

EDUCATION, LIFELONG LEARNING AND CULTURE COMMITTEE

Wednesday 23 September 2009

Session 3

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CONTENTS

Wednesday 23 September 2009

Col.

| | |
|--|-------------|
| PUBLIC SERVICES REFORM (SCOTLAND) BILL: STAGE 1 | 2715 |
| DECISION ON TAKING BUSINESS IN PRIVATE | 2746 |

EDUCATION, LIFELONG LEARNING AND CULTURE COMMITTEE 25th Meeting 2009, Session 3

CONVENER

*Karen Whitefield (Airdrie and Shotts) (Lab)

DEPUTY CONVENER

*Kenneth Gibson (Cunninghame North) (SNP)

COMMITTEE MEMBERS

*Claire Baker (Mid Scotland and Fife) (Lab)
*Aileen Campbell (South of Scotland) (SNP)
*Ken Macintosh (Eastwood) (Lab)
*Christina McKelvie (Central Scotland) (SNP)
*Elizabeth Smith (Mid Scotland and Fife) (Con)
*Margaret Smith (Edinburgh West) (LD)

COMMITTEE SUBSTITUTES

Ted Brocklebank (Mid Scotland and Fife) (Con)
Hugh O'Donnell (Central Scotland) (LD)
Cathy Peattie (Falkirk East) (Lab)
Andrew Welsh (Angus) (SNP)

*attended

THE FOLLOWING GAVE EVIDENCE:

Nikki Brown (Creative Scotland)
Michael Russell (Minister for Culture, External Affairs and Constitution)

CLERK TO THE COMMITTEE

Eugene Windsor

SENIOR ASSISTANT CLERK

Nick Hawthorne

ASSISTANT CLERK

Emma Berry

LOCATION

Committee Room 5

Scottish Parliament

Education, Lifelong Learning and Culture Committee

Wednesday 23 September 2009

[THE CONVENER *opened the meeting at 10:00*]

Public Services Reform (Scotland) Bill: Stage 1

The Convener (Karen Whitefield): Good morning. Welcome to the 25th meeting in 2009 of the Education, Lifelong Learning and Culture Committee. I remind all those present that mobile phones and BlackBerrys should be switched off for the duration of this morning's meeting. Claire Baker and Margaret Smith are running a little late, but expect to join the committee shortly.

The first item on our agenda is the committee's continued scrutiny, as a secondary committee at stage 1, of the Public Services Reform (Scotland) Bill. Today we have our final oral evidence-taking session on the bill. We will hear shortly from the Minister for Culture, External Affairs and the Constitution on aspects relating to creative Scotland and the Historic Environment Advisory Council for Scotland. I am pleased to be able to welcome the minister, Mike Russell, to the committee. Mr Russell is joined by Nikki Brown, who is the deputy director of the creative Scotland division of the Scottish Government; Colin Miller, who is head of the public bodies division; John St Clair, who is a solicitor with the constitutional and civil law division; and Greig Walker, who is a solicitor with the transport, culture and procurement division of the Scottish Government's legal directorate. I understand that the minister would like to make a statement.

The Minister for Culture, External Affairs and the Constitution (Michael Russell): Thank you for the invitation, convener. It is my first time at the committee; I hope that it will not be the last and look forward to a pleasant discussion with you.

Members will be aware that the road to the formation of creative Scotland has proved to be somewhat longer and perhaps a little rockier than people expected. However, the journey that we have taken is now clear and the tasks that we must still carry out are obvious. I want to talk about those today.

This time last year, following the fall of the Creative Scotland Bill, there was general agreement that legislation to establish creative Scotland needed to be reintroduced as soon as possible. I am grateful to the committee for the

time and careful attention that it is giving, for a second time, to the provisions in the Public Services Reform (Scotland) Bill that will set up creative Scotland, and to considering the views of a wide range of stakeholders who have interests right across the spectrum of arts and culture in Scotland. I was particularly impressed by the evidence that you took at the round-table session two weeks ago.

All the criticisms of the previous bill that the committee made in its stage 1 report last year have been addressed in full. One area in which the legislation is more clearly set out and the groundwork for delivery undertaken is the new body's future relationship with Scotland's creative industries. Over the past 12 months, the Government has worked closely with all the relevant partners, including the Convention of Scottish Local Authorities, the Scottish Arts Council, Scottish Screen, the enterprise agencies and Skills Development Scotland, to establish clarity around who will deliver—and how they will deliver it—the support for the creative industries that creative Scotland is charged with co-ordinating.

Those roles were set out in the creative industries framework agreement that was published in February. "Scotland's Creative Industries Partnership Report", which was published in June, describes in more detail how the arrangements will operate. Creative Scotland will regularly bring together all the responsible agencies to review progress and to identify, and deal with, any obstacles that are getting in the way of the responsive and tailored service that creative practitioners need. The group met for the first time on 9 September; I was present at that meeting.

Creative Scotland is also up setting a series of reference groups—the first two will look at music and film—to hear first hand from practitioners about how they are operating and what they need. I am determined to ensure that the support that will enable the creative industries to thrive will be there and that the routes to support—whether for digital creators, sculptors, craftspersons or visual artists—will be clearer and better signposted than ever before.

Members will be aware that I made a statement to Parliament on 2 April on the expected costs of creative Scotland and that I published at the same time a summary of the best estimates for each item. The figures are reiterated in the financial memorandum to the bill, which was introduced in May. They are robust figures that have been based on sound assumptions. I assure the committee that costs will not increase beyond the totals that are quoted.

The board of Creative Scotland 2009 Ltd, under the excellent stewardship of Ewan Brown, has

been instrumental in progressing all the practical arrangements in readiness for a smooth transition to the new body. I and my officials have worked closely with the company to ensure that the work has been taken forward in parallel with—not in advance of or lagging behind—the legislative process. In accordance with the plan that I agreed with the board when it started its work, it will bring to me next week its proposed structure for creative Scotland. Much will ride on that, and I am determined to get it right so that the body is able to carry forward the best of the predecessor bodies' work with a new vitality and dynamism.

The committee will be aware that part 3 of the Public Services Reform (Scotland) Bill and the accompanying documents were published in Gaelic following the bill's introduction. The committee will also have seen the suggestion in Bòrd na Gàidhlig's written evidence that the Gaelic name of creative Scotland—Alba chruthachail—should appear in the bill. That is right. I am committed to the principle of according equal respect to the arts and culture of those whose first or preferred language is Gaelic, and am therefore exploring the possibility of a Government amendment at stage 2 to give equal legal status to the Gaelic name for creative Scotland. That is entirely consistent with the Government's national plan for Gaelic, which encompasses the national Gaelic arts strategy.

In my capacity as one of the ministers in charge of the bill and with my portfolio hat on, I am aware of the concerns that have been raised in some quarters, including by some of the national cultural collection bodies, about the scope of the order-making powers that are set out in part 2 of the bill. I know that the matter has been raised in the committee too. There is perhaps understandable, but unwarranted, concern that the powers could be used to undermine the autonomy of bodies, and that they could allow improper ministerial intervention in their functions. Some consultees have expressed fears that use of the part 2 powers would not be subject to the same level of parliamentary scrutiny as would the amendment primary legislation for the same purpose.

I assure Parliament that the order-making powers in section 10 of the bill would allow ministers to introduce proposals only for the purpose of improving the exercise of public functions. The powers are subject to stringent statutory safeguards: proposals must be proportionate to the policy objective, they cannot remove any necessary protection from existing legislation, and new or modified functions must be consistent with the general objective or purpose of the body in question. Therefore, the order-making powers cannot be used to remove any necessary protection from an organisation, unless equivalent or similar protections are put in place.

In addition to the statutory safeguards that I have described, the use of the order-making powers in part 2 of the bill is subject to rigorous procedural safeguards. Before ministers can introduce proposals, they must consult widely with interested parties. They must then lay before Parliament an explanatory document that gives reasons for the proposals. They must explain how the statutory preconditions are met, explain how the provisions would improve the exercise of public functions and give details of the consultation, including any representations that have been made. In each case, it will be for Parliament to consider not only the merits of the proposal but whether it is an appropriate use of the order-making powers as opposed to primary legislation.

In short, the process is a parliamentary one: nothing can be done without full statutory consultation, parliamentary scrutiny and parliamentary approval by affirmative resolution. Indeed, the additional requirements for statutory consultation and an explanatory document mean that the process amounts to what we could call a super-affirmative procedure.

Therefore, the powers are not an attack on the independence of our public bodies. They simply provide an alternative procedure to primary legislation for making changes to improve the exercise of public functions, to provide an opportunity to respond to organisational change and to respond to issues such as duplication, bureaucracy and overlap. Constant changes in society put new demands on our public services and we need our public bodies to be able to adapt to those demands within a more responsive public sector.

I am pleased to answer any questions that the committee may wish to put on that issue and any other that is within the bill and my competence.

The Convener: Thank you for those comments, Mr Russell. I am sure that there will be a number of questions to you on the points that your opening statement covered.

Section 6 of part 1 of the bill relates to the dissolution of the Historic Environment Advisory Council for Scotland. What consultation did the Government carry out on that proposal and what were the various options in that consultation?

Michael Russell: We should be clear about what HEACS is and was. Its function was to look at the range of issues within the historic environment and to advise the appropriate minister: nobody else—just the minister. In those circumstances, it was right for my predecessor, in particular, to look at the situation and to ask what advice the minister receives on historic matters—on matters that are for ministers, rather than

anyone else—and whether there are alternative sources of advice.

It was clear—it certainly remains clear to me—that in our changing historic environment landscape there are a range of alternative sources of advice to ministers on such matters. In those circumstances, the principle of having the most effective and efficient public service landscape comes into play. If those alternative sources are available and are of high quality, there is an obligation on ministers to ask whether we have too many bodies and whether they are duplicating functions. What took place was a review of the provision of advice to ministers—the body does nothing else—and it was decided that there are other more effective and efficient ways in which ministers can get that advice.

Historic Scotland is changing; members will have read a lot of material about that. I have asked it to focus on taking a more proactive and positive view of the historic environment and to offer a wider range of advice both to me and to the third sector, which is also active in the area and which has, to some extent, been crowded out by the existence of other bodies. The Royal Commission on the Ancient and Historical Monuments of Scotland is another statutory body that provides advice to ministers. We also have the National Trust for Scotland, which another committee has considered briefly. The NTS is an independent charity, but there needs to be an interchange all the time in the work that is done on the historic environment.

In those circumstances, a decision was made that there were alternative sources of advice, that HEACS is not a necessary body—admirable group of people though it is—and that in the interests of efficiency it should not exist. Some members of the body feel that it should not be removed, and they have made that point, which I understand. However, the historic environment sector is sufficiently positive that it is going forward in a united form. As evidence of that, I should say that I am holding an event this evening at Edinburgh castle for the members of HEACS who are retiring from their posts. I know that I will see all of them, in some form or another, giving advice in other bodies.

The Convener: You touched on the fact that a number of people have expressed concerns, not necessarily about the Government's right to consider the merger of HEACS with Historic Scotland but about whether the principle is right. In particular, they are concerned about whether Historic Scotland will have the capacity to give that independent and impartial advice. What reassurance can you give the committee that you are confident that Historic Scotland, in its new

guise, will have the capacity and ability to give you that advice?

Michael Russell: I am confident that Historic Scotland, as it goes through a process of change and reform, will be more than capable of doing that. I attended the farewell performance, so to speak, of HEACS. A successful conference was held to look at a variety of issues, and at that event I accepted that we should have an annual forum to bring together everyone who has an interest in the historic environment. That will be an additional opportunity for organisations and bodies to give their opinions and views. The first historic environment summit will be held in November, and I hope that the event will happen annually thereafter. That will assist Historic Scotland in its role.

I am keen that Historic Scotland be seen as a proactive and positive partner of all the other organisations and individuals in the sector, rather than as a monolithic state body. I am therefore keen that it changes both the way in which it presents itself to the world and the way in which it operates. I am confident that the good, imaginative and passionate people in Historic Scotland, who really care about the issues, will be more than capable of rising to the challenge.

The Convener: The concept of a summit is welcome, but what would happen if the current culture minister was replaced by somebody else—if you moved on to do something else? What commitment would there be that the Government would continue to have that dialogue and engagement so that all those with an interest in our historic environment can engage with Government and offer advice?

10:15

Michael Russell: There should be a normalcy, if I may use that word—if, indeed, it exists—in the relationship between the minister, Historic Scotland and the whole sector. I do not believe that any minister could operate effectively without that. It is not a question about me: it is a question about the entire sector.

It is important to remember that the sector is made up of Historic Scotland—which is the largest proprietor in the sector, as it holds properties that are in the care of Scottish ministers—the National Trust, a range of private owners, charities and so on, and a range of other people who work in the sector and are concerned about it, such as architects and conservation workers. That range of organisations and individuals has to be represented and involved in discussion and debate. I am very much up for that, and I think that the sector is, too. Incidentally, we would be happy

to welcome members of the committee to the event when it takes place in November.

The Convener: If you write to us formally, I will ensure that that invitation is circulated to all members of the committee.

Historic Scotland is currently an executive agency, and we have no intention of changing that. However, HEACS was a non-departmental public body, which means that it could be seen as having greater independence. How confident are you that Historic Scotland's advice will continue to be truly independent?

Michael Russell: I am highly confident of that. There is an advisory board, which is currently chaired by the chief executive. The organisation is in a process of change. Many of us would wish that advisory board to be preserved and promoted to a more prominent role in the organisation.

It is probably appropriate to say that the process of change includes the announcement yesterday that the chief executive of Historic Scotland is retiring. I pay tribute to him for his leadership and the way in which he has given impartial and strong advice to ministers.

Kenneth Gibson (Cunninghame North) (SNP): Many people have been asking about whether the words, "art", "culture" and "creativity" should be in guidance or in the bill. Could you tell me what your feelings are in that regard?

Michael Russell: As phrased, the bill contains exactly the right balance. The work of parliamentary draftsmen is sometimes a little impenetrable—that is not in any sense a criticism of parliamentary draftsmen. Behind that work, therefore, we have to be clear what the purposes of the bill are, and what creative Scotland is being asked to deliver. I think that those areas are entirely clear, and I will outline them for you, so that we know what we are talking about.

First, there is a focus on the creator. That can be defined in many ways. One of the difficulties of defining "the artist" in legal terms is that we might end up with a definition that includes only a man or woman with a paintbrush, so we have to be slightly careful in the language that is used. However, I do not believe that we can have a cultural policy that does not have at its heart the artist and the creator—you cannot have a railway without trains.

The next priority is access to the work of that creator or that group of creators, and the next priority after that is participation: there is a spark in everybody that can be lit, and that has to be at the very heart of what we try to do. The bill says that the context that those priorities sit in is that of the question of national and international culture. I know that there has been a debate about the term

"national culture", but the term is well recognised—there is a United Nations Educational, Scientific and Cultural Organisation definition of it, among other things. The bill seeks to lay out those priorities as the purpose of national culture. It is clear how that sits in terms of arm's-length policy. I was interested in the committee's round-table discussion of that, because there is some misunderstanding and it is important that we pin the issue down.

It is universally accepted—or, at least, it is the standard model—that the decisions on what specific creators and forms of creativity are supported should lie at arm's length from Government. However, the policy context of what culture is meant to achieve in national terms is quite clearly defined by every Government—the United Kingdom Government defines it by the fact that it has legislation that sets up an arts council or whatever. The Public Services Reform (Scotland) Bill clearly defines what we should seek to achieve: investment in creators, and in access and participation, in the context of national and international culture. That is axiomatic and easy to understand. That is what the bill says, and that is what its language expresses. We might just be counting angels on the heads of pins if we were to go further than that. The bill is quite clear and in my view expresses not just what I believe should be our national cultural policy but what I view as Parliament's consensual cultural policy since it was established.

Kenneth Gibson: So, do you think that further definitions might prove counterproductive and might create dispute in the artistic community about who is and who is not considered to be an artist or a creative person?

Michael Russell: I do not want to define terms further. Some individuals or groups have been concerned—rightly, as there has been an awful lot of difficulty—that they might be disadvantaged in some way, and so they want to secure their advantage. I do not think that further definition is necessary; what the bill says is entirely clear. At the events that we have been holding throughout Scotland, there has been an acceptance of that.

Kenneth Gibson: You spoke about Gaelic in your opening remarks. Bòrd na Gàidhlig has noted that no definition of "culture" has been provided, and it seeks a definition that includes Gaelic itself. Can you talk a wee bit about that?

Michael Russell: I have the greatest respect for Bòrd na Gàidhlig, but I think that its seeking such a definition is wrong. It is axiomatic that the definition in Scotland has to include Gaelic, and any definition that does not include it should not, in any way, be accepted. Bòrd na Gàidhlig is coming from a particular position. Having read the totality of its evidence, I would say that although there is

nothing wrong with special pleading, there is an awful lot of it. We have to step back and take a wider view. We know that Gaelic is at the heart of it and I agree with Bòrd na Gàidhlig that we should make that visible, and I have suggested how we could do that—by ensuring that Gaelic appears in the bill and is given parity of treatment, even in the name of the organisation. That is the ultimate test. I announced very early—you might remember—that creative Scotland would take advantage of a suggestion from Pròiseact Nan Ealan that there should, in the organisation, be a Gaelic post with specific responsibilities, thus making the link real at the early stages of creative Scotland. That is going to happen.

Kenneth Gibson: There seems to be, judging from evidence, a much more positive feeling towards part 3 of the Public Services Reform (Scotland) Bill than might have been the case with the previous bill.

You touched on one of the issues that has caused great concern: that of the order-making powers. In their evidence, National Museums of Scotland and the National Galleries of Scotland raised a couple of particular concerns. You spoke about the issue at some length in your introductory remarks. Could you speak specifically about those organisations' concerns and how you might reassure them.

Michael Russell: I read the evidence from the galleries and museums organisations with interest, and I have discussed the matter with them. I want to make it clear to them that their core purpose and why they exist is to preserve and safeguard the national collections and to hold them in trust for the nation. I am entirely satisfied that the order-making powers under section 10 could not be used to undermine that purpose, which is what they fear. Those organisations are quite right always to ask—at the centre of their concern—whether anything could affect their purpose. I am absolutely certain that the order-making powers could not be used in that way.

I am prepared to do two things. One of them is to discuss the issue with the organisations face to face and in detail. I have met their representatives to discuss the matter, as have my officials, and I have made that assurance clear. Secondly, I am prepared to make that assurance in writing to them. To take that a step further, I am happy to explain to the committee in detail why I believe in that assurance, and what I believe the issues to be. It might be helpful if I wrote to the convener in those terms.

I take very seriously the work that I do with the national collections—the National Galleries of Scotland, National Museums of Scotland and the National Library of Scotland. I have and seek to have the closest of relationships with them. When

they have a concern, I take it seriously. I am absolutely certain that that core function of preserving and safeguarding the national collections and holding them in trust for the nation will in no way be affected by the order-making powers.

Elizabeth Smith (Mid Scotland and Fife) (Con): I will ask you a question in the context of sections 10 and 13. To paraphrase, section 10 is about improving efficiency, and section 13 is about removing or reducing burdens.

In your opening remarks, you assured the committee that the costs of the new creative Scotland would not rise. That is good to hear, but can you also assure the committee that creative Scotland will be able to reduce the legislative burden in a way that the two separate bodies could not have done?

Michael Russell: Yes. We have to remember that we are starting with a blank sheet of paper. At this point, I again pay tribute to Ewan Brown, in particular, as the chair of the board of Creative Scotland 2009 Ltd, and his fellow directors Richard Holloway, the chair of the existing body that brought together Scottish Screen and the Scottish Arts Council; Chris Masters and Peter Cabrelli, both of whom have a strong and distinguished business background; and the distinguished broadcaster Sheena McDonald and the musician and broadcaster, Phil Cunningham, who were brought in with Ewan Brown's agreement because, as you know, I was keen at the beginning to have a couple of directors with practical experience of culture and commerce—or, if you like, cultural commerce. It is a very interesting board, and it has done extremely well.

As I say, we are starting with a blank sheet of paper. Of course, we will never get a tabula rasa, but essentially the directors have to find a way of taking two existing organisations and creating a more effective and efficient body. Given his background, I know that Ewan Brown will do that in the most efficient and effective way possible. Not only does he very much have our support in that, but he has the support of the existing organisations, whose staff I must also pay tribute to. Just after coming into office, I visited the staff of each organisation. One is always concerned for staff who are going through change; however, they were engaging with the process, the real focus of which is to ensure that the proposed organisation can, if I can put it this way, get us as many bangs as possible for our buck.

There is a very strong financial imperative behind the establishment of creative Scotland, and its clearest ex post facto justification is the recession and the need to get as much value for money as possible. However, I should point out that I have been at times a trenchant critic of

bureaucracy in the arts world. I was twice a member of the jury of the creative Scotland awards, which were at one time the largest individual financial awards for the arts in Europe; indeed, the second time, I was the jury chairman. On that occasion, the jury recommended that the forms should be altered, as they were needlessly bureaucratic. Similarly, throughout this whole process, I have been keen to ensure that we have an organisation that is fleet of foot, that works as effectively as possible and that cuts out duplication and unnecessary bureaucracy. That is what we will establish.

However, there is clearly going to be a synergy between two organisations that already have back-room services to deal with a whole range of issues, and we need to find an efficient and effective way to bring those things together. Some of the early discussions that I had with Ewan Brown centred on ensuring that, when we came up with what I call the robust best estimates of the costs of creative Scotland, we were not gold plating anything. Instead, we wanted the organisation's services to reflect the fact that we are bringing together two comparatively small organisations and ensuring that they work as efficiently as possible.

The committee has already met Ewan Brown. I do not think that anyone can doubt his engagement in this task. I have also been impressed by the engagement of the existing organisations, and I think that we are going to end up with an organisation that is focused on delivering for its clients, who are, first, the artists and creators and, secondly, all the people of Scotland.

Elizabeth Smith: Thank you for that very full answer.

Mr Gibson said that the Public Services Reform (Scotland) Bill has been better received than the Creative Scotland Bill, which for various reasons fell this time last year. Why do you think that that is the case?

Michael Russell: The Public Services Reform (Scotland) Bill is better because of the parliamentary process. The legitimate questions that this committee and others raised have now been answered.

The process itself has been better. It has certainly been my intention, with Ewan Brown and his colleagues, to engage closely with the entire sector. It is also important that we focus people's attention on reality. Since devolution, we have had a decade-long debate about Scotland's cultural structures, and the talking had to stop at some stage. There has been a realisation that the proposals are not an attempt to do anybody down. There was a fear that if the creative industries got

X, the visual arts would not get Y. We have to reassure people that there is an attempt to be fair and equitable across the sector, to take an efficient approach and to say, "Let's have done with this debate and get on with the job in hand."

10:30

I have been keen to engage as many people as possible. We have started a process of quarterly meetings for the entire sector—anybody can come if they want to. The first was held at the Lyceum in June, and the second will be held in Perth on 5 October. Members of the committee, I think, and certainly party spokespeople were invited to attend—members would be welcome to attend if they wanted to. In Perth, Ewan Brown, Richard Holloway and I will be available to answer questions, and the agenda will be set by those present. There is a desire to have an open discussion, to keep people apprised of what is taking place and to listen to them. There will be an online forum for creative Scotland, which I think is about to open and which will allow people to comment on and take part in the process.

Elizabeth Smith: One of the controversial issues around the Creative Scotland Bill was that there was perhaps a vagueness about the role of Scottish Enterprise and Highlands and Islands Enterprise. How will the addition of the creative industries to the Public Services Reform (Scotland) Bill sit with the role of those two bodies? We could do with a little reassurance on that.

Michael Russell: To which two bodies are you referring?

Elizabeth Smith: Scottish Enterprise and Highlands and Islands Enterprise.

Michael Russell: Okay. One of the most difficult things in the process has been putting in place a creative industries framework and making it real. I know that your colleague Ted Brocklebank was very focused on that issue. I have to say that the hardest thing that we have done is getting that to work. We have had to bring together Scottish Enterprise, Highlands and Islands Enterprise, COSLA, Skillset and a variety of other bodies and focus them on the task of co-operation. The decision not to subsume the budgets and responsibilities of Scottish Enterprise and Highlands and Islands Enterprise into creative Scotland was sensible. It would have been incredibly difficult to unpick an organisation to put it into another in that sense.

In addition, the moneys were not discrete. One of the most interesting aspects is the belief that discrete moneys were used for cultural investment by bodies such as Scottish Enterprise, but there were no such moneys. You can look at a variety of

bodies that are funded, such as computer games companies, and say that that funding is on the edge between cultural investment and industrial investment of one sort or another. Once you make the decision, you have to have a collaborative process, which has to be co-ordinated but not dominated by any one player.

We have managed to establish a *modus vivendi*—a very amicable one now—between those bodies, which essentially signposts a way through for anybody who is going to get involved. They do not need to see the mechanism behind it. What we need to know is that any individual or small company wishing assistance can get it. That requires a change in mindset. Scottish Enterprise's policy of investing in fast-growing or larger companies does not seem to sit very well with that, so we have had to ask it how it is going to change its focus. It has addressed that question, and I am very impressed by the change that has taken place. We have also had to persuade people within the creative industries that that change of focus was going to happen, because they did not believe that it would.

We now have a really good set of relationships and working arrangements that are providing, and will provide, benefits, but we are testing them all the time. I have said to all the people involved that if they have any difficulty getting through the process they should let me know, so that we can fine-tune it to ensure that it works for people. We have something that will work well and which will also have influence.

I am particularly grateful to Harry McGuigan in COSLA because he has worked hard to make this work. We have agreed to hold a joint event at which we will talk to local authorities about their involvement with creative Scotland. COSLA has been a good, honest, honourable and enthusiastic partner, which has been enormously helpful.

Aileen Campbell (South of Scotland) (SNP): I want to go back to the terminology and, in particular, the use of the phrase "Scotland's national culture", which is broadly defined in the policy memorandum as:

"any form of creativity which adds to our collective understanding of our distinctive national culture in its broadest sense—as a way of life. Artistic and creative output necessarily represents, describes, explores, responds to and sometimes challenges Scotland's culture. In doing this it also in itself adds to and is part of that culture."

The Federation of Scottish Theatre and the Royal Society of Edinburgh had some concerns about that being in conflict with the arm's-length principle, and the RSE wanted to replace the phrase with "cultures of Scotland". However, Donald Smith said that he found that particular phrase rather woolly. We heard evidence from

Nikki Brown, who said that the Government had taken on board what the RSE said, but was minded to retain the original wording. Why are you minded to retain the original wording?

Michael Russell: I agree almost totally with Donald Smith's evidence to the committee on that. There are three issues. One is that the term "national culture" is a plural, although it does not sound like it. A national culture embraces a range of strands. I often say that it is as multifarious as the ground on which we stand. I agree with Donald Smith first that there are many components and secondly that the phrase "cultures of Scotland" sounds very woolly indeed. It opens up a raft of questions, such as how we define the cultures of Scotland and where they are. That expression is not nearly as neat as "national culture".

The third point is about the international context. The issue is not a problem in most places. The meaning of a national culture is clearly understood in UNESCO terms. It is not narrow; it is very broad indeed. Because the word "international" is in the bill, we have the great good fortune of reflecting something that we should always reflect, which is that the culture that is carried in each of us—what we represent and who we are—is a combination of where we stand and what we see. We are rooted where we are. A complex series of different things is involved: each of us in the room will have a different rooting or grounding, but each of us can also look up and see the widest world and be influenced by it.

The phrasing in the bill works. It expresses the issues correctly. It is international in its aim and in the terminology that is used. We could debate the issue for ever, but I think that we have the right definition and that we should stick to it.

Aileen Campbell: Will you expand on the potential of the international element for creative Scotland that is in the bill?

Michael Russell: We have a strong international offering and we are strongly influenced internationally. There should be no question but that those currents will run through everything that we do. The events in Edinburgh during the summer are a good example. Nobody could go to any of the Edinburgh festivals and fail to recognise Scotland's extraordinary internationalism. In the official Edinburgh festival—just grabbing one weekend out of the air—you could have seen, as I did, an opera that was partly in French, partly in Gaelic and partly in English by a Belgian company with French and Gaelic singers, one of whom—the principal—lives in Ireland. There is a huge link there. A couple of days later, you could have watched one of the Romanian national theatre companies performing a play that is based on a German text in a hall that is part of the Royal Highland showground. The

internationalism is there. You could spend every day doing that—you could go to the fringe and watch an endless number of such events.

We have a real internationalism in our culture. Using the expo fund, the Government has tried sensitively to promote the best of Scotland in that international context, and that seems to have worked well. One festival that does not happen during August is the Imagine children's festival, and it has resulted in three children's theatre companies going from Scotland to New York to perform. That is excellent. A range of people also come here. We have internationalism running through our cultural DNA. The bill says that that is a fact, which it is, and endeavours to ensure that we operate in that way. Creative Scotland will do just that. Of course, a new organisation can be ambitious and can find the right way to do that. We have a small touring fund for the national companies. Scottish Ballet was in China this year and the Royal Scottish National Orchestra will be in France early next year. A range of things is happening. We should accept as a given that we operate on the cultural stage, nationally and internationally, and that there is two-way traffic.

Aileen Campbell: We have heard relatively few concerns about the term "Scotland's national culture". Does that indicate broad contentment with the term among the people whom you have spoken to and worked with in the past few months?

Michael Russell: It is legitimate that there should be a debate about every word, comma and full stop in the bill. However, by and large, there is a realisation that we have got the definitions broadly correct.

Ken Macintosh (Eastwood) (Lab): I will pick up on some of the questions that Liz Smith asked, beginning with one about creative Scotland's relationship with other agencies and bodies. I heard your earlier remarks about the fun that you had in getting all the bodies to agree a position and about the amount of effort that you put into that. In its evidence, COSLA says of creative Scotland:

"we also strongly believe that it is not meant to act as the lead agency."

Is that your thinking on the subject? Do you feel that there is room in the bill for a statutory duty on local authorities to take account of creative Scotland, as has been suggested?

Michael Russell: I will deal first with the definition of "lead agency". The phrase that we use is "lead co-ordinating body"—a phrase that it took some time to thrash out. One of the difficulties has been the fact that a number of bodies—quite rightly—have their own agendas, concerns, budgets and ways of operating. We will get

effective co-operation only if we recognise that and then build on it. I am happy to describe creative Scotland as the lead co-ordinating body within the creative industries, which will allow it to operate effectively. Indeed, judging by the evidence from a meeting that I attended on 9 September—the day on which you took evidence from creative Scotland—which was chaired by Ewan Brown and involved a number of the people from whom you have taken evidence, I think that it is going to work pretty well. There is recognition that creative Scotland has the co-ordinating function but that it will not dominate the work and that each of the players is bringing its budget and activities to the table. I therefore accept that what COSLA says is right. We are all trying to get an effective organisation going, and I think that it is working. We ought to be reasonably happy with what is happening.

What was the second part of your question?

Ken Macintosh: It was about the suggestion that a statutory duty be placed on local authorities to take account of creative Scotland.

Michael Russell: I would be reluctant to do that. The way in which to engage local authorities more broadly in cultural issues is to encourage them to follow the example of others. That is why Harry McGuigan and I have agreed to convene a joint meeting between local authorities and creative Scotland—a sort of conference at which we can discuss the best relationships. I think that we should allow that approach to take effect.

It is wise to recognise the big disparity that exists in relation to involvement in cultural matters among the local authorities. I am not criticising anybody; as you will know, for historical reasons some authorities have had a bigger involvement than others. I pay tribute to the lead local authority in Scotland, Glasgow City Council, for spending more than £20 per head on culture. Some individuals in Glasgow, such as Liz Cameron, have been inspirational in mainstreaming culture within the city's concerns. That work has been of great benefit. However, other local authorities—I will not be invidious and name them, but some would surprise you—spend less than £1 a head on culture. We must persuade those authorities of their own self-interest in investing in culture and in working with creative Scotland so to do. That will be a long process.

I am not sure that adding another statutory responsibility for local authorities would change the minds of the backsliders, nor that it would encourage further those local authorities that are pretty good at investing in culture. If I may do so, I quote Thomas Hardy, who said, "Encourage always. I encourage always." That is what we are trying to do.

Ken Macintosh: We left Ewan Brown and the panel of witnesses with the question whether the new organisation would have a regional structure—whether, for example, grants would be channelled on a regional basis. Do you have a view on that?

Michael Russell: No, I do not. As I have said, I am waiting to see the first outline of the suggested structure of the new body. I will see that very shortly. I have established a good and close working relationship with Ewan Brown and his colleagues; with Richard Smith, the transition director; and with the existing directors and staff of the organisations. It would be wise for me to wait and see what recommendations are made, and it would be wise for that discussion to take place openly.

There are arguments for and against a regional structure; there are arguments for and against commissioning editor structures. There is an acceptance of the fact that there should continue to be specialisms within the organisation; however, there are a variety of arguments as to how those should be deployed. We should allow that discussion to take place. It is an exciting and interesting time. The walls are up, I suspect, and we are now on to the work of fitting out. It will be interesting to see what takes place in that regard.

10:45

Ken Macintosh: The previous Executive took the national performing companies out of the Scottish Arts Council funding set-up. Last year we heard about the success of that move. What do you intend the relationship between creative Scotland and the national performing companies to be? How will the companies continue to be funded?

Michael Russell: Mr Macintosh was a member of the Education, Culture and Sport Committee in the first session, so I am sure that he will remember that I was a long-term advocate of direct funding. I am pleased that the previous Executive eventually accepted that argument. Direct funding has been successful and has proved to be the right way of funding the national performing companies. Their stability and ambition are predicated on security of funding, which they now have. They are also predicated on the two parts of direct funding, which is a financial arrangement that also recognises the lead role of the national companies within their respective art forms. They have artistic leadership, as well as financial security and a national status.

I have no intention of interfering with the arrangement, which is the right way of proceeding. Indeed, I am encouraging the companies, as the next stage, to issue an annual report showing the

excellence that is being achieved in Scotland, which Parliament can consider and debate. The companies' relationship with creative Scotland will be mutually supportive—they need to find ways of working together. There is no intention of routing the companies' resources through creative Scotland. The present Scottish Arts Council and others still have a relationship with the companies and recognise their lead role.

The main question at the moment is whether anything is missing from the national companies structure. I cannot answer that. However, a traditional arts working group and a literature working group are presently considering the art forms concerned. The traditional arts working group was set up by my predecessor; I set up the literature group. In both areas, there is recognition of a weakness in national policy. The question is, should there be some form of national company that deals with those art forms in which no one has the lead role that national companies have? Presently we understand national companies as being performance companies. We need not be tied to that definition, but there is some way to go, especially financially, before we could even consider changing it.

The national companies are one of Scotland's cultural success stories over the past 10 years. We should do everything that we can to encourage them.

Ken Macintosh: As you remarked, one of the trickiest issues is the relationship between creative Scotland and the enterprise companies. I suspect that, in the end, that was the issue on which the Creative Scotland Bill foundered. The SNP manifesto—one of the best works of fiction of 2007—

Members: Oh!

Ken Macintosh: It was just a little joke for members.

The SNP manifesto said that you would

"transfer the budget for the creative industries from Scottish Enterprise to Creative Scotland."

I take it that that proposal is now dead.

Michael Russell: One should not confuse vision with fiction. I admire the SNP manifesto as a visionary work. The visions are in the process of being fulfilled—and well fulfilled. Sometimes an idea, when tested fully against circumstances, turns out to be not quite as good as we thought it was, and we come up with a better idea. I am sure that Mr Macintosh, as a pragmatist, will recognise that. What distinguishes one politician from another is the ability to respond to such circumstances by doing the right thing. We could have proceeded pell-mell with the original intention, but the result would not have been as

good as what is now proposed. I tend to find that voters are pretty positive about such pragmatic responses. We have an agreement, under the creative industries framework, that is being implemented and will be effective for the creative industries. That is probably what counts.

Kenneth Gibson: As opposed to knee-jerk opposition.

The Convener: I remind Mr Gibson that he is not in the chair and that it is not appropriate for him to comment at the moment.

Ken Macintosh: I thank the minister for his clarification—from his remarks, it seems that the manifesto was not simply a work of fiction but a work of humorist fiction. However, I think that the minister's words constitute as gracious an admission as we are going to get that that promise is now dead.

Underlying that promise, however, is the relationship that creative Scotland will have with the creative industries. What specific support will creative Scotland give the creative industries?

Michael Russell: I think that that is quite clear. The creative industries framework shows that a group of partners, working well and willingly together, will devote their resources to building employment and creative opportunities in the creative industries.

We must understand what the creative industries are. The Department for Culture, Media and Sport definition suggests that there are 13 different creative industries, but I think that that is too broad. In Scottish terms, there are a variety of so-called creative industries that will benefit from a positive partnership and interaction between the enterprise companies, creative Scotland, the local authorities, the business gateway service, a variety of skills organisations and others.

We have arrived at a pragmatic solution to a problem. The solution will do everything that needs to be done and will steer those who are involved in the creative industries through the process.

You come from a broadcasting background, Mr Macintosh, and I have been involved in broadcasting from the perspective of independent production. The difficulties that I would experience, if I were still a producer trying to work my way through the system, would be eased by the new structures.

I am pleased that that solution has been worked out, but the Government has not done that on its own; it has worked it out with others who have been willing to sit around the table and participate. I think that that is probably a success. The process might be viewed as humorous—we certainly had a bit of fun, but we also had a bit of difficulty—but it

was also successful. I think that you should judge something based on how successful it is rather than how dogmatic it is.

Ken Macintosh: I might be about to stray into the question of funding—

Margaret Smith (Edinburgh West) (LD): Do not.

Ken Macintosh: If that is Margaret Smith's area, I will allow others to ask their questions first and then perhaps return to the issue.

The Convener: I will allow Margaret Smith to ask her questions and, if you feel that there are any points that have not been covered after she has done so, there might be an opportunity for you to get back in.

Margaret Smith: I will stray into the issue of funding all on my own.

Minister, there is a lot of value in what you say about the broader remit that the organisation will have and the collaborative approach that will be taken. However, one of the key issues that have been raised with us is that, although there is a broadening of the remit, which is not a problem for most people—I certainly think that it is reasonable—there is no corresponding broadening of the budget, which certainly seems to be a problem for the people who have been previously funded by the Scottish Arts Council or Scottish Screen and a number of organisations. Some organisations, including the Scottish Artists Union, have gone so far as to say that the first duty of care should be to the art forms that are currently under the charge of the two bodies rather than to new things, which might be likely to happen, given that the organisation itself will be new.

How do you think that the budget will stretch, given the broadening of the remit?

Michael Russell: I have heard that argument made from the beginning of the process, and I think that it is inaccurate for three reasons.

The first reason is that the budget that exists will be enhanced by the synergies between the organisations. I am aware that questions were asked about this matter at the previous meeting, and I think that some people were trying to compare things that were not the same. However, there will be efficiencies as a result of the two organisations being put together. We are not clawing back any money from the organisations, which means that, if the organisations operate in the way that we expect them to by bringing services together and so on, they will have a larger pot to distribute. That is in line with the emphasis on getting money from the back room into the front room, which is something that I have stressed since I took this job. I think that that is

incumbent on any organisation, particularly at this time.

The second reason is that there is access to new money in this arrangement that does not exist within the existing organisations as it involves enterprise resources from Scottish Enterprise, Highlands and Islands Enterprise, local authority business gateways and so on. There is a range of business opportunities that apply directly to the creative industries and which the arrangement that we will put in place will allow creative companies to access. Therefore, at the end of the spectrum that the Scottish Artists Union is concerned with, which is the creative industries end, there will be access to new resources. That is precisely what the new arrangements are designed to do.

Before you ask me, I will say that I cannot quantify exactly what those new resources will be, but I have asked creative Scotland to do so, and it is working on the way in which it will be able to quantify that over a period of time.

The third reason involves a point that everyone around this table will be aware of. We live in difficult financial times. From the draft budget, it is clear that we are operating under severe restrictions. I do not wish to get into a dispute with Mr Macintosh about words or interpretations, but the Government's interpretation of the situation is that the Scottish budget has been squeezed. Under those circumstances, I have worked hard to protect the resources for creative Scotland in its first year of existence—provided that the bill is passed, it will come into existence next year. I am trying to ensure that creative Scotland has the opportunity to move forward.

Finally—if I may give the fourth of the three reasons that I said that I was going to give—we have also put in place the new innovation fund, which is worth £5 million and will encourage some new work and activity to kick-start the new organisation.

Although I understand why the argument is being made and the nervousness that is being expressed, I do not think that any group or any art form will be disadvantaged in any sense. The overwhelming effect of creative Scotland will be beneficial.

Margaret Smith: I note the creative accounting evident in the expansion of your three bullet points. It is quite helpful to have all that on the record, because the issue involves one of the most fundamental concerns that have been expressed.

You talk about the creative industries having access to new money. Will that in effect be their part of the budget, or would that be too much like ring fencing?

I appreciate that creative Scotland is working on how the new streams of money can be quantified, but can you give us a ballpark figure for that money and an indication of when creative Scotland might have finished that work?

Michael Russell: Creative Scotland is working on the issue as part of the process of establishment. I am happy to write to the committee to give some indication of what progress has been made in that regard.

As the organisation establishes itself—probably around the first half of next year—the full effect of the creative industries framework will be felt. Let me give you an example. If you go to Dundee and talk to some of the computer games companies there—particularly the smaller start-up companies—you will find that they are keen to take the opportunity of applying to creative Scotland for funding for a number of tasks, as part of the creative industries. They look at the way in which tax breaks in France and Canada are affecting competition in their sector and are leading to people going elsewhere to work. In those circumstances, making such applications is quite legitimate, as those companies are part of the creative industries—in fact, they are quite an interesting form of creative industry. However, the resource for that would come from the enterprise sector, via the new arrangements that we have set up. Companies will be able to access a resource that they would not have been able to access under the existing cultural organisations, and that will be in addition to the existing opportunities—it is not going to take money from anyone; no writer, visual artist or musician will be deprived because a choice has been made to give money to someone other than them. However, it will be dealt with within the cultural spectrum. That is a positive benefit.

11:00

On quantification, I will get you more information from creative Scotland. From the beginning, we have acknowledged that such quantification will be difficult in the early stages.

I stress that it has been difficult to get organisations that are working on their own priorities to develop a new set of priorities to be co-ordinated by a new body, but I am impressed by the input that there has been. We have had real backing at the chief executive and chair levels in the other bodies, and that is working its way through those bodies. Therefore, I am sure that creative Scotland will work and benefit a range of new people and that it will not be a disbenefit to anybody else.

There were fears at the beginning of the process. At a meeting of the cross-party group on

culture and media, someone from the visual arts told me that the whole purpose of what was proposed was to abolish the visual arts in Scotland. Extreme language has been used. We are dealing with people who are passionate about what they do and who often work in difficult financial circumstances. Nothing in the proposals is designed to disadvantage or do down anybody; rather, they are designed to assist everybody.

I come to the matter not hiding the fact that I was, over a period of time, a trenchant critic of the approach. That is an important point to make, and I make it quite often. However, I was persuaded about the approach by two things, one of which was the argument that I used earlier. We have had enough debate; there comes a time when one simply has to do something. The second reason was the effects of the recession and the need to get more for the money that we are spending. That is the *ex post facto* justification for proceeding in such a way. As somebody who has strongly defended the whole range of art forms in Scotland, I honestly do not believe, hand on heart, that any single art form will be badly affected. Rather, I believe that if they all participate, show enthusiasm and help to shape things in the way that they can, they will all benefit.

Margaret Smith: You have talked about the importance of the staff in the current organisations. I echo what you have said and welcome the work that has been undertaken to allay people's fears where possible, but it is clear that people will leave as a result of the proposals. We know that people in the creative arts are concerned about resourcing—about funding—but there is also concern about the potential loss of expertise on the back of the loss of around 30 full-time posts. I hear what you are saying about getting money from the back room into the front room—indeed, I do not think that anybody would disagree with what you said about that—but what assurances can you give that a reduction in staffing levels of around 19 per cent will not have a detrimental impact on the organisation, on expertise and on particular arts and creative sectors?

Michael Russell: As I said, I have met the staff of the organisations separately, and I intend to do so again. We have also held larger meetings. I met the trade unions on the morning that I made the announcement about financing. Creative Scotland has maintained a close and productive relationship with the trade unions as matters have progressed.

There is a difference between ensuring that the organisation has expertise and issues to do with individuals with expertise. No arts organisation can operate without having a profound knowledge of the sectors in which it works. It needs to know

intimately what the scene is in each area, it needs to recognise the history involved and the current trends, and it needs to be able to recognise where innovation and excitement come from. That is axiomatic; the organisation must do that. That requires the involvement of individuals who have knowledge as consultants and advisers. The Scottish Arts Council used to have, and to some extent still has, expert panels of various types. However, it is important that expertise does not atrophy into prejudice.

I suppose that it is the same with any organisation that has individuals who have been around for a long time; in this case, the arts policy becomes their policy. In other words, what they like gets support and what they do not like or reckon does not get support. I realise that there is always a subjective element to these decisions, but I am keen for the organisation to recognise and be sensitive to this issue. I have written in defence of term limits in politics before; I think that there are also term limits in arts and there should be a churn of the individuals involved in such matters.

As a result, I am not going to give any guarantees about individuals or art forms. Instead, I guarantee that we will follow the overall principle of ensuring that the organisation contains deep, profound, intimate and continuing knowledge of the arts in general and in particular.

Margaret Smith: You are assuring us that your clear direction will be to shift the focus from back room to front room and that any resulting job losses will not jeopardise the knowledge and feel of and involvement in the sector that you have referred to.

Michael Russell: As you will understand, in discussions involving individuals, I do not want to get tied into something and have people interpret my comments and think that I am naming posts. However, I guarantee that the organisation itself will have—indeed, must have—deep knowledge of the arts and culture and that its emphasis must be on front-room delivery. We are at one on this, but I do not want to and should not get tied down to comments that might imply the continuation or, indeed, abolition of individual posts.

Margaret Smith: I totally understand and am happy with that position.

You—and indeed everyone else—are looking for an energised organisation to come out of this period of change. However, Scottish Ballet, for example, expressed concern about the fact that only the chief executive of creative Scotland will be recruited externally. It has been argued that other strategic roles should be opened to external competition, perhaps to give the flux that you have been talking about.

Michael Russell: Such a recommendation would have to come from creative Scotland, and I have seen no recommendations about structure or staffing. I understand why Scottish Ballet makes that supposition in its desire to see innovation in all parts of culture in Scotland. After all, it is doing tremendously well through innovation; last week, I opened its new premises and it has introduced a new joint course with the Royal Scottish Academy of Music and Drama, which I visited yesterday. However, as I say, I have received no recommendation one way or the other from creative Scotland and will simply have to wait and see what it says. If Scottish Ballet is asking for a commitment to innovation in the organisation, I will give it, but I do not know precisely what that will mean.

Christina McKelvie (Central Scotland) (SNP): I want to turn from staffing and funding issues to section 30, which is on directions and guidance. Equity and other organisations have raised concerns over whether the arm's-length principle remains effective. Can you reassure those groups by explaining how the bill protects that principle?

Michael Russell: The bill provides solid protection for the arm's-length principle. There is no change to the current situation.

As I said earlier, it is important to understand that the arm's-length principle is an operational matter that guides decision making in and along the art forms. It is not the overall policy direction in the bill. If that were the case, there would be anarchy. If we simply left artistic activity to other organisations, we would not be able to have an arts or cultural policy in Scotland as we would not be able to define it in a bill.

Logically, you have to look at the role of the Government in this matter. What is clear and what successive Governments of every political hue have accepted is that the Government sets the organisational structure and its objectives and then the organisations make the decisions. The Government does not make individual decisions about who gets what. That has happened under devolution—not under this Administration, but when, on a memorable occasion, money was given to Scottish Opera on the decision of a minister. I do not believe that we should do that. Now that we have the national companies, that will not happen with the national companies, nor should it happen with the Scottish Arts Council or creative Scotland. Indeed, the bill makes it impossible for that to happen. Under the bill, there cannot be a direction to give money to a specific art form, a specific individual or a specific category. In all those circumstances, the arm's-length principle remains untouched.

Claire Baker (Mid Scotland and Fife) (Lab): I had a question on schedule 5, although I think that

the minister has addressed many of the issues around the governance of creative Scotland. COSLA had concerns about unelected quangos and suggested that there should probably be an elected member on the board. I welcome what the minister said about a COSLA event and about having a good relationship with COSLA on such matters.

It has also been asked whether creative Scotland should have a regional structure, but I think that the minister has already addressed that—he said that he was awaiting recommendations on the organisation's structure. Another issue was that of specialisms. The minister has touched on a range of issues, but I wonder whether he has anything further to say about the governance arrangements for creative Scotland.

Michael Russell: One of the issues that I have addressed is how the final board of creative Scotland will be structured, once the bill has been passed—assuming that it is the subject of a positive stage 1 report and goes on to pass through the Parliament; one should never assume that that will happen with a bill. I am highly sympathetic towards the involvement of artists in decision making on the arts. I think that there is a responsibility on artists.

I hope that we will construct the person specifications for board members in such a way that they will encourage artists to be involved in the governance of creative Scotland, and I would welcome the committee's views on that. I have read a lot of commentary recently in which all sorts of groups and individuals have been criticised for being involved in the arts. The *Scottish Review*, for example, seems to be particularly annoyed that bankers are involved in the arts.

I have no prejudice against any particular group, but I am interested in seeing artists and creators involve themselves. It is worth thinking about how that could happen. We need creative Scotland to have a wide representative board that encourages all the things that I have talked about—creativity, access and participation—and which has a knowledge of national and international cultures, but I hope that artists will think that taking some responsibility for the furtherance of the arts would be a good thing.

The Convener: Do you have a final question, Mr Macintosh?

Ken Macintosh: I have several to ask, if I may.

The Convener: We will see how long you take; it would be helpful if you could keep them succinct and to the point.

Ken Macintosh: Yes, I will try to.

I want to return to the funding of creative Scotland. I appreciate that the minister says that it is difficult to quantify exactly how the budget will be used, but does he accept that the organisation will be asked to carry out more functions than the previous two organisations on less money?

Michael Russell: No.

Ken Macintosh: When the committee put the same question to Dr Holloway last year, he said:

"This is a no-brainer: if a body is given a bigger job to do with bigger responsibilities, it needs the resource to do the work."—[*Official Report, Education, Lifelong Learning and Culture Committee*, 30 April 2008; c 929.]

I am sure that Dr Holloway was not accusing the minister of having no brain, but why would he think that?

Michael Russell: I agree with what Richard Holloway said in the quote that you read out, but if I recall—I am trying to have more recall than a goldfish does—you said in your question that creative Scotland would have less money. It is not the case that there will be less money, so it will not be asked to do more on less money. That is why my answer to your question was no.

Ken Macintosh: Do you think that creative Scotland will have more money or the same amount of money as its predecessor organisations?

Michael Russell: I have made the point that I have protected the budget for creative Scotland from the two budgets of the Scottish Arts Council and Scottish Screen, in so far as I have been able to. The core grant next year will be £35.536 million. The reduction in resources for the SAC has resulted from the reduction in lottery funding, which is immensely to be regretted. The decisions on that are made outwith Scotland—it is none of my doing. As far as what we are trying to deliver for our core grant is concerned, the organisation does not have less money. Indeed, as I indicated to Margaret Smith—I hope clearly, but I am happy to repeat it—the access that it will have through the creative industries partnership will extend the resource that is available to it. I am sorry that I am unable to be precise about that—work is being done to enable me to be precise about that—but I have no doubt that that will give access to increased resource.

11:15

I do not want to be presumptuous, but I think that the point that Mr Macintosh is trying to make is that the Government is, in some sense, restricting the money that is available to creative Scotland while increasing the burden on the organisation. That is not our intention and it is not what we are doing. Creative Scotland is a positive

cultural innovation in Scotland, and we are doing everything that we can to make it successful.

Ken Macintosh: I appreciate the minister's views on the matter, but the concern that has been expressed to the committee by several witnesses is that we are launching a new body without allocating extra funds. The minister may interpret a standstill budget as being one that is not less, but we have received a lot of evidence expressing concern on the specific point that, if creative Scotland takes on a duty to support architecture, advertising and other areas of the creative industries without additional resources, it will face a squeeze. I hear the minister's answer about accessing other people's money, but—

Michael Russell: Let me respond to that. If the organisation were to be flathulach—the official reporters will need that spelled for them—about expenditure and rush off in all directions, there would obviously be an issue. There are 13 so-called creative industries. Some of them may wish to apply for funding, but I suspect that some of them are unlikely to be petitioners for funding. That would very much be the worst-case scenario, and that is not going to happen.

In terms of the core delivery, one could see the glass as being half full or half empty. Over the past few months, we have seen a determination by the creative sector to apply a positive interpretation to what is taking place and a desire to ensure that the creative industries contribute strongly to making this successful. As minister, I welcome that positive process. Together, we can deliver something good. I am encouraged by the vast majority of responses that I have heard from the committee, and I very much hope that the committee will be part of that process.

Together, we can make this work. None of us wants to go back to the difficulty that we had, and I approach the evidence in that context. Where there are things that we can build on, change or develop, we will do so. I hope that I have made that clear, convener. Where there are things that we can work on jointly with bodies to increase resource, we will do so. However, if the bill process is used simply as an opportunity to criticise our intentions, we will not get anywhere. I hope that we can find a way of working together on it rather than separately.

Ken Macintosh: I welcome that, but I just want to make this point. The *raison d'être* of the new body is, as you have said, to expand and reinvigorate our support for the arts. However, there is a feeling that, without additional funding, it will be reduced to an amalgamation of two existing bodies and that, if you place new duties on the new body without providing additional funding for it, you will undermine it. That is the concern that artists have. Many artists currently receive grants

from the Scottish Arts Council, but they see a range of other activities coming into the new body's remit with no additional funding. It is not surprising that they are slightly concerned.

We have both had a go at this, and I am not sure that we are going to get much further in this session. It is only fair that I express the concern that has been expressed to members in evidence.

Let us move on to some specific issues to do with funding and staffing. Concern has been raised about the pension deficit. I put a question on that issue to Nikki Brown two weeks ago, but I would like the minister's reassurance, if possible. There are concerns about the pension deficits that the existing organisations may have and how those may affect creative Scotland going forward. Ms Brown was able to reassure us that any transitional costs will be met by the Government. Does that include the current pension deficit? Will the pension deficit also go forward?

Michael Russell: With your permission, convener, Nikki Brown seems exactly the person who could answer that question as she has done it before.

Nikki Brown (Creative Scotland): As I said to the committee a couple of weeks ago, costs relating to the formation of the new organisation will be covered by the Government's guarantee to meet transition costs. That will include, in the context of pension deficits, any shortfall that needs to be made up at this stage as a requirement placed on us by the trustees of the pension scheme. If a shortfall does not need to be made up at this stage, the pension deficit will remain on account with the pension scheme and it will be dealt with in due course, as would be the case for any organisation.

Michael Russell: In other words, we will apply the law as it exists, to the benefit of the organisation.

Ken Macintosh: So there will be no additional costs to the pension scheme, but it is certainly not a clean slate. If there is currently a deficit, there will continue to be a deficit and it will have to be managed.

Michael Russell: What Nikki Brown is saying very clearly is that the trustees will tell us at the appropriate time what requires to be done, and we will do it.

Ken Macintosh: Is the minister worried? We are talking about a possible—

Michael Russell: No. We have no worry about that whatsoever, Mr Macintosh. If you have a worry about it, then I am worried, but we have no worry about it at all, okay?

Ken Macintosh: It has been raised with us by several people.

I have questions on two other issues. Does the minister have a view on whether the new organisation should have charitable status?

Michael Russell: Concern was expressed about whether Scottish Screen's loss of charitable status would disadvantage the organisation. Ewan Brown and I met the Office of the Scottish Charity Regulator and I understand that the new organisation will make an application but that it is unlikely to succeed. I do not think that it will turn out to be that important. I think there was an expectation that the charitable purpose of the Scottish Arts Council would be carried forward, but charity law has changed. Ewan Brown has described that as an unforeseen consequence of that change, but there it is.

Ken Macintosh: There is also a cost involved. I think that it was estimated to be at least £300,000.

Michael Russell: There might be a cost involved. The situation is not as clear cut as has been presented in the press. We are happy to provide information as the establishment of the new body continues, but you should remember that the matter is one for the organisation to consider as it emerges.

Ken Macintosh: The Royal Society of Edinburgh has suggested that the new organisation should apply for royal charter status. Does that idea appeal to the minister?

Michael Russell: I do not think that we have given that much consideration. Were it to come forward as a proposal, no doubt we would consider it. Perhaps Nikki Brown can give a view on that.

Nikki Brown: The Government's view has been that it is important to give creative Scotland a statutory footing through the democratic process. Forming it by royal charter would not have done that.

Michael Russell: So there we are. Democracy wins out.

Ken Macintosh: I have two final questions. We are getting there.

The Convener: Please keep them short, Mr Macintosh. The minister has been with us for more than an hour and I am keen for this session to end no later than 11.30.

Ken Macintosh: In his introductory remarks, the minister spoke at length about the order-making powers. Why does he think that bodies such as the RSE are so concerned about the power that the bill gives the minister to intervene?

We are taking a great deal of care to scrutinise the primary legislation that sets up creative Scotland. The Government has changed creative Scotland's remit since the previous bill last year. On the face of it, the changes might be seen as quite minor. They are certainly intended to

"improve the exercise of public functions",

but they have been through public scrutiny and full parliamentary scrutiny. Does the minister not recognise that, having taken time to get creative Scotland right, we do not want to give him—or future ministers who might not be as caring as Mr Russell—the power to change or amend the body at ministerial discretion?

Michael Russell: You asked me two questions, Mr Macintosh. Let me answer both. First, I have no idea what is in the mind of the Royal Society of Edinburgh. It is impossible to say. I am not a fellow of the RSE—and nor are you—so I cannot tell you why it is concerned about the matter. What I can do is repeat the assurances that I have given you. Let me repeat them for the purpose of the record.

I can assure you that the order-making power in section 10 would allow ministers to bring forward proposals only for the purpose of improving the exercise of public functions. The powers are subject to stringent statutory safeguards and any proposals must be proportionate to the policy objective. They cannot remove any necessary protection in existing legislation, and new or modified functions must be consistent with the general objects or purpose of the body in question. The order-making power cannot be used to remove any necessary protection from an organisation, unless equivalent or similar protections are put in place.

I had two and a half more paragraphs on that issue in my opening statement. I am happy to repeat them, but I suspect that the convener does not want me to do so. I was absolutely clear with the committee in my opening statement that I believe that the order-making powers as defined in the bill are in no sense a threat to any of the things that Mr Macintosh mentioned. I addressed the issue not only in the general, but in the particular, with regard to the national galleries and museums. Mr Macintosh and I seem to be locked in a situation in which he repeats parts of the evidence—I cannot say whether that is selectively or out of sequence—and I repeat the answers. We can do that for another four minutes, or perhaps we can just accept that we have reached the stage at which, not for the first time, he and I do not agree.

Ken Macintosh: Let us end on a more positive note, with something on which I hope we will agree.

Kenneth Gibson: That will be a first.

Ken Macintosh: I hope that it is a positive note. The minister is aware of the concerns that the bill does not address tainted cultural objects, but I believe that he might be able to reassure the committee that the Government will address the issue.

Michael Russell: Yes—let us end on a positive note, although that might be the first time that tainted cultural objects have been called positive. There is a need to consider tainted cultural objects, although I have not yet decided whether there is a need for legislation. We have co-operated quickly where possible, through a legislative consent motion on Nazi-looted art objects. However, that applied only to a limited number of objects and in a certain circumstance, which was in relation to the national collections. There are many other wider issues to do with tainted objects. I want to address them seriously and I am considering possibilities for doing so. I would welcome input from interested individuals, as many of your constituents and many others will be. The issue ranges very widely.

The Convener: I thank the minister for attending and for answering our questions. I am sure that this is the start of a positive engagement, but I am equally sure that you would have been somewhat disappointed if you had not had some tenacious questioning. I know that you always like to respond to such opportunities.

Michael Russell: I am grateful for the opportunity. I have enjoyed the experience. Having been on a committee with Mr Macintosh, shall we say, I was expecting it.

11:27

Meeting suspended.

11:36

On resuming—

Decision on Taking Business in Private

The Convener: Item 2 is a decision on taking business in private at future meetings. Do members agree to consider the committee's draft report on the Public Services Reform (Scotland) Bill in private at future meetings?

Members indicated agreement.

The Convener: That brings the public part of the meeting to an end. Our next meeting will be on Wednesday 30 September at 10 am.

11:37

Meeting continued in private until 11:54.

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