The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

PUBLIC AUDIT COMMITTEE

Wednesday 25 June 2014

Session 4

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PUBLIC AUDIT COMMITTEE
14th Meeting 2014, 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)
*Bruce Crawford (Stirling) (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:

Caroline Gardner (Auditor General for Scotland)
Cathy MacGregor (Audit Scotland)
Fraser McKinlay (Audit Scotland)
Douglas Sinclair (Accounts Commission)
Gordon Smail (Audit Scotland)
Claire Sweeney (Audit Scotland)
David Torrance (Kirkcaldy) (SNP) (Committee Substitute)

CLERK TO THE COMMITTEE

Jane Williams

LOCATION

The David Livingstone Room (CR6)

Scottish Parliament

Public Audit Committee

Wednesday 25 June 2014

[The Convener *opened the meeting at 09:32*]

Decision on Taking Business in Private

The Convener (Hugh Henry): Good morning and welcome to the 14th meeting in 2014 of the Public Audit Committee. We have received apologies from James Dornan, and I note that David Torrance is acting as his substitute today.

Agenda item 1 is a decision on taking business in private. Do members agree to take items 8 and 9 in private?

Members *indicated agreement.*

"An overview of local government in Scotland 2014"

09:32

The Convener: Agenda item 2 is consideration of the report "An overview of local government in Scotland 2014". We welcome to the meeting Douglas Sinclair, chair of the Accounts Commission and, from Audit Scotland, Fraser McKinlay, director and controller of audit, and Gordon Smail, senior manager.

Douglas Sinclair might be interested to know that Bruce Crawford and I were just reminiscing about days gone by in the Convention of Scottish Local Authorities. It is good to see that you have lost neither your interest nor your influence in the public sector, Douglas. Would you like to make an introductory statement?

Douglas Sinclair (Accounts Commission): I will make a short opening statement, convener.

The Accounts Commission welcomes the opportunity to discuss with the committee the challenges facing local government. Scotland's councils provide important services, but they do so against a backdrop of reducing budgets, an ageing population and rising demand and expectations from the people whom they serve. Our work shows that although councils are coping well they face increasingly difficult choices about how to maximise the value that they get from the available money. To help make those decisions, they need to make better and more consistent use of options appraisal, look carefully at how services are delivered and think openly about how services might be delivered in future. They need to ask the question, "What works best, and can we prove it?"

Many of the messages in this year's report are not new; indeed, the fact that they are similar simply serves to underline their continuing importance. I want to emphasise two areas in particular. The first is the fundamental importance of good governance. It is the foundation of a successful council, with officers and councillors working well together and in a way that engenders the public's trust and confidence. Bad governance, on the other hand, is dysfunctional, time consuming and expensive.

Secondly, the statutory duty of best value remains paramount. We believe strongly that councils that place best value—in other words, continuous improvement in all their functions—at the centre of all that they do are best placed to deal with change. Although we recognise that the current context is challenging, the commission is looking for councils to raise their ambition and up the pace of improvement. For our part, we are

considering carefully how the commission can provide further support through its audit work in relation to local government.

My colleagues and I are happy to answer questions.

The Convener: Thank you very much. I am interested in your comment that councils are "working well". I suppose that it all depends on how we want to use words. From what I can see in my area and from talking to people across Scotland, councils are working well given the circumstances under which they are operating. We might say that councils are working as well as we can expect, given the severe limitations on finance. We are hearing stories that there are clear problems now, but real fears are beginning to emerge about the next two years. Can council services be sustained at the present level with the current financial settlement?

Douglas Sinclair: With regard to councils working well, it is worth making the point that all councils are balancing their budgets, as they are required to do. That is not necessarily the case in England; certainly, evidence is coming through that councils there are finding it hard to do that. It is true that money is tight and that councils are under a lot of pressure. I have already mentioned the ageing population, which creates more demands. However, there is still the issue of maximising value from the money that councils spend, which is £120 billion per year. That is why we have stressed the importance of options appraisal.

To date, councils have largely balanced their budgets by reducing their workforce and increasing charges. As the report says, reducing the workforce is not a long-term sustainable solution, and given that councils cannot go on cutting their workforce, they have to look at other ways of balancing the budget. That is why we have encouraged them to look at new ways of delivering services and to have an open mind. The aye been principle—doing something because that is the way it has always been done—is not the way forward, and councils need to carry out options appraisal to consider whether there are better ways of providing services of the same or better quality and at reduced cost.

That requires a mind shift in local government, because loyalties run deep and it is never easy for councils to change the way that they do things. However, that is the agenda that they have to face up to. I do not dispute that, in the next few years, resources will get even tighter. That creates even more of an imperative to look more critically at the money that they spend and to consider whether they can tell the public that they are maximising every single public pound.

The Convener: Even if councils do as you suggest, can they sustain services at present levels within the current financial settlement?

Douglas Sinclair: That is partly about councils being much clearer about their priorities. One thing that came through in our report "Scotland's public finances: Addressing the challenges" is that there is not a huge amount of evidence to show that councils are focusing their budgets on their priorities. To an extent, it is a case of rolling the budget forward from one year to the next and making the necessary cuts to balance it. Local government has a tendency to run to cuts too quickly without examining whether there is a different way of providing services at a lesser cost.

This is also partly about councils being clear on where they think that they can provide maximum value. Are there things that a council believes that only it should provide, or might it prove more cost effective to deliver services through other organisations or in other ways? That is the kind of debate that we want to encourage councils to have.

The Convener: We have seen evidence of councils starting to share services so that they are delivered across council boundaries, which seems to be working fairly effectively. It is not just councils that are doing that; for example, services have been shared with the national health service and other agencies. Is it your view that, given the size of this country, we do not need 32 councils, 32 chief executives and 32 bureaucracies and that at some point there will need to be a reconfiguration of the local government structure?

Douglas Sinclair: I will duck that question, convener. Those are issues for the Government, not the commission.

With regard to shared services, I think that we say in the report that there is not a huge amount of evidence to suggest that shared services, certainly on a big scale, have been particularly successful. There are only two examples on shared services on roads: Tayside Contracts and the two Ayrshire councils. My sense is that councils have rushed to introduce shared services without necessarily thinking of the steps that must be taken before doing so.

When I worked in local government, I remember a consultant talking about what he called the three Ss. First, we need to simplify the process. You might think that councils are different, but they all undertake the same functions. The cost of paying an invoice, for example, varies enormously from one council to another. Why? In order to answer that question, you need to get into the detail, which is part of the benchmarking process.

If two similar councils decided to get together and look at the costs of paying an invoice, they

would first try to simplify the process and standardise it between them, and they would share the process only if there were a case for doing so. A benefit of the Society of Local Authority Chief Executives and Senior Managers and COSLA benchmarking project, which you will no doubt want to touch on, is that councils have the evidence to drill down to the family group of councils and consider why their costs are higher than those of a comparable council. Councils need to do more of that. That is a big agenda, but it provides another opportunity to save money for the public benefit.

We would encourage councils to simplify and standardise more because there is not a huge amount of evidence that shared services on a big scale have been successful. A huge amount of money has been spent on that, and it would be interesting to quantify how much money has been spent on shared services initiatives that have not come to fruition.

The Convener: In the report, under the heading

"Key priorities for councillors in 2014"

in the report, you talk about

"Understanding the changing context and the crucial role of councillors",

part of which is

"Keeping up to date through training and development."

Are councillors clear enough about the separation of roles? My understanding is that councillors set the policy agenda and the priorities as well as make the decisions about how budgets are spent. Is it appropriate for councillors to tell officers at management level what staff should be deployed where, and is there sufficient guidance to allow councillors to understand their roles?

Douglas Sinclair: No. As we point out in the report's introduction, the role of councillor comes at the beginning and at the end of the process. As you have said, that role is to set the priorities, to allow management to manage the council in order to deliver those priorities and to hold managers to account for their performance.

The big issue is training. In our report, we are critical of councillors not taking up the training that is available, and I believe that we need a wider debate about the training of councillors. Why do I say that? The fact is that most councils are pretty good at providing induction training for new councillors; however, it is very much left to the discretion of the individual whether he or she takes up the suite of training that is offered thereafter. Is that good enough? With such an approach, an individual can become the chair of a committee without necessarily having had the training to undertake the job.

Funnily enough, I was speaking yesterday to an ex-councillor who had been appointed as the vice-chair of an education committee. When I asked him what training he had had for the role, he said that he had been given absolutely none. That sort of situation leads to a democratic deficit. How can members hold officers to account successfully if they do not have the skills and the training to do so?

Way back in 2006, the Scottish local authorities remuneration committee recommended a national job description for councillors that would be accompanied by a description of the skills required to do the job, with different skills for different jobs such as chairing committees, a training needs analysis and a personal development plan. Although some councils have adopted that approach, it is very much left to individual councillors to decide on their training needs, which is a very subjective and difficult judgment for them to make. The council as a corporate body needs to get a much better grip of that, and there must be a debate about whether the training arrangements are fit for purpose. I do not think that they are. After all, we are talking about a business that costs £120 billion.

We really need well-trained councillors to do this kind of job. They come with a huge amount of good will—they want to serve constituents and deliver good public services—but we must ensure that they have the skills for the job.

09:45

The Convener: What happens if councillors engage inappropriately in managerial decisions?

Douglas Sinclair: That sort of thing is inappropriate and causes confusion about respective roles within the council. As head of the paid service, the chief executive should be held to account for the management of the council staff and their performance. If we are not clear about that, we end up with a dysfunctional council. To go back to my point about good governance, I believe that people need to operate within well-defined and well-understood roles.

The Convener: Are there any sanctions for councillors who behave inappropriately in that respect?

Gordon Smail (Audit Scotland): The code of conduct for councillors, which is policed by the Standards Commission for Scotland, contains specific references to that very issue and the point at which councillors have to be careful about going beyond that boundary.

In practice, of course, this can be quite a grey area. There is a trade-off between councillors understanding the business and being able to

make decisions and scrutinise performance. However, as Mr Sinclair has said, at the end of the day it is very important to ensure that people understand their respective roles and responsibilities. I stress that it can be quite a grey area, and it needs to be managed very carefully by both the councillors and the officers.

Douglas Sinclair: As an addendum to that, I think that the crucial thing is the quality of the relationship between the chief executive and the leader of the council to ensure that they understand their respective roles and that the leader can say to the elected members, "That is your job and this is the job of the chief executive."

Tavish Scott (Shetland Islands) (LD): To continue that line of questioning, in your recommendations there is no specific suggestion about the kind of training that you have just described, which I took to be a recommendation, or an inference, that such training needs to be done on a national scale, even in the sense of guidance being given to councils. Do you think that that is the case for the future?

Douglas Sinclair: No. I was trying to say that we need to ask whether current training arrangements are fit for purpose, and we need to revisit the recommendation of the Scottish Local Authorities Remuneration Committee in respect of the pluses and minuses of having a national councillor job description and what training councillors need. There is nothing in "The Councillors' Code of Conduct", for example, about councillors' requirement to take up training. It is left to their individual discretion.

I admit to making a mistake earlier. I added £100 billion to the local authorities budget; it is £21 billion rather than £121 billion. That was a piece of wishful thinking.

There is a debate about the skills that councillors need, not least because public services are becoming ever more complex. We are no longer in the days when councils ran everything; we now have arm's-length external organisations, health and social care partnerships, community planning partnerships and various trusts and outside bodies. It is becoming a much more complex business and different skills are required in different organisations.

Tavish Scott: We do not have a job description for MSPs—some people may be tempted to say that we should. Do you not think that there would be resistance in local government circles to, for example, those of us who are sitting in this room lecturing local government—especially those of us who are former councillors, as a number of us are? I recall you mentioning to me privately many years ago the danger of MSPs lecturing people in local government about what they need to have to

do their job properly—you said that they might say the same to us lot.

Douglas Sinclair: Fools rush in where angels fear to tread.

Tavish Scott: Yes. Exactly.

Douglas Sinclair: All I am saying is that there needs to be a debate about whether the current arrangements are fit for purpose. That is a personal view, not the commission's view.

Tavish Scott: Thank you for that. At paragraph 112, the report says that

"Community planning is at a crossroads."

I took that to be quite a significant statement. Is the commission concerned about where community planning is going? I think that we all have some deep concerns that community planning—which we have talked about for a long time—has yet to deliver substantial change in local government.

Douglas Sinclair: It is fair to say that community planning has been around for a long time—since the Local Government in Scotland Act 2003. To some extent, the spirit was willing between 2003 and 2012, but the execution was not desperately good and there was a bit of treading water. The joint statement of ambition from the Government and COSLA has given a spur to community planning.

As you know, we have done the first round of three audits of CPPs and we are well through the next round of five audits. We have two more on which to report back to the Accounts Commission. Then, along with the Auditor General, we will take stock and produce an overview report on what we have found. I do not want to prejudge that, but it is fair to say that we found lots of examples of good partnership working, which it is important to capture. We did not necessarily find that partnership working was attributed to community planning partnerships. There is a lot of good stuff on the ground; it is important to capture it and to share it across the 32 councils, so that they can learn from each other.

We found that the community planning partnerships that are clearest about where they can add most value and which have focused priorities are more likely to succeed than those that do not have that clarity of purpose and values. We also found that there is a long way to go on scrutiny, performance management and use of resources.

Tavish Scott: In that assessment, did you look at the merging of care and social care—

Douglas Sinclair: Are you asking about health and social care partnerships?

Tavish Scott: Yes.

Douglas Sinclair: We have not looked at them yet. The Accounts Commission has been given the responsibility of auditing the incorporated bodies from April next year. We are not sure about the extent of that audit; the regulations are still going through Parliament. The incorporated bodies have been defined as local government bodies, to which the duty to secure best value applies, as members know. We are not yet clear about whether the duty will apply to the incorporated health and social care bodies.

The commission is getting itself up to scratch on that. Last week, we had a useful session with Highland Council and NHS Highland to find out why they went down the road of having a lead agency. We intend to have discussions with councils and health boards that have chosen to have an incorporated body, so that we can learn from them. That is work in progress.

Tavish Scott: Paragraph 112 of the report is right to say that community planning will happen only if

"sustained leadership ... is significantly stronger than we have seen to date."

Does that jar slightly with the fair findings about the political short-termism in much that is going on? That is the nature of the beast that is local government, in the current context. It strikes me that it is difficult to achieve the sustained leadership that you refer to while there are many short-term pressures.

Douglas Sinclair: That is a fair point. By definition, community planning is a long-term game. We are talking about work being done over a generation—if not more—to make major inroads into inequality. There is no doubt that leadership changes in community planning partnerships can have an impact on that.

That is equally true of councils. We are more and more convinced from our best-value audits of councils of the importance of having an ingrained culture of continuous improvement that can withstand changes in leadership, whether at officer level—the chief executive—or council leader level.

We want to define more clearly the ingredients of the culture of continuous improvement that we want in all councils. We come back to training officers and members to embed that culture and ensure that it can withstand change. If that can be done in a council, the hope is that that can be transferred to the community planning partnership.

Tavish Scott: Paragraph 59 says that the commission plans to

"publish a report on procurement in local government."

I have a factual question. Do you plan to look at hubcos and the hubco structure? I have heard lots of representations from local government about that. I will not get into how hubcos operate, but they strike me as a fundamental part of local government procurement that certainly needs scrutiny.

Fraser McKinlay (Audit Scotland): The procurement report has not looked at hubcos, but hubcos and the Scottish Futures Trust's wider role are firmly on our radar. We will make proposals on that to the Accounts Commission and the Auditor General in autumn this year for the programme of work from 2015 and beyond. We will build that into considerations. There is no commitment yet, but we are interested in that process and that way of funding capital projects.

Colin Beattie (Midlothian North and Musselburgh) (SNP): I will continue that theme and give it a little twist. The report refers throughout to leadership and the inadequacies of leadership. That is repeated again and again. It is sometimes unclear whether you are talking about a lack of leadership among officers or among members.

We have mentioned training, but we are talking about more functional training—for example, skilling somebody to be able to chair a committee. It is much more difficult to train somebody in leadership, so I wonder how that can be addressed. I assume that we are talking about leadership of the council as a body, as opposed to the members or the officers. Can you confirm that?

Douglas Sinclair: You are absolutely right. We are talking about the corporate leadership that is provided both by politicians and by the officer cadre. There is an element of functional skills—understanding budgets and being able to challenge—and officers must have those skills, but behaviours are important as well. If you take leadership in community planning as an example, the leadership role lies with the council, but that is not about dictation but about a leadership style that involves facilitation, and it is something that people need to learn to do. Behaviours are just as important as knowledge.

Colin Beattie: It is easy to give people technical skills, but you have talked repeatedly about leadership skills. How do we train people in that? Leadership is much more difficult to train somebody in. A lot of people would say "You've either got it or you don't", but you can give a person all the tools for leadership and hope that they will respond.

Douglas Sinclair: Let me ponder that while Fraser McKinlay and Gordon Smail respond.

Fraser McKinlay: I will give Douglas Sinclair a chance to ponder. Leadership development is key, and what is interesting is that we have seen a big change in the senior officers, particularly at chief executive level, although there are often knock-on effects, because the vast majority of senior officers tend to be internally appointed these days, so there has been quite a lot of churn. From what we can gather, there is likely to be even more of that as we get towards the end of the year.

That is something for the local government community to think about in terms of leadership development. In the past, the public sector has had a go at that kind of training. The Scottish Leadership Foundation was set up some time back, as you may remember, so the public sector has experience of leadership development. Mr Beattie's question is timely, and it would be helpful for people in the public sector—not just in local government but more widely—to think about leadership development activity as well as technical and functional training and development.

Colin Beattie: Do you see that being left entirely to individual councils to develop, is it for COSLA to try to get some kind of uniform approach, or is it something that—God forbid—should be imposed by the Government?

Fraser McKinlay: I would not encourage imposition by anyone. To be fair, there is a lot of development activity through the Scottish leaders forum, which involves chief executives from all parts of the public sector. They meet every year and there is activity that goes on there, but that may not be what you would characterise as formal leadership development. Over the past few years, the leadership of the public sector and public services in Scotland has been as cohesive as I remember it ever being, but that is a slightly different thing, particularly if there is going to be more churn and more new people coming into senior jobs. It would make sense to have that conversation not 32 times with individual councils but as part of a wider conversation about what being the chief executive of a 21st century council looks like.

Douglas Sinclair: There may be a question about whether we have enough resource to do that. Fraser McKinlay mentioned the Scottish leadership foundation, which no longer exists. I can remember the Scottish local authorities management centre in Strathclyde, which provided high-quality leadership development to aspiring chief executives and aspiring leaders. As part of looking in the round at training, we may need to look at whether there is enough resource capacity to deliver the kind of leaders of the future that you are talking about.

Colin Beattie: There have been discussions with Audit Scotland on the auditing of ALEOs; a great deal of public funding goes into them, but it has never been quite clear how to follow the public pound, when it comes to ALEOs. Structurally, they are separate organisations, but public money in ever-increasing amounts goes into them. How are we going to deal with that?

Douglas Sinclair: In October last year, the Accounts Commission commissioned a report from Audit Scotland, which will come back to us in the autumn of this year. We have asked for a comprehensive report on ALEOs, because we understand the public interest in them. We want to know the number of ALEOs, their size, turnover, status and form. As you alluded to, they take different forms; some are trusts, some are charities and some are companies. We want to know the rationale for setting them up. Why do councils set them up? Is it to save money or to improve services by providing them outwith the council, or a mixture of those?

We want to know the representation of elected members on ALEOs. If there are elected members on ALEOs, what role do they play? We want to know how councils scrutinise ALEOs, because, as Colin Beattie said, they are funded by public money, and councils are responsible for public money and the quality of services that are provided by ALEOs. We want to look at governance and performance. Once we have had that report, the Accounts Commission will decide what further work we will ask Audit Scotland to do.

10:00

Colin Beattie: That report is expected in the autumn of this year.

Douglas Sinclair: Yes.

Colin Beattie: I look forward to that one.

Fraser McKinlay: On the commission's behalf, we have asked all the auditors of the 32 councils to carry out work to increase understanding of the issue. In the past, we have grappled with the scale of the ALEOs issue, so as part of this year's audit, the auditors are gathering that information and data. That will come in to us centrally and we will take a report to the commission. That report will not just inform work in local government because, as the committee knows, there are ALEOs in other parts of the world. The committee has taken a lot of interest in colleges and the new arm's-length foundations, for example. There are other examples in health. ALEOs are more prominent in councils, particularly because a council's ALEOs tend to deliver services directly. ALEOs in other parts of the world tend not to do that. However, we hope that the work that we are doing on behalf of the commission may have a wider application.

Colin Beattie: Paragraph 97 on page 27 refers to "cash-backed reserves" and paragraph 105 on page 28 mentions that

"indebtedness increased by 45 per cent".

It does not make a lot of sense to run up debt if you are going to have those reserves. Do you have any comment on that?

Gordon Smail: The commission has had an interest in councils' reserves and has been monitoring them over a long period. You are absolutely right to make a connection with the position on reserves. In fact, we were here a fortnight ago talking about Scotland's public finances and the need for long-term financial planning.

We have to look at all those things—the level of reserves, what councils are going to do with them, and how much is free, in the sense of its not being allocated to particular issues for the future— because they are all components that will be fed into a long-term financial plan. It is about looking in the round at everything and encouraging a longer-term approach to financial planning that looks across those individual components.

We are keen to ensure that councils make clear statements about why they have reserves and what they intend to do with them. Overall, there are substantial amounts of money in reserves at the moment, although the amount within that that is free for contingency spending is relatively small. That is the position on reserves.

It is also worth mentioning that the commission is doing some work on treasury management and borrowing in local government. We will bring out a report—I think that it is due for publication in December this year. We are looking at that component as well, just to cover both sides.

Colin Beattie: I have one last point. Paragraph 26 on page 12 says that

"It will be some time before the full impact of welfare reform is clear."

and yet the same paragraph goes on to say that

"welfare reform will take more than £1.6 billion out of the Scottish economy each year."

That is a huge amount of money and it will have a massive impact. That is separate from the budget cuts that are coming down from Westminster, which affect the Scottish Government and, consequently, reduce the size of cake for local government.

Gordon Smail: That is put in context at the start of the report. The figure comes from the Welfare Reform Committee of the Parliament. It is an important and, as you said, large number. It is something that we need to flag up as part of the overall context for local government.

Colin Beattie: In your audits of local government, are you looking at the impact of the cuts? They are bound to have a knock-on effect. You have already highlighted that

"Councils with higher levels of deprivation are likely to be hardest hit"

and that there will be

"a substantial impact on local economies."

The cuts are bound to have a knock-on effect on councils and their ability to generate services and so on for the public.

Gordon Smail: The impact is wide ranging. It is about the ability to deliver services and long-term financial planning, but there are also many associated issues in terms of what it means for the services and advice that local people need to deal with the different financial context within households. A range of issues are encompassed within welfare reform that have a direct impact on a number of aspects of local government.

Colin Beattie: Welfare reform is almost worth an audit in itself.

Fraser McKinlay: Welfare reform is one of the key issues on which we are keeping an eye in our programme development work. Last year, I think, we undertook for the commission a fairly brief but good study of councils' preparedness.

To be honest, we have been of the view that we just need to let councils concentrate on preparing for the welfare reforms. That has been the activity up until now. As we go into the next year, we will begin to see more fully the local impacts and what welfare reform means for council services and communities. We will certainly discuss welfare reform and its impact with the Accounts Commission and the Auditor General when we come to think about our forward work programme.

Willie Coffey (Kilmarnock and Irvine Valley) (SNP): Colin Beattie mentioned the level of indebtedness. Is the big increase in that not down to the flexibility that the prudential borrowing code gives councils? I consider that to be a positive move, as it allows them to plan better and more wisely for the future. The increase of 45 per cent is alarming, but is it not a reflection of how well councils are using the prudential borrowing code to deliver their services?

Gordon Smail: The indebtedness figure is made up of a number of things. We wanted to give a sense of the overall exposure or liability, whichever way you want to look at it, so it includes not only external borrowing but the liabilities that have built up through public-private partnerships and the private finance initiative, and it becomes net because there are some elements of investment in there that bring the figure down a bit.

It is a large figure. You are right that it has been incurred in the context of the application of the prudential code that oversees borrowing. That is the focus of the piece of work that I mentioned earlier and on which the commission will report later this year. It is central to what we are considering. We want to get underneath the overall figure, because there are wide variations across councils.

The Convener: You mentioned that you will be doing some work on ALEOs. The committee has considered them previously and I suspect that we will want to return to the matter.

One thing that has concerned us is that those who are on the ALEOs do not always have a clear understanding of the governance arrangements. Do councillors understand that, when they are appointed to an ALEO, their legal responsibility is to the board of the ALEO and not to the council that appointed them? Do you have any concerns about that? I have certainly seen examples of councillors trying to get the council to interfere in the work of an ALEO and politicise it. Is it appropriate for councillors to demand that the council that set up an ALEO should take a certain course of action if they do not like a decision that it has taken? Should councillors be involved in that type of argument and debate outwith the boards of ALEOs?

Douglas Sinclair: The points that you raise are the kind of issue that we expect the auditors to address in the report that will come to the commission. That also touches on the point that I made about training. You are absolutely right that, once a councillor is appointed to an ALEO, their responsibility is to further its interests. A related point, if I can separate the roles, is that we also need to consider how effective councils are at scrutinising the ALEOs' performance as opposed to allowing them to drift off without scrutinising their performance.

You are right that there can be conflicts of interest for councillors who are on an ALEO. They need training to understand where such conflicts of interest arise, how to do the proper thing and how to seek advice about what they should do, if necessary.

The Convener: Once an ALEO has been established, does the council that established it have any residual ability to interfere or influence its decision-making process?

Douglas Sinclair: If the ALEO is going belly up, for example, the council has a responsibility to follow the public pound—the public money that has been invested in the ALEO—and the quality of service that is provided. For example, if there is a service failure—there have been one or two

examples of that—the council has not only the right but the duty to interfere.

The Convener: I understand that, but what about the day-to-day management decisions?

Douglas Sinclair: No.

The Convener: They should be not involved.

Douglas Sinclair: No, they should not be involved in those.

Fraser McKinlay: That issue was touched on in the first two reports that the commission published in the "How councils work" series. "Roles and working relationships: are you getting it right?" recognised that councillors sometimes have that dual role, while "Arms-length external organisations (ALEOS): are you getting it right?" looked in more depth at how to set up and run ALEOs. We think that the commission will probably ask us to revisit the guide on roles and working relationships, in relation to not only ALEOs but the complex role of an elected member, which we had a conversation about earlier. We will be able to address the issue then.

I concur with Douglas Sinclair—the council absolutely has governance and oversight duties in relation to the money that is given to an ALEO. However, it is the ALEO board that has responsibility for taking decisions, whether the ALEO is an independent charity, a company or whatever its status may be. The matter is inherently complex.

Douglas Sinclair: I have a postscript to add to that. Gordon Smail has just reminded me that paragraph 57 of our report refers to "The Highland Council: Caithness Heat and Power—Follow-up statutory report." That is a very good example of a case in which the roles are not clear and there is bad or weak governance. In that case, an ALEO was set up without equipping those involved with the necessary skills to undertake the job properly.

Mary Scanlon (Highlands and Islands) (Con): My first question follows on from Colin Beattie's question about the £1.6 billion that is mentioned in paragraph 26. Will you confirm that that figure was not arrived at through Audit Scotland or the Accounts Commission, but that it came from a report by the Parliament's Welfare Reform Committee?

Douglas Sinclair: I am happy to confirm that.

Mary Scanlon: I want to return to the issue of behaviours and training. Yesterday, the Education and Culture Committee considered the Accounts Commission's report on schools. We looked at various issues, but our main focus was on attainment, which is an incredibly important issue.

I am afraid that I did not bring the report with me, so I cannot quote from it, but as Fraser

McKinlay will know, one of the its conclusions—that councillors rarely challenged officials—is quite surprising. We in this Parliament do not want to tell councillors what to do, but you implied—I would rather use your words than my own—that councillors were not always fully informed about issues relating to attainment and what could be done to reduce the attainment gap. Is that because councillors are being kept in the dark—the phrase "mushroom syndrome" comes to mind—by officials so that they come to the conclusions that the officials want? Is it the case that some officials do not want awkward councillors to ask awkward questions? Am I right in saying that that was in the report? I think that it was put more diplomatically there.

Douglas Sinclair: Democracy needs awkward councillors. In that report, we tried to highlight the fact that although, inevitably, parts of education are covered by the national curriculum for excellence, the delivery of education and accountability for it at local level lie with the councils collectively, and it is important that they undertake that job. Councillors need to get the information and they need to set targets so that, if the attainment of their council is not as good as that of a comparable council, they can decide what to do about that. If they are not getting the information, they are absolutely entitled to ask the officials for it robustly, because that is part of the job of a councillor.

Mary Scanlon: Why did you make those comments? Is it your conclusion that all councillors are not getting sufficient information to make the decisions on pupils' attainment that we want them to make?

Douglas Sinclair: I do not know whether we had sufficient evidence to say that. We set out very clearly that councillors have a key role. The public and parents rely on them to ensure that the local delivery of education is as good as it can be and that they are setting targets and benchmarking the performance of their schools against comparable schools.

We found that, in a fair number of councils—in almost half of them, in fact—the gap between the best performing schools in one area and another is getting bigger. Councils need to be on top of that. They need to ask, "What are we doing about that?" They need to challenge officers to ensure that attainment and performance improve.

10:15

The Convener: I think that, to some extent, a superficial argument often applies when we talk about best attaining schools. I can see from my own constituency that it depends on what your yardstick is. There are many parents in my

constituency who send their children to Gryffe high school, which is one of the best performing schools in Scotland in terms of exam results. Just a few miles along the road, we have Linwood high school, where the exam results are not so good. However, comparing their exam results does not measure the quality or effectiveness of those two schools or of their teaching staff, because there are other factors, such as deprivation, parental support, and the ability and resources of parents to bring in tutors to support their children. There are all sorts of issues at play. It would be dreadful if we said that, because there are schools of high attainment and schools of low attainment in the same area, the schools of low attainment need to look at those of higher attainment, because it is not as easy as that.

Douglas Sinclair: I am not suggesting for one minute that it is easy. The issue is very complex. We found in the report that the councils that had made the most improvement had done four things. They had invested in the quality of leadership in their schools, they had invested in the quality of their teaching staff, they had invested in improving relationships with parents and parental involvement in schools, and they had introduced systems of tracking and monitoring the development and attainment of individual pupils.

It is also right to point out that the report stressed the importance of achievement and the need for indicators of achievement as well as of attainment.

Mary Scanlon: I would like to ask more about behaviours and training. In paragraph 6 of your key messages, you talk about the need for councillors to achieve

"a balance between their council responsibilities and their wider political activities."

I am not pointing a finger at any political party, but you mention Aberdeen City Council in paragraph 74 and, from the little that I know, I am aware that there are issues there. You say that those issues have affected decision making. You also state:

"Behaviour in the council chamber was regularly disrespectful and it had been necessary for councillors to be reminded of the requirements of the councillors' Code of Conduct."

Has that affected good decision making? Is it something that could be remedied, or at least ameliorated, by training? Given the challenges that councils face, it would be a sad day if political tensions were to affect wider decision making.

Douglas Sinclair: I will answer your second point first. The situation can be ameliorated by training, as it is a question of councillors' understanding of the code of conduct, which states that they have a duty

"to maintain and strengthen the public's trust and confidence in the integrity of the Council and its councillors in conducting public business."

That is part of their duty. It is also part of their best value duty that they must honour the trust that is put in them by the electorate through probity and propriety.

We all accept that political tensions and differences are part of the DNA of local government. That is what local government is about. It becomes an issue when those tensions are taken to an extreme, so that the only news that comes out of the council is about squabbles and fighting, not front-line services. It is a question of extremes. If differences are taken to an extreme, the danger is that the council will not demonstrate good governance or good leadership. It is the Accounts Commission's duty to point that out.

Mary Scanlon: I note that that was one of your key messages.

My final question is about something that you said in your opening remarks. You mentioned the financial challenges, which are not new. You also mentioned the ageing population, which is not new, either—I have a lot more grey hair than I had 15 years ago. In addition, you said that cutting staff is not sustainable in the longer term, but are the legal obligations of councils, many of which were introduced by this Parliament, sustainable in the long term?

I give the example of free personal care for the elderly. I know that the situation with the lead agency in Highland is different, but there are difficulties there with providing respite care and home care, for instance. Is there enough of an understanding of the need to balance passing laws in the Parliament that place legal obligations on councils with funding local authorities sufficiently to meet those obligations?

Douglas Sinclair: Those are really issues for Government and COSLA, as the representative of local government. When new bills are introduced, COSLA will make the case that the resource implications are X and that it hopes that the Government will provide X in the settlement to make the proposal work. Local government has to live with the consequences of Government legislation, but I understand the point—

Mary Scanlon: Those are the major challenges.

Douglas Sinclair: They are big, big challenges. Elderly people's needs are by definition more expensive than those of people who are not elderly.

Mary Scanlon: When there is no ring fencing, which we all agree with, the legal obligations and priorities must come first.

Douglas Sinclair: Yes.

Bruce Crawford (Stirling) (SNP): I will ask about maximising resources, reserves and assets and about learning from experience elsewhere. The whole public sector is under significant, on-going and sustained pressure because of the resources situation. Between 2007-08 and 2012-13, resources that were under the Scottish Government's control increased by 6.4 per cent in cash terms and, for local government, the increase was 8.9 per cent. However, different challenges are faced, particularly on the issues to do with the elderly that Mary Scanlon raised, so how we maximise resources for local government is hugely important.

In the context of the sustained pressure on resources, I was surprised to read in paragraph 95 of the report that

"The overall level of reserves increased by £174 million to £1.86 billion".

We all know why reserves exist but, in times of financial challenge, it seems to go against the grain of how we might best use money that reserves should increase rather than do the opposite. That £1.86 billion is a huge amount of money.

Gordon Smail: Absolutely. As I said, we have examined that over the year. The trend has been to increase reserves. The reserves that we are talking about are not the product of accounting; the figure represents cash that is potentially available. It is important to keep it in mind that a relatively small element of that—£312 million across all councils—does not have some intention for the future.

Bruce Crawford: I will come back to that sum, but on you go.

Gordon Smail: We will come back to that.

The commission has taken the right position over the years, which is not to specify how much should be held in reserve but to monitor reserves. The principal point is that reserves policies should be absolutely clear as to why the money is in reserve and what it will be used for.

All councils now have policies, but they are not sufficiently transparent about why they hold reserves and what they will do with reserves. More detail is needed about how reserves have been built up and what the components are. When we use the term "earmarked", we need to know what exactly reserves are earmarked for. After those decisions have been made and made public, we need to know what has changed in the year and why reserves have got smaller or bigger.

This is the first time in the years that we have been monitoring the situation that the amount of

available reserves has fallen—a later exhibit in the report shows that—which suggests that, among all the other components of financial management, such as borrowing, councils are starting to use reserves to support expenditure.

We have talked about training for elected members. Finances must be at the front of the list of matters that councillors need to understand more fully, because councils' finances are complex. However, the point is that reserves can be used only once; they are not for sustaining services year in and year out. There are important points about transparency and accountability in that.

Fraser McKinlay: It is worth saying that councils would probably argue that some money that has been put into reserves is designed to save money in the longer term. They are in a tough period, which will continue to be tough. Some councils expect the next couple of years to be even tougher than recent years. In paragraph 96, we mentioned some things that reserves can be used for, such as change programmes, voluntary early release programmes and other measures that have an up-front cost but will save money later.

As Gordon Smail said, we still think that there can be more transparency about and better reporting and monitoring of all that, but it is not the case that councils are sitting on a big pile of cash. Many are seeking to use that money for something that should release savings, if it works.

Bruce Crawford: It surprises me that some reserves have not already been used to make the changes that need to be made, given the scale of the challenge that is to come. We saw from the Auditor General's report a couple of weeks ago that the projected further reduction in the overall expenditure that is available to Scotland is between £3 billion and £4 billion. I would have thought that reserves were already being used to make the changes that are required to deliver the necessary reshaping. It frustrates me to see that money increasing. I am not getting the sense that we are getting to the bottom of what all that money is about. How can we get there a bit more quickly, to ensure that it is used properly?

Fraser McKinlay: I understand that frustration. There is no doubt that it seems counterintuitive that, as money is going down, reserves are going up. I understand that you might assume that councils would have put money away when they had more money to put away, if you know what I mean. However, I suppose that the financial pressures are beginning to focus people's minds and ensure that they take more difficult decisions about transformation.

We will continue to monitor the situation, and that will form part of our programme development thinking as we try to get further under the skin of what is going on. As you say, we would want to ask serious questions if reserves continued to rise.

Bruce Crawford: I would certainly have liked some of the money to be used on spend-to-save measures earlier. That is the point that I am trying to get at.

There is £312 million in free reserves—what an unusual concept. If that was the case in central Government, the Government would be getting a kicking for not using all its money properly. Why is that free reserve pot there? Why is the money not being allocated to the front line as part of a properly managed process?

Gordon Smail: The sum has gone down a bit from the previous year. It represents a relatively small amount of expenditure—I calculated that it amounts to about six days' expenditure for councils.

The notion of having money available to deal with unforeseen things is prudent. For example, if there was a worse winter than we have had in the past couple of years, money would be available—

Bruce Crawford: That is what the normal reserve pot is for. This is a free reserve.

Gordon Smail: We use the word "free"—

Bruce Crawford: We can call it an unearmarked reserve.

Gordon Smail: Unearmarked—yes. It is better to think of it as a contingency fund, so that money is available for things that might come up, such as issues relating to the weather, flooding and severe winters.

From our point of view as auditors, it is reassuring that there is a level of contingency, without specifying what that might be. It is right that, in the big and complicated business of running a council, money is available for the unforeseen, as part of overall financial planning.

Bruce Crawford: There is £1.86 billion there—

Gordon Smail: Well, there is the £312 million—

Bruce Crawford: I know that there are general fund balances in that.

Fraser McKinlay: The point is well made. It is interesting that, for most members of the public, a reserve is a rainy-day fund for unexpected stuff. There is no doubt that referring to earmarked and unearmarked reserves is a relatively recent phenomenon. That is why the commission has reported regularly about greater transparency and better reporting, because it is an unusual issue for most people to get their heads around and, as you

say, it is important to understand better what that is being used for.

If councils were sitting with just £312 million, most people would understand that that pot of money was being kept just in case. However, as you say, it is on top of another significant sum of money.

10:30

Bruce Crawford: My next question is about maximising resources. We have discussed the increase in indebtedness, but the report also states that councils' assets have increased to £38 billion, as described under "Assets" on page 35. That is a heck of a lot of money sitting in assets. The general question is whether councils are making the best use of their assets. I am not suggesting that we sell off the family silver, but I would have thought that those assets could generate additional income if we got better flexibility in the system.

Gordon Smail: In recent years, the commission has asked Audit Scotland to do various pieces of work on asset management plans. That raises a range of issues and is about not just the money but people and property.

Earlier, we discussed community planning. The Government and COSLA have made statements about using the overall resource in an area better, which in part is about making better use of the buildings that are available, whether that is space that councils have or space that colleges have, for example. Part of the solution is to look, through community planning, at the resources that are available in a geographic area. The point about making better use of what is available for service delivery is certainly well made.

Bruce Crawford: Is it understood across local authorities that they need to manage that resource better and maximise income from it?

Gordon Smail: This morning, we have focused on long-term financial planning. From our point of view, that is about the total resource that is available. We are looking for longer-term planning that considers the use of resources, which include financial resources and the people and assets that are available. In better-run councils or ones that have a better grip of the issue, those strategies are interconnected—for example, the implications for finance of new buildings and assets are considered, as the issues are closely linked. That is where the process works at its best.

Douglas Sinclair: It is fair to say that not all councils are where we want them to be. For example, our report on road maintenance showed that a fair number of councils do not have road asset management plans.

Bruce Crawford: As you will know, I come from a background in which Tayside Contracts has operated for a while. Given the savings and scale of activity that can be achieved, I am astonished that more local authorities have not followed that model.

Convener, I want to move on to a slightly different issue, but perhaps other members want to ask supplementaries.

The Convener: Tavish Scott can come in briefly, before I go back to Bruce Crawford, but we need to curtail the debate, as we have a full agenda.

Tavish Scott: On Bruce Crawford's line of questioning, do all 32 local authorities have a long-term financial plan that takes into account the reserves that Mr Smail has been discussing with Mr Crawford?

Gordon Smail: Absolutely not. The follow-up report on Scotland's public finances that we brought to the committee two weeks ago very much made the point that only a small number of councils look to the longer term, by which we mean more than five years. There is more planning for the medium term of between two and five years, but longer-term planning is not particularly well embedded. That planning could be about how reserves are to be applied or, to connect to an earlier conversation, about the implications of the ageing population and an area's demographic profile.

Tavish Scott: That is a fair point. Do we know how many of the 32 councils have long-term financial plans?

Gordon Smail: The number is small—it is along the lines of five or eight.

Tavish Scott: So that is a challenge.

Gordon Smail: Yes.

Bruce Crawford: I have one more question, which is on learning from others. We know that local government in Scotland is under challenge. Since 2010, local government spending in England has reduced by 14 per cent in real terms, whereas that figure is 3 per cent in Scotland. Councils in England are experiencing a much more extreme challenge than those in Scotland. There must be opportunities to learn from how they are tackling the scale of their difficulty and to apply those approaches here. Is any cross-border discussion going on so that we can understand better how councils in England are dealing with that significant problem?

Douglas Sinclair: The short answer is that not enough is going on.

Bruce Crawford: I thought so.

Douglas Sinclair: A recent Welsh report on public services uses the wonderful phrase, "Good practice is a bad traveller," which is very true. Along with other scrutiny bodies, the commission could do more to highlight examples of good practice, perhaps in a yearly digest. To go back to ALEOs, there are examples in England of ALEOs being used to improve services. We need to capture and share that practice in Scottish local government.

Bruce Crawford: That flips back to the leadership issue. Why are we not getting people to try to find out, even from individual authorities, what the experience is?

Douglas Sinclair: The United Kingdom Government's abolition of the Audit Commission has not helped.

Bruce Crawford: That is a fair point.

Ken Macintosh (Eastwood) (Lab): I return to the increase in net indebtedness, which has gone up from £9.1 billion by 45 per cent—£4.2 billion—over the past nine years. That is almost £500 million being added each year. Is somebody accountable for that rise and monitoring it nationally or is it just the responsibility of individual local authorities?

Gordon Smail: The responsibility is with individual local authorities as part of the prudential code, which includes a series of indicators on financial stability and the like. Councils are required to have a policy that sets out how they will monitor indebtedness and examine what is affordable to them and sustainable in the longer term. However, that is a local decision that is based on the local financial position. That regime has been in place since about 2004.

Ken Macintosh: You said earlier that part of the increase is due to the increased use of PPP and PFI. I am always surprised by how much the Government, which speaks so strongly against PPP and PFI, uses them. How much of the £4.2 billion increase is due to the use of private finance or revenue finance resources?

Gordon Smail: I do not have that information to hand. The report just gave a bit of contextual information. We can supply the information to you if you would find it helpful.

Ken Macintosh: It would be helpful.

We all approve of John Swinney's action to set a 5 per cent cap on revenue-financed capital expenditure. The difficulty with that cap is that it does not include everything; in fact, it specifically excludes local government revenue-financed capital expenditure. Does that concern you at all?

Gordon Smail: We are talking about local government, so we are considering local government borrowing. We are doing some work on the Auditor General's behalf on financial reporting in the round and we are considering the implications for financial reporting of the new taxes that will come into play from April next year. As part of that work, we certainly want to develop consideration of how all aspects of finance are reported, so that there is transparency. We will then consider the cap that has been applied in the central Government context.

Fraser McKinlay: In the context of the report, there are a couple of really interesting things about the indebtedness figure. First, the figure has gone up a lot. There is also something about the complexity of the arrangements, which brings us back to elected members understanding fully what they are signing up to.

Another important thing is the recurring impact on revenue budgets. Do councils fully understand the impact of taking on more borrowing for annual running costs and the extent to which money will be spent on financing the loan rather than delivering front-line services?

That is our specific interest. We will look to understand that more and get under the skin of the issue in the report that we will do for the Accounts Commission towards the end of the year.

Ken Macintosh: Should there be greater scrutiny—"accountability" might be a better word—of the figure at a national level?

Fraser McKinlay: I will let the chair of the commission take that one before I speak on the commission's behalf.

Ken Macintosh: Mr Sinclair ducked earlier questions.

Douglas Sinclair: We are entering dangerous water. Local government is accountable to the people of Scotland.

Ken Macintosh: Indeed, but 80 per cent of the finance comes from central Government. Should there not be accountability for that finance? It is revenue finance.

Douglas Sinclair: Yes. There is accountability through the ballot box.

Ken Macintosh: That leads me on nicely to my next question. The report talks quite a lot about governance and political tensions. There is not much about local democracy. In recent years, the police service and the fire service have been centralised, local courts and local police stations have been closed and colleges have been regionalised. There has been a marked tendency to centralise governance arrangements in Scotland. Does that affect the effectiveness of local democracy?

Douglas Sinclair: Those are not issues for the commission—they are not in its remit. The decisions are for the Government to make. Further down the line, an interesting academic study could be done about the general long-term impact on local democracy, but it is not a subject for the commission.

Ken Macintosh: That is interesting. Governance is something of a concern to you, but the decisions over which local councillors have influence are not a matter for the commission.

Douglas Sinclair: COSLA represented local government interests on the single police force, for example, and it expressed clearly to the Government its view that it was not in favour of a single police force, which led to the debate on the issue. As democratic bodies, councils make their views known—for example, I think that all councils made representations on the closure of local courts. That is how democracy operates in Scotland.

Fraser McKinlay: On a more practical level, it will be interesting to see how the community planning process plays out. If we leave aside the voluntary sector and private sector interests in community planning partnerships, the councils are the only local public sector bodies—colleges are regional and the police, the fire service, Scottish Enterprise and Highlands and Islands Enterprise are all national and regional bodies. We will be interested in how some of the tensions between local and national priorities play out.

Colin Keir (Edinburgh Western) (SNP): One thing that I can remember knocking around in my days as a councillor is the issue of equal pay and the pressures arising from that. You point out in paragraphs 17 to 19 of the overview report that there are still pressures in that regard and that there is a review. Are some councils handling the issue of equal pay better than others? Are we any distance further forward? The issue has been going on for years. Obviously, the longer it goes on, the more pressure there will be on local authority funding. A significant number of settlements do not appear to have been dealt with yet. Paragraph 18 refers to

"unquantified workforce resources and associated costs".

How far down the road are we towards seeing a page in a future report saying that all the resource issues have been dealt with?

Douglas Sinclair: I wish that I could give you an assurance on that. It is worth pointing out that equal pay is not just an issue for local government, because it is also an issue for the NHS and, prospectively, for ALEOs. You are right that significant sums are involved. The Audit Commission is having discussions with the controller of audit on what work we might do that would add value. There are two potential areas, one of which is to look at the extent to which councils undertook a proper risk assessment in considering equal pay claims. For example, as Mr Keir alluded to, there is the impact on human resources staff, who spend a huge amount of time dealing with the equal pay issue rather than with wider HR strategies in the council.

Secondly, there is an important relationship or balance between the huge amount of money that is being used up in settling equal pay claims and value for money. There is a trade-off between making those payments and modernising conditions of service in local government and reducing costs there. I do not know whether there would be a benefit to the public and, indeed, to councils in undertaking a study of those issues.

Colin Keir: Okay. In the interests of time, I will leave it at that.

The Convener: Willie Coffey has a question. Is it brief, Mr Coffey?

Willie Coffey: I have a couple of brief questions.

The Convener: No. You can have one brief question, then I will move on.

Willie Coffey: All right. I have a question for Mr Sinclair about the role of councillors. You said in your presentation that we are placing more and more demands on our councillors. Having been one for a number of years, I sympathise with that view. I foresee the demands that are placed on our local councillors going through the roof. Not only do they do more work but, with the multimember system, they serve bigger communities. You have opened up a discussion about job descriptions. Do you see that leading us naturally to a discussion about remuneration and time off?

I do not think that councillors get enough time off to carry out their public duties, which partly explains why the profile of the local councillor has not really changed. It is older people who are retired, or people who work part-time as a councillor and do a full-time job somewhere else. Do you see any discussions beginning to seriously address that?

10:45

Douglas Sinclair: The issues that you raise are not new. They are valid points that have been around for a long time. If you are having a debate about job descriptions, training and attracting a wider range of talent to serve on councils, time off from employment and remuneration have to be part of the mix.

The Convener: I thank the witnesses for contributing to a very full discussion. I suspect that the issue will become bigger across Scottish public life as the impact of financial restraint kicks in. Thank you for your individual contributions and for the work that Audit Scotland and the Accounts Commission have done.

Section 23 Report

"Self-directed support"

10:46

The Convener: As members have indicated that they do not want to take a break just now, we will just press on.

We have a section 23 report on self-directed support. We have with us Caroline Gardner, the Auditor General for Scotland, who is accompanied by Fraser McKinlay, director and controller of audit, Claire Sweeney and Cathy MacGregor.

Welcome, Auditor General. Would you like to make an opening statement?

Caroline Gardner (Auditor General for Scotland): The report that we bring to the committee today looks at progress with implementation of a policy called self-directed support.

Self-directed support is a major change to the way in which people who have social care needs are supported in Scotland. It affects vital services that help people who have care needs, such as older people and people who have disabilities, to live their lives as fully as they can. To make the new policy work, people who need support will work as equal partners with professionals to plan their care, which might be delivered through different or innovative services or services that are more tailored to their individual and specific needs.

The Scottish Government and COSLA launched a 10-year strategy for self-directed support in 2010. The Social Care (Self-directed Support) (Scotland) Act 2013 was developed as part of that strategy. The act places a duty on councils from April this year to offer people who are newly assessed as needing social care a wider range of options for choosing and controlling their support. People who were already receiving social care before April this year will be offered those options the next time their needs are reviewed, but people who are newly assessed as needing care are now entitled to access the new way of planning and managing their support. The Scottish Government has allocated £42.2 million to help councils to prepare for self-directed support, and the intention is that it will reshape the way in which the annual total of £2.8 billion is spent on those services by councils across Scotland.

The report that is before the committee assesses readiness for the act together with progress in implementing the self-directed support strategy three years on. Implementation is at a relatively early stage and the report is intended to examine progress and help with implementation

during the next few years. The report identifies risks, highlights examples of good practice and makes a series of recommendations for the Scottish Government and councils. The report is also relevant to the new integrated health and social care partnerships. NHS boards and councils need to be clear about the implications of self-directed support before they put their new partnership arrangements in place locally.

The report highlights that there is still a lot of work to do. Progress among councils varies. Some will have to move more quickly during the next few years to put in place the required cultural and practical changes. To do that, councils will need continuing support from the Scottish Government along with effective leadership from senior managers and councillors.

We found that councils have adopted different methods for allocating what they spend on social care support to people who have care needs. Exhibit 6 on page 33 of the report summarises each model, together with the risks and advantages of each. Councils also need to consider a series of broader financial risks as they implement self-directed support and the new ways of allocating money that it brings. Exhibit 7 on pages 36 and 37 provides more details. Councils need to manage those risks carefully so that they are managing their budgets well and ensuring that they do not unnecessarily limit people's choice and control over the support that they receive.

Social care professionals have welcomed the self-directed support policy because it has the potential to improve the quality of people's lives. Self-directed support will work best if a range of services and support is available locally so that people can choose the support that they receive. We highlight in the report that councils now need to work more closely with people who need support, and with their carers, providers and local communities, to develop those choices.

The report makes a number of recommendations to improve the implementation of self-directed support over the next few years as it comes fully into effect. We recommend that the Scottish Government should have a strategy to measure and report on progress and be able to demonstrate the effect that the policy is having on the lives of people with care needs. The Government should also continue to co-ordinate guidance and information to help councils with challenging areas and issues that they need to deal with as self-directed support is rolled out.

The report also highlights issues for councils and NHS boards to consider as they establish their new partnership arrangements for health and social care under the Public Bodies (Joint Working) (Scotland) Act 2014, which comes into effect this year.

As always, my colleagues and I are happy to answer questions.

The Convener: Does Willie Coffey want to come in? I am aware that he was curtailed earlier.

Willie Coffey: Thanks, convener.

On the transitional funding of £42 million, is it still too early to indicate whether gains have been made? I know that quite a lot of the money has been allocated to providing the transition framework and so on to effect the changes, but how soon can we expect to see savings?

Caroline Gardner: The £42 million runs over a four-year period that ends this year, in 2014-15, so in many ways it is not too soon to say what it has been spent on. We know that, for example, every council has used at least some of the money that it has received to put in place a co-ordinator for self-directed support. Most of the money for councils has been put into new staff and staff training to develop SDS.

What we do not know is the difference that that £42 million makes to the lives of people with care needs. That is why the recommendation about moving on from the seven success factors that the Government has identified for the policy, which are good and clear, to the measures that it will use to demonstrate the impact on people's lives is so important. That is what the policy is all about. It is about reshaping the way in which the £2.8 billion is managed and spent in future, rather than the way in which the £42 million is used to influence that. That is the bigger issue.

Willie Coffey: When might we see evidence of that gain? Will it be next year, or the year after?

Caroline Gardner: The Government is currently producing the measures that are intended to underpin the seven success factors that we set out in the report. I think that it is committed to starting to publish that information this year, so we will start to get the information. I expect that it will take a while for it to show the difference that is being made. Claire Sweeney may want to add to that.

Claire Sweeney (Audit Scotland): The self-directed support options will be fully offered to people who are coming up for assessment. We heard from our case study councils that it will take a little while to get everybody through that system as their care needs are reassessed. It will take time for that to be offered to everybody with particular care needs in Scotland.

Willie Coffey: My second question is on risk assessment. Auditor General, your reports are always full of good recommendations for local authorities or whoever. At the back of the report, there is extensive advice on things such as risk assessment, risk planning and mitigation. Are the risk assessments that you produce shared and

commonly held by the authorities to which you are delivering the message? You always talk about the need to plan and be aware of risk. Do you find that the commentary at the back of a report such as this is shared by the authorities that are charged with implementing the processes?

Caroline Gardner: As always, the situation varies. We do not rely just on what is in the report. For most of our reports, we now also produce things such as checklists for elected members or NHS board members of the questions that they should ask in carrying out the role that you talked about with Douglas Sinclair earlier. We know from the follow-up work that our auditors do that some health boards and councils are great at picking those up and working through the implications, whereas others perhaps do not give it as much attention. One thing that we are focusing on as we think about our new strategy for public audit is how we can help to make a difference on that in future.

Ken Macintosh: The report makes a number of comments about the fact that moving to SDS is not about providing services more cheaply, but it is happening at a time of falling budgets. Paragraph 11 of the report points out that

"council spending on social care services decreased by five per cent in real terms, from £2.97 billion to £2.84 billion".

That was in just a few years. Have you been able to assess whether that is a concern that users and clients have about the move to SDS? Is that situation creating anxiety? Is it colouring their perception of the change to SDS?

Caroline Gardner: I will ask Claire Sweeney to come in shortly and give you a bit more colour on that, but it is clearly one of the risks. The consensus among everybody involved is that, in principle, this is a great policy. Giving people who need care more choice and more say in the sort of support that they need and where it comes from can only be a good thing in helping them to live lives that are as near to what we all expect as possible, but doing that is tougher when money is tight and likely to continue to be so.

One thing that we think is key is the way in which councils and their partners in the NHS talk to the people who are directly affected, to the third sector and private organisations that are involved in delivering care services and to communities more widely about what the policy is about and involve them in shaping it. The report gives some examples of where that has been done really well and where it has been done less well, at least initially.

The suspicions that you describe have really picked up and, in some cases, have overshadowed the potential of the policy. That is not to say that the financial challenges are not real—they are and they will continue to be so,

because of the financial constraints that we expect for the foreseeable future and the growing number of older people, in particular, who need care. Involving people, at individual level and at community level, so that they can understand SDS and help to shape it is key.

I ask Claire Sweeney whether she wants to add to my comments.

Claire Sweeney: There are two aspects. There has to be a conversation with the local community about the services that they want and that need to be in place locally, but what also came through strongly when we carried out the work and talked to people who are involved in delivering front-line services is that there is a real passion for the increased focus on the quality of the conversation with the individual about their needs.

The report highlights that there are different points during that process when the money might be talked about. We saw that happening very differently across Scotland in the case study areas. In some areas, the money is not discussed until much later in the conversation about people's needs and in others it happens much earlier. As we have said, it is about what comes first and it is about the focus. The principle of the policy is about putting the focus on assessing people's needs and working out how best to meet those needs in ways that suit the person. There is a lot of enthusiasm about the policy's potential among people who are involved in delivering services and among people who receive them.

Ken Macintosh: Another issue that you raise is about monitoring the success of the policy. In paragraph 36 onwards and in exhibit 4, the report refers to the measures of success. However, from what I see, at national level we do not seem to be measuring the percentage take-up of SDS or any milestones related to the percentage take-up along the way over the 10-year journey. Is that right?

Caroline Gardner: We say in paragraph 38 that the Scottish Government is putting in place some measures that will let it assess progress against what are probably better called success factors, which are set out in exhibit 4. That work is under way, and the Scottish Government intends to publish that information from 2014 onwards.

Our recommendation makes the same point: the right success factor has to be that the policy delivers a better quality of life for individuals. However, how that is measured needs careful thought. More work, which is not yet complete, is required to demonstrate that the policy is doing that in ways that are manageable within the available resources and that are leading to new and more flexible services that better meet

people's needs. We think that that is key and we are told that the work is under way this year.

Ken Macintosh: Paragraph 18 indicates that the number of people who have taken up direct payments is very small. Are you surprised by how small it is?

11:00

Caroline Gardner: In some ways, I am surprised. It is important that we distinguish between direct payments and the wider objectives of the self-directed support policy. Given that direct payments have been in place for more than 10 years—they have been around for a long time—it is surprising that, as we say in the report, only 5,400 people received such payments in 2012-13. That is less than 5 per cent of the people who receive social care and accounts for only about 2 per cent of the money that is spent on social care, so it is a very small proportion.

We say in the report that figures are not available on people who receive what we describe as option 2, under which people have much more flexibility about the services that they receive to meet their needs but the council continues to manage the budget. There is no indication of the number of people who use that option. That is another important measure for understanding how well the policy is being rolled out and starting to understand its effect on people's lives.

It is true that the self-directed support policy is a recognition that direct payments probably are not having the intended impact. The policy provides more flexibility in how money is used and gives people the option to have flexibility without taking the whole responsibility for managing a budget if they do not want to do that.

Ken Macintosh: We do not know how many people have been asked whether they want to move to SDS, but we know that only 5 per cent are on direct payments. Do we know how many people have been taken through the process and declined direct payments but gone for council provision of services?

Caroline Gardner: We do not know that in relation to direct payments. Offering self-directed support became a requirement for people who are newly assessed as requiring care only from April this year. The big unknown is the number of people who might have been in the category that you describe and the number who are entirely new to sitting down with a professional and talking through what they want their lives to look like and the care support that would help them to achieve that.

Claire Sweeney: We looked at self-directed support early so that we could look at readiness for the 2013 act's implications. When we carried out the work, we saw that arrangements are in place. Councils should be in a position to offer self-directed support to newly assessed people, in line with the act.

The bigger issue is the wholesale cultural change to deliver services differently. That involves different ways of working with people to assess their needs and think about options that have not been tried before. We saw good examples of innovative practice, but the cultural change will make the approach a success, which will take time.

Ken Macintosh: Do you wish to see milestones? New applicants are being offered SDS, but do you expect the Government to set a number of existing service users who should be offered SDS?

Caroline Gardner: The agreement between the Government and COSLA says that self-directed support is a long-term policy and that the 10 years from 2010 to 2020 are the window for embedding it fully with the cultural changes that Claire Sweeney talked about. When we did the audit work, the councils that we talked to pretty uniformly said that they expect to get through people who receive care in the more traditional way and give them the choice of the newer way— self-directed support—within the next three or four years.

It might help to make that expectation clearer, if that is agreed between COSLA and the Government. There will be challenges, because of the potential knock-on effect on existing services and the need to manage budgets in ways that are not fully understood at this stage, because they depend on people's preferences and needs.

Mary Scanlon: One of my questions has been answered in the responses to Ken Macintosh. The point is that self-directed support is not new; it was part of the Regulation of Care (Scotland) Act 2001, and regulations on direct payments were made in 2003. The approach is 11 years old and we are now four years into a 10-year strategy.

My experience is that anyone who has applied for direct payments in the past 11 years has done so mainly because they were dissatisfied with council services. That was not a positive move; it was done because people did not get the home care time that accorded with their assessment. That also led to accusations that councils wanted to retain their monopoly on provision.

The report says that, of the 152,000 people who receive social care services, 5,400 receive direct payments. Why do only 3 per cent of people control their home care? The first paragraph on page 5 says:

"SDS is based on ... fairness, respect, equality, dignity and autonomy for all."

Every party supports that, but when I look at exhibit 7, I understand why things are difficult for local councils. Obviously, if they employ home care staff, they want to ensure that those staff have the hours of work; they do not want to make them redundant. I note that councils need to address a number of significant financial risks in implementing self-directed support.

After 11 years of legislation, why are only 3 per cent of people in control of their own home care and support? You have outlined on two pages of the report the financial risks that councils face. Do you think that your report and the financial risks will probably not lead to a significant increase in that number? Will they be an obstacle to more people taking up self-directed support over the next six years of the strategy?

Caroline Gardner: I will deal with the first question and then ask colleagues to pick up the second one.

You are absolutely right: direct payments are not new at all. They have been around for more than 10 years, and take-up has been low. I think that that is because the direct payments policy was really about social work services saying, "We'll carry on providing services as we have always done, but if you would like to take your share of the money, you can spend it as you will." What is different about self-directed support is that the starting point for all that social care should be the needs and preferences of the individual, which puts them in the driving seat. Rather than being an opt-out, as I think you rightly described it, from the mainstream services, self-directed support turns that on its head and puts the person who needs care in the driving seat. It does not say to everybody, "You must take a budget and manage it," although that is one available option. The second option is to say, "We'll assess the budget and manage it on your behalf in conversation with you, or you can carry on as before and tap into the traditional services that we have offered, if that suits you."

My expectation is that the approach will lead to much greater take-up, because it changes the starting point and works along from there. That must be a good thing: it gives people more choice and reflects the fact that we are all different and that different things matter to us. However, as you rightly said, it brings real challenges and risks that councils need to manage to be able to protect individuals and keep their services and budgets sustainable.

I ask Fraser McKinlay to pick up the second question and colleagues to chip in, if that would help.

Fraser McKinlay: To emphasise Caroline Gardner's point, we tried to set out the self-directed support process in exhibit 1. It took me a while to get my head around the fact that it is not really a choice of taking self-directed support or not. Self-directed support is a completely different way of providing services. In a sense, the top line of the graphic in exhibit 1 is almost the more important bit of the process. That is where the really significant cultural change comes in. As was said, most of the different ways of delivering, shown in the bottom line of the graphic, are kind of in place, with the exception of option 2, which is a bit newer. The really big change is the whole process of discussion and starting with the user.

In that context, as Mary Scanlon rightly pointed out, we have tried in exhibit 7 to point out some of the things that councils and others need to think about when delivering SDS. However, the starting point must be the needs of the service user; everything follows from that. The important thing is the pretty fundamental mindset shift.

Mary Scanlon: I cannot remember the 2001 act, but I seem to remember that either the council had a duty to provide or individuals had a right to ask. I cannot quite remember the balance, but I appreciate that things have gone further. A lot of work went into direct payments, and 11 years later, we have a figure of 3 per cent take-up, which is pretty disappointing.

My final question is about one of your key recommendations. The report says:

"The Scottish Government should ... engage and maintain contact with COSLA"

and

"the Association of Directors of Social Work"

to co-ordinate guidance and information to support self-directed services. The Government should also have

"a strategy to measure and report".

Why is that a recommendation? Would we not expect the Government to do that anyway?

Caroline Gardner: We would. The committee has focused in the past on strategies for measuring policies not always being robust enough to demonstrate that the policies are having the intended impact on people's lives. That is almost always because that is difficult to do. For a policy as fundamental as this one, however, which can have such a significant effect on the lives of vulnerable people in society, we think it key that the Government moves beyond the general and laudable success factors on to how it will be possible for it to demonstrate that the policy is giving people much more choice over services and having an effect on their ability to live the lives that we would all hope to live.

Tavish Scott: I will pick up the Accounts Commission's earlier evidence about leadership and the understandable points that Douglas Sinclair made about the corporate responsibilities of senior elected members and senior council officials. If I read paragraph 26 right, it says that, over the past couple of years, only nine out of 32 councils are providing detailed updates to their elected members through committee papers. Is that not a damning indictment of exactly what Douglas Sinclair was talking about?

Caroline Gardner: For a policy that is this fundamental to the provision of social care and how it is thought about, we would expect, at all councils, officers to be engaged fully with councillors about how the service is being planned and delivered locally, the progress that is being made with that and the results that the service is having.

We say in the report that there is a lot for councils to do in general. It is also the case that some are doing better than others. This is a great example of a policy where you would expect a continuing discussion between members and officers.

Tavish Scott: Absolutely. In a year's time, will the other 23 councils that do not provide information to their elected members do so? What will make them do that?

Caroline Gardner: This report is a contribution to that. The local auditors that the commission appoints to all 32 councils will be keeping an eye on the situation because of the policy's impact on people's lives and the financial risks that it brings.

Fraser McKinlay: I agree. As Claire Sweeney said, we are looking at the matter relatively early on in the formal implementation of the policy and, therefore, without pre-judging any decisions that the Auditor General and the commission might want to make, it would be surprising if we did not want to return to the issue at some point in the next few years.

Tavish Scott: As Mary Scanlon rightly said, we are four years into a 10-year strategy, but 23 councils are not considering the matter regularly.

Fraser McKinlay: Indeed.

Tavish Scott: There is something way wrong there, is there not?

Fraser McKinlay: As you say, given the fundamental nature of the change, we would expect the situation to be better than that for sure.

Tavish Scott: On that same point, is it not the case that one issue that councillors are getting a lot of information on, both from their council and the NHS, is the integration of social care. Does that not rank higher than self-directed support in the context of priorities that elected members must deal with?

Fraser McKinlay: I am not in a position to say whether that matter ranks higher. I guess that the integration of social care is a more immediate and obvious issue for councillors to grapple with. There is a decision for them to make about what model of health and social care integration they want. Once they have agreed on a governance model, we would want to see them very quickly get into what that means in the context of polices such as self-directed support, how that will work and what the opportunities are to make that better.

In an ideal world, you would hope that the conversation might have been the other way around and that councils would be thinking about the implications of self-directed support as they were making the decision on the model. We have not done the work to comment on the extent to which that has happened or not, but there is a very close connection between those two issues and we will be keeping a very close eye on how the different models of health and social care integration are impacting on councils' ability to deliver the new policy change.

Caroline Gardner: I agree. It is not possible to separate out the integration of health and social care and self-directed support. The way that you do one will affect the way that you do the other. We highlight in the report questions about the way in which people may have more choice over how their health support is planned and funded to give them a pot or a package of care that hangs together. I would not prioritise one as more important than the other. Self-directed support is not quite as wide-reaching initially as the integration of health and social care, but the two issues should be being discussed together.

Tavish Scott: To make sure that the situation changes over the next year, there might be some point to the committee asking COSLA how widely this is being dealt with at council level. Based on paragraph 26 of your report, there is an awful lot more to do quickly to ensure that senior elected members know what is going on. Would that be fair?

Caroline Gardner: Keeping oversight of what is happening locally and looking at how the different integration models are working, including the opportunities that they throw up and the problems that they may entail, would be well worth while.

11:15

Colin Beattie: In paragraph 2, on page 7, you say:

"Councils have adopted different methods of allocating the money".

That raises the thought that someone moving from one council area to another might receive a very different service. Is that the point that is being made there?

Caroline Gardner: That is not our primary point, although it is a risk and I will ask the team to come in on that in a moment. The point that we are making refers to the different methods for allocating budgets to individuals that we have set out in exhibit 6, on page 33 of the report. We have seen two mainstream approaches in the work. One is a points-based system that assesses someone's needs and assigns them a score depending on the intensity of those needs, which translates into a budget that can be used to buy different forms of care and support to reflect the person's choices. The other approach assesses someone's needs and allocates a budget that is aligned to what the traditional services would have looked like.

In terms of fairness and equity and managing the risk on the overall budget, both approaches have pros and cons, which we have tried to set out in the report. The approaches need to be flexible enough to respond to the growing number of people who are likely to need social care and to changes in the form of services that may well be needed, as people choose new forms of care and move away from some of the traditional things, such as day centres, that often have been the focus of social care in the past.

We were focusing on that, rather than the risks of people moving between areas, although that also needs to be considered.

Colin Beattie: Are there methods other than the two that you referred to?

Caroline Gardner: We found one more, which is also in exhibit 6, in Perth and Kinross Council.

Claire Sweeney: That is right. Perth and Kinross's solution-led model, which we mentioned in exhibit 6, is slightly different from the other models that the Auditor General described. It is more of a bottom-up approach, in which the conversation with the person about their need comes first and the discussion about the resources needed to fit around their package of care, in its broader sense, comes much later in the conversation. The focus is on building it up from the bottom: thinking about what is needed, then thinking about the finances as you go through the process.

The advantage of having that conversation and being aware of the options and what some of the affordability issues might be is that it puts a lot of trust in front-line social work. One of the risks, which we highlight in the report, is that the approach needs really good financial controls. An example in the report says a bit more about what

is happening in Perth and Kinross. In the early stages of the move to this approach we saw weekly financial management meetings and constant discussions between social workers and finance teams, to keep a very close eye on the implications for resources of giving front-line social workers much more responsibility for having those discussions with individuals.

In essence, the self-directed support policy is trying to achieve a close connection with regard to building a very individualised package of support and care services for a person, but there are risks around that. We only saw that happening in Perth and Kinross. We did not see that elsewhere in Scotland.

Colin Beattie: Given the different systems, are you satisfied that they are adequately transparent? Can people see how the allocations are made? I think that that is very important.

Claire Sweeney: One of the issues that we tried to draw out in the report is the need for clarity about that discussion.

Colin Beattie: So it is not there now.

Claire Sweeney: In a sense, self-directed support brings that, because it is about an individualised package and more clarity on the care that someone could get, what the options are and how much that might cost to provide.

Colin Beattie: How the package is put together surely is the critical thing. The transparency of that process is very important for confidence.

Claire Sweeney: Absolutely. As self-directed support is rolled out more broadly across Scotland, we would certainly see that that would start to become an advantage of the policy. It is not happening for everybody yet, but that should happen as part of the discussions that people have about their care.

Colin Beattie: Paragraph 18 on page 12 says that

"five per cent of eligible social care users"

use direct payments, but that

"Direct payments accounted for ... 2.4 per cent of councils' social care spending".

That would imply to me—tell me if I am wrong—that those who have taken up direct payments are perhaps those with less profound needs than others, because they are absorbing far less than their proportionate share of the budget.

Caroline Gardner: That is our assumption, but we do not know whether it is the case given the information that is—or is not—available at present. It will have clear implications in the next three to four years as self-directed support is rolled out to everyone who gets social care.

As the needs of each person—both new users and those already in the system—are assessed, ensuring that there is an understanding of their relative needs and of the impact on the overall budget and the overall shape of services, is a key part of the roll-out. That is why we have focused on the importance of being clear about people's needs and managing the risks in ways that mean that the budget will not be bust and that people are treated fairly over time.

Colin Beattie: Have councils produced any projections for the take-up?

Claire Sweeney: We saw the issue of take-up as a risk when we carried out our work. We saw that some areas were slightly slower off the mark, and one issue was uncertainty about which options people might choose. The move to self-directed support is a big change, and there was a lack of clarity in those areas about how many people would opt for the services that they were getting anyway and how many would choose something different. We saw that a lot of work was going in to support front-line social work staff to have those conversations with people.

There are a number of examples in the report, which we have not yet mentioned, that try to bring to life what self-directed support will look like for people who need care and support services. We found, when we talked to staff who are involved on the front line, that seeing those examples and sharing them, even with elected members, brought the issues to life and gave people a much better understanding of what is possible and achievable with self-directed support. That will take time to spread.

Cathy MacGregor (Audit Scotland): We heard from our case study councils that they do not necessarily expect people to make a single decision and then stick with it. Self-directed support may snowball or grow as people realise what is possible with some of the options. It is quite hard to make predictions when people might come back and change their mind, and try something different or learn from other people whom they know.

Colin Beattie: It is early days, and we just have to wait and see how things develop.

Bruce Crawford: It is an interesting time, so soon after the 2013 act has been passed, to look into self-directed support. As a parliamentarian, I find Audit Scotland's work on the subject incredibly valuable. You have given us a good starting point and a foundation so that, when we come back to look at the issue again, we will know where we are coming from.

The focus so far has been on what the councils are doing, but I want to flip back to what the Government is doing. It is clear that, in relation to option 2 in exhibit 1, which you describe as

"ask others to arrange my chosen support",

there are issues for councils about the guidance on delivery that they receive. At paragraph 31, you describe the risk that some councils

"will interpret the rules and regulations so cautiously that they may limit the choice and control people have over their own support."

If we are to move on from the low starting point of 3 per cent, which is why the 2013 act exists, the guidance will be an important area to consider.

You are asking the Government to develop the guidance. Can you give us a flavour of what you think it might look like, to help the Government to push it forward a little?

Caroline Gardner: The Government has done a good job in consulting and involving the people who are affected by the change in developing its guidance. The effect of that work was that the guidance came out a bit later than some people might have liked, but our sense is that it is robust and has been well worked through because of the time that has been taken on it. The £42 million of transitional funding has been targeted well to councils and to the third and voluntary sector and carers to help them to understand what the change means for them and to enable them to engage with the process.

Nevertheless, we expect that some areas will be particularly tricky either for individual councils or for all of them. We spoke just now with Colin Beattie about the potential implications of the different ways of allocating resources. Some people will do that very well, and there will be opportunities to spread good practice among councils, as the committee discussed earlier with Douglas Sinclair. However, councils will struggle with the change either because they have particular challenges in their areas or because they have not tapped into the networks of support and expertise that may exist elsewhere. Their role, first of all, is simply to monitor progress and to identify where there might be room to spread expertise and experience.

There may also be areas in which the guidance itself needs to be refined, tightened or refreshed as the policy is rolled out and people find new and better ways of delivering self-directed support. Cathy MacGregor or Claire Sweeney may wish to highlight specific areas.

Cathy MacGregor: Because option 2 is so new, it is expected that, as councils learn, they will share their experience and the guidance will get better. It will be an evolutionary process.

The issues that our case-study councils raised with us concerned practical and contractual

matters such as the relationships with providers that manage or administer somebody's budget on their behalf. That may involve not simply providing services and taking money out of the budget, but using the budget to buy services from other providers. Various complex relationships are involved in that process and councils retain responsibility for ensuring that people get the right care and that good use is made of public money, so they need to keep an eye on how the process works and ensure that it works properly.

Until some of those things are tried, it is hard for the Government to set out clear guidance for councils without possibly precluding some of the options that people have not yet thought about.

Bruce Crawford: How soon does the Government need to produce the guidance to allow things to move on?

Caroline Gardner: It is likely to be a continuing process. As Cathy MacGregor said, people are developing their processes in different ways in response to different local circumstances. That is a good thing, but councils need to keep a close eye on that and look for particular good examples that should be spread or particular problems that were not foreseen. It is important that councils are flexible and responsive in that regard.

Bruce Crawford: I get that. You are saying that the change needs to bed in, to allow a bit more time to see where councils are developing best practice. The Government can then use that information to provide guidance to help other councils to get to where they need to be.

Claire Sweeney: We tried to draw out points from what we saw. A lot of effort was going into having a community and sharing good practice, and there was a real emphasis on partnership working between the Scottish Government, local authorities, the voluntary and private sectors and the people who need care and support in thinking about what was possible under self-directed support and where that might go in the future. It was a good, strong partnership arrangement. Some areas felt that guidance was coming out too late for them, but it was sent out in draft form and there was real consultation on what the implications might be, which we saw as a good thing.

Colin Keir: I have a couple of questions. First, in the second paragraph of case study 6 on page 24, you state:

"There have been some tensions between the council and providers, who feel they were not fully involved in developing the strategy."

I would like to know a wee bit more about the problems that were found in that case and whether there have been similar instances in other councils around the country.

Caroline Gardner: I will kick off and will ask colleagues to address the specifics of Edinburgh in a moment.

In a sense, it is not surprising that those tensions would arise. Councils are required to work with a range of private and voluntary sector providers, as well as with their own in-house services, to discuss changes that might be quite far-reaching in terms of the type of services that are needed and the way in which they are provided.

In order to do that, councils not only have to build a partnership, as Claire Sweeney mentioned, but must recognise that some of those service providers will be competing with each other in due course. The fact that the tensions are not unexpected places a premium on managing them well and being clear about what is and is not up for discussion. Claire Sweeney or Cathy MacGregor can address the specifics of case study 6.

Cathy MacGregor: In that case study, the council had developed a draft strategy and then shared it widely with providers. There was a lot of consultation at that point, but it was felt that the strategy document had not been developed in partnership. Nevertheless, that was a consultation draft, and the engagement began from there. In case study 6 on page 24, we say that providers reported to us that they felt that they had not had a say. However, it is an iterative process and the final strategy is expected to take on board some of the comments that providers have raised since the draft strategy was issued.

Colin Keir: At the back of my mind, I thought that the council was saying, "This is the service that we want," and that the provider was saying, "Well, there is actually a better way of doing that." That is my assumption about where the problem started. Is my assumption wrong?

Cathy MacGregor: That may have been the feeling in the early stages of development, but the providers have reported to us that they now feel much more involved and that the council is trying hard to involve them, listen to them and take on board some of the new things that they are bringing to the table. It is a relatively positive example that we have included in the report.

11:30

Colin Keir: In paragraph 53, you talk about councils needing to develop strategies for their areas. The last sentence of that paragraph caught my attention. It states:

"The risk is also greater for specialised types of services that relatively few people need, such as care for people with Huntington's Disease, neurological illnesses or acquired brain injuries."

Obviously, that is a sensitive area as well. We cannot have people falling through the gaps. How are councils across the country approaching such problems? Has that problem not been identified apart from in your report, or has it been identified and are actions being taken to close those gaps?

Claire Sweeney: Our case-study examples include some good examples of practices in remote and rural communities where, historically, some of the options have not been available. There are some quite innovative ways of thinking about how best to meet the needs of local communities, and we identify in the report some examples of working with business and social enterprise communities to develop things that have not existed before.

In essence, your question is about planning and commissioning arrangements, which we have definitely highlighted in previous reports on commissioning social care and care for older people, and I am sure that the issue will come up again in relation to the new partnership arrangements between health and social care services. There is a need for local authorities, health boards and the voluntary and private sectors to work together with people who need support in order to ensure that people get the support that they need and nobody falls through the gaps, that there is clarity and that everybody has access to the services that they require.

Colin Keir: When people reach the point at which they have to decide on the way forward—whether they want self-directed support in the purest sense or to stay with the local authority—do the local authorities have the arrangements in place to signpost people to the options that are available to those with their own particular difficulties?

Claire Sweeney: The stage that self-directed support had reached when we wrote the report meant that we saw those signposting arrangements in some places but not in all areas of Scotland. It is a big focus in the implementation of self-directed support. It has been acknowledged that, for groups of people who are less familiar with a personalised service—for example, there has traditionally been less take-up of some of those options among older people—there is a job to be done in ensuring that they are clear about the options that are available to them and that they are able to play a full part in the open conversation about the options that they might want to pursue in the future.

Highlighting what self-directed support means in practice has been a learning process throughout the system—for the people who need to access support, for their carers, for the people who provide the support and for local authorities. It is a journey that they are still on, and there has been a lot of focus and attention on the need to improve the information that people receive about what is possible.

Colin Keir: That takes us back to one of the first questions that we asked: do people understand what self-directed support is?

The Convener: I thank the Auditor General and her staff for their input to the meeting on the issue.

Section 22 Report

"The 2012/13 audit of North Glasgow College"

11:33

The Convener: Item 4 is a section 22 report entitled "The 2012/13 audit of North Glasgow College". Committee members have written submissions from Glasgow Kelvin College and from the Auditor General regarding the report. Do members have any comments on either of those submissions?

Mary Scanlon: I was surprised to learn that we must wait another three months for Glasgow Kelvin College to complete the task of looking at the remuneration committee of the college board. The college's submission also makes a point of restating

"the commitment of Glasgow Kelvin College to the highest standards of corporate governance".

If the college is adhering to the highest standards of corporate governance, why must we wait three months for a report? All that we want is an audit trail and a minute of what happened. It seems an awfully long time to wait, given that we wrote to the college in May.

The Convener: One of the issues is the fact that we have a new college looking back at the actions of a predecessor college. There is, therefore, not necessarily complete continuity. The question should be whether the college will investigate the issues thoroughly. Whether we get a thorough report will influence what we decide to do.

Do any other members have any comments to make on the submissions from Glasgow Kelvin College or from the Auditor General, who has given us the names of the members of the remuneration committee?

Tavish Scott: When exactly will the issue come back to the committee? That might be an unfair question. Is it going to be October?

The Convener: It could be. It depends on when we get the response from the college. Members will be aware that we have a strange timetable for the next three to four months. It could well be after the October recess.

Do we agree to note the submissions in the meantime?

Members *indicated agreement.*

Public Audit Committee Report

"Scotland's colleges 2013"

11:36

The Convener: Item 5 concerns a section 23 report entitled "Scotland's colleges 2013". Members have a written submission from the Scottish Government on the report. Are there any comments on the response from the Scottish Government?

The AGS will produce the next annual report on Scotland's colleges in February 2015, so I think that we can agree to return to the issue at that time.

Do we agree simply to note the report?

Members *indicated agreement.*

Section 23 Reports

"Modern apprenticeships"

The Convener: Item 6 is a section 23 report entitled "Modern apprenticeships". We have a written submission from Skills Development Scotland. Do members have any comments?

Mary Scanlon: Sorry to be the awkward one again, but I was a bit disappointed in the response that we got from Skills Development Scotland. The need to align modern apprenticeships with the Government's priorities formed quite an important part of the report. The cabinet secretary responded to that point very well. Audit Scotland said that there was insufficient information on the priorities, but Skills Development Scotland simply says:

"SDS's role in Modern Apprenticeships is primarily to administer the funding for training on behalf of the Scottish Government and ensure Scottish Government programme priorities are met."

I do not think that that is enough. I am not impressed.

SDS kept telling us that the programme was demand led, but it has given us no idea of when the work will be completed. I think that the committee would be failing in its duty if we did not ask for a bit more information, rather than being fobbed off with a simple sentence such as that. I think that SDS should be doing what the Government and Audit Scotland expect it to do, and I do not think that that one sentence is good enough. I was disappointed in that.

The Convener: Are there any other comments?

Bruce Crawford: Has SDS answered what we asked it?

The Convener: Not entirely. For example, we asked about the objectives of the modern apprenticeship programme and the relative priority of each objective. We have not been given a great deal of information on what the priorities are, and I think that more information would be helpful. We need more clarification on that. The work that SDS has undertaken with the Scottish Government to develop outcome measures and assess the long-term benefits of modern apprenticeships has been going on for some time but there is no indication of when it is going to be completed.

Bruce Crawford: Did we ask about that in the letter as well?

The Convener: I think that it would be helpful if SDS would tell us when that would be completed.

Tavish Scott: I apologise for missing the first session on the report—I am a bit off the pace on it. If SDS's role is just to administer a scheme, that raises the fundamental point that that could be done in a different way rather more effectively. The feedback that I get from my part of the world is that SDS is a top-down, bureaucratic organisation that does not add value to a really good programme that is delivering, right across Scotland, as many modern apprenticeships as we want. I think that there are better ways to do things, but this is probably not the occasion on which to raise that subject.

I am with Mary Scanlon, in that I think that there was a fairly woeful answer in response to the objectives point. Frankly, if SDS is just an administrator, I think that there are better ways to do that job and achieve an awful lot more for public money in the ways that we want.

Mary Scanlon: Not only did SDS not answer the first question, but it did not answer the third one, which was a significant question that asked about

"who is responsible for acting on and reporting concerns about training provider performance".

I brought along Audit Scotland's report, which states on page 34:

"There are no equivalent independent reviews of the quality of training provided by other (including private) training providers".

The report states that there are concerns about apprenticeship assessments. However, I think that SDS chose to bypass that issue as well.

I am not impressed and I do not think that we got the information that we asked for. The information that we got certainly does not take modern apprenticeships any further forward.

The Convener: Can we agree to seek further information? We will write to SDS for some of it and to the accountable officer in the Scottish Government. We will probably need more information and clarification on what the priorities are. We could also ask when the work on developing the outcome measures on the long-term benefits will be completed.

Mary Scanlon: There is also the point about training provider performance.

The Convener: Sorry—yes.

Bruce Crawford: Those matters were all picked up in the letter to SDS, which I think was right. However, can we set this in context? The "Modern Apprenticeships" report was one of the most positive reports that we have seen from the Auditor General about the performance of Skills Development Scotland. That is the context that we should recognise.

The Convener: We are simply writing to ask for clarification. No other comments will be associated with that at this stage.

Is that agreed?

Members *indicated agreement.*

"Managing early departures from the Scottish public sector"

The Convener: Agenda item 7 is consideration of the section 23 report "Managing early departures from the Scottish public sector", which is a joint report by the Auditor General and the Accounts Commission. Members have the written submission from the Scottish Government. Do members have any comments?

Ken Macintosh: Yes. I have a number of observations to make, which I would welcome clarification on. The first is about confidentiality clauses. Clearly, there is an issue about the growing use of confidentiality clauses in recent years by the Scottish Government, particularly in the NHS. The Cabinet Secretary for Health and Wellbeing has finally acted to stop the use of those clauses, but that applies only to the NHS.

Confidentially clauses are used throughout the public sector. I will give some figures. Since 2007 the police have used 203 compromise agreements at a cost of £2 million; Scottish Government directorates had 173 such arrangements at a cost of £3.5 million; and local authorities had more than 10,000 at a cost of £32 million. I would be interested know whether the Government's intention is to apply the rules about confidentiality clauses to those bodies or simply to the NHS.

The Scottish Government letter to the chief executives of Scottish public bodies has, in annex E, a list of the bodies that are covered by the revised reporting arrangements, which includes the Scottish Police Authority and the Scottish Fire and Rescue Service, but not Police Scotland, the universities—which have used confidentiality clauses widely—or the Scottish Government itself and its direct agencies.

There is an issue in the guidance around the difference between

"voluntary resignation secured by a financial consideration"

and a settlement arrangement. On page 3 of the letter, paragraph 1, which starts

"The proposed process is as follows",

has a sentence further down that is italicised within brackets and which says:

"*(N.B. These materials may also be used to submit cases for voluntary resignation secured by a financial consideration"*—

that is, paying somebody off to retire—

"however the reporting arrangements do not apply to voluntary resignation)."

The unnumbered paragraph after paragraph 7 states that

"voluntary resignation with a financial consideration ... must be approved",

but it does not look like—it is difficult to be clear about this from how it is written—such cases have to be reported to Parliament. The next paragraph states that they should be reported to Parliament only "as required".

Settlement agreements now have to be reported to Parliament, but it seems that voluntary resignations with a pay-off do not have to be reported to Parliament. That strikes me as a bit odd, to put it mildly. I would like further clarification on all my points, if that is possible.

11:45

The Convener: Members should note the statement on page 5 of the letter, which says:

"The presumption against inclusion of confidentiality clauses in settlement agreements also applies to other public bodies. To this end we will develop, in consultation with public bodies, a draft optional confidentiality clause which should only be inserted on the request of either party ... and then explicitly agreed with both parties".

Ken Macintosh: It states that that is going to be developed, but the point is that last year the cabinet secretary issued guidance on confidentiality clauses that was not followed. I think that every compromise agreement, with the possible exception of one, included a confidentiality clause. I suggest that it will take quite a robust intervention to end the practice. People talk about it as if it is a historical practice that has been around for ages or has always been around, but the point is that its use is growing and has grown remarkably in recent years. I think that it will take explicit action in each sector to stop it growing, as happened in the NHS. A petition was presented to Parliament that highlighted its misuse, and I think that stopping its growing use will take more than just suggesting that there is a

"presumption against inclusion of confidentiality clauses".

That is not working so far.

Bruce Crawford: I understand where Ken Macintosh is coming from on some of this, but the way in which some organisations are incorporated and organised—the universities, for example—means that there is no mechanism by which the Scottish Government can enforce rules about confidentiality clauses without introducing primary legislation. They are a different type of body and are not part of the public sector—or at least they do not consider themselves to be public sector bodies. That is the wider context.

I also understand where Ken Macintosh is coming from with regard to the unnumbered

paragraph following paragraph 7 of the letter. However, does the Parliament really want to know about

"the voluntary resignation of an employee outwith any ... scheme"?

I am not sure that, as a parliamentarian, I want to know about that. That is just the normal voluntary process.

Ken Macintosh: I would want to know about voluntary resignations with a pay-off.

Bruce Crawford: Yes, but that is not what the paragraph says. It says that

"the voluntary resignation of an employee outwith any existing ... scheme must be approved"

by the head of department and the Scottish Government finance business partner. My point is that I do not think that the Parliament needs to know about such matters.

Ken Macintosh: Further on, the Government's letter refers to

"the number of Settlement Agreements entered into across the Scottish Administration and the costs involved"

and says that

"The Scottish Government will not, however, disclose the terms or circumstances".

of those cases. The Scottish Government will disclose information about voluntary resignations with costs only "as required". My question is: as required by whom?

Bruce Crawford: I get that point.

The Convener: The point is that if you do not know that something is going on, how can you ask about it?

Can we seek clarification on the points raised by Ken Macintosh? We can come back to the committee with the response. Is that agreed?

Members *indicated agreement.*

The Convener: Thanks for that. We now move into private session.

11:48
Meeting continued in private until 12:07.

Members who would like a printed copy of the *Official Report* to be forwarded to them should give notice to SPICe.