OFFICIAL REPORT
AITHISG OIFIGEIL

Public Audit and Post-legislative Scrutiny Committee

Thursday 18 February 2021

Session 5

The Scottish Parliament
Pàrlamaid na h-Alba

Thursday 18 February 2021

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PUBLIC AUDIT AND POST-LEGISLATIVE SCRUTINY COMMITTEE
6th Meeting 2021, Session 5

CONVENER

*Jenny Marra (North East Scotland) (Lab)

DEPUTY CONVENER

*Graham Simpson (Central Scotland) (Con)

COMMITTEE MEMBERS

*Colin Beattie (Midlothian North and Musselburgh) (SNP)
*Neil Bibby (West Scotland) (Lab)
*Bill Bowman (North East Scotland) (Con)
*Alex Neil (Airdrie and Shotts) (SNP)
*Gail Ross (Caithness, Sutherland and Ross) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Grant Archibald (NHS Tayside)
Lorna Birse-Stewart (NHS Tayside)
Ash Denham (Minister for Community Safety)
Stuart Lyall (NHS Tayside)
Jim Wilson (Scottish Government)

CLERK TO THE COMMITTEE

Lucy Scharbert

LOCATION

Virtual Meeting

Scottish Parliament

Public Audit and Post-legislative Scrutiny Committee

Thursday 18 February 2021

[The Convener opened the meeting at 09:00]

Decision on Taking Business in Private

The Convener (Jenny Marra): Good morning and welcome to the sixth meeting in 2021 of the Public Audit and Post-legislative Scrutiny Committee.

Agenda item 1 is to decide whether to take items 4, 5 and 6 in private. I will assume that everyone agrees to take those items in private unless a member indicates to me otherwise.

As no member has indicated otherwise, the committee agrees to take items 4, 5 and 6 in private.

Section 22 Report

"The 2019/20 audit of NHS Tayside"

The Convener: Agenda item 2 is consideration of "The 2019/20 audit of NHS Tayside". I welcome our witnesses from NHS Tayside: Grant Archibald, the chief executive; Lorna Birse-Stewart, the chairperson; and Stuart Lyall, the director of finance. I understand that Grant Archibald would like to make an opening statement.

Grant Archibald (NHS Tayside): Good morning, and thank you for giving us the opportunity to present a statement, which my chairman will read.

Lorna Birse-Stewart (NHS Tayside): Good morning. Thank you very much for the opportunity to give evidence this morning. I am pleased to make this opening statement, in which I will set out for members the progress that the NHS Tayside board has made since the beginning of 2019-20.

Prior to the session, we provided a written submission to committee members, which provides an overview of the progress in the key performance areas that were highlighted by the Auditor General for Scotland in his report, "The 2019/20 audit of NHS Tayside." We have also provided an update on the current position in those key areas and, importantly, NHS Tayside's financial forecast for 2020-21, which will see the board return to a break-even position one year ahead of our agreed financial plan.

We all recognise that NHS Tayside has been the focus of considerable scrutiny by the committee for several years. Today, we very much welcome the opportunity to present the evidence to assure you that NHS Tayside has returned to financial balance, that it is maintaining strong governance over its financial arrangements and, importantly, that it has achieved this turnaround in performance while delivering high-quality, safe and effective services to the population it serves.

Our new leadership arrangements, which include the involvement of our clinical leaders and teams, have been critical to our achievements. Engaged clinicians at the heart of planning and leading change means that we are ensuring that the redesign, change and, indeed, direction of travel of our organisation are being shaped and driven by clinical and management teams that are directly delivering services to our patients and service users.

There has been a focus on partnership working, with our staff-side colleagues also engaged across key areas of work, to ensure that the voices of our staff are strong in all our joint endeavours to improve health and social care services for the people of Tayside. Those working partnerships at

the front line, coupled with the strengthened executive leadership team that has been shaped and delivered by the chief executive, have been critical to the success of the rapid response of the organisation to Covid-19 and our on-going delivery of services throughout the pandemic.

I would like to draw attention to a real-time demonstration of the successes of the new leadership model in Tayside: our ability to mobilise a whole-system response, unprecedented in scale and pace, to Covid-19. Our team not only successfully delivered a Covid-19 hospital within a hospital in the space of just a week; it opened Scotland's first Covid-19 community assessment centre, in collaboration with general practitioner colleagues in Tayside. They were at the forefront of testing, with NHS Tayside's model for staff and household testing for the virus hailed as an exemplar.

In terms of our strengthened financial position, the committee has heard previously about three key factors that the Auditor General reported were the main contributors to NHS Tayside's historical overspend position. For reference, those are the cost per in-patient, prescribing in primary and secondary care and staffing. I shall briefly address each of those in turn.

On cost per in-patient, the most recent national figures for the average cost per in-patient case show that NHS Tayside has the second-lowest average score per in-patient of the four teaching boards in Scotland, with an improving position over the past two years.

On prescribing, I am pleased to report that our cost per weighted patient, which is the measurement used nationally, shows that we are now in line with the Scottish average. Indeed, we are maintaining that position. We also have underspends in secondary and GP prescribing in 2020-21.

On staffing, NHS Tayside has reduced its supplementary staffing spend by £3 million in 2020-21. That is against an increase in headcount, as we are investing in our workforce in many areas by creating substantive positions to stabilise our services further and deliver our new clinical models.

However, I would like to assure committee members that the improvements in our financial position have not come at the expense of service quality or reduced performance, or had an impact on patient experience. That can be evidenced as we look to our service delivery performance, in which we have not only maintained, but improved performance in several key areas, which I will highlight.

Our four-hour emergency department performance remains the best of all NHS boards. We are achieving the cancer 31-day and 62-day targets, and we are delivering the child and adolescent mental health services performance standard. In January, our performance was 96.3 per cent against the 90 per cent target. I thought that it might be helpful as a reference point to note that, in 2018, the performance level was 47 per cent.

All those improvements—and the continuing response to the pandemic—are being delivered as a direct result of the professionalism and commitment of the more than 13,000 people that we have working inside NHS Tayside. I would like to take this opportunity, as would my executive colleagues, to pay tribute to all our health and social care staff in Tayside and, indeed, in Scotland for their continuing contributions every day, particularly at these most challenging times.

I have referred to the executive leadership team. In terms of building on the strengthened executive leadership team, I would like to highlight that there have also been significant changes to board membership in the past two years, with an almost entirely new non-executive board membership and a new chair. As you will be aware, I was appointed substantive chair last year.

The board leadership team recognises that, in a similar way to all other organisations in the country, we require to review our operational plans and our strategic plans as we look at how to live with and, indeed, deliver health and social care services in the time of Covid-19. As you will be aware, all boards are finalising their remobilisation, recovery and redesign plans for 2021-22. NHS Tayside's plan will be the major vehicle to transform services across Tayside, reflecting the current Covid—and, indeed, post-Covid—environment.

One area that remains an absolute focus in our plans is mental health services. Mental health comes to every board meeting. Dr David Strang's independent inquiry report, "Trust and Respect—Final Report of the Independent Inquiry into Mental Health Services in Tayside", made 51 recommendations, of which 49 were for NHS Tayside to deliver.

The Convener: Can I interrupt you, please? This is all extremely helpful and welcome, but we usually just have a two-minute statement at the start of the meeting. I ask that you draw your remarks to a close, please.

Lorna Birse-Stewart: Our mental health strategy will be launched next week and David Strang is due to return to Tayside to review progress.

In summary, we look forward to the further opportunity in today's session to present the evidence and data that NHS Tayside is firmly on

course to achieve and deliver financial balance sustainably, while continuing to improve services for the population who we serve.

The Convener: Thank you very much for that extremely useful summary. I say to members that I wanted to take that full statement, which I know is outwith the usual parameters of the committee, because I thought that it would be useful to do so. I thank Lorna Birse-Stewart for that full explanation.

I put on record my personal thanks, and those of the committee, to the staff of NHS Tayside for their heroic efforts throughout the Covid pandemic, which really started to hit us last February. It has affected all our lives immensely. We are all indebted to the nurses, doctors, management, allied health professionals, porters and all the staff for their bravery and commitment. They have all gone more than the extra mile to make our country and its population safe during this time. I hope that you will pass on our thanks to them—their efforts really are appreciated.

It is the committee's job to scrutinise what the Auditor General lays before us. This is the sixth report from the Auditor General on NHS Tayside under the section 22 powers in the Public Finance and Accountability (Scotland) Act 2000. It is worth noting that there is improvement. Some of the structural issues that the report addresses predate the pandemic and it will be our job today to scrutinise those, along with the improvements that have been made during the past year. There is no one happier than me to see the improvement, so I congratulate the board on that. There are some outstanding issues, as the chair and chief executive know, and we will do our best to scrutinise those today.

I draw your attention to the issue of staff vacancies. Since the Auditor General laid his report, I have been quite confused about some of the vacancy numbers. This could be a statistical glitch, but I would like some clarification on the issue, if possible. The Auditor General wrote to me, as convener of the committee, on 16 December 2020—I think that you have a copy of the letter. Exhibit 5 in the letter shows the vacancy rates of consultants across Scotland. NHS Tayside records no vacancies whatsoever as of September 2020. Can you confirm that that is correct?

Grant Archibald: I can answer that, convener. Yes, you are correct in stating that that is a statistical issue. That is not correct. We are carrying vacancies in our consultant workforce, as is the rest of Scotland. Our most up-to-date figures would be clearer in articulating where we are. As ever, we would be prepared and happy to provide that to the committee. For example, there was particular interest in our staffing of mental health consultants. If you would like—I would not presume—convener, I could give you more information on that. I know that, as a local MSP, that has been an area of keen interest to you.

The Convener: It has, but it has also been of keen interest to the committee. We have done a lot of work on mental health and children's mental health specifically. It has been a real issue of concern for the whole Parliament this year. If you could give me those statistics now, that would be very helpful.

09:15

Grant Archibald: There are 70 funded consultant psychiatrist posts in NHS Tayside across all services, including community services. At this time, 45.5 of them are filled by national health service employees, who are directly employed by the board. Seven are termed NHS locums—that is, people who locum in the NHS and are employed on NHS terms. Fourteen are locums, who are people we are contracting with either through an agency or individually to provide service. That leaves 3.5 vacancies, two of which are in child and adolescent mental health services. I will come back to that, if you would like me to.

Today, the situation that we are in is that we are relying on locums to maintain our mental health services. I would like to be clear that our desire, irrespective of the hard work of locums, is that our own workforce provides services and that we employ people directly, so that they are vested members of NHS Tayside in its broad family of employment. We continue to work in that area and seek to recruit to those posts.

The locums are valuable to us in continuing to provide the service at the moment. However, it is fair to say—I have seen the evidence previously and the Auditor General refers to it—that there is a shortage of consultant psychiatrists in the United Kingdom, not just in Scotland and certainly not just in Tayside. That makes it very challenging for us to fill the posts. The predictions are that there will not be a surfeit of consultant psychiatrists in training across the UK, so we are looking at the extent to which we can run a less medicalised model, and at how can we redesign models that involve nurse consultants or other practitioners. I am pleased to advise that we are pursuing that avenue, as well as continuing to seek to recruit to the posts that we have.

The Convener: Thank you—that is very helpful. You said that there are 3.5 vacancies in CAMHS. Maybe my knowledge is a little bit out of date, but am I right in thinking that the full complement in CAMHS is seven?

Grant Archibald: It is nine; 3.5 is the total number of vacancies, and two of those are in

CAMHS. I am sorry if I did not make that clear. We have made other arrangements for that service that have led to the improvement. Irrespective of the challenges that I face in having full-time employment and full consultant establishment, my obligation is to the young people of Tayside who are in need, so we made alternative provision using other resources. I am very pleased and proud to see the improvement that we have made in CAMHS, not only because of our interest in it and our passion for it in Tayside but because this committee has been keen to understand when the improvements will be seen.

The Convener: Is that how you have managed to get the performance figures for CAMHS from 47 per cent up to 96.3 per cent? I think that that is what Lorna Birse-Stewart said.

Grant Archibald: Yes.

The Convener: Is that non-medicalised? Basically, you are referring children not necessarily to a consultant but to someone else who can help them—is that correct?

Grant Archibald: May I take a moment to explain, convener?

The Convener: That would be helpful.

Grant Archibald: One of the challenges with CAMHS when I and Lorna Birse-Stewart and others came into the leadership team was that not only were there people who had been waiting longer than 12 weeks, but there was a very long Poisson tail of people who had been waiting a very long time. My commitment to the board—this is reflected in the board minutes—was that it would take us some time to improve the 12-week guarantee because I needed to deal with those who had waited the longest. We would all want that for our children.

The arrangement that we put in place was very similar to the waiting list initiatives that have been run in other services when the health service has found itself under pressure. We engaged a company called Healios, which provides an end-to-end service involving consultants in psychiatry and nurses. We quality assure that process. It is not just about the first engagement that the child has, as they can have up to seven. Every year, we are seeing about 1,200 new patients and that is the statistic that is counted.

What we must understand is that that is but one statistic and there are a lot of other things going on. I utilised that help because my commitment was to do something that changed the paradigm of where we were, and we needed to do it as quickly as we could. My board was very forbearing and understanding that that one statistic would not improve until I had dealt with the backlog that had built up over a considerable time. I hope—and we will demonstrate it through assurance processes—that the experience for children in Tayside is far better now than it was. Certainly those in need—those reaching out for help either through our websites or through other mechanisms—can be assured that we will get to them quickly and that we will wrap services around them.

The Convener: That is very helpful. You might expect criticism for bringing in other consultants, but I think that the children who are on those waiting lists desperately needed to see someone. On my last visit to CAMHS, in my private conversations with consultants they told me that many of the problems that they were seeing could be dealt with by other avenues and in a more creative but attentive way. That model is very welcome. I hope that, when circumstances change, I might have the opportunity to visit. It is very helpful and the committee will be encouraged to hear that, because the statistics were quite stark and we wondered how those changes had come about.

Let me turn to one more issue before I bring in Colin Beattie. Can you commit to the long-term presence of a breast cancer service in NHS Tayside?

Grant Archibald: Colleagues will be aware that there have been challenges in the delivery of breast cancer services in Tayside. As you would expect, there is a highly committed team of staff working in the provision of those services but, in recent months we had one person return to their native country and another consultant resign from NHS Tayside. At this time, we are being supported by colleagues from Aberdeen, which is welcome. That is the aid that we would look for.

Our wish absolutely would be that we provide local services for local women. However, I cannot give a guarantee if the staffing is not available. I will give an absolute commitment to the committee, as I do to the population of Tayside, that we look to provide excellent and safe services—safe for staff, safe for patients, safe for everybody—using all efforts to provide exemplary services across the range of NHS care in Tayside. In this area, it has been difficult. It has been difficult for the staff. I will need to find ways to ensure that we can recruit to this service before I can give an absolute commitment and guarantee that the service will be there. I will guarantee my commitment to wish to have local services for local women.

The Convener: My fear is that, if a service is not sustainable in the long term, there will be women in Dundee who will not travel for breast cancer treatment. Oncology services in Dundee and Tayside have been exemplary for many years. We will not rehearse all the recent difficulties with the breast cancer service, but they were very

much to do with clinical governance and arose through no fault of any patient. It would be a grave shame if that service were not sustainable because of those problems at a high level. Perhaps it is something that we can come back to, because I feel very strongly that it is very important that this service is maintained at Ninewells.

Grant Archibald: I will make two further points. The first thing is that the absolute commitment is to provide local services for local people where we are in a position to provide them safely and appropriately. That is our aim and our commitment. I welcome the opportunity within the confines of the committee or beyond it to demonstrate our efforts to do so in a way that is safe for patients and staff and safe for everyone. We need the broader population of Tayside to know and to be confident that we are committed to providing those services, which we are.

Colin Beattie (Midlothian North and Musselburgh) (SNP): I, too, express my genuine appreciation for the hard work and dedicated efforts of NHS staff in Tayside.

Looking specifically at issues to do with the transformation of services, when the chair made her opening remarks, she touched on certain of the key points. To me, there are three key issues in the transformation process: staffing costs, in-patient costs and prescribing costs. This is the sixth section 22 report on NHS Tayside. I have sat here after each section 22 report—all six times—and listened to improvements that we are told are in the pipeline or have been executed. We have been assured that everything is coming right financially, but sometimes it just does not happen and, next minute, we have another section 22 report. Why will it be different this time?

Grant Archibald: In preparation for this meeting, I looked at the transcripts and broadcasts of the previous meetings that NHS Tayside had attended. I saw your comment, Mr Beattie, on what is different—"Is the team up to it?" was one of your questions, I think. I will say two or three things in response.

The first thing is that you see a very different team from the one that was here before. Up until now, 13,000 people have been working incredibly hard in an incredibly committed way across NHS Tayside for all the years that you have been listening to the senior team describe what is happening. Their commitment and hard work should never be underestimated.

The challenge for me coming in as the new chief executive was how we change effort into outcome, how we achieve delivery rather than aspiration and how we evidence for the people of Lochee, Pitlochry or Montrose that things are different and things are better in Tayside and how we rebuild their confidence. That has been a hard road, to be honest, Mr Beattie. It has been difficult, but we have created a new team. I have a new medical director, a new nurse director, a new finance director and a new director of public health. You know that we have a new board.

What we have concentrated on doing is not describing effort to you but demonstrating action, so I will stop there. I will bring in Stuart Lyall at the end of my comments to state to you that these are the facts and these are the reasons why we want you to believe that NHS Tayside—team Tayside—is on the case and is improving the situation. Sitting here and telling you that we will deliver financial balance a year early is very different from two or three years ago, when the Auditor General said in a report that it was the most daunting challenge that she had ever seen. We are keen to demonstrate to you today through evidence, not through commentary, that we are better.

You ask why it is better this time. It is better because we have committed not to talk about how hard we are working and how committed we are to the NHS, because that is a given, but to show that it has improved, to show that we are demonstrating what the Government would expect, which is value for money, to show that we are learning either from ourselves or from others and to show that services are better. I am proud of the improvements we have had in cancer services and in CAMHS.

I will hand over to Mr Lyall, who can give some very specific indicators, if that is acceptable.

Stuart Lyall (NHS Tayside): I would like to start by giving the committee, and Mr Beattie in particular, assurance that the facts that we have on financial performance are what they are. We know the 2019-20 position and you have had the report from the Auditor General. I am confident that we will deliver financial balance this year. In fact, we are on course to deliver an underspend and therefore we will balance out across the three-year planning cycle that we operate in. Boards should break even across a three-year period rather than in each year in isolation.

09:30

We required £7 million of financial assistance in 2019-20. Last year's overspend was a planned overspend. It was part of a planned and structured approach to getting ourselves back into financial balance. Indeed, the Auditor General himself, through our annual audit report, has commented on improvements in our financial control, our financial governance and our financial reporting. We have a clear set of figures that we report through our board and we have a level of

confidence in delivery on those. We have overdelivered the past two years and we will break even this financial year. I am in discussion with the Scottish Government about how we balance the position over the three years and how we pay back some of the £7 million from last year.

We are in a stable position. Importantly for me, the way in which we have set up our service model, with the engagement that we have from the new executive team and from our clinical leadership, means that that is sustainable. It will not be a one-off year in which we break even; it is sustainable. We have looked at service models; we have looked at pathways; we have looked at waste and variation; we have looked at efficiency; and we have looked at productivity. We have looked at all the things that you would expect us to look at, but in a way that is focused on quality. As an executive team and as a clinical leadership team, we believe that, if you focus on quality, the money drops out—rather than doing it the other way round.

The results are what they are; the facts are what they are. We will be audited at the end of the year and I am comfortable that we will deliver an underspend position and we will be in balance.

Colin Beattie: Can I come back to the point that I made at the beginning? There are three key drivers in the transformation process. One is reducing staff costs, which the chair commented on. I would like a bit more detail about that and about the use of agency staff and so on. I do not think that in-patient costs were touched on. I understand that prescribing costs have been driven down. I would like a little more granularity about how that was achieved.

Stuart Lyall: On in-patient costs, the data that you have from the Auditor General is for 2018-19. We are talking about a 2019-20 section 22 report and we have just had the 2019-20 figures made available to us. We are below the average for teaching hospitals in both 2018-19 and 2019-20 in terms of our in-patient costs. You would expect us, as a teaching hospital, to have a slightly higher cost base because of the complexity and the range of services that we undertake.

Our approach to in-patient models has been to look at pathways of care and our productivity. It is about getting our patients in the right place in the pathway, so if they should be in the community, they are in the community rather than in expensive acute hospitals, and when they are coming through our theatres, we are pushing through the right number of patients and they are getting the appropriate treatment and so on. We have focused on the metrics that you would expect us to focus on and we have those at a much better level. We improved in six out of nine of those that we measure internally in the last financial year. Again, I would emphasise the clinical leadership involvement and engagement in that, which has allowed us to take costs out of the system. On in-patient costs, I am comfortable that we benchmark well within Scotland. We always seek to improve. We continue to look to improve because we know that there are challenges coming up in the years ahead, as we all recognise.

There are two similar issues with prescribing. For GP prescribing or community prescribing, we set up a prescribing management group a number of years ago that had a focus on waste and variation. Again, we had involvement from GPs, we had clinical leaders from the health and social care partnerships, we had our own director of pharmacy and managers and we had support staff with data and so on. Using the data to model where we should be and where we could be, we have been able to take costs out of the system. The chair mentioned that we are now in line with the Scottish average cost per weighted patient. A few years ago, we were close to 10 per cent above that average. That is a significant change in our spend profile over that period. In financial terms, that is about £7 million-worth of savings. That is through the engagement and—

Colin Beattie: Mr Lyall, can I interrupt? What you are saying is very interesting, but the committee does not have any evidence on that other than what you are saying today. Is it possible for you to supply the committee with clear information on the improvements that are being made and how they are being made?

Stuart Lyall: Yes, we can provide you with a report. We have a whole series of minutes from meetings over a number of years. We can pull together comprehensive reports, which we take to our performance and resources committee every quarter. The summary positions will show the steps that we have taken and you will be able to see the change in the variation. You will be able to see that we are now aiming for an underspend position and that we will deliver an underspend position.

Colin Beattie: In her opening remarks, the chair said that there had been a £3 million saving on staffing costs. That is a lot of money. Where exactly has that saving been extracted?

Stuart Lyall: The saving has come predominantly through agency costs. In nursing, we have taken steps to recruit as best we can, given market conditions, to stabilise our staffing models. We have done that across all staff disciplines. From my perspective, recruitment is good. It stabilises the services and it costs less. Clearly supplementary staffing, particularly agency staff, is expensive and is not stable for patient care and staff experience.

Colin Beattie: Did £3 million come from cutting agency staff? I would not have thought it was—

Stuart Lyall: It was directly from cutting agency staff.

Colin Beattie: That is a big saving. Do you have many vacancies at consultant level and so on that you are managing in order to get the staff costs down?

Stuart Lyall: We do not use vacancy management as a tool to get staff costs down. As I say, I would prefer that we employed staff rather than spent money on agency costs. I am comfortable that we have a budget that reflects the staffing that we need to deliver the services that we need to deliver. I would prefer that our clinical teams recruited up to their establishment level. We try not to carry vacancies where we can get people into post and that is—

Colin Beattie: At the moment, do you have many consultant posts that are being held vacant?

Stuart Lyall: Sorry—I am not sure whether you are still speaking, Mr Beattie. Your screen is frozen.

Colin Beattie: I am trying to ascertain whether we have a lot of consultant posts that are being held vacant at the moment.

Stuart Lyall: We have vacant consultancy posts, but we do not have consultant posts that are being held vacant deliberately. There is a difference between—

Colin Beattie: How many consultant posts are vacant?

Stuart Lyall: I do not have a figure to hand for how many consultant posts are vacant at this time.

Colin Beattie: Along with the other information, perhaps you could supply that for the committee.

Stuart Lyall: I will.

The Convener: Could I come in quickly on that point before Colin Beattie moves on to Covid-19? One of the committee's frustrations is that we do not have the figures on consultant vacancies, as I explored with Grant Archibald. He gave me a breakdown of CAMHS. We do not have time to go through that for the whole thing, but the Auditor General's letter of 16 December set out that statistical glitch, saying that you had no vacancies. In your submission to the committee, you did not set out the current position. It is frustrating for the committee that we are not being given the full information, which led to Mr Beattie's questions. Mr Beattie, I will hand back to you.

Colin Beattie: I am interested to know how Covid-19 might have accelerated the transformation programme, if indeed it did. I am not sure who that question is for.

Grant Archibald: That is a question for me. To follow up on the previous question, we will supply the information. We are keen to evidence our position.

The challenge with Covid-19 is that we recognise that the whole world has changed but we do not know how it has changed. Every organisation, whether it is in health or anything else, is having to regroup and think about what its service will look like in future. That is exactly what we are doing. That is why I said that our plans for the next year and the immediate term should be about remobilisation, and that it should reflect the Covid situation and the immediate post-Covid situation.

That brings challenges. Stuart Lyall talked about efficiency and one of the areas that we were looking to for further efficiency was throughput in theatres, attendance at outpatients and so on. The traditional way of doing that is now impeded by the amount of effort that one needs to put in with personal protective equipment, the slowing down, the cleaning between theatre patients and so on. That means that we need to be adaptive.

If I could take the other side of that as adaptive, we have Near Me video or telephone consultations. We had been working for quite some time to redesign our outpatient services and because of the force majeure of Covid, we have gone from something of the order of 400 Near Me consultations in a month to 200,000 in the year to date. That is transformational and we need to understand why the population was keen to engage in that way. Is that a way to deal with rurality when we engage with people across 3,000 square miles?

What lessons are we learning from Covid? What do the next nine to 12 months look like? That is the reality of where we are—ourselves, the airline industry and everyone else. What will our vault spring be into a full recovery mechanism?

If I might take your time for one moment, Mr Beattie, in this period let us not forget that babies have been born, people have been attending accident and emergency and chronic conditions such as those that require dialysis have needed to be treated. The health service has had to keep providing in a strong way the whole series of services that it would normally provide. We have dealt with Covid for 332 days now and probably have at least another 100 days to go. In addition, we will have to recover our elective programmes and see those who need replacement hips and knees and other types of surgery. That is the planning that we are doing.

We will submit our recovery plan to the Government at the end of this month, in keeping with its timescale. Our previous recovery plan—and it should be on the record at the Scottish Government—was identified as exemplary because we reflected the new world, the new challenges and how we will all work to deal with those.

Colin Beattie: Mr Archibald, you are telling us a lot of good things, but we do not have the detailed evidence supporting that. Can you provide such evidence so that we can review what you are saying? We need much more detailed evidence. You will understand that for some years now we have had a lot of promises and a lot of assertions. Show us the evidence.

Grant Archibald: We look forward to the opportunity to do that. All we want to demonstrate is the efforts that we have made and the outcomes that we have gained from those efforts. As I said, effort is not the issue; the issue is the outcome for patients. We will demonstrate that in value for money and in services delivered. The Auditor General's report was quite some time ago—it covered the previous financial year. What we were trying to articulate to you—not least in response to your call in previous meetings about where the evidence is—was that, even in this time of Covid, we have kept going. We believe that we have been successful and I will show you the evidence of that.

Neil Bibby (West Scotland) (Lab): Following on from the convener's questions about mental health services, I want to focus on demand. There have been a number of reports in the media from charities and the Scottish Government about the increase in demand for mental health services during the Covid lockdown, particularly for children and young people, and especially young girls and young women. I heard what you said about meeting targets. What impact has Covid had on the demand for mental health services in Tayside? What has been the impact on CAMHS services? Have the targets been hit while demand has been increasing? What has been the impact on demand?

Grant Archibald: There has been a lot of discussion about mental health services, including as recently as in Parliament yesterday. We are all mindful that, if we are in lockdown on and off, and people are out of their jobs for 330-odd days, it will have an impact on their mental health. In keeping with everyone else, we are trying to assess that impact, but we are not just doing it as health; we are doing it with the Tayside executive partners, which are the three councils in the Tayside area, and with our HSCPs.

The mental health strategy document that we have produced, "Living Life Well", is all about trying to harness the different sources of information that we can garner to understand what will happen next. People talk about a mental health time bomb, but what does that mean? I am keen that we understand where the new need is for the population of Tayside and where there might be unmet need, such as with people who are living alone, people who have not seen families, people like myself who have lost relatives during this period and have not been able to go to funerals, and so on. What has that done to people's mental health?

09:45

On the specific question of demand, that has been higher than normal. We are concerned there is unrecognised need—or at least unquantified need—out there. We will take guidance from Government and others—not least off the back of the announcement that was made yesterday—about how we reach out to those people. Through our website, our engagements and our constant video postings, we have certainly made it very clear that NHS Tayside is open to help you, whatever your condition. When we talk about the challenges that mental health will present as a result of Covid, it is important for us to get some pretty good indicators for that. My sense and my colleagues' sense is that this will be a significant challenge for us, and I think that that was reflected yesterday during the debate in the Parliament.

Neil Bibby: It is a significant challenge across the country and it has obviously been a significant challenge in Tayside. It is encouraging to hear that improvements have been made.

What additional resources have you allocated to allow mental health services to cope with that increased demand? What impact will it have on meeting your targeted savings in the medium term? Do you anticipate having to spend significant additional resources on mental health services in the coming year to keep pace with that demand? What impact will that have on other areas that we have mentioned today as potential areas that you might need to make savings in?

Grant Archibald: I will take that in three sections, Mr Bibby. First, on what we are doing with the demand that we have, I have talked at length about CAMHS and the fact that we have put in additional resource specifically to drive a better outcome. We are pleased about that and we will continue to support that service.

Secondly, we are aware that mental health services in Tayside face many challenges. That is why we had the David Strang review, "Trust and Respect", and why we have our own response to that in "Listen. Learn. Change." and in the "Living

Life Well" mental health strategy, which we will launch next week.

The third point is about the additional demand that is presenting and how we will manage that. As I say, quantification of that and how it might best be dealt with is an important issue for us. What will that mental health challenge look like and how well set are we to deal with it? We welcomed the minister's announcement yesterday that specific and additional resource will be allocated to that.

I hope that we have not overplayed the challenge of Covid in trying to represent to the committee what else we have been doing in running our services, but I think that we all need to be mindful that it has had a huge impact, and we are yet to understand what its future impact will be. Support from Government will be essential, and we seek not only to think of it in our own terms, but through learning from our neighbouring boards. Finally, the role of public health in all this will be incredibly important.

Neil Bibby: You mentioned the Strang report, which raised a number of serious concerns about disclosure of information, communication with bereaved families and a lack of confidence in the complaints handling process. You mentioned "Listen. Learn. Change.". What have you done to engage with families to restore their confidence in local services? How have you done that specifically during lockdown, given the complexities that there are in engaging with people during a global pandemic?

Grant Archibald: To be clear, David Strang's report was incredibly important to the organisation because it laid out a series of concerns and 51 recommendations. More than a year ago, when we were still allowed to meet, the director of nursing and I engaged with a group of bereaved families in the Apex hotel. I gave them my personal commitment that improvement of the management of mental health would be a primary target and commitment of the board. We have continued to reiterate that.

Since that time, we have had a series of engagements through communications groups and engagement groups. We have also been engaging with the stakeholder participation group, which was a group of concerned relatives that came together. Through our interim director of mental health, the construction of our strategy for the future, "Living Life Well", has been a co-production, with us listening to their voices. Something of the order of 1,300 voices were heard through that process—I will check that number, if you do not mind. Our intention was to have a series of what might be described as town hall meetings, where I, the director and other people from the service would sit and listen to experiences. That has been less possible at this time, so we have done it using Teams and Zoom calls. Those engagements have been taking place. They are documented in our "Living Life Well" document, which we will launch next week. Going back to Mr Beattie's point, that is further evidence to show members of the committee that NHS Tayside is doing as well as I am describing.

The Convener: The post of director of public health has now been filled, has it not?

Grant Archibald: The director of public health post has been filled, yes.

The Convener: Permanently?

Grant Archibald: Permanently, yes. We have an excellent appointee, who is making a huge contribution.

Bill Bowman (North East Scotland) (Con): Good morning. At the previous evidence session, I had some difficulty understanding the relationship between the integration joint boards and the figures surrounding them. In his letter in December, the Auditor General gave us some further information on that. Can you explain why there are different arrangements with IJBs? How do those arrangements work and do some work better than others?

Grant Archibald: I will start on that, Mr Bowman, and then bring Stuart Lyall in. Engagement between HSCPs and IJBs is complex. You are bringing together different and complex organisations. It was a learning process that was started a few years ago. Stuart Lyall will describe the financial arrangements to you because I know that that was a key point of interest.

On how we work together, the three chief operating officers of the IJBs attend our board meetings and are part of my executive leadership team for NHS Tayside. We work collaboratively together and they co-report to me and to the chief executive of each of their respective councils, of which there are three in Tayside. We also have the IJBs themselves, on which there are members from the health board as well as from the council to advise and take forward the strategies in those areas.

You are right that the risk sharing and funding arrangements are different between the different organisations. That was how they were originally established.

If I have dealt with the first part of your question and you are content, I will pass on to Mr Lyall to comment on the funding.

Stuart Lyall: On funding, the IJBs have a range of services delegated to them from the health board and the council. With that comes resources and budget. Funding is devolved down to the IJB

level and spend is monitored against that as we go through the year, as you would expect.

What happened in the case of Dundee in particular, and in Perth to an extent, was that, at the end of the year they had a level of overspend. Dundee was underspending on the budgets that were traditionally devolved to health, but was overspending on the budgets that were devolved to social care. The split between them matters to an extent in terms of reporting, but the IJB will look at that as one resource. They would not tend to separate the two out between health and social care. They have one resource to smooth that out across the service profile.

We have an integration scheme with each of the three HSCPs in Tayside. Broadly speaking, they apportion any overspend—or indeed any underspend; that can also happen—in proportion to the level of budget that has been devolved down to the IJB. The Auditor General picks that up in one of his national reports. Broadly speaking, health contributes around 70 per cent of budget to the IJB, social care being the balance. For Dundee, the overspend that it had in the previous financial year was split between ourselves with two thirds, and the council with one third.

Perth has a slightly different integration scheme. It is just a play on words, whereby the NHS picks up any health overspend and the council picks up any social care overspend. That is the nature of the integration scheme, which, as the chief executive said, was set out back in 2016 at the establishment of IJBs.

Bill Bowman: Thank you for that. Part of my concern is that there is so much more to explain what is happening in the information that we got from the Auditor General, unless I missed it somewhere in the financial statements. I am concerned about the two-thirds split with Dundee. The rest of Tayside is subsidising the Dundee social care budget overspend, to the cost of other areas. Can I ask the chair whether she is satisfied with that?

Lorna Birse-Stewart: Clearly, the schemes of delegation in the three integration schemes are different. As the director of finance outlined, that is because of the way in which they were formed in 2016.

There are clear differences across the three IJBs. I will pass back to the chief executive in a moment, but I want to highlight that one of the real positives that has come out during the pandemic—if indeed there can be positives—is the joined-up working that we referred to with the local chief officers of the three IJBs working very closely through the Covid-19 pandemic. They are also on our gold and silver commands.

I joined the board three years ago and I have seen a significant change in the relationships at IJB level. The board has moved to provide continuity in membership from the health board to those IJBs. I will pass back to the chief executive to talk about performance.

Grant Archibald: As the chair and Stuart Lyall have described, Mr Bowman, the original schemes of integration go back some time. The Derek Feeley report might cause them to be revisited, but that is where we are. There is a challenge that we perhaps need to articulate more clearly, which is this: we expect all parts of our organisation to deliver on budget. That is our challenge, because Mr Bowman used the word “subsidising” and no one likes to think that they are working hard but the money is being spent elsewhere. We need to continue to engage with our IJB partners and assist and work with them to make sure that balanced budgets are returned, as they are in the NHS and in councils.

Bill Bowman: It is only because we asked for that information that it has come to be a focus. Do you know how the current year is looking, in terms of the table that we got from the Auditor General?

Grant Archibald: I will ask Stuart Lyall to comment on that.

Stuart Lyall: In the current year, we expect each of the HSCPs to break even. That is certainly the forecast. The chair and chief executive have described the relationships, and there has been significant strengthening of those in recent years. I have to commend the work that has been done in the partnerships across Tayside to deliver that financially balanced position to support the board and the equity of the use of resource across our full population.

Bill Bowman: What you are saying is that what jumps out as an issue this year in these figures will not jump out the next year, because people are meeting their budgets. That is comforting.

Stuart Lyall: That is what I am saying, yes.

10:00

Graham Simpson (Central Scotland) (Con): I want to explore the section of the Auditor General’s report on financial sustainability. There is a paragraph that says that, in 2019-20, there were “recurring savings” of £14.3 million, which was 40 per cent of the funding gap. It says that, although that is a decrease from 44 per cent the previous year,

“the board remains significantly reliant on non-recurring savings.”

It also says, rightly, that

“This situation is not sustainable”.

What is the percentage of non-recurring savings? What are you doing about that?

Grant Archibald: We look to increase and achieve the highest level possible of recurring savings as part of our redesign of services. As Stuart Lyall has described, we are trying to redesign services in a way that drives financial improvement rather than setting arbitrary targets.

In the past three years—in the two years that I have been chief executive, and in the time that Stuart Lyall and Lorna Birse-Stewart have been in their posts—we had to demonstrate that we could get ourselves back to financial balance. The other challenge was to do that while protecting the staff, the patients we serve and the services we provide. We are keen to reinforce today that that is what we have been doing, and we will provide further evidence in that regard. In the current year, our level of recurring savings has increased significantly, as Stuart Lyall will describe. Our aspiration is to continue to achieve recurring savings, but there will always be a level of non-recurring savings. I am dealing with an organisation that spends almost £1 billion, has 13,000 staff and serves 416,000 people. It is a big endeavour, and we will need some flexibility in how we work. Stuart Lyall can articulate those points.

Stuart Lyall: In terms of our current performance on the delivery of recurring savings, we are sitting at 55 per cent in 2020-21. It was 40 per cent last year and will go up to 55 per cent this year. It is important to note that the level of recurring savings that we deliver will fluctuate from year to year. We have a £1 billion organisation and will always have a level of non-recurring savings, as we will always have a level of non-recurring cost. Those are features of an organisation of this complexity and size.

In terms of our recurring savings performance over the years, I talked about a planned and structured approach and that is what we are delivering. In dealing with some of the legacy issues, we have had different levels of recurring savings. Now, as we move into remobilisation and into delivering services in a different way, the delivery that we have had so far gives us a solid foundation to go forward and make structural service change, which will increase that level.

As director of finance, I can say that we are now sitting at a level that, although it is not comfortable, is manageable. A few years ago, we had an unsustainable level of what I would term an underlying recurring deficit, arising from an overreliance on non-recurring savings. We have now halved that. We have reduced that level by 50 per cent in the space of three years. We will seek to reduce that further as we move forward into the next year of our financial plan.

Graham Simpson: You say that the level is manageable but, according to what you have just said, 45 per cent of the savings that you have at the moment are non-recurring. That still sounds high to me. Does it sound high to you?

Stuart Lyall: If we look at our relative performance nationally, the Auditor General's reports on the NHS in Scotland from 2019 showed us as the best-performing territorial board in terms of delivery of recurring savings. We are performing within the pack in terms of what you would expect from a health board of our size.

With the non-recurring element, we recognise that we will get a level of savings every year, but it will come from different places from year to year. We would not term that recurring. We will get the same amount out of non-recurring savings; they will just come from a different area, if that makes sense. We can always improve, but I am comfortable that, for an organisation this size, we are running at a manageable level.

Graham Simpson: It might help the committee if you can give us some examples of some of the non-recurring savings that you have made.

Stuart Lyall: I can do that.

Graham Simpson: Do you want to list some now?

Stuart Lyall: Non-recurring savings could involve a range of what we would call housekeeping issues. We talked about productivity and efficiency. Savings in those areas can be recurring savings in terms of delivery. A lot of the housekeeping issues we deal with are non-recurring in nature because they come from a different area each year. We might have one particular area of service that is quiet in terms of activity one year, but is busier the next year, which means that the saving that we made the year before is not recurring. It covers a range of things across a range of costs that we incur as an organisation. There is not a deliberate targeting of particular areas. It could be staffing; it could be non-pay; it could be in theatres; it could be in the community; or it could be in drugs. For example, in prescribing, we have continued our performance and we have reduced the cost by £2 million this year, but I expect that to go up next year as demand goes up. That is why that is a non-recurring saving.

Graham Simpson: That is useful. Thank you.

Bill Bowman: I would like to address a slightly different aspect of the sustainable funding. Since 2017, the amount of money given to NHS Tayside has fallen quite sharply below the Government's NHS Scotland resource allocation committee—NRAC—target by at least £20 million, according to

figures that I have seen from the Scottish Parliament information centre.

Has NHS Tayside been given everything that it needs to adequately fund the likes of breast cancer awareness and mental health issues now and once the pandemic is over?

Grant Archibald: We have been well supported, in my experience, by the Scottish Government over the past two years, and in particular by the director of finance and the director general of health and social care. The challenge for us is to articulate where we think we are legitimately in need of additional resource, driven either by activity or by other issues. One area would be waiting list initiatives to help us deal with waiting list pressures that are beyond the means of the board to deal with. An example of that to come will be mental health, as was articulated yesterday.

There was a view some years ago that NRAC shares were out of kilter and they were realigned across Scotland. In all our engagements with the Government, we are keen to demonstrate that we are managing the resources that we get and that, when we make a claim for any additional resource, it is legitimately evidenced on the basis of genuine need beyond the current budget envelope of the board. There can be specific examples of that, particularly if a target changes, for example.

I feel that we have been well supported. There are conversations about making sure that we secure the level of resource that we think is appropriate. Like this committee, we need to evidence our work. When we have done that, I have felt supported.

Bill Bowman: If you got what you might call your fair share, would you have to go and ask for more or would you have the resources to do what you want to do?

Grant Archibald: This is a complex environment. Things change—targets change; demand changes—and, every year, there is a negotiation around the budget. That is entirely appropriate and is a process that we need to be involved in. On that basis, we are given an allocation and we are expected to live within it. We are in front of you today to demonstrate where we are with that. As Mr Beattie said, we have come on a long journey of six or seven years. We are getting ourselves back to a point of financial balance. The challenge is to continue to engage with Government colleagues to ensure that the Tayside allocation of resource is commensurate with us being a teaching environment and also with the needs of our population.

The Convener: We are running a little bit short of time. Bill Bowman, if you are satisfied that we might receive that information by post or by letter, we will move to Gail Ross.

Gail Ross (Caithness, Sutherland and Ross) (SNP): When the committee reported on the 2016-17 and 2017-18 audits of NHS Tayside, it indicated that it was essential that new board members had the requisite skills and diversity to suitably equip them to challenge and scrutinise the senior management team. Do you feel that your board has the requisite skills? Do you feel that they are sufficiently holding you to account?

Lorna Birse-Stewart: As you will be aware, over the past two years the board has made significant efforts through the public appointment process to uplift the non-executive membership of the board. In 2019, we had non-executive support from NHS Greater Glasgow and Clyde in terms of our audit risk and finance oversight. I was glad that, a year ago, through the public appointment process, we appointed three new non-executives with a particular focus on audit risk and finance. Due to a couple of recent retirements of long-standing board members, we are in the process of recruiting through the public appointment process additional non-executive experience to broaden the mental health and public health portfolios. A year ago, we established a public health committee as a standing committee of the board and therefore have populated that.

In terms of the board and the skill mix, a lot of time and consideration has been given to ensure that we have broad portfolios represented on the board, so that it can provide challenge and scrutiny and also be a critical friend to executive functions. We are running with an almost completely full board of non-execs with a broad skill mix. Two additional appointments are coming, which I expect we will have by the end of April, which will also stand us in good stead as we move into the remobilisation planning. Does that cover the question?

Gail Ross: It covers the skills part. What is the gender balance, or what will it be when you have recruited your new members?

Lorna Birse-Stewart: I expect our gender balance to be roughly even, at about 50 per cent, following the public appointment process. I have been involved in two of the previous rounds and I know that certain skills in certain areas come through the public appointment process.

In this recent round, we have had an exceptional response to the public appointment process. That enhances our ability to reflect diversity across the board, not just in gender, so that we have a fully balanced board. It is important that we have a balanced board in that respect as well.

Gail Ross: Grant Archibald, what is your opinion of the skills and diversity of the board? Is it holding you to account?

Grant Archibald: It absolutely is. We should recognise that, probably uniquely in Scotland, this is an incredibly young board and an incredibly young team, not just in terms of their temporal ages but in terms of how long the team has been together. I have been in the health service for 37 years and I have been impressed by the level of scrutiny and the level of challenge that we get when I, Stuart Lyall, my director of public health or my medical director take papers to the board.

10:15

Do we feel held to account? Absolutely, we do. The board members take the time to scrutinise the papers and where they do not understand something or where they think that the direction articulated is not their understanding of what is going on, they are keen to explore that with us. There is challenge and there is grit in all of that. Given the history of the board, we see that challenge in committees such as the audit and risk and finance committees in particular, but we also see it around our clinical services.

I have felt supported by my board, entirely so. However, I understand that that support is earned by demonstrating the quality of the services that we are delivering. If we are seen to be falling short, the challenge, the scrutiny and the need for answers is there from my board.

Gail Ross: Thank you. I am happy with that, convener.

The Convener: I thank you all for your evidence this morning. After six years, it is heartening for us to see signs of hope and good progress within NHS Tayside. We appreciate you taking time during this challenging period to report to the committee.

I will now suspend the committee for five minutes for a changeover of witnesses.

10:16

Meeting suspended.

10:21

On resuming—

Control of Dogs (Scotland) Act 2010 (Post-legislative Scrutiny)

The Convener: Agenda item 3 is post-legislative scrutiny of the Control of Dogs (Scotland) Act 2010. I welcome our witnesses to the meeting today. They are Ash Denham, who is the Minister for Community Safety, and Jim Wilson, who is a senior policy lead in the criminal justice division of the Scottish Government. I understand that the minister has a brief opening statement for us.

The Minister for Community Safety (Ash Denham): Thank you, convener, and good morning to the committee. Let me begin by expressing my thanks to all members of the committee for the report "Post-legislative Scrutiny: Control of Dogs (Scotland) Act 2010" and its recommendations. I welcomed the opportunity to engage with the committee last year and the constructive discussion with members on a range of important points during that session. I am pleased to provide members with a further update today on progress by the Scottish Government since I was last at committee, as we continue to implement and progress the report recommendations that fall to us.

I can give a strong assurance that the Scottish Government is absolutely committed to responsible dog ownership in order to help to keep communities safe. We are committed to driving, through partnership working, more action to tackle irresponsible dog ownership across our communities. To that end, we established with local authorities, Police Scotland, the Convention of Scottish Local Authorities and other key stakeholders a working group, which now includes a victims' voice representing survivors of dog attacks. The working group meets regularly to consider, deliver and progress collectively many of the recommendations.

The Scottish Government's Covid-19 response has generally had an impact on availability of resources, but I am pleased to report that of the report recommendations that require some form of action, 20 out of 21 have either been fully delivered, partially delivered or remain in progress through the working group that is led by the Scottish Government. The breakdown is that five recommendations have been delivered, one is partially delivered and in progress, 14 are in progress and one is not yet started. That longer-term recommendation will be considered once reforms to the dog-control system are in place.

We want to build on completed actions, which include updated statutory guidance on the 2010

act, publication of a discussion paper on dog law reform and delivery of an awareness-raising campaign through social media last year. More action is planned. I am happy during this evidence session to talk through the Scottish Government's plans, which include plans to run a marketing campaign in the coming weeks on promoting responsible dog ownership.

Engagement is key. We have welcomed engagement with COSLA community safety officials, the Improvement Service and Police Scotland to consider collectively the issues and the opportunities to tackle a range of matters. We continue to lead discussions and to engage in order to make clear the importance of close co-operation and strong partnership working, which are vital and necessary not just in order to progress the report recommendations, but because we must, going forward, continually review and assess what other policy measures—legislative and non-legislative—can and should be taken in the future. That will be achieved best through a strong collaborative approach and shared ownership of key workstreams.

In addition to parliamentary consideration and scrutiny, we must also learn from other jurisdictions to inform policy thinking, and in respect of sharing good practice. We valued and welcomed recent engagement with Department for Environment, Food and Rural Affairs policy leads, Welsh Government policy leads, the Metropolitan Police, the safer Sutton partnership service and Middlesex University.

We are happy to speak to the committee about any of or all those things. Thank you, convener.

The Convener: That was helpful. It was a little bit vague, but my colleagues will probably want to delve down into the detail, as you offered to do. I ask Colin Beattie to open questioning.

Colin Beattie: Your recent letter to the committee about the number of attendances at accident and emergency departments in which a dog attack has been recorded says that the number rose from 6,483 in 2018 to 6,992 in 2019. The note that accompanies the data says that we should not be using that to determine whether there have been increases or decreases in the number of attacks. Whatever way we look at it, it says that 7,000 people had to attend A and E to seek treatment following dog attacks. That is completely unacceptable. If drunken drivers were mowing down 7,000 people on the streets, there would be a bit more being done than a working group being put together. It is an absolute crisis, with the impact on the NHS in reconstructive surgery, on which we have taken evidence, and in relation to children, who are the prime victims of attacks because they are smaller and more vulnerable to dogs that would attack.

Can you reassure us that the matter is being treated urgently? What will be the timescale for a reduction in that level of, frankly, unacceptable behaviour?

Ash Denham: Thank you. Of course it is completely unacceptable that that number of people seek treatment for dog attacks. I am concerned about the number of people who are having to attend hospital.

I take exception to how the member phrased that question, in saying that all that the Scottish Government has done is to set up a working group. That is absolutely not the case. I will run through some of the things that we have done since I started working on the issue.

We have progressed all the committee's recommendations; they are all in train, apart from one, as I said earlier, which is to do with a longer piece of work. I have requested prioritisation within the justice directorate and I have had extra staff resource put on the team that is dealing with the matter. We have updated the guidance on the 2010 act and the protocol and we have done the review on operational effectiveness, which has found some gaps in the law and will be progressed as soon as possible. We have set up the working group, which is a good way to achieve the joint working and collaborative approach that I spoke about in my opening statement.

We did a marketing campaign last summer. I have sought, and have been given, the budget to do another marketing campaign, which will start shortly. I have also managed to get funding for a training fund and have budget to set up and run a pilot. We have produced a discussion paper on review of the criminal law and offences relating to dangerous dogs. I hope that the committee will agree that that is a substantial amount of work that is being taken forward.

10:30

However, I agree with Colin Beattie that there is more to be done. We will all be pleased when we see numbers of people presenting at A and E starting to decrease. The best thing to do with the data that Public Health Scotland has given us is to use it for enforcement purposes. I have asked my officials to give the data to the enforcement agencies, which are Police Scotland and local authorities, in this case. Because the data is broken down by health board area, it gives a map of hot spots across the country. If that information is taken by the enforcement agencies, resources can be targeted and deployed to reduce the number of dog attacks in those communities.

Operational matters are for the independent local authorities and for Police Scotland. It would not be appropriate for me to interfere, but I take

the matter seriously. It is for the Scottish Government to facilitate enforcement, as much as possible. We are using the working group as one way to do that.

I mentioned the discussion paper a few moments ago. We are looking at the legislative framework, which is right. We have, through the review, identified gaps in the law to do with enforcement. We are now looking at review of the Dangerous Dogs Act 1991 and the criminal offence of a dog being dangerously out of control; we are seeking people's views on whether it is appropriate or should be changed. I hope many people will respond, because that will help to shape decisions in the next session of Parliament about how we make the legislative changes that we have spoken about during the last few times in which I have appeared at the committee.

Colin Beattie: One of the concerns has been about the lack of reliable data. Are we now getting reliable data from NHS boards on dog attacks? One of my local medical centres sees three or four dog attack victims a week, but they are not recorded anywhere. We may see figures that come through from NHS boards, but not from surgeries. How do we bring all that together so that we understand the scale of the problem, which, anecdotally, is very large indeed?

Ash Denham: That is a key point. It is important that we have accurate and consistent data to inform policy choices. I have concerns about the data and how it is being produced and whether that is being done consistently. My officials have pursued the data issues with Public Health Scotland, but it has indicated to us that it is more of a general issue with recording and diagnosing injury in A and E. There is a lack of suitably robust data in respect of dog attack injuries, which is part of a wider issue with data on people who present at A and E.

I understand that Public Health Scotland is looking at that and wants all NHS boards to record in the same way. There is quite a bit of detail on the recording of data at A and E, so I will bring Jim Wilson in to speak about that.

Jim Wilson (Scottish Government): I will quickly flip back to the first question, on dog attack data. I want to pick up the point that the minister helpfully made during her opening remarks on engagement with DEFRA and Welsh Government officials. That made me think about looking at cross-nation discussions to explore policy approaches in other jurisdictions, with an opportunity to share good practice. Ultimately, the problem of dog bites, admissions to A and E and so on is a global one, and it is important to learn from others and look at measures that could reduce the number of dog attacks and hospital admissions. We need to look at the issue through a broad lens.

On the commitment around on-going engagement with DEFRA, I know that it has commissioned Middlesex University in London to undertake research into the dangerous dogs legislation. I understand that that report, which is currently subject to peer review, should be published in the coming weeks. I would be happy to ensure that a copy of the report is shared with the committee, once I have permission to do so.

On the second point—

The Convener: I am sure that the committee can access research on this if it wishes. Could you tell us, please, what the Government is doing? Mr Beattie asked whether dog bites have been recorded and we heard from the minister that there are some issues. It sounds as if A and Es are telling you that they cannot record when an injury has been caused by a dog bite. Can you give us a clear answer on that, please?

Jim Wilson: Yes. More than a year ago, there were some discussions around all the NHS boards using the emergency care data set—ECDS—clinical codes. However, challenges remain for some NHS boards, in that there are local systems that make it difficult to change clinical codes—indeed, funding would be required to do so. The onset of Covid-19 has led to the reprioritisation of some reforms within NHS boards, which has hindered their ability to make substantial progress. However—

The Convener: Are you saying that there is no code on the computer to record a dog bite?

Jim Wilson: The issue is inconsistency of coding. I am having a discussion with Public Health Scotland and John Thomson, who is an emergency medicine consultant in NHS Grampian and currently vice-president of the Royal College of Emergency Medicine, to explore the known data issues and to look at securing buy-in from the Royal College of Emergency Medicine to improve recording via its membership. That conversation has been arranged for a week today, on 25 February. More generally, I know that there are bi-annual conversations between Public Health Scotland and health boards around a range of data issues.

I share the member's concern around the data inconsistencies. We are determined to work with Public Health Scotland and health boards to address those issues. It is important that we have a reliable and strong baseline figure that gives us confidence that we understand the scale of the problem with the current data on dog bites. Without doubt, what is made available could be strengthened.

Colin Beattie: It is quite clear that you are telling me that the high probability is that dog attacks are being underreported: health boards are not able to extract the statistics, so the data must be fairly limited. That would indicate that the problem is even bigger.

I have first-hand experience of the issue. I have constituents who have suffered life-changing injuries as a result of dog attacks. These attacks are going on all the time. It is a matter of real urgency; it is not something for a bi-annual conference or a discussion. Our citizens are being attacked almost daily, and something has to be done. We need to protect our citizens. We need to ensure that responsible dog owners are still able to enjoy their companions, but we need to crack down heavily on out-of-control dogs and irresponsible dog owners. My question is very simple: what timescale are we looking at to stop this level of injury and attack on our citizens? When will we see real action?

Ash Denham: I am taking real action. I have just laid out all the actions that the Government is taking. We will continue to do that because we take the issue extremely seriously.

I agree with the member completely. We do not want to see out-of-control dogs attacking people who then have to report to A and E or their doctor's surgery for treatment. We are taking forward workstreams in all these areas to get this under control.

We have concerns about the data. Jim Wilson has explained a little bit about that. However, that is not totally within our control, as the committee will understand. There is possibly some underreporting, but there is also possibly some double-counting, because we know that people can be counted more than once. However, we have concerns about the data.

The Convener: Minister, Colin Beattie asked for a timescale. Can you answer that specific question? Do you have a target to reduce dog attacks by 50 per cent by X date, or do you not have such a target?

Ash Denham: I do not have such a target at the moment, no, but we are working on this as fast as we can. We have a number of workstreams that we are progressing at the moment. I am keen to see a reduction. We are working with the enforcement agencies, which are on the front line and are able to make a difference.

The Convener: We would expect that.

Colin Beattie: We are talking about dog attacks on human beings, but there is also the volume of dog attacks on other dogs, which are unrecorded. Again, I have first-hand experience of that through my constituents. Small family dogs have been attacked by out-of-control larger dogs and literally ripped apart. There are no statistics covering those attacks, but they are very traumatic experiences for responsible dog owners whose pets—their companions—are attacked and savaged by out-of-control dogs. Perhaps that should be considered, alongside attacks on human beings.

I will leave it at that, convener.

The Convener: I have a question for Jim Wilson. It has been months since the committee published its report, and one of our key recommendations was on the data issue. Why is the meeting with the doctor in Grampian only now being arranged?

Jim Wilson: As a bit of context around the point that the minister made about the impact of Covid on resources, I head up the—

The Convener: Sorry—we know that Covid has been difficult, but our report came out pre-Covid. Could you answer the specific question, please? Why has it taken until now to organise the meeting?

Jim Wilson: To put it in a nutshell, I am currently dealing with a range of Covid matters. I have policy responsibility for dogs, but since 18 March last year, I have also been heading up a justice Covid hub.

I recognise the urgency around the need for reassurance on the data, and I appreciate Mr Beattie's point about the dangers of underrecording. For example, there might be an incident involving a dog bite laceration, but how is the NHS board recording that? Does it simply go in the system as a laceration, or does it go in as a dog bite laceration? These key issues need to be explored with Public Health Scotland and John Thomson, the named contact I mentioned.

I would have liked to move faster to address the data point, but I give the committee reassurance that we are looking to engage with public health officials.

The letter from the minister to the committee was sent on 23 December. At that point, we had had some conversations with Public Health Scotland in which we raised concerns about the data and inconsistencies and asked what steps would be taken around an improvement plan to address those concerns. Health boards were quite quick to point out the resourcing pressures from Covid, which is a relevant point. However, I am on the case and I look forward to the meeting a week today.

The Convener: Our committee report was published in July 2019. The response to the pandemic did not start until March last year, six or seven months later.

Graham Simpson is next.

10:45

Graham Simpson: Thank you, convener. I share your frustration—I cannot believe what I am hearing. Colin Beattie asked about data. It struck me that if I turned up in hospital with injuries having been attacked by another person, that would be recorded, but if I had been attacked by a dog and had possibly more severe injuries, that might not be recorded. That is extraordinary.

I want to explore another area around data, which relates to engagement by councils in undertaking their duties. Enforcement will work only if councils sign up to it. The level of engagement that we have had is pretty low. Nineteen councils responded to your own consultation, minister, 22 responded to our request for information and 15 responded to the Society of Chief Officers of Environmental Health in Scotland's request for information on local authority spending on dog control. In the paper from the society, South Lanarkshire, where I live, is recorded as saying:

"We do not record this information"—

and it was not the only one. If councils do not record information, how on earth are we meant to know how effective the legislation is?

Ash Denham: No one can force local authorities to engage. The committee has at times struggled to get engagement on dog control matters with local authorities, and the same is true, unfortunately, for the Scottish Government.

A step forward has been taken with the creation of the working group, which is designed to facilitate engagement and communication between all the key bodies that are involved in enforcement and to raise the profile of the importance of effective dog control enforcement, which is what we need to see.

I have been engaging with COSLA on this, and have had several conversations with Councillor Kelly Parry, who is COSLA's spokesperson for community safety and wellbeing. I spoke to her in November about a range of issues, especially dog control. It is important that we have that engagement with COSLA, because we need local authorities to look carefully at their approach in undertaking their statutory duties under the Control of Dogs (Scotland) Act 2010 and to highlight and support the activity that the Scottish Government is taking forward.

I will ask Jim Wilson to come in. He has been leading some of the engagement with the dog control wardens. That links into the issue of local authority response and enforcement.

Jim Wilson: I want to touch on some recent engagement. I spoke at the National Dog Warden Association's annual general meeting a few months ago, which gave me an opportunity to have a wide-ranging conversation with a good number of dog wardens who hold membership of the association.

I have also spoken to James Crawshaw from Glasgow City Council, who plays a lead role in the Society of Chief Officers of Environmental Health in Scotland, and to one of the working group leads, Hazel from Aberdeen, who plays a lead role in the Royal Environmental Health Institute for Scotland. I am looking at opportunities to have wide-ranging conversations with the full membership of those groups, because that will be critical.

There is always more that can be done to boost and strengthen local authority engagement. When I came into my post in January 2020, one of the first things that I decided to do was reflect on my policy input more than decade ago. I dealt with policy on dog control back then, when Alex Neil MSP's member's bill was introduced to Parliament. I had dog control tours, which involved significant travel and engagement with a wide range of local authorities—including the Shetland Islands—and helped me to meet dog wardens and understand local issues and any concerns around the legislation.

There are also opportunities to look at individual engagement with a number of local authorities. Although the working group membership has four local authority representatives and we use that as a way of engaging with local authorities, there is always room for further engagement.

The Convener: It feels as if we are getting a lot of answers about engagement, meetings and conversations but not a lot of action.

Graham Simpson, do you want to continue?

Graham Simpson: Yes. The minister has spoken to Councillor Parry and Mr Wilson has attended an AGM and has spoken to someone called Hazel from Aberdeen, but the upshot is that we are no further forward from when we last spoke to the minister and she said that engagement by councils was not good enough. If it was not good enough when you last spoke to us, minister, and it is still not good enough, what are you doing about it? We need to know the full picture. That should not be too difficult.

Ash Denham: I agree with you that we could have better engagement with local authorities on this issue. I am trying to bring the issue to the forefront, to highlight it and to impress upon local authorities that it is extremely important. It is particularly important that we consider the Control of Dogs (Scotland) Act 2010 regime as a

preventative one, which I do. It is about getting to out-of-control dogs before things escalate and they become dangerous dogs. When I last appeared in front of the committee we had a conversation about the number of dog wardens and so on. I have continued to impress the importance of that on stakeholders.

Since I last spoke to the committee, we have updated all the statutory guidance. The committee recommended that that be updated and that has been done. It has been refreshed to assist enforcement agencies with the operation of their powers. I hope that they can improve their operational ability by looking at the guidance, which has best practice examples and so on. That should help.

We will run another marketing campaign in the next few weeks. I do not know whether the committee would like me to explain a bit about that.

The Convener: Not quite at the moment, minister. I want to bring all the questioners in first. You have mentioned it a couple of times.

Graham Simpson, do you have another question?

Graham Simpson: There is not much point, convener. I am not getting anywhere. It is not good enough. You can move on, thank you.

Ash Denham: I have also managed to get £100,000 to set up a training fund. That could be key, if we work with dog behaviourists to deliver training on the content of the legislation and to enhance enforcement skills, the approach and so on. We are looking into the development of that now, and we hope to give the committee an update on it. That is positive and I hope that it will help with enforcement on the ground.

The Convener: Who is being trained? Is it dog wardens?

Ash Denham: Yes.

Gail Ross: Minister, you said in the evidence session in August that you and COSLA agree that dog wardens need to be in place in order for enforcement to be effective, but the recent data that has been provided to the committee does not suggest that there has been a notable increase in dog wardens since the committee began working on the issue in 2018. In my experience, the Highland Council website says that, if people have a problem with a dog, they should phone the police. They have four people covering an area the size of Belgium, who are not dog wardens but assistant community people. What can you do about that? What level of importance should local authorities place on having dog wardens?

Ash Denham: It is a key issue. I think that it is of the utmost importance. Clearly, we will not be able to operate any kind of enforcement regime if we do not have the boots on the ground and the people who are able to do it. I have just mentioned—and we spoke about this last time—the need for them to be highly trained and highly effective so that we can get the enforcement to where we want it to be in order for it have the preventative effect that we all want it to have. I hope that the funding that I have managed to get to improve training will be effective.

It is for local authorities to decide for themselves how they allocate their resources. We all know that. It is not for me to tell them how many dog wardens they should have. Ms Ross has made the point that local authorities are different and they have different geographies and so on, so the numbers of dog wardens that are needed will vary. However, I certainly agree that we do not have enough dog wardens. I would like to see local authorities prioritising them and bringing in more.

I have given some thought to how I could try to move this along. I have managed to get some funding for a pilot. I have £184,000, which is in the justice budget line for the financial year 2021-22. The pilot approach would be to fund dog wardens. I want to test whether giving additional resources to one or two local authorities will prove successful in strengthening the enforcement that we are talking about, which we hope will, in turn, reduce the number of dog incidents. If that proves to be successful, I think that it will strengthen the case for looking at future funding opportunities, possibly nationally. That would stand a good chance of success if the evidence can be demonstrated. That plays strongly into the preventative spending approach.

Officials have spoken to local authority representatives about that possibility and we are seeking an in-principle agreement to progress the pilot. Further discussions on that will happen through the working group and outwith it. We will be happy to update the committee shortly when we have some more detail that we can give, but I hope that that will have the effect that the committee is looking for.

Gail Ross: Providing extra money to local authorities to employ more dog wardens would certainly help with the issue. Instead of doing a pilot project with one or two local authorities, maybe the Government should just provide that funding to all local authorities now so that we do not have to wait for a pilot to finish and basically tell us something that we already know.

Ash Denham: If additional funding was provided to local authorities through the block funding position, it would then be up to local authorities to decide how to spend that money.

Unless the funding was ring fenced specifically for dog wardens, which is not something that the Scottish Government typically does, it would not work in quite that way. Obviously, I am not in charge of the funding for local authority block grants. That comes under the finance portfolio. However, I have managed to get the funding that I mentioned, which I am going to spend through the pilot on dog wardens.

Gail Ross: That is welcome, but there are a lot of ring fenced funds within local authorities and I am sure that it would be possible if we wanted it to be. Thank you, convener.

The Convener: I agree with Gail Ross. As Colin Beattie said, if we were seeing the same amount of injuries due to drunk drivers, the Scottish Government would have no hesitation in ring fencing additional funding for local authorities to tackle it. I do not see what that problem is.

11:00

Alex Neil (Airdrie and Shotts) (SNP): Going back to the data issue in relation to the health service and the disparity in accident and emergency data collection, I note that there is probably far more activity around dog injuries in the primary care sector, and particularly at GP surgeries, than there is at A and E. What is the state of play with data collection in primary care, and particularly at GP surgeries? It seems to me that we should be capturing that data as well as the A and E data.

Ash Denham: Yes—that is a key point. I ask Jim Wilson to explain the way that that data is collected.

Jim Wilson: I thank Mr Neil for the question. I would not be able to provide any statistical information off the top of my head, but I will be more than happy to raise the point in the conversation that I will have a week from today. I am sorry that I cannot provide any information just now.

Alex Neil: There are two things we need to know. First, what do the existing statistics for primary care show us, if they are collected at all? If you can get that information for us as a result of your meeting next week, it will be helpful, because it will give us a bigger picture of the incidence of dog bites and attacks. Secondly, do you have the methodology problems with collecting the data across primary care that are evident in trying to get a consistent approach across accident and emergency departments?

Jim Wilson: There are issues around the methodology point. I have spoken at length with health analytical colleagues about the concerns that the minister and I have about the accuracy and type of data that is produced currently.

I am more than happy to take those two helpful points away and explore them further. We will come back to the committee in writing once we have an update. I recognise the frustrations around the data position. As I said earlier, it is important that we establish a firm and reliable baseline so that we understand the scale of the problem.

Alex Neil: I suspect that you will have to recruit the assistance of the Cabinet Secretary for Health and Sport to crack this one, quite frankly, because things move slowly in the health service and, at the moment, the matter is not at the top of the in-tray for most people. I suspect that you and the minister will have to talk to Jeane Freeman.

I move on to another area where we are expecting progress. Where are we with the establishment of the Scottish dog control notice database?

Ash Denham: We are making progress with that. When I was in front of the committee previously, we said that we were going to be involving the Improvement Service. In September, we commissioned it to look into the feasibility of the database. The situation is that we have 32 local authorities and they have a variety of different information technology systems. They do not all work from a single IT system. The Improvement Service was brought in to have a look at the current infrastructure, understand the current approach and analyse ways in which it could be transformed and improved. It has looked at what top technology would be available, how it could be maintained and the likely costs for setting it up, maintaining it and so on.

That scoping study has completed—it ran from November to February—and the report went to my officials last week. We are now in on-going discussions with local authorities, Police Scotland, COSLA and other stakeholders to consider the next steps. I will bring in Jim Wilson to give a bit more detail about that, but I say to the committee that the way that we are going to progress it initially is by conducting a proof of concept. We will work through it with a couple of local authorities to see how it would start to work.

However, I can advise the committee that we are on track to deliver the database by the end of this year.

Alex Neil: To clarify, are you saying that the national database will be up and running by the end of this calendar year?

Ash Denham: Yes, but I make the point that, because of the way that the legislation is set up—we have discussed this before—the database that

is set up will be able to hold only the information about DCNs. I know that the committee was very interested in the database being able to hold other data such as details of complaints that have been investigated and warnings that have been issued, and information of other types. The current powers under the 2010 act mean that we cannot do that at present, but I want to progress that by regulation.

That is the caveat—the database will be up and running, but initially it will only be able to hold that information. If we expand it, we will need to do that by secondary legislation.

Jim Wilson: To add to those helpful points, I stress that there is a need to think about the technology that is selected for the national dog control notice database, because it has to be future proofed to ensure that it will be available in future.

I made this point to the committee when the minister and I gave evidence back in August, but it is important. We are tied to the provisions in the Control of Dogs (Scotland) Act 2010, and at present it would be possible to exercise the order-making power in section 8 only if we had a national dog control notice database that could hold information relating to the contents of notices. However, we want to ensure that, if policy changes are made in the next session of Parliament, the technology is such that it will be possible to include more key information relating to investigations, breaches of dog control notices and so on.

The proof of concept point that the minister made is important. I have had a number of conversations with COSLA officials about it, and it is worth adding that the scoping study included 27 representatives from councils who engaged in a workshop session with the Improvement Service on 15 January. There is strong buy-in from local authorities, with 100 per cent of those who attended that engagement with the Improvement Service saying that this is the right thing to do and that it will be a useful enforcement tool.

I am conscious of the time, but I will provide a snapshot of some of the key points that came out of the scoping study, and I should add that we will be more than happy to share it with the committee—

Alex Neil: I am sorry to interrupt, but it will probably be easier if you could share that with us in writing after the meeting. I am sure that the convener will be happy with that.

The Convener: Yes—that would be helpful.

Alex Neil: I have one more question. You mentioned the need for secondary legislation in order to facilitate the national database and make it do the things that we want it to do. When will that secondary legislation be laid for approval?

More generally, we have made it clear that we believe that a new control of dogs act is required. We should not just update the act that we passed 11 years ago; we should update the antiquated legislation that still is on the statute book, which needs to be updated. We made that point clearly in the committee. This is a question for the minister, because it is a political one. What commitment is there that—depending on the election result, obviously—a new control of dogs bill will be introduced in the first half of the next session of Parliament?

Ash Denham: You are quite right. The legislative framework is clearly an important part of all the different strands of work that we are doing, and we are progressing it. Last year, we did the review of the operational effectiveness of the 2010 act, and we identified a number of gaps that we have now put into the list of things that need to be taken forward in primary legislation. We are currently doing another review, which is the discussion paper, to see whether the Dangerous Dogs Act 1991 needs to be reviewed and updated. We also have a question about whether it should be consolidated to make it easier to operate, more straightforward and so on.

The piece of work would be to incorporate all those different strands—the operational effectiveness work and the gaps we identified in that, along with what respondents to the discussion paper say about the 1991 act and whether it should be updated—and then take them forward in a bigger piece of legislative work. I think that the 1991 act probably does need to be updated. Obviously, I do not know who will be in my post after the election—indeed, we do not know who the Government will be—but officials are working on the matter and I can give an assurance that, if we have an SNP Government, it will be taken forward early in the next parliamentary session.

The Convener: Minister, I would like to ask about the “one bite” legislation that the Government has out for consultation. Are you in favour of changing the law in that area?

Ash Denham: There is a strong case for updating the law, and that is why we are consulting on the subject. We had a discussion about it in our previous conversation with the committee and it was mentioned in the committee’s report. We have a discussion paper out at the moment and I encourage people to respond to it. The responses that we get will inform policy going forward, which will, as I have said, be part of the update to the legislative framework on the control of dogs, be it in terms of

civil law or criminal law. That will be taken forward early in the next parliamentary session.

The Convener: I think that I speak on behalf of my whole committee when I say that we are really quite frustrated by the pace of progress. The consultation that you have just mentioned closes on 30 April, I think, or certainly at the end of that month. We will be in an election period then. Our report on dogs was released in July 2019, which is a long time ago—it is 18 months ago—and we said at the time that it was the hardest-hitting report that the committee had published, because we felt so strongly about public safety and the injuries to children. You must have seen or read the testimonies from the families that we had at our committee. I make the point again that, if such injuries were happening in any other way, the matter would be a much higher priority for the Government.

We have heard excuses from the Scottish Government about Covid, but the report was published seven or eight months before any of us had heard of Covid. The "one bite" consultation could have closed in that time and we could have looked at changing the law. It could have been done within the current session of Parliament. Instead, we do not even know whether GPs record the data, and we are 18 months or nearly two years on from our report. Frankly, I have run out of optimism that the Scottish Government is actually going to do anything. Unfortunately, we will have to leave it to colleagues in the next session of Parliament to take up the issue, which most of us still believe is very important.

Ash Denham: It is a very important issue—I completely agree, convener—and I reassure the committee that the Scottish Government is working on it. It may not be at the speed that the committee expects, but I assure the committee that I take it very seriously and I have been working hard on it with the small team that I have in Government.

The reason why we only did the discussion paper on the 1991 act is that we decided to do the operational effectiveness review first because it would be clearer how we would frame that if we had that consultation first. There were things that we needed to work through in order to have a look at the 1991 act. That is why that has been done as it has been.

The legislative changes are certainly an important part of the picture, but they are not the whole picture. I have had an opportunity to talk today about other things that the Government is doing, such as the further awareness raising that we will be doing, which will start in the next few weeks, and the work that we are doing with enforcement and engagement with local authorities. I hope that the committee can see that the overall picture is one where the Scottish Government is working towards definitely making improvements in the area.

The Convener: Minister, forgive me. I have never been a minister in government, but is there any scope within your Government to make a decision and get on with it rather than having all these working groups, consultations and endless discussions about taking action at a point in the future?

Ash Denham: It is important to engage with stakeholders. We all expect the Government to produce good law, and in order to do that we need to engage with stakeholders, test the arguments and have the discussions, particularly if we are going to change the criminal law. I think that the committee would accept that.

I am committed and I have put the matter forward for the legislative programme for the next parliamentary session. I am in control of doing that and it has been slotted in early in the next session. I give the committee a commitment that it will be taken forward early in the next session.

The Convener: If you are in government.

Ash Denham: If the SNP is in government—yes. Well, I would hope that any Government would take it forward, to be honest.

The Convener: Absolutely. I think that the committee felt that we did a lot of the preparation and consultation work for the Government and we were hoping that you could take it on quickly after that.

Anyway, all of that being said, I thank the minister, Ash Denham, and Jim Wilson very much indeed for their evidence this morning. That ends the public part of the meeting and we will now move into private session.

11:17

Meeting continued in private until 11:43.

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