



The Scottish Parliament  
Pàrlamaid na h-Alba

## Official Report

### **PUBLIC AUDIT COMMITTEE**

Wednesday 7 November 2012



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**CONTENTS**

	<b>Col.</b>
<b>DECISION ON TAKING BUSINESS IN PRIVATE .....</b>	<b>875</b>
<b>SECTION 23 REPORTS .....</b>	<b>876</b>
"Managing ICT contracts" .....	876
"NHS financial performance 2011/12" .....	892

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**PUBLIC AUDIT COMMITTEE**  
**15<sup>th</sup> Meeting 2012, Session 4**

**CONVENER**

\*Iain Gray (East Lothian) (Lab)

**DEPUTY CONVENER**

\*Mary Scanlon (Highlands and Islands) (Con)

**COMMITTEE MEMBERS**

\*Colin Beattie (Midlothian North and Musselburgh) (SNP)

\*Willie Coffey (Kilmarnock and Irvine Valley) (SNP)

\*James Dornan (Glasgow Cathcart) (SNP)

\*Mark Griffin (Central Scotland) (Lab)

\*Colin Keir (Edinburgh Western) (SNP)

Tavish Scott (Shetland Islands) (LD)

\*Sandra White (Glasgow Kelvin) (SNP)

\*attended

**THE FOLLOWING ALSO PARTICIPATED:**

Jackie Baillie (Dumbarton) (Lab)

Angela Canning (Audit Scotland)

Gemma Diamond (Audit Scotland)

Caroline Gardner (Auditor General for Scotland)

Paul Gray (Scottish Government)

Alastair Merrill (Scottish Government)

Jane Morgan (Scottish Government)

**CLERK TO THE COMMITTEE**

Roz Thomson

**LOCATION**

Committee Room 6



## Scottish Parliament

### Public Audit Committee

*Wednesday 7 November 2012*

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

### Decision on Taking Business in Private

**The Convener (Iain Gray):** I welcome committee members, members of the public and members of the press to the Public Audit Committee's 15th meeting in 2012. I ask everyone to ensure that their mobile phones are switched off. We have received apologies from Tavish Scott.

Under agenda item 1, does the committee agree to take items 4 to 6 in private?

**Members** *indicated agreement.*

## Section 23 Reports

### "Managing ICT contracts"

10:01

**The Convener:** Item 2 is our continuing inquiry on the section 23 report "Managing ICT contracts". With us from the Scottish Government are the accountable officer, Paul Gray, who is the director general of governance and communities; Anne Moises, who is the chief information officer; Jane Morgan, who is the deputy director of the digital public services division; and Alastair Merrill, who is the director of the procurement and commercial directorate.

Mr Gray has submitted written evidence, which he would like to introduce to the committee.

**Paul Gray (Scottish Government):** Thank you for the opportunity to provide evidence on the Audit Scotland report "Managing ICT contracts—An audit of three public sector programmes". The convener has introduced my colleagues, whom I will bring in as necessary to answer more detailed questions.

Audit Scotland's report is helpful and contains a number of recommendations that are in line with our current direction of travel. However, that is not to say that we cannot learn from the report; we have learned from it. As accountable officer for the administration budget, one of my responsibilities is effective engagement with public bodies. The recommendations on how we can better support public bodies are, therefore, valuable to us.

Of course, public bodies have their own chief executives and accountable officers. I know that the committee has taken evidence from Registers of Scotland and has received other written evidence. If the committee has detailed questions about specific organisations, I am happy to pursue those questions with the relevant accountable officers and to revert to the committee, to ensure that I give an accurate response.

I make it absolutely clear that I accept that the Scottish Government has an important leadership role in responding to the Audit Scotland report. My written evidence sets out how we are responding to the recommendations; I will not repeat that, but I am happy to expand on it. I thought that it would help to explain briefly to the committee other steps that I have taken since I submitted the written evidence; I can expand on those steps.

I have written to the chief executives of relevant public bodies—not just the three bodies that the report covers, but the range of agencies, non-departmental public bodies and non-ministerial departments—to ask them to ensure that the

checklist that Audit Scotland has provided forms part of their regular assurance. On 6 December, I will take to the Scottish Government's strategic board a report on lessons that have been learned and on actions. I have met the chair of the Scottish Government's audit and risk committee to discuss our response to the Audit Scotland report, and he is content with the actions that have been taken so far. I will report formally to that committee on 6 December, immediately following the strategic board meeting on the morning of that day.

As part of our key supplier-management approach, which is intended to enable a joined-up and pan-public-sector approach to dealing with key suppliers, I met Brendan Dick, who is the managing director of BT regions and the director of BT Scotland, on 26 October. He and I have met a number of times to discuss BT's business with the Government. At the most recent meeting, we agreed that I would regularly attend part of the BT Scotland's board meetings in order to ensure that we maintain an appropriate relationship with that key supplier. The first of those meetings is scheduled for 23 November. That is consistent with the approach that we are taking with other key suppliers. As committee members will be aware, the Scottish Government recently published a national strategy document, "Scotland's Digital Future: Delivery of Public Services". The document was developed with and for the wider public sector, and it aims to drive forward digital delivery of services. It also aims to ensure, in line with John McClelland's 2011 "Review of ICT Infrastructure in the Public Sector in Scotland", that we deploy information and communication technology effectively.

Aligned with that national strategy, the strategic corporate services board has overseen the development of a linked digital public services strategy for the central Government and will now oversee implementation. That includes some specific actions that we are taking to improve assurance processes for ICT investment by central Government's bodies.

Finally, we have expanded the role of the information systems investment board, as set out in my written evidence, and proposed investment from public bodies has been reported to that board. That board will seek assurance for higher-risk projects that requirements on the Audit Scotland checklist are being met. The strategic corporate services board will discuss the information systems investment board's initial analysis and proposed next steps this afternoon.

We are taking the report seriously; we accept that there is room for improvement and are already taking steps to deliver that improvement. The committee's comments and consideration will be helpful to us in informing our next steps.

**The Convener:** Thank you, Mr Gray.

You said that public bodies such as the three that the report focused on—the report made it clear that the examples were drawn from the many public bodies that procured ICT—all have their own chief executives and accountable officers. However, you also acknowledged that the Scottish Government has an overall leadership role. Certainly, the report suggested that the Scottish Government had been found wanting in that role. In paragraphs 53 to 56, with reference to the three bodies that the report focused on, the Audit Scotland report says:

"Each of the bodies approached the Scottish Government for advice or support".

However, certainly in two of those cases that support was not really forthcoming. Paragraph 55 says with regard to the protecting vulnerable groups programme team that the team sought assistance

"from the Scottish Government but was advised assistance could not be provided within the timescale requested".

Although Registers of Scotland

"provided periodic briefings to the Scottish Government",  
the Scottish Government

"did not become directly involved"

in that ICT issue

"until late 2011",

by which time the partnership approach had been in place for a number of years and the problems had become serious enough to lead in the end to early termination of a contract.

Why was the Scottish Government not able to provide support to Registers of Scotland or Disclosure Scotland?

**Paul Gray:** I will start with Registers of Scotland. Anne Moises, who is with us here today, was, in fact, providing support to Registers of Scotland through the gateway review process. She sat on a number of gateway reviews and it was as a result of a "red" assessment from a gateway review that Registers of Scotland concluded that it ought to review its position with regard to that particular contract.

In terms of protecting vulnerable groups, I will step forward and then step back. In stepping forward, I say that we are reviewing all the contracts and programmes that are in prospect through the information systems investment board and the strategic corporate services board, in order to ensure that if resources are needed, we are planning for putting them in place. In stepping back, I say that if a public body comes up against a problem and asks for resource at very short notice, the situation in the past has been that we

were not always able to provide that. We are not staffed to provide legal, technical and procurement support to every public body in Scotland. That is not to say that we will not provide support, but what we are trying to do—I think rightly—is to move to a situation in which we are better able to plan delivery of support.

It is also not the case that we will provide that support directly from within the Scottish Government. We propose that the organisations that need support have access to it where it might best be delivered, which might be the Scottish Government, or it might be elsewhere within the public sector or the private sector. One of the things that are important in such contracts is that the costs include the costs of necessary support, which is one of the matters that we will look at.

I am anxious not to come across as being merely defensive or to be saying just that that was then but this is now. I want to convey that we are taking a more structured approach because we think that that is right. However, what I cannot do is cut across existing accountable-officer responsibilities in individual organisations.

**The Convener:** We have found in the course of our investigations that the relationship between the Scottish Government and public bodies is central to what has happened. Much of the oral and written evidence that we have had from the bodies involved is that they did not have within their organisations the expertise and capacity to procure the specialised contracts. From the written evidence that you have submitted for today's meeting, I am still a bit unsure about how you see that relationship. For example, you refer to a

"strategic review of current ICT skills availability within central government to identify gaps and the subsequent development of actions to address these".

I am not clear whether, when you say that they are "within central government", you mean within the Scottish Government or within the wider public sector. Certainly, the evidence suggests that something needs to be done to address the skills gap within public bodies such as Registers of Scotland and Disclosure Scotland.

**Paul Gray:** That is accurate. From 1 October, we have been collecting information about numbers across the wider cohort and we will link that with our work on skills. Our intention is to look across the wider cohort and not simply within the core Scottish Government. As I have said, our intention is not to build up a massive resource pool centrally but to ensure that the resource is distributed in the right way and that it can be shared, which means that the resource might move about from time to time.

**The Convener:** On the central resource, paragraph 78 of Audit Scotland's report states:

"In recent years, the number of staff in ... Information Services and Information Systems Directorate has fallen from 300 to just over 200".

From the organogram that you provided, ISIS seems to be key to providing support where it is needed and can be provided, but it has had a drop of one third in its staff. What assurance can be given that the support that ISIS provides in the future will be better than it was in the past, given that it is trying to do that with only two thirds of the previous staff, and that it did not have enough resource previously?

**Paul Gray:** I have three points to make. First, I am not suggesting that all the support that is required will come from the ISIS division. Secondly, my intention is that we will build up across the public sector expertise that can be shared. We are trying to avoid building up for peaks and having far too many people around during the troughs, so we are adopting much more of a shared-expertise approach.

Thirdly, it would be dishonest of me to conceal from the committee that the numbers of public servants are falling—that is what is happening. We are trying to look ahead so that we manage in the most effective way the support that is needed.

We must increasingly build in to the cost of contracts the cost of the support that is required. If the cost of a programme simply focuses on what it takes to put in an information technology system, but the legal advice, the procurement advice and so forth are not costed, the programme is undercosted. That is one of the issues that we will look at in analysis of the information that I will see this afternoon.

10:15

**The Convener:** That suggests that at least some of the savings from staffing reductions in the directorate are being pushed out as additional costs to the public bodies that might have looked to the centre for support, because they will either have to use their own cohort to provide support or purchase that support from the private sector. Is that not something of a false saving?

**Paul Gray:** That brings me back to my previous point about peaks and troughs. We could staff up for maximum demand, but if we did so there would at times be overcapacity. I also make the straightforward comment that we are not making best use of the range of expertise in the public sector or drawing it together as coherently as we could be. If we did that, we might well be able to afford to do what we are planning to do within our cost envelope.

Sometimes we need concerted support over three or four months—indeed, that is what we provided for quite a number of months to the

protecting vulnerable groups programme—and, sometimes, only two or three days' worth of expertise is required to make all the difference and unlock ideas. That is the balance that we are trying to strike.

**Mary Scanlon (Highlands and Islands) (Con):**

I thank Paul Gray for the additional and very helpful information that he sent us this week.

I have no doubt that you read the *Official Report* of our meeting two weeks ago. Given my feeling that BT was pretty much being given 100 per cent of the blame for what went wrong, I am pleased to hear that you will be attending BT board meetings. Do you think that the assessment that was given by officials two weeks ago was unfair or do you agree with it?

**Paul Gray:** The keeper of the registers, Sheenagh Adams, tried to make it clear that ROS is not trying to blame BT; in fact, when I spoke to Ms Adams this week in advance of my appearance before the committee, she repeated that point. To be frank, I have to say that I am growing in my experience of coming before committees. I am not saying that I am good at it, but I am learning to pick my words carefully.

**Mary Scanlon:** If I may say so, I think that you are becoming the regular fall guy.

**Paul Gray:** Thank you. I will try to continue to be the straight man.

It might well be that someone who does not do this sort of thing very often will not pick their words very carefully. I am clear that Registers of Scotland made a loss over the contract, but I am equally clear that BT did not secure the profit that it expected from it. I am clear that Registers of Scotland understands that it could have done things better, but I am equally clear—I have discussed this with Brendan Dick—that BT thinks that it, too, could have done things better. That will often be the case when things go wrong. Such situations are rarely completely one-sided, and I do not think it was completely one-sided in this case.

**Mary Scanlon:** That is helpful. It is certainly a much more balanced view than we got two weeks ago.

As a committee member, I was given the impression that the four officials who gave evidence had nothing to do with the previous contract and were not in place at the time. However, the contract started back in 2004-05. When I looked back at Registers of Scotland's annual report, I found in the corporate governance statement on the system of internal control the following statement:

"Ultimate responsibility for strategic risk management rests with the Management Board, based upon the advice

of the Audit Committee and operational groups and where appropriate, taking external professional advice in relation to specific issues, for example the development of the IT partnership".

It goes on to say:

"I am satisfied that overall Registers ... are operating in accordance with Scottish Executive and Treasury guidance as regards internal controls and risk management."

That was signed by Sheenagh Adams, as managing director. Were we misled two weeks ago? I was under the impression that none of the officials had anything to do with the original contract or the review of it. However, those words, which are written on page 43 of the 2005-06 annual report—it is not a question of how she chose her words—were by the person who led the evidence two weeks ago, and suggest that everything was under control. Again I ask: were we misled?

**Paul Gray:** I would not say that you were misled, Ms Scanlon. The "red" gateway assessment was in 2011, not 2004-05. It is fair to say that Ms Adams gave a fair and accurate view of the situation as it was in 2005. Had she been asked the same question in 2011, she might have given a different answer.

**Mary Scanlon:** The problem was that there had not been a review for six or seven years. The quotation that I read was from the beginning of the process. Last week, Ms Adams stated:

"None of the current management team was in post in ROS in 2004".—[*Official Report, Public Audit Committee*, 24 October 2012; c 827.]

**Paul Gray:** Ms Adams might not have been in post in 2004, but she might have been in post by the time the accounts were signed off. That information could be provided to the committee for accuracy. I know that her predecessor left the organisation around that time.

**Mary Scanlon:** I welcome everything that you have said in answer to me and in your statement to the convener. However, I also looked at the civil service staff survey for the Registers of Scotland. In response to the statement,

"I feel that RoS as a whole is managed well",

3 per cent of staff strongly agree and 11 per cent agree. In response to the statement,

"I feel that change is managed well in RoS",

1 per cent of staff strongly agree and 9 per cent agree.

My concern is that the organisation should be fit for purpose to collect stamp duty and carry out land registration. I take what you say with the level of trust with which it is given, but despite everything that you are doing, to me those figures point to a demoralised workforce, so how can the



Public Audit Committee have confidence that the organisation is managed well, is fit for purpose and can adapt to change? Only 1 per cent of staff strongly agree that it manages change well and only 9 per cent agree, which leaves a huge 90 per cent of staff having not a lot of confidence in the organisation. What is your view on that civil service staff survey, the results of which appear to be well below the average for other public sector organisations?

**Paul Gray:** That is a point on which I would want to ask the keeper of the registers to provide a view. It would not be proper or helpful for me to give the committee my view on the management of Registers of Scotland—I am not the accountable officer for it. If the committee has concerns about that, it would be fair to allow the accountable officer to give an account of herself, or the chief executive, should she wish to do so.

**Mary Scanlon:** Do you agree that, as well as all the measures that you are putting in place, it would be appropriate for the staff to feel that change is managed well?

**Paul Gray:** I will speak for the Scottish Government. Staff express concerns to us, too, about management of change. They feel under considerable pressure because of the economic circumstances that everyone faces, and the situation with pay and pensions. That flows through to the feeling about their place of work. I can give an assurance on behalf of the Scottish Government's executive team and strategic board that senior managers across the Scottish Government take change management very seriously indeed and recognise that having an engaged workforce is essential to good performance.

**Mary Scanlon:** Last week, we were told about three times that lessons had been learned. Again, I take that on trust. We were also told about the success of the crofting register, but that register is not yet active, so how can it be judged to be a success?

Secondly, I am concerned that, although Registers of Scotland has had 10 years to cleanse the land register of inappropriate burdens under the feudal tenure reforms, that has not been achieved—as I understand it—with the ICT that is being used. There are now, apparently, no plans to cleanse the register, and every day new and inappropriate burdens are being added.

I am considering the practicalities, because I hope that Registers of Scotland is able to collect the taxes, but the crofting register is not up and running. Has ROS successfully done everything that is required under the Abolition of Feudal Tenure etc (Scotland) Act 2000, which Parliament passed more than a decade ago?

**Paul Gray:** I am happy to get that information and to provide it to the committee. I understand the committee's legitimate concern about how Registers of Scotland functions in fulfilling the duties and responsibilities that are currently laid on it and those that it may have to assume in the future.

I am content that the keeper is taking the matter seriously, and that ROS is putting steps in place, but assurance on the detail would have to come from the organisation itself. It would be inappropriate for me to provide that.

**Colin Beattie (Midlothian North and Musselburgh) (SNP):** I welcome the Scottish Government's submission, which indicates that a review is taking place. That will not be a small review, and a cost will be attached to it. Is there a budget attached to the cost of what is being proposed?

**Paul Gray:** With regard to the review of the projects—

**Colin Beattie:** With regard to the review that your written submission indicates will take place.

**Paul Gray:** Yes. In reviewing the projects in question, we are using mechanisms that already exist. We are expanding the role and remit of the information systems investment board and placing the review of the projects within the scope of the strategic corporate services board. We are seeking to make use of resource that already exists. However, if the strategic corporate services board concludes this afternoon that there is insufficient resource available to do what needs to be done next, we will ask the organisations concerned to review their costings to ensure that they have adequate provision for the support that they may need.

**Colin Beattie:** I will continue on the review, and address the scope of it. Sometimes surprises come out. You may or may not have the information available, but are there any publicly funded bodies that are not included in the review and which you would not consider supporting in that regard?

**Paul Gray:** The review covers core public bodies, so it does not—for example—cover the national health service or local government. If the committee would find it helpful, I could provide a list of the bodies to which I wrote; I would be very happy to do so. From memory there are 54 of them—

**Jane Morgan (Scottish Government):** There are 52.

**Paul Gray:** Sorry. That shows how good my memory is, and why it would be better if I gave you the list.

**Colin Beattie:** It might be useful for us to know the scope.

Last week, we spoke to representatives of Registers of Scotland, some of whom felt—as Mary Scanlon mentioned—that ROS had got its fingers burned with BT. The response seemed to be that, in future, ROS would deal with smaller contractors on the basis that it would not be bullied by the big boys and could perhaps bully the little boys into doing better.

Do you agree that there is a danger that an element of fragmentation might occur? If ROS is dealing with a number of contractors, each of whom is doing their own little bit, there is a danger that everything will not join up, and that we will end up with everyone pointing the finger at one another and saying, “It was you.”

**Paul Gray:** I give my colleague Alastair Merrill notice that I will bring him in on that question, but I will make a couple of introductory comments.

The first thing to say is that using small contractors does not necessarily result in fragmentation. I have had experience of doing that where there was a lead contractor who was contractually responsible; in that way, someone draws together the pool of expertise.

10:30

Secondly, it has been suggested that John McClelland’s report meant that we should simply consolidate everything with big suppliers. That is not what John McClelland meant, or what we are doing. One example will suffice. One reason that I am working closely with BT is that we have a large number of contracts with it, which have been let in different circumstances and at different times. It is actually more efficient for us and for BT to have some consolidation around that, so that we do not have multiple invoices and multiple rates of charge. We will have to work towards that prospect, but that is not to say that we should therefore give everything to one big supplier.

Alastair Merrill will say more about what we are doing to engage with not only major suppliers but pools of small suppliers or individual small suppliers, depending on the needs of the organisations concerned.

**Alastair Merrill (Scottish Government):** As Paul Gray said, John McClelland called for greater collaboration in letting contracts in his ICT report and his earlier report into public procurement. However, that does not necessarily mean giving contracts to single large suppliers. It means promoting the use of frameworks, and Registers of Scotland is using the IT managed services framework that Procurement Scotland put in place a year or so ago. The framework is deliberately

structured to allow for both large suppliers and a range of small to medium-sized enterprises to deliver IT services. John McClelland praised the framework for its flexible approach to the lotting structure to make that facility available.

**James Dornan (Glasgow Cathcart) (SNP):** Before I ask my question, I return to Mary Scanlon’s contribution. My view last week was that ROS did not blame BT; it blamed the contract. ROS believed that the contract had turned out to be not in anybody’s best interests and that it would not want to go into such a contract again. The point was not that BT was bad to work with, but that the contract that was written at the time was not to the benefit of either side. The fact that Sheenagh Adams became involved in 2005-06 may mean that she did not know the details of how the contract was written. She may have seen it working appropriately at that time and may not have seen what was coming down the pipe.

I do not want us to go away and think that ROS said that the problem was nothing to do with it and that it was all about BT, although I do not have shares in it so I would be quite happy to have a go at it.

**Mary Scanlon:** I do not have shares in BT either.

**James Dornan:** I know that you do not, Mary.

If there are still a number of questions to ask Registers of Scotland, the best way of doing that would be either to write to ROS or to get it back in and ask it the questions that Mary Scanlon mentioned.

My question is on paragraph 70 of the Audit Scotland report, which talks about the gateway reviews and the lessons learned. It seems that there is

“no mechanism to ensure that the learning is passed to all parts of central government”,

although it is passed to some parts of the Scottish Government. Are you doing anything to ensure that the lessons learned and best practice are spread out among all affected bodies?

**Paul Gray:** That is a fair question. Part of the function of the strategic corporate services board is to ensure that lessons learned are shared. Alastair Merrill can say in more detail how we disseminate lessons learned.

**Alastair Merrill:** Gateway reviewing is a well-established process for providing project and programme assurance and ensuring that lessons are clearly learned within the affected organisations. In the past two or three years, we have taken steps to ensure that those lessons are more broadly disseminated. From the Audit Scotland report into major infrastructure projects,

committee members will be aware that the infrastructure investment board now regularly reviews major infrastructure projects. Part of those reviews involves the lessons from the gateway reports that have been conducted. We are looking at applying a similar process in the information systems investment board, to ensure that we capture lessons from gateway reviews of major ICT projects in future.

A number of checks have been introduced to ensure that, in particular when gateway reviews identify potential problems, the relevant accountable officers and senior responsible owners and the Scottish Government's assurance director—that is me—are made aware of recommendations and that I provide to the relevant audit committee in the Scottish Government an annual report that draws out key themes in that regard.

**James Dornan:** You talked about rolling out a process in relation to information systems. Do you have a timeline for that?

**Alastair Merrill:** I can come back to the committee on the timeline, but the work is an intrinsic part of the developments that Paul Gray outlined.

**Willie Coffey (Kilmarnock and Irvine Valley) (SNP):** I understand that the Registers of Scotland contract was defined in 2004-05. As we look back on the problems that arose, we can argue about whether it was reasonable to expect the then Scottish Executive to be at the heart of providing IT support and expertise to ROS or other public bodies—or indeed whether it is reasonable to expect that of the current Scottish Government.

However, it is reasonable that committee members express the view that when things go awry a system should be in place to manage the situation and make improvements, so that we do not repeat the mistakes of the past. To an extent, we are dealing with a legacy IT issue that is, I am sad to say, pretty common throughout the industry.

If we do not at the outset have the expertise that enables us to define what we want, we end up getting what the provider wants to give us. It is as if someone goes into an electrical shop to buy a washing machine but ends up with a tumble dryer—that is a silly analogy, but it captures what can happen if we do not clearly specify what we want and spend time setting out our requirements at the outset.

I am pleased about various aspects of the paper that Paul Gray submitted. Not least, I am pleased about the engagement with BT; I am also pleased by the comment about specification of needs at an early stage. Greater effort must be put in at the beginning of projects, whether we are procuring

computer hardware or software and services, so that we are clear about what we need. The Public Audit Committee has returned to that issue several times, and if that lesson is learned from Paul Gray's team's experience and our experience, we will progress.

Can Paul Gray give a clear indication that that is what is understood by the experience of the process and that effort will be made, not just with Registers of Scotland but with other public bodies, to be clearer up front about what is to be delivered for the public?

**Paul Gray:** The gateway review process has been extended, not just here but by the United Kingdom Government, to include gate 0, which is intended to provide the early review and assurance that you described. Alastair Merrill might give more detail about gate 0. You made an important point. It is important to be clear from the start about what is required. We will look at that.

It is also right to say that IT systems, services and offerings change quickly and dramatically, so if we enter into a long-term contract with an IT supplier it is important that the contract is sufficiently flexible to be able to take account of new opportunities that might arise. That is not an easy balance to strike. However, being clear at the start about what is required and how it will be delivered—and, preferably, describing that in terms of outcomes rather than detailed technical specifications—is the right way to get the best out of contracts.

**Willie Coffey:** I agree. If I can offer a bit of advice from my experience in the software business—

**The Convener:** So long as it is offered for free. *[Laughter.]*

**Willie Coffey:** Aye; it is free. If time is spent on defining what the users want—particularly in relation to software—and the software can be seen running somewhere else for another customer, that is a great way to enable an intelligent client or potential user to make up their mind that what they are about to get is what they want. The investment in time and effort at that phase of any software procurement project yields future dividends. I hope that Paul Gray will embed that aspect in future processes.

**Paul Gray:** I am certainly clear about the importance of building a little and testing a little to ensure that the system is working as it goes along. I hope that this is not too simple an analogy, but the components of the replacement Forth crossing are being built and tested in stages. Nobody would think to build a bridge and then work out whether it worked after putting the first vehicle on it—that would not be the right way to do that. We should not build systems like that either.

**Sandra White (Glasgow Kelvin) (SNP):** Good morning. I apologise for arriving a second late.

From my experience, the current inquiry shows the Public Audit Committee at its best. It is a credit to the Parliament that all these years down the line we are still considering such issues and that we are moving forward.

I have three main issues to raise. First, the beginning of Paul Gray's submission states that costs include the necessary support in contracts. Will you expand on that? Were support costs included in the original contracts that Audit Scotland looked at? If not, will such costs be included in future contracts?

Secondly, I refer to the issues that I raised at the last committee meeting when we were talking about the BT contract. We received evidence that in some circumstances it was not necessarily the size of the company, but the length of the contract that was the problem. It is not necessarily SMEs versus big contractors—the issue is that someone can get a contract for eight or nine years that has no get-out clause.

Thirdly, I have a follow-up question to James Dornan's question about the gateway and the lessons learned. Your submission refers to the knowledge hub for Scotland's digital future. Will that act as a check and balance? Is monitoring contracts part of that learning curve?

**Paul Gray:** On costs, the strategic corporate services board will review programmes of ICT-enabled delivery that have no external contractual element at all. Regardless of the nature of the programme, the built-in delivery costs ought to include the anticipated costs of the support required, whether that is in relation to contractual, legal, IT and technical design expertise or change management. We will be looking to assure ourselves that that happens.

The interaction between the size of the contract and the supplier and the length of the contract is not a simple issue, and Alastair Merrill will answer your points in more detail. If we want a supplier to help us to adopt a particular strategic direction of travel, we must grapple with the need for a long enough engagement with that supplier to make it worth while commercially for us both. On the other hand, in my response to Mr Coffey, I said that IT changes pretty quickly and binding oneself into a contract that is for the delivery of a specific form of technology is often constraining.

10:45

**Alastair Merrill:** We would not normally now countenance a 10-year contract. Since 2006, when the McClelland reforms of procurement took off, a huge amount of investment and effort has

gone into developing better tools, processes and capability in relation to the management of procurement and the letting of contracts. For example, the procurement journey process, which is used across the public sector, is an interactive means to help purchasing bodies to decide on the procurement and project management processes that are most suitable for their needs. That kind of support and advice means that public bodies are now much better placed to put in place the correct contract management arrangements than they were in 2004.

**Paul Gray:** Jane Morgan can talk about the point on the knowledge hub.

**Jane Morgan:** The knowledge hub is for sharing information and lessons learned. Ms White's reference to monitoring relates more to the information systems investment board, which is involved in seeking assurance on higher-risk projects. I do not think that we should understand the knowledge hub to have that particular role.

**The Convener:** Could you expand on the distinction between the two things? Presumably, the digital public services programme board is about the delivery of public services through new technologies and access, whereas the information systems investment board seems to be more about internal ICT in public bodies. However, the more I think about these issues with regard to Disclosure Scotland and the impact on people who are trying to get their PVG registration, on the Crown Office, with the follow-on impacts on witnesses and others in the criminal justice system, and on the Registers of Scotland and people who are trying to use the land register, the difference between the two things seems to disappear. Is it a weakness that the digital public services programme board is way over on one side and the information systems investment board is way over on the other side? Are they not closer than that, in reality?

**Paul Gray:** That is a fair point, and I will attempt to answer it. The digital public services national board is chaired by me—there is a board for health, a board for local government, a board for police and fire and so on, each of which has its own chair. For my sins, I also chair the central Government strategic corporate services board, so I am responsible for the overall national strategy.

The information systems investment board reports to Barbara Allison, who is the director of human resources and organisational development. Anne Moises, Jane Morgan and Alastair Merrill are all members of that group, which reports to the strategic corporate services board. We are trying to make a direct, linear link between the three in order to avoid that point of disconnection. However, we are considering whether the membership of the information systems

investment board should be broadened to bring in further public sector bodies, so that it can be more representative. We think that that would help.

**Sandra White:** In your submission, you say that the knowledge hub

“will ensure that public bodies are signposted to review lessons learned and contribute to the knowledge hub”.

I have not been on the committee for long, so could you say, in layman's terms, where the information about lessons learned will go? Surely it would be better if it went to the top—to you, Mr Gray? I wonder whether there might be duplication somewhere along the line.

**Paul Gray:** The decision to implement the knowledge hub was taken by the board that I chair. If there are key lessons, I expect them to come to the board. We want the knowledge hub to enable individual experts to give more granular detail. It will not just be about lessons that come out of gateway reviews at a high level. If there are particular local issues that colleagues feel that it would be helpful to share, they will have the capacity to do that.

At the moment, if someone had learned something and wanted to share it, they would have to find 50 or 60 email addresses, and I have no doubt that it would be a different list each week. The service has been put in place so that everyone knows that that it is where they can put information and look for information. However, as Jane Morgan said, I am not regarding it as part of our assurance mechanism. I am not saying, “We've got a knowledge hub over there, and that's the assurance I need.” The assurance will have to come through the formal governance structures.

**The Convener:** You make me glad that I chair only one committee. You chair so many boards that you must have trouble remembering which one you are chairing at any given moment.

**Mary Scanlon:** I have a follow-up question to Willie Coffey's question; I thought that it got to the heart of the matter. On page 19 of its report, Audit Scotland suggests that

“The Scottish Government could look to the role of the Major Projects Authority, established by the Cabinet Office in England,”

not just to assess the viability of a project before it is initiated, but to undergo regular, planned scrutiny. That is a reasonable suggestion from Audit Scotland. Were you in touch with the Major Projects Authority in England before doing what you did, giving us evidence and coming here today?

**Paul Gray:** Yes. In fact one of our senior director colleagues went through the most recent cohort of the major projects learning experience at a cost, if my memory serves me, of about £30,000.

We take this very seriously indeed and we will learn from wherever we can learn from. Alastair Merrill may want to say a bit more about the Major Projects Authority.

**Alastair Merrill:** The Major Projects Authority works in a different way in England and Wales. It takes a more proactive and central approach to managing on-going multibillion pound projects.

The committee may recall that in response to the Audit Scotland report on major capital projects in Scotland, Alyson Stafford, the Scottish Government's director general of finance, set out the arrangements that are now in place to provide scrutiny for major infrastructure projects. We work closely with the Major Projects Authority, particularly in the on-going development of gateway and associated integrated assurance tools, such as the key stage tool that the Scottish Futures Trust uses. However, it is perhaps also worth noting that the National Audit Office recently highlighted the resourcing challenge within the Major Projects Authority and the potential risk that it faces in living up to its aspirations to scrutinise the full quantum of major projects south of the border.

**The Convener:** We should probably finish by asking you the straight question that we have been alluding to all morning, which is whether you are confident that the governance structure that you have put in place makes instances such as the three that we have been studying as a result of this report significantly less likely in the future.

**Paul Gray:** I am, and I am grateful to you for the phraseology “significantly less likely”. I cannot guarantee absolutely that nothing will ever go wrong again, but what we are doing makes it significantly less likely. To pick up what I said to Mr Coffey, I am applying to this the technique that I would suggest is applied to major ICT developments. We are building this, we are testing it, and if we need to refine it, we will refine it. This is not absolutely fixed. We will learn as we go along.

**The Convener:** Thank you all very much for your evidence this morning.

10:53

*Meeting suspended.*

11:02

*On resuming—*

### **“NHS financial performance 2011/12”**

**The Convener:** Item 3 is consideration of a section 23 report, “NHS financial performance 2011/12”. I welcome to the meeting the Auditor

General for Scotland, who is accompanied by Angela Canning, assistant director, and Gemma Diamond, project manager, from the performance audit group. I invite the Auditor General to introduce the report.

**Caroline Gardner (Auditor General for Scotland):** Thank you, convener. The national health service is one of our most valued public services and we rely on it at important times in our lives. I should start by saying that there have been big improvements in NHS financial management over recent years, but it is also true that after a decade of growth the NHS is now facing significant financial pressures, particularly as a result of continuing cost pressures and rising demand.

The NHS has invested a great deal of work in its quality strategy, which is designed to improve the quality of services for patients while responding to financial pressures. However, achieving that aim will be a challenge and will require difficult decisions to be made in the years ahead. The aim of the report is to highlight the pressures faced by the NHS in continuing to provide quality healthcare for patients while meeting its financial challenges.

In pulling the report together, we found that all 23 of Scotland's health boards met their financial targets in 2011-12 and overall they reported a small underspend against their £10.9 billion budget. That is a real achievement. However, it was achieved through a number of in-year movements in funds that are not clearly reported in boards' financial statements. For example, although three NHS boards required additional financial support from the Scottish Government to break even, a reader of their accounts would not easily be able to see that support was required, the total amount that was received, and when the board is due to repay the funds.

We are also concerned that the requirement for boards to break even each year can encourage a short-term focus while changes to service delivery can take a number of years to put in place and might need up-front investment. As a result, the NHS needs to increase its focus on longer-term financial planning as well as managing the situation year on year.

In the longer term, there are several big risks to boards' financial sustainability. Nine boards reported an underlying recurring deficit, relying on non-recurring funding to break even. Although boards made significant savings of £319 million in 2011-12—or almost 4 per cent of their baseline budget—they need to make further savings of £272 million in 2012-13 to break even.

It is getting more difficult for boards to make recurring savings as they have already achieved the savings that are easiest to make. Boards have

classified 20 per cent of the proposed savings in 2012-13 as high risk, meaning that there is a higher level of uncertainty as to whether the savings will be realised in practice. To make significant savings in future, boards will need to reconsider their healthcare strategies and the potential to redesign services.

Our final finding was that, with the significant decrease in the capital budget, boards are using their available funds for existing projects, meaning that there is little left over to pay for backlog maintenance or new ways of working that might deliver services better and more efficiently.

In the report, we make a number of recommendations to the Scottish Government and boards. In particular, we think that, as the requirement for boards to break even each year can encourage a short-term focus, the Scottish Government should consider whether other options might help to promote better long-term financial planning.

Secondly, board annual accounts should be more transparent and clearly report how boards have achieved their end-of-year financial position, including details of any additional financial support that has been required.

Finally, the boards' monthly returns to the Scottish Government on their financial position and year-end forecasts could be improved, and the Scottish Government should ensure that boards are reporting their most accurate forecast position and that the means of reporting are consistent across the NHS.

As always, convener, the team and I are happy to answer questions.

**The Convener:** Thank you very much. I will kick off with a general question. As the report says—and as you have indicated in your opening remarks—all 23 boards have met their financial targets and balanced their books; indeed, the report also highlights a number of improvements in accounting and transparency, some of which have flowed from issues that emerged in the Western Isles, which I know that a previous incarnation of the committee spent a lot of time dealing with. Such developments seem very positive and, in that light, one might characterise the report as a good one.

Nevertheless—and you referred to most of these points in your opening remarks—the report also notes a budget that has been falling in real terms for some time now; the achievement of balanced budgets through quite opaque movements of funds; in three cases, such a position only being reached through relatively short-term loans on credit from the Scottish Government; a £1 billion capital maintenance backlog; and future plans that the report on more

than one occasion describes as “high risk”. All of that sounds quite bad. Would you therefore characterise this report as a good one, a bad one, or a good one with a warning attached?

**Caroline Gardner:** Annual financial management is obviously very important for any public body, and it is genuinely an achievement that all 23 NHS health boards have hit their revenue and capital resource limits in 2011-12. That was not the case in the past, and I give the NHS credit for its progress in that respect.

However, when we look beneath the surface at the efforts required by boards to hit their targets, we see that some boards found it very difficult. When we strip out the small number of boards that achieved surpluses, we find that the overall remaining surplus is only 0.04 per cent of the NHS budget, which suggests that people are coming in very tightly against a single point target in ways that do not encourage a longer-term focus on financial planning. At the same time, we know that things are going to be tougher than they have been since the advent of the Scottish Parliament as a result of the decade of growth that the NHS has had, the pressures on the available finances, and the demands on the service.

I should clarify that we say in the report that the territorial health boards will see a small real-terms increase in funding in 2012-13, but there is a reduction in the funding available to the special health boards in the same year. There is an important distinction between the two kinds of board that is worth being clear about.

In summary, I concur with your final classification of the report, convener. The NHS has done well to achieve its present position, but there are significant challenges ahead to maintain that for the future.

**The Convener:** It is common in management in the public and private sectors to use the traffic-light model, so what kind of warning is the report? Is it an amber warning or a red warning? What level of risk has the report identified?

**Caroline Gardner:** I acknowledge all the work that the NHS is doing to put in place the quality strategy to maintain the quality of services for patients while responding to the financial pressures. However, the financial pressures are real and significant. If you pushed me, I would say that the report is an amber warning.

**The Convener:** One aspect of it, to which you just referred, is giving credit to the health boards for balancing the budgets in-year but saying that in order to do that they required to take short-term measures that might jeopardise, undermine or make more difficult longer-term planning. It would seem perverse if Audit Scotland was saying that it was a bad thing for a public body to balance its

books in-year, so I wonder what you suggest would be a more effective system that would allow longer-term planning.

**Caroline Gardner:** You are quite right: one reason why I am so careful to say that achieving financial balance in-year is important is that, if any board fails to do that, I am required to qualify its accounts. It would therefore be perverse of me to criticise a board for achieving financial balance.

There are two challenges. First, the fact that the financial regime requires a precise hitting of revenue and capital resource limits every year can get in the way of the longer-term changes that are needed to transform services for the future so that they can meet all our expectations and demands within limited resources. Secondly, the way in which that is done is not transparent in the boards' accounts.

I am a strong believer that financial transparency in financial and performance reporting is important for trust in public services. The International Monetary Fund produced a good report on fiscal sustainability last year that made the same point that transparency is important for good decision making. At the moment, if boards are having to resort to certain measures to achieve financial balance, it is not clear in their annual accounts.

**The Convener:** Would it be better if they were required to balance their books over, say, a three-year period rather than annually? If they were shifting resources from one year to another in order to balance the books, would it make more sense for them to be able to that without returning funds to the Scottish Government and then having to ask for them back, which in essence seems to be what is happening now?

**Caroline Gardner:** We have deliberately not recommended a specific set of changes, partly because the current financial framework is driven by Treasury requirements for all public bodies across the UK. There may be some merit in looking at whether that framework can evolve to meet the requirements of financial management now or, indeed, whether there are mechanisms that would let boards develop surpluses for specific purposes that they could then use to reinvest in service transformation. We would be keen to hear the Scottish Government's thoughts on how that might evolve. However, greater transparency would also help in letting us all see how far those movements are affecting boards as they strive to hit their targets at the year end.

**The Convener:** Thanks very much.

**Mary Scanlon:** I just have two questions, which both relate to risk. The first one refers to exhibit 8 on page 16 of the report, in which the table under the heading “Savings required 2012/13” shows

that NHS Highland requires £23 million and that for the “% high risk” the NHS Highland figure is 13 per cent, NHS Lothian is 62 per cent, NHS Shetland is 44 per cent and NHS 24 is 45 per cent. The table also shows that for the Scottish Ambulance Service, which I think struggles to meet the demands on its service, 25 per cent of the savings are high risk. What do you mean by high risk in terms of patient care?

**Caroline Gardner:** Gemma Diamond will talk to you about that in more detail. In broad terms, we have used the categorisation that boards have used in their financial plans for this financial year—2012-13. It is important to be clear that the figures do not directly reflect any risk to patients; they reflect the risk that savings will not be achieved in practice.

11:15

**Gemma Diamond (Audit Scotland):** When boards set out in their local delivery plans the savings that they are required to make in the next year, they must put savings into three categories—low, medium and high risk. That tells a story of how hard it will be for boards to find such savings. Savings in the high-risk category will be harder to achieve than those in the low or medium-risk category.

We raised the issue in the report that some boards classify some of their risks as unidentified, which means that they do not yet have in place a plan to identify where the risks will come from. Commonly, boards classify savings with unidentified risks as high risk because, as no plan is in place, such savings are at a high risk of not being achieved.

**Mary Scanlon:** Therefore, the high risk relates to financial performance, which could obviously have an impact on patient care. I might come back to that, but I want to let others speak.

My second question is about another risk and concerns an issue that I have mentioned in the past. I was amazed that the backlog of maintenance is estimated at more than £1 billion. It does not seem long ago when the backlog was valued at about half that figure. When we talk about backlog maintenance, do we mean maintenance that is essential, critical and necessary to achieve health and safety standards and ensure that patients are not put at risk, or do we mean desirable maintenance? I am not being flippant; it is important to categorise the backlog maintenance. Does the whole £1 billion relate to maintenance that is required to meet health and safety standards and ensure that patients are not put at risk?

**Caroline Gardner:** The short answer is that the backlog relates to a range of maintenance

requirements in different settings and of different types. I ask Gemma Diamond to talk you through how the figure was derived.

**Gemma Diamond:** The figure comes from work that the Scottish Government did. It published a report in January this year on backlog maintenance and the assets of the NHS Scotland estate, and that report came up with the figure of £1 billion as the current level of backlog maintenance.

The Scottish Government did a lot of work in the report to categorise the risks that are associated with different areas of backlog maintenance. It might be worth asking the Government about how it has taken that work forward. The latest position was from January 2012.

**Mary Scanlon:** Information in the past—I do not remember whether it came from Audit Scotland or where I saw it—included a category for essential maintenance that was required to meet health and safety standards. You are saying that that is not broken down in your report, but the information exists somewhere.

**Caroline Gardner:** The figure as we have reported it does not break down the maintenance. We have taken the assessment that the Scottish Government did in January and reported the total requirement.

The figure that you remember probably came from a wider report on asset management that Audit Scotland produced. We would expect the Scottish Government to take the figure further by planning what is required and the timescale over which it is required.

**Mary Scanlon:** So the Scottish Government would have the figure.

**Caroline Gardner:** I would hope so.

**Mark Griffin (Central Scotland) (Lab):** The £1 billion maintenance backlog certainly gives the impression that we have a crumbling NHS estate. I know that you have pointed out that the figure came from a Scottish Government report, but do you have any indication of how quickly the backlog figure is rising? Was it previously assessed? What information do you have on timescales?

**Gemma Diamond:** The Scottish Government undertook a comprehensive assessment. How quickly the backlog is accelerating and when it will be addressed will differ from board to board, according to the properties that they own. We know that some boards have projects in train to address some of the backlog maintenance. For example, building a new health centre will remove a portion of backlog maintenance when the old building is disposed of. The situation differs for different boards, according to their property strategies.



**Mark Griffin:** The speed at which the backlog is rising will be key to whether the NHS has the ability to tackle it. The Government is moving £320 million from revenue to capital for existing projects. Boards that go over their budgets and then borrow from the Government are now being allowed to repay the borrowing through their capital budgets. Is that not a bit counterintuitive? On the one hand resource is being moved from revenue to capital, but on the other hand, when it comes to borrowing, resource is being moved from capital to revenue.

**Caroline Gardner:** There is not a straight yes or no answer to that. With a budget that is as big and complex as that of the NHS, it is reasonable to consider the best use of the resource in any one year and over the planning period in general. However, there is a strong case for greater transparency so that it is clear where problems are being stored up for the future, for example by using capital receipts to cover revenue expenditure or to repay funding that was provided for revenue purposes. We think that the transparency in boards' annual accounts could be improved.

**Mark Griffin:** On the issue of using capital receipts to cover up for a revenue overspend, it is normally the case that capital receipts come to the NHS nationally and national priorities dictate where they are spent. Now, territorial boards have control over the capital receipts to cover for their overspends, and the national directive that we would normally expect cannot be given.

**Caroline Gardner:** Scottish Government approval is required to use the capital receipts in that way. As I say, within the overall system, there might be instances in which that is a good use of a receipt. Our concern is that it is not transparent that that is the case in ways that let us make a judgment on the relative priorities between capital and revenue spending and between particular projects in each expenditure stream. For me, the most important thing is to get the transparency right, because that will let us all make judgments about how well the money is being used.

**The Convener:** I have a small point of clarification to do with transfers between revenue and capital. Paragraph 58 states:

"Six boards transferred revenue funding during the year to support £7.16 million of capital spending."

The next paragraph states:

"NHS Lanarkshire transferred £3.65 million from ... revenue ... partly to help address the maintenance backlog at Monklands Hospital."

Is the second figure part of the first? In other words, is half of that £7.16 million attributable entirely to one board making a single transfer?

**Gemma Diamond:** In essence, that is right. The £3.65 million is included in the £7.16 million.

**Colin Beattie:** My overall impression of the report is that the situation is positive, in the face of the challenges of the substantial overall cuts that the Scottish Government is having to deal with. I have one or two questions. The convener asked about NHS board reserves. Paragraph 16 states:

"Unlike other parts of the public sector, NHS boards cannot build up reserves from year-end surpluses to support future investment in services."

Is the NHS unique in that in the public sector? You might not be able to answer this, but is there a historical reason for that? I am just curious.

**Caroline Gardner:** The NHS is not unique in that. Other public bodies operate under the same financial regime but, because of the size and scale of the NHS and the particular nature of its services, which respond to demand, we think that the situation is a particular issue for the NHS. Local government bodies can build up reserves, because of their slightly greater distance from the Scottish Government core.

I am sorry, but I have forgotten the second half of your question, Mr Beattie.

**Colin Beattie:** First, I asked whether the NHS is unique in that—

**Caroline Gardner:** It is not.

**Colin Beattie:** —and whether other areas of the public sector have the same strictures.

**Caroline Gardner:** Yes. Other parts of the public sector have the same strictures, but those bodies are not as significant as the NHS in respect of either the size of the spend for which they are responsible or the pressures on their finances.

**Colin Beattie:** I also asked whether there is any historical reason that you know of for the situation.

**Caroline Gardner:** I am not aware of the historical reason behind it, other than that the approach is part of the Treasury framework for financial reporting and audit. It takes that approach to annual targets for revenue and capital limits.

**Colin Beattie:** Paragraph 34 states:

"the auditor has highlighted the need for strong leadership and direction in achieving this plan."

That implies that strong leadership and direction do not exist, or that they did not exist at the time of the audit. Is that the case? Has that been rectified since?

**Caroline Gardner:** That is very much a live issue. The report that we mentioned was finalised at the end of July by the auditor of the special health board in question. You are right: the recommendation or finding suggests a degree of

concern about the board's ability to respond to the challenges that it faces. That issue will be part of the auditor's work in this financial year and the report that I will receive next summer on the board's performance. As we said throughout the report, we hope that the Scottish Government is also monitoring progress in the board in its monthly monitoring returns.

**Colin Beattie:** At this point, do we know whether that has been rectified?

**Caroline Gardner:** Not at this stage. That was the position at the end of July 2012, and that is the most up-to-date position that we have.

**Colin Beattie:** Paragraph 62 refers to private finance initiative charges, which are obviously a historical millstone around the NHS's neck. You stated that the increases were primarily caused by NHS Forth Valley and NHS Fife, with

"the completion of the new PFI projects".

My understanding is that an inflation factor is built into most PFI contracts. For information, do we know what the impact of that inflation factor is across the NHS?

**Caroline Gardner:** I do not have the figure with me, and I suspect that the team will not have it either, but it is available, and we can come back to the committee with it.

**Colin Beattie:** I would be interested to know that, because that increase will be with us year on year. Regardless of how much budget is allocated to the NHS, it will be a constant drain.

**Caroline Gardner:** One factor that my predecessor as Auditor General reported on was the longer-term impact of PFI charges against the backdrop of the spending review figures that we knew in Scotland and the likely figures thereafter. We can give you information from that reporting after the meeting.

**Colin Beattie:** In light of what you say, do we have a projection for what the PFI charges will be for the NHS, taking into account a notional inflation factor?

**Caroline Gardner:** I think that those figures are available and that we have reported them in the past, and I am sure that the Scottish Government has them. Therefore, we can provide them to the committee.

**The Convener:** Although those charges will increase with inflation and most of the charges that are referred to in paragraph 62 are historical, is it not the case that the completion of non-profit-distributing projects will increase the budget line as well, as they will similarly have to be supported from revenue?

**Caroline Gardner:** Absolutely. In effect, any way of funding capital other than by a one-off capital allocation will have long-term revenue consequences. There will be a revenue consequence whether we are talking about a PFI or NPD project or direct borrowing for other parts of the public sector. That is one of the challenges around the capital and maintenance backlog that exists. Any way of resolving it will have an impact on capital budgets in the long term.

**The Convener:** So in a year from now, instead of those increases being down to the completion of the Forth Valley royal hospital and NHS Fife projects, they will be the result of the completion of the Stracathro and Murray royal hospital projects, which will feed through into the revenue line.

**Caroline Gardner:** And any other new capital projects that are funded through NPD mechanisms.

**Sandra White:** The report is excellent. Obviously, it raises questions, which the Public Audit Committee is here to deal with. I strongly agree with what has been said about transparency. Mark Griffin picked up that issue. My colleague Colin Beattie mentioned PFI contracts.

It is important that we have complete transparency in reports. Paragraph 24 of the Audit Scotland report notes that, although hospitals and NHS boards get money from the Scottish Government, that cannot be followed through as there is no trail. I agree with Audit Scotland on that point, and I hope that the Government takes it on board.

11:30

The report mentions the maintenance backlog. Do hospitals or NHS boards present any assets that they are shedding? My area of Glasgow contains the Yorkhill children's hospital and the Western infirmary, which are fantastic land assets that will be sold off. There will be a lot of money coming in to NHS Greater Glasgow and Clyde from that.

I will return to the subject of transparency. Is the health board expected to include in its report that it is seeking to sell off those assets and how much it may gain from that?

**Caroline Gardner:** I agree with Sandra White that that is an important aspect of transparency. I will ask Gemma Diamond to talk the committee through the way in which those types of transactions are accounted for, and any wider reporting that is relevant.

**Gemma Diamond:** If the board is holding any asset that it has formally declared as surplus, that must be recorded as such in the accounts, and

you would see it in the assets statement. That means that the board must decide that an asset is surplus.

We would expect to see the proceeds from that asset sale coming through in future financial statements, but—as we have discussed—the regime for capital receipts means that the board gets to keep only the amount at which the asset has been valued. Any profit element is returned to the Scottish Government for use in the wider capital budget so that it can be spent across the NHS.

**Sandra White:** Is there a timescale in which a board must declare an asset as surplus? Is it one year or two years? I know that, given the current situation, it is much more difficult to sell property, but those properties have been under consideration for the past five, six or seven years. The process for the Yorkhill site will come on stream pretty quickly.

Is there a timescale for the board to advertise the property and sell it, or can the property languish for a number of years as an empty building? Would it perhaps be included in the maintenance part of the budget?

**Gemma Diamond:** Exactly when the formal decision is made that those assets are surplus to requirements depends on each individual board, as does the timetable in which the board will best dispose of the assets. I am not sure whether there are any timescales around that, but we can look into it and come back to the committee if that would be helpful.

**Sandra White:** Thank you—that would be excellent. I have been trying to find out myself, so perhaps you will be able to do that work for me.

I will touch on a slightly different aspect. Your report mentions that health boards would need to redesign their healthcare strategies. Would health and social care integration, which involves working together, be part of the redesign? I think that most people would agree that it is better to put health and social care together, and I would assume that that would save money that we would be able to put into the health service. Is that one of the issues that you raised with regard to the redesign of healthcare strategies?

**Caroline Gardner:** At the highest level, health and social care integration is a great example of that redesign. The focus for integration initially is on services for older people. At present, we know that a significant part of the pressure on the health service comes not just from an ageing population—we are all getting older and we use more health services as we do so—but from the fact that a particular group of older people count for a lot of repeated emergency admissions. That does not provide good care for them, and it has a

big impact on the rest of the services in the hospital.

The health service could already be doing a lot to redesign services to help to keep older people out of hospital by working more closely with social care and primary care to ensure that, if people are admitted, they are discharged safely to the right setting that will provide a safe and high-quality level of care for them in the future. However, investment will be needed in new buildings such as community hospitals and in new ways of staffing services. We are concerned about exactly that sort of area, as the focus on hitting the short-term annual targets can get in the way of investing in the longer-term changes that are needed for better health and care services for us all.

**Sandra White:** Thank you.

**Willie Coffey:** Exhibit 9 gives staffing numbers in the service from 2009 to now and shows that, as the Auditor General said, the biggest decrease in staffing in the NHS is the decrease in administrative staff. I note the drop in numbers in nursing and midwifery, but the drop seems to be more than compensated for by the considerable rise in the number of personal and social care staff—the number has gone up by about 130 per cent.

Auditor General, you attributed the recurring savings that boards are making in part to voluntary severance schemes and so on. Do the figures in exhibit 9 show that boards are beginning to shape the future in the way that you alluded to earlier, in response to the convener? The convener suggested that it would be better if budget planning and reporting were done over a longer period rather than annually, and I picked up that you perhaps think so, too. Do the variations in numbers in the table show us that boards are beginning to consider the circumstances in their areas and what is needed if they are to provide the service that we expect of them?

**Caroline Gardner:** It is too early for us to say that. I will make a couple of points before I ask Angela Canning to say more in response to your question. First, the reductions in staffing that we are seeing in the health service are smaller than the reductions that we are seeing in the rest of the public sector, for a range of reasons, primary among which—I suspect—is that the NHS is demand led and must respond to the people who pitch up needing healthcare, as we all expect it to do. There is also the difficulty of reshaping services in ways that can look to local people like a loss of service. People tend to be very attached to hospitals as buildings, rather than to services that are delivered in a range of ways.

Secondly, we know that there are significant constraints in the NHS that make it harder to

reshape staffing, such as the requirements around medical training and medical staffing. Angela Canning might help with a bit more information on that.

**Angela Canning (Audit Scotland):** We know that there are changing roles in the workforce. Nursing staff are taking on additional tasks, which might previously have been done in primary care by general practitioners and in hospitals. We emphasise that boards should do everything with an eye to good, sound workforce planning. It is not just about reducing staff numbers through voluntary severance schemes. Boards must consider the shape of the workforce and build that into their workforce planning, ensuring that they have the right staff in the right place to deliver quality services.

**Caroline Gardner:** We have just kicked off a big piece of work on that across the public sector. NHS workforce planning will be a significant part of the work, so we should be able to give the committee better information next year.

**Willie Coffey:** Thank you. Are the variations that we see in exhibit 9 happening on an annual, rotational basis, or is there a long-term plan behind them? It is easy to jump to conclusions and say, "Oh my goodness, there is a drop in staff there," but reductions are hugely compensated for by other categories in the table. Is that by design? Do the figures reflect what is happening over three or five years, or will the picture be completely different next year?

**Caroline Gardner:** We will not be able to answer that until we have done the audit of workforce planning that we have just started. However, there is always a concern that when employers rely on voluntary severance they do not have as much control as they would like to have over which members and groups of staff accept the opportunity to leave the service early. At this stage, it is certainly too early to say that the figures reflect a planned reduction or a planned reshaping of the workforce. We will report back on that next year.

**Mary Scanlon:** What is happening relates to NHS Highland—I apologise for being parochial. I think that I am right in saying that the table shows that the number of nursing and midwifery staff decreased by 2,000 between March 2009 and March this year. I note that the number of personal and social care staff increased by about 160 in the same period, although no new people have been employed—the home care staff who were employed by Highland Council now work for NHS Highland. The footnote to exhibit 9 in the Audit Scotland report gives the figure of 835 for the number of staff who were transferred, so in essence there are 600 fewer personal and social care staff. I am very familiar with NHS Highland

being the lead agency now, so although it has more staff, it is not that more people are employed—they have changed employers under Transfer of Undertakings (Protection of Employment) Regulations. That still leaves a reduction of 2,000 nursing and midwifery staff. Have I got that right?

**Caroline Gardner:** I will ask Gemma Diamond to confirm the interpretation of the figures.

**Gemma Diamond:** Yes, that is right. Essentially, there is a large jump in the number of personal and social care employees due to that transfer between Highland Council and NHS Highland. That is the only area that was affected by that transfer.

**Mary Scanlon:** So they are not new jobs.

**Gemma Diamond:** No, they are not.

**Mary Scanlon:** It is simply that those staff have a different employer.

While the convener is kindly letting me in and given that we have spent most of the morning looking at ICT contracts, there is a point in paragraph 58 that concerns me. There are various underlying concerns in the report, but I refer in particular to the final sentence in paragraph 58:

"There is also a risk that the investment needed to maintain and develop the clinical estate, equipment and ICT will be unaffordable."

It would be a cause of serious concern if the NHS could not afford to invest in technology and equipment that would eventually save money and would undoubtedly benefit patient care. You have not given a lot of emphasis to that, but do you feel that that will be a serious concern for the NHS?

**Caroline Gardner:** It is certainly one of the reasons why we have reported on the NHS finances in the way that we have this year. Ms Scanlon will recall that we have reported in the past on telehealth, for example, which is a great example of how you can make an investment in IT and save money, and, more important, improve the quality of care.

At the moment we do not have evidence of boards being unable to move forward with investments that they would like to make because of a lack of capital. We intend to collect more information about that during this financial year and we should be able to report back to you on it at the end of the 2012-13 financial year as we get a clearer picture.

**Mary Scanlon:** That is very helpful, thank you.

**Colin Keir (Edinburgh Western) (SNP):** My question relates to paragraph 50 in the report, which is about the equal pay claims that may affect financial positions in the future. Obviously,

that is a long-running saga and I note from the paragraph that the ending of it is still less than clear as regards what effect it will have on NHS boards.

Do you have a better idea of when we are likely to have some sort of conclusion and if possible, can you give us some idea of how drastic the effect could be if things do not go in a positive direction?

**Caroline Gardner:** As to when the equal pay claims issue might be resolved, I am afraid that we are not really able to help you. It is a source of some frustration that it is taking such a long time to quantify what the likely cost and impact might be. Members of the committee may be aware that there was a landmark ruling in relation to the local government equal pay claims last week, which will help to give greater certainty about the liabilities in that part of the public sector. My understanding is that that does not help to move us on very far in relation to the NHS equal pay claims. I will ask Angela Canning or Gemma Diamond to give us a bit more information on that.

**Gemma Diamond:** At the moment, we do not have any more information. The Scottish Government, the health boards and Audit Scotland are all working together quite closely on the issue to try to move things forward. A number of test cases are going through the courts and liability has reduced somewhat because of the outcome of those test cases.

However, at the moment the boards are not able to put a figure on the potential liability, therefore there are no figures in the accounts—it is an unquantified contingent liability. There is a risk that boards may have to pay out in the future but we do not know anything about the quantity, and the timing is also still quite uncertain.

**Caroline Gardner:** We think that it is a less significant issue in the NHS than in local government because it relates to a specific period between the dissolution of NHS trusts and the implementation of agenda for change. Our best information is that there are around 10,000 outstanding claims in the NHS in Scotland, but the central legal office would be better able to give you information about the work that it is doing to bring those claims to a conclusion.

11:45

**James Dornan:** I welcome the report, which I think is very positive in the main, although clearly there are a couple of issues. I would like to touch on the financial assistance for the three health boards that were talked about earlier on. Is it not true that two of them had new hospital builds at that time and were therefore under specific financial pressures? Is it not also true that the

money is not given to boards unless there is an arrangement for them, not to go back into profit, but to be able to run steadily in the near future? What are the financial projections for this year for those three boards?

**Caroline Gardner:** It is certainly true that the Scottish Government provides additional financial support to boards only when it has agreed a plan for how that support will be repaid, either in the immediately following financial year or over a period. It is also true that NHS Forth Valley and NHS Fife had new hospitals coming on stream. We were not able to determine whether the cost pressures of the new hospitals—in particular, the transition to the new hospitals—were as foreseen in the financial planning that the boards had done with the Scottish Government, or whether there were unexpected pressures as a result of the timing of the moves or of capital receipts. There was a lack of transparency that we were not able to overcome. Gemma Diamond may be able to give more information about the repayment plans for all three cases.

**Gemma Diamond:** When offers of financial support are agreed between the Scottish Government and the boards, the best repayment plan for those funds is worked out and put in place. For example, NHS Forth Valley's repayment plan will be timed around when it gets receipts from the property developer. All three boards are forecast to be in recurring financial balance in 2012-13. The Scottish Government will certainly be looking at that and we will be looking at it through our audit process, to ensure that that is the case and to see whether the boards have any problems along the way. We will keep an eye on the process. The boards are all scheduled to start making repayments on the financial support that they received this year, as well. Making those repayments will be an additional pressure that they have to work into their financial plans.

**James Dornan:** Can you confirm that the amount that was loaned—if we want to use that word—was miniscule, at about 0.1 per cent of the annual NHS budget? Can you also confirm that the viring of money in that way is not unusual and was actually agreed by this committee some time ago?

**Caroline Gardner:** Exhibit 5 on pages 10 and 11 of the report sets out the amount of support provided to all three boards, together with the repayment schedule. The amounts involved are relatively small in relation to the overall NHS budget, which as you know is very significant—£10.9 billion for the territorial health boards. The support has been used in the past.

Our concern is not about the ability of the NHS to work together and manage its finances. As I said at the beginning, I think that that is good

thing. Our concerns are that it appears to be getting more difficult for some boards to achieve their financial targets and that it is not transparent in the accounts what support has been received, how it is being used and how it will be repaid. We hope that this report will be a useful contribution to that debate. The challenge for us is to make sure that the financial management helps achieve the long-term transformation that is needed, given the pressure on resources faced by all public services and the particular demand pressures faced by the NHS.

**James Dornan:** I acknowledge that Audit Scotland did not make claims. Rather, one of the national newspapers suggested that this was something unusual and very different for people to deal with.

**Mark Griffin:** I will make a quick point. On exhibit 11 on page 21, you identify the highest-earning directors' roles and bands of pay. I would like to ask about the variances there. In NHS Ayrshire and Arran, the highest-earning director's band of pay is £210,000 to £215,000, whereas in NHS Lanarkshire, in my region, it is £155,000 to £160,000. NHS Lanarkshire has a higher budget than NHS Ayrshire and Arran, yet the highest earner in NHS Lanarkshire earns significantly less than the highest earner in NHS Ayrshire and Arran. Is there any reason for that? Is any national direction given on pay?

**Caroline Gardner:** There are three things that affect the pay of senior managers, and particularly medical directors, in the NHS. The first is a link with the size and complexity of the board; the second is the length of time that the person has been in post and therefore the progression that they have made over that time; and the third—particularly for medical directors—is the distinction award system, which can have a significant effect on consultants' salaries. I cannot comment on the specifics, though.

**The Convener:** It was most remiss of me not to welcome Jackie Baillie to the committee. I apologise to Jackie for that.

**Jackie Baillie (Dumbarton) (Lab):** Thank you, convener, and thank you for the committee's time. I have a couple of questions. Some helpful clarification was sought by Mary Scanlon on the fact that the reduction in the nursing and midwifery line in exhibit 9 is not compensated for in the personal and social care staff line. If nurses and midwives, whether they are in hospital or community settings, are described as nurses and midwives, they would be counted in that line. On that basis, would you comment on whether the boards were highlighting a further decline in the number of nurses and midwives? What will the number of nurses and midwives be in the future?

**Caroline Gardner:** I am not sure at what point in the session you came in, Ms Baillie, so I apologise if I am repeating things that you heard earlier.

At this stage, we do not have clear figures about the future direction of staffing numbers for clinical and non-clinical staff. However, we have just started a significant performance audit, which is looking at managing workforce reductions across the public sector. Our aim is to look at what plans people have in place to manage within future financial constraints and to ensure that they are doing that in a way that is designed to maintain the quality of service and the shape of services that will be required in the longer term.

**Jackie Baillie:** I will very much welcome that report when it emerges.

Our perception, from board papers, is that there is to be a continuing decline, particularly in nursing and midwifery numbers. Is that your experience?

**Caroline Gardner:** I cannot comment on the specifics, but it is clear that, within the spending review targets throughout the public sector, a further reduction in the number of staff employed in the public sector is likely to be needed. Our interest is in how that is being achieved, to ensure that the opportunity is being taken to transform service delivery rather than simply salami slice numbers in ways that would be risky to the quality of service provided.

**Jackie Baillie:** I think that that is an ambition that we would share.

Voluntary severance packages are the flip side of that discussion. You said that they accounted for £20.8 million and that the average package was £45,000, among about 400 people. Did you make an assessment not just of the higher levels of management that were exiting with voluntary severance packages but of the average package for those who are more appropriately described as front-line staff? Does that include compromise agreements that health boards were arriving at, or is that measured separately?

**Caroline Gardner:** I will start off and then ask Angela Canning and Gemma Diamond to amplify my response.

The information that we are reporting here comes from NHS boards' annual reports. They are now required to make disclosures in their annual reports about remuneration, voluntary severance packages and compulsory severance packages, where those are an issue, which they are not this year. Our auditors will ensure that that information is accurate in relation to the financial information that they are auditing. They will also apply some audit work to the decision making on voluntary severance packages to ensure, for example, that

they are in line with the boards' policies and any regulations that apply, and that the governance around the decision making is appropriate. They will test a sample of individual cases to ensure that they are being handled properly.

The individual boards' annual reports will contain quite a lot more detail than we have summarised here about the number and value of packages by range. Angela Canning and Gemma Diamond may want to add to that.

**Angela Canning:** I am not sure that we have anything to add.

**Gemma Diamond:** No. As Caroline Gardner has said, this report essentially confirms the boards' annual accounts and that they have gone through the audit process. We do not have any supplementary information, other than what is in our report; the boards' annual accounts would break things down a bit more. Indeed, you could look at the accounts to see whether the difference in the average exit cost for the special boards is down to a different level of staff going last year as compared with this year.

**Jackie Baillie:** So you do not know whether the figure includes compromise agreements.

**Caroline Gardner:** It includes all agreed voluntary severance packages, some of which will, we understand, be covered by compromise agreements. However, we have not separated those out in the report.

**Jackie Baillie:** Thank you very much for that. I wonder whether I can pursue a couple more questions, convener.

**The Convener:** It depends on what you mean by a couple, Ms Baillie.

**Jackie Baillie:** I have only a couple. I might have some supplementaries, though.

With regard to the maintenance backlog, which Mary Scanlon pursued, am I correct in thinking that about half of that has been ascribed to repairs to things at serious or catastrophic risk—those are not my descriptions but the ones used in the asset register? Can you confirm whether my memory is correct in that respect?

**Caroline Gardner:** I cannot. We had a similar question from Ms Scanlon and Mr Griffin, but we do not have a breakdown of the figure in our report, which comes from the latest Scottish Government survey of the condition of the estate. We agree that it is important for people to understand the seriousness and urgency of the investment required so that they can plan the funding to respond to the situation.

**Jackie Baillie:** The committee might want to pursue the issue.

You have rightly pointed out a number of future pressures that have been identified as well as the fact that the sums of money concerned have not been. Have you or, more appropriately, the NHS assessed the scale of the impact on two areas that are exciting a lot of interest: pensions and pay? What provision has it made for that in future budgets?

**Caroline Gardner:** The report that was produced by my predecessor 12 months or so ago on Scotland's public finances attempted to assess the likely pressures on pay and pensions. If it will help, we can provide those figures through the committee.

As for the NHS, we are looking at the issue in our work on workforce planning. After all, an accurate assessment of the costs of the current workforce will be required to measure what changes are needed to the shape and size of the workforce and, therefore, how you get to that position. It will be a big element in the piece of work that we have just kicked off.

**Jackie Baillie:** Finally, on future pressures with regard to spending on medicines, you rightly highlight that, as a percentage, the cost of the challenge facing boards will be greater than the uplift they receive. I have two questions on that issue. First, given that prescribing pressures are evident now, not at some point in the future, have the boards been taking measures in-year to deal with them? Secondly, will the report that we look forward to receiving in January or February—I do not know when—highlight some of those key issues?

**Caroline Gardner:** You have given me a lovely opportunity to leave the committee on a cliffhanger. The report that we are working on is throwing up very interesting information both on the scale of the pressures on prescribing, particularly in general practice, and on the response by the health boards and the Scottish Government. However, you will not expect me to steal my own thunder by giving you the answer just now.

**Jackie Baillie:** That is a shame.

**The Convener:** As the Auditor General says, we will leave things on a cliffhanger. I thank Audit Scotland for its evidence and move the meeting into private for our next item.

11:58

*Meeting continued in private until 12:24.*





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