

# **ENTERPRISE AND CULTURE COMMITTEE**

Tuesday 24 October 2006

Session 2

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## ENTERPRISE AND CULTURE COMMITTEE

### 24th Meeting 2006, Session 2

#### CONVENER

\*Alex Neil (Central Scotland) (SNP)

#### DEPUTY CONVENER

\*Christine May (Central Fife) (Lab)

#### COMMITTEE MEMBERS

\*Shiona Baird (North East Scotland) (Green)

Richard Baker (North East Scotland) (Lab)

\*Susan Deacon (Edinburgh East and Musselburgh) (Lab)

\*Murdo Fraser (Mid Scotland and Fife) (Con)

\*Karen Gillon (Clydesdale) (Lab)

\*Michael Matheson (Central Scotland) (SNP)

Mr Jamie Stone (Caithness, Sutherland and Easter Ross) (LD)

#### COMMITTEE SUBSTITUTES

Mark Ballard (Lothians) (Green)

Donald Gorrie (Central Scotland) (LD)

Fiona Hyslop (Lothians) (SNP)

Margaret Jamieson (Kilmarnock and Loudoun) (Lab)

David McLetchie (Edinburgh Pentlands) (Con)

\*attended

#### THE FOLLOWING ALSO ATTENDED:

Jackie Baillie (Dumbarton) (Lab)

Allan Wilson (Deputy Minister for Enterprise and Lifelong Learning)

#### THE FOLLOWING GAVE EVIDENCE:

Gavin Barrie (Scottish Executive Education Department)

Sandy Brady (Highlands and Islands Enterprise)

Andrew Downie (Scottish Enterprise)

Forbes Duthie (Highlands and Islands Enterprise)

Leslie Evans (Scottish Executive Education Department)

Patricia Ferguson (Minister for Tourism, Culture and Sport)

Jack Perry (Scottish Enterprise)

Charlie Woods (Scottish Enterprise)

#### CLERK TO THE COMMITTEE

Stephen Imrie

#### SENIOR ASSISTANT CLERK

Douglas Thornton

#### ASSISTANT CLERK

Nick Hawthorne

#### LOCATION

Committee Room 4



# Scottish Parliament

## Enterprise and Culture Committee

*Tuesday 24 October 2006*

[THE CONVENER *opened the meeting at 14:00*]

### Budget Process 2006-07

**The Convener (Alex Neil):** I welcome everybody to the 24<sup>th</sup> meeting in 2006 of the Enterprise and Culture Committee. I ask everybody to switch off their mobile phone and, ideally, their BlackBerrys as well. We have apologies from Jamie Stone, who has been held up because of flying difficulties, but he hopes to join us later in the afternoon.

For item 1, I welcome Patricia Ferguson, the Minister for Tourism, Culture and Sport, and her officials Leslie Evans, who is head of the tourism, culture and sport group at the Scottish Executive, and Gavin Barrie, who is head of the lottery and sponsorship unit in the cultural policy division of the Scottish Executive Education Department.

Minister, would you like to introduce your budget?

**The Minister for Tourism, Culture and Sport (Patricia Ferguson):** I always thought that I had a long and complicated title, but poor Gavin's is even more complicated.

I welcome this opportunity to say a few introductory words on the budget. I will be brief because I know that the committee has questions to ask. I will be happy to answer them. Also, I wrote to the committee about a week ago with a commentary on some of the key themes that emerged from last year's discussion. I hope that that was helpful. You will have noticed, I hope, that there are few substantive changes between the 2006-07 and 2007-08 draft budget documents.

There has been substantial additional investment in tourism, culture and sport since devolution and during the life of the Scottish Parliament. That is a matter of fact and of record. The benefits that flow from that investment are equally significant. EventScotland's budget of £15 million since 2003 stands comparison with the economic impact of just a few of the events that it has helped to facilitate. The Heineken cup final generated £12 million; the St Andrews open in 2005 generated £72 million; and the island games in Shetland generated £3 million.

VisitScotland's marketing activities are also extremely cost effective. With United Kingdom

marketing campaigns, if we take out television and cinema, VisitScotland achieved an overall return in 2005-06 of £34 for every £1 that was spent. The Executive's contribution of the relatively modest sum of £2.5 million to Scotland's Commonwealth games endowment fund helped towards the Scottish team's training and preparation for, and participation in, the 2006 Commonwealth games in Melbourne, which saw the team's best ever performance.

Looking to the future, 10 new international and regional multisport facilities are due to be completed by 2011. The aim is to have the strongest possible representation of Scots in team Great Britain for the 2012 Olympics and Paralympic Games in London and the strongest possible Scottish team in the 2014 Commonwealth games, which we hope will be held in Glasgow.

I could go on, but my plan is for my opening remarks to be a sprint rather than a marathon. When John Graham of Historic Scotland gave evidence to the committee, income generation was of particular interest to members. It is worth emphasising an important point about that. Although Historic Scotland will not meet the challenging income target that was set for 2006-07, both income and visitor numbers are increasing and the agency is now forecasting an increase in 2006-07 of 6 to 8 per cent. That compares well with the figures for comparable heritage organisations, which are down by anything up to 3 per cent for the same period.

I wish to recognise the enormous significance of "Scotland's Culture", which we published on 19 January. The publication honours the First Minister's commitment to review the cultural sector and builds on his St Andrew's day address.

We remain firm in our belief that Scotland should be recognised internationally as a centre of creativity. We believe that culture contributes to economic, social and personal development and to social justice, health and well being. We also believe that a citizen-based approach should be taken to the delivery of cultural entitlements. Making that happen is very much a team game. Scotland's culture should emphasise what the Executive sees as the proper functions of central Government and the key role that local authorities and the private and voluntary sectors have in cultural delivery.

The key role for the Executive is, of course, to support the national bodies. First, we have to ensure that cultural talent is recognised and nurtured. It is for that reason that I announced the establishment of a new body, creative Scotland, which is being formed by an amalgamation of the Scottish Arts Council and Scottish Screen. We wish also to promote Scotland's rich treasure store. The National Archives of Scotland is joining

the four other national collections that come under my portfolio towards that end. We also want to make the very best use of the nation's performing activities. We will therefore directly fund the national performing companies.

Secondly, through community planning and local cultural entitlements, we are encouraging local authorities and other cultural providers to undertake initiatives that are designed to promote and develop cultural provision. We will back that up by measures to promote quality and high standards. I am happy to expand on those points in response to questions from members.

What does all that mean for the culture budget? The Executive's annual culture budget was projected to increase to £214 million by 2007-08. To implement "Scotland's Culture", I pledged an immediate additional £20 million per annum from 2007-08—an increase of almost 10 per cent. That is the major change that members will see in the 2007-08 draft budget.

I have made announcements on the ways in which we intend to allocate that additional money: £7 million will go to the Scottish Arts Council to allow it to implement its strategic review of funding, £0.5 million will go to Scottish Screen and £2.45 million will go to the national performing companies. I have also announced some smaller targeted funding for initiatives to support excellence and quality. Further announcements will follow. I am happy to expand on those allocations in response to questions from members.

I reiterate my thanks to the convener for allowing me the opportunity to appear before the committee and to make these introductory remarks.

**The Convener:** Thank you, minister. Thank you also for all the material you supplied. It was very helpful.

Will the creation of creative Scotland—which is effectively the merger of the Scottish Arts Council and Scottish Screen—mean that the moneys for Scottish Screen will be earmarked within the overall budget or will both organisations' funding be subsumed into one budget, with creative Scotland taking responsibility for the decisions as to the amounts that are allocated to Scottish Arts Council-type or Scottish Screen-type functions?

**Patricia Ferguson:** We are still in discussions about how the organisation will organise itself day to day as it grows and develops. We advertised recently for a chair for the joint board that will take forward the work of bringing the two organisations together. Although we are not yet at that level of detail, the new organisation will be mindful of its priorities and of the new money that has gone in. I hope that that new money will help to influence the priorities of the new body and set its agenda.

Those matters will be worked out over the coming months. That said, the timescale for those decisions may be slightly longer.

**Christine May (Central Fife) (Lab):** In my questioning, I will start not with what the Executive is putting in at the strategic level but with what is happening at the other end. I will focus on the impact of cultural spending on communities and the roll out of the cultural entitlement agenda. I declare an interest as the chair of the Scottish Library and Information Council.

Perhaps the minister will talk about libraries and museums and their links with the National Library of Scotland and National Museums of Scotland. What is the current situation and what does it mean for communities? How will the situation improve?

**Patricia Ferguson:** We can almost divide our consideration into two—we can consider the two aspects separately and then bring them back together. We want the national collections—the National Archives of Scotland, the National Library of Scotland, the National Museums of Scotland and the National Galleries of Scotland are now in my portfolio—to help set standards and encourage quality and to work much more closely with local providers. That is one element of the matter.

I note Christine May's interest in the library sector. We have made money available to the sector, to develop a matrix that will allow the sector to measure and encourage good quality and high standards, for the benefit of people in communities. That work is coming to fruition through projects for which funding has recently been awarded.

We are considering a museums of significance scheme. We are working with the Scottish Museums Council on the project and more information will be available in the near future.

The entitlements agenda is—if I dare say so—about more than libraries and other collections; it is about allowing people locally to discuss the provision that they would like. We announced funding for a pathfinder project as part of the year of Highland culture. Through the project, which is called the Highland promise, Highland Council will offer a range of options to young people. Some of the money for the project comes from the council and some comes from the Executive. We will closely monitor and evaluate the project to ascertain what works and what we might encourage other local authorities to do—or perhaps discourage people from doing.

We have spoken to local authorities in Scotland and there is great enthusiasm for the element of the work that has resulted from "Scotland's Culture". We invited bids for other pathfinder projects and cultural entitlements and about 90 per

cent of local authorities want to participate, which is encouraging. There will be a range of projects, some of which will involve work with older people and specific communities of interest.

I will return to the kernel of Ms May's question. The intention is that local provision will become much more accessible and better reflect local people's needs and aspirations, while being of a quality of which we can all be proud. I do not want people to have access to anything that is less than excellent. That is the agenda that we have set for all the people and organisations who are involved in the work.

**Christine May:** Thank you. I might come back to the matter later.

**Murdo Fraser (Mid Scotland and Fife) (Con):**

My first question is on the general approach to the budget; my second will be more specific.

Committee members are constrained in their scrutiny of the Executive's budget in that we have not seen the independent budget review group's report, which I understand was delivered to the Cabinet earlier this year. Indeed, the First Minister told us that the report will not be published until September 2007. Does the minister agree that we would be assisted in our scrutiny if we had the opportunity to consider the recommendations in the report?

**Patricia Ferguson:** No, I do not. I am sure that you are not surprised to hear me say that. The document is part of work towards the next spending review. It does not comment on work on the budget; it is meant to influence what happens next year, when it will be published along with other documents.

**Murdo Fraser:** Okay. I hear what you say, but given that we must consider future budgets as well as what has happened this year, I think that it would assist the committee to have sight of that report. Have you seen it?

**Patricia Ferguson:** I have seen parts of it that relate to my portfolio and have discussed them with the budget reviewers.

14:15

**Murdo Fraser:** You have discussed parts of the report with the budget review group.

**Patricia Ferguson:** Yes.

**Murdo Fraser:** But you do not think that it contains anything that should be shared with the committee to assist us with our assessment and scrutiny of the budgets for the current financial year and the next financial year.

**Patricia Ferguson:** As I say, it is not a commentary on what has already happened; it is

meant to influence what happens in the future. I have nothing more to add.

**Murdo Fraser:** I will not pursue that line of questioning, but the committee needs to consider whether the report would assist us in our budget scrutiny.

I have a more specific point about tourism. We all support the Executive's ambition to grow the tourism industry, but unless I have misread the figures that we have been given, there seems to be a 10 per cent reduction in real terms in VisitScotland's budget between 2006-07 and 2007-08. If my reading is correct, will you explain the reason for that reduction and how it fits with the Executive's ambition of growing the tourism market?

**Patricia Ferguson:** I do not think that the figures show such a reduction; they show the reality of the situation. We have asked VisitScotland to make savings as a result of the integration of the network and those savings are being made a year ahead of the scheduled timescale. Gavin Barrie will be able to give you some more detail on that.

**Gavin Barrie (Scottish Executive Education Department):** The fact that VisitScotland's budget for 2006-07 includes a one-off capital grant of £3.75 million accounts for the apparent reduction in 2007-08. One-off capital funding appears in a number of places in our budget—I think that £16 million-worth of one-off capital projects are funded throughout the portfolio in 2006-07. Although there is an apparent dip in funding in 2007-08 in several parts of the budget, that is just a reflection of the additional funding for 2006-07.

**Patricia Ferguson:** We alluded to that issue last year, too, when we were asked a similar question.

**Murdo Fraser:** I just want to be clear about the figures. In 2005-06, the VisitScotland budget was £43.298 million. In 2006-07, it went up to £47.515 million and in 2007-08, it will go down to £42.632 million. You are saying that the increases in 2005-06 and 2006-07 are entirely attributable to the extra cash that was put in for the reorganisation.

**Patricia Ferguson:** They are attributable to the capital work associated with the reorganisation.

**Murdo Fraser:** That is what the extra money was for in 2005-06 and 2006-07.

**Patricia Ferguson:** As the committee will be aware, we provided more general funding for the integration. The £1 million that VisitScotland is achieving in savings earlier than we expected is part of that equation.

**Shiona Baird (North East Scotland) (Green):** On a recent parliamentary trip to Ireland, we were shown round an extremely impressive and

successful community-owned tourist attraction that was set up by two or three people in a small and isolated village. The success of the attraction is being built on all the time, to the extent that the community has been regenerated and people have been brought back into the village. Do we have similar projects in Scotland?

**Patricia Ferguson:** We do. I think that the attraction that you describe involved the creation of a physical infrastructure, but such ventures are often less about a physical infrastructure and more about identifying a niche that can be projected as part of a place's identity. For example, Wigtown's book town designation has been incredibly successful. If I remember correctly, all the tickets for this year's festival had been sold by the time the festival started, whereas that position was reached only at the end of last year's festival.

There are opportunities for communities around Scotland to engage in such activity and more communities are doing so. That is one reason why we have been keen to ensure that EventScotland considers not only international events, but a regional programme. Its regional programme has been highly successful and has helped local communities to establish or develop such attractions.

One difficulty with tourism is that visitors will not come here simply because you say they should. They need a reason. Of course, once they come they might enjoy other things, but they need to be encouraged to come in the first place. That is part of the marketing strategy, but it works in tandem with EventScotland's strategy of encouraging local communities to carry out the same sort of work.

**Shiona Baird:** One of the interesting aspects of the venture that I mentioned is that all local people had free access to all facilities, including the café area. They bought into the whole concept and, as a result, it was extremely powerful.

Reinstatement of the Campbeltown to Ballycastle ferry also came up a lot in our discussions in Ireland. The route would have a tourism base, although it might develop beyond that. In encouraging links, particularly with countries as close as Ireland and Northern Ireland, we put too much emphasis on flying, which, as we know, is unsustainable. We need to have a real choice in this matter. Would your department be able to investigate whether the ferry link could be reinstated?

**Patricia Ferguson:** I suppose that one of the joys of devolution is that this is a relatively small Parliament with a relatively small Government. As a result, I have the opportunity to meet all my portfolio colleagues at least twice a year to discuss issues of mutual interest. As transport is certainly a key issue not only for tourism but for culture and

sport, I can speak to the Minister for Transport and find out whether there are any opportunities in that respect.

**Shiona Baird:** Reinstating the link would also open up that part of Scotland.

**Susan Deacon (Edinburgh East and Musselburgh) (Lab):** As I am sure you will recall, we have explored at previous committee meetings how best to monitor and evaluate the impact of the arts and culture. The objectives and targets in this area of the Executive's budget still measure impacts—and potential impacts—and set targets for development in a very traditional way. If I recall correctly, you indicated in previous discussions that the Executive was actively considering how national and local measures could be put in place to monitor the impact of investment in this area with regard to certain more qualitative outcomes related to well being and—dare I say it—enjoyment, not to mention health and many of the other well established benefits that stem from being involved in the arts and culture. What, if any, progress has been made in, shall we say, adopting different methodologies—I am loth to use the word measurement here, because it implies a quantitative approach—to assess the impact of investment in the arts and culture?

**Patricia Ferguson:** You cannot lose sight of the quantitative element. After all, if you ask sensible questions, you might learn, for example, that someone has come back to see the same exhibition or has encouraged family members to go. Such information is very important in measuring quality, and we try to be alive to it.

Not long after I got this job, I was struck by the fact that not much research into impacts had been carried out. As a result, we tried to get into the household survey questions about people's participation in cultural events and take-up of various cultural opportunities. That work is now beginning to feed through. It takes quite some time to get such questions into surveys and to get the results out.

Although I admit that we do not have a lot to offer in that sense, we are trying to build the issue in to our discussions with collections and galleries. For example, in relation to cultural entitlements, we are trying to develop a sort of self-evaluation model that will allow local authorities to look up what they are doing in their areas and to give us feedback on how things are going. Obviously, we have to ensure not only that people are getting the kind of experience that they want but that we are getting value for money.

Moreover, now that the national collections and the national performing companies are working more closely with us, we can encourage them to carry out more of that kind of work. Leslie Evans



and her colleagues have been meeting the various bodies regularly, and we have been trying to increase the level of communication to ensure that our thoughts and ideas are fed into the process and that their comments and thoughts are fed back to us.

I do not know whether Leslie Evans wishes to expand on that.

**Leslie Evans (Scottish Executive Education Department):** Just a couple of points—*[Interruption.]*

**The Convener:** I will let you continue, Leslie, but if the fire alert message comes on again—as it has a habit of doing—I will suspend the meeting. *[Interruption.]* I suspend the meeting for 10 minutes or so.

14:26

*Meeting suspended.*

14:38

*On resuming—*

**The Convener:** I call the meeting to order again. I am informed that we think that the crisis is over, but if it re-emerges, I will have to suspend the meeting again. I apologise to Leslie Evans. I bet that you have never been interrupted in mid-sentence by a fire alarm before.

**Leslie Evans:** I was just going to make a couple of points, the first of which is about the qualitative nature of arts and culture provision. The cultural co-ordinators who are active in schools test for quality and the results have shown high levels of satisfaction. That is an important addition since the issue was last spoken about. It is one of the things that we will want to talk about with the national performing companies when they come into the family of tourism, culture and sport. We know that they undertake work on customer satisfaction and customer surveys, and we will want to discuss how we can bring that together and deduce from it an overall approach to targets. Similarly, when creative Scotland is up and running, that will be one of the things that we will want to talk to it about. Also, research is being undertaken down south on happiness and quality-of-life factors, which we are trying to get plugged into as well.

**Susan Deacon:** In the light of our previous conversation, I am not sure whether it is appropriate to ask about this. However, would it be fair to say that we can expect to see that kind of thinking become increasingly apparent in the way in which budget decisions are made in the future? I am thinking of comprehensive spending reviews and the like. It sounds to me as though some of what you have described is below the waterline at

the moment. I presume that if the work that you mention bears fruit, it will become more obviously part of the Executive's approach to budgeting.

**Patricia Ferguson:** It would certainly be a good way to encourage people to think about how they do things. If performances, exhibitions and other cultural opportunities are not satisfying all the criteria, there is an issue that has to be considered and addressed. As we get the information through, we will have to consider it and determine how robust it is. We know anecdotally that the National Theatre of Scotland is successful and popular, but we would have to test that scientifically before we used it as a proper scientific judgment of what we do. Nonetheless, the work will influence what we do in years to come.

**Susan Deacon:** My next question majors on the arts and culture aspect of the budget, although it has wider relevance. How do you lever resource from other parts of the Executive budget into arts and culture and how do you account for resource from elsewhere that is invested in the arts and culture? That is certainly not a new area of discussion—in fact, it comes up in Finance Committee reports every year—but it has a particular relevance in your portfolio, and I would be interested in your comments.

**Patricia Ferguson:** We lever in money from elsewhere in the Executive, particularly in sport but also in culture. For example, the Health Department funds an officer at the Scottish Arts Council who works with people who have mental health problems. *[Interruption.]*

**The Convener:** I am sorry, Patricia.

**Patricia Ferguson:** That is okay. I will try to obey the injunction that we have just heard and return to normal working.

We take advantage of initiatives such as the one that I just mentioned. Similarly, the level of young women's participation in sport is lower than we want it to be and we know that they are often not attracted to the idea of sport per se, so we have been thinking about what else would encourage them to be more active for longer. Dance is an obvious answer, so the Health Department has funded YDance projects.

The participation levels matter with such projects, but so do the experiences that people have, so we examine all the factors that you talked about in your previous question. However, the participation levels are important for providing feedback to the portfolio from which the money comes. We look on such projects as being embarked on jointly. The departments talk to each other about the sums of money and review them. As I said earlier, we have regular cross-portfolio meetings, at which we consider such projects in particular. There is a lot that can be done in that

way, but it is important that we continue the dialogue and that the projects are not allowed to drift.

**Susan Deacon:** Are there any mechanisms in place for the post hoc reporting of those decisions so that we can see areas of spend in other portfolios that relate to the objectives that are outlined in yours?

**Patricia Ferguson:** We could certainly get information on that for you, if that would be helpful.

**Susan Deacon:** It would, thank you.

**Michael Matheson (Central Scotland) (SNP):** Good afternoon. I notice that there is a real-terms reduction in the level of funding for sportscotland from 2006-07 to 2007-08.

14:45

**Patricia Ferguson:** I think that that is because there is a capital funding element in those particular years.

**Gavin Barrie:** I think that that is right, minister. The baseline grant in aid is about £25 million. Anything over and above that is explained by capital funding. I hope that we provided the grant in aid letters to the committee for the first time this year. The detail will be in the grant offer letter.

**Michael Matheson:** If I have the right document, I think that that is set out in table 4.07. Is that right?

**Gavin Barrie:** Yes. It is in our letter of 30 May to Stewart Harris, the chief executive of sportscotland. In 2006-07, there is a one-off capital grant of £5.5 million, which boosts funding. The money for 2007-08 is not shown, because it is stored centrally in the central unallocated provision.

**Michael Matheson:** We do not have that information.

**Patricia Ferguson:** We provided the committee with the grant in aid letters that we sent to all our non-departmental public bodies this year, because we thought that that would be helpful.

**Gavin Barrie:** We can certainly send you a copy of the letter. Capital payments of £5 million are in the grant offer for 2006-07. We will write to the committee to explain that in detail.

**Michael Matheson:** I notice that in 2004-05 the figure was £29 million. In following years, it went from £25 million to £33 million to £34 million. Will you explain the shifts and tell us what has been going on?

**Gavin Barrie:** I will need to write to the committee to explain that in detail. A lot of the variation is to do with the fact that new money—I

think that it is £12 million a year—was introduced for active schools. Two spending reviews ago, a new capital line was introduced. Sport basically receives £8.1 million a year in capital. Some of the money has been transferred into central unallocated provision. I guess that that is where the explanation lies. I am not aware that the revenue grant in aid has been reduced for any reason—in fact, it has been increased significantly in recent years. I guess that the explanation will relate to capital sums. We will certainly write and set those out for you.

**Michael Matheson:** Thank you. That would be helpful. The second point that I want to raise relates to the audit of sports facilities, which was commissioned by sportscotland and published earlier this year. It highlighted a considerable need for investment in local authority-owned sports and leisure facilities throughout the country. What action does your department intend to take to ensure that local authorities start to prioritise such facilities, with support from the Executive?

**Patricia Ferguson:** The report raised interesting issues, on which I will elaborate before I come back to your question. We are discussing those issues with sportscotland with a view to trying to influence local authorities. The provision that we have must be as flexible as possible. In the 1970s, there was an expansion in the number of people playing squash. Local authorities, understandably, reacted to that and built squash courts throughout the country. Nowadays, the number of people playing squash has diminished from the high in the 1970s, but the number of squash courts is by and large the same as it was then. Those courts really cannot be used for any other purpose. We need to build in more flexibility in the facilities that we are building.

The other, vital point relates to a problem that we inherited. It is not enough to say, “£X will be set aside to establish a facility.” The maintenance stream for the facility over time must also be put in place. In the past, maintenance money was regarded as an easy hit that could be taken away when local authorities had to reduce their budgets. We must try to ensure that that does not happen in future. We must work with local authorities to encourage them not just to address provision but to ensure that facilities are flexible and that provision is made for maintenance regimes, which is almost as crucial as ensuring that the right facilities are in place to begin with.

The regional sports facilities programme is about to come on stream and a number of fairly major projects will be undertaken around the country during the next three to five years, which will lead to significant provision on the ground. Local authorities quite rightly make decisions about what is provided in their areas. We assist them when

we can do so, through sportscotland, which is flexible in that it has funding streams that allow local authorities to provide facilities in partnership with it. We must provide such assistance and ensure that money—particularly if we have influence over the money—is used to ensure that a facilities management strategy is in place and that the facilities provided will be as flexible as possible.

**Michael Matheson:** That is helpful.

Does the Scottish Institute of Sport still depend on the sports lottery fund?

**Patricia Ferguson:** Yes.

**Michael Matheson:** People who work in the organisation have expressed concern that given the institute's core responsibility to help to develop the country's most talented athletes and sportsmen and women, it would be more appropriate if it received core funding that did not come from the sports lottery fund. Is the Executive considering the matter?

**Patricia Ferguson:** The Scottish Institute of Sport is vital for the progression of our elite sportsmen and women that we all want to see and in providing the scientific basis for that. The institute works in tandem with many partners in delivering on its objectives. As you said, it currently relies on the lottery funding stream that comes through sportscotland, but we are considering whether that is the most appropriate approach to funding in future. Our consideration is part of a wider discussion with the institute, sportscotland and others about how we deliver on our ambitions for sport and increase participation in sport more generally. More discussion will no doubt take place in the weeks and months to come—and might continue for longer. We are very alive to the issue and are working on it with the institute.

**The Convener:** On the pattern of lottery funding, the Scottish Arts Council and sportscotland depend on lottery funding for a significant proportion of their activity. How much lottery funding in total will those bodies receive in the foreseeable future?

**Patricia Ferguson:** The level of lottery money reached its height in the early years of the lottery's operation and then dipped significantly, but it began to level off during the past couple of years. Current levels seem to be sustainable in the years ahead, partly as a result of new lottery games, which offer diverse opportunities for people who want to patronise the lottery. There will be no significant change in the pattern of lottery funding distribution from our bodies for several years, because, as you know, lottery funding in general is being discussed and will be the subject of decisions by the Department for Culture, Media

and Sport in around 2009. Until then, the pattern of distribution from organisations that receive lottery funding should remain fairly stable.

**The Convener:** Will there be no dip in lottery funding that places additional pressure on the Executive's budget?

**Patricia Ferguson:** If there were, we would have to look at it at the time and assess whether we had to assist in any way. At all times, we are in discussion with the bodies on the subject and we liaise closely with the DCMS and the Big Lottery Fund. In terms of the amount of money that comes into the lottery, the picture at the moment seems to show that the situation has stabilised. If it continues to function, that should bode well for the next few years.

**The Convener:** I return to the point that Murdo Fraser raised on the Howat report. What were the terms of reference for Howat?

**Patricia Ferguson:** I could not possibly provide you with that information off the top of my head.

**The Convener:** Perhaps we could get it in writing.

**Patricia Ferguson:** I am not sure. I think that you would have to approach the Minister for Finance and Public Service Reform.

**The Convener:** Right. Is there anything in what you have seen of the Howat report that could influence in any way the draft budget for next year or the year after?

**Patricia Ferguson:** The report is one of a number of documents that will help to influence that round of discussions when it comes around. I am not sure how much detail there is on that at this stage.

**The Convener:** I want to be clear on the matter. We are discussing the draft budget for next year. Is there anything in the Howat report that could affect that budget?

**Patricia Ferguson:** No. The intention is that the report will influence what happens in the next spending review and not the next budget. From that point of view, the answer is no.

**The Convener:** I agree with my colleague that it is ridiculous that the report has not been made available to committee members who are discussing the budget. That is totally contradictory to the spirit of the Freedom of Information (Scotland) Act 2002.

**Patricia Ferguson:** Obviously, I respect that view, but we have to view this in the context of the nature of the document. For that reason, I consider that the matter is being dealt with appropriately.

**The Convener:** We will agree to differ on the subject.

**Patricia Ferguson:** Indeed.

**The Convener:** Do you have any final points to make?

**Patricia Ferguson:** No. I do not think so. We will provide the committee with the information that we have promised to submit.

**The Convener:** Thank you. I apologise for the interruption earlier.

**Patricia Ferguson:** Thank you.

**The Convener:** Our next panel is from Highlands and Islands Enterprise. I welcome Sandy Brady, who is the director of strategy, and Forbes Duthie, who is the director of corporate services. I understand that Sandy Brady will make some introductory remarks before we move to questions.

**Sandy Brady (Highlands and Islands Enterprise):** I will keep it brief so that we can go quickly to questions. We have given the committee two short submissions. The first is the budgetary breakdown in the standard format that has been established for these occasions. The second is a short paper in which we have summarised the way in which we set the budget in the HIE network. We have outlined some of the key outcomes from our strategy and the organisational review that we have undertaken over the 12 months since we last appeared at committee.

During that time, we have also rolled out “A Smart, Successful Highlands and Islands: An enterprise strategy for the Highlands and Islands of Scotland” more widely in the area. We have tried to ensure that our own business units, especially our local enterprise companies, develop their own thinking on the local implications of that strategy and how they will work out in the different parts of the area in relation to population, place, pay, productivity and prospects—the five Ps that are at the heart of driving forward the strategy.

We cannot deliver the strategy on our own. Partnership working is very important in the Highlands and Islands. We have worked hard to ensure that our understanding of the challenges and opportunities that face the area are shared closely with our local authority partners, other Government agencies, and Government departments. We want to ensure that we are thinking together on the long-term future of the area.

The committee knows that we like to project a very positive story about what has happened in the Highlands and Islands over the past 25 years or so. We have made a great deal of progress. However, the more progress we make, the more

we remind ourselves of how much there is to do, particularly in some of our more remote and sparsely populated areas.

**The Convener:** In the paper that you provided, you mention that, as part of the organisational review that you undertook, you identified a need for greater integration of Careers Scotland. As you know, the Executive has issued a consultation paper on the future of Careers Scotland. Has Highlands and Islands Enterprise responded to that consultation paper? Regardless of whether you have done so, what is your view on the future of the careers service in the Highlands and Islands?

15:00

**Sandy Brady:** We are in the process of responding to the consultation paper and giving our views on how the Careers Scotland service might be developed nationally. As you know, our view of the place of Careers Scotland differs from that of our colleagues in Scottish Enterprise. We are clear that the circumstances in the Highlands and Islands are different from those in the rest of Scotland and we are keen to ensure that the activities of Careers Scotland are melded ever more closely into the work of the enterprise network.

The difference in conditions relates to the size of labour markets and the challenges with labour supply that we face in the Highlands and Islands. Since the Careers Scotland service came under HIE's wing in 2002, it has been a useful addition to the range of tools that we use in local economies. We are keen to make progress on integration and to ensure that the benefits of that process are fully realised at local level over the next few years.

**The Convener:** The Executive is not expected to announce the results of its consultation, to which I think it has had 144 responses, until some time in the new year. What impact will that delay have on your desire to achieve greater integration? Have you held back on further integration until you find out the outcome of the Executive's review?

**Sandy Brady:** There has been a slight delay, but we are clear about the direction of travel. Given that Careers Scotland is a national service, there are a number of aspects of national decision making that we must wait to find out about so that we know how matters will be progressed in the rest of Scotland before we work out how we can ensure that service levels in the Highlands and Islands are consistent with delivery of the national service. However, that has not stopped us from ensuring that our local enterprise company staff work ever more closely with our Careers Scotland staff at local level. So far, that has principally been

about work streams, but increasingly we are considering co-location, where possible, which involves bringing together two small teams in one place so that they can meet each other more regularly over the water cooler and encouraging them to exchange views on the challenges that they face.

**Christine May:** Good afternoon, gentlemen. In the third section of your second submission, under the heading "Budget allocation", you mention the top-slicing of the budget for strategic projects, including the university of the Highlands and Islands. Given that we have heard that there will be a delay in that project, will that have an impact on your budget spend? Will it free up money, or will it mean that additional money will need to be spent? What will the impact be?

**Forbes Duthie (Highlands and Islands Enterprise):** To be honest, we will absorb the impact on the budget. If there is a slippage of investment in the UHI Millennium Institute, we have more than ample projects to absorb that spend. Flexibility is an important aspect of HIE's management of its budgets. If there is slippage in a project or if a project accelerates and there is a requirement for more resources, we manage that quite closely. The delay to the UHI project will have an impact, but the slippage will be recycled into other investment. That money will be available to the UHI project next year when it starts to catch up.

**Christine May:** I want to explore that further. Although I have not researched the reasons for the delay in any great detail, I assume that you are talking to your further and higher education providers in the area. How can you help to ensure that the process goes smoothly?

**Sandy Brady:** We are in very close contact with the UHI executive office. The announcement that the award of taught degree powers to UHI has been slightly delayed came as a disappointment to UHI and to us. It is likely that that will delay the award of university title beyond 2007, which is the date that we had been aiming at. However, there are many positives in the Quality Assurance Agency for Higher Education's report, which says that the quality of undergraduate teaching at the UHI colleges is high. The QAA's concerns seem to be about aspects of structure and governance. The model that has been proposed is unusual and unique for a university, so we understand where the concerns come from. We are working closely with UHI to support it in addressing those concerns. We will have to deal with the delay, but it does not take away from the long-term importance of the project for the current colleges to build themselves into a network that will deliver the university of the Highlands and Islands.

**Christine May:** Are there any headline issues for you in the recently published Scottish index of multiple deprivation?

**Sandy Brady:** We look closely at the index, because it has a wide statistical base. We look at the results for the Highlands and Islands areas and for other parts of Scotland. It is fair to say that in remoter areas, the validity of the index suffers a little bit at the margin. There are some parts of the Highlands and Islands that come out of the index well that we would regard as some of our most fragile communities. Likewise, there are other parts that, if we took a wider view of where they sit, we might say were part and parcel of a more prosperous area. However, that is an intrinsic problem with small area statistics. We struggle hard at times to understand the detail of the picture around very small communities and are dependent on national statistics to provide such detail. Nevertheless, the Scottish index of multiple deprivation is an important part of our understanding of the challenges for our rural areas and other rural areas, for example in the south of Scotland.

**Susan Deacon:** Paragraph 2 of the HIE submission, on management and administration costs, states:

"total staff numbers are set to reduce over time as more resources are devoted to a smaller number of large scale interventions—fewer people overall, but focusing on those with more specialist skill sets in areas such as programme and project management, influencers and strategic thinkers."

What human resources strategy do you have in place to ensure that that important transition can be achieved? Will you elaborate on some of the measures that you might put in place to deal with the reduction in staff and the associated costs, and to develop the skill sets that you need for the future?

**Sandy Brady:** The reduction is modest and we hope to achieve it through natural turnover, but there are challenges in shifting the skills balance involved in reducing volume delivery in business units and having slighter fewer people working on larger-scale projects and strategic interventions. It is not easy to convert staff numbers from the way we have them to the way we want them. We are recruiting new staff and trying to handle as sensitively as we can the changes for staff whose workloads or areas of work have been contracting. We set it against a background of trying to be a dispersed network. There is a challenge in ensuring that our numbers in our localities are at a reasonable level to match the service that is delivered there and achieving what savings we can in centralised functions.

Three years ago, we introduced central financial delivery for the whole network in a single data

centre based in the Western Isles. There has been consolidation, but it has been achieved not through centralisation but by consolidating and then dispersing the function to Benbecula. That is the sort of model that we want to take forward.

**Forbes Duthie:** In addition, the achieve programme has been set up, initially for our top 100 staff. It is an intensive course to develop influencing and leadership skills; influencing is an important element of what we do. We are about three quarters of the way through that at the moment and noticeable impacts are already starting to be made. The other important element is how we cascade that down the organisation. We cannot have just 25 per cent of the staff trained in that new way of working, so we are already working on how we roll it out to the wider staff. We are acutely aware of the problem and are working on it actively. The cost of that training programme is about £750,000. We acknowledge that it is expensive, but the rewards and impact are fundamental, given our new strategy. It is an important programme.

**Susan Deacon:** So the achieve programme is one—albeit important—part of the work that is under way in this area. Is that correct?

**Forbes Duthie:** Yes.

**Susan Deacon:** And it is part of a wider HR strategy to reinforce more general financial and organisational objectives?

**Forbes Duthie:** Yes. The programme was introduced to bring out leadership and influencing skills and is one of a suite of programmes covering necessary governance and project management skills. These programmes are carried out with all staff as a matter of course.

**Shiona Baird:** Strengthening communities is a key priority and therefore represents a large part of the budget. I know that it covers quite a large area, but I would appreciate it if you could outline what is involved in that sort of work, with particular reference to the kind of community development that is happening in Ireland and that I described to the Minister for Tourism, Culture and Sport. Have you considered supporting such enterprise initiatives? Secondly, what are your views on reinstating the Campbeltown to Ballycastle ferry, which so dominated our discussions in Ireland?

**Sandy Brady:** Our strengthening communities activity breaks down into three broad headings. The first two—helping communities to invest in assets and trying to increase leadership capacity in communities—are very closely related because it is difficult to take on assets if you are unable to deal with the management issues that are involved. The third heading is investing in the area's environment and culture, including the Gaelic language.

The community assets issue has become more prominent over the past three to five years, particularly with the work of the community land unit, the Big Lottery Fund's growing community assets programme and the community energy unit. They are very good examples of how we have invested in small communities to help them gain control of local assets for local benefit. There have been some highly publicised examples of such activity in Gigha, Assynt, Eigg and Knoydart, and I am sure that there are others that could be mentioned.

The second heading—sustaining leadership capacity in communities to enable them to control local assets—is perhaps more subtle and requires softer skills. We have put a lot of effort into that, often using European money, to ensure that local activists are involved in the nitty-gritty of running committees, managing finances and so on.

Under the final heading, we invest quite heavily in the area's environment, language and culture—not only the Gaelic culture but the Norse culture, if we take in the northern isles as well. That is a very important part of what makes Highlands and Islands communities strong and what helps to retain people in and attract new people to the area.

On your second question, we would be delighted to find the Campbeltown to Ballycastle ferry back in operation. Some five or six years ago, we put up some of the capital funding for the construction of the Campbeltown ferry terminal—the project also received some European structural funds—but the ferry service ran for only a couple of summers because, unfortunately, the economics were just on the margin. We are keen to see the service reinstated. I know that the Scottish Executive and its counterparts on the other side of the north channel are looking hard at ways of doing that. For the reasons that you stated earlier, its reinstatement would be a great fillip to the south-west of the Highlands and Islands.

I have to say that it is touch and go whether the service would operate the year round. We like to think that it would run for much of the year, but it would clearly be tourism-based. That said, it would have benefits for more than tourism. For example, Vestas-Celtic Wind Technology, the wind turbine manufacturer based near Campbeltown, would welcome its existence for freight transport.

**The Convener:** Jamie Stone has been held up, so I will ask the question that he would have asked about HIE's role in the post-Dounreay regeneration of Caithness and Sutherland. Am I right in saying that John Thurso's report has been published?

**Sandy Brady:** It is very close to being published.

**The Convener:** I wonder whether you could say a word or two about it, because it is significant not only for the Highland area but for Scotland as a whole.

**Sandy Brady:** There is no question but that Caithness and Sutherland's economy post-Dounreay is one of the biggest challenges that faces us. We know, for example, the profile of employment contraction at Dounreay over the next 25 years and it is a matter of huge concern in the area.

In the summer, a local socioeconomic group published a draft strategy, which was consulted on over the summer and is being published more or less as we speak. The strategy analyses the challenges that Caithness faces as a result of the run-down of Dounreay, for example, and points to the need for extra resources and an action plan. Our local enterprise company is leading on trying to put the action plan together and is working with consultants, but we must find extra resources. Last Friday, we announced an extra £12 million over three years and extra staffing for the local enterprise company, which will be our contribution to work to meet the challenges. There is an upcoming debate in the Parliament on the Caithness economy and we thought that it would be helpful to clarify the nature of our extra commitment in that regard.

15:15

There is no doubt that the issue is one of the most challenging predicaments that we face in the Highlands and Islands and that it will have to be addressed over not just two or three years but a considerable period, to try to ensure that we rebalance the economy and diversify into other forms of employment and economic activity.

**The Convener:** When you gave evidence in Caithness to our business growth inquiry, you said that three or four major roads projects are a key priority if we are fully to exploit the potential of the Highlands and Islands. I think that you put the dualling of the A9 at the top of the list. Have you done work on the economic impact of the dualling of the A9 on the Highlands and on Scotland as a whole?

**Sandy Brady:** Yes. We have considered the economic and wider benefits of dualling the A9. We have also considered the A96 between Inverness and Aberdeen and the A82 between Glasgow and Fort William. Those three roads are the arteries that are of most importance to the Highlands and Islands. Information on the economic impact of the roads projects was submitted to the Executive through the Highlands and Islands strategic transport partnership and we

are currently in discussion about how to progress that work.

The A9 reconstruction that was undertaken in the 1970s and 1980s delivered a huge boost to the region, but the time has come to look at the road again. Regular users of the A9 are greatly frustrated that despite all the modern construction that was undertaken, driving conditions on the road remain challenging, particularly in the summer. A feature of the A9 is that for six months of the year the road is used by a great number of people who have no knowledge of it as well as by the people who know it well. They are jumbled together for two hours as they try to make progress between Perth and Inverness. The road is important not just to the Moray firth area but to places such as Caithness.

**The Convener:** Could you supply the committee with a summary of the results of your study?

**Sandy Brady:** Yes. We can give you the research on all three roads.

**The Convener:** Do you want to make further comments?

**Sandy Brady:** No.

**The Convener:** Thank you. Your evidence has been helpful.

I welcome our third and final panel, who are from Scottish Enterprise: Jack Perry, who is chief executive; Andrew Downie; and Charlie Woods. We received apologies from Sir John Ward, who thought that four witnesses would be too many. I agree; three witnesses will be more than adequate. I invite Jack Perry to make opening comments before we ask questions.

**Jack Perry (Scottish Enterprise):** We welcome the opportunity to talk about our budget for 2007-08. I will make a few introductory comments, to provide context for the written submission that we supplied.

In past discussions, we stressed our renewed focus on harnessing demand from key industries, planning our activities on a metropolitan level and continuing to deliver our service through an effective local network. We have a number of other key imperatives: to continue to improve service; to secure better leverage for our money from the private sector; and to ensure that we deliver better value for money.

In recent years we have made dramatic improvements in service levels to all the customer groups we serve. Indeed, according to independent customer surveys that were conducted by MRUK Research, 85 per cent of our business customers of all sizes throughout the network are satisfied or very satisfied with the service that they receive and 80 per cent of those

customers would recommend us to other businesses. When our partners were surveyed, 78 per cent said that they felt favourable towards the network and 88 per cent were satisfied with their relationship with Scottish Enterprise.

However, we know that non-customers—and, dare I say it, a few parliamentarians—do not always have such a favourable view of the enterprise network. We know that we need to do a lot to address that.

In terms of better leverage, our regeneration projects such as the Edinburgh Exchange and the Clyde waterfront have delivered outside investment of between £5 and £10 for every £1 Scottish Enterprise spends. Those are good models and we believe that even more can be done through innovative financing techniques. Similarly, our Scottish co-investment fund continues to attract leverage of three to one. In its first year of operation, our research and development plus programme attracted £120 million of new research funding to Scotland in return for £15 million of Scottish Enterprise finance.

In terms of better value for money, we have been making our funding work harder. Modern apprenticeships are a good example of that. In 2001-02, we put 4,479 people through modern apprenticeships at a cost of £30.1 million, or £6,700 per job. In 2005-06, we put nearly 11,000 people through modern apprenticeships at a cost of £50.3 million, or £4,583 per job. That represents a 245 per cent increase in output at a 31 per cent reduction in cost per job. In order to give the committee some feel for our comparative performance, our completions last year for modern apprenticeships ran at 59 per cent of all starts. That compares with a completion rate in England and Wales of 39 per cent.

In terms of efficiency, our business transformation programme has yielded cash savings over five years of £130 million. In that process, Scottish Enterprise has reduced its head count by more than 500 people. We have promised a further reduction of 100 through natural attrition over a two-year period and we are well on track to achieving that. The target for other cost savings this year is £7.65 million. In a recent update review, KPMG concluded that Scottish Enterprise was on track to deliver all the promised improvements in our budgeting and monitoring practices.

As the committee is aware, in just about every aspect of our business, we are seeing substantial demand in excess of our budget. We have provided a brief overview of that and will develop it further in our submission for the 2007 spending review. Continuous improvement, efficiency and effectiveness are important in this context; there is

substantial pressure on our budget and there is a premium on delivery.

In terms of our support for innovation, we are seeing substantial additional demand for programmes such as our enterprise fellowships, proof-of-concept funding, R and D plus programme, and the many bold and exciting industry-led projects. In addition, the intermediary technology institutes also report surplus demand for their support. In only its first six weeks of operation, our new Scottish seed fund has attracted investment proposals that are equivalent to one third of its annual budget.

There is, of course, surplus demand for many of our training programmes. Many of our physical projects could be accelerated to deliver more quickly the planned benefits for the Scottish economy. There are also many exciting new opportunities for economic growth through Scotland's key industries. I refer to a Scottish advanced manufacturing research centre or a centre for power network technology. At the moment, Scotland enjoys technological leadership in this area; one that is essential to the development of renewable energy generation and transmission. That is just a flavour of our project pipeline. We promised that our demand-led approach to economic development would create greater opportunities and it has.

As the committee will be aware, over recent times we have seen a number of encouraging signs for the Scottish economy. In terms of 12 smart, successful Scotland measures on which we are tasked, Scotland is now in the top quartile of Organization for Economic Co-operation and Development countries and we have improved our position on seven other measures. There is also clear evidence that entrepreneurial activity is increasing. Management buy-outs are up from 2 per cent of the United Kingdom total in 2004 to 8 per cent in 2006. In fact, having previously languished at the bottom of the table for total reported entrepreneurial activity, Scotland is now placed in the top half of all UK regions.

Business confidence remains high and demand for graduates—indeed, for all vacancies—remains buoyant. That said, we are not blind to the significant gaps that remain to be filled if we are to sustain the levels of growth that we and the committee seek, and if we are to make further inroads into the remainder of the smart, successful Scotland targets. Much remains to be done; we need to commercialise our innovation, improve our productivity, support greater numbers of companies of scale and improve further our entrepreneurial activity.

In short, we believe that our approach to stimulating greater key industry demand, joining up the geography of Scotland, and aligning our



investment priorities with those of our partners is the right approach to take. We also believe that our approach fits well with the committee's business growth aspirations. We look forward to our discussions with the committee, as we work towards the continued implementation of our plans.

**The Convener:** Thank you very much. That was helpful.

**Christine May:** I have a range of questions to ask. I will start with a question that I asked Highlands and Islands Enterprise. What is your reaction to the recently published Scottish index of multiple deprivation? In headline terms at least, does it indicate a need to make any changes to your approach to aspects of your budget?

**Jack Perry:** I will bring in Charlie Woods in a moment, but my reaction to the index is that it emphasises the need for an effective metropolitan strategy. The definition of a better role and a better purpose for regions and small towns, better opportunities for them, and their connections and relationships with Scotland's cities are more important than ever. I think that the index supports the agenda that we want to follow, but perhaps Charlie Woods will amplify my remarks.

**Charlie Woods (Scottish Enterprise):** The index highlights the importance of people throughout Scotland realising their full potential and the importance of ensuring that training programmes, for example, enable us to help people to realise that potential so that they can contribute to developments. We have increasingly tried to ensure that we tie together the significant investments that are being made in places such as the Clyde waterfront and areas of need so that needs and opportunities are better linked. We should try to target job opportunities at particular areas and provide training support to help people access those opportunities. That is an important part of our business. As the guys from Highlands and Islands Enterprise said, the data that have been provided are important in demonstrating where the areas that must be focused on are. The index reinforces things such as the regeneration work in Inverclyde and Irvine bay.

**Christine May:** You have mentioned several issues that I want to ask about. I would like to deal with training first.

It has been suggested that there are too many training providers and that you want to reduce their number. On what basis have you decided that there are too many training providers? How many of them are underperforming? Are they assessed and monitored on a level basis, regardless of whether they are niche or standard volume training providers?

**Jack Perry:** We do not have a fixed number of training providers in mind, but we are concerned that there is a huge disparity in our training providers' performances. Completion rates of modern apprenticeships for the same categories of apprenticeship vary by provider as widely as 74 per cent and 47 per cent. We do not think that such a gap is acceptable or that it represents good value for the taxpayer; indeed, it represents wasted opportunities for trainees. A great opportunity exists to get everyone up to best-of-breed standard.

We have already made good inroads in dealing with the matter. A national retendering of contracts for training providers will be complete by the spring, and I am certain that there will be a fallout of some training providers. I do not have a list of underperforming providers, although I can check the situation with our director of skills and learning. We want to get the best performance out of all the providers that obtain contracts.

**Christine May:** Are steps being taken to tender a single contract for the national training scheme?

**Jack Perry:** No. There will not be a single contract. There will continue to be multiple providers. Currently, we have more than 300 providers, which is simply not effective.

**Christine May:** Let us consider modern apprenticeships. The index of multiple deprivation identifies a number of areas that have, comparatively speaking, become more deprived. It has been no surprise to any of us to find out that it is most difficult to achieve positive outcomes with respect to training and skills development needs in those areas. Is it reasonable to expect that the fallout rates from training schemes for people in those areas will be greater than the rates for, for example, similar people from inner-city areas in which there is better access to the job market?

15:30

**Jack Perry:** That does not necessarily follow, as I suspect that people in inner cities and people in rural areas might face similar difficulties in terms of industrial demand. We accept that variations will occur by industrial sector and by geography, so we do not say that all training providers will reach completion rates of 74 per cent for modern apprenticeships. Our target is to increase the completion rate from the current level of 59 per cent to 65 per cent. We recognise that there will be variation.

**Charlie Woods:** Another point is that our work on training is part of a continuum that involves a number of other players and partners. In recent years, we have tried to focus our attention on doing as much as we can to help people make the final step from being out of the job market to being

in a job. We have tried to align our programmes to what everybody else is doing so that they feed into that other work. We moderate our programmes and do things slightly differently in different areas depending on the people we are working with but, even so, it is still incumbent on us to ensure that our programmes make the difference to people so that they have a positive outcome at the end of their training with us.

**Christine May:** I want to turn to the metro-region agenda, which I think we all broadly support. At its crudest, Jack Perry's answer to my first question was almost, "Look, the jobs will be in the cities and, regardless of how far away you are and what ability you have, you will need to go to the cities to get a job." I recognise that that is an exaggeration, but it is the reality if the strategy insists that the only option for helping those who are on the periphery is to maximise their opportunities in the cities. Can you disabuse me of that view?

**Jack Perry:** I will do my best.

The reality is that what we deliver at a metropolitan level needs to be driven by the industries that are the key priorities and enablers for Scotland at regional and national level. Given the significant demand that exists in many of those key industries, we believe that great opportunities exist outwith the urban areas in sectors such as tourism, food and drink, forest industries, textiles and energy—especially renewable energy. We believe that Scotland can grow those industries at a rate that is disproportionately greater than that of the rest of the underlying economy. We want to work more on stimulating demand within those industries so that we get real jobs in the places where people presently live.

Our strategy is most emphatically not about pouring more and more money into opportunities in the cities. Some of our industries are based only in the cities—financial services is a good case in point—but even in those industries we are starting to see a distribution of jobs outwith the city. For example, in the east of Scotland, there has been a growth of financial services activities and opportunities in Dunfermline. Distance is not necessarily a barrier for many of the jobs that will arise in those industries. Our strategy is most emphatically not about opportunities that arise purely in cities. In fact, we can provide some ideas, innovations and opportunities in many of our outlying towns around the metropolitan region.

**Christine May:** Will those opportunities be supported only if they fit within the key priority industries?

**Jack Perry:** There is a lot to choose from. We have six national priority industries, six regional priority industries and the two key enablers of

electronic technologies and advanced engineering. At present, those encompass 80 per cent of our customer base. Over time there will be a migration of our support to those key industries, but there is plenty to choose from.

**Charlie Woods:** It is important to emphasise a couple of points. The strategy is not exclusive; there will always be growth opportunities that occur elsewhere, and, as Jack Perry says, about 20 per cent of account-managed companies are not within the key industries. I also emphasise that the metropolitan agenda is not about cities, but about the relationship between different parts of Scotland.

I will give an example that I think is quite powerful—I hope that I have not cited it before. The Seven Stanes mountain bike network in the south of Scotland was essentially a rural development project designed to bring more income into a rural area, but it is now popular in global terms and is reckoned to be one of the best places in the world to go mountain biking, which means that it plays a part in developing the attractiveness of Edinburgh and Glasgow as places for people to live and work. We are concerned with looking differently and more imaginatively at the relationship between places and with considering ways of freeing up expensive land in the cities by getting activities that do not actually need to use that expensive land to take place in more rural areas. There are already some examples of that. The agenda is about trying to imagine a different future.

**Christine May:** I have taken up a lot of the committee's time. If there is time at the end, I might ask more questions.

**Shiona Baird:** There is a distinct difference between how Scottish Enterprise presents its budget, in conversations and in the written submission, and how HIE presents its budget. I wonder about that. We hear real concerns in rural areas about the emphasis on metro regions, and there are vast rural areas in Scottish Enterprise's region. Somehow or other, the message is not getting across that Scottish Enterprise cares about rural areas as much as HIE does, and a lot of that concern has to do with the metro region concept. What is Scottish Enterprise's timetable? I heard yesterday from a developer working on a small development in a village outside Dundee, who was concerned about the impact of city regions and about the uncertainty that that concept is creating in the area. That does not create the right atmosphere for pushing forward.

**Jack Perry:** Obviously, I would be concerned if that was the impression that people generally had. We accept entirely that there is much more to be done in terms of communication, and we hope to be able to make our intentions increasingly clear.

We will take a gradualist approach, mainly because we have a long tail of existing commitments, many of which are complementary to the metropolitan agenda. It will not be a case of a big-bang approach beginning on 1 April. We need to develop industry-owned and led strategies for a start, and those will be the drivers of demand to which the metropolitan regions will respond. Those strategies are in an increasingly developed state, but they are not all there yet; some industries are more advanced than others, and the strategies need genuine industry ownership and leadership.

There is a longer timescale for the ultimate implementation of the policy, but we are starting already. The advisory groups for the metropolitan regions, comprising the LEC chairs and some members of the SE board, are now in action and are considering draft metropolitan plans, which at present largely comprise the projects that are already on the stocks. As industry starts to express its demands more clearly, new projects will start to arise. We expect an interesting response from the metropolitan regions, and I hope that that will allay any fears that people might have about a concentration of effort on the cities.

**Charlie Woods:** I would like to touch on the comparison with our colleagues in Highlands and Islands Enterprise. As members will be aware, HIE has a specific remit to address the question of strengthening communities, given the fragile nature of communities in the Highlands; it also has the resources to go with that remit.

We are trying to realise the full potential of all parts of our area of Scotland. We will focus on trying to find a solution for communities that is economically, as well as socially and environmentally, sustainable. Our starting point is to consider the economic potential that exists on which we can build to provide a future. The economic geography of Scotland has changed, which is why we must be imaginative in trying to find that future.

**Shiona Baird:** I am a wee bit concerned about the surprising uncertainty that I mentioned. Will you take that on board and somehow communicate more effectively?

**Jack Perry:** We are happy to do so. I am aware of the uncertainty. The solution is largely about consistent communication over a period of time. Our operating plan is pretty explicit and was well received—the metro planning issues are well addressed in it. Our annual report for this year also put some flesh on what the concept means in practice. Increasingly, that will be part of any communications on our business.

**Murdo Fraser:** Jack Perry was a fairly regular visitor to the committee earlier in the year and

although I have no wish to go over old ground again, I remember that, when we talked about the problems with the budget overspend last year, you characterised your position and that of the board as being like that of a pilot trying to land a jumbo jet on a postage stamp. How confident are you that your plane-landing skills have improved in the past year?

**Jack Perry:** We have submitted to the committee a document that contains the forecasted outturns for the year, which shows that we are absolutely bang on at this stage, which is halfway through the process. We are confident that we will follow through and deliver all our commitments and that our cash spending will be on budget. Murdo Fraser did well to remember the analogy that I used previously. The situation is more volatile than it has been in the past, particularly with the non-cash spend, so surprises might still arise. We will not be sure until we get the year-end balance sheet but, at present, we know of no factors that will blow us off course.

**Murdo Fraser:** So at this stage you are confident that your spending will come in around the budgetary figure.

**Jack Perry:** Based on our activities so far and on our forecasts—we are carrying out a re-forecasting exercise that goes into fine detail with every single business unit—we do not anticipate any surprises.

**Andrew Downie (Scottish Enterprise):** We undertook to take several actions following the internal audit and KPMG's reviews, and we have taken those actions. We have reverted back to allocating budgets to business units, with monthly monitoring. As Jack Perry said, a full quarterly review is being undertaken, which indicates that, although we will not necessarily land on a postage stamp, at this stage in the year, it looks as though we have a balanced budget.

**Murdo Fraser:** In his opening remarks, Jack Perry talked about the reduction in staff numbers in Scottish Enterprise. If I read the figures that you provided correctly, they show that, between 2005-06 and 2007-08, you anticipate a reduction in full-time equivalent staff from 1,506 to 1,363. However, it is interesting that, at the same time, the staff costs for Scottish Enterprise are programmed to increase from £64 million in 2005-06 to £71 million in 2006-07 and 2007-08. Perhaps you will clarify the matter, because it appears that you are reducing your staff numbers but that your wage bill is nevertheless increasing. It looks as though you are employing fewer people but paying them more. Is that an accurate reading of the situation?

15:45

**Andrew Downie:** Not quite. This year, we have agreed to increase significantly the contribution rate to our pension schemes—by 7 per cent for the Scottish Enterprise scheme. That largely accounts for the difference.

**Jack Perry:** That is an increase of about 45 per cent in the contribution, from 16 per cent to 23 per cent.

**Andrew Downie:** There is also the cost of accounting for inflation in pay reviews.

**Jack Perry:** The increase in the pension contribution was purely a response to the actuarial evaluation of the scheme.

**Murdo Fraser:** But it is not the case that salary levels are increasing across the board.

**Jack Perry:** No. In fact, the head-count reduction is largely targeted at more senior levels in the organisation. Pay increases have been around the level of inflation.

**Murdo Fraser:** That is interesting. What is the current situation when senior vacancies arise? For example, what happens when a LEC chief executive resigns? Are those positions being filled like with like?

**Jack Perry:** Among the top 34 senior managers at Scottish Enterprise, there have been nine resignations with only three replacements, including the hiring of a new chief financial officer in the past 12 months. There is no intention to make further replacements. We have been replacing LEC chief executives with operations directors as vacancies have arisen. There has been a marginal decrease in salary costs.

**Murdo Fraser:** What message does that send about the future of the LECs if you are in effect downgrading the position of the senior officer?

**Jack Perry:** We had some older and more experienced people before. The change is largely one of title because it was confusing having so many chief executives in Scottish Enterprise. Often, younger and less senior people are put into those posts—the position is similar to when those they replaced took up the posts five, six, seven or eight years ago.

**Murdo Fraser:** So it is not part of a wider agenda.

**Jack Perry:** No, not really. The role of the LECs has remained pretty constant. As you know, we have not changed their nature or role.

**Karen Gillon (Clydesdale) (Lab):** Is it not the truth that getting rid of the LECs was your desired outcome?

**Jack Perry:** Initially, we came up with proposals

to streamline the network, but it was clear during our consultation, which was genuine, that there was no appetite for that and certainly not at this stage. You are right that our initial proposals were to remove statutory limited company status from the LECs, but we always anticipated keeping the LEC network open for business as our principal delivery network.

**Karen Gillon:** How do you do that given that you have filled vacancies with people who were not as qualified as the people who went before?

**Jack Perry:** Please do not misunderstand me; the operations directors are perfectly well qualified. If you look at their credentials, you will see that they are experienced in economic development, although they might be at an earlier stage in their career. It often happens when someone retires or resigns that someone more junior is promoted. That has certainly been the case in a number of the appointments that we have made.

**Karen Gillon:** What is Scottish Enterprise's strategy to stimulate economic growth in constituencies such as mine in rural South Lanarkshire?

**Jack Perry:** Our key industry and metropolitan approaches offer opportunities for every constituency in Scotland. They might not be in the traditional industries or ways in which livings have been made in those areas previously, but there are a lot of opportunities in food and drink, tourism and energy in some of our more rural areas and we have to re-evaluate them.

**Karen Gillon:** What does that mean on the ground? At the moment, it does not mean anything. Businesses are being relocated out of Clydesdale and into Bellshill business park, and people have to travel further to their work, which contradicts other areas of Scottish Executive policy to do with making local communities more sustainable.

**Jack Perry:** It is encouraging that a number of areas of Scotland, including some rural areas, have reinvented themselves. I am thinking of West Kilbride, Gretna, Lockerbie, Annan and Methil, with its proposed energy park. Those areas have redefined their role within a metropolitan region, based on industries that have a long-term, sustainable future. We are also working on farm diversification to get more added value out of our basic produce. There are lots of opportunities out there, but we have to face the fact that in the more remote parts of Scotland we will not be able to continue to earn our living in some of the ways in which we used to do so.

**Karen Gillon:** I do not think that anybody is suggesting otherwise. Part of the problem is that we are not getting the strategic direction from

Scottish Enterprise. You are not playing your full part to deliver economic regeneration in communities such as mine. That is what is being experienced on the ground. You are more obsessed with Edinburgh, Glasgow and metropolitan region structures than you are with economic development on the ground in communities such as mine.

**Jack Perry:** I am sorry if that is the perception. The reality is that we know that in successful metropolitan regions elsewhere there is not the huge disparity in wealth creation between the city and the outlying regions that we have in Scotland. For example, there is a huge discrepancy between what is happening in Glasgow and what is happening 15 minutes along the M8. We do not see that in successful metropolitan regions such as the Øresund region around Copenhagen and Malmö. Around Stuttgart, 129 municipalities and authorities have joined together in a single metropolitan region. In such regions there is better connectivity and a stronger role for rural areas. We aspire to that, rather than just pouring more money into the cities. The cities need to be in well-connected metropolitan regions in order to prosper. If the city prospers, the region will too.

**Karen Gillon:** A year on, what are the five key transport infrastructure projects that Scottish Enterprise thinks are necessary to provide such connectivity in Scotland?

**Jack Perry:** We are currently evaluating the high-speed link between Glasgow and Edinburgh and the Forth crossing. We have already done work on the Waverley line in the Borders. We have not produced a prioritised transport strategy; that is not quite our role. We want to make clear in our metropolitan plans the key dependencies for transport infrastructure.

**Karen Gillon:** There are not two or three major projects that you, as the main economic driver in Scotland, would say are absolutely essential in providing connectivity.

**Jack Perry:** I could name two or three such projects, but that would not be based on a full, rigorous economic evaluation at this stage.

**Karen Gillon:** When will we have that information?

**Jack Perry:** We are working on it now.

**Charlie Woods:** It is understandable to ask whether there is one thing that is absolutely critical. However, it is a question of piecing together support for business development, innovation, training and business infrastructure. We have to consider how all that interacts so that the impact of the whole is greater than that of any of the individual parts. There is no silver bullet; we have to address all the issues. It is about looking

for unrealised potential anywhere in Scotland. In all parts of Scotland, we are supporting businesses to start up, develop, increase their productivity, sell outwith Scotland and increase their sales within Scotland. All those things, done together, are at the heart of the strategy.

**Karen Gillon:** From where I am sitting, the contrast between the presentation that we had from HIE and the presentation that we have had from you is stark. HIE has clear priorities, strategies, ways of working and visions of what it wants to deliver, with which it is moving forward. You guys do not seem to have that.

**Jack Perry:** We came here today to talk about our 2007-08 budget. Our operating plans contain a lot of detail about what that means for our strategy and what we intend to deliver in the future. The information is there. If the member would like us to go through that with her, I would be delighted for her to spend a day with us at Scottish Enterprise. In fact, I extend an open invitation to all members of the committee. If we walk you through all the plans, you will see a clarity of vision and strategy for the future.

**The Convener:** Can you tell us when the year-end balance sheets will be available?

**Andrew Downie:** The accounting timetable for the year end is still to be confirmed with our auditors. We are also producing interim balance sheets to assess non-cash costs during the year. The first will be for the end of September and will be reported to our board in November. The year-end balance sheets are connected with the completion of the audit. We will work with KPMG, which will be our auditor this year, on the timetable for those.

**The Convener:** So you are now producing balance sheets as you go along.

**Andrew Downie:** Exactly. That is especially true for non-cash costs. We will prepare a balance sheet to enable us to assess estimated outturn.

**The Convener:** Do you anticipate having to ask the Scottish Executive for more money this year or next year?

**Jack Perry:** No.

**The Convener:** You painted a fairly rosy picture, and I do not want to dwell on negative stories. However, a worrying story appeared at the weekend in one of the papers about MicroEmissive Displays and the fact that it appears that the company's manufacturing activity will be lost to Saxony in Germany, allegedly because of the lack of competitiveness of the tax breaks and grants package that we can offer in Scotland. If companies of that quality that are pretty well indigenous to Scotland are being lost, that must be of concern. I am not asking you to

comment on the specifics of the company, because that information is commercially confidential. However, would you like to comment on the general issues that the case raises? Clearly, those have an impact on Scottish Enterprise's budget.

**Jack Perry:** As members know, the whole grant regime will change at the end of next year. Increasingly, cash grants have become less of a factor for many projects, but for some they remain very important. That is why there is increasing pressure for further development of programmes such as R and D plus and training plus, which we are keen to see. Such programmes are major determinants of location decisions for the higher added-value activities that we may seek in future.

I cannot comment on the specific case to which you refer. MicroEmissive Displays is a company in which Scottish Enterprise has invested; we know it well and are very encouraged by its development. It is possible that Scotland would not be competitive in volume commodity manufacturing—perhaps we should not even try to compete in that area. There are two very large semi-conductor plants in the former East Germany, one of which is Advanced Micro Devices. The incentive that was offered equated to €300,000 per job. Members may sit up at that figure. Even with the most generous grants scheme in the most deprived region of the United Kingdom, there is no way on earth that we could come remotely close to that. Such an approach involves buying manufacturing jobs. We tried that game in the 1970s and 1980s. We must be realistic about the kinds of activities and jobs at which Scotland can make a living in future. Those probably do not include volume commodity manufacturing.

**The Convener:** The R and D plus programme has been of major benefit, because of the battery of incentives that are available to companies in Scotland. I take your points, but do we still need to do more to retain indigenous companies or attract inward investment? Obviously, this is a devolved Parliament and tax breaks are not part of our remit at the moment, but could the battery of incentives be further improved?

16:00

**Jack Perry:** There are opportunities to develop some programmes further. However, we have to be mindful of state-aid rules within the European Union, which are quite restrictive. We push them as far as we can, but accession countries that have derogations often offer incentives that we cannot match.

**The Convener:** Will you be making proposals to the Executive on how to make further improvements to incentives for investment in Scotland?

**Jack Perry:** We are of course talking to the Executive about the whole battery of interventions, especially in the field of innovation. We have a number of different schemes that are attractive to indigenous companies and inward investors. We see Scotland as a base for R and D projects. IBM's survey of global foreign direct investment, which came out last month, rated Scotland as the top location in the United Kingdom, beating even the south-east of England. We know that what we offer is having an impact, but we think that more could be done. There is surplus demand for our programmes.

**The Convener:** The committee might pursue that issue with you later in the year; it might be important if more has to be done to achieve a more level playing field for Scotland.

**Jack Perry:** I have tried to give you just a flavour of our schemes and projects. We are at the early stages of preparing our operating plan for next year, which will go out for public consultation. However, we would like as much support as possible for an expansion of many of our schemes and projects, because we know that there is demand for them. We think that we can deliver more for the Scottish economy.

**The Convener:** Before I hand over to Susan Deacon, I have one final question.

The First Minister has publicly proposed the establishment of a full employment agency that would incorporate the careers service and many of the skills functions of Scottish Enterprise. Last week, the Deputy First Minister and Minister for Enterprise and Lifelong Learning advocated the creation of an innovation agency that would take over responsibility for the ITIs, the proof of concept fund and a number of other activities that currently come under the umbrella of Scottish Enterprise. I would not ask you to comment on political matters, but have you been consulted on either or both of those proposals?

**Jack Perry:** Not formally. There has been some informal discussion but certainly no formal consultation.

**Susan Deacon:** How are you working with other agencies on some of the overarching objectives that we have touched on today? We spoke about transport a moment ago. We have a new strategic transport agency for Scotland; what links are in place to ensure that, at strategic Scotland-wide level, our various national agencies are joining up their thinking, practice and investment?

I want to consider a couple of the key objectives in the budget papers that derive from "A Smart, Successful Scotland". Creating a culture of enterprise in Scotland is something in which Scottish Enterprise can play a considerable role, although it would by no means be an exclusive

role. Many other agencies, locally and nationally, would play a role too. Similarly, Scottish Enterprise can play a considerable role in ensuring that Scotland is a globally attractive location.

We are now at an advanced stage with some of the big—and agreed—strategic objectives for Scotland. Will you tell us how you are working with arm's-length agencies and Executive departments to ensure that you are pulling together your thinking and resources?

**Jack Perry:** I am very happy to do that. I will bring in Charlie Woods as well, but I will give you a couple of examples first. A couple of years ago, a source of some concern and frustration was the constraint on many of our infrastructure projects caused by a lack of connection to mains water and sewerage. We now have a constructive relationship with Scottish Water, a sharing of investment plans and an alignment of business infrastructure plans so that, over time, we expect that constraint to become less of a drag on economic growth and development.

Similarly with the health service, we brokered the first translational medicine research collaboration of any kind of scale in the world by working closely under a partnership agreement with the national health service and the four medical universities. So we are looking at the future of predictive medicine and information-based medicine, and are working very closely with the national health service on a number of initiatives.

Part of the thrust of our industry strategy is to try and align the investment priorities of many of Scotland's agencies. One of the best examples is the financial services industry. Its advisory board and the strategy that it has prepared are explicit about what is expected from Scottish Enterprise in terms of support for training and business infrastructure for the industry. The industry is also explicit about what it needs in the way of transport connectivity, what it needs from universities, the quantities and qualifications of school leavers that it needs, and so on. That is what we would like all our industries to express. There should then be an opportunity to collate the information, find the common projects that are needed by all our industries and then have a dialogue about it with the Executive and all its branches.

**Charlie Woods:** We are increasingly trying to get more value out of the knowledge resources that we have in this country. For example, in our relationship with the funding council we participate in each other's board meetings and the senior directors have regular quarterly meetings to try to ensure that their and our programmes are aligned so that we get a bigger bang for our buck.

The other area that I should mention is local community planning. We must ensure that we use

that framework to join up investment into the sort of alliance that Jack Perry is talking about. It is right that we should build an alliance across both public and private sectors.

**Jack Perry:** We know that we have 1.5 per cent of the Executive's budget and that we can get some good leverage for that money. However, if economic growth is our number 1 priority, we genuinely believe that all branches of the Executive need to be aligned to that priority. That is why that relationship is very important.

**Susan Deacon:** In the same vein, I am interested to know what you would like to happen in the future to forge some of that cohesion and coherence. That theme ran through our business growth inquiry report; suggestions were made for national forums and so on. Your previous answer was not entirely clear about the extent to which the communications and discussions that take place between agencies are ad hoc. I assume that a substantial number of them are.

God forbid that I should advocate more meetings and more machinery for the sake of it, but are there any light-touch co-ordinating mechanisms that ought to be in place at a national level that would help to join up that discussion more effectively?

**Jack Perry:** I suspect that there could be. You are right; the business growth inquiry report expressed it quite well. Greater consensus is needed. We know and can tell from the nature of some of your questions that there might not be consensus about our industry and metropolitan regions strategy, although, interestingly, this committee has certainly endorsed the broad thrust of it.

It would be a great start if we could get the Parliament and Executive to show the level of maturity that is needed to achieve that kind of consensus. Beyond that, regular mechanisms exist for the sharing of information and ideas between Scottish Enterprise and the funding council—probably one of our closest relationships—and the same goes for college principals and, increasingly, for the Convention of Scottish Local Authorities as well. We are making some inroads into achieving that alignment of strategy.

**Charlie Woods:** I have one point to add that might be helpful. We should not try to build a big, slow-moving supertanker. We should have a flotilla of boats going in roughly the same direction that can respond quickly to the opportunities that come up. One thing that we can be sure of is that the pace of change will get faster.

**The Convener:** Absolutely. As there are no other questions from committee members, would you like to say anything else before we finish, Jack?

**Jack Perry:** No; I think that that was a very useful discussion. Thank you.

**The Convener:** It was indeed. Thank you very much. We will now suspend until quarter past so that we can have a bit of a break before the minister comes to speak to us on bankruptcy.

16:11

*Meeting suspended.*

16:17

*On resuming—*

## **Bankruptcy and Diligence etc (Scotland) Bill: Stage 2**

**The Convener:** Our final item is day 7 of consideration of the Bankruptcy and Diligence etc (Scotland) Bill at stage 2. I welcome Allan Wilson, the Deputy Minister for Enterprise and Lifelong Learning, and his civil service colleagues. It is as if we have never been away.

### **Section 192—Arrestment in execution**

**The Convener:** Amendment 445, in the name of the minister, is grouped with amendments 446, 448 to 453, 456, 463 and 471.

**The Deputy Minister for Enterprise and Lifelong Learning (Allan Wilson):** It is a pleasure to be back. The amendments in this group are all minor changes intended to clarify the effect of part 10 of the bill on arrestment and forthcoming. Amendment 445 changes a regulation-making power to an order-making power. The effect is that, should Scottish ministers decide in future to change the definition of “decree” or “document of debt” for more than one diligence including arrestment, they need make only one instrument.

Amendments 446, 451, 463 and 471 are minor technical amendments that will provide better consistency in terminology between bill provisions that insert text into the Debtors (Scotland) Act 1987 and the existing provisions of that act. Amendments 448 and 456 remove superfluous references to documents in two sections of the bill, because judicial interest is not charged on an arrestment under a document of debt.

Amendments 449 and 450 improve the format of the provisions setting out application of the protected minimum balance by changing a negative condition into a positive one. Amendment 453 clarifies the intended effect of new section 73F(4) of the 1987 act to make it clear that that section applies both to funds and to moveable property so that, on an arrestment, the arrestee must disclose the nature and value of both or either type of property where attached.

I move amendment 445.

*Amendment 445 agreed to.*

*Amendment 446 moved—[Allan Wilson]—and agreed to.*

**The Convener:** Amendment 447, in the name of the minister, is grouped with amendment 484.

**Allan Wilson:** The amendments continue the process of reforming the debt advice and



information package, and extending the use of the package to other diligences. The committee agreed the principle behind those changes at its meeting on 3 October. Amendment 447 therefore extends the provision of the package to arrestment in execution. In this case, the package must be provided within 48 hours after an arrestment in execution, or notice to the debtor of the conversion of an arrestment on the dependence into an arrestment in execution. Unlike most other diligences, the debtor is not given the package in advance as it is all too easy for a debtor to move funds out of harm's way. Advance notice would be particularly unfair to the creditor.

Amendment 484 is a minor amendment that provides a new definition of the package in the general interpretation section of the Debtors (Scotland) Act 1987.

I move amendment 447.

*Amendment 447 agreed to.*

*Amendments 448 to 450 moved—[Allan Wilson]—and agreed to.*

**The Convener:** Amendment 273, in the name of Michael Matheson, is grouped with amendments 316, 443 and 444.

**Michael Matheson:** Members will recall the discussion and evidence at stage 1 in relation to concerns about the possibility that state benefits and tax credits might be subject to arrestment under the present provisions of the bill. The purpose of amendment 273 is to exempt from bank arrestment moneys paid into a bank account that are derived from state benefits or tax credits. Under the existing social security and tax credits legislation, state benefits and tax credits are meant to be unarrestable. In practice, however, because of how banks operate, they can be arrested. That is largely because banks consider that once the money has entered the account, it is no longer a benefit, but a sum that the bank is holding for the account holder. It is therefore no longer protected from arrestment.

I accept that under the present proposals the protected minimum balance of £370, which will be unarrestable, is significant progress on where we are at present, where there is effectively no protection. That can result in families being left for the weekend or longer without any money. However, when a benefit or a tax credit payment exceeds the £370 threshold, under the new proposals the money can still be arrested. That affects three groups in particular, one of which is those in receipt of housing benefit or the new local housing allowance, much of which is increasingly paid into an individual's bank account. Arrestment puts them at risk of eviction. The second group is those in receipt of disability benefit—benefit that is often designed to pay for the increased costs of

living with a disability, including payment to carers. The third group is those in receipt of the child care element of tax credits, where arrestment could jeopardise child care arrangements and in some instances could create problems for someone's employment.

As it stands, there are three sources from which benefits can be paid: the Department for Work and Pensions; HM Revenue and Customs; and local authorities. As their benefits and tax credits are paid into people's accounts, I believe that it is reasonable to devise a way in which those payments can be readily earmarked or tagged so that they are identifiable in someone's account and are unarrestable.

It is important to recognise the purpose behind amendment 273. It is to try to protect some of the potentially most vulnerable individuals in our society. I hope that members will consider supporting the amendment.

I move amendment 273.

**The Convener:** I welcome Jackie Baillie to the committee, and I ask her to speak to amendment 316 and the other amendments in the group.

**Jackie Baillie (Dumbarton) (Lab):** Michael Matheson has put forward the main arguments in relation to amendment 273. Although my amendment 316 is positioned on a slightly narrower basis, I support the principle of Michael Matheson's underlying position, as well as of amendments 443 and 444, which were lodged by my colleague, Christine May.

The purpose of amendment 316 is to exempt moneys in a bank account that are housing benefit payments from any form of arrestment. Like Michael Matheson, I acknowledge that the protected minimum balance of £370 is helpful. In some cases, however, notably with families, the housing benefit payment will exceed that minimum balance. The consequence of that could be to cause homelessness through the threat or actuality of eviction.

Michael Matheson is right to say that the direction of policy travel is to pay housing benefit into bank accounts. That approach is being piloted in Edinburgh, where money in the form of a local housing allowance is paid directly to the tenant. Housing benefit or the local housing allowance, as it will become, is paid by local authorities, and it is quite easy to identify. I know from what the Executive has told us before that, following discussion with the banks, it believes that the measures will be difficult and costly. I am slightly curious about that. The last time I looked at my bank statement, it was easy to identify child benefit coming through. If the banks can perform the task using unique identifiers, one would have thought that, in this age of new technology, such

an operation would not be beyond them. I am not convinced that that is too difficult.

I am absolutely convinced, however, that the Parliament should avoid passing any legislation that has the unintended consequence of contributing to homelessness. In a spirit of generosity, I look forward to coming to the minister's amendments 458 and 480, which I think do what we want done by another means.

**Christine May:** I will not repeat what my colleagues have said, as it applies equally to my amendment 443 and the framework in which it is couched. Amendment 443 proposes a procedure called an arrestment restriction order. Following a bank arrestment, a debtor will be able to apply to the court, requesting that the arrestment be restricted to moneys in the bank account other than social security benefits and tax credits. The debtor will be given the opportunity to explain their financial circumstances. If the sheriff agrees that the moneys concerned are either state benefits or tax credits, they will have no discretion on the matter and will have to make an order releasing those sums. That procedure means that the relevant sums would be identified by the debtor and that no administrative procedure would be involved on the part of the banks. The sheriff's order would decree the amounts that would be required to be released from the arrestment.

Like my colleague Jackie Baillie, I believe that the minister's amendments, which we will deal with later, go some way towards dealing with the matter. I look forward to raising issues on those amendments when the time comes. The general principle that Jackie Baillie, Michael Matheson and I have all tried to advance is that benefits that are identified for specific purposes, usually to support families or sustain someone in the home, should be free from arrestment wherever possible.

16:30

**Allan Wilson:** I understand the concerns that have led to the amendments lodged by Michael Matheson, Christine May and Jackie Baillie. Arrestment is a well used diligence. In 2003, there were 155,432 arrestments, most of which were bank arrestments. As members have pointed out, in many cases, social security or tax credit awards are paid into bank accounts and, given the large number of arrestments, it follows that bank accounts that include funds derived from such payments will often be frozen.

Some stakeholders believe that section 187 of the Social Security Administration Act 1992 and section 45 of the Tax Credits Act 2002 are intended to protect state benefits from diligence, including bank arrestment. However, whatever their intention might have been, it is not clear

whether the two sections have that effect. As the issue is reserved, the Executive cannot deal with it directly, but I am able to ask the UK Government whether it intended to protect state benefits from arrestments in the way claimed. I will write to my counterpart at Westminster, seeking an explanation of the UK Government's position on the issue.

I agree that something needs to be done. Although, as everyone acknowledges, the new protected minimum balance will be a big help to many people, there will still be cases in which an arrestment will have an unduly harsh effect. We need to go further. As a result, the Executive has lodged its own amendments, which will be debated later today. I am happy to answer questions about the content of those amendments either now or later—whichever is more appropriate.

However, I do not agree that the amendments in this group offer the right solution to the problem that needs to be fixed. Indeed, I am sorry to say that they raise various practical and legal problems.

One practical problem is that, if agreed to, amendments 273 and 316 will put an unnecessary burden on the banks, which will have to identify benefit payments coming into accounts. I have some sympathy with Jackie Baillie's argument that that would not be the hardest task in the world for them; however, they would have then to track those payments over days and weeks. I understand that that process is more convoluted and would cost the banks both time and money. In those circumstances, I would not expect the banks to do other than pass that cost on to customers directly in the form of higher charges or—worse—indirectly by making it harder for some people to get bank accounts in the first place. I realise that amendments 273 and 316 have not been designed with that end in mind, but there is a danger that it could be an unintended consequence.

Another practical problem is that the amendments will help only individual debtors receiving social security or tax credit payments. They will neither help low income debtors who are not in receipt of benefits, nor allow a case-by-case consideration of the circumstances of individual benefit claimants. Those difficulties were flagged up by the convener at stage 1 and are reflected in the recommendations of the committee's stage 1 report.

For those reasons, I have lodged the amendments that I have already mentioned, which seek to give the debtor the right to challenge an unduly harsh arrestment and a third party with a common interest in funds the right to argue that their share should be released.

I will say more about those changes when our amendments are debated but, if agreed to, they would, for example, enable a wife to challenge the arrestment of a joint bank account for the personal debt of her husband—and, indeed, vice versa.

Furthermore, all the amendments in the group are legally flawed, because their purpose is to protect social security payments and tax credit payments either from arrestment or from the effects of arrestment. Such payments are part of social security law, which is reserved under head F1 of part II of schedule 5 to the Scotland Act 1998. Because the amendments relate to a reserved matter, they are outwith the legislative competence of the Scottish Parliament under section 29(2)(b) of the Scotland Act 1998, which states that a provision cannot be included in an act of the Scottish Parliament if it “relates to reserved matters”. Of course, that does not mean that the committee cannot agree to the amendments if it so desires, but it would not be legally competent for the Scottish Parliament to include in the bill the provisions set out in these amendments.

As I have made clear, that is not my sole argument against these amendments. I take on board the sentiments that have been expressed, but I genuinely believe that the Executive's amendments are competent and would be more effective in addressing the concern—which I share—that sheriffs or others might take decisions that are unduly harsh. For that reason, I ask Michael Matheson to withdraw amendment 273 and Jackie Baillie and Christine May not to move their amendments.

**The Convener:** I ask Michael Matheson to sum up and to indicate whether he intends to press or to withdraw amendment 273.

**Michael Matheson:** I want to pick up on what the minister and Jackie Baillie have said. I agree with Jackie Baillie that the practicalities of tagging benefits that go into bank accounts should not be beyond us. It is perfectly reasonable to expect that that could be done. When a range of benefits are paid into a bank account, they often have the national insurance number alongside them. I understand the concerns that some banks may have about the proposal, but where there is a will, there is a way. In an electronic age, that is a perfectly reasonable expectation.

The minister's second point was about tracking benefits. According to the principle of Clayton's case, first the amount of money that is benefit is calculated and the amount that is left can be arrested. Given that there is case law on that process, there should be no need to track benefits within bank accounts.

I would understand the minister's argument that the amendments relate to reserved matters if we

were attempting to amend a piece of legislation on a reserved matter, but we are not—we are dealing with diligence, which is a devolved matter.

I understand and recognise the intentions behind Executive amendment 480, but it is a bit like the ambulance waiting at the bottom of the cliff, in that debtors will have to take the necessary action themselves. I would prefer to put the fence at the top of the cliff to prevent them from getting into difficulty in the first place. That is why I intend to press amendment 273.

**The Convener:** The question is, that amendment 273 be agreed to. Are we agreed?

**Members:** No.

**The Convener:** There will be a division.

#### FOR

Baird, Shiona (North East Scotland) (Green)  
Matheson, Michael (Central Scotland) (SNP)  
Neil, Alex (Central Scotland) (SNP)

#### AGAINST

Baker, Mr Richard (North East Scotland) (Lab)  
Deacon, Susan (Edinburgh East and Musselburgh) (Lab)  
Fraser, Murdo (Mid Scotland and Fife) (Con)  
Gillon, Karen (Clydesdale) (Lab)  
May, Christine (Central Fife) (Lab)

**The Convener:** The result of the division is: For 3, Against 5, Abstentions 0.

*Amendment 273 disagreed to.*

**Jackie Baillie:** I will not move amendment 316 in favour of the minister's amendments on the basis that they represent the paramedic at the top of the cliff rather than the ambulance at the bottom.

*Amendment 316 not moved.*

*Amendments 451 and 452 moved—[Allan Wilson]—and agreed to.*

**Christine May:** I will not move amendment 443 for a reason that is similar to Jackie Baillie's. My paramedic and my ambulance are together, waiting to see where they are most needed.

*Amendment 443 not moved.*

*Amendment 453 moved—[Allan Wilson]—and agreed to.*

**The Convener:** Amendment 454, in the name of the minister, is grouped with amendments 457, 460 to 462, 464 to 466 and 468.

**Allan Wilson:** As I have said, arrestment can freeze common property, such as a husband and wife's joint bank account, for the debt of only one party. In addition, mistakes can happen and an arrestment may freeze in error property that belongs to someone other than the debtor. The law allows anyone who claims that all or part of

the arrested property belongs to them to raise a court action known as a multiplepinding.

At a multiplepinding the court will want to hear from anyone with an ownership interest, but if it agrees that the claim is a good one, the property will be released as needed. A multiplepinding is well suited to complex cases with multiple claimants, but it is a slow and expensive way for, for example, a wife to get her share of a bank account released from arrestment.

In other parts of the bill, we allow people who claim ownership of attached property to make a summary application to the courts for release or restriction of the arrestment. The owners of arrested property should have that same right. The amendments in the group will deliver that objective.

Amendment 454 provides that an arrestee must disclose information about arrested property or funds to a third party whom the arrestee is aware has or claims to have an interest.

Amendments 457 and 460 have the effect of suspending the operation of the new provision for automatic release of funds to the creditor if a third party claims partial or whole ownership of attached funds and objects to the court.

Amendment 461 puts part of new section 73K of the Debtors (Scotland) Act 1987 into a new section 73KA, which will deal with the objection process. It also sets out the new third-party right to object to release.

Amendments 462 and 465 are minor changes consequential on other amendments.

The effect of amendments 464 and 466 is to ensure that any notice of objection to automatic release made by someone other than a third party must also be given to a third party with an interest.

Amendment 468 sets out a new ground for objection to automatic release: that the funds attached are owned solely or in common by a third party. That ground can be relied upon by any objector.

I move amendment 454.

*Amendment 454 agreed to.*

**The Convener:** Amendment 455, in the name of the minister, is grouped with amendments 459, 481 and 482.

**Allan Wilson:** The amendments in the group will clarify the way in which the bill deals with mandates.

The typical mandate is a written instruction by the debtor telling the arrestee to release the attached property to the creditor. Mandates have grown up over the years as an informal way of

getting round the fact that arrestment is a freeze diligence and that the only way to release funds provided by existing law is a decree in an action of furthcoming.

In most cases no one wants to go to the trouble and cost of a new court action. The debtor is willing to release the attached funds and the arrestee merely wants some reassurance that there will be no claim against them for doing so without a court order.

The mandate provides that reassurance. It is a useful tool that can accelerate automatic release, so new section 73N of the Debtors (Scotland) Act 1987 act will put the practice on a statutory footing.

Amendments 455 and 459 make it clear that a bank can act on a mandate to accelerate the automatic release process under section 73H of the 1987 act.

Amendments 481 and 482 take out the references to the debtor in section 73N of the 1987 act. That is to reflect the fact that a mandate can also be signed by a person with an interest in the fund who is not the debtor, for example a joint account holder who does not object to the creditor being paid.

That will enable the new law to be consistent with current good practice. For example, it will be possible to use the power in section 73N to reflect the fact that an attached fund should only be released if all joint account holders sign a mandate.

*I move amendment 455.*

*Amendment 455 agreed to.*

*Amendments 456 and 457 moved—[Allan Wilson]—and agreed to.*

16:45

**The Convener:** Amendment 458, in the name of the minister, is grouped with amendment 480.

**Allan Wilson:** No one enjoys having their property seized by a creditor and taken away to pay a debt, but both creditors and debtors have rights. People who can pay their debts must be made to do so, and diligence must be tough enough to be effective. Toughness is one thing, but harshness is another. Therefore, there should be a fair balance between debtors and creditors during all stages of diligence, and undue harshness should be addressed. As I have said before, the provisions on arrestment in the bill require some modification to deliver that objective better.

The amendments will enable the sheriff to maintain that fair balance by giving the court the

power, on application by the debtor, to order that an unduly harsh arrestment will cease to have effect wholly or partially in any case. When funds belonging to a debtor who is an individual are attached, the court will be able to take account of undue harshness not only on the debtor, but on the debtor's spouse, partner or children.

Amendment 458 provides that arrested funds belonging to an individual will not be paid to the creditor under automatic release when the court is asked to make an order in respect of an unduly harsh arrestment. Amendment 480 enables the court to make an order that such an arrestment will cease to have effect in whole or in part and that all or an appropriate amount of the funds or moveable property attached by the arrestment will be released to the debtor.

In considering an application, the court is required to have regard to all the circumstances of the case. Therefore, the amendments are much wider in scope than the amendments on arrestment of benefits and tax credits that we debated earlier. For example, the court can take into account the effect on the debtor of a "double diligence". I know that the committee has a long-standing concern about the harshness that is experienced by debtors whose income is arrested and who then pay their protected income into their bank only to find that what is left is then frozen by an arrestment.

Importantly, the court must also take into account the source of funds in an individual's bank account when it is arrested. Therefore, in the case of a debtor who is in receipt of benefits or tax credits, the court will require to consider the effect of the arrestment on the debtor and the debtor's close family. The court will also be able to consider whether an arrestment is unduly harsh on debtors who are on low incomes or who are in particular financial difficulties and are not eligible for state benefits.

The amendments deliver the necessary improvements that lie within the power of the Parliament. They offer a pragmatic solution that caters for all the circumstances in which an arrestment causes undue hardship, not just the circumstances that are covered by the amendments that we debated earlier. To extend the ambulance analogy, I suggest that this is a national health service community health provision rather than an accident and emergency service. The amendments also bring the changes to arrestment into line with similar debtor protections in other parts of the bill, including money attachment and land attachment.

I move amendment 458.

**Christine May:** I seek assurances from the minister on several points. If assurances cannot

be given to the committee today, I hope that the points that I raise will be taken on board and considered for stage 3 amendments.

First, I hope that the agreement that lay representation will be available in cases of sequestration will also extend to this provision and that applications will be fast-tracked so that there is no undue delay. I take the point that Michael Matheson made about people discovering on a Friday afternoon that no funds are available for the whole of the weekend.

Secondly, I seek reassurance that the court procedure will be free to the debtor. The procedure is intended to protect debtors and it would be ironic if it incurred a charge.

Thirdly, I ask for reassurance that the intimation of the order will be free to the debtor. I understand that similar provisions have meant that if a sheriff clerk intimates an order, it is free but that if sheriff officers are used, a charge is incurred.

Those are the key points on which I seek reassurance.

**The Convener:** I know that other members are seeking clarification, but I think that it would be easier for the minister to deal with members' points as they arise. Are you happy with that, minister?

**Allan Wilson:** Okay. That is fine. The new process is designed to be a fast-track, simplified procedure. We will have to look at the court rules in relation to the process, but that is the intention.

Christine May's amendment 443 says that a debtor who applies for her proposed arrestment restriction order can be supported by a lay representative. That is a good idea. A debtor could struggle to explain their case in such intimidating circumstances. No matter how good that case is, it might be hard to find a lawyer who can go to court for them. We should make it possible for an advice worker to help the debtor to make an application of this kind. Therefore, I propose to lodge an amendment at stage 3 that will make it possible for court rules to set out the circumstances in which a lay representative can appear in court in arrestment cases. That is a little bit different from what is proposed in amendment 443, but it is consistent with provisions in other acts, including section 43 of the Debt Arrangement and Attachment (Scotland) Act 2002, and I hope that members will agree that it meets the aim of empowering the debtor in what might otherwise be intimidating circumstances.

**Christine May:** And on the potential cost to the debtor?

**Allan Wilson:** I will look at that in context.

**Jackie Baillie:** I have two points of clarification and a suggestion. Will you confirm that legal aid will continue to be available? We would all acknowledge that not everyone will necessarily go through an advice agency, however much we might want them to. Further, could you confirm, for the record, that the Executive specifically regards the arrestment of benefits to be unduly harsh?

My suggestion is based on the fact that, given that the courts need to take account of the source of the funds, somebody somewhere is going to have to identify them. Perhaps, in this new age of technology, the minister will commit to working with the banks to ensure that, at some point in future, we have in place a policy that enables that to happen.

**The Convener:** Minister, would you like to deal with those specific points?

**Allan Wilson:** On the arrestment of benefits or tax credits, I say, for the avoidance of doubt, that the court will be required to consider any unduly harsh effect on the debtor and the debtor's close family.

What was the first point that you asked about?

**Jackie Baillie:** Will legal aid still be available?

**Allan Wilson:** Yes. People will need to apply for legal aid and acceptance of the application will depend on the circumstances.

**Jackie Baillie:** And what of my suggestion, which I was hoping to tantalise you with? Given that courts will have to identify the source of the funds, a means of doing so will have to be found. One wonders whether, in this age of new technology, you might make a commitment to working with the banks to consider developing a system of doing so.

**Allan Wilson:** We will consider the issue, which we have been discussing with the banks. I understand that their position is that the debtor could get the relevant information from them and take it to the courts. If there is a technological way of accelerating or simplifying the process, we would be happy to discuss it.

**The Convener:** So, Jackie has tantalised the minister.

**Jackie Baillie:** Excellent.

**The Convener:** Would you like to sum up, minister?

**Allan Wilson:** I think that we all share a common purpose in this regard. We are all here to help to deliver legislation that is fit for purpose and which assists debtors and creditors in a fair and just manner.

*Amendment 458 agreed to.*

*Amendments 459 to 466 moved—[Allan Wilson]—and agreed to.*

**The Convener:** Amendment 467, in the name of the minister, is grouped with amendments 476 to 478.

**Allan Wilson:** The amendments in this group clarify new sections 73K(3)(a) and 73M that section 192 inserts into the Debtors (Scotland) Act 1987 to provide consistency with other parts of the bill. They make clear the difference between what is invalid and what is incompetent or irregular in respect of arrestments and warrants for arrestment in certain circumstances.

A warrant for arrestment is either valid or invalid—for example, a warrant that is granted against the wrong debtor is an invalid warrant—and the arrestment itself might be incompetent or irregular. Those categories cover issues that are wider than formal validity. For example, an arrestment on an invalid warrant would be incompetent, but so would an arrestment in a case in which the creditor has failed to provide the debtor with a debt advice and information package.

Although the distinctions are technical, they are clearly important, as invalidity, incompetence and irregularity are all grounds on which a debtor can object to the automatic release of attached funds. Amendment 467 clarifies the drafting in new section 73K(3)(a), which provides further procedure for people who wish to object to automatic release. Amendments 476 to 478 clarify the drafting of new section 73M, which provides that an arrestee who acts in good faith is not liable to the debtor for loss that is caused by the automatic release of attached funds.

I move amendment 467.

*Amendment 467 agreed to.*

*Amendment 468 moved—[Allan Wilson]—and agreed to.*

**The Convener:** Amendment 469, in the name of the minister, is in a group on its own.

**Allan Wilson:** Amendment 469 is intended to ensure that objections to automatic release, common-law court remedies such as a multiplepointing or a forthcoming and hardship applications all work together. That will reduce the overlap between different rights and limit the number of cases in which more than one application is made to the courts. The amendment will limit the circumstances in which any person, whether they are the holder of the funds—the arrestee—the debtor or a third party with sole or common ownership claims, can object to automatic release and raise a separate court action about the same property.

Two exceptions to that general rule are set out in the amendment. The first is that an objector may be a party to another action if someone else has raised it, as it would be unfair to prevent them from defending their rights in that action. The second is that the objector may raise another action if the court decides to suspend the objection application. We are proposing an amendment—which is to be debated in a later group—to give the court power to suspend an application when appropriate.

Amendment 469 provides that a debtor who objects to automatic release can also apply to the sheriff for an order for release of arrested property on the ground that it is unduly harsh. If appropriate, the sheriff may deal with the objection and the hardship application at one hearing.

I move amendment 469.

*Amendment 469 agreed to.*

**The Convener:** Amendment 470, in the name of the minister, is grouped with amendments 472 to 475.

**Allan Wilson:** The committee has already debated the amendments that are intended to provide a quick route into court for any third party who claims ownership of attached funds by objecting to automatic release under new section 73H of the Debtors (Scotland) Act 1987. The amendments in this group will change new section 73L of that act, which provides for hearings on a notice of objection. If agreed, they will ensure that the court is able to take due account of competing claims to the attached fund.

Amendment 470 paves the way for amendment 474. It makes subsection (1) of new section 73L of the 1987 act subject to proposed new subsection (3A), which amendment 474 will introduce.

Amendment 472 provides for all persons with an interest in the attached fund to be able to make their case to the court if they wish.

Amendment 473 clarifies that the sheriff can still order the release of attached funds if the objection application is rejected after the 14-week period for automatic release under new section 73H.

Amendment 474 has the effect that the sheriff will suspend proceedings on an objection when an action of multiplepoinding or other court proceeding is more appropriate or is raised by someone who has not objected to automatic release. That will allow complex issues to be resolved through a more appropriate procedure.

Amendment 475 provides for intimation by the objector of any orders made by the sheriff under new section 73L and for any objector to be able to appeal to the sheriff principal on a point of law

within 14 days of any decision of the sheriff on the objection application.

I move amendment 470.

*Amendment 470 agreed to.*

*Amendments 471 to 478 moved—[Allan Wilson]—and agreed to.*

17:00

**The Convener:** Amendment 479, in the name of the minister, is grouped with amendment 483.

**Allan Wilson:** Arrestees hold funds or property that is frozen by an arrestment. They are not party to any dispute between the creditor and the debtor and therefore may not know if, for example, an arrestment is invalid due to a mistake in a court decree. However, debtors are entitled to claim damages for any loss that they suffer if funds or property are released when they should not have been.

It would be unfair to arrestees to hold them responsible for something about which they may not have known, but that does not affect any right that a debtor may have to seek redress from a creditor. The bill protects arrestees who act in good faith from claims for loss by debtors if attached funds or property are released to creditors when they should not have been. It does not protect arrestees from similar claims by third parties with an interest in attached funds or property but it should. Therefore, amendment 479 extends to claims by third parties the good-faith protection for arrestees against claims by debtors following payments to creditors under automatic release, and amendment 483 extends to claims by third parties the good-faith protection against claims by debtors if funds are paid or property is released to creditors under a mandate.

I move amendment 479.

*Amendment 479 agreed to.*

*Amendments 480 to 483 moved—[Allan Wilson]—and agreed to.*

*Section 192, as amended, agreed to.*

**The Convener:** That concludes consideration of amendments for today and concludes our meeting. I will see members next week.

*Meeting closed at 17:02.*





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