



The Scottish Parliament  
Pàrlamaid na h-Alba

## Official Report

### **PUBLIC AUDIT COMMITTEE**

Wednesday 4 December 2013



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**PUBLIC AUDIT COMMITTEE**  
**16<sup>th</sup> Meeting 2013, Session 4**

**CONVENER**

\*Hugh Henry (Renfrewshire South) (Lab)

**DEPUTY CONVENER**

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

**COMMITTEE MEMBERS**

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

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

Bob Doris (Glasgow) (SNP)

\*James Dornan (Glasgow Cathcart) (SNP)

\*Colin Keir (Edinburgh Western) (SNP)

\*Ken Macintosh (Eastwood) (Lab)

\*Tavish Scott (Shetland Islands) (LD)

\*attended

**THE FOLLOWING ALSO PARTICIPATED:**

Angela Cullen (Audit Scotland)

Leslie Evans (Scottish Government)

Caroline Gardner (Auditor General for Scotland)

Andra Laird (Audit Scotland)

Christina McKelvie (Hamilton, Larkhall and Stonehouse) (SNP) (Committee Substitute)

Fraser McKinlay (Audit Scotland)

Colin Robertson (Scottish Government)

Andrew Scott (Scottish Government)

Melanie Weldon (Scottish Government)

**CLERK TO THE COMMITTEE**

Jane Williams

**LOCATION**

Committee Room 6



## Scottish Parliament

### Public Audit Committee

*Wednesday 4 December 2013*

[The Convener *opened the meeting at 09:30*]

### Decision on Taking Business in Private

**The Convener (Hugh Henry):** Good morning. I welcome everyone to the 16th meeting in 2013 of the Public Audit Committee. I have received apologies from Bob Doris, and I believe that Christina McKelvie will join us shortly. I ask everyone to ensure that electronic devices are switched off.

Item 1 is to agree to take items 4 and 5 in private. Are we agreed?

**Members indicated agreement.**

## Section 23 Reports

### “Scotland’s public sector workforce”

09:30

**The Convener:** Item 2 is a section 23 report from the Auditor General for Scotland and the Accounts Commission on Scotland’s public sector workforce. I welcome the Auditor General and her staff and invite her to brief the committee.

**Caroline Gardner (Auditor General for Scotland):** Thank you, convener. Our 2011 report “Scotland’s public finances: addressing the challenges” highlighted that reducing the public sector workforce is the main way in which the costs of public services will be reduced in the face of the continuing financial challenges. Our report “Scotland’s public sector workforce”, which was published on 28 November, examines how councils, the national health service, the Scottish Government and other central Government bodies have changed their workforces since 2009. It also looks at the savings that bodies have made from those changes, what plans they have for the future and what they will need to do to achieve the savings and the other reforms that are required over that period.

In the four years since 2009, councils, the NHS, the Scottish Government and other central Government bodies have reduced their workforces by 26,600 whole-time equivalent posts. The extent of change varies across the sectors from a 1 per cent reduction in the NHS, which is equivalent to about 1,400 whole-time equivalent posts, to a 10 per cent reduction in council staff, which is almost 24,000 whole-time equivalents. We estimate that those changes reduced staff costs by about £1 billion over the three years from 2009-10 to 2011-12.

Around a third of that reduction in staff numbers and costs was due to transfers of staff and services out of the public sector to arm’s-length bodies and other non-public-sector bodies. We estimate that transfers to arm’s-length bodies accounted for almost 10,000 of the 26,600 posts that have been removed. It is worth noting, however, that the public sector pays annual service fees to those bodies for the services that they provide, so it continues to contribute to the staff costs that those bodies incur. Our estimate of a £1 billion reduction in staff costs does not take account of those payments.

Part 2 of the report looks at how bodies have implemented changes to their workforces. Exhibit 7 on page 24 shows the main approaches that have been used by 80 public bodies between 2009 and 2013. They all used pay restraint, and

most assessed vacancies as they arose, only filling posts that they saw as business critical. The majority also used staff redeployment. Sixty-nine bodies, including all 32 councils, used early departure schemes and 62 bodies used early retirement schemes. Staff who left through those means vacated around 16,000 whole-time equivalent posts.

The committee will recall that, before the summer recess, I briefed you on our report "Managing early departures from the Scottish public sector". By using a mix of approaches, the nine public bodies that we reviewed in detail had made the workforce changes that they needed to make to meet their short-term business and financial objectives. We recommend in the report that we are discussing today that bodies should improve how they do that by planning strategically and using the good practice that we identified. We also recommend that they should collect information on the costs and savings that are associated with their workforce change programmes and the impact of those changes on services and staff wellbeing.

In part 3 of the report, we look to the future. Public sector finances will continue to be under pressure for the foreseeable future due to budget constraints, demographic change and increasing staff costs. When we conducted our fieldwork in April and May this year, not all bodies were able to forecast their workforce numbers and costs for 2014-15. Those who could estimated that, overall, workforces would continue to reduce by more than 3,000 whole-time equivalents. At the same time, they forecast that staff costs would rise by £209 million up to 2014-15. The forecast rise in costs is due to a combination of factors including pay increases, pay progression, the implementation of the Scottish Government's commitment to a living wage and bodies settling equal pay claims.

To meet those financial challenges and reform public services, public bodies need to extend and strengthen their workforce planning. The report lists some of the options that are open to them and we recommend that they think differently about how they will deliver services by prioritising and redesigning services and increasing joint working across organisations and sectors.

As always, my colleagues and I are happy to answer the committee's questions.

**The Convener:** Thank you. Point 5 in your list of key messages on page 9 of the report states:

"The Scottish Government has a number of reforms under way that could help deliver some of the change needed."

Will you describe some of those reforms?

**Caroline Gardner:** Certainly. I will pick out a couple, initially. The integration of health and

social care is intended to deliver better services to older people and people in general in the community through closer joint working. We think that it also has potential to manage the cost pressures by enabling bodies to consider the ways in which staff work together and think about new roles that break down some of the boundaries between different professional disciplines and the work that staff carry out at the moment, depending on whether they are employed by the national health service or by council bodies. We are seeing similar initiatives around the early years and increasingly in the criminal justice system in relation to reoffending, where the barriers between the prison service and community justice work are being broken down.

**The Convener:** Have the potential savings from those three examples been costed and quantified?

**Caroline Gardner:** We have not done that work at this stage, although we will have some work coming out in the new year on reshaping care for older people.

The issue that you raise is one of the reasons why the workforce planning that we talk about in the report is important. Each body that is involved in the processes of reforming services and working more collaboratively needs to understand what staff it has and what roles they carry out, and also the pressures that it has, such as an ageing workforce or recruitment challenges, as a basis for thinking about making better use of staff, jointly, and redesigning jobs to ensure that people can work more effectively and efficiently.

**The Convener:** Paragraph 19 on page 12 states:

"Eighteen NHS and central government bodies increased their staff numbers".

Can you give us a note—not necessarily today—of the bodies that increased their staff numbers?

**Caroline Gardner:** We can certainly do that, within the limits of the data that we have been able to collect. More generally, the report states that there are differences between the sectors and that all the bodies have been recruiting staff to replace people who have left essential posts or to reshape their workforce in planned ways. Fraser McKinlay can add some detail.

**Fraser McKinlay (Audit Scotland):** I have just checked with our team, and we can provide you with that information, convener.

**The Convener:** Is the balance more on NHS bodies or on Government bodies?

**Andra Laird (Audit Scotland):** Nine Government bodies and nine health board bodies increased their staff.

**The Convener:** So, at a time when, for example, direct services that are provided by local government are under pressure and staff numbers are going down, nine central Government bodies increased their staff numbers. It would be interesting to see further details of that, so I thank you for arranging to send them to us.

Can you quantify the potential size of the equal pay claims? I know that those that have been reported so far have sizeable implications for the local authorities concerned. Is there an overall figure?

**Caroline Gardner:** We considered the claims in relation to local government and the NHS and reported the best estimates that are available in the local government overview report and the NHS financial performance report. Fraser McKinlay and Andra Laird can talk further about each of those sectors. Fraser McKinlay is the controller of audit and he is responsible for reporting on local government to the Accounts Commission.

**Fraser McKinlay:** I am afraid that I cannot recall the number for last year, convener, but I will confirm it for you. The local government overview report for the current financial year, which I think will be published in March next year, will state how much the claims have cost to date and how much local authorities have put aside to deal with them.

**The Convener:** Is it correct to say that the figure will be sizeable and it could have a significant impact on local government services?

**Fraser McKinlay:** It will certainly be sizeable. The extent to which it will have an impact on services is a different question, but it will be a pretty big number. As usual, the Accounts Commission will be happy to brief the committee on the overview report. We will be in a position to say how much councils have set aside for potential claims in the future.

**The Convener:** My last question for now relates to arm's-length external organisations; I might come back to them later. You state that, once services have been transferred to ALEOs, there are still financial implications whereby local authorities have to make service payments to those bodies. Does the Accounts Commission scrutinise ALEOs in the same way that it scrutinises local government?

**Caroline Gardner:** Again, I ask Fraser McKinlay to pick up that question.

**Fraser McKinlay:** The simple answer is that the scrutiny of ALEOs is not the same as the scrutiny of councils, because councils are directly audited by the Accounts Commission under the Local Government (Scotland) Act 1973. To some extent, the whole point of ALEOs is that they become different kinds of organisations such as charities or

companies limited by guarantee. The interest of the Accounts Commission is in following the public pound, so the commission's interest—and Audit Scotland's interest—is in ensuring that councils have strong governance arrangements in place to provide oversight of how the public money that is given to ALEOs is spent on delivery.

You might be aware that, over the past six months, the Accounts Commission has been doing a lot of work and a lot of thinking on that subject. We have submitted several papers to it this year, and we continue to keep a close eye on the topic—in fact, we have asked all 32 council auditors to do some more due diligence work on the position of ALEOs in the audit year that has just kicked off. We want to know how many ALEOs there are, what they are like, how much they spend and what councils' governance arrangements are like, in order to get as up-to-date a picture as we can.

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

I note from the summary on page 4 of the report that 15,800 staff left through early departure, which was 4 per cent of the workforce, and that 3 per cent of staff were transferred to ALEOs or other bodies. Further on, quite a degree of private sector involvement is mentioned. For example, paragraph 22 says that

"NHS Forth Valley transferred 541 facilities management staff to SERCO in 2010/11"

and that

"Highlands and Islands Enterprise and Scottish Enterprise transferred 23 staff in total to Atos in 2011".

Those are private sector companies.

To go back to what the convener asked, do you have a breakdown of how many ALEOs, third sector organisations and private sector companies are involved? How can any accountability or governance be provided in relation to those jobs when the company concerned is completely in the private sector, as is the case in the examples that I mentioned?

**Caroline Gardner:** You are absolutely right that, in the report, we focus on staff who have transferred from being public sector employees to being employees of arm's-length organisations or private companies. About 10,000 of the 26,500 reduction is accounted for by staff who fall into that category, so we are talking about a significant number of people. By far the bulk of those are staff who transferred to arm's-length organisations as opposed to public companies. A total of about 600 staff were involved in the two examples that we cite in the report.

The same principle applies to transfers to private companies as applies to transfers to arm's-length organisations, as Fraser McKinlay outlined.

Of particular importance is the ability to follow the public pound to ensure that the money that is used to pay for those services is managed and accounted for properly and that it provides the service that is intended. We are all aware of the growing interest in the terms and conditions of staff who are subject to such transfers. We did not look at that issue directly in our report, but we are very conscious of it and we will keep it under review as we plan future audit work.

**Mary Scanlon:** Given the transfers from the public sector to Atos and Serco, can you see from your work whether the intention in future is to give public sector work not just to ALEOs but to private sector companies?

09:45

**Caroline Gardner:** The examples that we found are isolated ones. It is worth distinguishing those transfers of people from areas where services are being commissioned from private sector organisations as a matter of policy. That is less widespread in Scotland than it is under United Kingdom Government policy, for deliberate policy reasons. Where such large contracts are in place, they throw up particular issues about employment, as your question highlighted, and more generally about accountability for public money. In planning our future audit work, we are focusing on that to ensure that we have proper oversight of those big contracts and that we understand the risks that are associated with them for the good stewardship of public money.

**Mary Scanlon:** My second question is about exhibit 7, on page 24. I knew that vacancy management is widely used in the NHS, but I had not appreciated just how widely used it is across the public sector in Scotland to manage the workforce. The exhibit shows that 32 councils, 21 NHS bodies and 24 central bodies are doing that. I had not realised that it is the second most commonly used approach next to pay freezes. I understand that, the longer a job is kept open, the more money is saved, but in terms of effective spend, are there concerns that the use of vacancy management can impact on service delivery, given that it is second top of the league?

**Caroline Gardner:** Such concerns are the reason why we highlight the range of mechanisms that are used, and vacancy management is one that is very commonly used. The obvious advantage and attraction for public bodies is that it is fairly straightforward to implement. If somebody leaves, their post can be held until the body is sure that the post needs to be filled because it is business critical or another way of meeting the need is found. The risks are that a gap is left and the approach is not based on a strategic view of priorities across the service or organisation, which

can limit the options for more flexible ways of filling the gap that the person has left behind.

It is entirely understandable that public bodies are using vacancy freezes as a way of managing their budgets—we have done the same in Audit Scotland—but that is not a substitute for strategic workforce planning over the longer term.

**Mary Scanlon:** I was thinking about specialist consultants, as I think that there have been concerns about them.

My third and final question is on paragraph 101. When I got to it last night, I did not quite understand what the last sentence means. I know that the community empowerment and renewal bill is about to start its way through the Parliament, but what is meant by the comment

“This includes whether communities could help to provide services directly”?

I did not quite understand that. I represent the Highlands and Islands, and I am thinking about how local communities would provide services. Will you explain what that means?

**Caroline Gardner:** That is closely allied with the concept of community empowerment, which involves working with communities on what services matter to them and then thinking about the best way of addressing them depending on the characteristics of the place, the people who live there and the problems that exist.

We are certainly not suggesting that public services should be removed, but we are saying that there might be good ways of, for example, encouraging people who live in a small remote community to look out for older people, with the ability to call in professionals when they are needed. Thought could be given to the way in which services that are important for community cohesion can be encouraged by the statutory sector but delivered by people who live there.

Fraser McKinlay might be able to add to that, based on our experience of community planning audits over the past year.

**Fraser McKinlay:** There are lots of good examples of that happening. I know from work in Orkney that communities there do things such as maintaining local cemeteries and monitoring coastal erosion. To take off my professional hat for a minute, where I live, in Haddington, I am involved in my son's football team, and we have a new football pitch that is entirely community run. In previous years, such a facility would almost certainly have been run by the council. There are examples of that approach, and I think that the community empowerment and renewal bill will be designed to encourage it.



Like the discussion that we have just had about ALEOs, that raises all sorts of interesting questions about, for example, accountability and how the funding works. We are certainly interested in that. In such examples, communities are not just consulted on things but are more directly involved in the design and delivery of public services.

**Mary Scanlon:** Okay. I will leave it there.

**The Convener:** I welcome Christina McKelvie to the meeting. Do you have any interests to declare, Christina?

**Christina McKelvie (Hamilton, Larkhall and Stonehouse) (SNP):** No, I do not have any interests to declare in relation to this committee, but I refer members to my entry in the register of members' interests. Please accept my apologies for my lateness this morning.

**The Convener:** No problem. Thank you.

**Colin Beattie (Midlothian North and Musselburgh) (SNP):** The convener originally picked up the question of transfers to ALEOs, which are quite significant. I think that Audit Scotland produced a useful a report on ALEOs a couple of years ago. From what you have said, I think that you are going to work into your audit programme a follow-up to that report that has a look at what is happening with ALEOs. Is that correct?

**Fraser McKinlay:** Not specifically that, Mr Beattie.

As you said, a couple of years ago, we produced what was in a sense a good practice guide that said, "If you are going to be using ALEOs, this is how you should go about it." Even since then, more ALEOs have been created, and it is interesting that there has been a shift towards more ALEOs being created for more personal-type services. For example, there is a new local authority trading company in Aberdeen that delivers care services. For a while, it tended to be leisure services that were transferred into ALEOs, but the model is now being used more widely.

The Accounts Commission in particular and Audit Scotland on its behalf have a real interest in that. If the pattern is going to continue, with local government services being delivered through those different kinds of organisations, what does that mean for our ability to scrutinise the services? This year, we have done work to take stock and ask ourselves whether the Accounts Commission needs any more powers, for example. We are pretty confident that we do not need any more powers at the moment. We think that we already have powers that allow us to follow the public pound and get assurance on how the money is being spent.

Therefore, rather than there necessarily being a separate bit of follow-up work, we have first asked local auditors to give us a good and robust baseline for the current picture in local government, which will inform whether we do anything more. I think that that will inevitably be an increasing feature of our audit work, because that is how services are being delivered.

**Colin Beattie:** You have certainly touched on an important point in referring to following the public pound. If public funds are increasingly being spent in ALEOs, there should be some way to follow that spending and audit it and to look at the governance of those organisations.

**Fraser McKinlay:** On page 13 of the report, there is a wee case study on South Lanarkshire, which we used as an example of the kind of thing that we are talking about. Quite significant amounts of money in South Lanarkshire—around £21 million in 2011-12—are going into the leisure trust every year. You are absolutely right: the principle of following the public pound is hugely important.

It is also worth saying that it is not a completely barren field in respect of accountability. For example, a charity will be regulated by the Office of the Scottish Charity Regulator, and all the bodies will appoint their own auditors and their financial statements will be audited every year. The specific question for us is how we as the public audit organisation ensure that the public accountability for those funds is maintained and assured.

**Colin Beattie:** Would there not be a different approach by an auditor who is appointed to a charitable body, for example, who really looks at whether the funds have been properly accounted for and so on, as opposed to the public audit approach, in which rather a wider sense of how funds are used and their effectiveness is looked at?

**Fraser McKinlay:** That is absolutely right. In local government, the approach would be around the whole notion of best value. The appointed auditors of the ALEOs will not do best-value audits, for example; their job will be to audit the financial statements. We are therefore thinking hard about how we can use our powers in best value via the council to get assurance that how those bodies are governed and operated is sound.

**Colin Beattie:** When will you finish your assessment?

**Fraser McKinlay:** The work that the auditors are doing is part of this year's audit, so we should begin to see that coming through certainly no later than this time next year. I hope that we will see the results of that work earlier, but it depends on when exactly we do the work. I hope that we will have a

clear sense of what else we might do about the matter by this point next year.

**Colin Beattie:** That seems a long way away.

Paragraphs 34, 35 and 38 of your report refer—not for the first time in such reports—to a lack of information and to information that is not available. What impact has there been on the information in the report? How good an indication is the information in the report, given the limitations on what you could access?

**Caroline Gardner:** This is the best information that the team could gather, but you are right to refer to gaps and inconsistencies between bodies and sectors. Angela Cullen will talk you through the overall picture, how we have compensated for gaps and the most important gaps that need to be filled.

**Angela Cullen (Audit Scotland):** As Caroline Gardner said, the report uses the best available data. We took the cost information from a range of areas—it was largely from annual accounts in the health and central Government sectors, for example. Local authority accounts do not highlight staff costs separately, so we used local financial returns to capture that information. It is not perfect, but it is the best information that is available. We have tried to fill the gaps.

Part of the methodology for the audit was to capture information from 80 survey bodies. We surveyed all the health boards, all the councils and 26 of the largest central Government bodies to provide us with information to supplement what we knew from their annual accounts. We also used lots of official statistics for staff numbers, such as Office for National Statistics data and the workforce statistics that the NHS publishes through ISD Scotland. We used a lot of that information and tried to fill the gaps by doing an additional survey.

**Colin Beattie:** What are the error factors? I am trying to get a grip on the information. We have lots of statistics and figures, which give us a good indication of what is happening, but is there an error factor?

**Caroline Gardner:** I suspect that we have not calculated an error factor specifically, but we have covered all the main bodies—all the health and local government bodies and the largest central Government bodies—so the larger number of small bodies does not have a big impact on the overall picture in the report.

The challenge, which we have focused on in questioning, is the impact of staff who are transferred out of the formal public sector but who are still funded by the public sector in different ways. It is not easy to understand with the information that is readily available what that

transfer means for the level of service that is provided and for value for money.

As Fraser McKinlay said, we can compensate for that lack of information in particular pieces of work, but we have to drill down and have a clear focus on what we are trying to achieve. We think that the report gives a good and reliable high-level picture, but there are gaps that are difficult to fill.

**Colin Beattie:** You highlight at paragraph 91 the fact that staff costs are likely to increase—you estimate a £433 million increase. However, as you say, that assumes that bodies will take no action and that things will stay static, which I assume is unlikely. The figure of £433 million is a lot of money. Are you satisfied that the organisations that you have audited have plans in place to address that?

**Caroline Gardner:** That issue operates at two levels. Not all the survey bodies could look ahead even one year to give us information for 2014-15—a quarter could not provide that. Even for that short period, some bodies are not where they need to be in financial planning.

More significant in many ways is the longer look ahead to 2020. Given what we know about the likely financial climate that all public services will continue to work in and the pressures that we know are coming, it is critical that each organisation has a strategic workforce plan that gives it a picture for that period and that that is pulled together by sectors and by areas in which public bodies are looking to work together to reform public services and meet the challenges. Such strategic workforce plans are not in place for all organisations, other than in the NHS, which stands out as an example of good practice on that.

**Colin Beattie:** Did you get the impression that bodies are aware of that problem?

**Caroline Gardner:** I ask Fraser McKinlay or Angela Cullen to answer, as they are closer to the issue.

10:00

**Angela Cullen:** Caroline Gardner is absolutely right. There is a lot of workforce planning activity going on, and we highlight a lot of it in part 2 of our report. All of the bodies that we examined had done workforce planning at service and departmental levels, but they had not necessarily pulled that together into an organisation-wide workforce plan, which we would like them to do—and we have made that recommendation to them.

Through the workforce planning that they were doing, the bodies had started to think about the level of staffing that they had, what they might need for the future and what gaps existed in their skills mix. They had started to try to address that,

and we highlighted a couple of examples in our report where the bodies concerned had done so.

Caroline Gardner is right to point out that, according to our survey, 58 of the 80 bodies were able to provide information for next year, 2014-15, at the time when we did the audit. There was an awareness among the other bodies that it was something that they had to do—they had just not done it yet.

We are encouraging those bodies to provide the information, and we are making a recommendation to have rolling three-year forecasting for staff numbers and costs, so that bodies are aware of the staff numbers that they need and the associated costs, at least in the short-to-medium term. They can use that forecasting to build their longer-term workforce plans.

**Caroline Gardner:** Overall, we say that most bodies have focused on the short term. They have been opportunistic—they have taken advantage of opportunities as they have arisen—and that has allowed them to manage things in the short term. However, that is not enough for the longer term, and it runs the risk of short-term choices being made that might make the challenges for the longer term more difficult. That is the shift that we would like to see coming through.

**The Convener:** Before I bring in James Dornan, I wish to ask about the point that Colin Beattie raised regarding staff costs increasing, which is covered on page 36 of the report.

In exhibit 11, you show the staff costs for 2012-13 for councils and the NHS. You then cover the percentage increases due to pay progression—which is an annual increment to which some staff are entitled—and inflation. For councils, the increase is 2.26 per cent; for the NHS, it is 2.02 per cent. Those figures are higher than what has been published in terms of the pay agreements. Where do the figures come from?

**Caroline Gardner:** I will ask Andra Laird to talk you through the detail. Those are average figures for sectors, so there is a lot of variation within them.

**Andra Laird:** The figures came from the survey work. Individual bodies were asked to tell us what they were factoring into their future budgets for each of the different elements. The figures therefore come from the bodies' own estimates, taken during the earlier part of this financial year. We have averaged the numbers across all the bodies to give those figures for the different sectors.

**The Convener:** Is it not the case that the pay increases for councils and the NHS have been limited to 1 per cent?

**Caroline Gardner:** It has been; the figures look ahead to what people expect to be doing in the period up to 2014-15.

As members will be aware, there are different elements to the overall growth in the pay bill. They include progression up the pay scales; the inflation element, which has been awarded by some councils but not others; and particular changes to particular staff groups. The figures are averaged for each sector, and we then reach an overall figure for Scottish public services as a whole.

**James Dornan (Glasgow Cathcart) (SNP):** I return to the point about ALEOs. Fraser McKinlay said that you did not see the need for further powers to follow the public pound as it is spent. There is at least one example in Glasgow of an ALEO that has had frequent losses—it has not been a one-off loss. Are you confident that you know how such situations have come about, and do you have the ability to take lessons that could be used by Glasgow City Council and other councils in the way in which they deal with ALEOs?

**Fraser McKinlay:** Yes, I am confident about that—we can do that at the moment.

Councils are allowed to create ALEOs, and some of them are doing so. As auditors, that is our starting position. The report that we published a couple of years ago, which Colin Beattie mentioned, explained how councils that were going to set up ALEOs should do so, and how they should run and maintain them.

As I say, it is something that we and the Accounts Commission are keeping under close review, and our judgment is that there is still plenty that we can do—indeed, there is probably more that we can do—with existing powers to look at exactly the type of examples that you have just mentioned.

There are occasions—there was one such occasion in Glasgow—when other regulators, OSCR in particular, have a very strong locus as well, so we need to ensure that the different regulatory regimes work well together, particularly in the case of a charity. If a charity is involved, that charity and OSCR will be very keen to ensure that the trustees are acting independently, while we will have an interest in ensuring that the council is governing it well. Those two things are not necessarily easily aligned, so that is work that we are progressing with OSCR.

That situation is not straightforward. At the moment, our view is that there are sufficient powers for us to do what we think needs to be done, but it is something that we are keeping under review.

**James Dornan:** I am delighted to hear that you think that you have a handle on the situation because, when I was a councillor in Glasgow, I found it very difficult to find out how the money was being spent and whether we were getting best value for it.

In paragraph 34 on page 17, which was mentioned earlier, you state in relation to the number of administrative grade posts:

"We do not have equivalent information for councils or other central government bodies."

Is there a problem with gathering the information that you require from councils? Are some councils deliberately obstructive, is it just that they cannot get round to doing it, or are the systems not in place to make the information easily available to you?

**Caroline Gardner:** We are not saying that there is a problem with council systems. This takes us back to Angela Cullen's earlier point that information is collected in different ways by different types of public body and by different sectors. In the central Government, specific statistics cover administrative grades and other types of civil servants. Figures are collected differently for local government, and therefore the comparison is not a straightforward one to draw at all.

There is a case for better information in general as the focus on how savings are being achieved is increasing. The need to maintain services in the face of growing demands is also present, as we know. However, that is not a criticism; it is simply a reflection of the fact that figures are collected differently just now.

**James Dornan:** So do you think that there is a case for a certain uniformity in how data is collected?

**Caroline Gardner:** I would put it slightly differently. Clearly, we are not looking to collect information for its own sake. There is a cost involved and we are not looking to fulfil that traditional bean-counter stereotype.

There is an argument for more transparency. Particularly at a time when people are having to make tough choices about how public money is spent, having more information about staff numbers and what staff are doing helps people to understand the impact of those choices.

**Willie Coffey (Kilmarnock and Irvine Valley) (SNP):** I will continue with the ALEO theme.

When staff and services are transferred to an ALEO, the local council has no control over the prices that the public are charged for the leisure services, for example—they form quite a bulk of the ALEOs. If the public is making representations

about such issues, accountability for prices presumably rests with the ALEO board. The flip-side of what James Dornan was talking about is: if an ALEO such as a leisure trust breaks even or even makes a profit, where does the profit go? Does it come back to the council, or is it just a case of the council making a readjustment in subsequent years to the ALEO's funding? How does that work?

**Fraser McKinlay:** It will almost certainly depend on how the ALEO has been set up in the first place. All councils will agree terms of reference or a service level agreement—or whatever you want to call it—with the ALEO that they set up, and issues such as how profits will be dealt with will be factored into those agreements. I would certainly expect that any profit that was made would be reinvested back into the service.

You are right that, in the case of a leisure trust, it would be the responsibility of the board of the ALEO to make such decisions. In a sense, that is the point of transferring a service into an ALEO—the whole point of putting such bodies at arm's length. Certainly, boards of leisure trusts that I have spoken to are very clear that one of the benefits of being an arm's length body is that, depending on where they are in the country, their competition is not other local authority services; their competition is private sector health and fitness companies.

The trusts would argue—I am not saying whether this is right or wrong—that the whole process of putting them at arm's length allows them to be a bit more commercial and be a bit more like the private sector, which would be part of the reason for doing that.

**Willie Coffey:** I am conscious of other members' comments on scrutiny, but ALEOs are not new—they have been around for a while. Perhaps the pace of change has accelerated, but I share others' concerns about accountability. We would not want the functions to slip through the net of public gaze—particularly the gaze of this committee—with such large amounts of public money going through the route to the ALEOs.

I do not know whether Audit Scotland even has the power to do something—it probably does not, given the witnesses' answers so far—but there must be national scrutiny so that we can see how ALEOs are performing and whether we are getting the value for money that we seek.

The chart on page 17 of the report is about changes in the workforce numbers by age groups. I know that this is a small proportion of the entire workforce, but one box shows quite a drop in the number of staff who are under 20. However, paragraph 32 suggests that a targeted approach to increase the numbers of 16 to 24-year-olds in

work has been taken and the numbers are going up. Will you explain what is happening? The figure has dropped 25 per cent. Why did it drop so much? What is happening with the recruitment suggested in paragraph 32?

**Caroline Gardner:** In broad terms, our concern is exactly the one that you are highlighting: the workforce is ageing. The only age group shown on that chart that is getting bigger is the 50 to 59 age group, and those are people who are likely to be retiring in the next 15 years or so.

Another reason for organisations having good workforce plans is so that they understand where the workforce is located, the jobs that they are doing, whether there might be a shortage of teachers, social workers or other groups in 10 years, and how they plan to compensate for that. That ensures that they have the staff that they need in the right place and that their long-term succession planning continues.

On the specific point raised in paragraph 32, Andra Laird has the details.

**Andra Laird:** The drop happened quite simply because bodies stopped recruiting and, when that happens, younger people tend to be affected most. The group is also smaller, so you see the drop more significantly in percentage terms.

The bodies in our case study recognised the effect that the drop was having on the workforce and the fact that young people were not coming in with new skills and thinking. They took the simple decision to go out of their way to open up the doors and bring in some more young people.

**Willie Coffey:** Is the figure explained by the transfers? A lot of young people are involved in the leisure trusts that I am familiar with. Has there been a transfer of a higher proportion of young staff through to ALEOs, including leisure trusts? If you think that the drop was a recruitment issue, it seems to me, judging by paragraph 32, that some of the councils are addressing the issue.

**Caroline Gardner:** There is recognition of the issue. The question is whether the increases are big enough to make an impact on the overall pattern that you see in exhibit 4, which is definitely of an ageing workforce that is ageing more quickly than we all are because of reductions in the younger groups and increases in the older group as people move into it but are not replaced further down.

**Willie Coffey:** A common message that you see appearing again and again in the Audit Scotland report is that the Government and various partners are being asked to provide strategic guidance on how to redesign services, work better and so on. We have been saying that for a wee while, so how do we get a handle on how the work is

progressing? That is key to the future and to making an impact on the issues.

It is probably expecting too much of Audit Scotland to make more direct recommendations, but your helpful guides at the back of some of your reports take us some way along that route. There is no such guide in this report similar to the ones that I recall in previous reports. Are we where we want to be in the service redesign agenda? Do we need to do more? What does it look like? When might we see those issues coming in front of the Public Audit Committee so that we can scrutinise progress?

**Caroline Gardner:** The first bit of good news is that a good practice guide will be associated with this work. We are planning to publish it in January, and it will be available for public bodies to use.

**Willie Coffey:** Is that an Audit Scotland guide?

10:15

**Caroline Gardner:** That is right. In our experience, it is easiest—although it is still difficult—to get a handle on exactly how the reform and redesign are going by looking at a specific service rather than looking across the piece. That is how we can get a handle on how public bodies are understanding the scale of the problem, considering the options that they have individually and together, and putting in place plans to achieve reform.

The indications are that public bodies find that quite difficult to do. Committee members will know—some better than others—that the integration of health and social care in Highland has been a year ahead of what is happening elsewhere in Scotland. We have learned some quite useful things about the challenges of bringing workforces together even when it involves, as it does at this stage, like-for-like replacement as a basis for redesign further on.

We are hearing that people would welcome more guidance from the Government, however it is produced, on how to tackle difficult issues with terms and conditions, how to deal with different pension schemes and the pension liabilities that come with them, and how the short-term costs of integration that sometimes arise can be managed. We do not have a magic wand to tell people how to do that part of the reform, but we feel that, if we are to make real progress on integrating health and social care, we need to change the way in which early-years services are delivered, look at reducing reoffending across Scotland's communities, and get a handle on some of the important workforce issues in order to secure real change in the future.

**Willie Coffey:** Will you gather data to let the committee know, at some future date, how the service redesign agenda has been working, what savings have been made, and what council services are working together? Will we see something like that in the future?

**Caroline Gardner:** We will probably play those big reform programmes into our programme of performance audits and decide, at an appropriate point, to have a look at health and social care integration along with early years services and reoffending—the other areas in which people are trying to make a step change in both prevention and partnership working—to see what we can learn from the progress that has been made so far.

**The Convener:** Before I bring in Ken Macintosh, I go back to Willie Coffey's point about ALEOs and accountability. In many, if not all, cases, when ALEOs are established they have one or more councillors from the local authority on their board. That is supposed to create a relationship and provide some element of feedback to the local authority. Does anyone who sits on the board of an ALEO not have a primary responsibility to the ALEO rather than to the council?

**Fraser McKinlay:** Yes.

**The Convener:** Is that a legal requirement?

**Fraser McKinlay:** Yes. In the report that we published a couple of years ago, we spent quite a long time on that. It is an enormously difficult balancing act for elected members. If they are acting as a company director or a trustee of a charity, their only responsibility when they are wearing that hat is to that company or charity. It is difficult for them to strike the right balance and, in places where that has not worked well, that has been partly because people have not been clear about their roles and responsibilities. You have correctly identified one of the tensions that exist, convener.

**The Convener:** So if a local authority says that it has some influence over an ALEO because it has a number of elected members on the board, that is just not true. Those elected members sit on the board as independent representatives and there is no requirement for them to carry out any council policy or functions when they make decisions on behalf of the ALEO—indeed, they should not do so.

**Fraser McKinlay:** That is the technical position. Colleagues in OSCR would make it very clear that if a councillor sits as a trustee of a charity, that is their primary responsibility. However, councils would argue that a councillor brings a perspective from the community to the board. They would not be formally representing the council, but it could

be argued that it is entirely reasonable for someone who has links with and is representative of the community that the ALEO serves to be appointed to the board of that organisation.

**The Convener:** Any councillor who attempts to bring council influence to bear on the ALEO is acting outwith the terms of their responsibility as a board member.

**Fraser McKinlay:** It will depend entirely on the make-up of the ALEO, but that is one of the tensions that councillors have to manage. It is not straightforward.

**Caroline Gardner:** I highlight that the same tensions apply in the case of the arm's-length foundations that are being established in the further education sector. There is the same question of how people maintain, on the one hand, independence and, on the other, accountability.

**The Convener:** I suspect that we will come to that later.

**Colin Keir (Edinburgh Western) (SNP):** What you said about the relationship between councillors and arm's-length companies took me back to the days when I was a councillor. Did you find that, with many of the arm's-length companies, a structure is in place whereby the board feeds into some sort of governing structure board that takes in all the ALEOs of the local authority?

**Fraser McKinlay:** We did not look at that as part of the work that we are discussing, but we know from other experience that the picture varies. We have asked auditors to report back on the governance arrangements that councils have in place in relation to their ALEOs. Some councils, such as Glasgow City Council, have a centralised model of the type that you describe, where a committee oversees how all the ALEOs work. They are a big part of how Glasgow delivers its services. In other places, the council's leisure and education committee has oversight of the leisure trust and the care-related committee has oversight of other ALEOs.

There are different models, and it is not for us to say which is good and which is bad. What we are interested in is that councils have an appropriate model of governance that ensures oversight and good use of public money.

**The Convener:** I have a question on that, as it has triggered other thoughts. Are ALEOs required to provide any more information to their council than they would provide to an interested member of the public?

**Fraser McKinlay:** The vast majority have, as part of the set-up agreement with the council, a requirement to report to the council on performance and budget arrangements. We would

certainly look to see that such requirements are in place.

**The Convener:** And that does not affect their charitable status.

**Fraser McKinlay:** No. There is a difference between having control and influence and reporting to a council committee. It is difficult to comment widely because a lot depends on the specifics of how things are set up.

**Ken Macintosh (Eastwood) (Lab):** I have a question about the overall numbers, because I am slightly confused. In part 2 of "Managing early departures from the Scottish public sector", which was published earlier this year, you state:

"The number of staff employed in the Scottish public sector has fallen by about 40,000 since 2009".

However, in the report that we are discussing today, you state that it has fallen by 26,000. Will you clarify that?

**Caroline Gardner:** That is a good example of the lack of consistent information that is readily available. The earlier report was based simply on what is published—on the headline statistics. With the new report, we have been able to drill more deeply into the figures and understand them more thoroughly. Andra can help by giving you the detail on that.

**Andra Laird:** Another big difference is that the early departures report included police and fire and the audit that we are discussing does not. When we take those things out, I think that you will find parity between the numbers.

**Ken Macintosh:** When we take police and fire out? That cannot account for 14,000 members of staff, surely.

**Andra Laird:** Are we talking about absolute numbers of people—

**Ken Macintosh:** I was going to ask about that, too. You talk about whole-time equivalents in today's report. Do you know the figure for head count as opposed to whole-time equivalents?

**Andra Laird:** I do, but I do not have it with me. I can get it for you.

**Ken Macintosh:** Does the figure in "Managing early departures from the Scottish public sector" refer to head count?

**Andra Laird:** Yes.

**Caroline Gardner:** We think that that is part of the difference. The early departures report focused on head count because that information was readily available. With the new report, we have done some more work to convert to whole-time equivalents, which accounts for some of the difference, too.

**Ken Macintosh:** As part of your analysis, did you break down the jobs and look at the use of overtime, part-time staff and so on, given the ways in which jobs in the public sector have changed?

**Caroline Gardner:** We have not done that for this piece of work. We have taken the data as far as we can for the purposes of the report, but it is an entirely appropriate question to ask, particularly against the backdrop of there being more flexibility across workforces in general and of the concerns that are being expressed about a two-tier workforce, in which people in the public sector have more employment protection and better terms and conditions than people outside the public sector or in arm's-length organisations do. That is an area that we are increasingly interested in, as it becomes clear that those people outside public sector employment still give rise to public sector costs, if I can put it that way. We are increasingly interested in it, but it is not something that we have explored in this report.

**Ken Macintosh:** It is not just the private sector. There are plenty of zero-hours contracts in universities and elsewhere as well.

There is a concern that, in some cases, when posts are gone consultants are hired, aside from ALEOs and outsourcing, to fill behind the jobs that are lost. Did you look at that at all?

**Caroline Gardner:** Not directly in this case, but it is something that our auditors are interested in as they carry out their audit work. You will see that we found few examples of services that had been cut or radically changed as a result of budget pressures, and yet we know that a lot of money has come out of some public services over the past three or four years since the austerity regime came into effect. We are interested in understanding better the behind-the-scenes impact of those reductions now, which may not be visible in service levels or service quality, but which may be storing up problems for the future. For example, we have indications from some of our auditors of concerns about weakening the capacity of the finance function in some public bodies. We are keeping a close eye on that, and one of the things that we are recommending in our report is that public bodies themselves need to be more systematic in looking at the effects of changes that they are making to their workforces and at unintended costs such as the need to backfill with temporary staff or consultants. That is very much why we are making our recommendation about systematic monitoring of the impact of changes in the workforce.

**Fraser McKinlay:** Exhibit 7 comes from the survey in which we asked what methods the bodies were using. You will see towards the bottom of the list the line:

"Using more consultants and agency or temporary staff".

Twelve councils, one health board and nine Scottish Government central bodies are reporting that they have done that. We have not gone to the next level and tried to understand exactly why, how or what that looks like, but that is how the bodies are reporting the increased use of those kinds of people.

**Ken Macintosh:** I was just trying to find out what the policy behind that is. Clearly, all those bodies have to make savings, and cutting staff costs is the main way to make savings. I would have thought that public policy would be against using consultants. We heard from the chief constable last week that it is not a policy to have backfilling but that it happens on a day-to-day basis when staff are lost, so it is clearly happening. Your report also states that, in the NHS, spending on bank and agency nursing and midwifery staff has risen from £90.5 million in 2010-11 to £110 million in 2012-13, so I am getting a mixed picture about whether we are getting more use of that sort of post. In other words, we are losing permanent jobs in the public sector, but we are just replacing them with more expensive consultants and part-time workers.

**Caroline Gardner:** The honest answer is that it is not a straightforward picture. It is clearly not a good use of money to make somebody redundant or to choose not to fill their post, and then spend more on backfilling with temporary staff or consultants, but there can be circumstances in which it is a good policy. I can give a couple of examples to illustrate that. If the work is cyclical or there is a short-term peak while restructuring is going on, it might be quite sensible to use a temporary member of staff to cover that, who can then be let go when better-value-for-money arrangements are in place in the longer term. Equally, it might make sense to keep an established post, or a number of established posts, vacant while a regrading exercise is going on or while new jobs are being designed and recruited to. Although, on the face of it, it might look as if it is always poor value for money, our experience is that it is more mixed than that.

Again, it comes back to our recommendation about better monitoring and reporting of the impact of workforce changes, with a particular eye on the unintended consequences and costs that can arise if the situation is not managed well.

10:30

**Ken Macintosh:** Did any examples of poor value stand out?

**Caroline Gardner:** Andra Laird or Angela Cullen might be able to highlight examples from the report.

**Ken Macintosh:** What about bank midwifery nurses?

**Caroline Gardner:** No. As we have made clear in previous reports, bank nurses can be a very good way of providing support on particularly busy wards that need a constant level of staff and attracting back into the workforce nurses who might otherwise have left the service because they could not balance work with domestic responsibilities or lifestyle preferences. Agency nurses tend to be less good value because they are more expensive and do not know the hospital and its systems as well; as a result, the service is of poorer quality. Nevertheless, it is a good example of where some of that expenditure is probably a very sensible use of money and where some of it is not and should be managed down as quickly as possible. It certainly highlights the need to understand what is going on behind the figures.

**Ken Macintosh:** Exhibit 7, which Fraser McKinlay has already referred to, indicates only 12 examples—all of which are councils, I believe—of bodies that have implemented compulsory redundancies. However, there have been thousands of compulsory redundancies at colleges. Were they not included in the survey?

**Caroline Gardner:** The data comes from the survey of 80 bodies that we carried out. I will ask Andra Laird to talk you through which bodies were covered.

**Andra Laird:** The simple answer is that we did not include colleges in the audit.

**Ken Macintosh:** You did not.

**Andra Laird:** No.

**Ken Macintosh:** But do you recognise that there is—or at least has been over the past few years—widespread use of compulsory redundancies in colleges?

**Caroline Gardner:** I do not think that we have the data to answer your specific question, but we did not include either colleges or police and fire in this piece of work because of the amount of deliberate reform work going on in those areas. Instead of including them in the broad approach that we have taken in this report, we thought that it would make more sense to review both in specific pieces of work that would let us answer the kinds of questions you are asking.

**The Convener:** Could you provide the committee with a list of the 12 organisations where there have been compulsory redundancies?

**Andra Laird:** Yes.

**Ken Macintosh:** According to the exhibit, they are all councils.



As far as experience is concerned, one difficult question is about the people who are leaving the public sector and the impact of their departure on services. In that respect, the picture in the report is very mixed. In paragraph 100, you talk about “small-scale” service cuts and give the example of grass cutting. However, in paragraph 35, you refer to a loss of 2,000 or so teachers in the past couple of years and an increase in pupil teacher ratios, which I imagine means that class sizes are going up. Given that such cuts will, I would have thought, directly affect the quality of the public service on offer, do you detect any strong policy to protect the level and quality of service, or is that picture also mixed?

**Caroline Gardner:** In the report, we say that evidence of the effect on service quality and levels is hard to come by because it is not clear that all public bodies are monitoring the situation as systematically as we think they should be. Our experience is that all public bodies are doing their best to protect public services, which is probably why we found so few examples of services being cut or dispensed with altogether. As for our, your and the public’s understanding of the impacts of the financial pressures that public services are working under, we think it very important to have more systematic monitoring and capturing of such impacts and, very specifically, planning for education, social care and health services and the likely impact of an ageing workforce at a time of rising demand and our increasing expectations. Workforce plans would allow the bodies responsible to answer such questions and let them identify more innovative ways of managing those pressures through partnership working and the redesign of services and jobs.

**Ken Macintosh:** Finally, one of the biggest worries that you highlight is the limits in certain sectors on early departure schemes and any potential to reduce the workforce any further, with the implication of greater pressure on pay and so on. Have you been able to compare the amount of money saved in the public sector through pay freezes and pay controls with that saved by reducing the size of the public sector?

**Caroline Gardner:** In the report, we have highlighted the overall changes that have been made: changes in workforce numbers as a result of the use of different exit routes—if I can call them that—such as early retirement and early departure, the non-replacement of posts and transfers to arm’s-length bodies and private sector organisations; and the reduction in the overall cost. However, at the moment, it is not possible to break down the differences in the contribution made to cost reduction by the different mechanisms that are set out in exhibit 7. In our report on managing early departures, we were able to give some assurance about the payback

period for the investment made in such departures, but there is obviously a wider cost to having fewer people employed in the public sector if there are no jobs elsewhere to absorb those who have left. It is not a straightforward trade-off and does not offer many alternatives in the current financial climate. It is certainly a difficult challenge and, again, it is why we think that information about the impact of the workforce changes that we have highlighted and the terms and conditions of the hidden public sector workforce—if I can use that term—in arm’s-length and private sector organisations is so important. It will give us a sense of those trade-offs and allow you as elected representatives to make decisions about them and the wider public to understand the impact.

**The Convener:** Fraser McKinlay said that there was some evidence that some services were transferring to arm’s-length bodies as a result of the personalisation of care agenda. I also understand that, under the same agenda, individuals are able to buy their own care from private sector companies or, indeed, individuals who wish to be employed to provide a particular service. Have you been able to quantify the number of posts that have been affected in that way?

**Fraser McKinlay:** No, convener, but your question allows me to trail a joint report that we are doing for the Accounts Commission and the Auditor General on reshaping care for older people, which will look at the implementation and delivery of that very policy. That report is coming in the spring, so watch this space.

**The Convener:** Okay. I thank the Auditor General, Angela Cullen, Fraser McKinlay and Andra Laird for their evidence.

I suspend the meeting for a few minutes to allow a changeover of witnesses for the next item of business.

10:37

*Meeting suspended.*

10:41

*On resuming—***“Scotland’s colleges 2013”**

**The Convener:** I welcome the Scottish Government officials Leslie Evans, director general for learning and justice; Andrew Scott, director for employability; Colin Robertson, team leader, sponsorship and funding; and Melanie Weldon, team leader, post-16 college regionalisation. Leslie Evans would like to make an opening contribution.

**Leslie Evans (Scottish Government):** I thank the committee for the opportunity to provide evidence in response to the Auditor General’s reports on the further education sector. We have found the reports helpful and we have addressed or are addressing their recommendations.

I am here as the accountable officer for the Scottish Government’s education and lifelong learning portfolio. I know that, last month, the committee heard from Laurence Howells, the accountable officer at the Scottish Further and Higher Education Funding Council, so it is worth recapping our different but complementary roles.

I am responsible for ensuring that the funding council’s strategy and delivery align with the Scottish Government’s priorities and that the council has the necessary controls in place to safeguard public funds. Laurence Howells is accountable for the delivery of those Scottish Government policy objectives, the deployment of resources to that end and the associated planning and risk management. The quality of our close and effective relationship with the funding council is fundamental to the success of the Scottish Government reform.

That reform takes three forms. First, as members know, there is a programme of structural change, which is largely complete and which has transformed the college landscape. The Scottish Government recognises that the programme has demanded a massive effort from the sector and has not been without its challenges, but it has created the right foundations and framework to deliver the improvements for learners and employers that inform and drive our reform programme. Learning provision will now be planned and funded on a regional basis for the benefit of learners.

I visit colleges regularly so that I can hear directly from leaders, teachers and learners about their experiences. I have been struck by their commitment, drive and ambition to realise the advantages of the new regional landscape. For example, when I was in Dundee recently, I heard from Christina Potter about the way in which she and her team are shaping the new Dundee and

Angus College curriculum to reflect the regional economy.

In addition to that structural change, the Scottish Government’s second strand of reform is a systemic approach to improvement. The funding council is negotiating outcome agreements to ensure greater transparency on the Government’s return for investment and greater accountability for delivery and continuous improvement. That focus on outcomes will help to drive improvements in colleges’ offer to learners and employers.

The third strand of the Scottish Government reform programme focuses on governance and leadership, commensurate with our expectations and our investment. That is realised by the implementation of the Post-16 Education (Scotland) Act 2013.

A reform programme of such scale and ambition is challenging. Audit Scotland’s reports this year and last have captured areas for our continued attention, some of which we will no doubt discuss today. The reforms are by no means complete, and colleges will need continued support to realise the full benefits of mergers, to focus on improvement with an eye on learner success and to strengthen the partnership working that that entails. In that respect, the recent report from Sir Ian Wood contains interesting recommendations for colleges, employers and schools.

I am happy to answer questions, as are my colleagues.

10:45

**The Convener:** I will ask about the reclassification of colleges. Did you make the decision about whether to reclassify them?

**Leslie Evans:** It was a ministerial decision, but we advised ministers about it. They were keen to look at three things when taking the decision. As you know, substantial public money is invested in the sector—£500 million or thereabouts each year. Ministers wanted to maintain transparency and accountability, which are very important to keeping learner and taxpayer confidence. Of college income, 75 per cent is from the public sector, so that was another key part of the reasoning behind ministers’ decision.

Ministers felt that their decision was in keeping with Russel Griggs’s report, which talked about improving governance in the further education sector, particularly after some historical incidents. He talked about

“real cohesive engagement between Government and the sector as a whole.”

Our interdependency and our work on outcome agreements paint a particular and unique approach to the way in which we are developing

further education in association with the rest of the education sector.

**The Convener:** The decision was ministerial. What are its financial implications?

**Leslie Evans:** Overall, there are none, in that colleges will still fund college learning. They will go through a slightly different process to access some of their financing. They will report slightly differently to the SFC, although they will not have to supply excessively more financial information and data. Other than that, as you know, we are taking steps to mitigate the effect of some of the circumstances that have arisen through the decision about the ONS and reclassification.

**The Convener:** If there are no implications, what are you mitigating?

**Leslie Evans:** Colin Robertson might want to come in on some of the detail. We are trying to ensure that the constraints that are placed in the reclassification process have minimal impact on how colleges operate across the further education sector. For example, colleges currently operate in the academic year, but changing to the fiscal year is part of the Scottish public finance manual.

We are also creating arm's-length foundations to ensure that reserves and money that would otherwise revert to the Scottish Government at the end of the financial year remain accessible for colleges.

**The Convener:** So there are financial implications.

**Leslie Evans:** They are financial not in terms of cost but in terms of process.

**The Convener:** I did not ask whether there are cost implications. I asked whether there are financial implications and you said that there are none. It now appears that there are financial implications.

**Leslie Evans:** There are financial implications in terms of financial process.

**The Convener:** So there are financial implications to such an extent that colleges are having to consider setting up arm's-length organisations. I do not know whether you heard through the video feed the discussion about arm's-length organisations in the previous evidence session. Among the concerns that have started to be expressed about arm's-length organisations that councils have set up is that they have no direct accountability to the bodies that set them up. Once such a body is set up, it is independent and it is required, for legal reasons and for reasons of regulation from OSCR, to operate in the best interests of itself. How can we be sure that, if a college sets up an arm's-length body or decides to participate in the centralised arm's-

length body that has been set up, the body will return all the money to that college in the way that the college hoped?

**Leslie Evans:** The first thing that we are taking care to describe is the articles of association. Those are closely defined so that they reflect the purpose for a college or the colleges in a region and are in line with the ministerial and college priorities. The defining and describing of those articles of association is an important safeguard, because the spend and activity of the arm's-length foundation will be evaluated against them.

You mentioned that the arm's-length foundation will be subject to the law on charitable organisations and to scrutiny and audit by OSCR. Another issue is that, to access funding, colleges will apply to the arm's-length foundation for the money that they require. As soon as that money goes to the colleges, it will be subject to the same kind of scrutiny as any other finance would be.

**The Convener:** As soon as it comes back to the college.

**Leslie Evans:** That is right.

**The Convener:** Given that the college is putting money into the arm's-length body, who will ultimately decide whether any money comes back from that body? Will that be the college or the arm's-length body?

**Leslie Evans:** The college would apply to the arm's-length foundation—

**The Convener:** Yes, but who would make the decision?

**Leslie Evans:** The college would decide that it needs money and it would go to the arm's-length foundation.

**The Convener:** Would the college decide that money would come back to it from the arm's-length body?

**Leslie Evans:** Yes, it would apply—

**The Convener:** That is astonishing.

**Leslie Evans:** It would apply to the foundation to—

**The Convener:** Who would make the decision?

**Leslie Evans:** The trustees of the arm's-length body.

**The Convener:** So the arm's-length body, and not the college, would make the decision.

**Leslie Evans:** Yes.

**The Convener:** The college would have no say over whether money comes back to it—the arm's-length body would make that decision. Is that correct?

**Leslie Evans:** The arm's-length body would evaluate and consider the college's application and pass funding back to it along those lines.

**The Convener:** Who would make the decision?

**Leslie Evans:** The trustees would take that decision.

**The Convener:** The trustees of the arm's-length body.

**Leslie Evans:** I think that I am correct in saying that.

**The Convener:** So the college would have no say over that decision.

**Leslie Evans:** Except that the college would prompt the decision in the first instance.

**The Convener:** That is like saying that, if I apply to a charitable trust, I prompt the decision. I would still have no say over whether the charitable trust gave me any money, would I?

**Leslie Evans:** I think that the colleges would expect—and certainly we would expect—the arm's-length body's trustees to be transparent about the basis on which they evaluate a request. They will have a set of articles of association that will define closely the types of projects and spend—

**The Convener:** The colleges may expect—a bit like Nelson—but they would have no say. One point that is coming out of the discussions on arm's-length bodies is that the trustees of a trust that is set up by local government have a legal and fiduciary responsibility to the arm's-length body to take decisions that are in that body's best interest. They would not be legally responsible to the colleges, would they?

**Leslie Evans:** No—you have put your finger on the issue. The trustees must be responsible for spending money in line with the articles of association. Much of that will depend on the appropriate crafting of those articles of association, so that there is minimal room for lack of clarity or confusion about the spend.

**The Convener:** To whom would the arm's-length bodies be accountable?

**Leslie Evans:** They would be accountable to the articles of association for transparency on how they spend their money.

**The Convener:** Which is accountability to themselves.

**Leslie Evans:** They are trusts so, with charitable status, they are accountable for how they perform and they are audited by OSCR. However, they are arm's-length trusts—they are at arm's length from the Government; that is one of the reasons why they are there.

**The Convener:** So the situation is the same as with the ALEOs that councils have set up. ALEOs are responsible to themselves and not to councils, and the trusts that we are discussing will be responsible to themselves and not to colleges.

**Leslie Evans:** That is correct.

**The Convener:** That will apply to substantial amounts of public money that is transferred out of colleges and into the trusts.

**Leslie Evans:** Which is to be spent in line with the articles of association.

**The Convener:** Notwithstanding the articles of association, the issue once the bodies are established—we know the reasons for that, as we do for the councils' setting up of arm's-length bodies—is to whom they are accountable. We have heard in previous discussions that such bodies are accountable only to themselves.

Colleges will transfer their money—75 per cent of which is public money, as you mentioned, although some may be private—to the arm's-length bodies. Those bodies will be accountable only to themselves, subject to the articles of association.

**Leslie Evans:** Yes.

**The Convener:** They will not be accountable to colleges, and colleges will have no say in whether that money comes back to them.

**Leslie Evans:** I am not sure—I am happy to be corrected on whether colleges will be able to say anything about whether money comes back to them. The process that will be established is that the colleges will apply to the trusts.

**The Convener:** If you cannot tell us whether the colleges will have a say in whether money comes back to them, who can?

**Leslie Evans:** Well, I would say that it does say that, because they will apply—

**The Convener:** Sorry?

**Leslie Evans:** I would say that the colleges will have that say, because they will apply for the funding. Colleges from another region could apply to an arm's-length foundation that was not in their region and they would not be—

**The Convener:** I do not know what West College Scotland, in my area, will do, but let us suppose that it sets up an arm's-length body. The college could not have any say in whether money came back to it, because that would compromise the trust's independence. The college would have to rely on the trust to make the decision. Is that correct?

**Leslie Evans:** The trust would be responsible for taking decisions in relation to the articles of association.

**The Convener:** So the college would have no say in whether any money came back to it; the trust would make that decision.

**Leslie Evans:** The trust would decide about the allocation of funds to the college. Of course, the articles of association would be closely defined so, if the trust did not spend money on the college, it would not spend money at all.

**The Convener:** The trust would not be accountable to the college in any way.

**Leslie Evans:** No.

**The Convener:** To whom would the trust be accountable, other than to itself?

**Leslie Evans:** The trust would be accountable to itself, based on the articles of association, which would describe its function and parameters.

**The Convener:** It would not be accountable to ministers.

**Leslie Evans:** Such bodies are not responsible to ministers. They are arm's-length—

**The Convener:** The trust would not be accountable to anyone in the Scottish Government, either.

**Leslie Evans:** No, it would not be accountable to the Government.

**Mary Scanlon:** I have recently taken over my party's portfolio for further and higher education, so I have just become aware of the ONS reclassification, although I understand that it was announced in October 2010, so it has been known about for three years. A different path has been followed in England, where colleges have been allowed to carry on as they were doing. As a former lecturer, I have no doubt about the success of our FE colleges since incorporation.

Could the ONS reclassification have been stopped in Scotland? Was there a choice? I appreciate that the Scottish Government might not have wished to go down the same road as England. As the accountable officer, did you have a choice about whether to go ahead with the ONS reclassification? Could you have done something to stop it?

**Leslie Evans:** We had to respond to reclassification being imposed. Various routes were available and, as you accurately said, different parts of the UK have taken different approaches. England and Wales have avoided reclassification, whereas Northern Ireland and Scotland have decided to go down a different route.

The convener asked whether a decision was taken. A decision was taken, the implications of which we discussed with ministers. We were made aware of the likelihood of reclassification in the late summer of 2010. At the time, it was not clear what the options would be or what the implications might be, and it has taken quite a bit of time to unpack that. We have done that not just by ourselves but in correspondence with the Treasury in Whitehall. That is the context in which ministers decided whether they wanted to go down that route. England has gone down the route of appointing a further education commissioner, but that sets up a very different relationship with the Government.

**Mary Scanlon:** I appreciate that. You had options when the proposal was made and you decided to go down the route of reclassification.

**Leslie Evans:** That is correct.

**Mary Scanlon:** I lodged a parliamentary question to the Cabinet Secretary for Education and Lifelong Learning to ask what the benefits of the reclassification of further education colleges are and the answer was that there are none. Why did you choose to go down a route that would bring no benefits to further education colleges?

**Leslie Evans:** We did so because of ministers' understanding of and view about the disadvantages of going down the alternative route, which I referred to. They were to do with the nature of the funding package in Scotland—the high proportion of public funding and the high level of investment. The choice was also because of what we were looking at in great detail through the Griggs report on governance and accountability and the history of that in the college sector.

Ministers based their decision on those circumstances. They looked at what the alternative route to the one that they chose might mean in compromising some of those important aspects. They not only took a close look at governance and accountability but were clearly sighted on the importance of maintaining a strong and effective partnership with the further education and college sector not just on its own but as part of a wider education journey with higher education, schools and so on. There was a range of reasons why ministers decided to take that route.

11:00

**Mary Scanlon:** There were disadvantages in not going down that route, but there are no benefits either. Colleges are a wonderful success story. The merged colleges will be even greater and we fully support that policy. If there are no benefits—I have yet to meet a college principal who thinks that it is a good idea—why is reclassification happening?

**Leslie Evans:** From ministers' point of view and given the advice with which they were presented—they weighed up the options; the decision was not quickly or easily taken—the benefits are that the governance and accountability that were under discussion as part of our reform, the Griggs review and the Post-16 Education (Scotland) Act 2013 would be preserved and enhanced. The decision was not taken in isolation from that package of reform or from ministers' views about the importance of the further education sector—you are right to refer to that—and the substantial amounts of funding that go into it each year.

**Mary Scanlon:** If the main reason, as you have said twice now, is to preserve and enhance governance and accountability, did governance and accountability problems exist in colleges, which the ONS reclassification has allowed you to address?

**Leslie Evans:** The Griggs report cited historical circumstances when governance had been less than perfect in some colleges. The report made specific recommendations about the quality of governance, which is important for the ambitions for the further education sector. It was therefore always going to be important from ministers' perspective at least to maintain a close relationship with colleges and to maintain access to and the quality of governance and accountability in the sector.

I return to my point about the cohesive engagement between the further education sector and the Scottish Government. I mentioned that the accountable officer roles are different for Laurence Howells and me, but our close relationship with the funding council is part of that cohesion. The reforms that we are bringing about are intended not only to preserve the great standards that are in further education but to develop them further with an outcomes focus.

**Mary Scanlon:** I am not convinced, but I will move on. You mentioned that you had set down the right foundation for learning. The number of part-time students has fallen by about 143,000 and the teaching staff costs budget has fallen by £69 million in two years. I think that all of us round the table are very much in favour of the report of the Wood commission, but do those drastic further education cuts help you to set down the right foundation for learning?

**Leslie Evans:** As ministers set out in their letters of guidance, we asked the funding council to support the education sector to focus on particular sectors of our community. The council was particularly keen to ensure that we improved our learner offer for young people, particularly 16 to 18-year-olds but also those in the 16 to 24 bracket, who might face unemployment when they

leave education. Colleges have responded well to that.

Ministers also asked the colleges to look at courses that would produce qualifications and skills that are recognised by employers. That has inevitably changed the profile of the students at colleges. At the same time, the standards and targets that ministers' set in 2010-11 on full-time equivalence have been not just met but exceeded. Although we have changed the profile, which has been a deliberate response to a ministerial instruction, we have maintained high levels of full-time equivalent places. We are looking to see where that has impacted on other parts of the community—you mentioned part-time learning—and considering what we can do to counterbalance some of that.

**Mary Scanlon:** You mentioned the students, but what about the £69 million cut in the teaching budget? Does that allow colleges to move forward and to accept and build on the recommendations of the Wood commission?

**Leslie Evans:** I know from conversations that I have had with colleges that they are looking closely at their staffing structures, particularly as they merge and have merged. They have had to look closely in a strategic fashion at resources across what is now, for many of them, a regional organisation. They have had to look at voluntary severance and reconstructing their staffing structures to respond to the mergers and reform initiatives that have taken place over the past few months. There is no doubt that that has meant that some people have left the college sector. A large proportion of those who have left have been from the management side, where there have been economies of scale.

**Mary Scanlon:** I am talking about teaching staff, as was outlined in the Audit Scotland report. I am not talking about management.

**Leslie Evans:** I appreciate that. There have been some changes to teaching staff.

**Mary Scanlon:** We are talking about £69 million.

I return to the ONS reclassification. Am I right in saying that colleges can keep any surpluses that arise from higher education but must transfer to the arms-length bodies surpluses that arise from further education?

**Leslie Evans:** Colleges are allowed to keep their surpluses and intend to transfer all of them to their foundations. I am not aware that there is a difference between the income that is created by higher and further education courses, but I can find out and get back to you on that.

**Mary Scanlon:** I was told that by the regional lead at the University of the Highlands and

Islands. I would like to find out whether it is the case.

**Leslie Evans:** I will write to you on that.

**Mary Scanlon:** Thank you.

My final question is one that I have asked several times. We have a regional body in the Highlands called the UHI. Given that it has a £15 million budget and 200 staff, there is no doubt that funds to further education colleges in the Highlands and Islands are top sliced. Are you concerned that that might put those colleges at a disadvantage when providing skills, training and education?

**Leslie Evans:** That is certainly not the intention. All colleges have been asked to absorb the costs of the reorganisation, including the boards that are being set up, within the Scottish funding council's allocation.

**Mary Scanlon:** So even money for the Glasgow board will be top sliced prior to going to the colleges?

**Leslie Evans:** I understand that the costs of all the changes that will take place across the college landscape, including the boards, will be absorbed by the colleges within their Scottish funding council allocation.

**Mary Scanlon:** So colleges will receive less money because more will go to boards, which will allocate the funds.

**Leslie Evans:** Yes.

**Mary Scanlon:** So boards rather than the colleges will make the decision on the allocation of funds, and the money is top sliced.

**Leslie Evans:** The money will be top sliced, to use that phrase.

**Melanie Weldon (Scottish Government):** The funding council will keep that area under close scrutiny to ensure that the costs are kept to a minimum and that the maximum resource goes to the front line.

**Leslie Evans:** Indeed. The financial memorandum for the Post-16 Education (Scotland) Bill set out how much was likely to be required to set up regional strategic bodies in multi-college regions. A particularly close eye will be kept on that.

**Colin Beattie:** I am sorry to have another go at the ONS issue, but I want to clarify something. People seem to be drawing a lot of comparisons with what is happening elsewhere and talking about opportunities to follow the system that is used south of the border. My understanding is that the system that Westminster used has in effect semi-privatised colleges. In other words, the

Government south of the border took such a step back that the controls—apart from on the curriculum—are virtually nil.

**Leslie Evans:** The landscape in England is very different. There is a high level of private sector investment in the further education sector and colleges have a different relationship with the Government as a result. The Government decided to appoint a further education commissioner. I do not know whether Andrew Scott wants to say something about that.

**Andrew Scott (Scottish Government):** The commissioner has just been announced as Dr David Collins. He has powers to step in when a college is failing—the model is that he makes recommendations to ministers when a college is doing badly. We have not tried to create such a model in our approach to governance, which is much more collaborative. The public service philosophies in the appointment of a commissioner and our approach are entirely different.

**Colin Beattie:** So the Government at Westminster has little overview through the commissioner apart from in certain extreme cases.

**Andrew Scott:** That is right. I understand that, when the commissioner intervenes down south, there is a likelihood that the college will be reclassified into the public sector and will cease to be in the private sector. The underpinning philosophy is quite different.

**Colin Beattie:** My second question is a request for clarification. We have talked about funds flowing from the colleges into the arm's-length trusts. Colleges receive a pot of money from the Government, but they also raise funds from various sources, some of which are commercial. Am I correct in saying that the funds that go to the arm's-length organisations are not the funds that are supplied by central Government directly, but the funds that are raised by the colleges themselves? I am not saying that that is not still public money when it has been received by the colleges, but it comes from a different source.

**Leslie Evans:** Yes, that is my understanding. I think that we are talking about reserves or surplus funding that would otherwise cause all sorts of financial and accountability problems given the close relationship with the Scottish Government, as the ONS reclassification now makes it. The whole point is that the colleges can place those reserves, which otherwise might be frozen, in arm's-length foundations, where they can access them within the terms of the articles of association.

**Colin Beattie:** On the subject of accounting, when I read the Audit Scotland report "Scotland's colleges 2013", I was concerned to find that there was a pension deficit of £115.3 million at the end

of 2011-12. How will that be accounted for in the new scenario?

**Leslie Evans:** My understanding is that the accounting will not change and that the deficit will still sit in the colleges budget. Colin Robertson might have a different view on that.

**Colin Robertson (Scottish Government):** No, that is right. Reclassification has no impact on the pension deficit.

**Colin Beattie:** So there is no financial impact at all for the Scottish Government.

**Leslie Evans:** No. The position will not change. It was assessed by Audit Scotland as a tolerable risk within the confines of the report.

**Colin Beattie:** I do not know whether you have the report with you, but it highlights an apparent anomaly. I would be interested in your comments on exhibit 7, on page 17. I assume that the figure for "Other inc. exceptional costs", under "Colleges' expenditure", has gone up because some of the costs of merger have gone into that line. However, the administration costs seem to have increased as well, although I would have expected them to come down along with other costs.

**Leslie Evans:** Indeed. I agree with you. I do not know the reason for that, so I will not pretend that I do. I wonder whether some of the exceptional costs might also be administrative in nature and could therefore be counted in that way. As you say, there are a lot of additional one-off tasks and undertakings to be brought to bear as a result of the mergers, and the cost of those might well be accounted for there. We should ask Audit Scotland about that.

**Colin Beattie:** I did, and I do not think that Audit Scotland had the figure.

**The Convener:** Can I just clarify something, Ms Evans? In your comments to Colin Beattie, you confirmed that only surplus funds would be transferred to the arm's-length bodies.

**Leslie Evans:** Yes—that is my understanding.

**The Convener:** You also said that those surpluses would not come from public sector funding.

**Leslie Evans:** I suppose that, if they were end-of-year surpluses, it would be difficult to differentiate the money that had been brought in as a result of entrepreneurial activity, but it is reserves that are placed in the trusts.

**The Convener:** Yes, but at the end of the year, when a college has a surplus that it is considering for transfer, you do not know whether £1 million of that surplus has come from the public sector and £1 million has come from its commercial or fundraising activities—it is just a surplus.

**Leslie Evans:** It is a surplus. That is correct. I do not know whether Colin Robertson wants to say something more about that.

**Colin Robertson:** The existing financial and reporting requirements on colleges through the funding council to the Scottish Government will not change as a result of reclassification. Therefore, any public funds that colleges move into foundations at the end of the financial year will be visible.

**The Convener:** So if a college reports a surplus at the end of the financial year, will it be able to break it down and say how much of it came from public funding and how much came from its commercial and fundraising activities?

11:15

**Colin Robertson:** The amount of funding that the funding council has made available to colleges and that has been transferred into foundations will be clear.

**The Convener:** Are you saying with absolute certainty that, when a surplus is declared at the end of the year, its source will be broken down?

**Colin Robertson:** It will be visible through the financial and reporting—

**The Convener:** When a college declares a surplus now, can you see how it has been generated? Can you see how much of it is attributable to public funding and how much to commercial and fundraising activities?

**Colin Robertson:** I understand that that is not the case at the moment.

**The Convener:** But it will be in the future.

**Colin Robertson:** I think that the expectation would be that if, for example, a college was not going to draw down the level of funding that it required from the funding council, that would be visible.

**The Convener:** I am not asking about draw-down; I am asking about when a surplus is declared. You are telling me about your expectation. I do not know whether that means that that will be in the guidance, regulations or requirements. You are telling me that, in future, a surplus will be broken down and we will be able to see how much of it was generated from public funds.

**Colin Robertson:** It will be part of the funding council's responsibility in managing surpluses across the wider sector to be able to identify surpluses in individual colleges.

**The Convener:** Could Leslie Evans send a letter to the committee that explains how things will be done in future? That takes us to another



question. Once a surplus has been declared and broken down into its constituent categories, will the only bit that will be transferred to the arm's-length body be the non-public sector funds or the public sector funds, or will all of it be transferred?

**Leslie Evans:** My understanding is that all the surplus would be transferred, irrespective of whether it has been generated through a partnership, the private sector or the public sector.

**The Convener:** Right. So public sector funds could well be transferred to the public sector body.

**Leslie Evans:** Yes, if all those public sector funds have not been used. That is unusual, but it happens.

**The Convener:** Right. So public sector funds could be transferred, and at the end of the year colleges will be able to show how much of the surplus is attributable to public sector funding.

**Leslie Evans:** I appreciate what Colin Robertson said. It would be difficult to be able to completely disaggregate those things, for the simple reason that colleges use public sector funding to employ all their staff.

**The Convener:** I accept that it could be difficult, but Colin Robertson said that there will be an expectation that it will be done.

**Leslie Evans:** I am sure that the funding council will want to analyse how the surplus has been achieved.

**The Convener:** Are you sure that it will want to do that or that it will have to do that?

**Leslie Evans:** I am sure that it will want to.

**The Convener:** So there is no expectation.

**Leslie Evans:** I cannot be categorical about whether there is a written and statutory expectation of the funding council, but I am sure that it will want to do that.

**The Convener:** Colin Robertson told us that there is an expectation, but you are saying that you are not sure.

**Leslie Evans:** No. I am saying that I cannot say that there is any formal or statutory expectation. I am sure that the funding council would want to be clear—as it and the college would now—about how any income surplus had been generated, and we would encourage it to do so.

**The Convener:** Can you provide whatever requirement there is in writing to us, so that we can examine that?

**Leslie Evans:** We can certainly write to you about that.

**The Convener:** Okay. Thank you.

**Ken Macintosh:** I want to look at the current cuts that are happening in colleges. Is there a link between the size of classes that students attend at college or their hours in front of lecturers and the quality of education that they receive?

**Leslie Evans:** It is difficult to draw comparisons. The class size might be dictated by the nature of the course. Some courses are theoretical and some are practical. Using the size of class only as a comparator is therefore not necessarily a very accurate way of making a robust comparison.

**Ken Macintosh:** So do class sizes and the number of hours that students have in class matter as a measure of Government success or outcomes?

**Leslie Evans:** I can give you a good example. I asked representatives of Dundee and Angus College about full-time equivalence, the number of hours that are required and the flexibility in that. They said that they wanted to encourage their young people—not for every course, but for a particular course that they were talking about—to do more independent learning. They wanted to increase the amount of time that students had as independent learners, which is in keeping with curriculum for excellence and with the college's ambitions for its young people. That would reduce the amount of time that people spend in the classroom. The college wanted 25 per cent of the course time to be independent learning, supported by things such as enhanced information technology, IT learning hubs and learning hub assistants.

The council representatives also told me that the performance indicators for the course and that model of course were going up, which they were satisfied about. Having more teaching hours, which are measured in terms of hours in the classroom, does not always make for an easy and comparable approach to qualitative results. As it happens, those students have fewer hours in the classroom, but their results are going up and they are successful learners in the context of the curriculum for excellence.

**Ken Macintosh:** In school education a very clear link is expressed, and one of the key drivers in the stated aims of Government policy is to reduce class sizes at school, particularly in the earlier years of primary. That is driven by evidence that class size matters. Are you saying that no such evidence exists for colleges, or that it is not a factor?

**Leslie Evans:** I cannot say that there is no such evidence, but colleges are thinking very carefully—as demonstrated by the example of Dundee and Angus College—about getting the right mix. That mix, unlike in schools, includes job training, theoretical training, independent learning

and classroom time for theoretical learning. Colleges consider that mix carefully as part of their response to the Government's target for full-time equivalent places.

**Ken Macintosh:** Are you worried that there will be an increase in class sizes at colleges over the next couple of years? Are you worried about the current increase or any forthcoming increase?

**Leslie Evans:** I am more concerned about ensuring that the quality of the learning experience is maintained and improved. That is why the funding council and Education Scotland will be taking steps to evaluate the impact of reform and mergers on the quantitative and qualitative nature of that change for the learner. That is where we will get a great deal of information and data.

We will also get a lot of information about the learner experience through the outcome agreements that are being negotiated and enacted with the funding council. The funding council is talking directly to colleges about the employment needs and the skill needs locally, as well as the national framework for their provision.

**Ken Macintosh:** What are your expectations? Do you expect staff numbers to decrease over the next couple of years? An 11 per cent real-terms reduction in income has been forecast for the colleges by the Auditor General. Do you expect the numbers to decrease? If so, by how much? Do you expect class sizes to increase? If so, by how much? Do you expect hours to decrease?

**Leslie Evans:** We are aware that teaching numbers have reduced and that staff numbers for colleges as a whole have reduced. That is not surprising, given the amount of change and the mergers that are taking place. Colleges will need to continue to keep a careful eye on the nature of the courses that they provide, on the size of the classrooms and on the staffing skills that they require in order to carry out their responsibilities with the emphasis and approach that have been described in their outcome agreements.

**Ken Macintosh:** Is the Government concerned about that?

**Leslie Evans:** The Government will ask the funding council to keep a very careful eye on that issue. That will be part of the discussions with colleges regarding the outcome agreements. We would expect the funding council to take that issue into account.

**Ken Macintosh:** So, just to be sure, you expect staff numbers to fall further and/or class sizes to increase.

**Leslie Evans:** Yes.

**Ken Macintosh:** There has clearly been a substantial decrease in the overall headcount.

More than 100,000 Scots are not going to college compared with the number who were going to college just two or three years ago. What do you think the impact has been on those individuals, given the opportunities that they have lost?

**Leslie Evans:** As I said, one of the difficulties in measuring learning is that measures such as headcount can fluctuate depending on course and choice, so although I understand that it is an easily captured number, it is not necessarily a consistent comparator for looking at levels of learning. That is why we use full-time equivalents.

Ministers have deliberately told the college sector through the funding council that they want colleges to concentrate on young people aged 16 to 24 and on providing courses that will result in skills and qualifications that are recognised by employers. That means that there will be a shift in profile, not just of students but also of some courses. Some part-time courses that do not result in such qualifications or recognisable skills have reduced as a result of that; there is no doubt about it.

**Ken Macintosh:** What has been the impact of that reduction on older people in Scotland?

**Leslie Evans:** I cannot say what the impact has been on every older person who has not gone to college. We are aware that, whereas in some areas the number of full-time equivalent college attendees among women and some people with particular learning needs has stayed stable, the number has reduced for some older people. That is one of the reasons why the Government has given the funding council additional money this year and next to target specifically at older learners and at some part-time students as well.

Although I talked about the change of profile inevitably coming from an instruction from the Government to focus on particular parts of the community, we are looking at where we can mitigate some of the impact of that where we feel that that is necessary and where the funding council spots it. The funding council has also been asked to look at the outcome agreements with regional colleges to see where and how they are taking into account the needs in their local populations, where there may be particular elderly, older-learner or part-time requirements.

**Ken Macintosh:** To clarify, are you saying that you are not able to assess the impact on older people who have not had the opportunity to go to college, but that you have been able to identify the impact on certain vulnerable groups? How were you able to assess that there has been an impact on women, and prioritise resources for them, but unable to identify any other impact?

**Leslie Evans:** We have been able to identify other impacts, and I may have caused confusion

by the way in which I answered the question. We know that the numbers of women and of some people with additional learning needs and disabilities have stayed stable. We know that numbers of older people attending college have reduced slightly. That is why, as I said, we are taking mitigating action with the funding council discussions on the outcome agreement and the additional money that has been added.

**Melanie Weldon:** There is additional money of about £7 million in 2013-14.

**Ken Macintosh:** So what has the impact been? You have identified that there has been an impact and you have identified additional resources to try to mitigate that, but what has been the impact on those women?

**Leslie Evans:** There has not been an impact on women; the number has remained stable. For older people, the full-time equivalents have gone down slightly. We can send you the figures for that if that would help.

**Ken Macintosh:** You were just saying that you found extra money—

**Leslie Evans:** Yes.

**Ken Macintosh:** What did you find the extra money to fund?

**Leslie Evans:** The provision of courses for older people, and part-time learning.

**Ken Macintosh:** What has been the impact on older people and part-time learners that you are mitigating?

**Leslie Evans:** As I said, we know that the full-time equivalent numbers of older learners have gone down. That is one of the reasons why we asked the funding council to use the additional funding for older people, particularly older women, and we have provided extra funding this year and next in that respect.

**Ken Macintosh:** So the numbers have simply gone down and you want to increase the numbers again?

**Leslie Evans:** We have asked the funding council to look at that closely, yes, with additional money and through the outcome agreements.

**Ken Macintosh:** Do you measure demand itself? How do you measure demand for college places?

**Leslie Evans:** There are two aspects to that. The funding council works with Skills Development Scotland to anticipate what is required sectorally in terms of skills in the skills investment plan, and in regional investment plans. They produce those plans, and the outcome agreement managers who are negotiating future provision with colleges take

that into account alongside what the colleges themselves decree, having spoken to employers in their local regions. There is a bottom-up and a top-down approach to forecasting demand in the future.

11:30

**Ken Macintosh:** Is demand increasing at the moment or staying the same? What is happening with demand?

**Andrew Scott:** Demand has changed quite a lot over the past five years, since the beginning of the recession. I can remember the conversations with college principals around then—they detected a shift towards full-time learning and away from part-time learning right at the beginning of the recession and they attributed that to people retraining.

Over the past five years, we have become much better at estimating what is required by employers. We have set up industry liaison groups. We also have a joint skills committee with the funding council, outcome agreements that reflect local vocational requirements, and skills investment plans and regional skills plans for most of Scotland—or we will have by the end of April 2014—so my judgment is that over the past five years, there have been very substantial changes in the college population and our shaping of that learning requirement around vocational needs has improved greatly.

**Ken Macintosh:** It has improved greatly?

**Andrew Scott:** Yes; I think that it has.

**Ken Macintosh:** Okay. You say that demand has changed but, to return to my original question, is there growing demand at the moment? Is there increased demand for college places compared with two years ago or four years ago?

**Andrew Scott:** It is very difficult to estimate demand as a single entity. It goes back to the issue of waiting lists: we examined the proposition that demand was equivalent to waiting lists and found that it was not because the waiting lists of individual courses contained such a substantial element of duplication. It is therefore very difficult to estimate demand as a whole and to meet demand in a single way.

**Ken Macintosh:** But you have found extra money specifically for older learners and part-time learners. Is that a reflection of demand or is that simply because those numbers have been cut?

**Andrew Scott:** It is a reflection of the fact that people wanted more money to be provided for older learners and women and for part-time courses. One could provide more or less in any circumstance but, nonetheless, ministers chose to

meet the requirements that people placed upon them.

**Ken Macintosh:** I am just trying to get to the bottom of where we might be going. It is clear that the Government has a very specific policy, which is to target and support full-time or longer courses and younger learners. That is a very clear policy but there is a downside to it, which is that older learners—particularly women returners and part-time learners—will suffer. I am simply trying to identify that downside.

I am trying to work out how you measure demand—what process do you have to work out whether the economy is suffering and whether those individuals who are missing out on opportunities are suffering? What is the cost of that lost opportunity?

**Andrew Scott:** It is an enormously complicated question. The practical answer is that regional colleges are trying to estimate demand of various types in their localities; Education Scotland is doing a thematic review of college application procedures; and various regional colleges are pooling their knowledge about cross-border flows. That will all help a bit. However, I do not think that it is possible—or that it has ever been possible—to quantify the extent of demand in a single figure. Also, there has always been an element of rationing within the lifelong learning budget.

**Ken Macintosh:** I agree that that budget is a finite resource.

I am intrigued to know about not just the forces and the pressures, but the criteria—the information and the evidence—that you use to make judgments about who will benefit from those funding streams and who will not. Clearly, some people will lose out.

**Andrew Scott:** Clearly, the amount of evidence that one has on any particular group tends to vary, but in 2011 we knew that the long-term effects of unemployment on young people were more substantial than they were on any other group. Between 2008, when the labour market was at its peak, and 2011, when ministers wrote to the funding council, the number of unemployed people under the age of 24 in Scotland close to doubled. There was a certain amount of evidence there.

**Ken Macintosh:** I agree entirely. At the same time, in terms of headcount, the number of people going to college has fallen from over 300,000 to just over 200,000. That is a dramatic shift. I agree that there was a policy intention, but a vast number of people—100,000—no longer have the opportunity to go to college and I find it hard to believe that that is not having an impact.

**Andrew Scott:** The learning has been condensed. As I observed in my opening remarks,

some people have opted to participate on a full-time basis rather than a part-time basis on account of their economic circumstances.

**Ken Macintosh:** I want to ask about pay, unless there are any other questions on that point.

**The Convener:** This will be your last question.

**Ken Macintosh:** Is it still Government policy to move towards national pay bargaining in the college sector? If so, do you have a date for when that will be in place?

**Leslie Evans:** Yes. Some work on that is already being undertaken, as you may know from Ian McKay, who is looking at the matter closely. It is our intention and hope that that group will produce some proposals that will be ready to create a new construct from the academic year 2015-16. There is still some work to be done on that. In the meantime, regional colleges are looking after their own salary circumstances within their regions.

**Ken Macintosh:** It is still Government policy to introduce national pay bargaining.

**Leslie Evans:** Yes.

**James Dornan:** I was a bit surprised by my colleague Ken Macintosh's less-than-enthusiastic welcome for the support for young people between 16 and 24. We had the principals from a number of colleges here recently, and they said that the quality of education seems to be as high or improving since the changes started. There does not seem to be any evidence that the restructuring is having a negative impact on the quality of education in colleges.

I want to go back to the discussion that you had with the convener. We talked about ALEOs in our earlier evidence session and I voiced my concern about ALEOs from my previous experience. Can you reassure me that action will be taken if the board does not follow the articles of association that are signed beforehand? If action is taken, who will take it and what repercussions will there be?

**Leslie Evans:** I will ask my colleagues to discuss the process, but, yes, there will be action. Apart from anything else, the articles of association will define in their entirety the behaviours and activities of a foundation, so that will be very important. The foundations will also be under the remit and audit of OSCR, which will seek to ensure that the new organisations operate to best effect. I do not know whether my colleagues can say specifically who will take the action that you ask about.

**Andrew Scott:** The funding council cannot approve the articles of association, as they are the articles of association of an independent body, but it will collect all the articles of association and

scrutinise them, I suppose, with particular regard to the articles of association of the umbrella trust, which it published in October or November. That will be the benchmark against which it will judge their efficacy.

**James Dornan:** On a number of occasions, the convener has suggested that a college may justifiably look for funding from the trust but the trust may refuse it, acting against its articles of association in doing that. What action would be taken if that were the case?

**The Convener:** I am sorry, but I did not—

**James Dornan:** I do not want to misrepresent you, convener, but that was kind of—

**The Convener:** I did not say that.

**James Dornan:** It certainly sounded like it from here.

**The Convener:** No, I did not say that.

**James Dornan:** I apologise if that is not exactly what you said.

**The Convener:** No, it is not.

**James Dornan:** That is certainly how it sounded. I am asking what actions would be taken if a trust did not behave as we expect the trusts to behave.

**Andrew Scott:** The trust would be answerable under charity law and to OSCR. Those are two ways in which it would be held accountable. There would be an independent audit of its accounts, as well.

**The Convener:** Can I just clarify the point that James Dornan raised? Andrew Scott said that the funding council would scrutinise the articles of association. If it did not like them, what could it do?

**Andrew Scott:** I think that it would engage in discussion with the proposed trustees of the charity about whether the articles of association were suitable.

**The Convener:** If it did not like them, what could it do?

**Andrew Scott:** First, we have not got to that position yet, because we have not yet seen the articles of association.

**The Convener:** Yes, but you look at a number of scenarios. One scenario is that the funding council might not like them. If that were the case, what could it do?

**Andrew Scott:** It is possible—I am surmising, here—to propose alternative articles of association and alternative trustees.

**The Convener:** And if the trustees decide not to accept them, what can the funding council do?

**Andrew Scott:** The trust is an independent body. It is independent of the funding council.

**The Convener:** So, the funding council, having carried out its scrutiny, has no power or influence. It can have discussions but, as you say, the trustees are independent.

Is it possible for articles of association to be changed?

**Andrew Scott:** I am sure that it is, but I would need to read the model article of association for the umbrella trust to tell you how that would be possible. It is publicly available.

**The Convener:** Presumably, if you are looking at setting up an umbrella trust and are allowing various individuals to set up trusts, you would need to know, before you advised ministers, whether the trusts could change the articles of association at any time in the future, because that would be fundamental.

**Andrew Scott:** The best thing to do would be for me to write to you to set out the way in which it is intended that trusts should work. The funding council—

**The Convener:** By all means tell me what your intentions are, but I also need you to tell me what the legal position is, and whether articles can be changed at any time in the future. I know that you cannot tell us what advice you gave ministers—whether to accept or reject or whatever—but I assume that you advised ministers whether the bodies could or could not change the articles of association at any point, given that they are independent bodies, subject to the normal charity and legal regulations.

**Andrew Scott:** The question is clear. I will need to answer you in writing.

**The Convener:** Is that not something that ministers were advised about before the decision was taken?

**Andrew Scott:** The setting up of the charitable trusts is a matter for the trustees and the colleges that are creating those trusts—

**The Convener:** Yes, but I am talking about the political decision to allow them to be set up. Surely you gave advice to the ministers that, having set up the bodies, which are the responsibility of the trustees, there were a variety of things that could happen in the future.

**Andrew Scott:** I think that I will need to come back to you in writing about that. I am sorry, I am not—

**The Convener:** So, you are not sure whether ministers were given that advice.

**Andrew Scott:** I am not sure, today, what the precise answer to your question is.

**Leslie Evans:** I am sure that Andrew Scott wants to ensure that he does not give you information that could be construed to be not absolutely accurate, and so he wants to check it.

It is worth noting that, of the college regions that have indicated that they want to go down the route of setting up an arm's-length foundation, seven—more than half, I think—have so far opted to go into the funding council's umbrella trust, which has already published its articles of association, at least in draft.

**The Convener:** But I am not asking about that.

**Leslie Evans:** I appreciate that; I am making the point that we already know what the articles of association are for one of the big trusts.

Secondly, I do not have forensic knowledge of charity law, but my understanding would be that, if you wanted to change the articles of association in any particular way, you would need to go back to OSCR to ensure that that did not compromise the body's charitable status.

**The Convener:** I am not asking whether the articles of association are acceptable or whether they are found to be compatible with what the body intends to do; I am asking, purely and simply, whether at some point in the future, following discussion with OSCR, the independent body of trustees could ask for the articles of association to be changed.

That is the first question. Secondly, were ministers advised that at some point in the future that could or could not happen? Presumably, ministers would need to know the implications of any decision they made.

11:45

**Leslie Evans:** They might well have been, but we will get back to you formally on that question.

**The Convener:** Thank you.

**Willie Coffey:** I have almost forgotten what I was going to ask, because it has been a wee while since I indicated that I wanted to speak. Nevertheless, I am very interested in this discussion. I want to take colleagues and indeed Leslie Evans back to page 9 of the Auditor General's report, which describes a situation in which the college sector's financial standing continues to be "generally sound". The colleges themselves had reported a surplus in 2011-12, which is the year that the report focuses on, and had

"accumulated surpluses totalling £214 million and had a combined total of £199 million cash and cash equivalents".

Despite some of the comments that other colleagues around the table have offered, it is clear that we are dealing with an environment in which the colleges' performance and improvement are progressing pretty steadily. On top of that, we are told that the funding council expects the structural reform process to make £50 million in savings each year and, as has already been reported to the committee, there has already been significant progress in that respect.

I also understand that the Scottish Government is providing an extra £61 million to the college sector. Coming back to the discussion that was opening up just a moment ago, can you tell me what would happen to that additional money if, at the end of a particular year, a college discovered that it had another surplus? Would those funds automatically transfer to the ALFs, or could the colleges decide not to transfer surpluses to them?

**Leslie Evans:** Colleges would decide to transfer any reserves to the arm's-length foundation at the end of the year.

**Willie Coffey:** Must they do so, or do they have a choice?

**Leslie Evans:** My understanding is that they must transfer the money.

**Colin Robertson:** A college could choose not to transfer those funds but, under Government financial requirements, they would then be frozen.

**The Convener:** They would go back to the Government, wouldn't they?

**Leslie Evans:** They would. They would be frozen. The answer, therefore, is perhaps not that colleges must transfer the money but that, given the incentive not to hold on to the money, most colleges would elect to put it into the arm's-length foundation.

**Willie Coffey:** Is it a choice for colleges whether to transfer or not?

**Leslie Evans:** It is a choice, but one of the options is not very palatable.

**The Convener:** It is Hobson's choice.

**Leslie Evans:** Frozen reserves are not particularly helpful to colleges.

**Willie Coffey:** Going back to the discussion about the articles of association, can you remind me who will define them in order to provide the protection that members have been raising concerns about? Will it be the college with the ALF?

**Leslie Evans:** It will be the colleges, but they are being advised and supported by the funding

council. The funding council has produced articles of association and is sharing them with others as a model for describing the new foundations' function and focus and how their role might be narrowly defined.

**Willie Coffey:** So it will be the colleges that will principally define the articles of association with the funding council.

**Leslie Evans:** Yes.

**Willie Coffey:** Then there is clearly an interest in getting that right at the earliest possible opportunity to—I hope—provide the protections that members have been expressing a wee bit of concern about.

**Leslie Evans:** Absolutely. We are actually in the middle of that process. As I have said, the funding council is the only organisation that has been in a position to share its articles of association because it has appointed all of its trustees to its umbrella trust, to which more than half the colleges have indicated they want to be party. Because its trustees are in place, the funding council is able to promote its articles of association and share them with other colleges as a model.

**Willie Coffey:** Despite the discussion about what proportion of the surpluses is public money and what proportion is income that has been earned by the college sector, what is the Government's view on the principle of establishing ALFs and of that pile of cash, the substantial part of which is public funds, being pushed to the side and perhaps out of reach of public scrutiny?

**Leslie Evans:** I think that it is fair to say that Government ministers have not welcomed the reclassification process as it has developed; I do not think that they would have chosen it as their preferred route. Given that a particular decision has been taken about how to approach reclassification, all our work and effort is about avoiding disruption and mitigating the impact of the change in classification for colleges to ensure the continued success of the college sector in Scotland.

**Willie Coffey:** At the previous meeting at which we discussed the issue, there was some discussion—and, it is probably fair to say, a bit of confusion—about what could be done with the existing surpluses. Some of the money was described as notional—it might be the estimated value of assets or funds that have been committed for some purpose or other—but there was another category in which, according to my understanding, there was free cash that the colleges could decide what to do with. I do not know what proportion of the total it comprises, but it was said to be available for colleges to deliver whatever they wanted to deliver. Is that the case? Is any of the money in that pot available to colleges at the

moment to deploy on student services, courses or anything of that kind? We have heard about the cuts, cuts, cuts agenda, but, from what I have read in the Auditor General's report, there are substantial sums in the funds that I am talking about. Can any of that be deployed to deliver service in the colleges?

**Leslie Evans:** At the moment, colleges' reserves are not subject to reclassification, so everything is as is at the moment—it is normal business, if you like. Colleges will take decisions based on what their commitments and their forecast commitments are. Given that some colleges have loans and so on, they will need to take careful account of that when they decide how and when to deploy those reserves.

The other thing that is worth mentioning is something that was mentioned when I was at Dundee and Angus College. Colleges are instinctively entrepreneurial and have forged important agile partnerships with other funders and—this is more likely—other parties, particularly in the context of projects. Colleges sometimes hold money in their accounts because of a particular project involving a particular partnership. It is important that colleges take all that into account before deciding whether to dip into their assets for day-to-day running costs, and I am sure that they are doing that at the moment.

**Willie Coffey:** My final question is on the issue of numbers, which some other members have mentioned. The Auditor General's report referred to the fact that, on an FTE basis, the total number of students was broadly the same. Views have been expressed about a huge drop in the number of colleges. When will we tidy up the process so that we can monitor what is happening with people? I think that it was Andrew Scott who mentioned that, sometimes, multiple applications are made for a particular course. I presume that if only one of those is successful, that might lead us to think that there has been a bigger drop in the number of people at college than is the case. How do we square those different views on the data? When will we tidy it up so that we get a clearer picture of what is happening?

**Leslie Evans:** There are two aspects to that. One of them is to ensure that we compare like with like, which is a point that I made earlier. We use full-time equivalents because we know that that is a currency that allows robust and transparent comparisons to be made with what was going on and what we anticipate will happen in the future. For example, the targets that are set by Scottish Government ministers for colleges are set in full-time equivalents. The most recent set of targets has been exceeded by 3,000, I think, so colleges are doing a very good job in responding to the

situation. The important thing is that we compare like with like.

The other point that you make is about how we ensure that the administrative and systems processes and the policies that inform applications are as tightly focused and streamlined as possible. One of my colleagues mentioned the work that Education Scotland is undertaking on that front to look not just at the processes that support applications on a regional front rather than on an individual college front but at where they bump up across regions. For example, I know that Education Scotland is doing some work with Tayside and Fife, where students who live in one region might well end up applying to that region or to the one that happens to be very close to their home. That has the potential to be quite difficult to handle administratively and—if we are not careful—to skew the figures.

My final point is that IT will help to streamline the new landscape and ensure that admission policies are helpful. As new colleges are set up and mergers take place, we will want to ensure that the IT capacity helps the administrative support for admissions processes and indeed for accessing data. We are heavily dependent on the accuracy of data to ensure that, as you say, we tidy this up.

**The Convener:** I do not want to misinterpret anything that has been said. You were describing to Willie Coffey the way in which the umbrella trust has been set up. Do I take it from what you said that the Scottish funding council set up the trust and appointed the trustees?

**Leslie Evans:** It is in the process of doing that. It has appointed the trustees. That is the umbrella trust, which covers the whole of Scotland.

**The Convener:** So the trustees have been appointed by the Scottish funding council, which established the trust.

**Leslie Evans:** That is my understanding.

**Andrew Scott:** The funding council identified the trustees.

**Melanie Weldon:** With colleges that wanted to be part of the trust.

**The Convener:** They had a say as well.

**Melanie Weldon:** They did.

**The Convener:** The articles of association were drawn up by the Scottish funding council in discussion with those colleges.

**Leslie Evans:** And the trustees.

**Melanie Weldon:** And taking appropriate legal advice.

**The Convener:** And the trustees. So who established the articles of association? Legally, would it be the trustees, or would it be the Scottish funding council, the colleges and the trustees together?

**Leslie Evans:** Again, I want to ensure that I am not misleading you, convener. My understanding is that it would be the trustees legally who would establish the articles of association but, obviously, that follows the process that we have just described. My colleagues will correct me if I am wrong.

**The Convener:** Whether it is the umbrella organisation or the independent ones, none of the colleges would legally establish the articles of association. They would discuss them and try to influence them, but legally they would not establish the articles of association.

**Leslie Evans:** Unless they were trustees.

**The Convener:** Unless they were trustees, of course.

**Leslie Evans:** I am not in a position to say whether the trustees in the umbrella organisation are college members.

**The Convener:** But they would not be, because that would compromise their independence. The colleges are not on the trusts and the colleges do not establish the articles of association. That is done by the trustees.

**Leslie Evans:** Legally.

**The Convener:** Legally—that is correct. You will come back to me about whether, at some point in future, the trustees could apply for the articles that the trustees established to be changed. We are quite clear that legally the colleges and indeed the funding council have no say in the articles of association.

**Leslie Evans:** Legally.

**The Convener:** That is right. Thank you for that.

I have one final question. It comes back to Andrew Scott's comments, possibly in discussion with Colin Beattie, about what was happening down in England. There were references to the private sector and private funding and so on. I think that you had indicated that it was important for there to be accountability for colleges' use of public funding. Why is it important for there to be accountability for the use of funding for colleges but not for universities?

**Leslie Evans:** Higher education institutions have a different history and a different funding proportion of public money. As I think that I mentioned earlier, ministers were particularly adamant about further education taking a particular route there because of the 75 per cent



level of funding. The proportion of funding in higher education institutions is, I believe, significantly lower than that—it is about a third. It is just a different set of circumstances. They have a different constitutional and governance arrangement and a different history and there is a different landscape.

**The Convener:** So, should the proportion of public funding for colleges decrease at some point in future, it may well be that there will be further reflection about that need for democratic accountability and whether a different relationship should be established.

**Leslie Evans:** The point that I was making was that higher education institutions are different beings and have a different kind of profile and a different history and constitution. That is the reason why they are not comparable with further education institutions. The fact is that ministers took the decision they did on the basis of the level, the amount and the proportion of funding and their commitment to governance and accountability for the further education sector, based on the recommendations of the Griggs report.

**The Convener:** But colleges have not been subject to this kind of accountability before. They were not accountable to Government ministers before, were they?

**Leslie Evans:** Not in the immediate past. Previously, they were very involved with and accountable to local government—a different arm of government.

**The Convener:** But colleges have never been accountable to Government ministers in this way before.

**Leslie Evans:** Not in the way that we are describing. It is a different set of circumstances. The ONS has prompted a different set of conditions.

**The Convener:** It is not just because of the ONS, is it? I thought that decisions were taken about accountability to ministers, and there happens to be a separate issue about the ONS.

**Leslie Evans:** You are absolutely right. Ministers were already engaged with governance and accountability in further education before the ONS came in.

**The Convener:** We are in new territory, because this is the first time that there has ever been accountability of colleges to Government ministers.

**Leslie Evans:** We are in new territory, certainly.

**The Convener:** I thank you and your colleagues for your contribution. We look forward to getting the further information that you said you would supply.

12:01

*Meeting continued in private until 12:44.*



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