FINANCE COMMITTEE

Tuesday 4 November 2003
(*Morning*)

Session 2

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FINANCE COMMITTEE
11th Meeting 2003, Session 2

CONVENER

*Des McNulty (Clydebank and Milngavie) (Lab)

DEPUTY CONVENER

*Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP)

COMMITTEE MEMBERS

*Ms Wendy Alexander (Paisley North) (Lab)
*Mr Ted Brocklebank (Mid Scotland and Fife) (Con)
*Kate Maclean (Dundee West) (Lab)
*Jim Mather (Highlands and Islands) (SNP)
*Dr Elaine Murray (Dumfries) (Lab)
*Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD)
*John Swinburne (Central Scotland) (SSCUP)

*attended

COMMITTEE SUBSTITUTES

Mr Adam Ingram (South of Scotland) (SNP)
Gordon Jackson (Glasgow Govan) (Lab)
David Mundell (South of Scotland) (Con)
Iain Smith (North East Fife) (LD)

THE FOLLOWING GAVE EVIDENCE:

Keith Connal (Crown Office and Procurator Fiscal Service)
John Ewing (Scottish Court Service)
Douglas Haggarty (Scottish Legal Aid Board)
Norman McFadyen (Crown Office and Procurator Fiscal Service)

CLERK TO THE COMMITTEE

Susan Duffy

SENIOR ASSISTANT CLERK

Jane Sutherland

ASSISTANT CLERK

Emma Berry

LOCATION

The Chamber

Scottish Parliament

Finance Committee

Tuesday 4 November 2003

(*Morning*)

[THE CONVENER *opened the meeting at 10:00*]

Work Programme

The Convener (Des McNulty): I welcome the press and public to the 11th meeting of the Finance Committee in session 2. As always, I remind members to switch off their pagers and mobile phones.

The first item on today's agenda is consideration of the committee's work programme. Members have a note from the clerk and a copy of the committee's work programme for November and December. The programme also lists areas of work that are likely to come our way after Christmas.

I anticipate that we will want to take significant evidence on the financial memoranda to the Education (Additional Support for Learning) (Scotland) Bill and the Antisocial Behaviour etc (Scotland) Bill, as those are both large bills with significant financial issues attached to them. We also have the budget to deal with—obviously, that will be a major item of business during the next couple of months. Are there any comments on the work programme?

Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP): We are considering the work programme as agenda item 1 and Scottish Water as agenda item 4. From my reading of the paper on Scottish Water, it seems that one of our options—as suggested by the clerks, at any rate—is to have an evidence-taking session. There does not appear to be any reference to that in the paper on the work programme.

As you know, convener, I have argued from the outset of the current session of Parliament that there should be an inquiry into Scottish Water. I hope that we would all reach that conclusion, particularly in view of the huge range of questions that is thrown up by the submissions.

The timing of the evidence-taking session might be important. I will give just one reason for that. The scheme that provides assistance to those at the lower end of the income scale comes to an end in April. I understand from the water customer consultation panel representative for the north of Scotland that the Executive has no plan to replace that scheme. If there is to be any possibility of the committee influencing that situation and, perhaps, providing help to those on low incomes, we will need to get our skates on and have an evidence-taking session before the end of the year.

I see that there are a couple of windows of opportunity, but it is perhaps unfortunate that we are considering the work programme as agenda item 1 and Scottish Water as agenda item 4, because that seems to preclude the possibility of having an evidence-taking session.

The Convener: Can I just say—

Fergus Ewing: I think that you will accept, convener, that I have been arguing for such an evidence-taking session since the current session began.

The Convener: Whatever the committee decides to do in relation to agenda item 4 can be factored into our work programme. The object of giving people a copy of the work programme was to provide a backdrop for several discussions that we might have and to highlight the issues that will come before us under our present programme. I do not think that the programme pre-empts our options on agenda item 4, although it should perhaps condition them.

Fergus Ewing: So we can still have an evidence-taking session on Scottish Water before the end of the year.

The Convener: We can do so if that is what the committee decides to do.

Fergus Ewing: Good.

The Convener: It is up to the committee to make a decision when we come to that item on the agenda.

Economic Development Review

10:04

The Convener: Agenda item 2 is consideration of the areas that the committee wants to cover in its cross-cutting expenditure review on economic development. Members have a note from the clerk and a briefing note from the Scottish Parliament information centre.

It is incumbent on me to remind members that a cross-cutting review, by definition, involves looking at budgets from more than one ministerial portfolio. We should consider budgetary issues and avoid duplicating the work of the subject committees. Obviously, the Enterprise and Culture Committee is the subject committee that is likely to be most closely affected by the review. I had an informal discussion with Alasdair Morgan, the convener of that committee, about the fact that we would discuss having a cross-cutting review. He is content that there should be such a review provided that it does not cut across the work of the Enterprise and Culture Committee. I ask members to bear that in mind.

I invite comments from members on the broad direction of the review. Perhaps "economic development" is not the best heading for the review; it might be that we are considering the factors that underpin growth, given that the Executive has identified growth as its priority. However, as we have agreed on the heading "economic development", we should perhaps proceed on that basis.

Jim Mather (Highlands and Islands) (SNP): It strikes me that we might replicate the formula that we used with Scottish Water. We could invite submissions from every spending department and from some related quangos, such as VisitScotland, Scottish Enterprise and Highlands and Islands Enterprise, asking them to state what their budget and operation plans do to promote economic growth in Scotland. We could use that information as a baseplate from which further work could emanate.

Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD): I want to focus on two areas. First, one of the problems that we will face is that a lot of the work on economic development is done by local agencies and local government. There might be scope for following economic plans from the ground up, to see the relationship between those plans and central Government's plans for the different departments, as the local economic plans will involve, for example, housing developments that take place over a period of time and that might stimulate growth in a particular area. We could look at how local agencies are spending and whether central Government is supporting that. That might be a role for the committee.

Secondly, I have consistently said that we should consider the means by which central Government allocates expenditure in areas of perceived deprivation and the indices that it uses to do so. That area of government has received little scrutiny and the indices of deprivation, which were published not long ago, would provide a good starting point for a brief look at the issue.

Dr Elaine Murray (Dumfries) (Lab): I do not know whether this will fit in with the kind of thing that Jim Mather was talking about, but I am interested in considering the investment in the key sectors and how successful that investment has been. That might be perceived as cutting across the work of the Enterprise and Culture Committee, but some of the key clusters relate to departments other than the Enterprise, Transport and Lifelong Learning Department. We would have to handle the matter in the right way, but we could consider how well the investment in relation to "A Smart, Successful Scotland" is working. That would involve looking not just at how the budgets are divided to put money into those sectors, but at outcomes—what has been done with the money and how successful that has been.

Fergus Ewing: Before we begin the review, we have to be absolutely clear about what we are setting out to do. It seems to me—as your opening remarks perhaps illustrated, convener—that a muzziness has developed around the remit and purpose of the inquiry. I do not think that they are clear, as you perhaps indicated, convener, when you suggested that the heading "economic development" should be replaced by "economic growth". Of course, economic growth is the partnership agreement's main objective. Therefore, the inquiry should focus on how to promote economic growth, although that work should be done within the constraints of the committee's remit, as has been discussed.

I am attracted to the proposals made by Jim Mather and Dr Elaine Murray. What Jim Mather said relates to what should happen after the remit has been set. Elaine Murray's suggestion that we should consider specific sectors seems to be the way ahead—indeed, I advocated such an approach at some length in a speech last week. If we consider each sector and find out what is holding that sector back and the barriers to growth that each sector perceives, we might be able to achieve something concrete. Therefore, we should take up Dr Elaine Murray's suggestion and pursue a fairly narrow and focused remit. We should consider particular sectors and then—as Jim Mather suggests—invite those sectors to tell us what they think about the economic and finance

policy and about barriers to growth so that we can try to eliminate such barriers.

I would also like to consider regulation, taxation and other matters. However, if we consider everything that everyone has suggested, we might end up with an inquiry that has so broad a remit that we would achieve little. I have seen that happen with previous parliamentary reports. We should consider specific sectors in detail and find out how we can remove barriers to economic growth for them, as Dr Elaine Murray said.

Jeremy Purvis: Doing that would be problematic. First, we would directly duplicate the work of the Enterprise and Culture Committee, as we would narrow our focus to economic development purely with regard to economic policy in certain sectors. Secondly, there would be also duplication in the fact that many sectors will have common issues relating to, for example, the supply base and marketing on a global or national scale. In the short time frame that we have, there would be a danger that we would waste a lot of time and not carry out a cross-cutting review across all departments, including those responsible for education, communities and rural development.

Jim Mather: The exchange has been useful. It is possible for us to come up with a valuable process. A first pass could be to ask sectors to specify the constraints that they face in achieving further economic growth. A second pass could involve spending departments, quangos and local government discussing contributions that they think they are making and constraints that they face in achieving what they would like to achieve and that inhibit the potential that they would like to fulfil. A second report could be submitted to the sectors for their comments and auditing. By the end of such a process, proposals would be winnowed away to something that could be valuable.

Ms Wendy Alexander (Paisley North) (Lab): I apologise for being late.

I agree with Jim Mather that there should be a two-phase inquiry. The first phase should consider the totality of spend across the sectors and find one or two areas to drill down on. I say that because the Finance Committee is the only committee that can look across the entire budget.

The sum of money specified in paper FI/S2/03/11/2 is £4.2 billion. I am somewhat puzzled that no education spend—or at least no pre-further education spend—is included in that sum. We are talking about stimuli to economic growth and it seems extraordinary that spending on education is not regarded as contributory in that respect.

I do not think that I disagree with Jim Mather, but I would like something to be clarified. I do not want to accept as a given that the way in which the £4.2 billion is spent is optimal for growth. It seems extraordinary that, if one adds up expenditure on common agricultural policy market support, fisheries, agriculture and rural development, the total is more than the entirety of the economic development budget. It is right to ask people who work in those areas how there could be improvements within their spend, but the committee's primary purpose is to take a fresh look at how, if one had £4.2 billion at one's disposal, that sum would align against those priorities.

Different advisers are required for different issues. At a first stage, there should be advice in a big-picture discussion about what to look at in the £4.2 billion. The second stage might involve asking whether people think that they are spending their money optimally in those areas. One or two people elsewhere in the United Kingdom would like us to look at the £4.2 billion in relation to trying to increase regional growth from first principles. It has been suggested that areas that we want to drill down on might emerge by asking sectors whether the quantum is right and whether money is being spent appropriately within that quantum. No other committee has the chance to look right across departments and ask whether the alignment of the £4.2 billion is broadly right. We do not want to miss that chance.

10:15

The Convener: I am trying to draw together all the strands of the discussion. Members are saying that they agree with one another, but each member is making different suggestions.

Fergus Ewing: Jeremy Purvis did not agree with me.

Dr Murray: Listening to the evidence that the two expert witnesses gave last week, I was struck by the fact that they felt that the slant of spend was not appropriate for economic growth. In particular, they said that there was too much investment in the pubic sector. I do not necessarily agree with them about that, but that was their contention. They said that there was not enough investment in research and development, for example. I do not know how to progress that matter, but elements of what they said are worth investigating in the context of general economic development. That might link into what is said in "A Smart, Successful Scotland" and how money is invested.

The Convener: Big issues are involved. One issue that has consistently been raised with this committee and that was raised with the previous committee is whether the balance of spending between capital and revenue is correct. Most

expert economic commentators seem to suggest that we are not putting enough money into capital investment, especially given the financial circumstances that we have enjoyed over the past four or five years.

A second important issue is whether we are striking the right balance in economic development expenditure between business support and research and development on the one hand and the property and infrastructure strand of that expenditure on the other hand. We need to consider how the balance works in different areas of Scotland. Certain areas of Scotland see themselves as being significantly disadvantaged through the lack of particular infrastructure resources of one kind or another.

A third issue is whether spending is sufficiently focused on urban issues in urban areas—such as in west central Scotland or Tayside—and whether the balance of expenditure in rural areas goes under the correct headings. I suppose that that is partly the issue that Wendy Alexander raised. Are we getting the big categories right within the broad framework of expenditure? Are we getting the arrangements right for the management of resources within the big categories? As I said, huge issues are involved.

We must make the exercise manageable. We cannot do everything, but we must do something that is achievable. Jim Mather suggested that we should write to sectors asking them about barriers. I think that we could do that almost as a side exercise to the inquiry. We could ask questions and feed the information into the main thrust of the inquiry. However, one problem with that approach is that it is more difficult to determine who should be spoken to in some sectors than in other sectors. There are technical issues attached to that. I wonder whether that aspect could be linked to what Wendy Alexander suggested.

John Swinburne (Central Scotland) (SSCUP): The bit of the overall picture that perturbs me most is the fact that we allocate blocks of money here, there and everywhere, but no one follows them up with efficiency checks. Today, the legal people are coming in to give evidence on the Criminal Procedure (Amendment) (Scotland) Bill. Over many years, I have heard talk of the closed-shop mentality. The legal profession is the biggest closed shop that was ever invented. There is protectionism ad nauseam for the legal profession, which is highly inefficient—nothing personal, Fergus. We should highlight that right along the line. The inefficiencies in that area are astronomical. The sooner we get the efficiency experts in to clean out the profession, the better. We can then apply ourselves to the departments that are equally inefficient in many ways. If we do not place an emphasis on that, we are not doing our job to ensure that all the money that we are agreeing should be issued is being spent adequately and efficiently for the benefit of the people of Scotland.

The Convener: That is why we are considering the inquiry. We want to see whether the money that is being spent is serving the objective of economic growth.

Ms Alexander: For the sake of clarity, I have a proposal with which members can either agree or disagree. Nine budget headings are set out in the paper; if we add education to those, we will have 10. Phase 1 of the inquiry should consist of two parts. The expert witnesses were helpful last week, but they dodged some of the issues. We have to compel the experts to take a view. Phase 1 is to consider whether the balance of the sum against the 10 areas is broadly right.

We should also take each of the areas and ask three questions. The first is how much of the money is supporting growth—how many people is it hitting and what impact is it meant to have on growth? The second is the question that the convener asked: what is the broad balance between capital and revenue? The third is whether the balance is right between supporting low-growth and high-growth areas.

At the end of that, we could take a view on whether, when we add in education, the £7 billion that could nominally support growth is, in fact, doing so. We are meant to scrutinise the Executive, so this is our chance to ask it whether, given its desire to promote growth, the £7 billion best supports that policy. In each of the 10 areas, we would have a sense of where the bodies are buried. I suggest that we produce an interim report at that stage—we should at least give ourselves that option.

It is impossible for us to look into all 10 areas but, if we do what I have suggested for phase 1, we could find three areas—I am sure that one would be the enterprise and lifelong learning budget—to dig down into, probably with different expert advisers, for the second phase of the inquiry. Given the pressure of the committee's other work, the inquiry is our one-off chance to look across all the headings.

Dr Murray: My only query is how much control there is within the headlines over where the money is spent. For example, the Executive might have little control over where CAP market money goes. We could make the list long enough to cover the entire budget. Local government has an important role in encouraging economic development, but that heading is not on the list. The list still looks heavy and unfocused. I am not clear how we would dig into those areas to get the information out. We are talking not just about the

money that is going in, but about what is being done with it. I have concerns about parts of the "A Smart, Successful Scotland" strategy, as I do not think that science has had the outcomes that it should have had. However, that is perhaps an issue for the Enterprise and Culture Committee rather than for the Finance Committee.

Ms Alexander: I share Elaine Murray's concern that in some areas there is no discretion with spend. We need to understand that before we start writing to sector bodies. I am sure that businesses in the Highlands would say that they would like all the CAP spend and that they would like Highlands and Islands Enterprise's budget doubled. There is no point in our wasting time listening to people proposing that if there is no discretion on spend. The point of our having an expert-focused discussion around the 10 areas at the beginning, asking the three questions that I suggested, is to establish where there is discretionary spend. We should have witnesses from the Executive and expert witnesses to establish where the discretion lies before we seek third-party views. There is confusion about where the discretion lies and we need a firm handle on that before we hear people asking for the moon.

Fergus Ewing: I return to what we are trying to do. We started off talking about a cross-cutting review. That suggests to me that we should consider all the departments. Wendy Alexander has, characteristically, put forward a clear plan, but an element of that plan is to ignore all the expenditure except the £4.2 billion and the education spend. Elaine Murray has pointed out that we might want to consider local government, because some of its spend impacts directly or indirectly on what we do. The fact that we have one proposal to examine some spending and another proposal to examine some other spending is illustrative of the general muzziness and vagueness of the remit. That is why we should not embark on an inquiry until we know exactly what we are going to do.

If we are to have a cross-cutting review—and I am not entirely averse to that if the remit is clear—we must be prepared to make some fairly hard choices. As John Swinburne and Elaine Murray indicated, we must be prepared to conclude that some money is being wasted and that it should cease to be spent in certain areas. Unless we accept that as a premise of our inquiry, we should not embark on any such review. I suspect that we will embark on the review and reach conclusions without coming to a committee view that there should be any cuts at all. If that happens, I will be bound to refer back to these remarks at the end of what will be a long and costly exercise. We have to have a much clearer remit. I suggest that we all think about that and come back to the matter another day because, unless we know what we want to achieve at the outset, there is no hope of achieving anything.

Jeremy Purvis: If the remit is to consider how Government is stimulating growth and its capacity to do that over the next four years, we have a starting block. My biggest concern with Wendy Alexander's approach relates to the fact that we have a starting block in cross-cutting analysis with the local strategies that ministers sign off. Those strategies cover local transport, housing and education, which we should be considering. We might be able to start with that, which would make the process a local-up one. Through that, we could consider spending by bringing in private sector expert witnesses, as Jim Mather suggested. Our role should be to consider whether the Executive will address the structural weaknesses in Scotland over the next four years.

Given the time constraints to which we are subject, we should not start completely from scratch. We should begin by examining the issues at local level. After our away day next week, we may have a firmer view of whether that will be practical, because we will hear from local enterprise agencies and expert witnesses. As Fergus Ewing suggested, the clerks could, perhaps following the away day, produce a paper that provides us with a clear analysis. My concern is that we are not reaching a consensus this morning.

10:30

Jim Mather: The remit of the review must be to ensure value and effectiveness. Although that sounds a bit woolly, I would be happy with such a remit, in the knowledge that it would be tightened up considerably if at some stage the private sector were involved in auditing the output and submissions of spending departments, quangos and local government. There are many private sector organisations with the wherewithal, the connections and the data-collection mechanisms to deliver that, including the Scotch Whisky Association, Scottish Engineering, Electronics Scotland, ScotlandIS and the Scottish Retail Consortium—I could go on.

It would make a lot of sense if at that stage we were able to format specifically the sort of response that we were seeking from such organisations, so that there was a standard model for responses. That would enable us to collate the information and feed it back to spending departments in a more meaningful way.

The Convener: In conclusion, I would like to highlight two or three points that have arisen from our discussion. Fergus Ewing made the point that, before embarking on any review, we need to have a very clear remit. If we do not, we will end up

confusing ourselves as well as the people from whom we seek evidence. I am attracted by Wendy Alexander's notion that we should identify areas of the budget that link in particularly with economic growth and subject those to close scrutiny, to determine whether the profile of expenditure is supporting the core objective of growth and whether our attempts to pursue that policy in Scotland reflect best practice. That may be the source of interesting comparative work with other parts of the United Kingdom and other devolved Administrations. We may want to commission some research in that area.

We could identify particular questions that we want to ask about a managed chunk of expenditure. Even if we add education to the list of budget heads that appears in the paper, we would be looking to take evidence from only four or five ministers. The inquiry would be manageable.

I am attracted by Jim Mather's suggestion that we should solicit responses from people outside Government. I would not restrict such responses to the private sector, as Jim Mather appeared to suggest. There are other sources of expertise in Scotland that would have an interest in commenting in various ways on whether expenditure adequately serves the growth agenda. We should not be closed on that issue. If we decide to ask people questions of a broad nature, we should widen the list of agencies to which we put those questions. It is important that we are clear about what we are asking and that they are clear about the responses that they are expected to make. We need expert assistance to do that.

Having heard the discussion, I suggest that I work with the clerks to bring a paper to the committee setting out a draft remit for the review and a mechanism for working, along the lines that the committee has suggested. I will not be able to include all the points that members have made, but I will try within the next fortnight to synthesise the various strands of the discussion and to produce a route forward that the committee finds acceptable. Is that agreed?

Members *indicated agreement*.

Criminal Procedure (Amendment) (Scotland) Bill: Financial Memorandum

10:35

The Convener: The third item on our agenda is consideration of the financial memorandum of the Criminal Procedure (Amendment) (Scotland) Bill, which was introduced on 7 October by the Minister for Justice.

To assist consideration of the financial memorandum that accompanies the bill, we have witnesses from the Scottish Court Service. John Ewing is the chief executive of the SCS and John Anderson is principal clerk of session and justiciary. We will also hear from Norman McFadyen, who is the Crown Agent, and Keith Connal, who is the business manager for the Crown Office and Procurator Fiscal Service. From the Scottish Legal Aid Board we have Douglas Haggarty, who is head of legal services (technical). I welcome all the witnesses to today's meeting.

Members will have a received a copy of the submissions from the Crown Office and Procurator Fiscal Service and the Scottish Legal Aid Board. We have also received a very brief submission from the Scottish Prison Service. The witnesses may make a brief opening statement or we can move straight to questions.

John Ewing (Scottish Court Service): We are happy to move straight to questions.

Mr Ted Brocklebank (Mid Scotland and Fife) (Con): Can a further breakdown of the £150,000 to cover judicial support costs and information technology costs in the Scottish Court Service be provided? Why will that expenditure be incurred only during the first two years of the new system?

John Ewing: We assume that initially the introduction of mandatory preliminary hearings will require additional judicial and staff manpower, because for a certain amount of time we will run the hearings in parallel with the existing system. Because the efficiency benefits of the new procedures will take time to be realised, the extra resources will be required for about two years. By the end of that period, we expect that the costs will generally be recoverable, because the court will be operating more efficiently.

If required, we can supply the committee with a breakdown of the £150,000 to which the member refers. Basically, it will provide additional clerks to support the judges whom we anticipate will be appointed, additional support staff in the justiciary office, primarily in Glasgow, and investment in IT to support the programming of business.

Mr Brocklebank: Why will the expenditure be incurred only in the first two years?

John Ewing: We must make the investment now, but we expect to recoup it. We are seeking additional resources for only two years. Thereafter the costs will be recovered through efficiency gains within the organisation.

Mr Brocklebank: Are there potential savings that you can identify?

John Ewing: If the court is running more effectively, we expect that we will be able to divert resources that are currently being spent on first-instance crime to other areas of concern, such as the court of criminal appeal and the civil courts. The Scottish courts operate both a criminal and a civil jurisdiction. When judges are dealing with criminal cases, they are not available to hear civil cases. If we can make the criminal side of the court's business more efficient, we can release judges to do civil work.

Mr Brocklebank: Given the many changes that the Scottish Court Service is undergoing following the introduction of the Vulnerable Witnesses (Scotland) Bill as well as other legislation, how has the SCS been able to identify the specific costs of the Criminal Procedure (Amendment) (Scotland) Bill?

John Ewing: We have examined those elements that will be required to support the running of the mandatory preliminary hearings that the bill establishes. That is the source of the costing.

Mr Brocklebank: Will the additional preliminary hearings have cost implications for the SCS, because of the need for extra staff, additional usage of courts and so on?

John Ewing: Yes. Those costs are included in the figure of £150,000.

Mr Brocklebank: Will there be additional costs as a result of implementing this bill and the Vulnerable Witnesses (Scotland) Bill at the same time?

John Ewing: Not particularly. There is the potential for slight savings because of the overlap between the two bills. As members will recall, the Vulnerable Witnesses (Scotland) Bill provides for the court to consider the need for special measures. In the absence of the Criminal Procedure (Amendment) (Scotland) Bill, the court would be required to hold a procedural hearing prior to the trial to determine whether special measures were required. Once the Criminal Procedure (Amendment) (Scotland) Bill is enacted, we will be able to combine the two hearings. The hearings may take slightly longer than the average, but I hope that over time they will be able to dovetail and run more effectively.

The Convener: The policy memorandum makes some fairly strong claims about inefficiencies in the court system such as trials' having to be put off and witnesses' failing to turn up. Those levels of inefficiency look costly, although the costs are not quantified in the policy memorandum. Given that the measures that you are taking are supposed to eliminate or at least significantly reduce those inefficiencies, I had anticipated that significant cost savings would be identified in the financial memorandum as a result of the elimination or near elimination of poor practices. However, there is no quantification of such savings and your evidence is on the additional costs of introducing this additional procedural measure. Is it not feasible to identify the cost savings as a result of driving out inefficiencies or bad practices?

John Ewing: We could give you an estimate of the figure, but it would not be a realisable estimate. It is not a cost saving but a resource saving. We will move from a situation where the court currently has to have what are in effect preliminary hearings on the date that is set down for trial. The issues that the preliminary hearing is intended to address are currently being dealt with on the trial date, to the inconvenience of the victim and witnesses. We can translate that saving in time into having judges available to do other things. That is where the saving will come.

We do not envisage that the bill will produce a realisable saving through a reduction in the number of judges or the number of staff in the Court Service, but we will be able to move the resource to serve better the needs of the Court of Session and the court of criminal appeal.

The Convener: In most areas of industry and most undertakings where there are examples of such inefficiency it is incumbent on management—whether in this case it is through the Court Service or through the judges, who I presume have a significant role in the day-to-day, hands-on management of the issue—to find effective measures to drive out inefficiencies and poor practices. I assume that that is the intent behind the bill, but we are discovering that the proposals may cost more than the current arrangements. The changes may well lead to a faster or more effective prosecution of cases; it is suggested that it will allow you to prevent backlogs and deal with the 25 per cent increase in the number of cases over the past five years. However, there is no seriously radical management effort to deal with those forms of inefficiency. I would have thought that to be effective any measures would need to control some of the professional practices of the people most closely involved.

John Ewing: Yes. I think that your assessment is right. This is a fairly radical approach, which is

why Lord Bonomy's inquiry was set up in the first place. However, the delivery of the potential greater efficiencies in the system depends on a number of players co-operating. The Court Service will have a responsibility, as will the Crown Office and the defence. A change of culture is needed to deliver the maximum savings. We think that the bill will introduce improvements in the way in which business is conducted. We think that it will introduce improvements in the service that we give to victims and witnesses of crime, because they will be able to be more certain about when their evidence will be led. Those are tangible benefits, which we want to realise.

The additional cost that we have identified is, as I said, a two-year cost. It is an investment to gain efficiencies. The resources will be redeployed to other parts of the business where, frankly, I think that we are not performing as well as we want to perform. The proposals give the courts a capacity to meet any growth in serious crime in the future; there is every sign that serious crime will continue to grow.

10:45

The Convener: Yes, but I am still not sure that you are answering my question. If in the past the way in which judges, advocates and solicitors have worked and the way in which the criminal courts have been organised have delivered a significantly sub-optimal service, in which the process has failed to take place for one reason or another over a period of time, changing the dates of the procedures will not deliver the kind of savings that changing the professional practices of those groups and introducing tighter mechanisms and real penalties for inappropriate behaviour might deliver. Was that considered? Did you consider going beyond Lord Bonomy's proposals, which are fundamentally procedural, by introducing an effective system of management of the cases, which would drive out inefficiency and poor practices. The proposals will exercise some limits, but they will not prevent from happening some of the things that are pointed to in the policy memorandum.

John Ewing: I understand what you seek to achieve, but it is important to reflect on the fact that the justice system is not a managed system in the same way as a business is run. There is a balance of interests within the justice system. Constitutionally, it is accepted that the different parties have certain roles to play. That imposes limits on what can be done in a management exercise. For example, it is not possible for the Court Service to tell the Crown in what way it should bring its cases to court, nor is it for the Crown to tell the defence how it should defend a case before the court.

The court will have a role in the management of the exercise. There will be judicial input to the management of behaviour and it is anticipated in Lord Bonomy's report and in the bill that creating this framework will enable the judiciary to take more of a role in managing the process and being in a position to challenge more effectively the assumptions that are being brought before it. For example, if either the Crown or the defence comes to the court with a request for an adjournment, the court could take a more rigorous view of that, but it depends on all the players—each of whom has an independence that is necessary to ensure that rights within the system are protected—working together. We think that the framework will provide an opportunity for that to happen.

The Convener: I will come back on this one more time. I accept that special circumstances relate to courts and that one cannot necessarily expect judges to come forward with reports that are the same as those that senior managers in industry might be expected to produce. However, the Finance Committee is faced with a set of proposals to deal with what is manifest system failure—according to the policy memorandum—that in practice delivers no savings and suggests that there are relatively marginal but nonetheless real requirements for additional judicial time and more money for lawyers to address the failure. That seems to be a questionable set of principles to be putting forward and I would have hoped for more.

John Ewing: As I said, we could give you figures on the judicial resources that we expect to be released, but those are not realisable financial savings because we think that they could be deployed in other matters.

The Convener: Will financial savings ever come out of the proposals?

John Ewing: There could be financial savings if we could stop the number of cases that are coming in and if we could stop the growth in the number of cases of serious criminal offences. However, I am sure that the committee will have heard evidence on the justice budget about the effort that the police are making to target serious criminal offences and to tackle drug offences. That will generate more business for the courts in the future.

In respect of the financial memorandum, I would not like to say to the committee that I will be able to run Glasgow with four judges instead of six in two years' time. As far as I can read the runes, the impact of the environment in which we are operating is likely to lead to a general increase.

Fergus Ewing: I suppose that I should begin by declaring a potential interest, in that I am a member of the Law Society of Scotland, but I do

not practise in this area and sincerely hope and intend not to see the inside of any High Court of Justiciary, except perhaps in the role of a spectator. I very much agree with the bill's aim, which is excellent, but the acid test will be how it operates in practice and, in particular, whether a different culture starts to grow in the minds and practices of defence and Crown advocates and everybody else involved.

I have a couple of specific questions for John Ewing. First, judicial salaries will cost an extra £500,000 a year and judicial support will cost an extra £150,000 a year. How are those figures broken down?

John Ewing: The £500,000 a year is roughly the cost of deploying two to two and a half extra temporary judges in the system. The £150,000 is a combination of staff costs in support of the judiciary and our investment in IT.

Fergus Ewing: Is the cost of the extra judges based on an estimate of the total time that will be taken up in High Court of Justiciary business in relation to the new preliminary hearings? I am referring not simply to the preliminary hearing, but to adjournments and alterations—to which proposed section 72B refers—where the PH does not proceed, where there is a discharge or where there are Heinz varieties of extra new work loads. Is the £500,000 based on a prediction of what the extra work load will be with the new procedural creature inhabiting our justice system?

John Ewing: The amount is based on a broad estimate of what we think the level of business will be initially. At its simplest, it allows us to run the preliminary hearings five days a week in Glasgow and Edinburgh. In discussion with the Crown, we are currently working up the model of how the procedures will work. The precise level of business will depend on the number of hearings and on case levels, but that is as close as we can get at the moment to estimating the judicial costs.

Fergus Ewing: I would not criticise the methodology, but can you share with us the computation of your estimate, because we are facing a problem where there could be a huge range, and one could argue for a very low figure or a very high figure of preliminary hearings, and therefore extra costs? Can you share with us the computation—not today, if you do not have the detail with you—because for posterity at least it would be useful to see how you thought the system would operate before it came into effect?

John Ewing: Sure. We can let you have the detailed breakdown.

John Swinburne: Do you agree that there is an urgent requirement to apprise the public at large of the many facets of our hugely expensive legal system, to rectify the public perception that the system seems to be operating mainly for the financial benefit of the legal profession and not for the victims of crime?

John Ewing: Yes. As an organisation we are working closely with other partners, such as Victim Support Scotland, to try to ensure that the way in which the courts operate provides a better service to victims. We are doing that in a number of different ways.

Kate Maclean (Dundee West) (Lab): I have questions for Douglas Haggarty on the Scottish Legal Aid Board. I see from annex 1 of your written submission that you have additional costs of £1 million in the first year or two. I know that you list assumptions in the written report, but could you give a bit more detail on how you arrived at that figure? Annex 2 lists savings of £1.25 million. Are you confident that the savings will be achieved over the first two or three years? It would be useful if we had more detail on how you reached those figures.

Douglas Haggarty (Scottish Legal Aid Board): The costs are contained in annex 1. We identified various areas where we thought the proposals would impact on the legal aid fund in one way or another. We split the figures into costs and savings, and you will see that those main headings were further broken down. The main cost will be just over £500,000 for mandatory preliminary hearings. The main cost to the fund is paying for the time of solicitors and counsel, which is a fairly heavy cost. Managed meetings could involve several hours of solicitors' and counsel's time. Although at present such meetings take place in some cases—we estimate that they take place in up to a third of cases—in future they are likely to take place in all cases. There are also lesser costs, about which various assumptions are made.

The benefit of the additional procedure is that it will bring forward the provision of information by the Crown to the defence. We hope that that will reduce considerably the number of times that solicitors and counsel have to attend court. At present, they might have to return to court because proceedings have been adjourned, or they might have to turn up several times during the course of a sitting in the hope, rather than the expectation, that the proceedings will commence, which is worse for SLAB. Because we pay counsel by the day, that is a significant cost and can be almost the same as paying for a trial for that day.

We tended to overestimate the costs and underestimate the savings, but we consider that there is potential under the new regime not just to cover the costs but to make a net saving. You will see that the cost of having one hearing is just over £500,000. If the number of times that solicitors and counsel have to turn up at the High Court is cut

out off the system, you can imagine the savings that we could make. However, we have underestimated the savings.

In addition, we tended just to take into account what realistically will happen immediately. The assumption is that sheriff court proceedings are much cheaper than High Court proceedings. Obviously, once the new regime is implemented we hope that High Court proceedings will be run more efficiently, and that we will have savings from the High Court, but those have not been factored into the figures.

Kate Maclean: You are quite confident that the savings will be achieved and that the profession will not find other ways of ensuring that the money can be claimed, but I am a bit cynical about that. Often, when these kinds of things happen and there is a balance between extra costs and efficiency savings, the extra costs occur but the efficiency savings never materialise. I wonder whether the system will be so efficiently run that savings will materialise. Are you confident about those savings?

Douglas Haggarty: Yes. One can never anticipate everything that is going to happen. The reason we approached the costing in the way that we did is that we know there will be additional costs. The savings depend on efficiencies, such as making information available to the defence earlier and having fewer adjournments, and on court timetabling. We know that the bill team—which is largely the former review team—is taking those matters seriously, and that people are working on court timetabling, the availability of information and greater communication at an early stage between the Crown and defence, which is a good thing. Even the transfer of business to the sheriff court will result in savings. If a reasonable number of the adjournments can be cut out, and we can be certain that a trial will proceed on a particular day, we will not have solicitors and counsel sitting around the court waiting for something to happen. Those are the costs that the fund picks up, and which we are quite confident will be reduced.

Kate Maclean: So basically all the savings will come from reductions in fees to solicitors and counsel.

Douglas Haggarty: Those fees, for attending court, for preparing for that or for doing written work, are the main cost to us.

Jim Mather: I am interested in building on some of the comments that the convener made to see whether we can identify who is responsible for holding down and driving down costs in the Scottish Court Service, the Crown Office and Procurator Fiscal Service and the Scottish Legal Aid Board. The witnesses may respond in any order.

11:00

John Ewing: As chief executive, I have the responsibility of ensuring that the work of the Court Service delivers best value and that we achieve value for money in the way in which we use the resources. However, the work of the courts is an interplay of different agencies and different approaches and, from our perspective, it is very much a service operation. My control is limited to the courts' staffing and the accommodation that is provided in the courts so, although I can drive down costs within that parameter, the attitude of the defence or the way in which the Crown prosecutes a case is a matter for others.

Jim Mather: Do you have access to consistently stated comparative year-on-year data that allow you to monitor that?

John Ewing: We do not have access to data that allow us to monitor the performance of defence agents and the Crown.

Jim Mather: I am talking about financial data on the overall cost of the Scottish Court Service.

John Ewing: I have such data only for the Scottish Court Service element.

Jim Mather: Is there a perpetual annual increase in the overall cost—does it rise inexorably every year?

John Ewing: The cost has continued to rise year on year, but we are coping with increases in demand on different levels and requirements to provide different kinds of service, such as the requirements that will follow from the Vulnerable Witnesses (Scotland) Bill. That information is available in the justice budget and in our annual report, which was published last week.

Jim Mather: As a community, are you and your colleagues in the Crown Office and the Scottish Legal Aid Board held to account on your efforts to control and drive down those costs over time?

John Ewing: That is dealt with as part of the Justice Department's overall approach to the business. We are accountable to the Minister for Justice for the way in which we deliver our services. The Crown Office and Procurator Fiscal Service is answerable to the Lord Advocate.

The Convener: Is it fair to say that, in the circumstances that you are describing, the people who make the key decisions that incur expenditure, who are primarily judges and lawyers, have no budget management responsibilities?

John Ewing: That is true.

The Convener: Is that a satisfactory and business-like way of operating the service, or does

it necessarily lead to some of the problems that you highlight in relation to the policy memorandum?

John Ewing: That comes back to the point that I made about the way in which the criminal justice system works and whether it is necessary to get a balance between the decisions that are taken. It would be argued that a judge should not be in the position of taking a decision on an individual case on the basis of what it would cost to run. If a decision is taken to prosecute a case such as the Lockerbie case, which was the most expensive case that we have ever prosecuted, we have to find the resources to enable that to happen.

The Convener: Whatever resources are necessary.

John Ewing: That is right.

The Convener: There is no management attached to that.

John Ewing: We manage the resources that are put in to ensure that we get the maximum value. There was very careful management of the resources that were committed to the Lockerbie case. The judge dealing with a case does not exercise budget control; the judge does not stop proceedings on the ground that an expenditure limit for that case has been reached.

The Convener: Are there any incentives in relation to the way in which key decision makers make decisions that would assist with the process of budget management?

John Ewing: Decisions are taken in respect of the attitudes of the court on sentencing and the application of sentencing discounts—for example, recognition might be given to pleas, which can have an influence on the total cost of running the system. The Crown Office and Procurator Fiscal Service might want to express a view on what it is influenced by in running cases. To a certain extent, the attitudes that SLAB takes to applications from the defence can have an impact.

Norman McFadyen (Crown Office and Procurator Fiscal Service): The position of the Crown is rather different in the sense that the independent judiciary is not within our budget, so we are accountable for our expenditure in a clearer way. It is core to the management of all our work that we make prudent and appropriate use of resources.

Of course, the Crown Office and Procurator Fiscal Service is still in the midst of a major reorganisation and programme of modernisation and our contribution on the solemn side—the High Court side—is one aspect of that. We are very conscious of what we spend and of the need to have appropriate economies. I am sure that the committee will be aware that we have secured quite significant increases in funding during the past few years, but that will level out, because we are expected to show significant efficiencies in the coming period.

The Convener: Fergus Ewing has a question on baselines.

Fergus Ewing: I have two points, which are for Mr Haggarty initially.

I think that I must be missing something, because SLAB states, in paragraph 1 of annex 1 to its submission, under the heading "Assumptions", that

"the Board's assumptions have been based on 1,667 high court cases during the year 2001/2002",

whereas the Executive's explanatory notes state that 1,489 indictments were registered in the High Court in that year. Is there a simple explanation for the difference between the two figures?

Douglas Haggarty: Yes, there is. The number of indictments does not reflect the number of accused. Occasionally, an indictment involves more than one accused person. We worked out our figures on the basis of the accounts that we will receive. There might be only one indictment, but there could be two sets of solicitors and counsel and two accounts. That has been factored in. We are using a figure of 1,667 accounts; the smaller number reflects the number of indictments.

Fergus Ewing: Following on from the questions that I asked John Ewing, are your assumptions about the volume of business—the number of preliminary hearings—the same as his?

Douglas Haggarty: We have calculated our costs on the basis of the figures that we have just discussed. I note that, according to the financial memorandum, the number of cases proceeding to the High Court has increased, but I know no more than what I have read.

Fergus Ewing: Before making your computation and setting out your assumption about the additional costs that the preliminary hearings would involve, you did not see the assumptions on which Mr Ewing's calculations were based.

Douglas Haggarty: No. I have seen the figures and we have discussed the matter with the Crown Office and Procurator Fiscal Service and we have discussed it with the Scottish Court Service, but I have not seen the assumptions on which the Scottish Court Service proceeded.

Fergus Ewing: Perhaps Mr Ewing could share those assumptions with you as well as with us, as that would allow us to tell whether we are all working on the same assumptions. That might be sensible and might throw up some other pointers.

I have another question, but it is for the Crown Office.

Dr Murray: SLAB has indicated that its submission might underestimate the savings and overestimate the costs. I want to check that, on the second page of your submission, you were saying that the transfer of solemn cases from the High Court to the sheriff court will be a saving, not a cost, because the relevant paragraph of your submission almost implies that that will be a cost.

Douglas Haggarty: Yes. The broad saving is the reduction in average cost that the transfer from the High Court to the sheriff court will produce.

Dr Murray: Your submission states:

"The additional costs of counsel in the cases to be transferred to the sheriff court where counsel has been sanctioned has been factored in and set against the savings."

The use of the phrase "set against" implies that there will be a cost rather than a saving. I must admit that I would not have understood that.

The figure of £1 million of additional costs comes from the managed meetings and the mandatory preliminary hearings.

Douglas Haggarty: Yes, that is the total cost.

Dr Murray: You suggest that that cost will exist for only two years. Will that not always be a cost to SLAB?

Douglas Haggarty: Those costs will continue, but the savings should increase.

Dr Murray: You think that the costs that will be incurred will kick in before the savings kick in.

Douglas Haggarty: The costs will definitely kick in before the savings do.

Dr Murray: Why is that, if the system is going to be more efficient?

Douglas Haggarty: I imagine that, at least for the first financial year, the two systems will run side by side, which will mean that we will certainly not achieve the full benefits; in fact, one would anticipate problems at some stage.

Dr Murray: I also want to ask about the payments to counsel to remain available for fixed trial diet, which amount to a cost of £100,000. Does counsel not remain available for fixed trial diet at the moment?

Douglas Haggarty: That would not happen at the moment. In fact, I indicate in our submission that, under the current feeing arrangements, counsel—and, indeed, solicitors—would be paid only for work that has been done.

Dr Murray: So the new system would allow them to be paid for work that has not been done.

Douglas Haggarty: The idea is that, if counsel was about to start a trial on a Thursday, they would keep themselves free on the Wednesday to start on the Thursday. Those ideas have to be discussed further, but, instead of considering our own small corner, we consider—and, increasingly, we all consider—that if significant savings to the courts, the witnesses and everyone else involved can be made from the trial proceeding, which can be achieved by ensuring that counsel is available, broadly speaking that would be good.

Dr Murray: Who is responsible for examining the way in which counsel is paid? Mr Swinburne has already mentioned the public perception that it is a bit of a gravy train. To be honest, it does not sound terribly efficient to pay £1,000 to £100,000 a year for people to make themselves available in case they have to be at work and to assume that everybody works in Edinburgh so that, if a counsel is based in and attends court in Glasgow, he or she gets allowances that assume that travel, subsistence and accommodation are attached to that. Who is responsible for examining those costs?

Douglas Haggarty: All the provisions are contained within regulations, which are laid down and which the board applies. The current regulations date from 1989 and the current table of fees for counsel was prescribed in 1992. We apply the current system, but discussions are going on with Faculty of Advocates on what are called graduated fees—a system that England has—which would be a different structure of feeing.

John Swinburne: We live in an unequal society—its inequality brought me into this arena. The problem of the gravy train and the vast amount of expenditure with which the legal profession is running away could be solved just like that by doing to the legal profession what is done to my generation: means testing. Once lawyers have earned a certain amount of money, thereafter they should be paid only 50 per cent of their fees. That is a lot better than what happens to my generation: if we have a few bob put aside, we get means tested and get no benefits. Some form of means testing might be the only radical way in which to solve the problem of the gravy train running away with all the finances that could be put to better use than paying lawyers well in excess of £100,000 a year in legal aid fees.

The Convener: I am not sure that that was a question. Perhaps we can move on.

Jeremy Purvis: My question is for Norman McFadyen and Keith Connal and builds on the convener's approach. Norman McFadyen said that the Crown Office has had substantial increases in expenditure. In your written evidence, you say that you are making

"real improvements to our service and to modernise the prosecution of serious crime."

That implies that efficiency savings are being made already, but the financial memorandum states that you will need a substantial increase for additional advocates depute and other staff. Will you give us the background to the assumptions that you have made and the evidence that you have used for that increase?

11:15

Norman McFadyen: Our assumptions are the same as those that the Scottish Court Service made. As far as preliminary hearings and the work that goes on around them are concerned, we assume that it will take the first two years of operation of the new legislative regime to see the sort of efficiency that would absorb some of the additional work. The slight difference for us is that we do not consider that the efficiency of the new court will necessarily absorb all the additional work for the Crown. That is because there will still be a permanent need for the Crown to do much more preparation and front loading and to co-operate much more with the defence. There will be preparatory work before the managed meetings, which were mentioned earlier, and for the preliminary hearings. There will also be more work involved in making evidence available to the defence and in everything else that goes with operating a more efficient court.

That is the Crown's slightly different position. The other aspect that is mentioned is the cost of developing software that will enable us to manage particular aspects of High Court and solemn business, which we do not presently have the funding or resources to develop.

Jeremy Purvis: In your submission, you refer to the two-year period, which is clearly mentioned in the financial memorandum, but you also say that the bill

"looks to deliver a change of culture".

No time scale is put on changing the culture, so how can you build in your assumptions for the reduction after the two-year period?

Norman McFadyen: Sorry, I did not understand the question.

Jeremy Purvis: The assumption is that

"after the initial 2 year period, the system should be sufficiently efficient that the £250,000 will be offset by the consequential savings",

but you say in your submission that that will be brought about by culture change.

Norman McFadyen: That is culture change in the broadest sense, but it will be more tangible than that. To put it bluntly, we seek far less wasted court time. Wasted court time costs not only judges' salaries, but prosecutors' salaries and witness expenses, as well as inconvenience to the police and everything that goes with that. The bill proposes a system in which cases will not be called for trial unless they are ready to be. As Lord Bonomy found, and as anyone who goes around the criminal courts sees daily, cases come in for trial and do not proceed all the time. Achieving that reduction in wasted time will take a change in culture, but the bill will drive that change in culture. People will need to buy into that change. Of course they can obstruct or resist the change, but it will be more difficult for them to do so in the new system, because the court will have much more control, will fix when a trial is ready to proceed, will question counsel about whether they are ready and will expect us on the Crown side to be much more prepared and to ensure, as far as we can, that the defence is better prepared to go to trial.

Jeremy Purvis: Kate Maclean made the point that it is clear to the committee that there will be increased costs, but less clear where there will be identifiable efficiencies and the commitment to see them through. In your submission, you say that once the two-year period is over,

"we should see greater efficiency at the trial court stage".

That comment is followed by a statement that the determined figure of £250,000 "will be offset". My concern—and Jim Mather's concern—is what procedures or measures are there to ensure that they are made.

Norman McFadyen: Do you mean to ensure that savings are made?

Jeremy Purvis: Yes. The Crown Office and Procurator Fiscal Service does not have the burden of the judge as it is not completely independent from the budget process.

Norman McFadyen: We will monitor the performance of our staff and units closely. We will also monitor along with the Scottish Court Service general management information, such as information on the progress of cases, how much business is conducted through the courts and the level of adjournments. We are working with the Scottish Court Service to develop the core of management information that it will be necessary to measure in the post-bill world. A lot of that is common to us and the Scottish Court Service.

We know that, unless we do our bit to implement the bill, the risk is that it will not work. We are as confident as we can be that it will work, but we couch our confidence in slightly guarded terms and say "should" rather than "will" because, as John Ewing said, we are not the sole players. The changes will require commitment from all the players in the system, including the management of the Scottish Court Service, judges, the management of the COPFS, prosecutors and the defence.

Jeremy Purvis: Would not it have been more transparent for the public if you had given a range of possible efficiency savings? You couch the statement using the word "should", but then give a clear figure.

Norman McFadyen: Perhaps that "should" was a slight understatement—the prediction was as confident as we could make, but the situation may turn out to be better. All the witnesses are saying that we may be understating the realisable efficiency savings. However, we are all conscious that the volume of work in the courts that deal with serious cases—the High Court and the sheriff and jury courts—is increasing, which will undoubtedly mitigate the savings. The other side of the coin is that, without the legislation, the system, which is unsatisfactory at the moment, would only become more unsatisfactory because of the growth in the volume of business.

Jeremy Purvis: The IT costs are substantial. Will the new IT system be dealt with internally or will there be external procurement?

Norman McFadyen: The new IT measures will be provided as part of our existing IT programme—the future office system programme. In essence, the new measures are a part of that programme that we had to put on ice because, although we received significantly increased funding, we had to concentrate our IT efforts on the bulk work, which is on the summary side. To put that into context, the number of solemn cases with which we deal is in the low thousands, although the number varies depending on whether one measures the number of accused or the number of cases. However, on the overall volume of business, we receive more than 300,000 reports in a year. Our new IT system is being rolled out only for the summary business, although we had plans to apply the system to the solemn side. We have now tweaked those plans in the light of the Bonomy review.

Jeremy Purvis: That is a very expensive tweaking.

Norman McFadyen: We have not tweaked the overall system; we have tweaked the plans that we had to put on hold. In fact, we are doing more than tweaking; as a result of Lord Bonomy's recommendations, we are making significant improvements to what we might otherwise have done. Our IT system roll-out would have stopped at the point at which an accused appears on a serious charge—IT systems are used after that point, but they are not particularly sophisticated. If we are to manage witnesses, documents and disclosure more proactively than we do at present, we need to introduce the solemn phase of the future office system.

Jeremy Purvis: Will the new system be managed internally through the existing contractor or staff?

Norman McFadyen: We are discussing the specification with the existing contractor. I am cautious about saying more than that, because commercial issues would be raised.

Jeremy Purvis: Will the system be able to accommodate other IT developments that the committee has heard about, such as the systems that will be needed as a result of the Vulnerable Witnesses (Scotland) Bill? I understand that those systems are different and will involve cameras and other equipment. Will your new system link in with IT systems that are required as a result of other legislation?

Norman McFadyen: Our new system is not particularly relevant to the use of cameras, video equipment and other equipment of that nature; it is about case management and generation of documents. To an extent, our system is about storage and management of documents, but it is not related directly to the aspects that you mention.

Jeremy Purvis: Your submission states that £830,000 will be required for the new system, but you say that you are in the early stages of developing it. How did you arrive at that figure? Given that you are to enter into discussions with the contractor about the potential cost of developing the system, have not you just given the contractor the bill?

Norman McFadyen: No. We have costed the roll-out of the future office system for the solemn side, but the system that we are now considering has a slightly different focus and is probably not quite as all-singing and all-dancing as we might have proposed. Keith Connal will correct me if I am wrong, but the figure is within the earlier overall estimate of what we might have spent on the development of the system for the solemn side. The figure is an estimate—it had to be an estimate—but it is reasonably well-informed because we have done a lot of scoping work on the development of the future office system on the solemn side.

Keith Connal (Crown Office and Procurator Fiscal Service): To clarify, although we accept that the contractor has, to an extent, seen the estimate, I point out that we could not have hidden that estimate in this process. The estimate of £830,000 is £700,000 plus VAT and is based on the cost of developing, testing and implementing the software and integrating it with existing systems. That estimate is not a commitment to pay the contractor that sum.

Fergus Ewing: To pursue that point, the first thing that puzzles me about the figure of £700,000 plus VAT is that Mr McFadyen's written

submission of 29 October states that the money is to

"allow for the development and roll out of software, which will support the management of witnesses and evidence and the greater level of assistance to the defence".

Obviously, the prosecution service has an existing method of managing witnesses and evidence and of providing assistance to the defence. Is that done using existing software?

Norman McFadyen: It is done partly using existing software and partly without using software at all, which is what makes the process expensive. The difference in the post-Bonomy world is that, according to the recommendations, which we generally accept, witnesses' statements should be disclosed to the defence as early as possible. At present, statements are not routinely disclosed to the defence, although the defence has a list of the witnesses, whom it can interview.

The proposals are a radical departure. Whereas at present, copies of documents that are used in cases in the High Court are made available to the defence, but at a late stage, Lord Bonomy suggests that they should be made available as early as possible. In large cases—all the cases involved are large—documents do not come to the prosecutor together but at various stages. In the post-Bonomy world, prosecutors will have to ensure that documents and witness statements are sent to the defence as quickly as possible. We will need sophisticated management systems to ensure that we disclose statements properly, that we have not missed any out and that we can track when they were disclosed. Along with that, our management of witnesses, which involves managing their attendance at court and putting them on notice to come to court, must be much more efficient. That is a difference in the culture and approach of the prosecution service and its relations with the defence. If we did not have IT systems to support the changes, they would be extraordinarily labour intensive.

Fergus Ewing: I understand what you say, but two points strike me. First, the work is being done at the moment—

Norman McFadyen: Sorry, but the work is not being done—

Fergus Ewing: The prosecution generates statements; sharing them with the defence seems to me to be a matter of pressing an e-mail button or photocopying. I cannot understand how the cost of software will work out, at the least, at about £500 for every indictment. You say that, in some cases, work is done later—

Norman McFadyen: The work is not done at the moment. Statements are not provided to the defence.

Fergus Ewing: Not routinely.

Norman McFadyen: Exceptionally, some statements may be provided on request in special circumstances and at a late stage.

Fergus Ewing: Why should it cost so much to provide a copy of a document, which can be done either by e-mail or by photocopying? Why should it cost £700,000?

Norman McFadyen: The cost relates to the whole system for managing witnesses and documents. That system is not required only to provide statements to the defence, but to give a clear audit trail as to when those statements are provided. It is also about the management of witnesses and about ensuring that we have the most up-to-date information about their needs so that we can better manage their attendance at court. Those are things that we have developed better on the summary side—the volume side—but on which we still need to do a lot of work on the solemn side.

11:30

In terms of the production of copies of documents, we currently provide photocopies of documents at a late stage, after the indictment is served, and it is a relatively simple task—you take the bundle of documents and you copy them. Bonomy says that that is not acceptable and that the documents should be provided at the earliest possible opportunity. If you get a report from the forensic scientist, you provide it. If you get something else, you provide it. If it is a question of a member of the administrative staff or a fiscal looking at a document and deciding what to do with it, that takes up quite a lot of valuable time. We want to simplify the process so that we can make those documents available quickly when they come in.

At present, however, our working systems allow us to do that only in relation to the High Court. Practice in the sheriff and jury courts is very patchy indeed. We will be doing work that at present has to be paid for separately by the Scottish Legal Aid Board, and we will be managing the documents and witnesses at court. That has a capital cost: it is an investment to improve how we manage those two critical aspects of solemn cases.

Fergus Ewing: I understand all that, and you have obviously repeated the points, but I would like to ask one final question. The work that you are describing is part of a larger software programme—the future office programme, I think you said—that has been put on ice. Will any part of that £700,000 actually benefit matters other than those that we are concerned with under the bill?

Norman McFadyen: The matters that the money will benefit are, in some ways, indirectly related to the bill, because they are related to Bonomy's recommendations, which underpin the bill. Not everything that we are doing in relation to that work is spelled out in the bill. The bill does not mention disclosure of statements or the point at which documents are provided, but it proceeds on the assumption that, unless those things happen, the new preliminary hearings will be nugatory effort.

Jim Mather: I would like to go back and ask each of the three representatives when the last external value-for-money audit was carried out into each of their organisations.

John Ewing: Do you want to define what you mean by a value-for-money audit? We are audited annually—

Jim Mather: That is a statutory audit.

John Ewing: Yes, and it also involves an element of looking at certain of our procedures and processes. There has not been an audit of High Court operations, as far as I can recall, for—

Jim Mather: That is what I was getting at. Has there never been an external value-for-money audit—by the Auditor General for Scotland, say—into the workings of the Scottish Court Service?

John Ewing: As I said, certain aspects of our work are scrutinised by our external auditors, who are appointed by the Auditor General, but there has been no external audit of the operations of the High Court by the Auditor General since his role was established.

Jim Mather: I put the same question to the Crown Office and Procurator Fiscal Service.

Norman McFadyen: The same applies in our case.

Jim Mather: And to the Scottish Legal Aid Board?

Douglas Haggarty: I do not move in such exalted circles, I am afraid. I tend to deal with technical matters. I know that we are audited every year and that there has, of course, been a review of legal aid, but that is the only extent to which I can be of assistance.

Dr Murray: My concern is rather like that of Fergus Ewing. We read about the capital expenditure of £830,000 and it seems to me that that is money for modernisation of the system, which may be extremely desirable but is not necessarily a cost incurred by the introduction of the bill. It could be appropriate to make a claim for improving the software on the Justice Department's capital budget, but is it really appropriate for that to be included as part of the cost of the bill, if the bill itself does not mention documents' being made available to the prosecution?

Norman McFadyen: That is a reasonable point. We could have omitted all reference to the system in the financial memorandum, but we would have been giving a rather imperfect picture of the expenditure that is being incurred in relation to the bill. As I said in response to Fergus Ewing's earlier question, without that early disclosure of material by the Crown, there would not be much point in there being a managed meeting or a preliminary hearing, because there would be nothing to discuss at that stage. That is critical to how the bill will work, but Dr Murray has made a fair point. One could take the purist view that, since that spending does not relate directly to words that are in the bill, it is not bill-related. From our point of view, however, it is bill-related, because we know that we have to incur that spending to make the bill work.

The Convener: I return to the issue of management. In most industries where the use of information technologies has achieved significant improvements in processes or significant cost savings, that use of IT has led to the removal of a stage—or layers—in the proceedings, particularly one that involves face-to-face meetings. It seems to me that we have almost the reverse situation in this case, where you are adding in a statutory process in the form of the preliminary hearing. Before we agree to that as a principle, is it possible to suggest that, in some cases, the preliminary hearing, which may be simply to set the time of the trial, could be conducted elsewhere than in a court setting or with the support of advocates or other personnel? If some decisions need not be taken in that setting and could be cost-effectively taken in a different way, such as through the use of information technology, should we be approving a bill that explicitly requires that preliminary court hearing as a statutory mechanism?

Norman McFadyen: There are two aspects to that. There is what is described as the managed or mandatory meeting, which can be extremely informal and can be done on the telephone, by e-mail or by fax. It does not require people to sit down together, although that may sometimes make more sense. The preliminary hearing in court, although it will generally be mandatory, can be dispensed with if it is agreed that it would not be necessary in a particular case. Our hope is that those will be useful hearings at which the court will challenge parties and try to drive forward what is happening in the case. However, I agree that, in a case where there are no issues to be resolved and everyone is content and knows what is happening, one could do without it.

The Convener: In other words, you are saying that there might be circumstances in which a managed meeting might be an effective substitute for a preliminary hearing, and it would certainly be a cheaper mechanism for doing the business that might be required.

Norman McFadyen: Where there is complete agreement and where there is no matter on which the judge requires to reach a decision, it is possible that the preliminary hearing could be dispensed with, but I rather think that that would be exceptional.

John Ewing: I have to agree with Norman McFadyen. We may eventually reach a situation in which there is a category of cases that are relatively simple and straightforward and for which most of the issues that need to be resolved will be resolved in the discussion between the defence and the Crown prior to the hearing. In that case, the court hearing may go through on the nod, or fairly quickly. However, the important thing to keep in mind is that the whole tenor of the bill is about creating an opportunity for closer judicial management of the process, and the procedural hearing is the way in which we involve that. That judicial management is the best way that we can envisage at the moment of achieving the change in culture and behaviour that will be necessary to make the bill work.

It is not an exact analogy, but last year the court introduced new procedures for criminal appeals, which brought in a much greater element of judicial management. Previously, we could be sure in only 30 per cent of the cases of when the appeal hearing was going to be, but the situation has been improved and that now applies to 90 per cent of cases. We know that such judicial management gives us the certainty that we are trying to achieve.

The Convener: I suppose that I am asking whether the bill pushes judicial management far enough. If it is possible in some cases, however few they may be, to substitute an informal mechanism for the formal process of going through the court, that informal process will almost certainly be less costly than a formal court appearance, especially if the result of the court appearance is a purely formal agreement to something that has already been clear in advance. If so, should we consent to a default requirement for a preliminary hearing or should we consider making the legislation say that, in appropriate circumstances, there should be a preliminary hearing but that, in other circumstances, a managed meeting may be a suitable mechanism for achieving the agreements that are required in particular cases? That would clearly have cost-benefit implications.

John Ewing: It would, but it would be extraordinarily difficult to define the cases in which that would apply.

The Convener: Perhaps it would be for a judge to decide in which circumstances those routes would be appropriate.

John Ewing: Yes, there is a possibility that we will do that through the procedural hearings. However, another element to the procedural hearings is worth bearing in mind: they provide the opportunity for pleas to be tendered. At the moment, that does not happen until the day of trial. That is a judicial element that would require a court hearing, so the two could not be completely separated.

The Convener: Okay. We have exhausted our questions to the witnesses. I thank you all very much for coming along and answering our questions. We will put the issues that you have raised to the Scottish Executive officials who will come to give evidence to us next week.

Scottish Water

11:42

The Convener: The fourth item on the agenda is consideration of the responses to the committee's request for views on the current position of Scottish Water. The information has been collated by Scottish Water, and we must agree how we want to proceed on the matter. Members have a copy of a note from the clerk, a briefing note from the Scottish Parliament information centre and copies of the responses that were collated by Scottish Water. I remind members—as I did earlier—about the weight of business on our work programme until Christmas. If we were to do substantial work on Scottish Water, it would almost certainly need to be done after the Christmas recess. I invite comments from members, especially on that proposition.

Kate Maclean: There are three options in the bullet points in paragraph 4 of the clerk's paper, which are—as it says in paragraph 5—not mutually exclusive. I would not support our taking the action that is suggested in the third bullet point. The actions that are suggested in the first two bullet points are the way in which we should go forward.

However, I am a bit concerned about the first bullet point, which suggests that we could

"invite Scottish Water for a one-off evidence session".

I am not sure that we should take evidence only from Scottish Water. We have received written submissions from 11 organisations that are representative of Scottish society, and I would like to explore some of their views further in taking oral evidence.

I think that we should agree to a combination of the first two bullet points in paragraph 4, with the committee appointing reporters to progress the issue. All members of the committee will want to explore the issue further, and the public would be interested in our doing so. The reporters could undertake a significant amount of work before we took evidence and report back to the committee on an interim basis, suggesting whom we may want to hear evidence from on the basis of their research. After the Christmas recess, when the committee can do justice to this important issue, we can take evidence from Scottish Water and other organisations. That would be the best way forward.

Dr Murray: I agree that it would be worth while for us to appoint reporters to pursue the matter further. We have received a substantial body of evidence so far. Given the comments that have been made by the Federation of Small Businesses in Scotland and others about buck passing between Scottish Water, the water industry commissioner for Scotland and the Scottish Executive, if we invited Scottish Water to give oral evidence, the panel should include representatives of all three bodies to enable us to get to the heart of where the responsibilities lie.

11:45

Jim Mather: I am taken by the first two options. We should seek to augment the list with a contribution from Analytical Consulting Ltd. Jim and Margaret Cuthbert, the noted statisticians and economists, have submitted a paper to the committee and have given me a verbal briefing. The chemistry of this suggests that it might be better for our formal evidence session to take the form of one or two fairly interactive, almost informal meetings—around a notepad, a flipchart or whatever—at which we would bring together a blend of the contributors to see whether we could reach consensus. Through such a working session, we could try to get to the heart of the matter.

Mr Brocklebank: Nobody here should underestimate the importance of our holding some sort of inquiry into Scottish Water. Fergus Ewing and I had a spat earlier this year when he suggested that the committee should investigate Scottish Water. At that stage, we decided to defer such an inquiry because of the sheer weight of our business. However, we cannot keep putting off an inquiry into Scottish Water. From the responses that we have received, it is clear that there is much evidence for us to get our teeth into, and all members will have thoughts on the issue. The public will expect us to get our teeth into it, in some fairly detailed form.

Like the other members who have spoken, I think that there should be a further evidence-taking session—whether that involves reporters from the committee or the water customer consultation panels—as a piece of preliminary work. However, that would be merely a prelude or precursor to our looking at the matter in detail and focusing on what we want to come out of this. In one sense, judging purely by the attitude of some of those who have responded to us, there seems to be a tremendous amount of misunderstanding about who is responsible for what and who, ultimately, has any authority in this matter. It is a prime target for the committee.

The Convener: There is certainly a big issue about accountability, which has emerged in the responses. I endorse that comment.

Fergus Ewing: The case for a proper inquiry is now overwhelming. A half day simply will not be enough if we accept Kate Maclean's suggestion that we should give not just Scottish Water, but the

various other people who have sent us detailed submissions, the chance to give evidence. That will require more than a half day: it will require two half days at the least, and possibly more.

It seems to me that there is great urgency about this issue, and I am disappointed that we are not going to pursue the inquiry now, as the SNP suggested earlier in the session that we should do. There has been a concatenation of events. First, as I mentioned, those who are on the lowest incomes will lose the modest protection that they get from a ceiling being put on bills. As from next April, there are no plans for the Scottish Executive to renew that scheme. If we are to play any part whatever in helping those who are on the lowest incomes, we must have an input very quickly.

Secondly, from an extensive meeting that I had with a representative of the north-east of Scotland water customer consultation panel, I know that various vital consultations are going on. One of those consultations relates to the principles on which a charging system is based, which we have not even discussed in the Parliament. It asks to what extent the charges—for both business and domestic users—should be based on a fixed cost or a volumetric cost. Other countries penalise the excessive use of hosepipes and unnecessary wastage of water. Is not that something that we should consider? Why do we not do that here?

The WCCP has produced a detailed consultation paper—which I have seen—which merits serious consideration. The consultation paper also raises the obscene issue of the huge extra costs of servicing rural plots. What role, if any, will the new charging regime play? Will there be a complete disincentive for more housing and businesses in rural areas?

What response will there be to the detailed proposals from the Forum of Private Business, which include a modest scheme of £4.4 million to help businesses? What about the statement from the Federation of Small Businesses in Scotland that Scottish Water inherited a water debt of £2,098 million? The FPB argues that it was unfair that inherited debts, which were written off in England and Wales on privatisation, had to be paid off by the Scottish consumer, especially over a short period. That is the evidence of a respected body such as the FPB and it begs the question whether Scotland is being short changed. We need answers to all those questions. There are many more important issues, but I do not wish to go over time.

I am pleased that we agree to hold an inquiry. Our schedule for the inquiry should include two meetings before the end of the year; if that means that we have to hold extra meetings, outwith Tuesdays, we should do so. If we leave the inquiry until next January or February, it could be too late to make any useful and meaningful input to the timetables and decision-making processes that are currently set by Scottish Water, the Water Industry Commissioner for Scotland, the panels and the Scottish Executive. Let us get on with it.

Kate Maclean: I absolutely agree with Fergus Ewing that it is crucial that we get on with the inquiry. I worry, however, that if we rush at it and try to squeeze in meetings this year, we will be unable to take the full amount of evidence or to do justice to the inquiry. We will be able to come to a conclusion more quickly, but it might not be of any benefit or use.

If we appoint reporters, they can do a significant amount of work outwith normal committee times. We could then start our evidence-taking sessions early in the new year. I am not suggesting that we wait until February. We could start immediately after the recess, or before it if there is time, which I suspect will not be the case. If we do that, we will be able to do far more justice to the inquiry. It is important that we get the inquiry right rather than that we get it finished two or three weeks earlier.

Dr Murray: It is important that we try to get something planned for early in the new year, if that is possible. I have a practical suggestion. We are taking evidence from the minister about the Executive's relocation policy on 9 December. Given that the Scottish Water issue is possibly more pressing than the relocation policy issue, it might be possible to take evidence on Scottish Water at that meeting. I am not suggesting that we put back our evidence taking on relocation by a long period of time, only that we take it slightly later. That would allow some of the issues around Scottish Water to be examined before the end of the year.

The Convener: Okay. If I am reading the committee right, the view is that we need to take some evidence, if we can, which will link into the evidence that we have received to date. There is also a view that, in order to progress the issue, we need to ensure that we do it justice. I agree with Kate Maclean that the best route to do that would be to appoint a couple of reporters to do more detailed work. The reporters can progress the issue on behalf of the committee. Having undertaken some preliminary work and reported back to us, the reporters could provide us with a route forward to a more detailed inquiry. It is inevitable that such an inquiry will have to take place after Christmas.

Elaine Murray suggested that we could have a one-off evidence-taking session before Christmas, at which we could clarify some of the issues. I am not sure that that is necessary, but if members think that they require clarification from Scottish Water on some of the issues that have been raised, we could do that. I reiterate that the

questioning of ministers and other people will probably have to take place after the Christmas break. I cannot see how we can fit it into our timetable before that time.

Kate Maclean: If we were to have Scottish Water representatives before us on 25 November, that would not preclude us from having them before us at the same time as the minister. If, as Elaine Murray said, there seems to a lot of buck passing, it would be useful to have certain witnesses before the committee at the same time. Having them before the committee once does not preclude us from having them here a second time.

The Convener: That is right. My previous involvement was on the Transport and the Environment Committee. We conducted two inquiries into water and found it quite a technical area. To make sense of the issues, in particular some of the finance issues, members need support. I am thinking not about accountability, as it is a wee bit simpler, but about the financial issues that require a considerable amount of consideration and detailed study. Members will not pick up those issues quickly simply by being told the figures in a short time frame.

Do members agree in principle to appointing a couple of reporters?

Members *indicated agreement*.

The Convener: Jim Mather and Jeremy Purvis have indicated an interest in becoming reporters. Do members agree to appoint those two members as our reporters on the issue?

Members *indicated agreement*.

The Convener: In terms of an evidence-taking session, I ask Elaine Murray to clarify whether she was thinking of our meeting of 9 December.

Dr Murray: I was simply making an observation that it was not essential for the relocation session to take place on 9 December and that that session could be rearranged to allow the session on Scottish Water to take place. Like Kate Maclean, I want to reiterate the desirability of having representatives of the Scottish Executive and the Water Industry Commissioner for Scotland before us at the same time as Scottish Water representatives. If we do that, we can get to the root of the buck passing that was mentioned in some of the submissions.

The Convener: So we are talking about a session at which we would seek to clarify some of the issues. The reporters could lead the questioning on some of the issues, but that would not form the end of their work. They would carry on with their work and consider some of the issues in more detail in January. Do members agree that that is what we are saying?

Members *indicated agreement*.

Fergus Ewing: Will the convener clarify his suggestion? The reporters will produce reports—that is obvious—but all members of the committee should have an equal right to question witnesses.

The Convener: Absolutely.

Fergus Ewing: Is the proposal to invite Scottish Water representatives before the committee, along with the minister, for the first cut on 9 December?

The Convener: I am not sure that we have decided whether we should invite them on 25 November or 9 December. We have to decide at which meeting the session could best be scheduled. I am trying to pick up from members whether they want to have a session before Christmas.

Fergus Ewing: Absolutely.

Kate Maclean: Perhaps the reporters could bring a proposal to our meeting next week? They could prepare a bare outline of a timetable for the inquiry and outline proposals, which could include evidence-taking sessions. That would allow us to decide how to proceed.

Fergus Ewing: With respect, although I see the logic in that proposal, those of us who served in the first session of the Parliament know that ministerial diaries in particular are extremely busy. Scottish Water's senior personnel—I assume that we are talking about Mr Hargreaves and Professor Alexander—are equally busy. If we are agreed that we would like to have a session before the turn of the year, it would probably be better, even as a matter of courtesy, to fix a date now. Otherwise, we might run the risk of finding that the minister or witnesses from Scottish Water are unavailable.

The Convener: I suggest that we ask the clerks to explore informally ministerial and other availability and put that alongside our timetabling. I ask the reporters to prepare for next week's meeting a draft remit for the inquiry and a proposal about consultation. If they could do that, we could agree or vary the proposals and also consider the information from the clerks about availability. That would allow us to decide on the appropriate date.

Fergus Ewing: It could be 2, 9 or 16 December.

The Convener: It could be any of those dates. We will explore ministerial and other availability.

John Swinburne: Can we also ask the reporters to examine Ross Burnside's excellent report on this matter? In particular, I seek clarification of the comment, in the report's third last paragraph, that the cost of operating the private finance initiative schemes over the past year was about £105 million. Those contracts run for between 20 and 40 years. That sounds like an

enormous amount of money to pay to some organisation and is probably the reason why water rates for small businesses are increasing.

The Convener: I think that the reasons are more complex than that. Perhaps that is one of the many issues that we need to explore in some depth and detail.

Dr Murray: Are we also inviting the water industry commissioner to give evidence? After all, we might have some questions to ask him.

The Convener: I think that you were right to suggest that we invite a group of people to the committee to explore some of the issues as a first cut at the subject and without prejudicing any decision that we might make to follow through on the matter in the new year. The reporters' task in managing the process will certainly not be light; indeed, it will be considerable. Do members agree to proceed in that way?

Members *indicated agreement*.

The Convener: The clerks will get in touch with the reporters about working towards a remit and other decisions and a paper containing some concrete proposals will be circulated to committee members for discussion at next week's meeting. Are members agreed?

Members *indicated agreement*.

Fergus Ewing: Elaine Murray and I are about to meet to discuss the relocation of Scottish Natural Heritage. Will the convener clarify for our benefit, and the benefit of other members, whether we have asked SNH for the report that was mentioned in newspaper cuttings and which estimated the cost of relocation at £40 million? When did the letter go off to SNH? Have we received an answer yet? Until we receive that information, we will find it difficult to report back to the committee.

The Convener: We have written to SNH for a breakdown of the costs and have set a deadline of next Monday for a response.

Fergus Ewing: Thank you very much.

The Convener: On that basis, I close the meeting.

Meeting closed at 12:02.

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