



OFFICIAL REPORT
AITHISG OIFIGEIL

SPCB Supported Bodies Landscape Review Committee

Thursday 1 May 2025

Session 6



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SPCB SUPPORTED BODIES LANDSCAPE REVIEW COMMITTEE
10th Meeting 2025, Session 6

CONVENER

*Ben Macpherson (Edinburgh Northern and Leith) (SNP)

COMMITTEE MEMBERS

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

*Richard Leonard (Central Scotland) (Lab)

*Ash Regan (Edinburgh Eastern) (Alba)

*Lorna Slater (Lothian) (Green)

*attended

THE FOLLOWING ALSO PARTICIPATED:

John Ireland (Scottish Fiscal Commission)

Craig Naylor (HM Inspectorate of Constabulary in Scotland)

Julie Paterson (Mental Welfare Commission for Scotland)

CLERK TO THE COMMITTEE

David Millett

LOCATION

The James Clerk Maxwell Room (CR4)

Scottish Parliament

SPCB Supported Bodies Landscape Review Committee

Thursday 1 May 2025

[The Convener opened the meeting at 09:30]

SPCB Supported Bodies Landscape Review

The Convener (Ben Macpherson): Good morning, and welcome to the 10th meeting in 2025 of the SPCB Supported Bodies Landscape Review Committee. I have received no apologies for today's meeting. Ash Regan MSP joins us online.

The committee will take evidence from three public bodies that are funded by the Scottish Government but are seen to be independent. I am pleased and grateful to welcome to the committee: Julie Paterson, chief executive officer, Mental Welfare Commission for Scotland; John Ireland, chief executive, Scottish Fiscal Commission; and Craig Naylor, chief inspector, His Majesty's Inspectorate of Constabulary in Scotland.

We move directly to questions. The first question is from me, and is one that you are perhaps anticipating. As part of the review that Parliament has asked us to undertake, we are keen to understand as far as possible how supported bodies that are funded by the SPCB fit into the wider public body landscape. We have heard evidence that SPCB-supported bodies are often created when independence from Government is required for the body to fulfil its functions. As you are funded by the Scottish Government, I am interested in your thoughts on whether you consider that your organisations are able to act as independent bodies. I appreciate that the answer to that is likely to be yes, but I would be keen to understand why. Further, would you be able to function more efficiently, effectively or independently if you were an SPCB-supported body? In effect, I am asking: does who funds you matter?

I do not know who wants to go first—perhaps John Ireland?

John Ireland (Scottish Fiscal Commission): I think that I was nominated by my colleagues to go first. *[Laughter.]*

I will answer in two parts. First, on the question of whether the Scottish Fiscal Commission is able to act independently of the Government and of other people, our answer is—as the convener suggested—yes, we are capable of doing that.

The interesting part is why we are capable of doing that. We are very fortunate in having lots of protections around our independence. If I briefly go through those, it will give the committee an idea about our ability to act independently.

The first safeguard of our independence is in our founding legislation, the Scottish Fiscal Commission Act 2016. Section 9(1) of that act states:

“In performing its functions, the Commission is not subject to the direction or control of any member of the Scottish Government.”

We therefore have a very clear legislative statement that we are not subject to control by any member of the Government, which we interpret as being either ministers or their officials. That is very clear.

We have a number of other safeguards as well. First, there is our framework agreement, which is a standard agreement between a public body and its sponsor, the Government. Both sides signed it—that is to say, it was signed by our chair and the Cabinet Secretary for Finance at the time. That framework agreement also has clear guidelines about independence. It is clear, for example, that the Government cannot direct us operationally and that it cannot ask us for certain operational information. There are lots of provisions such as that in that framework agreement. Although it is not in legislation, it is a long-standing agreement between the commission and the Government, which is public and very clear. I think that the committee will talk about funding later, so I will leave that to the side for the moment. However, I note there are also safeguards in relation to funding in the framework agreement.

The next bit of protection that we have is from the Organisation for Economic Co-operation and Development, which is, as the committee will know, an international body. The OECD has set a number of international principles for independent financial institutions such as the Scottish Fiscal Commission, and those principles also safeguard independence. That is useful because, again, they are clear and publicly available. Our founding legislation was drafted with an eye on those, and the framework agreement that we have with the Government was also written in the light of those.

Our founding legislation also requires us to have an independent statutory evaluation, the first one after two years, the second one after five, and then every five years thereafter. We asked the OECD to do the first two reviews that we have had to date. We published the latest review a couple of months ago, and it is very clear in its findings. It states:

“The SFC scores well in the area of independence”

in terms of our adherence to the OECD principles for independent fiscal institutions. It goes on to say that that is

“also true in international terms”—

that is, we fare well in terms of international comparisons in relation to safeguarding our independence—and

“in terms of stakeholder perceptions”.

That last point is important. It is really important to us that we are seen to be independent by the people we deal with—in particular, the Parliament, especially the Finance and Public Administration Committee and the Social Justice and Social Security Committee, with which we have the most contact, but also the public.

That is the final part of it. Our independence is secured not only by the legal protection that we have and the fact that we have the OECD’s reputation behind us, but also because of the way in which we go about our day-to-day operations. When we are doing our work—when we are doing our forecast twice a year and publishing reports—we have to be clear about our independence and how we work operationally. We are very focused on that. Our risk register has a category concerning our independence, and we take careful note of where we think that that is going. We also consider all our interactions with people in the light of that independence. That is basically it, for us.

I will answer the second part of the question—on whether we could perform our role more efficiently or effectively if we were sponsored by the SPCB—very quickly. The OECD principles are quite clear in stating that being sponsored by either the Parliament or the executive is fine, depending on how the relationship is set up.

For us, there is a degree of history here. We were set up as a non-ministerial office, and we have been working with the Government. For us, it would therefore be a significant change to move across to being sponsored by the Parliament. In the long run, it could work; in the short to medium run, however, it would be incredibly disruptive. All our shared services are provided by the Government, and we are civil servants in line with the OECD principles. If we were sponsored by the Parliament, we could not be civil servants. There would be lots of practical disruption.

I can talk about that more later, but that is probably enough for the moment.

The Convener: That was very helpful.

Murdo Fraser wants to ask a supplementary question.

Murdo Fraser (Mid Scotland and Fife) (Con): I have a very quick follow-up question. To encapsulate your point, Mr Ireland, you can see no

advantage to your becoming an SPCB-supported body, as opposed to what you are. Do you think that that would make no difference to the independence of operation that you have?

John Ireland: That is correct. My personal reflection is that, over the seven years or so that I have been chief executive, we have managed to walk the line reasonably well. That shows up in what people think about us. We get that feedback through the stakeholder surveys and in other ways. The arrangement works well for us, and I cannot see any significant advantages to changing that.

The Convener: Although this is anecdotal, I add that my experience as a Scottish minister was always that there was a perception and an understanding that you were independent of Government. Your points around perception and understanding are interesting for our committee’s considerations.

Julie Paterson, do you want to come in on those points?

Julie Paterson (Mental Welfare Commission for Scotland): To follow on from John Ireland’s points, I note that the Mental Welfare Commission for Scotland is accountable to Scottish ministers, and that we have a strong and supportive relationship with our sponsor department, which we welcome. However, we do not cross that line of independence, because the work that we do and the publications that we publish are our own work and independent. Indeed, the committee will note that some of our work makes recommendations to the Scottish Government. We therefore hold on to that independence, which is very important to the people that we work with, who are people with mental illness, learning disabilities and dementia, and related conditions. It is critically important to them and to our staff that we have the necessary independence to act on behalf of the people we serve.

In relation to our governance, like the legislation that relates to John Ireland’s organisation, our legislation—the Mental Health (Care and Treatment) (Scotland) Act 2003 and the Adults with Incapacity (Scotland) Act 2000—is clear about our roles, responsibilities and powers. Our powers and duties are clear in those acts, and we work to them.

John spoke about the framework agreement. We have a very clear framework agreement with the Scottish Government, which clearly states our independence, and we review that regularly.

It is very clear who our stakeholders are. Previously, the Mental Welfare Commission did not report to the minister, but that changed in 2011. There was huge concern on the part of stakeholders about our independence and the

impact that that change would have on the Mental Welfare Commission and its roles and responsibilities. We have been in place since 1960, through the Mental Health (Scotland) Act 1960. Before that, in 1859, we started as what was called the General Board of Control for Scotland—thankfully, things have moved on in many ways, including the language that is used. Therefore, we have been in place for a long time, and we are really valued by the people who we support and serve. However, despite the concerns that were expressed, since 2011, we have managed to walk that line of independence.

Commission staff are not civil servants. Our board chair is appointed by the minister, and our board members are all appointed. Our governance operates through our board, which has experts in the field of mental health, experts in using services and experts in caring for people who use services. We also have an audit, performance and risk committee as well as an advisory committee that is made up of a range of stakeholders from various third sector organisations and organisations that represent people with experience. They direct our board and, likewise, the board directs them to ensure that we function as we should according to the law.

On your point about whether we would be more efficient if we had a different remit, and became an SPCB-supported body, I note that, interestingly, one of the recommendations of the Scottish mental health law review, which reported in October 2022, was that the Mental Welfare Commission should have a different approach, that the role should become that of a commissioner that reports to the Parliament and not to the minister. The review was based on a three-year consultation process that included a range of stakeholders across mental health, learning disabilities, and dementia and related conditions. That was the recommendation, but it has not been considered at this stage. To be honest, we are following your committee's inquiry closely, because we, too, want to know what the pros and cons are. However, at the moment, we are working really well within our remit and within the remit of a very supportive sponsor department.

The Convener: That is very interesting and helpful.

Lorna Slater (Lothian) (Green): Can we get hold of that review paper? That would be really interesting.

I realise that we have not yet heard from Craig Naylor, but John Ireland and Julie Paterson have spoken about the importance of independence, which is something that all the SPCB-supported bodies have emphasised to us. However, to flip that on its head, one of the frustrations that the committee is hearing from SPCB-supported

bodies involves a perceived inability to effect change. They produce brilliant papers, research and investigations, but that work does not go anywhere. Although they are accountable to the Parliament, committees or members are not picking up that work and feeding it into the Government. I wonder whether being sponsored by the Government and having direct access to a minister means that the work that you do is taken up and fed into the system more effectively than it would be if you were that further step removed from the Parliament.

Julie Paterson: I cannot answer that question because I did not work at the Mental Welfare Commission at the time when it reported to the Parliament. I feel that the Mental Welfare Commission has a route in through our sponsor department, when we raise issues. We did a very significant piece of work in 2021, after Covid, because we were hugely concerned about the actions that were taken around people leaving hospital and moving into care homes without lawful safeguards in place. These were people who were unable to make decisions for themselves. It is completely unlawful to disregard the rights of people who are unable to make decisions for themselves. We raised that issue because it was raised with us through a network of families, doctors and nurses. We made recommendations to the Government, and we know that those led to change.

09:45

As part of that, we highlighted the fact that staff did not feel confident and competent in relation to applying the principles and legislation around adults with incapacity. There was then a collaboration between NHS Education for Scotland—it is the trainer; we are not expert in training—and us, as the organisation with expertise in the laws. We have now created a training forum for all health and social care staff across Scotland, so that is an example of change being effected. People now feel confident and competent, and thousands of staff who did not previously feel supported have signed up for that training. We have lots of examples of where we feel that we were able to effect change.

Similarly, we have examples of times when we were not able to do that, and the Scottish mental health law review's final report—we will absolutely make sure that you have a copy of that—showed that some people perceive that we are not able to effect the change that they would like us to effect. For example, there was a case where we knew that an area was acting unlawfully. With regard to our influence, we have very little power to make organisations do things; our powers are very much about influence and expertise. Normally,

organisations will listen to us, but, when they do not, we do not have the power to make them listen. However, on this occasion, we knew who had that power, so we worked with our partners in the Equality and Human Rights Commission, who had access to the courts, to take that forward in that way. On the occasions when we are unable to take things forward and effect change, we have partners who can potentially do that on our behalf.

John Ireland: That is a really important point, because, although the Scottish Fiscal Commission is sponsored and funded by the Government, our accountability is to the Parliament, particularly the Finance and Public Administration Committee. When it comes to effecting change, we have influence through our relationship with that committee as well as some of the other subject committees, particularly the Social Justice and Social Security Committee. The Government has to use our forecasts in setting the annual budget, so we have that sort of impact, too. However, with regard to our other work, for example on the long-run fiscal sustainability of Scotland, it is the Finance and Public Administration Committee that basically drives that and pushes it forward. For example, on fiscal sustainability, we published a report in 2023—the first of our reports—on the back of a legacy recommendation from the previous finance committee. Those reports have been well received, and the Government has now made a commitment to have an annual debate on fiscal sustainability. The Finance and Public Administration Committee basically arranged that.

Therefore, although we are sponsored by the Government, our day-to-day operations are much more for the Parliament than the Government. We obviously have a very close working relationship with the Government, but that is a different sort of relationship. The minister does not really tell us what to do; that is much more the role of the finance committee.

Lorna Slater: That is helpful.

The Convener: We will get to questions about function and similar points later in today's evidence session. Thank you, both, for that helpful and insightful information. Craig Naylor, please come in on all the points that have been raised—and thanks for waiting patiently.

Craig Naylor (HM Inspectorate of Constabulary in Scotland): Not at all.

We are independent. We have been in existence since 1857, so there is a long history of appointment by the monarch to the role that I now occupy. Our independence is a very jealously guarded position, and we try to keep that independence in a way that balances the evidence that we present with the improvements that we are trying to make across policing in Scotland. I tend

not to stick in my lane, though, and we do, from time to time, give the Scottish Government and other bodies recommendations on how we think the whole system could improve. Although that is not written in legislation, it is almost expected from us.

We are also the adviser to the Government on policing. We are not asked to give that advice often, but we are asked a lot informally about how things can improve. With regard to the independence of the role, I am appointed under royal warrant but I hold a civil service job, which is a bit of a tension, let us say. That has never really been tested, and the justice sponsor department is very good in that it listens and reacts appropriately. There is a line management-ish structure for things such as approving holidays, but the tension really lies not in what we say and do, but in how we do it. I am entirely satisfied that we exercise our independence well, fairly and proportionately.

The difficulties that we experience are due to our being an independent body that sits within a civil service system. The civil service system has human resources, finance, the new Oracle system and all sorts of other bits and pieces that we nominally pay a sum per year to use, and that also covers the office space that we use at St Andrew's house. I cannot put my hands on that money and say, "I can do this cheaper, better, more effectively and more efficiently," because it is taken from my budget without any recourse to me.

That becomes a bit of an issue when, because of our independence, we want to do things in a slightly different way. When we appoint staff in ways that are different from how a core civil service job is filled, that confounds our HR colleagues—not in a bad way, but because they have never done it before or because they have never done it in their current role, despite the fact that we might have done it two or three times in the past. Being an independent body that sits within a civil service system brings complexities that cause frustration to us and to our colleagues across legal, information technology and HR functions.

I suspect that we could do an awful lot of our business far more cheaply than the current model allows, but I do not think that that would be resolved by our becoming an SPCB-supported body. I do not see a benefit to us from moving from our current status to something that comes within the Parliament's remit, partly because we already report to the Parliament. I lay my annual report and scrutiny plan before the Parliament, and every report that we produce is laid before the Parliament. We are held to account primarily by the Criminal Justice Committee. In addition, I was speaking to the Auditor General for Scotland this

morning about a report on best value across policing that we will do, which will come to the Public Audit Committee, probably in January next year.

We are held to account by the Parliament, and I think that that is absolutely appropriate. There is also a tension that comes from our working within the civil service system. I hope that that answers your question.

The Convener: It is very helpful and interesting. The area of justice is quite interesting in itself, with regard to the wider question of SPCB-funded bodies and Scottish Government-funded bodies. For example, your organisation and the Police Investigations and Review Commissioner are funded by the Scottish Government because you are part of the accountability arrangements for the justice system, whereas the Scottish Public Services Ombudsman is funded by the Parliament and holds other public services to account. Such are the questions that we have been wrestling with over the past months, and your insights are helpful to us as we continue to do that.

I have one further question, and then I will pass to Murdo Fraser. As you might be aware, the Scottish Government has nine classifications of public bodies, such as non-ministerial offices and health bodies. Do you feel that your body has been categorised appropriately and that your framework agreement sets out the right relationships with the Scottish Government and the Parliament? As far as you are aware, has your classification and, therefore, your relationship with the Government, ever been reviewed or reconsidered? If you do not have huge amounts to say on that, please feel free to be quite succinct, but it would be interesting to get your thoughts on those two points.

Craig Naylor: There is confusion about what we are, and, no matter the classification, it is difficult to see a change that would make it clearer. In the primary legislation that now guides us, which is the Police and Fire Reform (Scotland) Act 2012, it is quite clear what we are to do. We have crafted how our relationship with the Government and the Parliament works, and I do not think that there is a formal agreement that says exactly how we should do things. Without going into too much detail, I can say that we have a way of working that works. We can demonstrate quite clearly the delivery of improvement in policing in Scotland, and we do so on an annual basis. I think that we are doing what is expected of us. If you were to try to clarify that and put it down on paper in a better way, you might end up diluting what we currently do.

Julie Paterson: Likewise, we are classified as a health body, and people sometimes talk about us being like a non-departmental public body. The classifications are not entirely helpful. What is

helpful is the framework agreement that we have in place, which is very clear about what we do and the role of the Government in relation to that.

In answer to your question about review, as I said, prior to 2010, we reported to Parliament, and the Scottish mental health law review is asking for such a review at this stage as well. It will be interesting to see whether that review is taken forward.

John Ireland: We are classified as a non-ministerial office, which I think is the correct classification. Our framework agreement is very clear about that, and our liaison team in the Government understands it.

The wider problem is that the public bodies unit in the Scottish Government tends to take a blanket approach that treats all public bodies as though they are the same. Quite often, inappropriate commissions go around asking, for example, "Why are you hiring more staff?" We say, "Well, that's not your business."

Basically, our classification works. There is a minor bit of irritation, but we can live with that.

Murdo Fraser: As you will be aware, one of the reasons that this committee was established was to look not just at the role of existing supported bodies but at the case for any new ones, because a number of proposals to create new commissioners are in train. We are looking at that whole framework and argument. The Scottish Government's draft ministerial control framework sets out that the creation of a new public body is a last resort. One of the factors that it considers is whether an existing organisation could cover the functions that are proposed for a new body.

Have any of you ever been asked to provide a view on a proposal to create a new body, perhaps in the same field as your organisation? If so, what was your experience of that and how did you feel about the process? Maybe the answer to that question is no, so it will be a very short answer. Do you have any experience of being asked to comment on a proposal for a new body?

Craig Naylor: I could give you some thoughts, Mr Fraser. We have not been asked about that for Scotland, but we have been approached by Westminster about powers that are being extended within His Majesty's Revenue and Customs around law enforcement in relation to tax fraud. We were asked whether there should be a separate body for Scotland. It is now being proposed that the body in England and Wales that will inspect the use of what are almost policing powers in the HMRC space will be His Majesty's Inspectorate of Constabulary and Fire and Rescue Services, which is my equivalent body in England. We were asked whether we would be the appropriate body in Scotland.

As with all those things, anything is possible. The difficulty is that we have a team of 16 people, a £1.6 million budget and a full plan for the next three years, which we consulted on and published two months ago, in March. We could do it, but I would much rather that there was consideration of existing bodies taking on additional responsibility than that new bodies were created. My personal view is that, yes, we can do these things and, yes, we have a structure in place that would facilitate that probably as efficiently and effectively as is possible. However, we need to be realistic about the fact that that would come either with additional cost or with less output than we were predicting over the next three years. It is a balance between cost and output.

If you are looking in the justice space at additionality to what we do, then yes, we could provide that. We have a structure that would allow that to happen, as long as you framed it in appropriate legislation and either gave consideration to what we would stop doing or paid for that additionality. I think that that would be a more efficient and effective manner in which to do things.

Julie Paterson: The feedback from the stakeholders that we work with has certainly been that the commissioners landscape is quite cluttered. I know that I keep saying it, but the Scottish mental health law review reported in 2022 and I am looking forward to the report's 202 recommendations being taken forward. Within those recommendations, the report talks about extending the role and responsibilities of the Mental Welfare Commission, which we would welcome. As Craig Naylor says, we would obviously need additional resource, but we have the capacity within our current governance arrangements to do that work.

Rather than create additional bodies, we should look at what we currently have in order to reduce and minimise overlap and make sure that we deliver on the scale that is required, based on the feedback. Rather than create additional bodies, you could ask existing bodies to do more, as long as they have the resource.

John Ireland: We have not been asked that question.

10:00

Murdo Fraser: I have a couple of questions on how you exercise your functions, which I will be specific about.

I will start with Julie Paterson. The Mental Welfare Commission for Scotland has the authority to carry out investigations and make recommendations that it "considers appropriate". Some SPCB-supported bodies have told us that

they lack the powers to undertake investigative work under their own initiative. What is your process for identifying an issue for which you think an investigation is appropriate? What experience have you had, once you have submitted recommendations, of meaningful change resulting from them?

Julie Paterson: That investigative function is key to the work of the commission. We do investigations at a number of levels. You will see from the paper that was presented to the committee that we work under the auspices of the two pieces of safeguarding legislation. We do that by visiting, monitoring the use of the acts, investigating, giving advice and guidance, and influencing change. All those aspects of our work can potentially lead to an investigation.

For example, when people raise a concern through our advice line, we investigate it. That can be done on an individual level, where we address concerns relating to an individual's care and treatment not being of the quality that we would expect. We can also do a national piece of work, such as our report "Authority to discharge". That resulted from our concern that, across Scotland, people were being moved unlawfully from hospitals to care homes.

We also have a duty to investigate where we think that there is a deficiency in care and treatment. In those circumstances, we investigate in order to highlight learning across Scotland. We do those investigations at different levels. Some will concern only individual people, but then we might pick up a case involving something that we think is truly awful and that could happen somewhere else. Section 11 of the Mental Health (Care and Treatment) (Scotland) Act 2003 allows us to do those investigations and to access medical records and any other information that we require.

You asked what we do once we have issued publications and recommendations. We follow up the recommendations. I will give the example of the case of Mr E, on which we published a report in January 2024. That person did not receive appropriate care and treatment, and the outcomes for him were extremely poor. We made specific recommendations to the health and social care partnership, the health board and the local authority that were involved in that case.

We follow up with the chief executives, at the highest level, to ensure that our recommendations are followed through. We give three months for a SMART action plan—one that is specific, measurable, achievable, relevant and time bound—to be delivered, to make sure that every point that we have raised is picked up.

You will also see from the report on Mr E that we recognise where our role starts and finishes. We are in a unique role in relation to our expertise, but we are not a regulator. For example, in Mr E's case, we recommended that the Care Inspectorate look at the aspects of the case that related more to governance, culture and leadership, and we focused on the individual, which is our role always.

At every stage, we follow up on our recommendations—I get involved in that, too. We ensure that everything is delivered as we expected it to be. If it is not, we can raise that with the minister and say that we have not been satisfied. Because the commission has been in place since 1960—and, prior to that, 1859—we have developed that influence and those relationships.

We genuinely are about learning and improvement and making sure that there is learning across Scotland. As well as meeting the health and social care partnerships, the local authority and the health board involved for an investigative report, we meet with all health and social care partnerships across Scotland every year to ask what they have done in response to our reports and to seek assurance that our recommendations are reflected in their own clinical and care governance arrangements.

Murdo Fraser: With regard to the outcomes from that whole process, how confident are you that you are seeing meaningful change from your recommendations?

Julie Paterson: It is a combination. I can give examples of good outcomes, such as in relation to Mr E. We will be in touch with him. He was not in the right setting, and he should have better care than he had before, so we remain involved. We are satisfied that he will have good outcomes—certainly better outcomes than he had before. Another example, in a different area, comes from an investigation involving Mr D, in which we found a lack of understanding of very specific physical health conditions that can impact people with mental health problems. NHS Education for Scotland has picked that up and is now training its doctors in relation to that.

We have had good outcomes where we can say that we have made a difference, but there is also frustration when we do a piece of work and think, "There we are again." People do not know their role in relation to the duty of candour, for example. That is a common theme.

We do not need to do an investigation if local authorities, health boards and health and social care partnerships have done their own learning. For example, under adult support and protection legislation, there is a duty on local authorities and partnerships to do their own significant case reviews when things have not gone well, so that

they can learn and develop that learning culture. If that has already been done, and been done well, we do not need to do an investigation.

Likewise, if health boards have done significant adverse event reviews well and inclusively, we do not need to do an investigation, because the learning has been had. However, there are areas that regularly come up. Sometimes, when we do an investigation, we do not understand why the health board area has not done the learning itself, because there has clearly been a missed opportunity, or there has been a death that should not have happened.

We want to extend our investigation role to the deaths of people who have died subject to detention and to cases in which people have committed homicide while being subject to mental health services or being recently subject to mental health services. There is still work to be done in relation to investigations.

Murdo Fraser: That is very helpful. I turn to Mr Naylor to ask a couple of questions about HMICS. It has wide-ranging powers from the 2012 act, including the

"power to do anything that you consider necessary or expedient for the purposes of, or in connection with, the carrying out of their functions".

How do you avoid those powers overlapping with those of other bodies?

Craig Naylor: That is an interesting question. You are absolutely correct that the 2012 act gives us wide-ranging powers, but we try to stay in our lane. When we step into looking at system-wide issues, we work with partner bodies. We worked very closely with Julie Paterson's organisation on a piece of work on mental health around two years ago, which looked at the whole-system approach to people in mental health crisis.

If we are going to step into other people's spaces, we are very clear that we ask them first; we do not want to step on toes. In general, we are able to build strong collaborations, and the mental health work is a good example of that. We are currently working with His Majesty's Inspectorate of Prosecution in Scotland on how people are cited to attend court, and we do regular work on adult support and protection, children at risk of harm and other areas of public protection.

We are mindful that policing is not delivered in a silo, but, at the same time, for me to go rampaging into someone else's area of business would not go down well. We try to build a collaboration. When we are going to do some work, we try to ensure that we can do it collectively and that we can put appropriate human resources into it, with people who are knowledgeable and who are specialists in what they do. We do that so that the outcomes that we get are accepted, make the changes to

improve policing that we expected and, primarily, improve the wider whole-system approach.

The mental health example and what has been taken on by Scottish Government colleagues in that space has been worth while and will deliver better outcomes for people in Scotland who are suffering mental health crisis.

Murdo Fraser: It is very much a collaborative approach of working with your colleagues.

Craig Naylor: Yes.

Murdo Fraser: I enjoyed your turn of phrase about rampaging across other people's briefs. Perhaps, for completeness, I should ask either Julie Paterson or John Ireland the same question about overlap with other bodies and collaborative working. Have you got any experience of that? I appreciate that the Scottish Fiscal Commission is in a slightly different space.

Julie Paterson: We are a tiny organisation. We know where we start and where we finish, but knowing which partners we can work with enhances the work that we can do and improves outcomes.

I mentioned that we regularly work with NHS Education for Scotland. It is the educator so, when we find things in our investigations, we work in partnership with it. It is very collaborative. As Craig Naylor said, we work with the police inspectorate; we also work with the Care Inspectorate. We recognise that the Care Inspectorate and Healthcare Improvement Scotland have a broader range of regulatory and inspectorate roles and would want to pick up issues that we identify in our work. For example, in the next short while, we will undertake joint visits to children in secure units with the Care Inspectorate. We have already done joint inspections with the Care Inspectorate, specifically in relation to the Mental Health (Care and Treatment) (Scotland) Act 2003 and the Adults with Incapacity (Scotland) Act 2000, under which the Care Inspectorate does other work as well.

As Craig Naylor said, when it comes to that sort of collaboration, it is important to know which lane you are in and where you can improve and make a difference to the work. As I mentioned earlier, the Scottish Human Rights Commission and the Equality and Human Rights Commission are key players for us and we work in partnership with them. The committee will have seen the publication, at the end of January, of the SHRC's "Tick Tock..." report on deinstitutionalisation. A week before that, we produced our report, "Hospital is not home", which dovetailed very well with the work of the SHRC.

We recognise where we start and finish, but we also recognise that collaboration can enhance our work.

John Ireland: We have a very broad power, too. We can write reports on any fiscal factor, which means, basically, the resources that are available to Scottish ministers. We have tackled that in a similar way to colleagues, in that we are aware of what we can add. The clearest example is two of our fiscal sustainability reports. We did one on climate change a year ago, and we have just published one on health. In those, we consider the fiscal sustainability issues in relation to those two topic areas.

On the first one, we worked closely with the Committee on Climate Change, which is the Scottish Government's advisor, although it is the United Kingdom body on climate. On the second one, we worked closely with Public Health Scotland in relation to data. We are very clear that we are not experts on health or climate change; we are experts on the fiscal side. We look at the fiscal consequences of current Scottish Government policies around health and climate change and at some of the drivers—demographic drivers, in particular.

It is about seeing where our contribution can line up and where we can have an impact. As my colleagues said, it is about keeping in our lane rather than taking a broader approach.

Lorna Slater: I will return to the point around funding. John Ireland spoke a little about that at the start of the meeting, but I want to dig into it a bit more.

We are interested in how funding arrangements are different for SPCB-supported bodies versus Scottish Government bodies. Will you give us a bit more detail about how your budgets are set? Do you set your budget and then it gets signed off by someone? What is the process?

John Ireland: In our framework agreement, there is a clear approach to how our funding is determined. We have a separate budget line as part of the Scottish Administration; in the budget act, we have a separate line, which is very clearly our line.

The framework agreement requires that, every year, we ask the Government for funding for the following year. In doing that, we try to present a straightforward and honest case, taking account of the workload and what the Parliament has asked us to do. For example, in relation to the fiscal sustainability work, which came out of the Parliament and the OECD, we considered what we would need in order to do that and looked at the efficiencies that we could make, and then we put an ask into the Government. We produce that funding ask every year in September or October.

We are fortunate that, in line with the OECD principles, we have a multiyear funding arrangement with the Government and, therefore, we ask the Government for funding for the next three years on a rolling basis. The first year of that is put into the budget bill. We then receive a letter from the cabinet secretary that says whether they agree or disagree with our ask for the following two years, although it is not actually law until it goes into the budget bill. There is an appeals process in the framework agreement in case the Government does not give us what we ask for. However, operationally, we have been very fortunate that, whenever we have asked for money, the Government has given it to us.

When we put in our funding ask each year, we are clear about doing so in a fair and transparent way. However, we do not have to do what other public bodies are required to do by answering the question, for example, "If you have 20 per cent less, what less can you do?". We simply say, "This is what we need to do and this is how much it will cost", and leave it at that.

Lorna Slater: Is there pushback on the budgets that you set, or is the process generally a technical one?

John Ireland: It is a technical process in so far as we see it. I do not know what happens in the Government. To be clear, the Government has always been very reasonable with us about it.

10:15

Julie Paterson: It is similar for us. We do not have a multiyear budget; it would be nice to be able to plan ahead like that, but our budget is annual. We discuss our budget ask for our core functions with our sponsor department. Last year, our budget was £4.6 million; we are waiting to hear what it will be for 2025-26. I hope that we will hear about that soon. We have had lots of discussions about what it will look like and about additionality for some work. For example, for the investigations that I spoke about earlier, we put in a proposal to the Government to extend those investigations to cover deaths in detention and homicides. That extension has not been agreed at this stage.

There will be some areas of work that we want to progress and develop for which funding is not available. However, we will still put them forward. Our budget has not increased significantly in recent times, but it has not decreased, either. We welcome that approach. It is linked to our framework, too.

Lorna Slater: Do you get pushback on your budget or is the process of approving the budget largely technical?

Julie Paterson: We have good and strong discussions with our sponsor department about what we need, what for and why. I agree with Craig Naylor's point that, depending on the funds that we get, there are some things that we cannot do. We have conversations about the envelope that is available and about what we can do with additionality and with our core budget. It is a good, open discussion.

We recognise the fiscal environment but also that the people who we work with are among the most vulnerable in the community.

Craig Naylor: We do not have a formal budget-setting process. We are allocated money from the Scottish Government's justice budget. We set out a three-year plan of what we are going to do. We specify to the Scottish Government the resource requirement to deliver that. On top of that, there is an element of flexibility: we have contractors come in to do bits of work on our behalf, and we can enhance or reduce the level of that depending on our budget position.

The difficulty is that 95 per cent of our expenditure is on staff. We can make savings only through the other 5 per cent, unless we lose staff or do less. In reality, come October or November, we are told our figure for the next year. This year, we expected there to be a reduction, and we received £107,000 less than last year. However, there was then a slight increase to cover the pay rise and the rise in employer national insurance contributions. It did not cover the costs, but it allowed us to continue to do what we were doing, although we had to slow down some of the additional work done by contractors from outside the organisation.

It is not a perfect process but we understand the fiscal position that the whole country is facing and we work within the budget that we are given.

Lorna Slater: I will dig in for further details. Do you come under pressure to make efficiency savings, or do you have support to find them and to optimise your budget? Is there a push to do those things? If additional work comes up or an urgent crisis happens, is there a process for applying for more money?

Craig Naylor: Yes. About two years ago, we had an issue when we were required to be a named participant in a fatal accident inquiry. We have no budget for legal services, so we asked the Scottish Government legal directorate to represent us in that matter. We have only half a million pounds of funding, so we expected the Scottish Government to provide those legal services. However, it said no, so we had to commission services from outside. I did not have budget for that, and it cost £300,000 over 18 months. However, we got a letter of comfort from the

director general for education and justice, which said that the Scottish Government would cover the cost. It did, and we were very well represented.

As Brian Plastow has said in evidence to you, there is an informal but supportive relationship among the ombudsmen and the justice sector inspectorates. My organisation has some capabilities that the others do not have, so, rather than them going to the marketplace and getting publishing, public relations or media representation, we offer them the facility to use our services at cost—that is, for how much it costs my organisation to provide that service—through a journal transfer. That defrays some of their costs. For example, rather than their having to go out and spend £7,000 or £8,000 on design for a report, we can do it for them for about £1,000. That might be small beer, but it shows the drive that comes from us, and from our fellow ombudsmen and inspectorate bodies, to do things more efficiently and effectively and to protect the public purse as much as we can.

Julie Paterson: Likewise, we are governed by our board, which is clear that our key strategic priorities include being effective and efficient and delivering best value. We are driven by that approach because, as Craig Naylor said, our work involves using the public purse. In the same way as Craig's does, our budget primarily goes on staffing, so we need to be efficient. Quite rightly, our board drives us to be more efficient and effective. For example, we have an office that is shared with other public bodies. In 2019, we reduced that office space by 44 per cent to enable us to be more efficient. We now have 36 desks for 76 staff, which we manage through our flexible working approach. Pushback on such matters comes not just from our board but from us all, because we know that we need to use the public purse as efficiently and effectively as possible.

John Ireland: Our position is similar in many ways. Our board and our commissioners have a duty to work within the Scottish public finance manual guidelines, which impose efficiency and best value. We are very conscious of that when we make decisions. Much of our expenditure is on staff, whose terms and conditions are set by the Scottish Government through its main bargaining unit. We use shared services so, again, the efficiency and cost of those are determined by the Government. Like Craig Naylor, from time to time I might wonder about the efficiency of those services, but the position is the same as it is in any large organisation. People can always find things to grumble about when they are in a bad mood.

The Convener: Thank you very much. We now come to Ash Regan, who has questions on scrutiny and accountability.

Ash Regan (Edinburgh Eastern) (Alba): Good morning. You will have seen that the committee is interested in understanding as much as possible about how well the Parliament's approaches to scrutiny and accountability are working for the various commissions and supported bodies. Earlier, you mentioned annual reports, which is a topic that has come up over the past few weeks. Does the Parliament scrutinise such reports effectively, and does it use them appropriately?

The Convener: Who would like to answer that first?

John Ireland: I will. There are two mechanisms for parliamentary scrutiny. First, there is interaction with the Auditor General for Scotland and the Finance and Public Administration Committee. As a small public body, we produce an annual report that was previously audited by Audit Scotland and is now audited by Deloitte, and which is signed off by the Auditor General. That type of scrutiny comes under the finance committee.

Secondly, over the past two years, there has been an interesting development in that the finance committee has decided to see us annually for what we might call a governance session. Previously, we were accountable to the committee and we turned up to talk about our reports. Now, we have a session every year that explicitly covers governance. The annual report is part of that session, but it also covers matters such as our external review.

Although our work involves an important but relatively small amount of public expenditure, there is certainly parliamentary scrutiny of it, as well as the more technical aspects that involve auditors.

Ash Regan: You mentioned the five-yearly independent review of the commission's performance that is required to be conducted. Is that process working well, and is that timeframe appropriate? If recommendations come out of that review, what is the process for ensuring that they are implemented in a timely fashion?

John Ireland: Those are good questions. Our first review came after only two years of operation, and I think that we all felt a bit shell-shocked by it. However, the requirement to have such a review after two years, which was enshrined in legislation, actually came in good time. We had had time to do some stuff, but not a lot, and it was really helpful for us to have a review at that point. We deliberately went to the OECD, which had designed the principles involved. It carries out reviews for other independent financial institutions, so it has a lot of experience of such an approach. We deliberately went to it for our first review, and it came out with a series of recommendations. At our second review, five years later, the OECD just

went through each recommendation in turn, checking what had been done on it, and there had been progress on practically all of them, so I think that that approach worked.

The position on our report, which was published a few months ago, is similar. It contained several recommendations, which we will work away at over the next five years as we talk to the Parliament and the Government about their implementation. Interestingly, one of our recommendations is on multiyear budgeting, which the OECD said we should strengthen a little. I have started having informal conversations with the Government about that, and we will go back to the Parliament, too.

Ash Regan: Would other panel members like to come back in on my previous question on annual reports? You can add your thoughts on parliamentary scrutiny in general, perhaps commenting on how often you appear before committees and whether you feel that you are being asked appropriate questions when you do so.

Julie Paterson: The annual report is a product of our strategic plan. We consult with more than 2,000 people on our annual report, to ensure that what we deliver is what people want from us. When the minister signs it off, it then feeds into our business plans for the following three years. We are just about to start that process again for the period 2027-30. Our annual report is always laid before the Parliament.

On your question about scrutiny, I point out that we have never previously been invited to a committee meeting. Our first invitation is to a meeting of the Health, Social Care and Sport Committee next month. We really welcome that, because it will be an opportunity for us to hear direct feedback and be subject to scrutiny, and for us to share information on our work. As we have never been invited before, I cannot speak to how useful the meeting might be, but I am really looking forward to it. I hope that it will be useful as we move forward, and I welcome the committee's interest in the Scottish Mental Welfare Commission's work.

Craig Naylor: My response will be fairly similar to Julie Paterson's. Our annual report is basically a report card on what we have done during the previous scrutiny year. Our scrutiny plan is the product of a three-year programme. We consult on it quite extensively, although perhaps not with as many people as Julie's organisation does. As part of that, we write to every MSP and every MP in Scotland. I realise that you are all busy people, but last time we got replies from only three members who wanted to tell us their views, and one of those was the convener of the Criminal Justice Committee, to whom we already speak regularly.

Do I think that you could do more? Yes, but I am also acutely aware that the Parliament is a busy place and there is a lot on your dockets to deal with. Would I like to have more scrutiny? Well, not particularly, but I would welcome it in so far as it would enable us to show clearly what we do. When I appear before the Criminal Justice Committee, perhaps two or three times a year, members' questions are well informed and insightful. They keep me on my toes when it comes to ensuring that what we do is both impactful and relevant to them and their constituents.

We recognise and understand the scrutiny process. We prepare for it and we want to ensure that we give members the very best information to allow you to do what you need to do as legislators. Could the process be better? Yes, but, as with everything, we would prefer to see the emphasis put on improving policing in Scotland rather than on keeping the Parliament happy, if that makes sense.

Ash Regan: It does.

My final question is about the Government's arrangements. Depending on your organisation, each of you will have a set of arrangements, which the Scottish Government enforces, on how you are monitored. Have you any further thoughts on whether those arrangements are effective and appropriate? Do they work well?

Craig Naylor: I will go first. We have a strong relationship with the Cabinet Secretary for Justice and Home Affairs and her team, whom we meet every six to eight weeks. She both respects our independence and seeks my advice not only on policing but on the whole justice system and the corresponding portfolio.

As for our relationships with civil servants and Government officials, they are acutely aware of the tension between my having an independent role and having civil servants employed in my organisation. We are clear and frank with each other. A fair amount of candour is expressed if I think that they are stepping beyond the mark, and likewise if they feel that we are not stepping up to it. It is a good relationship, which is built on trust and candour, and on ensuring that we do what it says on the tin about improving policing in Scotland.

10:30

Julie Paterson: I echo that. As I said before, we have got a really strong and supportive sponsor department and a minister who is interested in our business, but we are very clear about where our roles start and finish, and we welcome that relationship.

John Ireland: I, too, would say that we have a very supportive liaison team. We have good relationships with the civil servants in the team and the directorate. Also, because we work with civil servants, particularly analytical civil servants, across the whole of Government, we have good relationships with them. That is not an accident; we work very hard at it, they work very hard at it and we understand each other's roles.

I, perhaps, have a slightly stronger opinion than Julie Paterson does about scrutiny from the Government. I expect the Government to scrutinise our analytical work with rigour and tell us what it thinks when it gives us feedback—which it does. I would be concerned if the Government started to tell us what to do or give its opinions about what we do in our strategic or day-to-day operations, because the boundaries are very clear in the act, which says that we cannot be directed by civil servants or ministers.

The Convener: John Ireland, a few moments ago, you wanted to come in but did not manage to. Do you want to come in now?

John Ireland: If I can just make my point now, that would be great. When I spoke about general parliamentary scrutiny, I was talking about governance scrutiny when I said that we appear annually before the Finance and Public Administration Committee. We appear at least four times in front of the finance committee for scrutiny of our work. We tend to appear in front of the Social Justice and Social Security Committee at least once per year, and also at other subject committees from time to time. We have appeared in front of the Economy and Fair Work Committee, the Net Zero, Energy and Transport Committee and the Health, Social Care and Sport Committee. Scrutiny by Parliament about what we do is frequent and appropriate.

Richard Leonard (Central Scotland) (Lab): I should preface my remarks by saying that if you appear in front of the Public Audit Committee—which I am the convener of—invariably it is because things have gone wrong. The fact that you have not is probably a reflection on your good performance and conduct.

I was quite taken aback by Julie Paterson's remark that she and the commission had not given evidence to a Scottish Parliament committee up until now. I am surprised by that, not only because of the quality of the evidence that you have given us this morning but because of the important role that your organisation plays. You referenced your interventions around the discharge of patients into care homes and so on during the pandemic and the compromise of human rights that that entailed. I am really surprised that no parliamentary committee picked up on your role in that and

asked you to give evidence on it. That is now on the record, so I am sure that that will be reviewed.

Craig Naylor, you mentioned earlier that you are working with Audit Scotland on a best-value review of policing in Scotland. The Auditor General was in front of the Public Audit Committee this week. He does not come because of bad behaviour; he comes to inform us and help us be illuminated in our work. He was talking about his forward work programme, and he mentioned the work that he is doing with your inspectorate. I think that he said that it is a requirement of the Police and Fire Reform (Scotland) Act 2012 that there has to be a collaborative relationship with you in carrying out a best-value review of the Scottish Police Authority and Police Scotland. Is that correct? Will you tell us a little bit more about how that relationship works?

Craig Naylor: I am very happy to do that. I am glad that we are not on the naughty step when we come to see you in January.

The legislation is written in such a way that we can work together, but it is not a requirement. That is the way that I read it. During the past 11 or 12 years, Audit Scotland has done work on section 22 notices; I think that there are seven in total. We have done work on best value in the SPA, particularly in 2019 and again last year, with a managed self-assessment.

One of the first things that I did when I came into post three years ago was work with the Auditor General. I asked, "What would it look like if we were to do something together?" I know that he spoke to your committee about 18 months ago and suggested that we would be doing this piece of work this year. It has taken a bit of planning to bring together two different organisations, with a similar purpose, to work out how we will do that.

The meeting that we had first thing this morning was to discuss publishing a terms of reference, which we hope to do within the next week. We will then start the real detailed work of the inspection and audit work, which will probably take us until October. Following that, there will be a write-up period before we publish early in the new year.

It is a challenging timescale, and it is two different organisations that do things in different ways albeit that try to deliver a very similar output. I am very comfortable that the joint team that we have put together will deliver a high-quality product.

I know that the Scottish Police Authority, the SPA forensic services and Police Scotland have been working very hard on the self-assessment that we hope to see within the next week, which will tell us whether we are in the right place and doing the right things, and where we should dig deeper and where we can be content with the

work that they have done. It is a very positive forward look.

Richard Leonard: That is really helpful. I want to tease out a little bit more the extent to which your working alongside Audit Scotland is purely voluntary and the extent to which that is provided for by the legislation—which I think that you said it is not—or through other means. Do you have a memorandum of understanding with Audit Scotland?

Craig Naylor: We have a memorandum of understanding. However, looking into the history, my reading of what has gone before is that the legislation enables rather than requires us to work together. We both have a duty to ensure the best value of policing in Scotland, and we have done that in different ways over the years. This is the first time that we have done it jointly, which is a very positive step, because it will give greater scrutiny and greater understanding across both organisations.

Audit Scotland knows best value far better than we do, but we know policing far better than it does. Bringing the two organisations together to work collaboratively will be greater than the sum of the parts, as we see in relation to other bodies that we work together with.

Richard Leonard: That is really interesting.

I will go back to a more general theme that we have encountered in our evidence gathering so far, especially when speaking to Scottish Parliamentary Corporate Body-supported commissioners and commissions and so on. Not all of them, but quite a few of them, have been grumbling. They have been grumbling because they think that the audit requirements that they are expected to comply with are, to use their terminology, disproportionate and overly burdensome.

I will start with you, Mr Ireland. I am simply trying to make a comparison. Is it the considered view inside the Scottish Fiscal Commission that you are over audited and that you are expected to do things that are surplus to what is necessary to keep in place a good assurance regime?

John Ireland: It is an interesting question. We were set up as a new public body in 2017. I started working at the Scottish Fiscal Commission a couple of months later, in May. Our accounts were audited by Audit Scotland and, at the time, it felt really heavy. However, I think that that was because I had previously worked for the Scottish Government and was used to audit within it, which, at an individual division directorate level, is quite light. I was therefore quite surprised by the level of scrutiny and rigour, by comparison.

As time has gone on, and as our financial systems have benefited from that intense scrutiny and become much better as a result, I am now much more relaxed about the audit process. It still takes quite a lot of time and we still need to take it very seriously, but it is proportionate and adds value. I do not grumble about it. We are very pleased with our current auditors from Deloitte, who work under the direction of the Auditor General.

Our external audit, therefore, is proportionate and works fine. I am slightly more queasy about internal audits. Our internal audit service is provided by the Scottish Government. Sometimes it is good and sometimes it is less good. The quality of that service varies over time. External audit, however, is fine, proportionate and in the right place.

Richard Leonard: Julie Paterson referred earlier to the fact that your organisation has an audit, performance and risk committee. Before I come to Julie on that, do you not have something equivalent, John Ireland?

John Ireland: Of course we do—most public bodies do. Our board is our four commissioners, and we are also required to have an audit and risk committee, which is chaired not by our chair but by one of the other commissioners.

There are lots of safeguards with regard to the operation of that committee. For example, both internal and external auditors have the right of access to the chair of that committee, independent of my being involved. If they want to speak to the chair of the audit committee because they think that something is going wrong, they have the right to speak to him without my being there. They have not used it, but they have that right. There are lots of safeguards like that.

The process is very formal. The committee meets four times a year. It reports to our governance board and our board, and there is interaction between the two. The members of that audit committee are three of the four commissioners. The chair is an observer. I go along with the staff, but we are not members. Internal and external auditors go along. We also have two independent external members, both of whom, at the moment, have an internal audit background. For a small organisation, it is a pretty heavy piece of governance, but it works well and is productive.

Richard Leonard: That is helpful. Julie Paterson, do you think that the audit arrangements with which you have to comply are disproportionate and overly burdensome?

Julie Paterson: It is a challenge. We have a finance manager and a finance assistant in the organisation. We follow national health service

accountancy processes, so it is really quite significant. We have fabulous staff, but there are only two of them. However, we recognise the need to do that work. We also have our audit, performance and risk committee. We have a medical model that is not unlike that of a health board or a health and social care partnership—and rightly so, because we are working with vulnerable people and public money.

We have a very strong performance framework through our audit, performance and risk committee, the evidence of which is the outcomes that we are achieving and the best value that we were talking about earlier. On our audit, performance and risk committee, which is chaired by one of our board members, an external person also joins us, because we recognise that we have only a small team within the commission. Previously, the chief finance officer from the state hospital provided external oversight, but now that person will be replaced by an assistant director from Healthcare Improvement Scotland. We have someone external with that expertise in recognition of the fact that we are a small organisation.

As John Ireland has just said, our internal and external auditors are on that committee. We have our annual audit by external auditors—we are in the process of that just now—and three internal audits throughout the year. That work is not done through the Scottish Government but is put out to tender, and an external organisation does it. We find it very useful, because it helps us to improve the processes and procedures that we need to look at and review. We report all of that to the audit, performance and risk committee, and, ultimately, for the approval of the board.

Richard Leonard: You are under the umbrella of the Scottish public finance manual, and you are the accountable officer as the chief executive of the commission.

Julie Paterson: Absolutely—hence I really value those audit processes, because they give me great comfort.

Richard Leonard: They sound very thorough. I will put the same question to Craig Naylor. As a smaller organisation—compared with the Mental Welfare Commission, for example—what is your perspective on the audit, both internal and external? Is it disproportionate? Is it overly burdensome?

Craig Naylor: When I started, we had a very light touch from the Scottish Government core internal and external audit—so much so that, in reality, when we produced our financial figures at the end of the year, I did not hear much more.

I did not feel that that was particularly appropriate, so we now have a finance manager,

as Julie Paterson has, who provides the first two stages of assurance to me as an individual. I am the accountable officer, and I am now in a very comfortable position because we know what we are spending, we forecast well and we come in pretty much on budget. We have very little touch from internal or external audit.

Do I feel exposed? No. Do I feel that I could stand scrutiny? I do now, but, two years ago, that was probably not the case. However, we have very little contact with any external or internal auditors.

Richard Leonard: But are you the subject of audit by Audit Scotland?

Craig Naylor: No, we are audited by whoever audits the Scottish Government, because we sit within the finance for justice.

Richard Leonard: You form part of the Scottish Government's consolidated accounts, albeit a very small part, presumably.

10:45

Craig Naylor: Yes, and that is where the tension with our independence starts to feature. The work could be done more effectively, but there would be a cost, and I do not want to add cost to the budget.

Richard Leonard: That is interesting, because one of the points that was put to us by the SPCB-supported commissioners was that there could be a shared audit service, rather than each organisation being audited individually. I have to say that I think that an underlying theme was the fee that those organisations pay to Audit Scotland for that pleasure. However, you are under the Scottish Government's audit process, so you do not have a separate facility.

Craig Naylor: That is correct.

Richard Leonard: That is interesting.

The Convener: Unless colleagues have any more questions, I will ask a few last questions, the first of which is on shared services. Craig Naylor, you said that you are based in St Andrew's house, so you use the Scottish Government estate. Julie Paterson and John Ireland, do you want to say where your physical offices are situated and whether that is in the Scottish Government estate?

Craig, do you pay the Government for using St Andrew's house?

Can you all tell us more about how you share services, such as human resources and IT? SPCB-funded organisations have their own HR departments.

We are thinking about all of these issues, as you will appreciate.

Craig Naylor: It has been a bit of a moveable feast over the past three years. When I started in the role, my budget was about £1.3 million, plus a notional £500,000 to pay for the corporate running costs of core Scottish Government IT, HR, finance, information security, accommodation, legal services and so on, which has now been almost removed. I could not touch that. I could not say, “I want to use that £0.5 million and be more efficient by moving to different accommodation or a different IT provider or by outsourcing my HR,” for example. I could run my organisation on those terms much more cheaply than for £0.5 million a year. There are only 16 of us, so I could probably do that for £300,000 quite comfortably. However, that is not within my gift, so we use core services and we have accommodation in Scottish Government buildings.

On whether that impacts on my independence, I think that it has the potential to, because I am seen as being part of the Government by parts of the justice system. On whether I would like to do it differently, yes, I would, but I am not making such a noise about it that I am going to turn over the apple cart and move elsewhere.

There are some limitations as a result of the model that we have. I have the notional sum of £0.5 million a year that pays for core Scottish Government services—HR, finance and so on—which is fine when the service is on a stable basis. However, about 18 months ago we were told that we would have to start paying for our external website, and one of our core functions is publishing our reports—publishing accessible information on what we do—so we moved from that being covered by the notional operating cost to that being something that comes out of my budget every year. Therefore, there is a bit of slippage in that we are now starting to have to pay for things from what is, in reality, a staffing budget. That is not perfect, but we continue to negotiate with Scottish Government colleagues.

Richard Leonard: That is interesting.

Julie Paterson: Almost 70 per cent of our staff are in front-facing roles and the other 30 per cent are in corporate and support roles. We have a much smaller office space than we had previously, and the Scottish Legal Aid Board is our landlord. Our annual lease costs £168,000, which includes utilities and everything else. We also share meeting rooms and conference rooms with other people in the building, so we book those accordingly. We have a single site—we have no other office, despite the fact that we cover the whole of Scotland, so we are very much focused in that shared office space.

We are part of the Scottish Government's shared services programme for HR and finance. There has been a challenge in that, because we

are so small—sometimes, there are expectations that smaller organisations can fit in with the arrangements for bigger ones. It has been a challenge to arrange training to deliver on the programmes. However, we are part of the programme and we pay the Scottish Government £12,000 per year for support for our payroll and certain finance processes.

We recognise the areas in which we do not have expertise. For example, we do not have in-house health and safety expertise and it would cost a significant amount to bring that in, so we arrange service level agreements with organisations that have it. NHS Education for Scotland has been very helpful, and we have a service level agreement whereby we buy that service in at a cost of £3,000 per year. It is very cost effective to work with our partners.

We look to share services, but—to reinforce what Craig said—we need to be very clear about our independence. Despite the fact that we are part of the shared services programme, we are not run by the Scottish Government. We need to give that message loud and clear to our staff and to the people we serve in the community, because our independence is very important; however, so is getting best value and the most efficient and effective services.

Those are the arrangements that we have in place.

The Convener: That is interesting—you use and are part of the shared services programme, but you want to preserve the integrity of your independence. Those are the questions that we are interested in. Thank you.

John Ireland: I am just trying to work out where we are in relation to the Parliament building. We are based in Governor's house, which is the one that looks like a small castle near Waverley station. It is next door to St Andrew's house but, importantly, it is not the same building. Since we were established, we have been very clear that we will not share an office with Government civil servants.

We used to share our office with the Scottish Human Rights Commission, but, as we have expanded, we now occupy it on our own. It is part of the Scottish Government estate and the Scottish Government provides shared services through Mitie—that is fine—and we also use shared services for HR and IT.

The IT stuff is pretty good. We use SCOTS connect, which is a system that is used by the Government and lots of other people. There are benefits to being on SCOTS in terms of interaction with Scottish Government civil servants, because we can all use Microsoft Teams in a very smooth fashion. It works well and our IT is good. We could

not run it on our own—it would be very expensive and the level of expertise needed is very high.

HR has been bumpy. It is well known that the IT system on which the Scottish Government's HR was based was pretty ancient and needed upgrading. It was upgraded this year, which was a painful process, but we are in a much better position now that we have decent-quality IT underpinning the HR services. The efficiency of those services has increased noticeably over the past few months.

The shared services work reasonably well for us. As Julie said, despite the fact that we use the shared services, we are very clear that we are not dependent on the Government in an operational way—well, we are dependent on the Government in the operational sense that the services have to work, but the fact that we are using those shared services does not infringe on our independence. It is just a commercial relationship.

The Convener: It is interesting that you all have different setups. That is helpful for our consideration.

I have one last question. I hope that this does not sound overly semantic. What do you see as being the difference between a commissioner and a commission? We have a number of commissioners and commissions, including the Scottish Fiscal Commission. Do you think that we should use that language more carefully?

John Ireland: Our big brothers down in London—the Office for Budget Responsibility and the Budget Responsibility Committee—do not use the word “commission”. We do exactly the same job as them, so you could make an argument about that. It is a semantic thing. For some reason, when we were set up, the term “commission” seemed to be on someone's mind. We inherited it and we use it, but it is just a name.

The Convener: In the public perception, the term “commission” might signify that there is a commissioner to advocate on people's behalf. That is one of the issues that we are looking at, because there are a number of commissioners that are funded by the Parliament.

Julie Paterson, your organisation is a commission without a commissioner. Do you have any thoughts on that?

Julie Paterson: We have been named the Mental Welfare Commission for Scotland since 1962. The language is quite interesting, as it links to the previous point about our being classified as a health body or a non-departmental public body. What are we? The classification does not necessarily help to answer that question. It is about what we do. In relation to the term “commission”, we advocate on behalf of people—we focus on individuals and we advocate at every level.

Commissioners and commissions get lumped together. We have to be very clear about our roles and responsibilities and what we are duty-bound to provide—that is what people need to know, as opposed to focusing on the semantics of commissions and commissioners.

Although I say that, the Scottish mental health law review's feedback was that we should review our name. We will take that feedback and may consult on it in the future.

The Convener: Craig Naylor, do you want to add anything?

Craig Naylor: Not really—I have not thought too much about it. I have nothing to add.

The Convener: I understand.

Is there anything that any of you wants to relay or to emphasise to us that you have not had the chance to talk about in this morning's evidence? I see that no one has anything to add.

I thank you for your time and for the insights that you have shared with us today. We are grateful for them.

10:56

Meeting continued in private until 11:15.

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