situation in which efficiencies that could be achieved should be seen as contributing towards the overall scale, given our view that efficiencies in themselves cannot meet the range of cuts that will have to be applied.

**Tom McCabe (Hamilton South) (Lab):** You rightly spoke a great deal in your report about the need for strong leadership. Clearly, we expect strong leadership from the people in government. However, we have to acknowledge that we have a minority Government in Scotland, so strong leadership has to be tinged with a desire to speak to other people. You have strongly recommended that that should happen—that the Parliament and Government should come together. How do you interpret "strong leadership"? Do you expect the Government of the day, which is elected to lead, after all, to approach other parties with a blank sheet of paper, or do you expect it to put forward some proposals?

**Crawford Beveridge:** It is not for me to try to tell the Government of the day how it should be doing things.

**Tom McCabe:** But you could give us a view on what you regard as strong leadership from the Government.

**Crawford Beveridge:** It is not just from the Government. We would say that leadership is required in the national health service, among teachers and in the unions; everyone will have to get their head around the problem in front of them and try to make a go of it. Whether the Government comes along with proposals or a blank sheet, the issue is that there is a nut in front of you next year that says that we have got to take £1.7 billion out of the budget. Whatever we start with, we will have to modify along the way because getting to that number will not be easy. Everyone will need to figure out how to contribute, to help us to get to that number.

**Tom McCabe:** That is a strange interpretation of strong leadership, but—

**Crawford Beveridge:** Let me try it a different way. What I am trying to say is that looking for Robert the Bruce is not going to happen. Rather, what we are looking for here is to get the clans to come together and try to figure out how to take things forward. Leadership, to me, is being able to get the clans together in a way that takes things forward. I do not know what the right way to go about that is; I do not know whether you should go to the clans and say, "Okay, here's an idea. What do you think of it?", or whether you should say, "I'm out of ideas. What do you think about it?" Somehow or other, we have to get people together to get the thing to happen.

**Sir Neil McIntosh:** The subject of leadership is critically important, not just for Government but for Parliament. In many ways, in a situation such as this, there is a point at which you look for leadership from Parliament as a whole and to Government to engage with Parliament to try to ensure that there is as much of a consensus as possible about some of the big issues that are coming along the track.

There is a point at which the Government has to take on its shoulders the responsibility for taking very hard decisions. That is right, but the timing of that will depend on circumstances and where the information is. Leadership applies all the way through the system.

I refer to the part of the report in which we talk about shaping the future. Leadership cannot happen in a vacuum; there must be some picture of where everyone is being led to. One must know where one wants to go, and the more that that platform can be agreed across the Parliament in Scotland's interests, the more effective leadership can be in delivering. The purpose of leadership is to lead others in delivering what the Parliament has determined.

**Tom McCabe:** I do not disagree with one word that you have said, but people seek to govern for a purpose—they seek to govern to achieve certain aims. If we find ourselves in a very serious position, I would have thought that strong leadership should emanate from a Government that gives some indications of areas that it is prepared to consider.

I will move on. You say in several parts of the report that you would like the Government and the Parliament to review certain areas, but you also say that you would like the Government to review certain areas immediately. Unless I have been missing things, I do not think that we have seen much progress on that. Are you disappointed that there have not been immediate reviews in the areas that you mentioned?

**Crawford Beveridge:** Our timing was somewhat unfortunate. We managed to give all of you the report just as large numbers of people were about to go off on holiday. Everybody is back now, and we need to wait and see how quickly things can be mobilised and discussions can be got going. From discussions that I have seen in the press and from work that I know about, there seems to be a lot of stuff going on. I know that people in the Convention of Scottish Local Authorities, for example, have been trying to think their way through the various contingency plans that they must put in place for dealing with matters. The work may not all have happened in the Parliament, but members are back now, and I hope that the Government will give leadership to get them all into the discussions soon.

**Tom McCabe:** I have been in government, and I assure you that summers then seldom meant much of a holiday. However, things might be different these days.

You mentioned that there should not be any sacred cows and that, given the magnitude of the problems, it would be wrong to ring fence certain areas and to say that they are beyond consideration, but that has not been the Government's response so far. Big-ticket issues have already been excluded from consideration. Are you disappointed by that?

**Crawford Beveridge:** I am not disappointed. As I said to Mr FitzPatrick, we deliberately tried to give more options than were required to get to the right number. We said in the report that we could see no overwhelming or compelling evidence for ring fencing in any particular area, but it is entirely within the gift of the Government to decide to do that, as long as it understands that that does not take away from the other numbers but simply means that resources must be found in another place. Each time flexibility is narrowed, it makes it tougher to be able to do the job in other places. We understood that it was not for us to make the



decisions on whether there should or should not be ring fencing, although it was for us at least to point out that we could not see any compelling evidence that showed that that needed to be done and, therefore, if it was done, it would cause pain in all sorts of other ways.

**Tom McCabe:** I do not mean to personalise the matter, but I am interested in what you have said about the totality of what you identified, as opposed to the figure of £3.7 billion that has been mentioned. You have a lot of experience in business and job creation, and it is clear that you have had important remits in and outwith Scotland. What would happen if your business needed to save £3.5 million and someone came along at the end of an exercise and said, "Actually, we can really sharpen things up here. I've identified savings of £4 million"? Would you take that?

**Crawford Beveridge:** Probably.

**The Convener:** You call for strong leadership from Government, but strong leadership implies that there are people who are willing to be led. It has clearly been enunciated that the situation is serious, and we require clear thinking and guiding principles to see us through. Are you disappointed or reassured by the general reaction so far to your findings and the warnings that you have given, and to the whole situation?

**Crawford Beveridge:** I will let Neil McIntosh answer the question as well but, from my perspective, I have been quite heartened by the reactions. The overwhelming tenor of the press was that at least it was good to get the issues on the table so that people could discuss them in reasonable ways. If we manage to achieve that, we will have achieved quite a lot. Of course it would be nice to get everything wrapped up fairly quickly, but we are realistic enough to know that the process will take some time. In general, with the odd exception, the press has been pretty favourable towards what we have done.

**Sir Neil McIntosh:** Some of the reaction is not surprising because it is what people said to us. People said that they were anxious to have the issues aired and expressed so that things could move forward. My impression, from the contacts that I make and the people whom I meet, is that many people out there in the public services are up for dealing with some of the difficult issues that they will need to face. There is a lot of contingency planning and thought going into how the issues will be addressed, particularly in relation to how organisations might start to work together more closely. People are looking at how they operate and how they can achieve not just greater efficiency but greater effectiveness.

From that point of view and against the general backdrop, my summation of the reaction is that,

broadly, our report holds up as a general analysis of the situation, although the decisions still need to be made. In addition, there is broad public recognition that there are some difficult decisions that cannot be avoided, but that it is also critical that we look beyond the next two or four-year cycle. We need to look at where this country will be in 20, 25 or 30 years' time, given the needs that we know are coming forward.

**Malcolm Chisholm (Edinburgh North and Leith) (Lab):** I, too, thank you for what is a useful report. The whole thing makes scary reading, I suppose, but the scariest thing for me is the extent to which, if we believe table 2.1 on page 27, the cuts are front-loaded. I found that table particularly striking because it says that the departmental expenditure limit cash cut for next year will be £1.2 billion, which is greater than the DEL cash cut over the four-year period. Realistically, therefore, we need to focus on next year's budget while, hopefully, taking the longer-term view.

Although I found the report useful, I was slightly disappointed by its general lack—I will not say total absence, as the stuff on pay is useful—of costed options. I suppose that I envisaged a report that, focusing on next year, would say that if we did A, we would save so many millions of pounds, and if we did B, we would save another amount. Is that an unfair criticism? I suppose that the report provides costed options to some extent. Was it just not possible to do that?

**Crawford Beveridge:** As you acknowledge, we have done our best on the issues of pay, universality and efficiency to include some costed options for various changes to policy. In the four and a half months or so that we had to put the report together, reaching the level of granularity of the likes of the Howat report a few years ago was just impossible, given the time and resource that were available to us. We tried to focus on those few big areas and cost out as best we could what changes to policy options would do.

**Malcolm Chisholm:** Let me just focus on those universal benefits, which much of the public debate and many commentators have focused on. Without stating a view on the matter, I observe that there appears to be not much scope to save money in that area next year, which is our primary focus, particularly given all the zeros that appear against free personal care for next year in table 5.5. Presumably, that is because primary legislation would be required.

The other big-ticket item that is widely discussed is concessionary travel. Am I misreading table 5.2 on page 101—I found this quite difficult to understand, but perhaps there is a typographical error—in understanding it to say that, if we raised the age of entitlement from 60 to 65, we would save £46 million? Is that because the concession

would be taken away from people between those ages who already benefit? However, the table suggests that, if we went for options 2 and 3, we would save nothing. It does not make sense to me that there are zeros against options 2 and 3 in that table.

14:30

**Sir Neil McIntosh:** My recollection is that there is a time lag in contracts and that the savings in the first year are extremely difficult to achieve because of the difficulty of suddenly drawing matters to a close. You make a relevant point. We are starting to see costed options from those who will have to make the cuts and say where they have to go. To be candid, within the timescale that we are talking about, the need to take out large sums of money in next year's budget creates one of those rather untidy situations in which we have to look for savings where we can find them, on the basis that they just have to be achieved. That is why I talk about a freeze on recruitment and other matters. Pay is another issue that is simple and straightforward. The options are there and pay represents a significant part of the costs.

Therefore, having a broad picture of areas that could result in savings in the first year is much more difficult. The process will tend to move to the individual organisation, which will look at what it plans to do, what its staff resources are, how it can contain the situation and how it can use reserves, if it has any, for that first year, while it plans its way through the following years. Those will be the key years in trying to ensure that services are maintained and moving in the direction that is seen as necessary for the further years. It is perhaps a bit unfair to look for a checklist of options for the first year.

**Malcolm Chisholm:** The second area that I want to ask about is equalities issues. The general point is that we all accept that the budget has to be cut and I am sure that many of us would say that we have to follow the principle of fairness. Without getting too party political, some might criticise the Westminster budget on those grounds, but we will set that to one side. I am interested in the extent to which you were asked to look at the budget from an equalities point of view. One critique of the Westminster budget is that it affects women disproportionately. There could be a gender dimension to cuts but, equally, there could be an age dimension. We tend to think of age discrimination as being against older people—and we have talked about services for older people—but, equally, other people have expressed the view that the cuts could have a disproportionate effect on younger people. The process could work in different ways.

There is disappointment that no analysis was carried out in those terms. Was that because it was not in your remit, or was it because you do not happen to think that that is an important aspect? What is the reason for the absence of such an analysis?

**Crawford Beveridge:** That aspect is very important. It was not mentioned specifically in our remit, although we were asked to be mindful of those issues. However, in the implementation phase, it will be critical for whoever has to implement the changes to consider exactly those issues. This morning, we talked a little about the fact that, with the private sector not exactly booming right now and with the freezes and potential cuts in the public sector it will be particularly difficult to figure out how we bring young people into work as they come out of schools and colleges. That is at the other end of the age discrimination spectrum. For example, we need to think carefully about whether our capital spend can be used in ways that require apprenticeships to be set up as part of the bidding process, rather than simply saying that we will go to the lowest bidder. That might not be the right policy option, but we must give some thought in the implementation to ensuring that the process does not discriminate against groups that have suffered from discrimination in the past.

**David Whitton (Strathkelvin and Bearsden) (Lab):** The report talks about the numbers and says that we are looking to save £4.3 billion or £3.7 billion. The issue is how to get to some of those numbers. To reach the big-ticket numbers, pay and pensions will probably be critical, because they are the biggest part of the budget. The report states that there are “only two broad options” on that. The first is

“to reduce the average cost per employee ... by freezing pay”,

which you mentioned. The second is

“to reduce the number of employees”

through a recruitment freeze or natural wastage. However, you say that we have to do both. I take it that it is still your view that, for local government, the Scottish Government and every aspect of public life, both those options must still be in the mix, regardless of what choices the Government ends up with.

**Crawford Beveridge:** We tried to see whether any mix of changing the amount of efficiency savings that we get and changing any of the policy positions on universality would allow us to make up the £1.7 billion that we must reach in the first year. The answer is no, we cannot get that.

Therefore, something has to happen to the pay bill, which needs to be a mix of lowering the number of people on it and lowering the amount of

pay through some kind of pay freeze, whether we choose the United Kingdom option or take an entirely different approach in Scotland. There is no reasonable way to reach the target amount without there being some effect on the pay bill.

As you know, the Irish went the opposite way and actually took pay out. Our conclusion was that that is neither appropriate nor, probably, doable in Scotland in the short term, which left us with reducing the number of people or reducing the amount of pay.

**Sir Neil McIntosh:** As you would expect, the Scottish Trades Union Congress and Unison flagged up an alternative option in their submissions to us, which is to pursue a policy of higher taxation in order to sustain employment. That is a perfectly legitimate proposition, but the issue was not within our scope, other than in relation to the 3p tax variation that is available to the Parliament. That is a matter of political choice. When we consider the issue realistically, it is impossible to see that the public sector wage bill and manpower resources will be the same after the process as they are now. It is just not sustainable to achieve that.

**David Whitton:** The STUC said:

“the recommendation for a real terms public sector pay cut comes as no surprise but the poorly evidenced calls for a recruitment freeze and action on sickness management are disappointing.”

How do you react to that comment?

**Sir Neil McIntosh:** I do not accept that. The highest quality of analysis was undertaken. Our only interest has been to try to ensure that we provide you with information that has been researched and sourced in every way. Every item of information that is presented in the report has been sourced. I am happy to see debate among people, but the information is solid as far as we are concerned.

**David Whitton:** You commented in the report on the UK Government's plans to cut spending and the deficit more quickly. There is a clear political divide on that. Do you think that cutting deeper and faster, which is the UK Government's objective, is a necessity in the circumstances?

**Crawford Beveridge:** So now I get to comment on the UK Government.

**David Whitton:** You mentioned it in your report.

**Crawford Beveridge:** The issue is another judgment call. I assume that the UK Government's thinking is that it wants to ensure that it is able to keep its credit standing with the world's banks and bankers and therefore it wants to get rid of its debt at a much faster rate. That is a perfectly reasonable argument; others would argue that that is probably not as important as trying to ensure

that we do not drag ourselves back into a recession by cutting too quickly. I am sure that much wiser minds than mine made the decision, but I think that it carries a degree of risk.

**David Whitton:** I did not expect you to pass comment on the issue. How would you and Sir Neil prioritise spending, if not by ring fencing specific budgets?

**Crawford Beveridge:** It seems to me that there is a decision tree that must be gone through. The first question is whether there are areas in Scotland where politicians collectively feel that the budget must be ring fenced for some reason. We could not find good reasons, but that is not our job; there might be something out there that you think absolutely has to be protected.

Secondly, I would probably take a look at capital. As you saw from our report, we are extremely concerned about that. Capital gets cut at a much faster rate than everything else does, but capital spend on the right kinds of things tends to create jobs—about 850 jobs for every £100 million that is spent. The secondary question is whether it is okay to cut capital or whether we ought to think about putting some of the revenue towards capital spend, knowing that we would make our revenue problem worse. Also, given the amount of maintenance that we have to do in Scotland, are we sure that we will have enough capital left over for big projects, whether we are talking about the Forth road bridge or the Southern general hospital in Glasgow?

Once we have those two things down, we get into the other three biggies. The first is how much you think we can push on the efficiency question. Once we have satisfied yourself about whether people have a reasonable hope of meeting that, we are left with the last two very difficult questions: do we want to go after any of the services that are currently universal and make them more targeted; and what do we do about the pay bill? We can quickly narrow all this down to the really hard policy decisions that have to be taken at the top about areas such as ring fencing.

**Sir Neil McIntosh:** In a way, ring fencing is giving absolute priority. As you go through everything, you identify where the priorities are. However, ring fencing an entire block of expenditure is a problem, because there will be varying priorities and areas where savings can reasonably and feasibly be made. It is always dangerous to close off options in that sense.

There are a number of priorities. One is to ensure that you maximise income where you can, before you get round to the question of cuts. Another is to ensure that you are realising opportunities in capital for instance—there is the issue of Scottish Water and all that flows from

there—and realising the possibility of major capital injections that can make a big difference across the piece. As things stand, the Government and Parliament expect 2 per cent efficiency savings to be achieved across the board as a bottom line. You expect everyone to achieve that and ask them just to get on with it please. Then there is the question of prioritising what you want to do and where you want to be. That might mean that some services have to answer the question, “Are you still necessary?” against the background of all the other issues that we have to address.

**David Whitton:** I suppose that another thorny issue is council tax. Do you think that the current policy of a council tax freeze is sustainable?

**Crawford Beveridge:** We said that we did not believe that the council tax freeze was sustainable now. Our proposal would have been to crystallise the moneys that the councils have had in lieu of that tax until now but set them free to go ahead and set some reasonable level of tax increase for next year, which would save that £70 million that the Government has been giving them for the more general funds that we will need to find.

**David Whitton:** You have identified the £3.7 billion that we need to save—that is the figure that has been bandied about. We have had Andrew Goudie’s report, the report from the Centre for Public Policy for Regions and your report. I would argue that Mr Swinney has more than enough information to tell us what is in his mind budgetwise now. However, I read in the papers at the weekend that he is now going to set off on a tour, which includes Kirkintilloch in my constituency, to ask people for their views. It is commendable in itself that he is going out to ask the people. However, we have not seen a budget and we will not see one until after the comprehensive spending review report comes out on 20 October, which, incidentally, is mid-way through the next recess. It will be November before we see a budget number. As Tom McCabe said, you said in the report that you were looking for some urgency in decision making. It seems to me that we are not getting that. What is your view on that?

**Crawford Beveridge:** Again, it is not for me to second-guess the minister on this. It is true that he will not have his final numbers until late on. From what I have seen in many areas, particularly in local authorities but in other areas too, people are not sitting around waiting; they have gone ahead and decided that there is enough information out there now. COSLA in particular has done very sophisticated modelling, pushing demography out into the future to figure out what its current policy choices will cost over the next three or four years and trying to figure out what it might do to close the gap if the cuts are 10 per cent or 15 per cent,

for example. Although it would certainly be nice for everybody to have the detail of the budget at this stage of the game, I do not think that there is anything preventing people from making reasonable assumptions based on the numbers that we all have and starting some contingency planning.

**Sir Neil McIntosh:** To its credit, of course, COSLA has decided to move and take contingency action on its pay policy. In the same way, you could argue that it would be perfectly feasible to apply a recruitment freeze as a contingency to ensure that, when you know the exact budget, you know where you are. There is a whole series of options in that respect. There are some that, managerially, you might wish to act on; politically, however, it is a different world, and I recognise that certain judgments and decisions have to be made at the right time.

14:45

**David Whitton:** That is exactly my point and what we in the Labour Party have been asking for. We do not expect Mr Swinney to give us exact numbers; we are simply asking him to bring us the options that he is thinking about. Your report highlights things that he could be doing, but we have heard little about them.

**Crawford Beveridge:** In that case, I advise you to go to his town hall meeting in Kirkintilloch and tell him that.

**David Whitton:** Don’t you worry—I will be there.

**The Convener:** Is there not a sense that local government has already been here and has experience of dealing with this kind of situation, whereas central Government does not have the same experience and therefore faces a learning curve? Might the local government experience of undergoing cuts and having to make greater efficiencies provide indicators from which central Government could learn and benefit?

**Sir Neil McIntosh:** There is a wealth of experience and expertise out there—and not just in local government. I was certainly impressed by the quality, attitude and approach of the civil servants who supported us and believe that, among civil servants and many other managers across the public sector, there is a genuine readiness to engage with this challenge, if they have the leadership that they are looking for as they move along.

**Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD):** I, too, am grateful for the report and the work contained in it.

Following on from questions asked by Mr McCabe and Mr Whitton, though, I want to take a step back. I have been refreshing my memory

about your remit, the third element of which explicitly says:

“the Review Panel will take into account ... Forecasts of future economic growth in Scotland and the UK as a whole and the types of government intervention that contribute most to stimulating the economy”.

Much of this debate has centred on the forecasts that have been used. You have used Dr Goudie’s forecast, which provided the context for the Cabinet Secretary for Finance and Sustainable Growth’s perfectly clear belief that the proposed reduction is too deep and too fast. What are your thoughts on that, given the references in your remit to

“Forecasts of future economic growth in Scotland and the UK as a whole and the types of government intervention”

to support the economy?

**Crawford Beveridge:** We looked at growth forecasts from the Office for Budget Responsibility and other sources, but could not find any current forecast that substantially helped the numbers that we will have to deal with over the next few years. As a result, we tried our best to figure out ways of not acting against growth and, indeed, of adding to it. That is why we were very interested in maintaining capital spend, because we saw that as a means of stimulating growth in Scotland, particularly in the private sector, as we went along.

However, we cannot truly predict what the effect will be, as that depends on the final reductions in the public service workforce. If you have gone through the remit, you will see that the only thing that Mr Swinney missed was finding a cure for cancer. We could not quite balance all the elements of our remit to ensure that we came out with a number that we wanted at the end of the process.

**Jeremy Purvis:** Was it a deliberate decision not to consider macroeconomic impacts? After all, it might or might not be the case that other UK policies will have either a negative or indeed considerable positive impact on the Scottish economy and might well offset a DEL budget reduction.

**Crawford Beveridge:** That is correct.

**Jeremy Purvis:** The reason why I am asking about the UK is that it is in the remit. Perhaps Sir Neil might be able to respond.

**Sir Neil McIntosh:** That comes back to the analysis that Dr Goudie produced. He looked at the picture across the UK and at the factors for Scotland. My impression is that his was a high-quality analysis, which I would be happy to depend on.

As far as the UK economy is concerned, there was a point at which we had to stop in order to

address the immediate necessity of what is within the tighter terms of reference, and that is what we did. It is rather like the situation with regard to taxation. Following certain routes on taxation could impact significantly on the figures that we are talking about, but we tried to concentrate on the practical realities of the world that we see ourselves faced with at this time.

**Jeremy Purvis:** I take your point about the breadth of your remit. I will not go as far as to ask you about the cure for cancer; I will just go to the first part of your remit. Point (i) of it was:

“The importance of identifying options that support delivery of the Scottish Government’s Purpose”—

which is sustainable economic growth—

“and the framework of National Outcomes.”

I could not see much, if anything, in the report that linked your conclusions and recommendations to the framework of national outcomes. Why was that? For example, there were no recommendations or conclusions that related to the greener Scotland outcome. Why was that missing?

**Crawford Beveridge:** We had to try to figure out how to be mindful of as many of the things that we were asked to be mindful of in the remit as we could be. At one point, we considered whether we could map directly back to the national outcomes, but that was just way too complicated to do, so we decided that it was best to take a more generic look at the national outcomes and to be mindful of what the Government was trying to do without saying that a particular proposal would cause performance on a particular national outcome to improve or decline in a particular way. That would have been too complex.

**Jeremy Purvis:** Okay. I appreciate that.

**Sir Neil McIntosh:** If I may, I will add a couple of points on that.

As far as a greener Scotland is concerned, some of our report reflects what we did not do as well as what we did do. We flagged up the £8 billion potential cost of meeting the Government’s objectives on energy issues and the green programme. We left that alone on the basis that we recognise the tremendous economic benefit that would accrue to Scotland through the development of green policies. It was a case of providing a backdrop by recognising that there are issues that are important, but our report contains nothing that would act against the meeting of those objectives.

As far as I can see, having read through the Government’s national outcomes and objectives, our report endeavours to fit within that framework

and argues that decisions that prioritise within objectives have to be made.

**Jeremy Purvis:** The reason why I asked that question is that it is the Government's stated strategy—for which there is a degree of cross-party support—to align budget choices with strategic outcome directions. I do not mean to be critical, but your report did not help much in that regard. I take Sir Neil's point, but it did not help to step back and take a more overall approach when it is even more pressing when budgets are being reduced that priorities are determined.

If we are to see a reduction in next year's budget, how much progress in that direction do you think can realistically be made with only about four months' preparation time? I ask that because the Government is refusing to publish a detailed policy response to your report. It said that we would have to wait until its budget at the end of November. How much can be delivered with that limited lead-in time, given that in a number of areas your report calls for immediate action? I presume that there has to be a degree of preparation before decisions are made.

**Crawford Beveridge:** As I said before, we have seen that many of the organisations that we are working with are well down the line in putting their plans in place. COSLA is probably the leading example, but there are others. Although four months from the publication of the budget is a tight timescale, in many cases organisations will be ready to pull the trigger very quickly. In fact, they are doing so already in some instances and pre-announcing what they are doing about pay for next year, for example.

**Jeremy Purvis:** From your perspective, there is no reason why there cannot be a policy response from the Government to the conclusions and each of the recommendations that you make.

**Crawford Beveridge:** Do you mean that there is no reason why there cannot be a response right now?

**Jeremy Purvis:** Yes.

**Crawford Beveridge:** That is not for me to decide. All that I am saying is that I think that there is enough knowledge about the size of the cuts for people already to be taking action in many, many places. I agree with the convener that there is perhaps not enough knowledge at the level of national Government, because this is a new thing for Government to have to deal with, but in places such as the police, education, local authorities and so on, people are already doing a lot of advanced work on what they need to do to be able to meet the number when they get it. As Sir Neil rightly said, COSLA is already making some of the pay and hiring decisions that need to be made to get

there. I am not quite as worried about that, although I understand why you would be.

**Sir Neil McIntosh:** The only point that I would add is that of course there is an area of uncertainty, which is what the actual scale of the cuts will be if there is to be ring fencing of a major block—the health block—and what that will mean in practice, because it will change the level of cuts that will be required elsewhere. The sooner people are aware of exactly what is going to happen, the better it will be for everyone, because they will be able to plan more effectively, just as, in relation to the council tax freeze, if the authorities know where they stand earlier, they will be able to factor that resource into their plans and projections and carry it through.

The thrust of your point about the early provision of sound information on which people can act is an attractive proposition but, having said that, it is a matter for the Government to determine on the basis of the information that it has. That is the reality of political life.

**Jeremy Purvis:** I do not want to put words in your mouth, but in effect the only things that are left now are the policy choices. You said that work has already started and that the trigger just needs to be pulled, to some extent.

**Crawford Beveridge:** Yes.

**Jeremy Purvis:** So what are left are the policy choices.

**Crawford Beveridge:** That is correct.

**Jeremy Purvis:** We are now in a period of waiting two months before the Government, which will have had your report for four months, says what those policy choices are.

**Sir Neil McIntosh:** Yes. I think that you are asking us to go into an area of political judgment. It would not be appropriate—

**The Convener:** I suggest that the question would be better posed to Government ministers.

**Jeremy Purvis:** I am keen to know whether the practical information that the Government has to provide to the public sector already exists. I am picking up that there is now enough information for policy decisions to be made, whether they are then implemented through legislation in the Parliament or by the Government.

**Sir Neil McIntosh:** I can answer that only by saying that there is information that is available at present and information that is not. The information that is not available is the October statement and its implications and the outcome of the public consultation exercise that is taking place to gather public views and thoughts. That is beyond our remit.

**Jeremy Purvis:** I appreciate that, but Mr Beveridge made the important point that there is a lot more in the report than an estimate of the reductions, so in effect we do not have to wait until the spending review for some policy directions and choices to be made. That is my point.

I was struck by the number of tables in the report. There are 32, 29 of which contain source data from the Scottish Government. All the information was provided by the Scottish Government. You got all the data from the Government and there is now a period of time in which it needs to give policy responses.

**Crawford Beveridge:** Yes.

**Jeremy Purvis:** Finally, if I can, convener, I have a question on capital—

**The Convener:** Your comments have disturbed Joe FitzPatrick.

**Jeremy Purvis:** They always do.

**The Convener:** They have done so again. I will let him put a quick question.

**Joe FitzPatrick:** Jeremy Purvis is talking about the policy choices that have to be made. Clearly, we are coming to that time, but in a Parliament of minorities, it is for all of us—Opposition as well as Government—to come to conclusions on the policy choices.

**Crawford Beveridge:** Yes.

15:00

**The Convener:** Jeremy Purvis has a final question.

**Jeremy Purvis:** Is it the view of the panel that there is insufficient strategic direction with regard to the capital budget at the moment?

**Crawford Beveridge:** That is correct. Our view is that it appears that projects come up and get approved and that capital for spending in the health service or local authorities is given out to them to spend in the way that they think fit. We are facing some big shortages of capital. Our notion is that a parliamentary body should take a strategic look at that and decide where trams come versus what happens to the Southern general hospital, or a new Forth bridge versus a ring road for Aberdeen. Those are big projects, we will not have the money to do all of them and there is a desperate need for strategic guidance.

**Jeremy Purvis:** In paragraph 6.37 you say:

“In the Panel’s view, there is an urgent need to supplement local and organisation-specific prioritisation with a more comprehensive and strategic exercise”.

We have been told that that exists. We have been told that the strategic transport projects review

provides that. Last week, we were told that the Scottish Futures Trust, which has a portfolio of nearly £3 billion-worth of projects, is doing that.

**Crawford Beveridge:** I would say it slightly differently. It is true that there are bodies that look at specific areas such as transport and that the Scottish Futures Trust is trying to work out implementation issues in how to get the best deals for capital expenditure, but we could not find anywhere where the totality of capital in Scotland—be it for maintenance or the new production of bridges, hospitals or whatever—is looked at. No one is making the hard decisions and saying, “This project is much more important than that one. This is where we should spend our capital for this year.”

**The Convener:** The only member who has not contributed thus far is Linda Fabiani. I intend to remedy that.

**Linda Fabiani (Central Scotland) (SNP):** I have waited patiently. Mr Beveridge, in your chairman’s message, you say:

“At the beginning of our devolved Parliament much was said about the opportunity for a new kind of politics. If there was ever a time for this to be in evidence, now is that time.”

Have you felt any of that today?

**Crawford Beveridge:** Do I get out alive no matter how I answer the question?

**The Convener:** You can try.

**Crawford Beveridge:** I sense an understanding of the need for us to come together around solving the problem. That said, I am not sure that Scotland has enough history of mechanism to help you all to understand how to do it. None of you got into this because you did not want to help Scotland; you are all in the Parliament because you want to make a contribution. You all started with the same basic ideal on this sort of stuff. From what I read from the different parties in the papers, there is an amazing amount of commonality in what you all want to do. There is real disagreement only around the fringes or about the way in which to do things, but it is not huge. It ought not to be that hard, but there has not been the mechanism by which to make it happen. I hope that everybody will figure out a way to do it.

**Sir Neil McIntosh:** I have read the committee’s reports, and the *Official Reports* of your meetings—there may be a prize for that; I do not know. I found the debate constructive on a whole range of issues. The Finance Committee has challenged Government, at times quite readily, in terms of the broader interests of the Parliament.

One point that we make in our report is that it might be worth while for the Parliament to look at its processes to ensure that there is challenge and

that performance, product and delivery assessment are available to a body—this committee or whatever—that would therefore be able to pursue some of the issues in the wider interests of the Parliament as a whole.

**Linda Fabiani:** Sir Neil McIntosh said that it was not for him or the co-authors of the report to decide what were essential public services, and I take that on board. However, you are clear in your conclusions on efficiency that the

“Government and Parliament should consider using the provisions of the Public Services Reform (Scotland) Act to further reduce the number of public bodies.”

That suggests that you consider some public bodies not to be essential.

**Crawford Beveridge:** It is difficult to get solid information on them. As the committee might remember, quinquennial reviews of all public bodies used to be carried out to ensure that they were still valid. Those reviews tended to be somewhat toothless, but there is a strong case for someone to take a good look every couple of years at why a body was set up in the first place, what it was supposed to do, whether it is doing that, whether it is still necessary to do that, and whether that is the best way in which to do it.

The submission that we received from Reform Scotland was hard over in the direction of getting rid of all the quangos and either making them a part of Government or putting their functions out to the private sector. I am not sure that it should go that far, but it would be interesting to know why one or other of those things could not be done. In Wales, Northern Ireland and parts of England, many of those relationships have changed over time, and bodies have been privatised or brought back into the public sector, or their functions have been given to the voluntary sector.

We were not aiming at any particular body; we were just saying that in general we have a lot of them. We are very good at setting things up in Scotland but not so good at deciding that things ought to go away again. Although some progress has been made during the past three or four years, which has brought the numbers down from 190 to 160 or thereabouts, a lot of work still needs to be done. A more constant review would be a good idea.

**Linda Fabiani:** You also mentioned scrutiny bodies. Do you think that our public services are overbureaucratised?

**Crawford Beveridge:** That is a tough one. Many of the people whom we spoke to complained that they were being overaudited and scrutinised, and were spending more of their time explaining to all sorts of different bodies that they were working to the rules. We are just saying that we need to ensure that these things are truly appropriate.

We definitely need some scrutiny—there is no question about that—but it would be helpful to move towards outcome-based behaviours, as that will make things easier. We can ask someone such as the Auditor General for Scotland to ensure that we are meeting those outcomes.

**Linda Fabiani:** So you think that Audit Scotland should stay?

**Crawford Beveridge:** We certainly need a body to ensure that everyone is spending their money wisely, but I will not speculate on what it should be.

**Linda Fabiani:** To paraphrase part of your remit—on which Jeremy Purvis focused in more detail—you were asked to make recommendations on options for the Scottish Government and the Parliament to consider. The report does what is outlined in the remit, but I was struck by the chairman’s message, which seemed to be much more innovative and future thinking than the general body of the report. It mentioned “strong leadership”, and noted that we had to create

“the space for conversations to take place about the future of public services”,

which relates to the issue of the “new kind of politics”.

The report focused on issues that have come up since devolution, and on areas such as pay. Was there any discussion about outcome-based scenarios? I am talking about the reality rather than the theory, which we seem to have been discussing for many years. Was there any discussion in the scenario planning about the future shape of public services? Do you believe that we should create the space to consider that seriously? Is the leadership there in public services, the voluntary sector and other areas to truly take the debate forward with some innovative thinking, in tandem with having to deal with the short-term issues that your report addresses?

**Crawford Beveridge:** That was the difficult bit. Our remit did not ask us to look at the longer term; it wanted us to deal with the next four years’ spending. However, it soon became obvious that it would be difficult to set people off on a path if we did not know where they were going. Although we will all be running around trying to put the fire out for the next couple of years, at the same time we need to come up with the overall design for the new house that we want, if we can find a way to do that.

There is plenty of leadership in Scotland that can help us to think our way through that and enable us to start to ask what roles the individual, the state, the voluntary sector and the private sector should play, and what kind of Scotland and what shape of public services we want, not at the



end of these four years but 10 or 15 years out from now, so that we can determine whether we are making the right policy choices now or doing things that will hinder us from getting to where we want to be further out. I know that it is hard to do that—it will be hard enough just to get through the short term—but it seems to us that it is worth while.

**Sir Neil McIntosh:** In a way, this is one of the tests of the concept of the Scottish Parliament and of where Scotland is going. It is certain that, if you were starting from scratch, you would not build the Scottish public sector as it exists at the moment. There is an opportunity to take the longer view, but we should not take too long to reach the shape that seems right. We know that we have a changing population structure. People talk about advancing age as a problem of care, but there is a tremendous resource within the community of people who, like me, are still of an age to contribute. If we want services that are built on people remaining and being sustained in their homes and communities, with institutionalisation as the last—not the first—option, there is an opportunity for the voluntary sector to act as a mainstream provider. The same applies to the private sector, in areas where it can do so with excellence. I am referring to all of the areas, such as early intervention, where there will be a shift in the way in which services are provided and structured.

I do not advocate an immediate reorganisation of structures in Scottish public service, but I advocate the Parliament agreeing within two years or so on the shape of the public service—whether it should be made up of three, nine, 12 or however many areas. All the organisations that will have to manage through the next 10 to 16 years should do so by working together, merging where necessary. We should ensure that, operationally, the police are managed on those lines, regardless of whether we have three police forces or one. The same applies to the health service and all of the other services that come into play. The Parliament has an opportunity to create Scotland anew out of adversity; sometimes there are opportunities that do not arise in any other setting. There is an opportunity not just for the Government but for all parties to consider whether there is a wider need for the whole Parliament to agree such a framework. Once it has done so, we can debate the priorities, but let everyone face in a common direction. That is real leadership.

**Linda Fabiani:** Perhaps that is the new kind of politics that we need.

**The Convener:** I must draw proceedings to a close. You have just made a plea for national unity of purpose and for us to work together to resolve an unprecedented situation. The point is well put;

there is a challenge to all of us to act in the national interest. Do you wish to make any final comments?

**Crawford Beveridge:** You have summed up matters well. In the report, we tried to provide people with enough information to enable them to understand the big decisions that all of us want to be made in the best interests of Scotland. That is our plea. As we have just discussed with Ms Fabiani, it is also important that we do not get so caught up in the firefight of the next few years that we forget that we have an opportunity really to shape what we want the position to be when we come out the other side.

**The Convener:** Thank you for your evidence, experience, wisdom and advice. We will take a short break to allow the witnesses to change over.

15:14

*Meeting suspended.*

15:20

*On resuming—*

## **Damages (Scotland) Bill: Financial Memorandum**

**The Convener:** Item 2 is to take evidence on the financial memorandum to the Damages (Scotland) Bill, a member's bill that was introduced by Bill Butler MSP, whom I welcome to the committee. Mr Butler is accompanied by Syd Smith and Laura Blane from Thompsons Solicitors. Before inviting Mr Butler to make an opening statement, I note that yesterday afternoon he submitted additional evidence on the financial effects of the bill. Given that that appears to be substantial new information, I propose that the committee invite views on it from the Scottish Government, which we can consider when finalising our draft report at our meeting on 21 September. Is that agreed?

**Members indicated agreement.**

**The Convener:** I invite Mr Butler to make a statement.

**Bill Butler (Glasgow Anniesland) (Lab):** Good afternoon, colleagues. I thank the committee for giving me the opportunity to speak to it about my bill. I have with me as supporting witnesses Ms Laura Blane and Mr Syd Smith, both of Thompsons Solicitors Scotland. Thompsons specialises in personal injury cases, among which are, tragically, cases involving fatal injuries. The cases range from disasters such as Piper Alpha through to medical accidents such as those involving hepatitis C and C diff, industrial accidents, road traffic accidents, railway accidents, shipping accidents and industrial diseases.

In view of Thompsons' role in such cases, it has been involved in assisting me with preparing the bill and the accompanying documents for introduction, including the financial memorandum and the paper to which the convener referred, which was forwarded to the clerk yesterday and is entitled "Revised Financial Effects of Damages (Scotland) Bill 2010".

I introduced the bill, plus the accompanying documents, on 1 June 2010. Its purpose is to implement the recommendations of the Scottish Law Commission's "Report on Damages for Wrongful Death", which was published in September 2008. In Scots law, when an individual suffers an injury or contracts a disease as a result of the acts or omissions of another person or as a result of the acts or omissions of a legal entity such as a company, damages can be claimed from the wrongdoer. The law makes specific provision for cases of personal injury that result in premature death, whether that death is immediate

or more protracted. The Damages (Scotland) Act 1976 is the main piece of legislation that addresses damages for wrongful death.

In its report, the Scottish Law Commission concluded that, although

"there is general satisfaction with the existing law and ... there is little support for radical reform",

there is general acceptance that the 1976 act

"has become over-complex and, indeed, contains inaccuracies as a consequence of the numerous amendments made to it."

Accordingly, the SLC's major recommendation was

"that the 1976 Act should be repealed and replaced by new legislation which will restate the current law with greater clarity and accuracy."

Appendix 2 to the policy memorandum contains a complete list of the commission's recommendations. Members will observe that most of them recommend the continuation of the existing law. Indeed, the commission recommends that only five substantive changes to the existing law be made.

The first of the two most significant amendments concerns the deductions that require to be made when calculating the financial loss of a person dying from personal injuries through the fault of another, in order to take account of that person's living expenses. The commission recommended that there should be a standard deduction of 25 per cent of the victim's net income to take account of living expenses.

The second amendment concerns the financial loss that is suffered by any dependent relative of such a person who has died, in order to take account of the deceased's living expenses and the dependant's income. The commission recommended that there should be a standard deduction of 25 per cent of the deceased's net income to take account of such living expenses and that no deduction should be made for the income of the widow or widower or dependent children.

I believe that introducing the provisions would simplify and modernise Scots law on damages. Reform is needed urgently because of the nature of the cases and the numbers that are affected by them. Hundreds of people in Scotland are wrongful death victims or become ill with fatal work-related diseases every year. On average, 30 people die every year in Scotland in workplace accidents. In 2008, 272 people died on Scottish roads. Between 1 January 2009 and 20 April 2010, 210 people with mesothelioma and 58 people with asbestos-related lung cancer sought assistance from Clydeside Action on Asbestos. In numerous other fatal accidents that were

unrelated to work or road traffic accidents, the deceased person was the victim of another's negligence.

Most such deaths become claims and then court actions. Year on year, they add to the volume of wrongful death cases in which claims are made. It is accepted that wrongful death cases are among the most difficult and anxious cases with which a personal injury practitioner deals. Such cases tend to be hard fought by insurers and defenders, which can mean that they take longer to resolve.

As well as dealing with their bereavement, families have the practical burden of financial hardship to shoulder, and the unknown and often daunting legal process to face. If the reforms in my bill can reduce the uncertainty and delays to which families and victims are subjected, the Scottish Parliament will meet a need that has perhaps been understood only by victims and those who assist them.

Neither the financial memorandum nor the recent Scottish Government consultation paper on the SLC's report expects the bill to increase the number of cases that are brought for damages for wrongful death. The bill creates no new category of wrongful death case. Like the Scottish Government, I expect an increase in the level of damages that are awarded for loss of financial support when the surviving spouse, civil partner or cohabitant has his or her own income. The Scottish Government expects the proposed change to be particularly beneficial for survivors who are relatively high earners—I agree.

The financial memorandum suggests that potential savings will be associated with the enhanced legal clarity that is expected to result from the bill. Indeed, several respondents to my consultation saw potential savings associated with enhanced legal clarity or suggested for the same reason that the proposals would be cost neutral. However, I accept that other respondents were much more cautious. The Association of British Insurers and the Forum of Insurance Lawyers suggested a need for further financial assessment of the proposals' impact, while the Forum of Scottish Claims Managers thought that costs would be associated with the bill and would be passed on to consumers in various ways.

I am grateful for the committee's indulgence and I will do my best to answer questions.

**The Convener:** Thank you for your statement. Will you explain the suggestion in paragraph 8.3 of the additional information that Thompsons has provided that figures that you included in the financial memorandum are

"irrelevant, and could be misleading"?

**Bill Butler:** I will try to explain that. The figures in the financial memorandum were based on a small number of cases—eight in all, I believe—because of the time constraints of publishing the bill on 1 June. I thought that it would produce much more robust and statistically significant figures if we looked at more cases in considering the financial impact, so I asked Thompsons to undertake work on that basis. Over the summer, the firm examined more than 600 cases to try to produce a much more statistically significant and robust set of figures.

15:30

The irrelevance relates to the figures in the financial memorandum in this respect:

"it is irrelevant, and could be misleading, to determine, as is done in the Financial memorandum, what could be the average percentage increase in damages in both live and fatal cases ... what is more relevant is to determine what could be the average increase in the multiplicand or annual loss figure in those cases"

That is the basis on which the revised financial effects paper was supplied to the committee clerk yesterday, 6 September.

As members will be aware, the multiplicand is the figure that is deemed to be the annual financial loss either to the victim in a live case, or to the dependent relative of the deceased in a fatal case. The figure is then multiplied by the number of years for which the victim or deceased would otherwise have been expected to live, in order to produce the total amount that can be claimed under the head of damages. I believe that I am right in saying that that is the multiplier effect.

I believe the additional information that I have supplied to the committee produces figures that are more objective, more statistically significant and much more transparent. As members can see from the revised financial effects paper, the size of the increase in the multiplicand means that

"In the 100 fatal mesothelioma claims shown in Annex 2, the average annual loss will increase by £3,106",

that

"In the 25 live mesothelioma claims shown in Annex 3, the average annual loss will increase by £1,807.83",

and that

"In the 18 fatal accident claims shown in Annex 4, the average annual loss will increase by £8,803.85."

In the latter type of case, the difference is more marked because

"These cases generally involve younger victims of generations where both partners work".

I hope that that has gone some way towards explaining why I asked Thompsons to look again at all the cases that it could, and why the revised

financial effects paper came late. I did not mean to introduce a difficulty for the committee, but the work involved took some time. The figures in the paper only became available yesterday, and although it might cause some delay, for which I apologise, the paper is there to help the committee because the figures in it are more detailed, more transparent and, I believe, more objective.

**The Convener:** Thank you. That explanation was helpful. I now invite questions from members.

**Tom McCabe:** Thank you for your impressive presentation, Mr Butler. If Parliament is about anything, it should be about helping individual citizens when they are involved in uneven contests, and there is an uneven contest in the cases that you have raised. That has been the case for years. What you are trying to do with the bill is laudable.

I read the submission from the Association of British Insurers, and although this may be of some comfort to you, it will be of no comfort to that organisation to know that the submission absolutely convinced me that what you are doing is right, and that I should disregard the association's self-interested ramblings with some speed, which is what I did.

Although additional costs are involved, and it is hard to put a figure on them, the bulk of those costs will fall on the private sector—insurance companies and what have you. Am I right that, although there will be some costs to public sector organisations—such as local authorities, among others—there is a strong likelihood that they will form a smaller percentage of the overall additional costs, and that the larger costs will fall on other organisations?

**Bill Butler:** I welcome your initial comments, Mr McCabe, although I cannot comment on them, and I agree with the general thrust of your question. Paragraph 107 on page 16 of the financial memorandum states:

“The Bill will have implications for employers’ liability, public liability and road traffic insurers ... This, in turn, may have the effect of raising insurance premiums for policies covering such liabilities but insurers will also have the option of loading premiums in respect of claim histories and increasing excesses.”

However, regarding British Shipbuilders, paragraph 99 on page 15 states:

“The case numbers are not particularly large and any increase in damages will depend on the financial circumstances of each family on a case by case basis. These cases are indemnified by Department for Business, Enterprise and Regulatory Reform.”

So, I believe that the general thrust is correct. Regarding the Scottish Government, paragraph 98 on page 14 states:

“There would appear to be few wrongful death cases brought against SG so the future cost for such cases is therefore expected to be negligible.”

If somebody were to ask me about the statement of funding policy, that would be an interesting question to which the answer is in paragraph 98.

**Tom McCabe:** Thank you very much.

**Joe FitzPatrick:** It is obviously important that we have confidence in the figures that we are using. Thank you for your explanation and for the additional information that you have provided, which is helpful. Nevertheless, a bit of work needs to be done to get some answers for the future. You mentioned that the figures came from Thompsons Solicitors, which has been supportive of your bill from the start. Have all the figures come from Thompsons, or has any attempt been made to get information from somebody other than a direct supporter of the bill?

**Bill Butler:** All the figures have come from Thompsons and Clydeside Action on Asbestos. That is no surprise, as about 60 per cent of the cases reside—if that is the correct term—with Thompsons.

**Joe FitzPatrick:** Would it not have been possible to get information regarding the other 40 per cent of cases from elsewhere? It is obviously a concern when a body that supports a bill is providing all the information for it.

**Bill Butler:** I understand that that might be seen as a possible difficulty. However, I am advised that Thompsons’ experience has been roughly the same as that of the others who are involved in such cases in the north-east and other parts of Scotland—it is not out of kilter. Syd Smith might want to add something on that.

**Syd Smith (Thompsons Solicitors):** There are two points to make. First, the additional information that we have been able to provide comes from our own files, and it required a huge exercise over the summer to obtain that. We had two people working full time on that for just over two months. The work involved getting files out of storage, going through the detail of settlements and working out exactly how they were split between the various heads of damage. It was a pretty intensive exercise, and I do not know how easy it would be to get other solicitors to provide the equivalent information within the timescale that we had.

Secondly, I know anecdotally from colleagues in the likes of the Association of Personal Injury Lawyers that our experience is mirrored by theirs, so I am pretty confident that what we have provided gives a good general picture. I dare say that APIL will be able to confirm that in the course of the consultation and in the further evidence giving that will take place.

**Bill Butler:** I can say for the information of Mr FitzPatrick and the rest of the committee that Thompsons deals with 90 per cent of the asbestos-related cases. Obviously, if we are asked to try to improve on the information, we will do so, but I think that the revised figures are much better than those in the original financial memorandum because we use the multiplicand. It is on that basis that the information is more objective, statistically significant and robust. However, if the committee asks us to improve on it, we will do our best.

**Joe FitzPatrick:** That is helpful, but if there was a slight widening of the net, it might help the robustness.

**Bill Butler:** Sure.

**David Whitton:** Mr Butler, will you comment on the Scottish Government's views as expressed to the Justice Committee about the impact that the bill would have on the Scottish Court Service? It states that

"they are not persuaded that court resources would be freed up as a consequence of the legislation."

However, the Government then does a backflip, saying:

"In addition they believe that any reduction in the level of litigation will result in a commensurate reduction in fee income."

**Bill Butler:** Let me say clearly that the Scottish Government has been very supportive thus far—and I look forward to its continued support—on the main issues that the bill seeks to tackle. I put it on record that the Minister for Community Safety has been especially helpful, as have his officials.

I admit that I was a wee bit mystified about the comments on the implications for the courts. My view remains that there could be savings from fewer cases having to go to court. I hear what the Government is saying and I am not going to fall out with it about that because so far it has been very supportive. Of course, as you will see from its submission, that does not mean that the Government does not have real and serious points to make, including amendments to suggest if we reach stage 2, but in all fairness I had to state that first point very clearly.

**David Whitton:** For my own interest as much as for anything else, why was the figure of 25 per cent hit on as the fixed deduction for victims' living expenses?

**Bill Butler:** Syd Smith and Laura Blane will know more about that than I do, but if you look at cases you see that the deduction made is, by and large, between 25 and 30 per cent. If we agree as a Parliament to make the legislative change, it will give certainty to people who, some would say—and rightly in my view—have suffered enough.

They are experiencing bereavement and do not want the unnecessary extra burden of facing a court. The figure of 25 per cent is generally within the parameters of what happens in the real world. As members will be able to see when the *Official Report* of this morning's meeting of the Justice Committee is published, that was the view of the representative of the Law Society of Scotland. It is only one view, but it is an important one.

**Syd Smith:** There is currently no hard-and-fast rule for what the deduction should be, which is part of the problem. The Scottish Law Commission recommended that there should be such a rule. The figure of 25 per cent has been referred to judges as being a rule of thumb and good cross-check. It is a compromise position and is the one that has been fixed on as being reasonable.

One problem that we have with cases is when we start looking at the particular. That is when the difficulties arise. How much was a deceased person spending per week on their personal shopping? Folk who are dying or the relatives of those who have already died are not in a position to produce that sort of detail. We would like the rule of thumb that has been generally recognised as reasonable to be introduced to get rid of the arguments about the minutiae and to speed things up. There is no court rule about it as yet, but 25 per cent is recognised as being an appropriate figure.

**The Convener:** There being no further questions, do you wish to make any final comments, Mr Butler?

**Bill Butler:** I want just to thank the committee, on behalf of my colleagues Laura Blane and Syd Smith, for hearing us today. I await what the committee will say with obvious interest.

**The Convener:** I thank the witnesses for their evidence and comments.

## Decision on Taking Business in Private

15:45

**The Convener:** Item 3 is to decide whether to consider a draft report on the financial memorandum to the Damages (Scotland) Bill and our work programme in private at future meetings. I propose that we do so. Do members agree?

**Members** *indicated agreement.*

## Budget Strategy Phase 2011-12

15:45

**The Convener:** Members have in their papers the Scottish Government's response to our report on the budget strategy phase. I remind the committee that we have the Cabinet Secretary for Finance and Sustainable Growth in front of us next week to give evidence on the independent budget review, and it would be appropriate to raise issues around the response then.

## Subordinate Legislation

### **Public Services Reform (Scotland) Act 2010 (Consequential Modifications) Order 2010 (SSI 2010/222)**

15:46

**The Convener:** Item 5 is consideration of a negative instrument. As no member of the committee wishes to make any recommendation to the Parliament, are we content simply to note the order?

**Members** *indicated agreement.*

**The Convener:** As previously agreed, we now move into private session to consider our draft report on the financial memorandum to the Patient Rights (Scotland) Bill.

15:46

*Meeting continued in private until 15:47.*





Members who would like a printed copy of the *Official Report* to be forwarded to them should give notice at the Document Supply Centre.

Members who wish to suggest corrections for the archive edition should mark them clearly in the report or send it to the Official Report, Scottish Parliament, Edinburgh EH99 1SP.

#### PRICES AND SUBSCRIPTION RATES

##### OFFICIAL REPORT daily editions

*Single copies: £5.00*

*Meetings of the Parliament annual subscriptions: £350.00*

##### WRITTEN ANSWERS TO PARLIAMENTARY QUESTIONS weekly compilation

*Single copies: £3.75*

*Annual subscriptions: £150.00*

Printed and published in Edinburgh by RR Donnelley and available from:

#### Scottish Parliament

**All documents are available on the Scottish Parliament website at:**

**[www.scottish.parliament.uk](http://www.scottish.parliament.uk)**

For more information on the Parliament, or if you have an inquiry about information in languages other than English or in alternative formats (for example, Braille, large print or audio), please contact:

#### Public Information Service

The Scottish Parliament  
Edinburgh EH99 1SP

**Telephone: 0131 348 5000**

**Fòn: 0131 348 5395** (Gàidhlig)

**Textphone users** may contact us on **0800 092 7100**.

We also welcome calls using the Text Relay service.

**Fax: 0131 348 5601**

**E-mail: [sp.info@scottish.parliament.uk](mailto:sp.info@scottish.parliament.uk)**

We welcome written correspondence in any language.

#### Blackwell's Scottish Parliament Documentation

**Helpline** may be able to assist with additional information on publications of or about the Scottish Parliament, their availability and cost:

#### Telephone orders and inquiries

**0131 622 8283 or**

**0131 622 8258**

#### Fax orders

**0131 557 8149**

**E-mail orders, subscriptions and standing orders**  
**[business.edinburgh@blackwell.co.uk](mailto:business.edinburgh@blackwell.co.uk)**

#### Blackwell's Bookshop

**53 South Bridge  
Edinburgh EH1 1YS  
0131 622 8222**

#### Blackwell's Bookshops:

243-244 High Holborn  
London WC1 7DZ  
Tel 020 7831 9501

All trade orders for Scottish Parliament documents should be placed through Blackwell's Edinburgh.

#### Accredited Agents

(see Yellow Pages)

and through other good booksellers