

EDUCATION, CULTURE AND SPORT COMMITTEE

Tuesday 10 September 2002
(*Afternoon*)

Session 1

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EDUCATION, CULTURE AND SPORT COMMITTEE

22nd Meeting 2002, Session 1

CONVENER

*Karen Gillon (Clydesdale) (Lab)

DEPUTY CONVENER

Cathy Peattie (Falkirk East) (Lab)

COMMITTEE MEMBERS

*Jackie Baillie (Dumbarton) (Lab)
Ian Jenkins (Tweeddale, Ettrick and Lauderdale) (LD)
Irene McGugan (North-East Scotland) (SNP)
*Mr Brian Monteith (Mid Scotland and Fife) (Con)
*Michael Russell (South of Scotland) (SNP)

COMMITTEE SUBSTITUTES

Murdo Fraser (Mid Scotland and Fife) (Con)
Fiona McLeod (West of Scotland) (SNP)
Karen Whitefield (Airdrie and Shotts) (Lab)

*attended

WITNESSES

Councillor Pat Chalmers (Historic Buildings Council for Scotland)
Professor Michael Lynch (Ancient Monuments Board for Scotland)
Roger Mercer (Royal Commission on the Ancient and Historical Monuments of Scotland)
Graeme Munro (Historic Scotland)
Dr Elaine Murray (Deputy Minister for Tourism, Culture and Sport)

CLERK TO THE COMMITTEE

Martin Verity

SENIOR ASSISTANT CLERK

Susan Duffy

ASSISTANT CLERK

Ian Cowan

LOCATION

Committee Room 2

Scottish Parliament

Education, Culture and Sport Committee

Tuesday 10 September 2002

(Afternoon)

[THE CONVENER *opened the meeting at 14:05*]

The Convener (Karen Gillon): I call this meeting of the Education, Culture and Sport Committee to order. We are now in public session, so please ensure that all mobile telephones and pagers are turned off. We have apologies from Ian Jenkins, Irene McGugan and Cathy Peattie.

With members' permission, I want to move agenda item 3 to agenda item 2.

Item in Private

The Convener: Agenda item 1 invites the committee to agree to take item 4 in private, as it is the discussion of a draft committee report.

Michael Russell (South of Scotland) (SNP): I wonder whether we need to do that. The report is very simple and there is no need to be worried about it, although I suppose a principle is involved.

The Convener: Is it agreed that we take item 4 in private?

Members *indicated agreement.*

Work in Progress

The Convener: Revised agenda item 2 is an update on work on progress.

I want to update members on the children's commissioner bill. It is our intention to have a briefing tomorrow on what progress has been made to date on the bill. A series of interested organisations will attend the briefing to ensure that they are kept up to speed with developments and are on board on the process.

I also want to indicate to members that our meeting must conclude by 4 o'clock, because I have had notice that today's meeting of the conveners liaison group will consider committee business for 25 September. We had understood that that day had been set aside for consideration of our second report on the need to establish a children's commissioner, but I now understand that the Justice 2 Committee is seeking to use that day for a debate on its report on prisons.

I therefore ask the committee for its support in pursuing with full vigour 25 September as the day for debating our proposal for a children's commissioner bill. If we lose that day, we will be unable to introduce a bill into Parliament in the required time scale and that would render useless all our work to date.

Michael Russell: Convener, you will have my support and the support of the SNP on that matter. I would be surprised if, depleted though it may be, the committee is not unanimous about that matter. We have worked hard on the children's commissioner bill and have had strong indications that the Executive wishes the bill to succeed. That is a happy set of coincidences across the parties in the Parliament.

It would be an absolute tragedy if any other committee prevented the children's commissioner bill from happening. If the bill is lost, my concern is not so much about the committee's feelings but about the damage that may be done to the children and young people of Scotland.

The Convener: Is Jackie Baillie in agreement?

Jackie Baillie (Dumbarton) (Lab): Absolutely.

The Convener: I will relay our feelings to the conveners liaison group at 4 o'clock.

Public Appointments and Public Bodies etc (Scotland) Bill: Stage 1

The Convener: Revised agenda item 3 is the Public Appointments and Public Bodies etc (Scotland) Bill. The committee will take oral evidence for our stage 1 report to the Local Government Committee, which is the lead committee on the bill.

In the first instance, I invite evidence on the general principles of the bill from Professor Michael Lynch, who is the chairman of the Ancient Monuments Board for Scotland. Professor Lynch may make some brief introductory remarks before we proceed to questions. Members already have his written submission.

Professor Michael Lynch (Ancient Monuments Board for Scotland): I thank you for giving me the opportunity to discuss with you the position of the Ancient Monuments Board and the future of policy towards the historic environment, with or without the Ancient Monuments Board and the Historic Buildings Council for Scotland.

I will not repeat the case that we have made in our submissions at the two stages of the consultation process. Instead, as I have now had the opportunity to read the submissions that were made by about 35 bodies during the second stage of that process, it may be useful if I give some brief reactions to the points that have been raised in response to the case put by the AMB. I will also be pleased to answer any points that members highlight.

I want to make five short points. The first is about the consultation process. It was a curious affair and was variously described in the responses as “flawed”, “ill considered” and “unsatisfactory”. I think of it as something of a non-event; others might think that there is a strong whiff of predestination about it. The official response to the consultation claimed that no new or substantial arguments had been brought up in the process, but substantial parts of the case put by the AMB and the HBC seem to have struck a chord with various bodies or individuals who made submissions. Around 85 to 90 per cent of the submissions are in that vein.

When the process began, it was with the assumption that various quangos could be abolished to produce “structural changes” that

“will bring enhanced openness, professionalism, accountability to Ministers and the public.”

My question for the committee and ministers is whether the alternative arrangements—such as the proposed focus groups—will do that. The

submissions show a deep suspicion of those suggestions.

The second issue, which is about value for money, can be disposed of quickly. None of the submissions claim that the AMB or the HBC have not provided value for money. The question is whether other arrangements—either focus groups or a loose, less formal arrangement—will also provide good value for public money. That part of the case has not been proved.

Thirdly, one key theme of the bill is to provide transparency and accountability. It is important to bring into the equation Mike Watson’s introduction to “Passed to the Future; Historic Scotland’s Policy for the Sustainable Management of the Historic Environment”, which sets out “for the first time” the Executive’s policy on sustainability and the management of the historic environment. That seems to make it clear that the Executive, not Historic Scotland, accepts responsibility for the matter. How is the Executive to do that? What advice will it seek and from whom will it seek it other than from executive agencies?

Time and again, the submissions emphasise the need for independent advice for ministers. That should be beyond the advice that emanates from civil servants in Historic Scotland or elsewhere. The submission from the Royal Fine Art Commission for Scotland states:

“HS cannot itself take a disinterested view independent of the Executive”.

Will focus groups that are convened by Historic Scotland from time to time on topics that it chooses provide disinterested and independent advice?

Fourthly, I have an example that shows the importance of an independent body. Each year, Historic Scotland staff produce hundreds of orders for scheduling. In 2001, the target figure was 325. For various people and interests, scheduling can have far-reaching consequences. The only outside body that is available to comment on or to vet those proposals is the AMB. At present, six of the 15 members of the AMB receive and carefully examine the full papers, including scheduling proposals. If the AMB is abolished, there are no plans to have outside eyes examine those proposals. I asked Graeme Munro, the chief executive of Historic Scotland, about that directly in a meeting. His answer was no.

The matter is all the more serious because the UK has signed up to the European Convention on the Protection of the Archaeological Heritage, which is usually known as the Valletta convention. As paragraph 25 of our 2001 report points out, article 2 of the convention states that each Government should make provision for the maintenance of an inventory of the archaeological

heritage, for the designation of protected monuments and areas and for the creation of what it calls archaeological reserves, which are the scheduled areas around monuments.

Just when the UK Government has signed up to the Valletta convention, the Scottish Executive proposes to remove the only process of external scrutiny of scheduling. There seems to be a lack of joined-up thinking. One submission claims that, as a result, difficulties may arise with European human rights legislation. I do not feel able to comment on that, but I do feel that a serious issue lies unresolved.

14:15

As our report pointed out, scheduling is one example of the many areas in which Historic Scotland has complete autonomy over decisions that affect citizens' rights. The current proposals will increase the autonomy of HS, but not its accountability or transparency.

I want to make it clear to the committee that the AMB is not a quango of narrow interests that is fighting to save itself in the last ditch; I want to consider the alternative if the AMB and the HBC are abolished or merged, or if some umbrella body is devised for a better future. In our second submission, we said explicitly that we look forward to alternative arrangements, perhaps through the setting up of an independent panel to advise ministers—a panel that goes beyond the current remits of the HBC and the AMB. We realise that they are limited and imperfect. The AMB has decided that it will—in its next and perhaps last report—try to devise an agenda for that future.

I will be quite blunt. There is surprise, dismay, even incredulity among parallel bodies in England and Wales that the Scottish Executive is contemplating abolition of the AMB. Scotland will be the only part of the United Kingdom with no permanent arrangement for external independent advice on the built heritage. The public bodies document said:

"External advice will remain of value, but this can be obtained in a more focused and less formal way."

But who provides the focus? Historic Scotland.

If there are proposals for a successor body, they have, as far as I know, not moved forward since last November, when three representatives of the AMB met Allan Wilson. Any initiatives since then have come from various outside groups representing different sectors of the historic environment lobby.

In the AMB's covering letter to the deputy minister, Dr Elaine Murray, which was sent to her with our 2001 report on 20 June, we asked that urgent further consideration be given to the

composition, remit and funding of a successor body. The matter is difficult, because the remit is, potentially, so wide. It involves different ministerial remits and it extends well beyond the natural territory of Historic Scotland. However, if the objective is to produce an umbrella historic environment body, or to let one emerge, the committee should be very clear on one point: such an objective has not been achieved before in the UK. A new wheel would have to be invented.

What the AMB fears above all, if it is abolished along with the HBC, is that there will be a long and indefinite period of vacuum—a period during which, as in the past, other issues crowd out the historic environment, so that it returns to being a cinderella issue and the vacuum becomes a black hole.

There are very real questions about the future focus, composition, remit and funding of any umbrella body. I suggest that such questions and others will have to be addressed by the Executive before, and not after, the AMB is abolished.

Jackie Baillie: I found those opening comments very helpful. Everyone shares the view that the provision of independent external advice will be valuable. There is value in the expertise that has been built up already.

The crux of the matter is that the Executive is not convinced that you should remain as a non-departmental public body. I would like to take you to successor arrangements, on which you spent some time. Assuming the Executive's argument is valid and that we make that assumption, you seem to be attracted to the panel or umbrella body approach, which would mean that we would retain that expertise. Will you comment further on the likely remit, composition and funding of such a body?

Professor Lynch: The remit should be as wide and as holistic as possible. It must embrace more than just the remits of the AMB and the HBC. The fact that there are rival vested interests—archaeological versus architectural—means that there are always difficulties. Those rival interests are reflected within Historic Scotland. Although Historic Scotland speaks with one voice, it does not always think with one mind, as one might expect. The remit must be wide ranging.

There is a real difficulty with funding. The proposal that I have heard is that HS might provide pump-priming money and that it might fund a secretariat. I am not convinced that that would be healthy, because there might be an attitude of "the paymaster expects" in such an arrangement.

There is enormous goodwill among the various parts of the coalition that make up the historic environmental lobby, but the new arrangements

will take some time to put together. That is our prime concern. Urgent issues, which we have listed in our most recent report, must be addressed in the near future. I do not think that such an umbrella body could be set up in less than two to three years. I would add a fourth element to the three elements of composition, remit and funding that you mentioned—time scale.

Michael Russell: I am concerned about the same issue as Jackie Baillie. From the papers that you have submitted and the arguments that you have advanced, one thing in particular strikes me. In relation to the historic and built environment, we seem to be moving towards a situation in which, rather than reconsidering the structure that exists to make it work by reducing the number of bodies, we are abandoning bodies and leaving one standing. That worries me considerably.

The minister will present oral evidence later on. I refer you to the final paragraph of point 8 in the minister's written evidence to the committee. She says:

"By comparison, both the AMB and the HBC have failed to demonstrate that they are providing advice of a breadth and quality that could not be provided as effectively through other, non-statutory means. In practice, they have both become heavily dependent on advice from Historic Scotland officials in addressing policy issues."

What do you understand by that and what is your view of that statement by the minister?

Professor Lynch: I take it that the last sentence of the extract forms the crux of your question. We perform various roles vis-à-vis Historic Scotland. We debate with HS and act as a sounding board. We sometimes criticise HS, usually internally, and we try to seek a resolution. A successor body might well do that more openly. We publish our conclusions, but we do not give access to our full minutes. If that is the way to the future, then so be it. A successor body should be open; it should be open to the public most, if not all, of the time. It should be seen to debate and to represent the wide range of interests that are involved.

However, there is real difficulty with composition. Should the proposed body be a panel of experts or should it be more than that? The AMB includes lay people, as we coyly call them—people with wide experience in other areas. I suggest that that is important too. The wider public, as well as the experts, are interested in the process and have an important part in it.

Michael Russell: I am sorry to push the matter, but I want to focus you on a particular sentence, because it is important. I will follow it up with a further paragraph in the minister's evidence.

"In practice, they have both become heavily dependent on advice from Historic Scotland officials in addressing policy issues."

Not to put any fine point on it, that reads as if the minister is saying that the AMB and the HBC are simply leaning on Historic Scotland and are not performing a useful function on their own. Therefore, Historic Scotland can perform the role. I will ask the minister if that is indeed what she meant. You are not saying that—in your view, that is not the situation.

Professor Lynch: We do not see ourselves as the amanuensis of Historic Scotland. In fact, in the past two to three years, we have sometimes tried to distance ourselves from officials by having closed meetings in which we debate among ourselves what we want to discuss in the future. That has not always been popular with Historic Scotland officials and there have been some difficulties.

Michael Russell: Paragraph 9 of the minister's submission states:

"Neither the AMB nor the HBC has ever in any way been responsible for overseeing the work of Historic Scotland. Their remit has been solely to provide advice to Ministers."

You are saying that such advice is open, published and accessible and can be taken as stand-alone advice by which the public can decide whether you are right or Historic Scotland is right.

Professor Lynch: That is correct. We also hold annual open meetings in which we are willing to be questioned by the public. I suggest that, if there is a successor body, it should be similarly vulnerable under Nolan principles.

Michael Russell: Under the proposals that are under consideration, that independent element will disappear. Historic Scotland's advice to ministers, which is not published, will count.

Professor Lynch: That is my understanding. The focus group would provide information privately to Historic Scotland, which would, in turn, pass it on or not pass it on to ministers.

Michael Russell: I do not want to take a specific case, but in recent years there have been many cases in which Historic Scotland, in assessing issues relating to the built heritage, particular buildings and other matters, has found itself as the judge and jury in its own case. I understand that the abolition of the Ancient Monuments Board for Scotland would leave that situation essentially untouched and indeed entrenched. There would be no appeal against and no outside consideration of such issues.

Professor Lynch: That is my understanding and it is why I mentioned the important example of scheduling.

Michael Russell: Absolutely.

I would like to summarise the matter, which is important. You have made a distinguished

contribution to the body in question and nobody working in or with such a body would want it to be abolished. Outwith that argument, you are saying that the body fulfils a separate function and has a clear way of reporting, as the advice is published, and that the abolition of the body without any adequate arrangements for a successor—there appear to be no such arrangements—will put ordinary people at a disadvantage, as Historic Scotland will be judge and jury in its own case. That is contrary to what the minister says and we must probe the issue.

Professor Lynch: I agree.

The Convener: I thank you for giving evidence.

I welcome Councillor Pat Chalmers, who is chair of the Historic Buildings Council for Scotland. Councillor Chalmers, the committee has received your written submission. You may make brief introductory comments and we will then proceed to questions.

Councillor Pat Chalmers (Historic Buildings Council For Scotland): We were shocked—that is the only word that I can use—that the bill's policy memorandum states that there was only a 29 per cent response to the consultation exercise and that nothing new came out of it. Historic Scotland officers verified the responses. By their count, there was a 79 per cent response, which is an astonishing response to a consultation, bearing in mind that some of the consultees who did not reply included Railtrack, which seemed to have other fish to fry. One of the organisations that responded was the Association of Preservation Trusts, which represented 35 of the bodies that were on the list. It had a conference on the matter and did a conglomerate return.

Our written submission makes it clear that 17 responses came from local authorities, which represent 2.9 million voters. All the major organisations in the heritage movement responded to the consultation. Some of those organisations represent 260,000 members; others have 20,000 members. A total of 91 per cent of those organisations adopted the view that a standing body was essential for grants and that such a body should be transparent and representative and should be responsible to a committee of the Parliament. That has been the view of the Historic Buildings Council for Scotland not only from the outset of the consultation but from the outset of the Parliament.

14:30

The Historic Buildings Council was set up in 1953 and was made responsible to the Secretary of State for Scotland. To tidy things up, responsibility was simply shifted over to Scottish ministers through an order of Parliament. No

thought was given at that time to how much direct accountability that would bring. It is right that we should look at accountability.

Let me quote from our written submission, which quotes what the National Trust for Scotland said about the consultation:

"In relation to the Review of Public Bodies early indications stated that this would be a two stage process looking first at the principles and then later testing individual organisations against them. The Review however did not go through a second stage and the abolition of a number of bodies appear to have been announced as a fait accompli. As a result the Trust is concerned that the proposals to abolish HBCS ... have undergone insufficient analysis within the wider context of the built heritage in central government decision making and the need to ensure a strengthened democratic and accountable system in future."

That was part of the responses to the consultation, but it is a feeling that we all share.

I want to address how the HBC fulfils the four principles. The first principle concerned whether the public body has a distinct role and function. The HBC looks after public moneys that are the key moneys that allow entry to other moneys. On average, the moneys given by the HBC represent 20 per cent of a contract. That means that the moneys given out by the HBC need to be multiplied by five to see what the overall investment is. If an organisation does not get money from the HBC, it will be unlikely to receive any moneys from other public sources, such as the Heritage Lottery Fund, Europe or the local authority.

I emphasise that the figures in our written submission are all a matter of public record and may be verified from published materials. I have not invented any of the figures. One figure that the paper does not give was published only 10 days ago. The Heritage Lottery Fund report points out that Scotland has received £243,852,467 from the national lottery. That means that, outwith London, Scotland has received the biggest sum in the UK.

That is not to say that the amount that Scotland has received is not merited. We have the largest number of historical buildings in the country. That is what makes us so attractive to the 83 per cent of visitors who visit historic buildings—only 1 per cent of visitors visit golf courses. The money that has been given out by the Heritage Lottery Fund needs to be matched against the £150 million that has been given out in HBC grants since the Heritage Lottery Fund's inception.

As Professor Lynch has pointed out, every other heritage body, including the Heritage Lottery Fund and English Heritage, uses another body to scrutinise grants. In our paper, we make it clear that we scrutinise grant applications and we make the decisions on them. We can and do turn down or alter applications. We are also an appeal court.

I have a letter, dated 2 September, in which an owner is complaining to me, as chairman of the Historic Buildings Council, about the process. It should be remembered that although Historic Scotland is a large organisation, one inspector takes the decision after one visit. The organisation wheels in behind that opinion, no matter how idiosyncratic it might be. The letter says:

"I am in great difficulty finding a sensible solution to my problem ... It has been suggested to me by many people that know you that I should write to you, for you have a reputation for sound common sense, and the ability to look beyond a single issue and see it in a wider context."

That person was complaining about the process.

I am suggesting that the HBC has a distinct function. We are clearly accountable in principle to the people whom we serve for the functions that we perform. There was an outstanding response rate to the consultation of 80 per cent; 91 per cent of respondents were not in favour of the demise of the HBC but wanted us to remain in some form as a standing committee.

Work with other organisations has brought about 32 building preservation trusts in Scotland. It is right that 90 per cent of grants go to public bodies—to building preservation trusts, which are the equivalent of housing associations' local committees, to local authorities and to churches, all of which are preserving buildings for the people of Scotland, not for private profit. All those organisations are non-profit making.

We work with other organisations and, as members will be well aware, we are the progenitors of doors open day in the whole of Scotland. Above all, we fulfil the public agenda of the Parliament—in other words, we contribute to the agenda for jobs, sustainability and regeneration.

Our message to the committee is that the HBC and its respondents consider that the economic value to Scotland of the built heritage requires the existence of a standing body with wider powers to look after the built heritage. Regrettably, we have already had proof that there will be no accountability in future. In January 2001, we were informed that our budget was oversubscribed. By December 2001, we had been informed that there was a gross underspend. For the first time since 1953, £3.25 million of the grant budget was vired to the main purposes of Historic Scotland. I do not know under whose authority that took place. I have been a member of the HBC since 1989 and I know that, since 1953, the HBC has always been under the impression that the grants budget was sacrosanct. The grants budget is certainly crucial to the Scottish economy. As I point out in the paper, it brings in enormous investment from the private sector.

We have been informed that it is likely that there will be an even bigger underspend this year, in spite of the fact that Historic Scotland has told applicants for the past four years—since the inception of the Parliament—that moneys will not be available until 2004. This year, applicants have been told that moneys will not be available until 2005. We have been told that there will be a bigger underspend this year. Our calculations, from the figures that were given to us on 16 August, are that this year's underspend could reach £4 million. That would mean a loss of £7.25 million for the Scottish economy in a brief 18 months. Frankly, that is not acceptable. I have spent many years giving my time voluntarily to an organisation that brought about accountability. I will be extremely distressed if I find that that accountability is moved into the void that the bill proposes.

The Convener: You have raised a number of serious issues—especially that of the underspend—that the committee will wish to take up further with Historic Scotland and the minister.

Michael Russell: I have two germane points. Unfortunately, we must keep the discussion brief. Michael Lynch mentioned the independent element in the structure. It is possible to conceive of a structure that has an executive agency or a non-departmental public body and an independent element. However, it appears to me that the proposals will leave Historic Scotland standing, but scythe the independent element off the field. Is that how you view the matter?

Councillor Chalmers: Yes. Our submission and the letter from Bridget McConnell address that issue. They suggest that that kind of closed situation could hardly be called transparent or accountable.

Michael Russell: Indeed. You missed out those two principles when you talked about the Scottish Parliament's principles and objectives. Openness and accountability are two of the founding principles of the Parliament, but many of us are worried that the bill does not meet those principles.

Towards the end of your remarks, you described a serious situation. If the proposals are to be taken seriously, one prerequisite is that we are convinced that Historic Scotland can change and develop to accommodate the new needs of a new situation, perhaps by developing independent elements. I want to go through the reality of the situation carefully. Until last year, people who applied for assistance were told that there was a long lead time and that the moneys were oversubscribed. I see that Councillor Chalmers is nodding. At the end of last year, you discovered unexpectedly and for the first time that your budget, which is held by Historic Scotland, was

underspent. That was contrary to the financial information that you received during the year. Do you still agree?

Councillor Chalmers: Yes.

Michael Russell: It appears—I now have independent confirmation of this—that there is a serious underspend in Historic Scotland's budget, which is greater than that in your budget. A substantial proportion of Historic Scotland's budget has been underspent, at a time when there is enormous pressure on the historic and built heritage. The effect of that on your budget is that £7.25 million—not taking into account the multiplier effect—has not been available for spending on your core purposes because it has been vired elsewhere.

Councillor Chalmers: That is precisely the situation. Since the multiplier is slightly short of 5—it is about 4.8—there will be a loss of around £37 million to investment in Scotland. That is contrary to the will of Parliament, which thought that grants were being used as a lever for investment.

Michael Russell: I want to take the matter a step further. You and I know—you are an expert in the matter—that people who need money are often in crisis situations. If money is not available, then the buildings might not survive.

Councillor Chalmers: That is correct.

Michael Russell: Is it not feasible, if not inevitable, that that lack of money has led to the loss of parts of the built heritage?

14:45

Councillor Chalmers: In the past year, there have been public cases in which that has been proven. You must also remember what I have pointed out. Things have changed. Only 10 per cent of grants go to developers and individuals; some 90 per cent go to the public sector.

I am the chair of Glasgow Building Preservation Trust. We have two members of staff and a part-time administrative assistant. If a building is acquired and funding cannot be obtained for it, it must still be insured and secured. There is an invitation to fire and to those who tear out the innards for profit. If someone goes to the wall because they have had to wait for a long time, their staff will also go to the wall and the building will be lost.

Some members will know about the developments at Wellpark and the former Kirkhaven church, which is used as a women's enterprise centre, and about regeneration in the east end of Glasgow. At the Civic Trust awards last week, four major projects in the east end of

Glasgow won the largest number of awards outside London. That is how regeneration, sustainability and jobs are achieved and that is what we need.

Look at what has happened at the homes for the future project at St Andrews Square. Some £7.25 million from major sources of public funding—the same figure that has been vired out of the budget—has gone into the area in the past six years. From that, there has been £132 million of private money and 327 housing units. There have been enormous changes in the area and the project is only part-way through. Five other plans are in the pipeline and there will be more.

Michael Russell: Given your experience, do you have any confidence in Historic Scotland's management?

Councillor Chalmers: I would not like to say. I have made it clear to Mr Munro and others that I have been dismayed at the change in ethos at Historic Scotland since the establishment of the Parliament. I think that Historic Scotland was unsure of its future when the Parliament was established. I made that dismay clear when I chaired a meeting on Friday 16 August. There must be a proper examination of where the nation is going with respect to a crucial element of the economic future of Scotland. I have given 20 years of my life to the issue, not because I am precious or because I am an aesthete, but because buildings and their communities have been regenerated superbly.

Jackie Baillie: What successor arrangements do you favour, if not a quango?

Councillor Chalmers: I agree with most of the respondents. Our submission states that there must be a standing body that is accountable to a parliamentary committee, as the Scotland Act 1998 envisaged. Only then will there be the necessary tiers of scrutiny.

The field is ever changing. We campaigned about policy changes, which were mentioned. We—not Historic Scotland—campaigns against Crown immunity and what that was doing to hospital buildings and ex-Ministry of Defence buildings, for example. We spoke about the loss to communities and initiated and helped to bring about the change in respect of Crown immunity. There is no question in local authorities and other bodies but that the HBC has been strongly influential in policy changes and in bringing people into the whole field.

Mr Brian Monteith (Mid Scotland and Fife) (Con): First, I have a small point that I want to clarify. The Historic Buildings Council for Scotland is a statutory body. Am I right in presuming that there is a statutory requirement on Historic Scotland to consult the Historic Buildings Council?

Councillor Chalmers: Yes. You are indeed correct. That is what has made for such intemperate meetings. The previous chairman left because, frankly—and I have his permission to tell you this—he was no longer prepared to tolerate the discourtesy that he felt was being shown. I have taken over as chairman in the interim.

We had to fight strongly even to the extent that I sent a fax the day before the meeting to ask that we be told what had happened to the grant moneys that had been vired from our account without our knowledge. At that point, those moneys were reputed to be £2.1 million, although those were not my calculations. Like Professor Lynch, we have had something like seven separate meetings between Historic Scotland and the HBC on its own. We held those meetings in Glasgow and elsewhere. Frankly, we had those meetings in order to ensure that we were putting our point firmly forward and were not being simply the mouthpiece of HS. It took us until that day before, suddenly, in the middle of the meeting, Mr Munro sent for papers that purported to tell us how that money had been spent. We would not have considered spending money on those things.

Mr Monteith: Is what happened with the money in that process the discourtesy to which the previous chairman referred? Did he consider any other matter to be a discourtesy?

Councillor Chalmers: Generally speaking, it was felt that we were treated as an irrelevance from the moment that HS offered us up as sacrificial lambs. In our open meetings, we parried a number of criticisms about HS and we certainly took up any issues that were extant from those meetings. I have an enormous admiration for HS and have worked happily with it for many years, but there were some powerful people on the HBC who, if they were sitting here, would be screaming in rage at the idea that they were ever puppets of any organisation.

Mr Monteith: You said that there was general disquiet when Historic Scotland carried out a consultation on its proposals for the abolition of the HBC. What faith have you in Historic Scotland seeking impartial advice on any deliberation on a development or building on which it has already made a judgment?

For example, the development at the waterfront in Edinburgh is mainly a project run by Scottish Enterprise and City of Edinburgh Council. Planning consent for the development is required because of the adjacent A-listed building. Furthermore, any appeal must go to the Scottish Executive, which takes advice from Historic Scotland, which also has a stake in Scottish Enterprise. All the players are interrelated. There is no body from which representation can be sought.

What faith have you in Historic Scotland being able to find impartial advice when it has not shown an impartial approach in its treatment of the Historic Buildings Council?

Councillor Chalmers: I am not terribly happy about answering that. The question should be addressed to the Parliament. Does the Parliament have faith that a closed system will produce openness and transparency of decision?

Decisions will often be unpopular, but if they have been taken transparently and with due process, one can hold one's head up and say, "I'm sorry but sometimes you have to bite the bullet." In the subjective area of heritage, many decisions will be marginal. Do we save this church and not that church? Do we save this building and not that one? Moneys are not elastic, so some tight decisions need to be made. However, the most important thing is that the process should be open, accountable and transparent. What the bill proposes is a void of accountability.

The Convener: Thank you for your evidence, Councillor Chalmers. We will now take evidence from Roger Mercer, who is the chief executive of the Royal Commission on the Ancient and Historical Monuments of Scotland. Welcome to the committee, Mr Mercer. We have received your written submission. I would appreciate it if your introductory remarks were brief.

Roger Mercer (Royal Commission on the Ancient and Historical Monuments of Scotland): I will be as brief as possible. The bill reprieves—if that is the correct word—the Royal Commission on the Ancient and Historical Monuments of Scotland. The body will continue to carry out its present functions, but it will cease to be a standing royal commission. Ministers felt that that is not a suitable status for an organisation that has effectively become permanent. The commission will become a statutory NDPB. The proposed new title is the national survey of archaeology and buildings of Scotland.

The Convener: Are you relatively satisfied with those proposals?

Roger Mercer: We are relatively satisfied, but naturally there is some sadness at the loss of our old status. We are pleased that ministers wish us to continue and to enhance our activities within our charitable status. We hope to continue to serve Scotland to the same extent as we have in the past, if not to a greater extent.

Michael Russell: I do not want to make policy on the back of bits of paper, but it seems to me, having read the committee papers over the weekend and having looked at some of the consultation documents, that the new map of heritage and historic bodies could have been drawn in a different way. Your organisation's

function of providing access to information could have become part of Historic Scotland without too much difficulty. However, we could not get rid of the element of impartial advice, which had to be preserved in another form, either by creating a new impartial body or by merging existing bodies. Why has that not happened? Why was your organisation saved? Is it because you are good lobbyists?

Roger Mercer: We are good lobbyists, but that did not have an impact. What had an impact was our argument that as well as the requirement for independent advice for the management of Historic Scotland's affairs, an independent body is required to record and survey and to maintain the results of that survey in a national archive—at present it is called the national monuments record—that can be used by all parties for their deliberations. Because of Historic Scotland's legislative, preservational and financial concerns, which have been well exposed today, if we became part of Historic Scotland, people would not be as willing to give us access as they are at present. When we asked to photograph the interior of people's houses, they would constantly question whether they were exposing themselves to having their house listed or scheduled.

Michael Russell: That is a convincing argument and it backs up Michael Lynch's point that we need an independent element in decisions on listing. Your organisation does the physical job, but your argument clearly supports that of Michael Lynch and, to some extent that of Pat Chalmers, that without an independent element people will not trust the national organisation.

Roger Mercer: There is some truth in that.

Michael Russell: I have no objection to your organisation being changed and renamed. It strikes me that it performs a function that is similar to that of the National Library of Scotland, although in a different area. Is there any synergy between the two organisations?

Roger Mercer: There is a good deal of synergy between our organisation, the National Library of Scotland and the National Archives of Scotland. We perform broadly similar functions to those organisations, particularly the National Archives of Scotland. The only difference, although it is an absolute difference, is that we create our own archive, whereas the National Library and the National Archives do not to any great extent. We take the 5 million photographs and the hundreds of thousands of drawings and put them into our archive. I should mention that only 30 per cent of the drawings in the archive are ours, while 70 per cent of them have been done by others. Nevertheless, a substantial part of our archive is created by our survey staff. That is why the title national survey of archaeology and buildings of Scotland seems to be appropriate.

Michael Russell: So if I were looking for another bonfire of the quangos, I might be able to link your body with the National Library of Scotland.

Roger Mercer: If you were looking for that, we hope that you would be more generous.

15:00

Jackie Baillie: The problem is that I know him; there is no way that he would be more generous.

Three specific issues were raised in the evidence that we received. First, it was suggested that there would be an impact on local authorities—on sites and monuments record services. I would appreciate your comments on that. Secondly, it was indicated that there might be a significant expansion in what you do, rather than a small number of changes. People have raised concerns about the bill's emphasis on evaluating all structures and defining the importance of the monuments. Your remarks on that would be helpful. Thirdly, there is a question about whether you would retain Crown copyright, which would obviously have an impact on people's willingness to deposit records with the new body.

Roger Mercer: SMRs—sites and monuments records—are provided in the majority of, but by no means all, local authority areas in Scotland. They are paid for by a variety of means—largely by the local authorities themselves, but in some instances, notably Shetland and Orkney, by independent trusts. The trusts in Shetland and Orkney were established by the oil industry.

The staffing of SMRs takes several forms, but is always exiguous. There are usually one, two or possibly three members of staff, although I believe that Highland Council might have four staff. SMRs are small staff organisations, which are run independently within local authorities. There are a variety of constitutional links within those local authorities.

During the renegotiation of our 1992 royal warrant, we were given a lead role in relation to such organisations. We have found that financial exigency has meant that we are not able to exercise that lead role in the way in which we had been able to. We have effectively experienced a 30 per cent cut in our budget since 1992, due to restraint.

More important, the SMRs in question were not willing to accept that lead role, as we did not pay them, we did not staff them, they were not under our control and there were no line management links between the organisations. Tensions began to grow, which was unhelpful. Therefore, we are happy that the bill gives us the duty of offering guidelines to SMRs and other interested

organisations on the way in which they compose and retrieve their records and so on. That will probably lead to a more helpful relationship than the one that was imposed by the lead role within the old royal warrant. We are content with that more profitable way forward.

I hope that that answers the part of your question about SMRs. Do you have a supplementary before I deal with the next issue?

Jackie Baillie: No, that is fine.

Roger Mercer: Evaluation is a difficult word. We are aware of the misgivings that our colleagues have. Colleagues in Historic Scotland and elsewhere might also have misgivings about that word. We would be happy if the word “interpret” were used instead. Last night, I looked in the “Shorter Oxford English Dictionary” for definitions. There are several definitions of “to evaluate”, but the one that would fit with us is

“to express in terms of something already known”.

That is probably what we do. The definitions under interpret are more closely aligned with what we do:

“To expound the meaning of ... to render ... clear or explicit; to elucidate; to explain.”

Those are the things that we do. We would be happier with the word “interpret” and I think that other people would be, too.

On Crown copyright, which I have looked into, the same provisions would apply as apply now—as far as I am aware. In other words, material that we produce is Crown copyright, but material that is loaned to us or given to us by other people is their copyright, if they wish it to be so. If anyone comes to us seeking to borrow or to reproduce material that has been loaned or given to us by other people, we refer them to those other people in matters of copyright negotiation. There should be no difficulty with that.

We are also able to hold material in confidence. Material that must not be revealed to members of the public can be held, as it were, in the safe. That can be for reasons of national security or personal security. For example, if it concerns the interior of people's houses, there could be a security risk if those arrangements were made public. We can hold those things in confidence.

Michael Russell: I want to ask one final question. The new name of the Royal Commission on the Ancient and Historical Monuments of Scotland will be the national survey of archaeology and buildings of Scotland. The Scottish place names survey, which is operated by the University of Edinburgh, is another body that is under considerable pressure and difficulty. Have you considered, or will you consider, the possibility of synergy between the national survey and the place names survey? That would allow you to

consider not just archaeology and buildings but what those are called. I do not ask for an immediate ex cathedra response; you can go away to consider the matter and let us know. It is a small but important matter.

Roger Mercer: The matter is important and I can give some immediate response. There is some synergy between our organisations, in that one of my commissioners is Dr Margaret Mackay of the school of Scottish studies, who will be known to you. She has encouraged and fostered relationships between our organisation and the Scottish place names survey.

A start has been made—it is only a start—in aligning the computerisation of the Scottish place names index in such a manner that it will be compatible with our own. Ultimately, it should be possible to look at a site and the place names within the same electronic framework.

Michael Russell: That will require considerable investment in the Scottish place names survey.

Roger Mercer: It is a long-term objective.

The Convener: I thank Roger Mercer for his evidence.

I now welcome Graeme Munro, who is director and chief executive of Historic Scotland. From the evidence that you have heard, you will have had a taste of the questions that committee members might ask. Do you wish to make any short introductory comments?

Graeme Munro (Historic Scotland): I represent Historic Scotland. We are an agency of the Scottish Executive. I stress that we are not an NDPB nor are we a separate legal entity, but we are part of the Executive's education department. Under the agency's framework document, which is in effect our constitution, I am directly accountable to Scottish ministers for the work of the agency and, through them, to the Parliament. I believe that our accountability is clear, unambiguous and democratic.

I find it slightly ironic that we have been chastised for being unaccountable, when we are much more accountable than the NDPBs, which were the subject of the review of public bodies. The starting point of that review was the public concern that NDPBs were appointed by ministers but were not accountable. We are directly accountable to ministers.

I am happy to expand upon our written submission, which I hope the committee found helpful. I want to make two comments on the paper submitted by the Historic Buildings Council. First, as a matter of fact, decisions on grants are not taken by the HBC. The council makes recommendations to Scottish ministers. In practice, those recommendations are almost

always accepted, but that is perhaps not surprising because, in most cases, the council is simply endorsing recommendations that it received from Historic Scotland in the form of well-worked-up papers.

From time to time, the council might say that the rate of grant should be higher or lower or that some conditions should be applied or not applied. However, the important point to make is that, unlike the Royal Commission on the Ancient and Historical Monuments of Scotland, from which the committee has just heard, the council is an advisory body, not an executive one. That is also true of the Ancient Monuments Board.

The second point that I want to clarify from the HBC submission is the implication that we were not forthcoming in giving the council our analysis of the feedback from the consultation process. We were asked to provide the council with our advice to ministers. As the committee will know, there is a convention across the Executive—and across the whole of the UK Government—that officials' advice to ministers is confidential. However, we gave the council a complete set of all the responses to the consultation document. We cannot be accused of trying to hide the evidence, which was willingly made freely available to the council.

Several statements have been made in the course of the oral evidence that I do not accept. I would welcome the chance to comment.

I suspect that members will want to question me on issues such as scheduling and listing, the grants process, the underspend on the grants budget last year and our future arrangements for working with external bodies.

I would like to stress that should the Executive and Parliament decide to abolish the HBC and the AMB, we would continue to work hard to maintain our contacts with external bodies and individuals with interests in the built heritage. I head an agency that, I believe, is committed organisationally and individually to the built heritage. Our commitment is second to none. I would agree with all that Pat Chalmers said about the importance of the grant scheme to the built heritage and indirectly to tourism, economic regeneration, social inclusion and a range of other Executive policies.

Perhaps that is as much as I should say by way of introduction, but I should be happy to take questions from members.

The Convener: You said that you made full details of the responses available to the HBC. We have heard from Pat Chalmers what those responses were and that 91 per cent were in favour of retaining the HBC. Why did you advise ministers to abolish the HBC? On what basis did

you do so, if the responses were clearly against that?

Graeme Munro: I am sorry, but I cannot tell the committee what our advice was to ministers because that must be confidential. However, I would make the point that our analysis was fed into much wider recommendations that went to the ministers. The recommendations did not go exclusively from Historic Scotland, but were part of a wider exercise that covered a range of public bodies. Therefore, any conclusion reached at the end of that process was not based entirely on our views.

The Convener: But surely if 91 per cent of respondents to your consultation tell you that the HBC should stay, you must have clear and compelling reasons why you should tell ministers that it should go. I am not party to why 91 per cent of people are wrong and you are right.

Graeme Munro: I do not think that we are saying that, in effect.

The Convener: Well, you are saying that.

Graeme Munro: What ministerial reasons there were for abolition of the HBC is a question that you will have to put to the minister when she comes.

The Convener: But you gave advice to the minister.

Graeme Munro: Yes.

The Convener: You gave advice on the basis of the consultation that you carried out, which said that 91 per cent of people wanted the HBC to stay. Therefore, why was the 9 per cent more important? Why did you bother with consultation?

Graeme Munro: It was not an Historic Scotland consultation, but one that we carried out on behalf of the Executive. It was part of the wider review of public bodies.

Michael Russell: You saw the results of it.

Graeme Munro: We saw the results of it.

The Convener: You gave advice to ministers based on that consultation.

Graeme Munro: We were part of a process of advice to ministers. As a part of the officials who supported ministers, we fed in to the advice that ministers were given.

The Convener: We will certainly want to ask the minister why, when 91 per cent of respondents to the consultation process, representing the widest spectrum of organisations involved in the built heritage, say that they want the HBC to stay because it represents an independent, impartial view in relation to Historic Scotland and the built environment, you accept the views of 9 per cent

and put those to the ministers. Further, you are not prepared to give us any reasons why the views of that 9 per cent are more important than those of the 91 per cent. If that is the case, what is the point in having a consultation? You could just have written the paper in the first place.

Graeme Munro: Ministers took the view that no substantive new arguments were adduced in the consultation process.

Michael Russell: So the people did not want the HBC.

Graeme Munro: Yes.

Michael Russell: That is quite substantial and new.

Graeme Munro: The argumentation was not different.

The Convener: Michael Russell has made a clear point. I find it difficult to sit here. You said in your opening remarks that it was wrong of Michael Lynch, Pat Chalmers and to some extent Roger Mercer to say that their bodies were open and accountable. You said that Historic Scotland was open and accountable. We have been talking for 10 minutes now and you have not been able to answer a single question. Now, that does not strike me as open and accountable in the light of the evidence that we heard earlier.

Let us go back to that evidence. Ninety-one per cent of people say, "We don't want this. This is wrong." Those are not just people whom you pulled in from the street, but people who know what they are talking about. Yet the advice continues to be, "No, you must have it." What is wrong? Why did you make that decision and that recommendation?

15:15

Graeme Munro: You put me on the spot in relation to the one area where we cannot be accountable. We are accountable for all that we do in every other way, but our policy advice to ministers is, by convention, confidential.

The Convener: Did you draw up the list of consultees?

Graeme Munro: Yes. We drew it as widely as possible.

The Convener: You determined who would be consulted, what would be asked—

Graeme Munro: We did so in consultation with the two bodies concerned.

The Convener: You determined who would be consulted and what would be asked, which gave you complete control over the process and ought to have given you the response that you wanted.

However, when you did not get that response and, instead, got back an overwhelmingly negative response from a vast majority of people—an unbelievable 91 per cent of the 79 per cent who responded—you chose to disregard it.

Graeme Munro: You say that we did not get the answer that we wanted, but we were not looking for any particular answer.

Michael Russell: Even so, you got the answer you wanted because the recommendations were that the changes be made and the changes are present in the legislation that is before us. There was an answer that you wanted and you got it.

This is difficult. I do not think that we are going to get anywhere with this, convener; we have other questions to ask.

Graeme Munro: I am sorry. I want to help the committee, but I am in the difficult position of being asked questions relating to matters of policy, which are for the minister to answer.

The Convener: I am interested in why, when giving your advice, you chose to disregard the views of 91 per cent of the respondents. I cannot get my head round it. What was the point of having a consultation? You constructed the consultation and decided whom to consult, but the views that were expressed seem to have had no impact.

Graeme Munro: We provided ministers with an analysis of the responses. That analysis was fed into a wider exercise on which ministers were advised. The advice did not go directly from Historic Scotland.

The Convener: I will speak to the minister about how an analysis of a response that showed that 91 per cent of respondents were not in favour could be ignored.

Jackie Baillie: I have a question relating to process rather than substance that I hope you will be able to answer.

Given that Historic Scotland is the sponsoring department for the two non-departmental public bodies in question, you will have provided advice to the minister on the outcome of the consultation and you will have made a recommendation as to what happens next. Equally, you will have advised the minister on the area of successor arrangements. We have heard consistent evidence on the need for robust successor arrangements if we choose to go down that route.

This committee and the Scottish Parliament as a whole are taken with issues of accountability and executive agencies are not always the most accountable bodies. I would be interested in hearing Historic Scotland's view of the type of successor arrangements that were described this afternoon.

Graeme Munro: We would continue to work directly with organisations that currently exist, such as the Architectural Heritage Society of Scotland, the Scottish Civic Trust, the National Trust for Scotland, the Society of Antiquaries and the Council for Scottish Archaeology.

We have given encouragement to the idea of having organisations come together to form an umbrella group that would represent the built heritage interests and which would be genuinely independent; we would meet it regularly to ensure that both sides could raise issues. The process would be open, and I agree entirely with what was said earlier about the need for such a body to be as open as possible. We have indicated a willingness to consider pump-priming such an organisation.

Michael Lynch raised the question of whether the organisation could then be genuinely independent. That is an issue on which that body would have to decide for itself. We grant-aid a number of other bodies. We give funding to the Scottish Civic Trust, the Architectural Heritage Society of Scotland and the Council for Scottish Archaeology. I do not sense that that holds them back from commenting on things that we do, and I would not want it to. I genuinely want open dialogue with outside interests.

Jackie Baillie: I will continue on the theme of accountability for a minute. I am looking for information. Who is on the management board of Historic Scotland?

Graeme Munro: I chair the management board and it consists of the other directors of Historic Scotland.

Jackie Baillie: It is therefore an entirely internal management board.

Graeme Munro: It is at the moment.

Michael Russell: I have two questions. First, why should Historic Scotland be an executive agency and not a non-departmental public body? What is the rationale for that?

Graeme Munro: The rationale goes back quite a long way to the early 1980s, before my association with the organisation, to the time when English Heritage was being established. A decision was taken then not to make a non-departmental public body out of our predecessor body, which was the Historic Buildings and Monuments Directorate. There were a variety of reasons for that.

One rather esoteric reason for that was that we were—as we are still—involved with parts of Holyroodhouse and Edinburgh Castle, and the view was that those responsibilities could not be transferred to an NDPB. Indeed, that division was made in England. English Heritage did not take on

responsibility for the royal palaces, which were kept separate and are now an agency.

In the early 1990s, when the executive agencies were being formed, we were identified at an early stage as being a prime candidate for translation from the core Scottish Office, as it was then, to become an agency of the Scottish Office. On devolution, we became an executive agency of the Scottish Executive. We switched departments from the development department to the education department.

Michael Russell: It seems to me that an awful lot of effort is going into defending the position of your organisation as an agency. As you have just indicated, whether or not your organisation should be an agency is a fine judgment. Indeed, there are arrangements elsewhere that would allow the one principal objection—which we have heard often before—to be overcome. I will ask the minister, but all the information I have seen coming from your organisation via the minister seems to lean heavily on that fact, which is simply an accident of history. It is nothing sacred. There are other NDPBs, such as the Scottish Qualifications Authority—which appears before the committee quite often—which undertake very important tasks, or equally important tasks, and they manage perfectly well. Ministers make a virtue of those organisations being at arm's length from the Government.

Graeme Munro: There is no single correct answer on that one. I go back to the point that I made in my original comments that, as an executive agency, we are directly accountable to ministers and, through them, to the Parliament. There is a much more direct line of accountability than there would be for an NDPB.

Michael Russell: Absolutely. We can and do have robust discussions about policy details with the chief executive and the chairman of the SQA. I mean this as no criticism of you, Mr Munro, but those discussions take place in a much more meaningful fashion because the SQA is able to answer our questions. I understand that you are not reluctant to answer our questions but you are simply observing the conventions.

I have another important point about money. We have heard the information from Councillor Chalmers, which has been partly confirmed by information that we have received from elsewhere. We therefore know that there is an underspend issue in Historic Scotland. Would you like to explain that issue to us?

Graeme Munro: Certainly. I am very glad to do so because the information that was given earlier was not accurate.

I go back to the previous two years when our rate of expenditure on our grants budget was 98.3 per cent and 99 per cent. That is typical of what

we have achieved over the years through very careful management of our grants budget. I think it is a record that not many organisations could better.

In practice, we always have more schemes and commitments in the pipeline in any given year than the budget can cope with for the simple reason that schemes often fall away. Weather can affect when schemes start, or other partners' funding might not become available.

As late as August in the financial year 2001-02, which finished in March, the Historic Buildings Council was expressing concern at the over-commitment in the system and was sounding the alarm that we were heading for an overspend. In about December 2001 or early January 2002, it was apparent to us that several major schemes that we expected to start in the year were not starting. We can pay out grant only when work starts and expenses are incurred. We cannot give out grants before expenses have been incurred.

We reported to the council at its meeting in February that an underspend was a strong possibility. One council member asked us whether we would make an effort to use that underspend on other schemes as part of our wider responsibility for the built heritage. We did that, which was proper. Money is allocated to Historic Scotland as a block for the range of activities. We shifted £1.8 million in two or three months on proper expenditure in support of the built heritage. At the council's most recent meeting, I explained those other items of spending.

We ended the financial year with an underspend in the agency as a whole of £1.1 million, on which we secured end-year flexibility carry-forward in excess of £700,000, so the built heritage lost about £300,000. Before devolution, we had an arrangement under which we had, in effect, 100 per cent end-year flexibility. We have lost that for the time being. I have raised that issue with colleagues in the core executive with a view to recovering that.

Much of our income is seasonal, through our properties in care. We often do not know until well through the financial year how much income will come from that route, which forms more than a third of our total budget. It is not easy to shift money at the end of the year.

Michael Russell: What is the position for the current year?

Graeme Munro: We do not expect an underspend of anything like £4 million. We are working as hard as possible to get as much grant money out of the door as we can. Our estimate is that we might have an underspend of about £1 million.

Michael Russell: That diametrically opposes the other evidence that we have received, so we will have to scrutinise that issue. Having told us that, essentially, all that the Historic Buildings Council does is rubber-stamp expenditure decisions that Historic Scotland's officials recommend—we will check that in the *Official Report*—you then told us that, in a curious way, it was the Historic Buildings Council's fault that the situation had arisen. I am sure that you did not mean to suggest that. You cannot have your cake and eat it. Either Historic Scotland was making decisions for which Pat Chalmers and her colleagues were mere ciphers, or the Historic Buildings Council was doing an important independent job, in which case the account that you have given us does not hold much water. We must return to the crucial issue of finance when we decide on our recommendations.

Graeme Munro: I am not sure whether I understood you.

Michael Russell: I cannot quote verbatim your answer about the reality of the Historic Buildings Council's role, but I think that you said that the council is a cipher for Historic Scotland's recommendations, whereas now you tell us that the fault on financial questions was in some sense the Historic Buildings Council's.

Graeme Munro: No.

Michael Russell: I am glad that you are not telling us that, because the two answers do not match. Now we will have clarification.

Graeme Munro: The council says now that it was shocked by the outcome at the end of the year. We were surprised, too. We did not expect those projects not to go ahead. The council cannot now say how shocked it is about the underspend when, as late as August, it was expressing concern that the outcome would be the opposite of that, according to the figures that we supplied to it.

Michael Russell: We must consider the issue in depth before we report.

The Convener: You said that more schemes were in the pipeline than the grant could cope with. I assume that more money than is available was committed, yet there was still an underspend. You said that it was difficult to watch developments because what happened was not what you expected. What monitoring process is in place? The committee has experience of other agencies that have committed more money than they had, not monitored that effectively and ended up with overspends. I am a bit concerned that what you are doing may create problems.

15:30

Graeme Munro: We have a detailed monitoring

system in place. My staff telephoned the main grant recipients monthly to ask what their spending expectations were. Month by month, we asked grant recipients when they would be on site and how much money they expected to claim. Detailed monitoring was in place.

The normal assumptions that we make did not work this year. In the past, we have committed roughly £14 million to spend £11 million. Experience tells us that over-commitment on such a ratio leads to the outcomes that I mentioned—management fine tuning to 98 or 99 per cent. Grant applicants told us in January 2002 that many schemes that we thought would go ahead—and were told as late as December would go ahead—were delayed. We lost expenditure of as much as £600,000 on one scheme, which we were told in good faith in December would go ahead but in January were told would not go ahead for a variety of reasons. Those factors were outwith our control.

The Convener: We will return to that issue. You suggested that the committee's evidence from the Historic Buildings Council was incorrect. You also said that Historic Scotland provided the Historic Buildings Council with detailed information. Does that happen quarterly or monthly?

Graeme Munro: At every meeting, we give the council detailed financial information for the current year and the years ahead. We have altered that two or three times in recent years at the council's request to present that information in the way that it finds most meaningful.

The Convener: Does that information cover the status of projects, when you expect them to start and the monitoring that has been undertaken, so that the council knows of a possible slip?

Graeme Munro: We have not given the council detailed information scheme by scheme, but we have given it the overall estimate, which is based on the underlying spreadsheet. The council does not see the spreadsheet, but it sees the results.

The Convener: If the council is responsible for the detail of grant giving, it should receive such information, so that, if one scheme is going to slip, it can bring another scheme on stream. Why does Historic Scotland not give the council that information, to which it is entitled?

Graeme Munro: The council has never asked us for that information. We have given it financial information in the form that it has asked for. The information is pretty detailed. I do not have a copy of one now, but at every meeting the council receives a two or three-page statement of the financial situation, which covers expenditure so far this year, the percentage of the total that that represents and the degree of commitment in the scheme for this year. The information also looks

three years ahead and at the extent of the commitments. It is broken down into indicative offers and firm offers. A good deal of detail is provided. The information does not go down to individual scheme level, because I suspect that that would land the council with more detail than it wanted. A good deal of analytical information is provided in every quarter.

The Convener: We can look into that in more detail.

Michael Russell: How do you react to Pat Chalmers's evidence that the previous chairman of the Historic Buildings Council resigned in frustration and disgust at the way in which he had been treated?

Graeme Munro: I will read you a paragraph from the letter that the previous chairman wrote to me after his resignation. He said:

"I did enjoy my six years greatly, and leave with great respect for the effectiveness of Historic Scotland and much affection for it and, very particularly, for you and the team you have built up."

Michael Russell: That is another matter that we will have to consider.

The Convener: Thank you for attending.

I welcome to the committee the Deputy Minister for Tourism, Culture and Sport, Dr Elaine Murray. Do you wish to make any introductory comments prior to questions, minister?

The Deputy Minister for Tourism, Culture and Sport (Dr Elaine Murray): No. I provided a written submission and I am well aware that you can all read, so I will just press ahead with questions.

The Convener: Excellent. I will kick off the questions. We have received substantial information, which has not been challenged by Historic Scotland, that contradicts the information that you gave us. We understand that there was in fact a 79 per cent return on the consultation and that 91 per cent of the consultees responded that they did not want the abolition of the HBC. Obviously, Historic Scotland was reluctant to provide us with any more information. Can you tell us why ministers decided to opt for a consultation process and then, it would appear, simply ignored the outcome of that overwhelming body of opinion?

Dr Murray: Perhaps you could allow me to give what is, after all, my interpretation, because I was not in office when the consultation was taking place. I can let you have my understanding of what went on in the original consultation and what came from the review of public bodies.

People were asked to look at four criteria against which all non-departmental public bodies would be judged. The results of that indicated that

the two NDPBs in question, the Historic Buildings Council and the Ancient Monuments Board, did not fulfil those criteria. However, Historic Scotland then wrote again to interested parties—selected, I think, by Historic Scotland—to elicit their response to the suggestion that the HBC and the AMB did not fulfil the criteria. My understanding is that the responses were favourable to the two organisations but did not present arguments that indicated that the organisations fulfilled the criteria. Therefore, the judgment was made against the criteria and not against the popularity of the two bodies.

The Convener: I do not think that the issue is about their popularity. I quote a response from North Lanarkshire Council:

“In our view the current arrangements allow independent scrutiny of the Executive’s decision making process and offer the benefit of a wide spectrum of expert opinion.”

Surely one of the most important aspects of the consultation related to issues of openness and accountability. From the evidence that we have heard today, it appears to the committee that the body about whom those two NDPBs were asked to give independent advice was also the body that was asked to give advice to ministers on whether the two NDPBs should be abolished. That seems to me not very open and transparent. In addition, 91 per cent of the people who are directly affected said that they thought that the two bodies fulfilled a useful purpose and should remain. However, the people who gave advice to ministers disregarded that. Those people can offer no explanation to the committee and you are not offering us any explanation either.

Dr Murray: No. The explanation that I am offering is that, although support was indicated for the two bodies, the support did not run contrary to the initial consultation, which indicated that the bodies did not fulfil the four criteria.

The Convener: Let me clarify this: the body that gave advice to you about bodies that were responsible for it will now be given the responsibility of monitoring itself.

Dr Murray: No. The two NDPBs were not responsible for monitoring Historic Scotland. That is the point. The NDPBs were not monitoring bodies. They advised Historic Scotland, but did not monitor it.

The Convener: As several agencies have indicated to the committee, the NDPBs fulfilled a valuable role that was independent of Historic Scotland. However, that body was seen as the judge and jury on the future of the HBC and the AMB, giving you advice and running the consultation. When we ask Historic Scotland to go into the detail of why it came to its conclusions, it refuses to do so. That seems to contradict the

process of openness and accountability. You do not seem to be able to give us any further information either.

Dr Murray: I am giving your further information. There were two consultations. The second consultation did not come up with any further evidence that the criteria were fulfilled.

I am quite surprised by the fact that many of the people here today who appear to be keen to save quangos have, in the past, called for a bonfire of the quangos. However, if there are to be non-departmental public bodies, we have to have a set of criteria against which judgments can be made.

The Convener: No one, especially not the members of the committee, is saying that they do not want a bonfire of the quangos. We are suggesting that we are surprised by the manner in which the two bodies were chosen and by the fact that the advice appears to have been given in a way that is not open and transparent.

Dr Murray: I have been passed a note that tells me that the advice was given by the secretary of the education department, not by Historic Scotland.

The Convener: That is contrary to the evidence that we have received.

Jackie Baillie: I will calm the tone of the discussion a bit. Whatever people might think about the proliferation of non-departmental public bodies, we have to be clear that we are getting rid of the right ones and that the functions that need to be carried out will be carried out.

I want to make some process points, as that should clarify the matter. It appears that Historic Scotland, as the sponsoring agency for the two non-departmental public bodies in question, provided advice to ministers—whether it did so directly to ministers or to the secretariat does not matter, as the advice ended up with ministers either way. Therefore, there is some surprise that the decision following the consultation, which was not about popularity—a reading of the responses shows that there were detailed points that required consideration—was not for abolition in favour of a robust successor arrangement but for abolition without a firm interim plan. Today, we are picking up clearly the fact that people feel that there is a vacuum.

Without wanting to spend too much time on the advice that was given to ministers, I would like to talk about successor arrangements, which I would hope any responsible agency or Executive secretariat would ensure were part of the jigsaw, although that does not seem to have happened. What successor arrangements does the Executive envisage putting in place should those two non-departmental public bodies be abolished?

Dr Murray: The two functions of the two non-

departmental public bodies, scheduling and grants—listing is dealt with by Historic Scotland, which is an anomalous situation—would be carried out by Historic Scotland. In a way, they already are, as Historic Scotland gives the non-departmental public bodies advice. Historic Scotland is accountable to Scottish ministers and to the Scottish Parliament. If people are unhappy about the decisions that Historic Scotland makes, they can raise the matter with an MSP who will raise it with the minister. If the minister does not like what Historic Scotland has done, they can challenge Historic Scotland and if the MSP does not like the response that they receive from the minister, they can publicise that in whatever way they wish. I think that that chain of responsibility is particularly transparent and accountable.

The Convener: Let me clarify your position. Are you opening up the possibility that every decision on grants made by Historic Scotland would be challenged in the Scottish Parliament?

Dr Murray: I am not suggesting that that will happen. However, if people are unhappy with a decision made by Historic Scotland, the mechanisms of the Parliament can be used in order to elicit why decisions have been made. That is the situation in relation to all manner of agencies that are answerable to the Scottish Executive. That is one of the post-devolution changes.

Jackie Baillie: I am well aware of the post-devolution changes, but you seem to be closing down the possibility of having any independent expertise.

Dr Murray: I am not. I am replying on that point and I have not yet gone on to—

Jackie Baillie: I asked about successor arrangements and I thought that you had completed your contribution.

15:45

Dr Murray: I was addressing the point about transparency because a lot has been made of that today. However, on the issue of advice, I am keen to explore the possibilities of some sort of advisory agency involving the voluntary sector. A large number of voluntary organisations have expertise in a number of areas in the built and natural environment far beyond simply scheduling and grants. I would hope that we could develop some sort of relationship with them in relation to policy development and the criteria for grant allocation rather than simply in relation to individual aspects of legislation.

I have had one meeting with Scottish Environment LINK, which I think should have an increased role in advising the Executive from an

independent perspective.

Jackie Baillie: The problem with the debate that we are having is that it appears to be quite woolly. People are concerned that there will be a vacuum before such an advisory body is set up. More detail to the proposals would be welcome.

Dr Murray: The reason why the debate seems woolly is that it would not be necessary to make the arrangement statutory, which is why it is not included in the bill. However, that does not mean that there is no will to move on to a more transparent system of debate with other interested parties.

Jackie Baillie: I accept that the arrangement does not need to be in the bill, but people are concerned that the value that has been added and the expertise that has been built up by the two organisations will be lost.

Michael Russell: I want to build on that point, as there is a problem in what you are saying, minister, as well as solutions to the problems that have been created. You have painted a most extraordinary picture of the abyss into which we could fall, with every decision on grants and listing becoming a political decision that will be fought through the pages of the *Irvine Times* or whatever.

Dr Murray: That is a load of nonsense.

Michael Russell: Let me finish, minister. You have said that the route for accountability would be solely political as it goes only through the minister.

I do not want to embarrass him, but we have the opportunity of having one of Scotland's most distinguished historians, Michael Lynch, help us out of the problem and, with his colleagues, advise us on some of the issues that are involved. That would be a useful court of appeal—although it would be far less useful if it were informal—before the process falls into the political abyss. I cannot understand why you would want to reject that.

Dr Murray: When has such a court of appeal worked? In the past five years, there has been no challenge to Historic Scotland's advice, as far as I am aware.

Michael Russell: The evidence that we have received from Michael Lynch, which you can read in the *Official Report*, indicates a cogent argument for the way in which the arrangement would work. However, I will let you read that for yourself.

I want to talk about the successor bodies, as the interesting issues that Jackie Baillie raised can be taken further. What is the rationale for insisting that Historic Scotland be an executive agency?

Dr Murray: As that has nothing to do with the bill, it is not necessary to discuss that here.

Michael Russell: The director of Historic

Scotland was willing to discuss that with us, but it appears that you are not.

Dr Murray: It is a discussion for another time. I am perfectly aware of where you are coming from.

Michael Russell: With the greatest respect, minister, I am trying to find out whether another model could be applied that would help the situation. All the other witnesses have been happy to discuss the matter. Roger Mercer was happy to acknowledge, in relation to the Royal Commission on the Ancient and Historical Monuments of Scotland, that different synergies could be considered across the public bodies. I am in favour of a bonfire of the quangos, but I am not in favour of chucking into the fire everything that we have, including the valuable things.

Dr Murray: So you want to get rid of the Scottish Arts Council and not certain other quangos.

Michael Russell: I want to restructure public bodies in Scotland for logical purposes. I will ask you a question and you can choose whether to answer it or not. Would it be worth discussing making Historic Scotland, in a different form, a non-departmental public body, hiving off the royal palaces for the reason that they are hived off in England, introducing an independent element by some sort of synthesis of existing bodies and, if necessary, making the Royal Commission on the Ancient and Historical Monuments of Scotland part of the National Library provision? Might not that model reduce the quangos by the same number while providing a logic to the situation by creating a synergy among the bodies and diminishing the power of Historic Scotland, which, as our witnesses said, is a body against which there is no appeal?

Dr Murray: Those are not the proposals in the bill and they are not the proposals that came out of the first consultation. That is not the issue that is up for discussion today. I am not denying that there might be merit in discussing the relative values of different models, but that is not what we are here to do today. We are here to do a stage 1 examination of a bill and a set of proposals. Historic Scotland and its future is not part of that.

Michael Russell: So you are asking Parliament to kill off those bodies without having any security about what will take their place. Many of us would regard that as a dangerous thing to do.

Dr Murray: Why is it dangerous?

Michael Russell: It is dangerous because we might be throwing the baby out with the bath water.

Dr Murray: Give me some evidence.

Michael Russell: We have had the evidence

from this afternoon's witnesses. No doubt you will read it. Having been sceptical about some of the material I have read about the issue in recent months, I have to say that cogent cases have been put to us. I do not think that I am alone in holding that view.

Mr Monteith: The fact that an organisation such as Historic Scotland can carry out a review on behalf of the Executive and give the recommendations that it has given, when 91 per cent of those responding have given a contrary view, throws up what the issue is. That is the point that the convener and members of the committee have been trying to make. There is disquiet with regard to independence of thought. Jackie Baillie asked about successor arrangements and the minister said that she hoped there would be some sort of relationship.

Dr Murray: I intend there to be a relationship with the voluntary sector. That is being developed at the moment.

Mr Monteith: You say that you hope and that you intend, but you are not able to tell us. You do not have a clue, do you?

Dr Murray: I do have a clue.

Mr Monteith: Can you tell us what will follow?

Dr Murray: I have explained that we are considering a relationship with the built environment forum. What is your description of people not having a clue based on? What do you know about the discussions that have taken place?

Mr Monteith: We are here to hear about the discussions.

Dr Murray: My officials and I have had discussions with members of other organisations. From those discussions, the intention is to develop a closer relationship with those organisations in order to examine the whole set of policy issues on built heritage. We are not talking about simply examining listing—or, as I should say, scheduling and grants, as listing is not covered by an NDPB. We are talking about how we develop a policy on relationships in relation to the built environment.

Mr Monteith: Do you feel that there is a need for a statutory requirement for various bodies, or a collegiate body, to give advice?

Dr Murray: I am not convinced that there is a statutory need for that, no. There is not a statutory requirement for every consultation that the Executive undertakes.

Mr Monteith: No, but there are statutory requirements at the moment for the organisations that we are discussing.

Dr Murray: Yes, and predominantly for historical

reasons.

Mr Monteith: Why do you believe that there should not be a statutory requirement?

Dr Murray: I do not believe that it is necessary.

Mr Monteith: I understand that you do not believe that it is necessary. Why not, when there is already an arrangement—

Dr Murray: Because a statutory requirement is less flexible. The possibility of developing relationships with different organisations means that we can include different organisations in different parts of consultation. We would not be either ruling in or ruling out different organisations. That gives more flexibility to the arrangements for consultations than would prescribing at this stage what those relationships should be.

The Convener: The difficulty that the committee is having is that it is being asked to approve the general principles of the bill. Some genuine concerns about future arrangements have been raised with us and they have struck a chord with every member of the committee. However, we are no further forward in knowing what those future arrangements will be. It will be difficult for us to approve the general principles of the bill without knowing in some substantial detail what is coming next.

Dr Murray: In the bill, we are considering two aspects of the built environment. The first is the procedure for grants, which are made by Historic Scotland as it is. Historic Scotland receives independent advice, but the grants come from money within its budget. I know that there is an issue about underspend, but there are mechanisms in place that can monitor that in future. There is a role for ministers in ensuring that that problem does not continue to occur or in pulling things in if it does.

There is also an issue about giving grants. One benefit of the system whereby Historic Scotland would disburse grants is that one could get the money out a lot faster. Instead of having to go to an advisory panel for its advice and then come back, Historic Scotland could evaluate those grants against the criteria and get the money quickly out the door to the applicants. There is a benefit in not having to go out for independent advice and come back again. The other benefit relates to scheduling. Clearly, the AMB gave advice on scheduling, but scheduling can also be decided by sets of criteria. Therefore, only two specific aspects of the built environment will be affected; we are not talking about anything broader.

Our relationship with the voluntary sector is different from the mechanisms that were in place when the two NDPBs were set up; it has a much wider aspect. It is not just about dealing with those

two aspects of the built heritage. It is also about looking at policy development. That is what the Executive should probably be looking at in a broader sense.

The Convener: I appreciate that, minister. We are well aware of what is in the bill and what is not. We are being asked to accept the general principles of the bill, which will result in the abolition of the two NDPBs that are directly accountable through Historic Scotland as the sponsoring agency to the Executive.

Dr Murray: Historic Scotland is also directly accountable. That accountability has not changed.

The Convener: I am picking up from members' questions that we are not convinced by the arguments for abolishing the HBC and the AMB and replacing them with nothing. We think that that will create a void. I may be understanding members wrongly, but it seems that we are not convinced. Unless we have more information about the future of the functions and responsibilities of the two bodies—

Dr Murray: The two particular functions and responsibilities will revert to Historic Scotland.

The Convener: That is the key problem, there is no—

Dr Murray: Okay, perhaps we should explore why that is a problem.

The Convener: Because there is no independent analysis. That is the key problem.

Mr Monteith: Minister, you will be well aware that Historic Scotland has commercial operations.

Dr Murray: Of course.

Mr Monteith: Could there be a conflict of interest whereby that body has to deliberate and come to a judgment on giving a grant for a building that may form competition for Historic Scotland's commercial activity? Would not it be advisable to have available a body such as the Historic Buildings Council to give impartial advice?

Dr Murray: Such a body might be able to give impartial advice but, given that the decision rests with Historic Scotland, Historic Scotland could still do what it pleased, could it not?

The Convener: Let me take you to a simple scenario, minister. I am trying to be helpful. The New Lanark Conservation Trust is based in my constituency. All members are aware of that body. There is also Edinburgh Castle. Both organisations need vast sums of money to keep them running. Both organisations might apply for grants. One organisation is operated by Historic Scotland and the other by a voluntary management committee. One organisation could get a grant while the other would not—Historic

Scotland would make that decision. How can I have confidence in that procedure if there is no independent scrutiny?

You may say that Historic Scotland made such decisions in the past anyway. However, we heard evidence today that that is not the case and that there were informal discussions. How can I have confidence that there is no conflict of interest if New Lanark Conservation Trust loses out to a building operated by Historic Scotland because of a decision made by that body? I cannot.

Dr Murray: I do not know how you could necessarily have been assured of that before.

The Convener: There was independent scrutiny.

Dr Murray: The point is that Historic Scotland was not accountable to the HBC. The HBC was accountable to Historic Scotland.

The Convener: If there was an issue and a determination had to be made on the basis of the merits of an application, I would have more confidence—

Dr Murray: Historic Scotland would not apply to itself for a grant for its own buildings. It would have that money within the capital lines in its budget, anyhow.

16:00

Michael Russell: Michael Lynch put the issue well in his evidence when we were talking about publication of information. Michael Lynch's body—the Ancient Monuments Board for Scotland—can and does publish the information and advice that it gives to you or Historic Scotland. We can imagine a circumstance in which Historic Scotland gives you advice but we do not know what that advice is because you will not publish it. However, the AMB could advise you that Historic Scotland's advice is wrong. The AMB could publish its advice and so we would have independent scrutiny and information.

If that independent element does not exist, in whatever form—perhaps we could merge the bodies or change their numbers, but I am not worried about that—that valuable independent advice will not be published. All that we might have would be, for example, a letter to a newspaper from Michael Lynch of the University of Edinburgh, to which Historic Scotland could respond, "Well, so what, it is only a letter to a paper."

I think that you are getting an indication from members that they are genuinely worried about the lack of an arrangement to replace that independent element, which seems wrong. The bonfire of the quangos appears to be cutting

things off only for us to discover that we have lost something valuable and gained nothing.

The Convener: I do not think that we will come to a resolution on this matter today, minister. It would be useful if we could write to you with our detailed points, so that you can respond before we consider our response to the bill's general principles. There are genuine and deep concerns across the parties. It would be useful for us to have an explanation from outside the heat of this committee meeting.

Dr Murray: Certainly, I would welcome that. I accept that you are genuinely concerned about the matter. It is obviously something that I would want to look into a bit more closely. I want to see whether there is some way in which the committee can be reassured that there will still be some sort of independent evaluation of decisions.

I return to the fact that Historic Scotland is ultimately accountable to ministers and Parliament. It is not a stand-alone body in decision making, much as it might sometimes be depicted in that way in the press. Historic Scotland is accountable. In fact, the interest in Historic Scotland's decisions in recent months is testament to the fact that Parliament has increased interest in our heritage and built environment. In the longer term, that is to the benefit of the built environment.

The Convener: Thank you, minister.

We move into private session for item 4 on the agenda.

16:02

Meeting continued in private until 16:03.

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