



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

LOCAL GOVERNMENT AND REGENERATION COMMITTEE

Wednesday 13 June 2012

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LOCAL GOVERNMENT AND REGENERATION COMMITTEE
16th Meeting 2012, Session 4

CONVENER

*Joe FitzPatrick (Dundee City West) (SNP)

DEPUTY CONVENER

*Kevin Stewart (Aberdeen Central) (SNP)

COMMITTEE MEMBERS

*James Dornan (Glasgow Cathcart) (SNP)

*Anne McTaggart (Glasgow) (Lab)

Margaret Mitchell (Central Scotland) (Con)

*John Pentland (Motherwell and Wishaw) (Lab)

*David Torrance (Kirkcaldy) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

David Anning (Logica UK)

John Baillie (Accounts Commission for Scotland)

Gordon Blair (Society of Local Authority Lawyers and Administrators)

Chris Highcock (Electoral Management Board for Scotland)

Jamie McGrigor (Highlands and Islands) (Con) (Committee Substitute)

Andy O'Neill (Electoral Commission)

William Pollock (Association of Electoral Administrators)

Stephen Sadler (Scottish Government)

Douglas Sinclair (Accounts Commission for Scotland)

Gordon Smail (Audit Scotland)

CLERK TO THE COMMITTEE

Eugene Windsor

LOCATION

Committee Room 1

Scottish Parliament

Local Government and Regeneration Committee

Wednesday 13 June 2012

[The Convener opened the meeting at 09:46]

Accounts Commission for Scotland Reports

The Convener (Joe FitzPatrick): Good morning everyone, and welcome to the 16th meeting in 2012 of the Local Government and Regeneration Committee. As usual, I ask everyone to ensure that they have switched off mobile phones and other electronic devices that interfere with the sound system.

I have received apologies from Margaret Mitchell, and I welcome Jamie McGrigor, who is substituting for her today. I have also received notification that Kevin Stewart is unable to attend the start of the meeting due to a clash with the Welfare Reform Committee. He hopes to join us later. Does Jamie McGrigor have any interests to declare?

Jamie McGrigor (Highlands and Islands) (Con): I do not believe that I have any interests other than those that are included in my entry in the register of members' interests.

The Convener: Our first item of business is an evidence session with the Accounts Commission for Scotland. The purpose of the session is to consider two reports from the Accounts Commission: "An overview of local government in Scotland: Challenges and change in 2012" and "Using cost information to improve performance: are you getting it right?". I welcome our witnesses. John Baillie is the chair of the Accounts Commission and Douglas Sinclair is the deputy chair. They are joined by Martin Walker, assistant director of best value and scrutiny improvement, and Gordon Smail, portfolio manager for best value and scrutiny improvement. You are all very welcome.

Mr Baillie, would you like to make some opening remarks on the two reports?

John Baillie (Accounts Commission for Scotland): Yes please, convener. We welcome the opportunity to brief the committee on the significant matters in local government that are contained in the overview report. Local authorities have, so far, coped well with financial pressures but they continue to face tough challenges from reducing budgets and growing demands for services. We welcome the progress that local

government has achieved in recent years, but we recognise the significant scale of the task that it faces.

The year ahead offers opportunities for fresh thinking on service delivery, making the shift towards preventative spending and achieving more from partnership working. The aim is to deliver more integrated services that provide better value for money and improved outcomes for people and communities. Achieving best value is crucial—we cannot say that often enough. Those local authorities that place best value at the centre of all that they do will be well placed to deal with the challenges and changes of this year and beyond.

Those who are familiar with our overview reports may notice that there has been a significant shift in our focus this year. The report is still based firmly on audit work, but it is a much more forward-looking document in which we explore the pressures and demands that local government faces. The report sets out four responses that should help to counter those pressures: strong leadership and governance; effective partnership working; the investigation of new approaches to service delivery; and the use of performance information to drive improvement. The Accounts Commission believes strongly that effective action in those areas will help to ensure that local authorities, working in partnership with others, will achieve best value.

This year has been an election year in local government, and those who were elected in May will need to be up to speed quickly. Our report aims to assist new and returning councillors by setting out a concise picture of local government in context and by highlighting what the Accounts Commission sees as the top priorities for this year.

The cost report is called, "How councils work: an improvement series for councillors and officers—Using cost information to improve performance: are you getting it right?". The report is the third in what we call the "How councils work" series. As committee members may be aware, the series aims to stimulate change and improve performance. It draws on audit work in all councils to highlight concerns and to improve performance. In particular, the report aims to assist new and returning councillors to get up to speed quickly, and to help them scrutinise policy and get the right information on the quality and cost of services.

We highlight the importance of having good-quality cost information to inform policy decisions and to scrutinise performance and identify some of the guidance and cost measures that already exist. We also provide practical examples from councils around the country to illustrate how they use cost information. The wide range of examples that was available to us helps us to show that

councils could do more to share good practice and learn from one another. I am afraid that the syndrome of saying that it was “not invented here” is still with us.

Our report states that cost information is an important tool to look back at how budgets have been spent, but it also highlights that such information needs to be used more prospectively for councils to address current and future needs. Councillors need good cost information to make well-informed policy decisions and to scrutinise performance. Officers need it to help them manage services efficiently, assess performance and demonstrate value for money.

The commission emphasises that better use of cost information is more important given the current pressures on public spending and, indeed, that increased transparency about costs can help communities to understand the difficult choices that councils face and help staff to develop more informed policy.

I welcome any questions from the committee on either report.

The Convener: Thank you very much. At the start, you talked about the general success that councils have had so far in dealing with the financial pressures, but obviously those pressures continue. Some people say that the low-hanging fruit has already been collected and that it is becoming increasingly difficult to respond. To that end, you talked about the need for fresh thinking. Does that include some radical changes in councils? If so, what sort of changes are required?

John Baillie: My answer has two parts. First, when councils look at a service, the first stage is to identify whether it is needed at all. If it is, councils must then ask how it should be delivered and by whom. Beyond that, they analyse those issues and come to a view. It is certainly true that choices other than in-house provision are available to councils; for example, service delivery can be done via a company or a trust, by arm’s-length external organisations, or through sharing services with other councils, or indeed with other bodies. The public sometimes misunderstand the term “shared services” to mean simply shared services with another council. Those options need to be looked at hard.

If I may digress briefly, the commission’s position on shared services is that we do not see them as a panacea. Heavy costs are often involved in setting up a vehicle that will deliver shared services, but if it is properly costed and properly evaluated at the beginning and the evaluation shows that there is benefit, it may be worth pursuing. It is inevitable that there are a lot of issues with shared services. We may come back to those, if you wish. The scrutiny of the case

for whatever method of service delivery will be used is critical.

The Convener: It is interesting that you said that shared services means services that are shared not only between councils but with different parts of the public service in general. The committee has been considering that issue in its inquiry. Do you have any good examples, which other local authorities should look at, of such an approach having worked in practice?

Gordon Smail (Audit Scotland): As Mr Baillie said, the quality of shared services has come up quite often. To be frank, practical examples of shared services working well are pretty thin on the ground. The commission’s report says that major savings through shared services are unlikely in the short to medium term; that is a longer-term aspiration.

However, the report refers to what is happening in East Lothian and Midlothian around education services. We have done no specific work on what is working well there, but we flag up that there is progress on councils working together in those areas and in other areas of Scotland. We wanted to highlight that that is partly to do with strong governance arrangements that were set up at the start. For example, there are elected members from both councils on various structures to help to support that, and officers at different levels are working together. East Lothian Council and Midlothian Council have one shared officer who plays a pivotal role.

Councils need to get things such as governance right from the start. They need the political and officer leadership to drive through changes where there is evidence that sharing services in that particular way—there are other ways, as Mr Baillie said—would produce the savings that are needed.

Anne McTaggart (Glasgow) (Lab): On the subject of collaborative working and shared services, what barriers exist to collaborative working and how can they be overcome?

John Baillie: I will mention two, and invite Gordon Smail to fill in some of the detail.

One particular barrier—Gordon Smail did some research for us on this—is simply the practical problem of being unwilling to cede control to anyone else. If a council is providing a good service, why would it jeopardise or risk damaging that? If a council has a bad service, it may not want to wash its linen in public. There is a very human problem in that regard. That is the main point, but there are also issues around governance that Gordon Smail will no doubt want to talk about.

Gordon Smail: There is a range of things that would perhaps create barriers to sharing services,

including the question of whose patch it is, which Mr Baillie mentioned. There are also some technical issues around terms and conditions of employment in bringing together services into a new vehicle.

There are some examples of that being attempted—for example, a company that is set up by two councils in a joint venture arrangement. That raises questions around how the employees are transferred and the terms and conditions that apply, so it can be quite complicated.

We say in our report that the process of getting to shared services can in itself be very expensive and complicated, and can raise a range of questions. As Mr Baillie said, that includes issues of governance. To an extent, that ties in with our other report because it is about the need to understand the costs of existing services. If councils do not understand that cost, it is unlikely that they will be able to identify what they will gain from the shared services or collaborative working solution.

Anne McTaggart: How can we encourage councils to work collaboratively?

Gordon Smail: One driver is the hard facts of life that councils are now facing. In the past, the view has been that it would be good to share services, and that there are benefits not just on the financial side but—importantly—around improving services for people, which is what it is all about. The hard facts of life will push people further down that road in any event.

Douglas Sinclair (Accounts Commission for Scotland): There is a danger of viewing shared services as a panacea. Sharing services makes sense if there is a business case for doing so. However, to return to the convener's point about low-hanging fruit, councils can make cuts very easily, but there is a real chance for them to ask whether they get value for money from the huge amount of resource that they currently spend.

There is an awful lot that councils can and should do to ensure that they get value for money. All councils, for example, carry out the same type of processes: they pay invoices and collect council tax, and yet the cost of council tax collection varies enormously across Scotland. There is no standardisation. Mr Baillie mentioned the “not invented here” syndrome. Councils should learn from one another, finding out, for example, who is best in class at collecting council tax and who can do it for the least cost, and spreading that information across the 32 councils so that they are all reducing costs. It does not seem right that a council tax payer in council A should be paying more than a council tax payer in council B for the same process.

10:00

That touches on our other report on using cost information. For example, councils do not know the cost of processing a planning application—they should know. That is important, because unless they know the cost they do not know whether they are doing something efficiently. There are what we call the three Ss: simplifying a procedure down to the core; standardising it across the 32 councils; and sharing it if there is a business case to do so. Too often, local government has jumped to shared services rather than doing the first two steps of simplification and standardisation.

Anne McTaggart: What can we do to ensure that those improvements happen?

Douglas Sinclair: The efforts of the Society of Local Authority Chief Executives and Senior Managers in Scotland have been welcome. The society has focused on trying to improve performance information. The commission has said consistently for some time that we want to see more cost information—that is performance information that is related to cost. We have a huge backlog, for example, on road maintenance, but we do not know the comparative cost across the 32 councils of maintaining a kilometre of road, so how can we know that we are getting value for money from the huge investment in our roads? Local government is beginning to embrace that performance information agenda, which the commission whole-heartedly supports.

John Baillie: We will come to cost in due course, I suspect—although it is all pervasive—but I return to the general question about what we can do to help things along. The move towards community planning partnerships and the integration of services may help local authorities to focus more on shared services.

That move towards CPPs had been on the stocks, but something is definitely happening with it now. That might encourage those parties who will have to work together to get the governance processes right, and once they have all the infrastructure in place—who does what and when, how it will be monitored and so on, boring though that may sound—they might realise that they can do it and that shared services are a much more manageable proposition than perhaps they had thought.

James Dornan (Glasgow Cathcart) (SNP): Have the workforce reductions been managed effectively or are there risks to service delivery resulting from the loss of senior staff or from reduced staffing in key areas?

John Baillie: It is fair to say that a number of the reductions—as the convener referred to—have probably been the easy, low-hanging fruit,

although I do not like referring to people in that way. They were the people who were perhaps thinking of terminating anyway, or of moving into retirement or whatever. There may be something in that.

My concern, and the commission's concern—we refer to it in the overview report—is that we may be reaching a stage where senior management capacity is so thin that good experience is beginning to be threatened a little. We have a particular concern about losing the experience of managing transformation projects. In going for further senior management reductions, that aspect should be taken into account.

James Dornan: Is there guidance for councils on how they should deal with workforce reductions in terms of the senior management, for example? I was a Glasgow councillor and one of our concerns was that the council made the option to leave available to everyone over 50 years old. Basically anyone in that age group who wanted to leave could do so. That left some of the departments bereft of talent.

John Baillie: I do not think that there is any formal guidance. That is why we are introducing this caveat, to say to councils that when they are reducing the workforce they need to stop and look at how they do it in case they save cost in the short term but pay a high price in the longer term.

Douglas Sinclair: In smaller councils we have certainly encountered the issue to do with senior management that John Baillie highlighted. That is also an issue in the context of corporate capacity for change. Given the scale of the challenges that councils must cope with and the volume of work that they must embrace in relation to option appraisal and different ways of designing services, councils have a huge workload. Unless councils have corporate capacity to undertake the work, they will struggle.

In general, councils are not recruiting, so in the long term there is a danger of getting a skewed workforce. Older people are leaving but younger people are not being recruited to fill the posts. There is an issue in the medium to long term about the shape of the council workforce.

Gordon Smail: There are implications in the short term as well as in the long term. Much change is going on at senior manager level—chief executives, directors of finance and the like. Councils have lost a lot of experience over the years, at a time of huge turnover in elected members. There is an issue in the short term to do with ensuring that business gets back on its feet as quickly as possible after the council elections.

James Dornan: Is continued workforce reduction and pay restraint a sustainable means of

achieving cost reductions in future? If not, what must councils do?

John Baillie: In going for workforce reductions, councils must take account of what they anticipate having to do in future. Councils should take an holistic approach rather than simply focus on the cost reductions today. As we have said elsewhere, action can be taken today that will be paid for tomorrow in quite different ways. There needs to be a considered approach—I am sorry if that is a statement of the obvious, but it is our position.

Gordon Smail: I do not have much to add. There is evidence that councils are taking a more strategic approach to workforce planning. For many years, human resources departments in councils were very much tied up with equal pay claims and the like; they are now moving to a more strategic approach. In our work we exhort councils to tie that in with the financial and asset sides of the business, so that there is an overall strategic approach to managing the business. That is key, and forward planning issues need to be taken into account.

John Pentland (Motherwell and Wishaw) (Lab): I think that Douglas Sinclair and Gordon Smail hit on the idea that it can be easy to make savings but the question is which areas to target. The workforce has probably been one of the easiest targets, but in the context of a policy of no compulsory redundancies, a voluntary scheme for staff reductions means that councils lose people with a great deal of experience. Has the quality of financial advice in councils reduced in recent years because councils have been driven to make efficiency savings? If so, has that had an adverse effect on decision making?

John Baillie: Thus far, the evidence does not suggest that decisions have been poor, but our concern is that that might well be the position in future. It is interesting that the chief finance officer is not always the section 95 officer under the Local Government (Scotland) Act 1973. The head of finance is not necessarily at the top table, so our concern is that his or her advice might not be given the weight that it deserves to be given.

We made a more general point in our overview report, which we developed in our cost report, about the absence of good cost information and good option appraisal—councils' consideration of what to do with the workforce is part of the option appraisal process. That takes me back to my point about the need for an holistic approach. We do not look at the workforce simply as a source of cutting cost; we have to take into account the consequences.

To answer the question directly, thus far we have not yet seen evidence of bad decisions being made as a consequence of poor financial

information being available. However, in calculating sustainability in future, far more information will be needed, because the decisions will be more complicated. In short, it is not just about people who are close to retirement.

My colleagues might want to amplify those points.

Gordon Small: As auditors, part of our language is about risk—we want to flag up the risks. That ties back to Mr Dornan's question about the effect on senior management teams in councils. One effect of the attempts to save money is that the senior management teams in councils are reducing in size. We flag up in the overview report that a consequence of that is that, on some occasions, the most senior officer for finance—the proper officer—is perhaps not at the top table on the senior management team.

The report flags up how crucial the chief financial officer's role is. It is not just about ensuring that the budgets are set and kept on track during the year; there is an important strategic role of guiding the council through difficult and complicated decisions and advising on complicated financial transactions such as tax increment financing schemes or public finance initiatives and public-private partnerships and the replacements for them. The role of the chief financial officer, as one of the proper officers, is absolutely central. That is why the commission is keen to flag up the risk of any diminution of the status of that role in councils.

John Baillie: At the risk of appearing to be flippant, although I am not being flippant, accountants—I must confess to being one—have an expression, “Ashes to ashes, dust to dust, cash to cash.” Ultimately, everything comes back to cash, which is why the chief financial officer is needed at the top table. It is that simple.

John Pentland: Is the fact that in some areas the statutory finance officer is not part of the senior management team probably leading to a higher-than-usual incidence of non-compliance?

John Baillie: That is possible. When we talk about being at the top table, we mean that those people should either be part of the senior management team or have sufficient influence so that they are listened to. It is not so much about status and more about function. The key point is that that person or team of persons must be listened to and their advice followed, or justifiably not followed. It is sometimes difficult for a finance officer to be the killjoy or the person with the bad news, particularly when there is an exciting project that will engage with the community, but which is too expensive or not sustainable. It is a tough job. People need the appropriate character and independence to do it.

David Torrance (Kirkcaldy) (SNP): How much variation is there in council policies on reserves? Is there a need for guidance for councils on that?

John Baillie: As the question suggests, the policies vary. Partly, that is to do with the personality of the councils. Some councils like to have everything identified and earmarked. I suspect that, in other councils, although not everything is earmarked, somebody somewhere on the council knows that the money will not be spent on anything but a particular aspect. Our concern is to make the councils' reserve position transparent so that people can understand what is there and what it is for if it is set aside.

The general rule for councils is that they seem to take a percentage of their operating costs as an acceptable level. I think that, roughly, they run at about 2 per cent. Perhaps Gordon Small will say more on that.

Gordon Small: There is a range. We do not have to look back too far to find a time when the position on council reserves was not particularly clear. Through the work of the commission and the overview report, we have drawn the issue to the fore, which is a positive development that means that elected members are much more attuned to the reserves position. Local government finance is complicated. Some reserves represent money, whereas others represent the other side of accounting. It is important that we understand all that, so transparency is important.

10:15

As a result of the work that we and the Chartered Institute of Public Finance and Accountancy have done, all councils now have policies on reserves and can set out how much they want to hold in reserve. The Accounts Commission will not specify what councils should hold in reserve, because if we said that X per cent of net costs of services should be held in reserve, that would become the benchmark. We much prefer that councils take the decisions that are right for their local finances. Reserves are only part of a council's overall financial strategy, and it would be wrong for us to specify such matters centrally.

However, we can ensure that councils have reserves policies in place. As we say in this year's report, we think that the time is right for councils to look at their policies again, if they have not looked at them recently, to ensure that they are still fit for purpose in the current environment. We can also flag up variation between councils' reserves policies, as we have done in exhibit 18 of our report. We show the general fund position across all 32 councils, then we split that between what councils tell us is set aside for particular projects

or costs that will come up in the future and the smaller element of non-earmarked cash that is for a rainy day. It is interesting to look at that variation.

We publish all the financial information data behind the report, including that on reserves, on our website. We know from speaking to councils over the past few years that they find that helpful in making their comparisons between councils and asking why their reserves are larger or smaller than those of what they consider to be their comparators.

John Baillie: Another observation that we and councils sometimes make is that it is right and proper for councils to use their reserves at a time of rainy days, which is the case now and will be so for the next several years. Communities might be concerned if councils were building up their reserves just now, when they are needed. If they are not careful, they can end up trading one generation off against another.

Jamie McGrigor: I have three questions on capital programmes. The overview report states that

“slippage in capital programmes is a recurring and worsening issue”.

That is borne out by the fact that total local authority capital spending went down from £2.2 billion in 2009-10 to £2.1 billion in 2010-11, which was well below the planned level of £2.5 billion. What action are councils taking to improve management of capital projects?

John Baillie: At least some of the delay in capital programmes was down to poor weather. However, on the core of the problem, one difficulty that arises is delay in procuring sites. There seems to be a pattern of underestimating the time that it takes to procure sites. Another aspect is that part of the funding for capital projects sometimes requires the sale of capital assets, but in a depleted market the business case might no longer exist. That means that councils have to undertake distressed sales if they want to push ahead with projects. At the moment, such issues are causing difficulties.

Members will have noted from the report that there has been increased borrowing for funding capital projects, rather than other means being used. However, the day will come when that borrowing will have to be repaid. Obviously, councils are using prudential borrowing, but the amounts are growing.

What can be done for the future? The issues that I have described must be addressed and there must be realism in presenting the case for capital projects, ensuring that the facts and views that were put into the original business case still

stand. I suspect that some of them no longer stand.

Does Gordon Smail want to add anything?

Gordon Smail: Mr Baillie has covered most points.

I will come on to what we are doing about this in a minute, but there is an issue to do with individual project management, to which Jamie McGrigor's question refers. There is also the question of overall programme management of a council's involvement in capital spending.

Some of the areas that councils are involved in are complicated. To link back to the previous part of the conversation about sharing services and expertise and learning from the best, councils might well pool expertise in a particular type of capital project.

In terms of what we are doing about that, Audit Scotland, on behalf of the commission, is part way through a project called major capital investments in councils, in which we are looking specifically at how councils have managed major projects. That work covers a whole range of issues, including how projects are financed and managed, and, indeed, the whole question of slippage.

We have reported on slippage in the overview report. There has been a trend over a number of years. The main point about slippage is that it is not wholly about meeting the targets in terms of delivering at a particular time, but about the impact on the services for which the buildings or what have you are being put together. On the other side of the coin are the plans for delivering services to people in communities, which rely on the assets being available in the right place, at the right time and in the right condition.

Jamie McGrigor: I understand that councils are also considering the use of newer approaches to capital financing, such as TIF schemes, whereby borrowing is based on anticipated additional business rates income resulting from the proposed development.

The overview report refers to a

“lack of objective expert advice”.

Do councils have the appropriate skills and expertise to manage newer and potentially riskier forms of financing such as TIF?

John Baillie: That depends on the individual council, and we are keeping a close eye on the issue. Again, it plays back to what we have said about the need for the good financial person to be at the top table so that projects are considered carefully and properly. It is awfully easy for people to have a pipe dream and a well-intentioned idea, but can it work? Where are the figures? What is the business case, and is it based on hard facts,

or is it soft and dreamy? Those matters need to be evaluated carefully, and that should be the core of the approach. Sustainability will be checked as a consequence.

Jamie McGrigor: Is TIF a good model?

John Baillie: It is a model, and it is worth experimenting with in some cases. I never give a generic yes or no answer—I am an accountant. *[Laughter.]*

Jamie McGrigor: In the overview report, the Accounts Commission for Scotland found that

“The condition of council assets remains a concern. The cost of addressing the maintenance backlog for council-owned property assets is estimated at £1.4 billion, with £376 million of this described as urgently required.”

It also found that

“the cost of removing all road defects in Scotland is £2.25 billion.”

What progress is being made in addressing maintenance backlogs?

John Baillie: It is fair to say that councils have looked at both areas more closely as a consequence of our reports. They now have plans to address the situation. Gordon Smail can talk about the detail in a moment.

The other aspect is whether the relatively new emphasis on community planning partnerships will lead to changes: for example, is maintenance of some buildings needed, or should they be got rid of if there is a bit of spare capacity somewhere else?

The answer is, frankly, that the absolutely essential and urgent work covered by the part of the figures that you cited—the £1.4 billion and the £2.25 billion—will inevitably have to be addressed, but the rest of the assets may well be allowed to carry on in their current state simply because there is no money.

Jamie McGrigor: The roads will just get worse and worse.

John Baillie: That is right, and it is for the engineers to assess what is absolutely essential and what people will put up with.

Douglas Sinclair: There is also, however, the issue of the spend. If you look at the council spend—what is the figure, Gordon?

Gordon Smail: Council spend on roads and transport is about £1 billion a year.

Douglas Sinclair: How do we know that we are getting best value out of that £1 billion? Nobody is disputing that there is a backlog. However, we do not have the comparative costs of maintaining a kilometre of road from council A, council B and council C. Councils do not have that information,

so they are assuming that there is a backlog without necessarily having the information that would enable them to say whether they get best value out of the £1 billion that is currently spent. Some councils study that in-house, but when was the last time that they tested the market in relation to that spend?

Rather than always saying, “We need more money”, it is important always to ask, first, whether you are getting the best value out of the resources that you are currently spending.

Jamie McGrigor: I live in a rural region. Contractors have put it to me that councils are spending money on patching roads when they should be realigning roads, which, with modern equipment, is not necessarily very expensive. Is such work being planned properly?

John Baillie: Gordon Smail might be aware of the plans that councils have. I know that we address that in our report.

Gordon Smail: I do not have that information. The report cross-references a report that the Accounts Commission published in 2011, which was a follow-up report on roads. If you want a specific piece of information, we could get back to you on that.

Jamie McGrigor: That would be helpful. Thank you.

The Convener: Our deputy convener is not here, because he is attending a meeting of the Welfare Reform Committee. This committee has also considered the issue of welfare reform, and it is clear that the reforms will have a major impact on local government, not least in terms of housing benefit. How prepared for that are local authorities?

John Baillie: At the moment, we have little evidence to suggest that they are prepared, but that is not necessarily to say that they are not. It is simply something that we have not considered in any detail at this stage. We have trailed it in the report as a serious concern. There are issues about claimants receiving and paying money, the horrendous bureaucracy that might be created and where the money will come from to fund that bureaucracy. That is the extent of our work just now. We do not have hard evidence about the specifics.

The issue is being considered in our annual reviews and audits, so we will see more evidence over the next year.

The Convener: It is certainly something that we will keep an eye on.

John Baillie: We will do the same—very much so.

James Dornan: What evidence is there that councils have taken action to respond to the concerns that have been raised by the Accounts Commission in the overview report and previous reports about the lack of clarity with regard to roles, and about responsibilities and the accountability of such delivery mechanisms with regard to the governance of ALEOs?

John Baillie: ALEOs are an interesting and useful vehicle, in many cases. Our position is always that the spirit of regulations on spending public money and following the public pound should apply equally to ALEOs.

Councillors who are allocated responsibility for ALEOs are placed in a slightly difficult position in that they have an obvious responsibility to the council but, if the ALEO is a limited company, they have a responsibility to that limited company, too, under company law. They have to be clear that any potential conflicts of interest are quickly identified and dealt with.

Our general position is that ALEOs need to be monitored in the same way as any other project, and the council needs to be up to speed with reports from the councillors who are charged with looking after ALEOs for the council.

Gordon Smail: That covers the main points. We have been considering ALEOs for a while. One of the reports that we are here to talk about this morning—"Using cost information to improve performance: are you getting it right?"—is the third report in a series that we call "How councils work: an improvement series for councillors and officers". The second in the series, which we published last June, was on ALEOs. We saw an opportunity to draw on our experience of what we had seen of the governance of ALEOs, including one or two high-profile cases of an ALEO failing and causing the supporting council quite a bit of difficulty in picking up the pieces.

The ALEOs report is a helpful report that sets out all the main areas around governance, roles and responsibilities. We are neither discouraging councils from going down that route nor encouraging them. We are just saying that, if they are going to go down that route, they should get it right from the start and keep it right. That is really how that report was structured.

10:30

James Dornan: Do you have any evidence that the councils are taking action and responding appropriately?

John Baillie: From our audit work, there is evidence that by and large the ALEOs are being monitored. There are one or two cases—Gordon Smail has referred to them—about which we had

serious concerns, and we have published reports on them. Councils have for some time been monitoring their ALEOs, but there are some cases in which they have not been doing so. The question that we always have on our checklist is, "What's happening to your ALEOs?" An ALEO is no different from any other project and must be monitored carefully.

A major part of the issue is the governance process. Every time that I mention the word "governance", not only do the recipients' eyes glaze over but my eyes start to glaze over because it is such a boring word and concept. However, it is absolutely core to running ALEOs on a proper basis, with everybody knowing who is doing what and when, and who is responsible.

Douglas Sinclair: I will add to something that Mr Pentland said earlier. As the pattern of service delivery in local government becomes more complex—with not just the council but a whole range of bodies providing services—that emphasises the importance of the statutory role of the section 95 officer, the complexity of the tasks that he or she may face in the future and the importance of that person having independence, authority and the right of access to go to the council, even if that involves disagreeing with a senior colleague. It really puts a spotlight on the incredible importance of the section 95 officer.

James Dornan: Do you have a position on when it is appropriate for a council to create an ALEO? Is there any guidance for councils on that?

Gordon Smail: We do not have guidance. It ties in with what we said earlier about looking at the various options for service delivery. If councils, in their policy role, decide that the ALEO is the best solution for delivery of a particular service, they should observe the guidance that has been issued by the Convention of Scottish Local Authorities and the Accounts Commission, which goes back a number of years. The report on ALEOs that I mentioned earlier is a kind of refresh that includes practical advice, examples of how to go about things and examples of some of the pitfalls that might be encountered if councils do not get it right.

John Baillie: In a nutshell, the key to ALEOs is governance. Who is supposed to be doing what and when? Who is reporting back to the council? What is the quality of the service? What is the cost of the service? Does it provide best value? Is it value for money? Those questions should be asked regularly rather than just at the start of a project—they should be asked time and time again by the councillors who are in charge of overseeing the ALEO project.

John Pentland: Since the introduction of single status agreements, councils have paid out more than £450 million in settling equal pay claims. It

seems that, given the possibility raised by recent cases of future claims, future costs are likely to rise beyond £180 million. However, where does that figure come from? We spoke earlier about councils' resources building up. Do you think that this might be one of the rainy days on which councils are looking for help with paying those costs?

John Baillie: I do not know the extent to which the issue is already provided for in individual councils' reserves. Gordon Smail might want to say more on that.

Gordon Smail: I am afraid that there is some accountancy stuff in here, as you might appreciate. We identified the figure of £450 million up to the end of March 2011 as what councils had spent on equal pay. Over and above that, £155 million of the £180 million is what councils expect that they will have to pay out. They have carried out an assessment locally, looked at the legal cases that are coming through and said that it is likely that, in the coming years, they will have to pay out £155 million. There is also £25 million sitting in councils' reserves—the earmarked part of the reserves that we talked about earlier. So, from an accounting point of view, there is the amount that has been paid out and the amount that councils expect that they will have to pay out.

There is also an amount over and above that, which, in our language, is known as a contingent liability. The contingent liability relates to uncertainty about the outcome of some of the ongoing legal cases. Overall, we are looking at the figure that is in the report, but it is likely that there is more expenditure to come. As you are probably aware, when cases come through, that has a knock-on effect on arrangements that have been made in the past, so I do not think that we have seen the end of it yet.

As auditors, we ensure that the accounting rules are followed properly, and my sense is that most of the accounting has been done properly, but I think that more expenditure will come through the system.

John Pentland: I mentioned that councils were building up contingency funds, but are councils sufficiently well prepared to manage any future costs that arise from equal pay claims?

John Baillie: Pretty well all the councils have lots of experience of having to deal with the issue, so they are prepared in the sense that it is quite a well-trodden path. Whether they have reserved enough money is an open question, which I do not think that any of us could answer. However, councils have the processes and the expertise and experience to handle equal pay claims.

Douglas Sinclair: Councils have had to face up to single status, and rightly so. There is evidence

that some councils have been better than others at using that as an opportunity to renegotiate some outdated terms and conditions of service. Although there has been pain on the cost side, some councils have found ways of paying for that. How well councils share information is an issue. Some councils have been better than others at realising that they can meet some of the cost by getting a more flexible workforce and getting rid of some conditions of service that are long past their sell-by date.

Anne McTaggart: I will take you on a journey to the Shetland Islands, which some lucky members of the committee had the privilege and the honour to visit to gather evidence. It was a worthwhile visit.

For the sixth year in succession, Shetlands Islands Council was not given a clean audit certificate, because of the council's decision to exclude the Shetland Charitable Trust and its subsidiaries from group financial statements. How does the council justify the approach that it has taken in relation to the trust? What effect does that approach have on the accounts that are presented?

John Baillie: Up until now, almost all Shetland Islands Council's councillors have been on the trust as trustees, although that may change with the new governance arrangements that the trust is looking at. The council justifies its approach by saying that when the councillors are in the position of trustees, they act in that role in a manner that is separate from and independent of their role as councillors, and that when they go back to the council, they act separately and independently in their role as councillors. Fundamentally, that is their position.

The position of the auditors is that auditing standards and the appropriate accounting standard say that the substance of the situation should be looked at, and the substance of the situation is that although the councillors are trustees, they are still councillors, which means that it is difficult for them to act independently when they take decisions in the trust to spend money on local services that would otherwise have had to be spent by the council. The substance of the argument is that such expenditure should therefore be grouped in the council's accounts.

Anne McTaggart: Six years down the line, the situation has still not been resolved. How can we move things forward?

John Baillie: That is an interesting question. We were in Shetland only two weeks ago to visit the new council. We had an extremely cordial meeting, at which we discussed all sorts of things, including the best-value report and what steps

forward could be taken. It was a very useful meeting.

The council has procured legal advice from counsel on what it can and cannot do, which the auditors will look at. However, the auditors do not look at the law in isolation; instead, they have to consider the whole picture—in other words, the spirit and substance of the law. We will see what the auditors say when we get this year's report, but the council certainly has a keen desire to get the qualification removed.

You might also know that in a separate report the council has made a proposal, which is currently under consideration, that the number of councillors who are trustees on the Shetland Charitable Trust be reduced to seven or eight. I do not know whether that will remove the qualification entirely—that is a matter for the auditors to examine independently—but it might well be that, instead of being wholly consolidated, the trust will be set out as a one-line group or reference in the council accounts. I apologise for getting a bit technical but I must emphasise that I am speculating and that that is merely a possibility. Rather than interfere, I must leave the auditors to form their independent view and then take action as a consequence.

Anne McTaggart: When do you think that that information will become available?

John Baillie: I believe that the sign-off is usually in September, so there is still some way to go. We—by which I mean Audit Scotland—get the accounts for audit around June.

Gordon Smail: The end of June.

John Baillie: The audit will start thereafter. The Accounts Commission might get notice of some of the issues involved but we will not do anything until the auditors have formed a view, as any such move would be seen as an attempt to interfere with their independence—and we must not do that.

John Pentland: Coming back to benchmarking and the lack of a collaborative approach to such matters, I wonder whether there is any risk that councils are being overwhelmed by the range of potential indicators that have been suggested for benchmarking purposes.

John Baillie: Even if they are not being overwhelmed, they might well believe that they are, which is just as bad. Almost two years ago now, we decided that, instead of simply imposing statutory performance indicators, we should ask councils via SOLACE what they wanted—not necessarily in order to report to the public, although that would form part of it, but for self-evaluation purposes. After all, self-evaluation is the key to effective scrutiny. For the past two

years, we have been talking to and, indeed, working quite intensively with SOLACE. In the next month or so, it will publish the first tranche of council-agreed performance indicators that will start to allow the kind of comparisons that Douglas Sinclair mentioned a moment or two ago to be made. That will be a significant step forward.

You might be familiar with this, but councils have always argued that you cannot necessarily compare one council with another; for example, the circumstances in urban and rural councils might be quite different. The information that will be gathered will allow councils to be grouped in families of similarity to allow more effective comparisons to be made. That approach, too, has been agreed. As I have said, we have been working closely with the councils and will try to enshrine all that in the SPIs.

The one part that is missing is a lot of the information on performance indicators that the public will want and, for that reason, we are formally consulting Consumer Focus Scotland on public reporting and asking it to give us some input that we can work on. Of course, it is handy that the chair of that very organisation—Douglas Sinclair—is sitting on my left.

John Pentland: I was going to ask whether the exercise was going to be voluntary but as you have already suggested that people seem to be willing and prepared to work together you will not need to answer that question.

John Baillie: I suppose that we all take the view that it is far better for the people who have to prepare these things to come forward with their thoughts instead of our imposing something on them.

The Convener: As members have no more questions, I thank the witnesses for their helpful evidence. I suspend the meeting briefly.

10:45

Meeting suspended.

10:53

On resuming—

Local Government Elections 2012

The Convener: Our next item of business is a round-table evidence session on the 2012 Scottish local government elections. The session will be an opportunity for the committee to take a first look at the legislative consent memorandum on the United Kingdom Electoral Registration and Administration Bill. The discussion will be in two sections, and we will deal with the LCM separately at the end.

I ask our guests to introduce themselves and to say a bit about their organisations and their feelings about the experience of the election—whether it worked and whether there were problems or things that we should look at for future elections.

William Pollock (Association of Electoral Administrators): I am Billy Pollock. I am the chair of the Scotland and Northern Ireland branch of the Association of Electoral Administrators, which is a UK-wide organisation that represents people who are involved with electoral registration and administration below returning officer level and has about 1,600 members. Our branch has 150 members spread across the two countries that are separated by the North Channel.

It is a bit difficult for me to be here in that our first branch meeting since the elections will not take place until tomorrow, so I do not have any formal feedback from my branch members. However, through other forums, I think that the view is that the election generally went well from an administrative and organisational viewpoint.

Gordon Blair (Society of Local Authority Lawyers and Administrators): Good morning. I am the chair of the Society of Local Authority Lawyers and Administrators in Scotland's elections working group, a member of the e-counting project board and an adviser to the Electoral Management Board for Scotland.

On the experience so far, the SOLAR elections working group has had a debrief meeting and has fed into the EMB's debriefing. Our conclusion is that the election went well. Some key factors were that the legislation was early, the extended timetable for the delivery of postal votes was excellent, the Logica and returning officers training was very good, and the support to the returning officers from the e-counting contractor was excellent in respect of the central support resource and the resolution of minor difficulties. There were a few minor difficulties, but the bottom line is that in a huge logistical exercise that brought vast

amounts of technology to 32 locations and ROs' teams, the logistics worked well.

Communications were good. People have mentioned the excellent "frequently asked questions" that the Scottish Government put out through its project manager, Andy Sinclair, and the two external stakeholders.

Over the piece, as the EMB's report says, the exercise seems to have gone well from the inside looking out, but obviously we need to get feedback from outside that tells us whether that view is agreed with. Things seem to have been okay.

Stephen Sadler (Scottish Government): I am the head of the Scottish Government elections team.

The Government's primary role in the matter is to set the legislative framework for the elections, which we did. We produced the rules for the election in November last year and, prior to that, we legislated in the previous session to establish the Electoral Management Board for Scotland to co-ordinate electoral activity and to give the Electoral Commission a formal role in monitoring local elections for the first time. We also paid for the e-counting system. We set up the contract and worked with the contractors and local authorities.

The initial indications are that things went reasonably well on the election day and in the count.

Andy O'Neill (Electoral Commission): I am head of the Electoral Commission office in Scotland.

As a top line, we would say that the elections went well on the polling day and that the subsequent count went well. That said, one of our statutory duties is to report on the elections. We are currently gathering information from various sources, which we have tried to lay out in our four-page submission to the committee. We will report on the election in mid September, after members come back from the recess. If members wish to talk to us about the report at that point, we would be happy to come back.

I think that members know what the Electoral Commission does, as the predecessor committee was instrumental in giving us a statutory role as of March 2011 under the Local Electoral Administration (Scotland) Act 2011. Apart from reporting, we set standards for performance and standards for returning officers, provide guidance to electoral registration officers and returning officers, and undertake in an operational sense the national public awareness campaign for local government elections, which is Scottish Government funded. We also assist and provide resources, products and advice to the returning officers and EROs via the communications

network of the Electoral Management Board for Scotland, run the observers scheme and, at the request of the Scottish Government, provide guidance to candidates and agents on the bureaucracy part of the election to keep them right.

11:00

David Anning (Logica UK): I am contracts manager for the e-counting project. Logica was the prime contractor and we provided the services together with our partner Opt2vote. We are the UK's largest independent supplier of information technology and business services with approximately 40,000 employees worldwide, of whom about 5,000 are based in the UK.

From our perspective, it was a very positive experience. Notwithstanding some of the issues that we had on the day, looking at the whole picture, we were very pleased with how the election went. We established a really good rapport with the Scottish Government, which was the holder of the contract, and we worked closely with the Scottish Government's project team. We had a consistent facility in Edinburgh that we used all the way through the project, which provided lots of advantages. For instance, we were able to establish a permanent count centre there for the duration of the project, which allowed us to do lots more testing than we had planned. That was a very positive experience. We also established a really good rapport with the councils.

If a lesson needs to be learned, it is that engagement with the councils must happen earlier, notwithstanding the pressures that they are under. I understand those, but it would have been beneficial to have had that engagement earlier because it would have alleviated some of the problems that we faced towards the end of the project. We got over those problems, but they could have been dealt with a lot earlier.

Chris Highcock (Electoral Management Board for Scotland): I am the deputy returning officer in the City of Edinburgh Council, but I am here as the secretary of the Electoral Management Board for Scotland. The convener of the Electoral Management Board for Scotland is otherwise engaged with the Olympic torch at various points today, so it has fallen to me to take on this role.

The EMB is very much the practitioner of delivering the election and represents returning officers and the electoral registration officers across the country. The Scottish Government sets the legislative framework, the Electoral Commission makes sure that it is applied and we are responsible for getting out and putting the elections into practice with the support of Gordon

Blair, William Pollock and the people whom they represent.

The EMB was brought into being by the Local Electoral Administration (Scotland) Act 2011, to which Andy O'Neill referred. The act also gave the co-ordinator of the board the general function of co-ordinating electoral activity in Scotland. Our role involves a number of things, but the board strongly sees its role as being to keep the interests of the voter at the centre of all electoral activity.

This time, the board was involved in a number of activities of which the key one was probably an early direction about the timing of the count. As you will be aware, the count for the election took place on the Friday—the day following the election—rather than overnight, as is traditional. We also provide a lot of guidance and information to returning officers—for example, about the adjudication of doubtful votes and how candidates and agents can be better informed about the count process so that they can play a better part in scrutinising the process.

From our point of view, the election was conducted well. We were satisfied that we were delivering a safe, transparent and open election in which the voters could have full confidence in the results, although we are open to other people's comments about that. We are there only to apply the legislation and to deliver the elections as well as we can.

The Convener: Thanks very much. That has given us a flavour of how people think the election went.

There are a few areas that committee members hope to have some discussion around. If witnesses and members indicate when they want to speak, I will try to accommodate everybody. However, we have limited time because of the other business on the agenda.

James Dornan: What is your view on the impact of decoupling the local government election and the Scottish Parliament election and the changes since 2007, particularly in terms of voter turnout?

Chris Highcock: There are a couple of issues to do with decoupling. There was an obvious impact on the May turnout figures because there was less publicity, given that the local government election was not riding on the back of the Scottish Parliament election. However, our concern was to ensure that the election process itself was well managed. That led to reduced confusion and allowed us to concentrate fully on the electronic counting system, which was a key element of the election.

Jamie McGrigor: How will the proposals in the UK Electoral Registration and Administration Bill affect Scotland?

Stephen Sadler: The bulk of the provisions in the bill are reserved and affect the introduction of individual electoral registration, which will obviously affect voters in Scotland. Unfortunately, we do not have an electoral registration officer with us here today, but electoral registration officers have been working closely with the UK Government, and the Cabinet Office in particular, on implementation of the bill.

Do you want me to talk specifically about the LCM?

The Convener: Yes. We will do that now and return to James Dornan's question afterwards.

Stephen Sadler: Electoral registration is a reserved matter, but the LCM is necessary because the conduct and application of local government elections is a matter for this Parliament. There are two or three issues in the LCM that we are introducing next week. In the transition between the system of electoral registration that we have now and individual electoral registration, voters who have not registered individually but remain on the previous register will be carried forward for a year or two. The aim of that is to address the concern among the Electoral Commission and others that while the introduction of the scheme is a good thing in itself, an unintended consequence could be a reduction in the number of people who register. There will be that rollover period.

The exception to that is that anyone applying to vote by post or by proxy will need to register as an individual, under the new legislation. Those issues could be dealt with by legislation in this Parliament, but as they are small issues in relation to the rest of the bill, and because there are implications and advantages in having the same arrangements for absent voting throughout Great Britain, we suggest that they be dealt with under the LCM.

The other issue that will be dealt with in the LCM is to give electoral registration officers powers so that after an election, when an absent vote has been rejected because the personal identifiers—for example the signature or date of birth—do not match, the electoral registration officer will be able to tell the voter what happened and give them a warning so that they do not make the same mistake next time.

The Convener: Are there any more comments on the LCM?

Andy O'Neill: The Electoral Commission has supported individual electoral registration since 2003, so we welcome the introduction of the bill in

the UK Parliament. We believe that IER will give people the right to manage their own vote and that it will address some of the vulnerabilities of the electoral registration process. We recognise that it is a big change and that it needs to be planned well, and we have been working with the UK Government to try to achieve that.

Jamie McGrigor: A postal voter is not necessarily an absent voter. Are you saying that people will lose their postal votes if they do not reregister?

Stephen Sadler: Yes. They will be given a warning and the opportunity to register. There will be a publicity campaign to encourage people to register.

The Convener: To go back to James Dornan's question, are there any other comments on decoupling?

Stephen Sadler: When we took the legislation to decouple the elections through Parliament, it was the result of a recommendation in the Gould report in 2007, which had found that, among other things, holding Scottish Parliament elections and local elections on the same day using different voting systems contributed to confusion among voters. As a result, Gould recommended—and Parliament accepted unanimously—that the elections should be decoupled, which is what we did. The Government and Parliament at the time recognised that that could have implications for turnout.

However, we were looking at a trade-off between encouraging more people to vote in local elections and reducing confusion. The Scottish Parliament elections would have typically attracted a higher turnout than local authority elections. That is why there was lower turnout.

Kevin Stewart (Aberdeen Central) (SNP): I agree about the decoupling. However, rather than the use of different voting systems on the same day, the major problem in 2007 was the Scottish Parliament ballot papers, which caused a huge amount of confusion. I am glad that they were changed.

I will speak about confusion over different electoral systems for different elections. Should we consider educating young folk at an early age in school about the different systems that we use, so that folk would know exactly what systems are being used, and when, and what the differences between those systems are? It seems that some of the current education is quite old-fashioned and does not talk about the various electoral systems that we use.

Stephen Sadler: I agree. Any education of those who will eventually become voters will be more effective if it is started earlier. I am not an

education expert, but I know that children and young people learn about various voting systems and arrangements in modern studies. It is about encouraging people to vote, and about people seeing at an early age the significance of voting. It is not just about different voting systems.

Kevin Stewart: After that early education takes place, it may be an idea to allow young folk to vote at the earlier age of 16. Does anyone have any comments on that? There seems to be a point where folk lose interest—

The Convener: I will stop you there, because you are moving into an area in which people might be uncomfortable expressing personal views.

Anne McTaggart: No—I am not at all uncomfortable about that.

The Convener: I am not talking about politicians. As politicians, we are very capable of expressing our views on contentious issues.

William Pollock: The AEA's policy is to allow voting at 16.

The Convener: There you go. Gordon Blair was hoping to come in on a previous issue.

Gordon Blair: I am a SOLAR representative, so I will leave the issue of votes for 16-year-olds to the politicians. I agree entirely with the point about education in schools. Some councils, including mine in West Lothian, have a communities team that visits schools and helps to run their pupil council elections using, for example, the single transferable vote. That gets pupils into the way of voting with numbers, rather than with crosses. There is a valid argument for improving education in schools, no matter when people start to vote in elections.

David Anning: My personal observation over the past 18 months has been that there is a general ignorance—if that is the right word—of STV across all sections of the community, and not just among younger people. We ran a variety of demos during the course of the project and it was quite clear that many of the people who came to them did not understand STV.

Andy O'Neill: On that point, we must accept that there is a wide ignorance of electoral systems, per se. People around this table might find electoral systems interesting—I certainly do, in the Electoral Commission—but other members of the electorate do not. Our research for the referendum on the alternative vote system versus the first-past-the-post system showed that very few people understand what first past the post is, although we have been using it for more than 100 years. Once we explained to them what first past the post is, they went "Oh! That's what it's called." People are not aware of electoral systems.

I return to the original point. We supported the Gould recommendation to decouple, and we support long-term education on electoral systems. That is very important in Scotland, as we have four major electoral systems for the four major elections.

11:15

One of the things that we found when we did the public awareness campaign—this is anecdotal rather than firm evidence, because our external audits are still being done—was that when there is only one election it is possible to spend time explaining the 1-2-3-4 system, whereas in 2007, when people were having to put Xs and numbers on their ballot papers, it was difficult to get messages across.

We find that the closer to when the election takes place we can do public awareness work on how to fill in the ballot paper, the better. It is important to do the work when people are focused on voting, which is why we try to provide good voter information in the postal vote pack, in the leaflets that we send people near the time of the election and on polling booth posters. When people want the information, it should be there.

Chris Highcock: I echo that. It is not just young people who have trouble understanding or even being aware of voting systems, although there are innovative activities around the country that focus on young people; councils will be able to brief the committee on the details. For example, the City of Edinburgh Council undertook a lot of activity on Facebook this year, running competitions and trying to increase awareness of what was happening and how the election would work in practice.

It is essential to keep reminding people, right up to the time when they cast their vote, what they should be doing. The Electoral Management Board got polling station staff to say to people, "Remember, this time it's numbers", as they handed over the voting papers, so that voters had that firmly in mind when they went into the booth.

The Convener: Has there been research into the impact of listing candidates in alphabetical order, particularly in relation to candidates from the same party? For example, if people wanted to give their first and second votes to Labour Party—or Scottish National Party—candidates, did they understand that they could choose between two candidates by putting a 2 first and then a 1? Did folk grasp what STV was about?

Andy O'Neill: That takes us into the arguments about the use of alphabetical order or the Robson rotation. We have not done research on that. We are currently looking at rejection rates. Our provisional results show a rejection rate of 1.7 per

cent, which is down from 1.8 per cent in 2007. That is good. Rejection rates varied from 0.55 per cent in Orkney to 2.79 per cent in Glasgow, and they varied even within council areas. In Dundee, where the convener is from, the rejection rate varied from 1.2 to 3.75 per cent. There are reasons for that. For example, election staff in Dundee told me about pockets where there are ethnic communities, where it might be necessary to provide more information in other languages. A job for the Electoral Commission and returning officers in the coming years is to analyse patches and to think about strategies to reduce the rejection rate.

We should bear it in mind that our rejection rates are comparable with those in Northern Ireland, which has been using STV for 40-odd years. In the Northern Ireland Assembly elections last year, the rejection rate was 1.8 per cent, and for local government elections the rejection rate was 2 per cent. However, one vote in which the voter has not expressed their preference is one vote too many.

The Convener: Do we need to look at Robson rotation, to ensure that people express a genuine choice between individual candidates, particularly when there is more than one candidate from a party? I wonder whether sometimes people get elected because of their surname.

Andy O'Neill: We host the Scottish Parliament political parties panel, which is attended by the chief officers of the parties in the Parliament. Most of the people on today's witness panel attend, along with various other people, including someone from the Royal Mail. Two weeks ago, we had a post-election debrief. The issue was not raised at that but, when we were out observing in council areas across Scotland, we got feedback about anecdotal stories of people thinking that there were a lot of 1s for a certain candidate because their name was higher up the alphabet. Research by academics in the same field as John Curtice suggests that there are perhaps issues. However, because of the secrecy of the ballot, unless somebody does research and creates hall testing situations, it is difficult to evidence that.

Stephen Sadler: As the first stage in putting together the regulations for this year's election, the Government issued a consultation in, I think, the autumn of 2010, which went through a range of issues that could be covered in the regulations. The order of candidates, parties and groupings on the ballot paper was one of the issues. The response to the consultation document was very poor. From memory, 30 or 40 people responded and, among them, there was little consensus or appetite for change. Some people said that there ought to be a better way, but there was not a groundswell of opinion in favour of a certain

approach. That is why we stuck with what we had for this year's elections.

The Convener: I have a question for David Anning. I am a supporter of Robson rotation; I think that it is a fair approach that means that people are not disadvantaged because of their surname. However, in practical terms, could you have managed a series of ballot papers in different orders?

David Anning: Do you mean for a particular ward?

The Convener: I mean that, for each ward, there would be multiple ballot papers.

David Anning: That is a good question. I would have to give it some thought. Our e-counting system needs a predefined order in a particular ward. If there were to be different orders in one ward, that would be a substantial change. I would need to think about that.

The Convener: Are there any other thoughts on that?

Gordon Blair: As has been said, one of the big issues was to get voters to vote using numbers and not crosses. My concern is that randomising the order of candidates might be more confusing to voters. We need research on that. It would be good to try to find out whether there is a detrimental effect on candidates who happen to be called Young rather than Anderson but, as someone said, one vote lost because of confusion is not good, so voter confusion also needs to be analysed through research.

John Pentland: The whole voting process needs to be considered. Like the convener, I am a great believer in Robson rotation. If the issue is not taken into consideration, I would like to be known in the next election as Adam Aitken or something like that.

In response to James Dornan's initial question about decoupling, Chris Highcock was quick to say that his role was to ensure that the process worked. Everybody would agree that there was significant improvement from 2007, when we had all the pitfalls, and I am sure that there will be continuing improvement. Perhaps Robson rotation will be part of that process. However, even though the process has changed, as Stephen Sadler suggested, we still have the issue of trying to encourage more interest in local government elections. The evidence shows clearly that interest has not increased, particularly if we compare the turnout in 2007 to the turnout this year. Therefore, although we are getting the process right, we are not overcoming the apathy. Will we get to the stage at which we have to consider the Australian approach in which it is compulsory to vote and

people are rewarded for voting or fined for not voting?

The Convener: Are there any thoughts on that? Does nobody want to stand up for compulsory voting?

Gordon Blair: The only information that I have read or heard was in the Parliament in June 2010 during a seminar on voter turnout. Some members might have been at it. A Dr Johns from the University of Strathclyde gave a presentation with key messages on what affects turnout, on which he had obviously done some research and analysis. His finding was that people vote if they think that their vote will make a difference to the result and the result will make a difference. The key issue is about persuading people that voting matters, not about making voting easier. I do not know whether that is right or not, but it was Dr Johns's message.

I would like there to be a lot more research into what makes people turn out to vote. I am talking about the electorate, not about people getting on to the electoral roll in the first place.

Dr Johns's presentation was very interesting, and my personal view—the Society of Local Authority Lawyers and Administrators in Scotland has not addressed the point—is that we should be looking at ways in which it could be made easier for parties and candidates to engage the electorate through the electoral process. The Scottish Law Commission could look at that because it is a much wider issue. For example, candidates could use a 50 to 100-word blurb to advertise their candidature. The British Medical Association uses that method because it is a UK-wide body and the candidates for the general council are not known to members from the other end of the country.

The issue is to do with engaging the electorate. One feature that came out of our communities team was about engaging young voters through West Lothian College, which asked where the candidates were during the Scottish Parliament elections last year. There was no engagement, notwithstanding all the new technology that can be used. How can we make it easier for parties and candidates to engage with the electorate?

James Dornan: I want to come back to something that Stephen Sadler and Gordon Blair said that relates to the same issue. Only 40 people answered the consultation and none of them came up with any suggestions about how the system should be changed. There was also only limited engagement between the candidates and the public. Those facts seem to arise from the same source, which is a general apathy about voting and a particular apathy about council elections. Many members of the Scottish Parliament have

been councillors and we know that the biggest impact on an ordinary person comes from the council. I do not think that we sell that message enough. There is a lot of work to be done there.

I would never use the word "ignorant" about anyone in the electorate, but not enough people feel passionately about voting in the first place, particularly in council elections, and we must sell the message that elections in general, and council elections in particular, are very important.

John Pentland: I have an anecdote from the local elections in North Lanarkshire. Again, I do not want to criticise the process that we are working with, but it is something to flag up. One candidate received the first vote overwhelmingly but was just below the margin to get him through. That guy ultimately came last so, although he had been overwhelmingly in front, he never got elected. We are talking about the public perception and whether people think that their votes count. Nine hundred people voted for that chap as their first preference but he never got elected.

The Convener: I guess that that is a result of the single transferable vote system.

John Pentland: I know. It was just a wee anecdote.

The Convener: It is a slightly different system.

David Torrance: I am interested in the role of the Electoral Management Board, how it has operated in practice and what difference it has made to the administration of an election.

11:30

Chris Highcock: I will take that on, although there are other people here who attend the Electoral Management Board as advisers or in the role of deputy returning officers. The Electoral Management Board was another element that came into being partly as a consequence of the elections in 2007. It arose from the Gould report and the subsequent legislation.

There was a perceived need for central co-ordination of electoral activity in Scotland, not to put rules in place but to ensure that the rules are applied consistently and effectively throughout the country and that there is a single point of contact for suppliers. That was a key element in the recent election, when we dealt with a major national supplier for the e-counting project. It is also about ensuring that the voter's interest is paramount. We have spoken about the issues that arose in 2007 when, as Gould said, the voter was somewhat of "an afterthought". The Electoral Management Board is always focused on ensuring that, whatever happens in elections, we think about what it means for the voter at the polling booth.

The board's convener has the power of direction to require returning officers and electoral registration officers to apply the legislation in certain ways. However, the board's view—and the way in which the electoral community in Scotland works—is very much that that sort of activity is best done by consensus in what is a relatively small community in which we support one another and achieve things by consensus.

A key element of what the board achieved this year was the direction on count timing. There was a stakeholder consultation and a lot of discussion about how the direction could best be framed and what the best timing for the count was, given the particular arrangements for electronic counting of the votes and the increasing number of postal votes. The question was what would be the best time for holding the count in the interests of the voter. That led to the only direction that came from the convener, which was issued in early February and was for the counting of the votes to start not earlier than 8 am on Friday 4 May.

As well as that piece of direction, there was work on developing guidance on how candidates and agents could be best informed about what was going on during the count, and there was guidance and training on the adjudication of doubtful papers. As we have heard, the STV system is not always understood and, even when it is understood, some issues still come up. For example, candidates can be well ahead on first preferences but, because they do not hit the quota and votes are then redistributed, we can get a confusing result. People need to understand why that happens, so we produce guidance on that to educate those who will be at the count.

Sample scripts for announcements were given out and material and templates were circulated to explain how to create the various post-election data. Electronic counting provides a depth of data on how people vote, right down to ballot box level. We needed to understand how that would be produced after the election, so guidance was provided for returning officers in that regard.

We also had two Electoral Management Board meetings with national suppliers, including Royal Mail and Logica, at which there were clear discussions with suppliers about the level of service that we expected from them. Again, the focus was not on doing something for the elections but on doing something for democracy and the voter. I think that that made a difference. Returning officers and deputy returning officers across the country said in various fora, such as SOLAR and Electoral Commission seminars, that it was a valuable experience and that there was consistency and clear understanding. It was clear that that message came from practitioners within

the community and was not being fed down to them.

Andy O'Neill: The Electoral Commission was instrumental in developing the idea of the Electoral Management Board through the publication of the 2008 report "Electoral administration in Scotland". We have not concluded our discussions but, as a top line, the commission would say that the EMB is doing a good job but needs to develop further, although I think that it knows that. There are resource and capacity issues that need to be addressed by the Scottish and UK Governments.

Key for us is the duty on the EMB to co-ordinate matters, and the power of direction is just one of the large suite of tools that the board has to deliver a good product for the voter, the candidates and the agents.

Chris Highcock has set out the chronological detail of the EMB's activity. We think that the provision of information in count centres for candidates and agents that it developed and encouraged returning officers to take up helped with transparency. However, it will be interesting to hear members' views on that, given that they were all at the centres and that the move was designed to help them.

A subset of the EMB, the communications network, helped with a lot of public awareness initiatives around the country, and we supported its work. With regard to the direction on the timing of counts, the board consulted and tried to create the kind of consensus that the commission seeks to encourage for all elections and produced an answer well in advance of the event.

The EMB has been involved in various ways in e-counting. In 2008, when we came up with the idea for the EMB, we thought that it would be naturally centred for running an e-counting project on behalf of all 32 local authorities; we are still thinking about that but, as the board develops, it should take on that kind of role more and more while the Scottish Government lessens its own role in that respect.

An interesting thing that emerged post-event was that no one knew the national result—in other words, who got the most first preferences. There were phone calls over the weekend from people trying to find out and talk about stuff that was or was not on websites. E-counting can easily achieve that sort of thing if you think about it and put it all together beforehand. Producing the national result might be a role for the EMB, for us or for someone else, but we are definitely thinking about the issue.

As it develops, the EMB will have a big task and will therefore need resources and more capacity. The Scotland Act 2012 gives the Parliament secondary legislation powers over Scottish

Parliament elections, but the question is whether the EMB will have the same role in those elections as it has in council elections.

Another event to look out for might happen in autumn 2014 when, under the draft referendum (Scotland) bill, the chief counting officer is likely to be the elections convener. That is another big agenda for the EMB to tackle. All in all, the board is doing well but will have to do more in future.

The Convener: You asked whether the provision of information at the counts worked at the last election. I am probably not the best person to ask because in Dundee the system worked both last year and in 2007, but I certainly thought that information was available in an accessible form and that folk could see what was happening.

James Dornan: There were one or two wee blips in Glasgow but, to be fair, I thought that it ran pretty smoothly.

I have a question for Chris Highcock and David Anning. You say that the e-counting system is very efficient—and it certainly seemed to work very efficiently the day after polling day—but will we ever get to a point where, if a ballot box gets lost, some sort of alarm goes off immediately to make it clear that the result is wrong and ensure that we are not having to count the votes in that box at some later date?

Chris Highcock: I think that you are referring to the incident in Glasgow, which has been reported to Glasgow City Council. I am not familiar enough with the issue to go into it in any detail, but I believe that it was a combination of human and technical errors and I certainly think that there are lessons to learn in that respect. The system produces various reports when each box is dealt with, but I would have to look at the report on what happened in Glasgow to be able to say anything about those particular circumstances.

James Dornan: I accept that and, indeed, am not asking you to go into the specifics. However, is there not some sort of alarm that goes off when two sets of figures do not match up?

Chris Highcock: The system produces a verification report that says that a certain box should have a certain number of votes. If those votes are not all there, the system should flag that up.

David Anning: Without getting into too much detail or inappropriate finger pointing, I must point out that it was failure of process—human failure, if you like. The system behaved as it was supposed to. Because of the way in which the human part of the process was carried out, the papers in that particular box were ignored, but the system itself worked correctly.

James Dornan: Would the system have recognised that there was something wrong?

David Anning: Yes, the system did recognise that there was something wrong.

James Dornan: Somebody ignored it.

David Anning: Exactly. There were reports available that would have highlighted it. In fact, when the report was scrutinised the following week, it identified that there had been a problem.

John Pentland: Andy O'Neill said that getting the national result was difficult, and it seems to have been a resource issue. However, there is a lot of detail in the stuff that the local authorities are getting, which can identify where the high and low turnouts have been and tell us how votes have been transferred even down to the level of single ballot boxes. What do you do with that information? Where we identify that some area has had a low turnout, do we investigate the reasons for that?

Gordon Blair: As returning officers and the election team, we would look at that only to see whether we got the number of polling stations right, for example. That is how we look at turnout. I suspect that it is the candidates and parties that would look at that to see whether they could improve turnout in their areas. It is not something that we would look at from the point of view of conducting the poll.

John Pentland: Do you not take into consideration that turnout might be due to the demographics of an area? Do you not take into account whether they are deprived areas or high-society areas? I know what you are saying about where people go to vote.

Gordon Blair: We would have a look at that in reviewing our awareness-raising publicity to see whether there were areas that we might want to target. We have not done that in the past although our communities team does that for other purposes. We could start to draw a correlation.

William Pollock: It is the local authority that selects the polling places that are to be used, and those are statutorily reviewed periodically. We operate within what we are told to operate within, but where there is a problem with a polling place we would feed that back in in the normal course of the review.

The Electoral Commission recommends to all returning officers that a survey be carried out on polling day by the polling staff regarding access, visibility and everything else. An instant report is also filled in. We get all those forms back at the end of the process and they feed into our local review. We do that in my local authority area, South Ayrshire, and I am sure that most other

returning officers, although not all, will do the same.

Anne McTaggart: The rejection rate was 1.7 per cent nationally and 2.79 per cent in Glasgow. Has there been a breakdown of whether the rejected votes were votes that were cast on the day or postal votes?

Chris Highcock: There is a distinction to be made. When we talk about rejection rates, we are talking about the ballot papers that have made it to the count. If postal votes are rejected on the basis of an absent vote identifier, a signature or a date of birth that does not match, those papers never make it to the count and are not counted in the rejection rate.

Anne McTaggart: So the figure will be higher.

Chris Highcock: If we included the ballot papers that did not hit the count at all, the proportion of papers returned that did not count towards the final figures would be higher.

Anne McTaggart: There will be a figure somewhere for the number of rejected postal votes that never made the count.

Chris Highcock: A separate percentage of rejected postal votes is available.

Anne McTaggart: Thank you. My other question is about the impact of the count not going on overnight. Have you discussed the impact of starting the count the next morning rather than overnight?

11:45

William Pollock: The AEA and our practitioners certainly welcomed the direction from the convener of the EMB to have a next-day count. We thought that, from an operational and practical point of view, it made much more sense to count during the day than during the night. It is a long day for candidates, agents and party workers as well as for those who are running the election. The question of effective scrutiny arises, because we might ask how effectively someone can scrutinise things if they have been awake for 24 hours. There are other activities that people are not permitted to do if they have been awake for that length of time.

I realise that some candidates and politicians will have set views on the matter. At the close of poll, as usual, we waited for the ballot boxes to come in, undertook the required administrative checks and verification to ensure that all the figures balanced, and processed all the absent votes. In my local authority, it was well after 1 o'clock when we finished, and I believe that it was 2 o'clock or later in other places.

Throughout the country, we just had an early night, if I can put it that way, and started the count the next morning, at 8 o'clock in some places and 9 o'clock in others—those were the general start times.

Andy O'Neill: On the postal vote rejection rate, we do not have all the data in yet, but we have a provisional rate of 4.4 per cent for Scotland as a whole. That is down from 5.9 per cent last year, so there has been an improvement. I stress that the figure is 4.4 per cent of postal votes, not of the electorate.

That leads us to consider how we can reduce that figure. We are all interested in doing that, but it is a big process issue. I think that it was Stephen Sadler who mentioned the Electoral Registration and Administration Bill. The bill contains a power that will enable electoral registration officers to write to people after the event and say, "Your vote didn't get into the count because either your signature or date of birth was incorrect." That will heighten awareness among people of the fact that their vote is not counting.

Postal vote identifiers last for five years and are refreshed only at the end of that period. There are lots of things that we can do—all of us as a community are looking at them—to make people aware that they have to get their signature and date of birth right. Certainly in Edinburgh, there were also issues around power of attorney. Many people think that, because they have power of attorney, they have power of attorney over someone's franchise, but they do not. We need to get that message out to people.

There are also issues around matching. Where a couple in a house both have postal votes, they sometimes fill in the wrong forms and there is a mismatch. The returning officer will get their votes but will have to reject them because they are on the wrong forms. The power to allow a matching process will potentially get more votes into the count.

There is also a desire among returning officers for a power of discretion to allow postal votes into the count. That would be harder to achieve. I suppose that the analogy is with the adjudication of ballots. Under the current regulations, if someone is 86 but they put down a date of birth that brings them out as being 85, that is a clear failure and the vote will not be counted. We might think that the person has simply forgotten that they are 86, but it could be that someone else has filled in the form and voted for the person—we do not know.

The commission is going to commence a piece of work to come up with a balance between postal voting and security issues. There is certainly a big issue with rejected postal votes, or postal votes

not getting into the count, which needs to be addressed.

The Convener: Gordon Blair wants to comment. I ask him also to clarify one of the points that Andy O'Neill made. If somebody's postal vote is rejected, are they told about that after the election?

Gordon Blair: They are not at present, as a general rule. One or two people might be doing informal approaches, but I think that that is the purpose of the clause in the bill.

The Convener: So it is the new bill that will do that.

Gordon Blair: Yes.

I support Andy O'Neill's point. The feeling in SOLAR and in other professional areas is that discretion for returning officers on mismatches is lacking at present. We would welcome a look to see whether the returning officers can be given some limited discretion. How that would be phrased in legislation is another problem, but it would reduce the rejection rate.

William Pollock: Before the current legislation was brought into force, the previous legislation allowed returning officers to match up mismatched documents. We could do that before we had the current system for fraud identification. Where there was no intention of fraud but merely ineptitude, that could be sorted out and both votes would be processed and counted. However, the system is now very strict and that discretion no longer exists, which is why provision for it has been included in the bill. The hope is that we can sort out a problem when it is clearly not fraudulent.

James Dornan: Do we mean that the votes would be counted and put in, then go to adjudication so that election agents and candidates would be able to see what the returning officer had suggested was okay? For example, a mismatch would go up on the screen for people to see.

William Pollock: The postal vote is in a separate envelope. That is, the ballot paper is in an envelope and it is a statement; once the statement falls to be rejected, that envelope is never opened. It is kept sealed for ever or, rather, until it is destroyed. The ballot paper cannot be included in the count, because the supporting documentation has fallen foul of the law.

James Dornan: The point that I am making is about what happens further to that. Would the election agents and candidates be able to give their opinion on the returning officer's decision?

William Pollock: Yes. They are entitled to be present at the proceedings when we view the postal vote statements. If they objected to one of

us accepting or rejecting a doubtful statement, they would have the opportunity to do that.

Andy O'Neill: It is as William Pollock has explained, and the vote would then get into the count. If it needed adjudicated, it would just be another vote in the adjudication process.

Chris Highcock: I emphasise to the committee that postal votes are important to elections and election results. In elections over the past few years in Edinburgh, postal votes have made up over a quarter of the ballot papers that have hit the count, because of the differential turnout. We can have an overall turnout of perhaps 40 per cent, but a turnout of postal voters can be up at 70 or 80 per cent, and that turnout tends to hold up.

Huge numbers of the papers that get to the count are postal votes. I do not think that that is always recognised by politicians or the public.

Andy O'Neill: We had a 15.2 per cent rate of postal voting for the most recent election, which represents an increase of 4 per cent over the past five years. Postal votes are very important.

The Convener: I have a question about something that is probably not completely within the witnesses' remit, but it is an issue that matters to me, so I am going to take the opportunity to ask about it.

When STV was brought in, it was suggested that it would improve the gender balance in councils. Is anybody aware of any research on whether that has been successful? We have had a couple of elections that have used STV. Do we think that it has worked regarding gender balance? If not, has it made things worse? Does anybody know?

William Pollock: That issue has not necessarily been a concern.

The Convener: Is anybody aware of any research that has been done in that regard?

John Pentland: Just to follow that up, the introduction of STV was supposed to produce more candidates at elections. However, the evidence shows clearly that the number of candidates has fallen since STV was introduced. Would that not be taken into consideration?

Andy O'Neill: Clearly, the choice of electoral systems is down to politicians.

John Pentland: I am trying to get beyond that. If there is an area of concern, where would you collectively raise that? Would you do it through different board members? I am concerned that we are getting the process right but not dealing with the real issue, which is trying to get people out to vote.

Kevin Stewart: I have a specific point for Mr O'Neill about the Electoral Commission having a look at the limits of candidates' campaign expenses for those campaigning under STV in large wards that include remote rural areas and islands. I can understand the reason for looking at the spending limits in that regard, but I wonder whether the Electoral Commission could also look at some of the inner-city seats where, for example, it is sometimes not so easy to get into blocks of flats that have no intercoms and where campaigning can cost a lot of money. If we are going to look at such difficulties in rural areas, we should also look at some of the inner-city difficulties in the same way.

Over many years as a candidate, I have loved dealing with flats in tower blocks with intercoms. However, in a particular ward in my constituency, it is often difficult to access some of the buildings because they have no intercoms and there is only one letterbox for the entire building. Basically, we must post or at least envelope everything that we put out, which means extra costs. Could you look at that aspect as well as looking at the difficulties in rural and island communities?

Andy O'Neill: I am happy to do that.

The Convener: Thanks very much, everybody. This has been the committee's first look at how the elections went. I am sure that we will look at the area again in the future.

11:55

Meeting continued in private until 12:43.

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