



The Scottish Parliament
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Official Report

EDUCATION AND CULTURE COMMITTEE

Tuesday 18 March 2014

Session 4

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EDUCATION AND CULTURE COMMITTEE

8th Meeting 2014, Session 4

CONVENER

*Stewart Maxwell (West Scotland) (SNP)

DEPUTY CONVENER

*Neil Bibby (West Scotland) (Lab)

COMMITTEE MEMBERS

*George Adam (Paisley) (SNP)

*Clare Adamson (Central Scotland) (SNP)

*Jayne Baxter (Mid Scotland and Fife) (Lab)

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

*Joan McAlpine (South Scotland) (SNP)

*Liam McArthur (Orkney Islands) (LD)

*Mary Scanlon (Highlands and Islands) (Con)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Chad Dawtry (Scottish Public Pensions Agency)

Patricia Ferguson (Glasgow Maryhill and Springburn) (Lab)

Andrew Fleming (Scottish Government)

Noel Fojut (Scottish Government)

Jennie Marshall (Scottish Government)

Diana Murray (Royal Commission on the Ancient and Historical Monuments of Scotland)

Michael Russell (Cabinet Secretary for Education and Lifelong Learning)

Liz Smith (Mid Scotland and Fife) (Con)

Ian Walford (Historic Scotland)

CLERK TO THE COMMITTEE

Terry Shevlin

LOCATION

Committee Room 4

Scottish Parliament

Education and Culture Committee

Tuesday 18 March 2014

[The Convener *opened the meeting at 10:01*]

Subordinate Legislation

Teachers' Superannuation (Scotland) Amendment Regulations 2014 (SSI 2014/44)

The Convener (Stewart Maxwell): Good morning and welcome to the eighth meeting in 2014 of the Education and Culture Committee. I would be most grateful if everyone present could switch off all electronic devices, as they interfere with the sound system.

The first agenda item is a briefing on the Teachers' Superannuation (Scotland) Amendment Regulations 2014. I welcome to the meeting Michael Russell, the Cabinet Secretary for Education and Lifelong Learning; Chris Graham, from the people and leadership unit in the Scottish Government; and Chad Dawtry, from the Scottish Public Pensions Agency. The briefing provides members with an opportunity to hear from the cabinet secretary and his officials about the regulations. The debate on the motion for annulment will be taken as a separate item afterwards, and only MSPs may take part in it.

I invite the cabinet secretary to make some opening remarks.

The Cabinet Secretary for Education and Lifelong Learning (Michael Russell): Thank you, convener.

I appeared before the committee almost exactly a year ago to speak to a similar SSI and motion and, at the time, I declared an interest at the opening of proceedings. I will do so again this time round. A year ago, I referred to my wife as a prospective pensioner. As she was not entirely happy with that reference, I will try not to repeat it, but I should declare that she is a teacher who makes contributions to the Scottish Public Pensions Agency.

I am no more pleased to appear before the committee to discuss this issue than I was last year. I am, of course, always pleased to appear before the committee, but I have to say that I do not speak in support of these regulations with any great enthusiasm. Unfortunately, however, they are once again necessary.

I reiterate the Government's commitment to public service pensions that are affordable, sustainable and fair, both for public servants and for the communities that they serve, and I again put on record our recognition of the hard work and considerable achievements of the teachers and lecturers who deliver high-quality education to children and young people across Scotland.

The general context—the Westminster context—of wage restraint and financial hardship in which we have had to apply previous increases to teachers' pension contributions, alas, still exists. Despite that, the United Kingdom Government continues to force us to make further increases, and is able to do so because of the current constitutional arrangements under which the Government at Westminster sets the basic terms for the pensions of most of the people who provide public services in Scotland.

Her Majesty's Treasury is still determined to raise more than a quarter of a billion pounds of extra revenue a year from the pension contributions of teachers, police officers, firefighters and national health service staff in Scotland, and the UK Government would still impose its punitive financial penalties on Scotland if we did not deliver that additional income. It gives us a simple but unwelcome choice: force public servants to pay yet higher pension contributions or have less money to pay for the public services across Scotland that they deliver.

We are in a slightly better position this year—it is only slightly better—in that the level of increase that is required by the Treasury is only half of what was required in each of the previous two years. That means that it is threatening to reduce the Scottish budget by only around £50 million per annum in perpetuity if we do not meet its demands, which is a very small mercy for which to be grateful. The illustration that I gave to the committee last year is still revealing. More than a third of that £50 million reduction—almost £18 million—would be attributable to teachers' pensions. That is the equivalent of just under 500 teachers.

Therefore, the reality is that we cannot impose such a burden on Scottish education and Scottish communities. We have no choice other than to implement employee pension contribution increases in the public sector for a third year, from April 2014. That is why we have reluctantly brought forward the regulations that the committee is considering this morning. As in previous years, we are seeking to apply the increases fairly by asking those who earn more to bear a greater proportion of the burden. That is consistent with our approach in previous years and, as in previous years, it mirrors the distribution of increases in England and Wales.

That is all that I need to say by way of introduction. I stress that it is with no little reluctance that I commend the regulations to the committee.

The Convener: Thank you very much, cabinet secretary.

I will begin with a technical question that was raised by the Delegated Powers and Law Reform Committee about the delay in laying the regulations. Could you clarify what happened?

Michael Russell: I will ask Mr Dawtry to do that. I think that there is an explanation.

Chad Dawtry (Scottish Public Pensions Agency): There was a regrettable delay between the signing of the regulations down south by Her Majesty's Treasury commissioners and the Treasury telling the Scottish Government that the regulations were ready to be laid. I believe that my colleagues in the legal directorate made that clear to the committee and offered our apologies.

The Convener: Thank you very much for that. I just wanted to clear that up.

Neil Bibby (West Scotland) (Lab): You said that you were "no more pleased" to bring forward the regulations that we are considering today than you were to bring forward last year's regulations. How has the Scottish Government engaged with the UK Government to prevent or mitigate the increase?

Michael Russell: As I said in reply to your colleague Mr Findlay last year, there has been regular and intensive engagement. It is no secret that we do not want to increase pension contributions. The answer has been the same—it has been, "Either you implement this or you get the money cut." That will not change, no matter how often we ask the questions. The reality is that that is the UK Government's position. It has not shifted from that position and it shows no willingness to do so.

Neil Bibby: Why has the Scottish Government made proposals to pass on UK Government cuts to teachers' conditions? You have found money for the white paper and discretionary housing payments, so why can you not find additional money for teachers' pension contributions?

Michael Russell: Those are two different things, of course. It is interesting that you mention discretionary housing payments, which mitigate the effect of decisions that Westminster has taken. Were we not to proceed with the regulations, we would have to mitigate the effect of another Westminster decision, and we cannot go on doing that, particularly when we would have to do so in perpetuity—the £18 million that we would have to find this year would not be a one-off; it would be money that would have to be found for ever. The

equivalent of around 470 teachers would require to be paid for for ever, which is clearly not feasible.

Of course, there is a solution—the solution is to make all the fiscal powers available to the Scottish Parliament.

Mary Scanlon (Highlands and Islands) (Con): Unlike your wife, I am a pensioner.

Michael Russell: I am surprised by that information.

Mary Scanlon: I thought you would be. I declare that interest and refer members to my entry in the register of members' interests.

I was looking back for some information on pensions in Scotland and I found that the most recent Audit Scotland report on the subject was produced in February 2011, so I appreciate that my figures are a bit out of date. The Auditor General for Scotland looked at the schemes for local government, the national health service, teachers, the civil service, the police and firefighters. I appreciate that there are differences between those schemes—for example, the local government pension scheme is funded.

At that time, the pension scheme that was most in the red was the teachers'—it was £240 million in the red. There were 59,000 pensioners and dependants and 27,000 deferred members in the teachers' scheme, and 78,000 people were paying into it. Given that the teachers' pension scheme was £240 million in the red that year, how could it continue at the same level of contributions if it was to be affordable, sustainable and fair? Where should the burden fall if not on employers' and employees' contributions?

Michael Russell: It might be helpful if Mr Dawtry explained the technical side of the schemes, and then I will be happy to pick up any political point.

Chad Dawtry: It is worth pointing out that there are more up-to-date figures in the public domain—

Mary Scanlon: I appreciate that.

Chad Dawtry: The Scottish Government also published on 23 September a paper entitled "Pensions in an Independent Scotland", which gave figures for all the schemes, including smaller non-departmental public body schemes, from the end of March 2012.

With regard to the figures that you have referred to, I understand why you might take that position on the cash-flow difference between the money being paid in and the money being paid out, but it is also important to remember that the money that is being paid out is being paid out to today's pensioners under yesterday's pension promises. They have already paid into the scheme, and their pensions are being paid out. As today's

contributions are being made on behalf of current active scheme members for future pensions, the comparison is not always a fair one. You are almost comparing two different generations of public sector pension scheme members.

Mary Scanlon: I acknowledge that the figures that I have are out of date; I was the deputy convener of the Public Audit Committee, so I had this report in my office. If the scheme was £240 million in the red in February 2011, in what state were the scheme's finances in September 2013? Was the scheme still in the red, or was it in the black?

Chad Dawtry: On the basis of cash flow—in other words, the money that is coming in versus the money that is being paid out in pensions, although we should bear it in mind that those two things are not really connected—I have to say that the scheme is still in an annual cash-flow deficit. The important facts about a pension scheme are those given in actuarial valuations, which look at the scheme's life over the next 40 to 60 years or the period over which the liabilities that are built up are defrayed and the contributions for those liabilities are made.

Mary Scanlon: I am comparing the scheme with other schemes that the Auditor General examined at that time. The local government scheme had a £266 million surplus, the NHS scheme had a £222 million surplus, the civil service scheme was in the red by £38 million and the net cash flow for the police and fire schemes stood at zero. At that time, the teachers' scheme was actually in the worst state of those on the books. I am simply saying that the Auditor General compared the scheme with other public sector pension schemes and highlighted it as an issue. Do you think that, in the long term, it fares worse with regard to affordability and sustainability than the other pension schemes that the Auditor General compared it with?

Chad Dawtry: No. Under the narrow measure of cash flow, it does, but I point out that a number of public sector schemes are also in deficit. As you will be aware, there has been a programme of reform of public sector schemes, but I would not say that the teachers' scheme is necessarily faring any worse in the long term with regard to sustainability and affordability.

Mary Scanlon: I am just slightly concerned by the matter. It is only my third week on the committee, but I understand that contribution rates changed to a tiered system from April 2012 to March 2013 and then changed again. Given that contribution rates have increased, I am surprised that, as far as cash flow is concerned, the scheme is still almost a quarter of a billion pounds in the red. Can you confirm that that is the case?

Chad Dawtry: I understand your concern. However, I point out that if the pension scheme were to be closed today and no more contributions made, the contributions that are being paid today would still have to be paid and the deficit would be bigger. Cash flow is not the perfect measure for deciding whether a scheme is affordable and sustainable.

Mary Scanlon: I am only going by what the Auditor General has said. If the payout is £756 million and the total contributions in a year amount to £516 million, the remaining £240 million has to be met from revenue from general taxation. Is that correct?

Chad Dawtry: Yes.

Mary Scanlon: So, unlike the situation with other pension schemes, taxpayers are having to find £240 million every year to fund the teachers' pension scheme.

Chad Dawtry: Every year the Government has to honour previous promises, and there is an imbalance in that respect.

Mary Scanlon: And that quarter of a billion pounds is being taken from other budgets.

Chad Dawtry: It is being taken from the Scottish budget.

Mary Scanlon: Thank you.

Michael Russell: And this motion is asking us to do more. Last year, if I remember correctly, your predecessor on the committee supported it. I think that there was a slight inconsistency in that position.

However, I think that what we are seeing here—

Mary Scanlon: Excuse me, you do not know what I am going to support today.

Michael Russell: Indeed, and I am agog to see what you will do.

Mary Scanlon: I am sure.

Michael Russell: As ever, Mrs Scanlon. I am always agog to see what you will do next.

Mary Scanlon: I am so unpredictable.

10:15

Michael Russell: Indeed. I just want to make it clear that, as it operates at the moment, the scheme is affordable. The decisions that have been made by the Treasury are to do with public expenditure cuts. They were not made because the scheme is not affordable. Even the Treasury will admit that.

What we are talking about here is, if I may put it this way, an ideological approach to the matter that has come from south of the border. The

pressure is on us to decide whether to follow suit, and the argument that I am making is that, regrettably, we have to follow suit, because we will be faced with a penalty otherwise, and that is what is at stake.

Mary Scanlon: I have a final question.

The Convener: Well, it must be a very short one.

Mary Scanlon: How can the scheme be affordable when £240 million is being taken from other Scottish Government budgets to finance the essential payments?

Michael Russell: A review and valuation is due later this year.

Chad Dawtry: Yes.

Michael Russell: We would only be able to make the decision that you are asking us to make—

Mary Scanlon: I am not asking you. I am just looking for clarification.

Michael Russell: We would be able to make the decision that you suggest—that you might be suggesting; I am still uncertain of your position—only once we had an actuarial valuation of the scheme over the long term, and we do not have that.

Mary Scanlon: Well, you were asked to make that decision in 2011, but there you are.

Jayne Baxter (Mid Scotland and Fife) (Lab): Good morning. Cabinet secretary, the Educational Institute of Scotland has described the increase in pension contributions as an “austerity tax” on hard-working teachers. What do you say to that union’s membership in response?

Michael Russell: I advise them to look at “Scotland’s Future” about the future of Scotland and Scotland’s independence; I advise them to turn to page 138 and the following pages and look at the positive proposals on pensions; and I advise them to vote yes in the referendum, because then we will not have to come back and have this argument again.

Jayne Baxter: Thank you.

Liam McArthur (Orkney Islands) (LD): Good morning. I will follow up Mary Scanlon’s line of questioning. This question might be one for Mr Dawtry. You have helpfully explained how the funding of pension schemes operates. I presume that, when the Auditor General set out the figures, he would have been aware of that. Were representations made to the Auditor General at that stage that how he was characterising the position of the pension scheme for teachers was unhelpful or potentially misleading?

Chad Dawtry: We worked fairly closely with the Audit Scotland team that worked on this, and we would have made the point that cash flow is not the only or perfect measure of the sustainability or affordability of a pension scheme.

Liam McArthur: But it is a measure of it, and I suppose that the charge that is being laid at the door of successive Governments is that taking comfort from the notion that it has aye been thus and that we can play catch-up in due course has led to pensions reform being put off again and again.

I suppose that this question is more for the cabinet secretary. Your explanation of where we are with the pension scheme would almost provide succour to those who are faced with the difficult decision about what to do with pensions. One could get around to dealing with the shortfall that Mary Scanlon identified—and I accept that the cash position is not the only measure—but it could be put off until another stage. Is that correct?

Michael Russell: I certainly think that there is a need to discuss constructively and intensely the issue of pensions in Scotland. It is a two-stage process. The first stage is to bring back to Scotland the power to run and make decisions on those schemes. That is an important step.

Thereafter, the proposal in the white paper for a commission on pensions is how we would discuss the overall issue of public sector pensions. That is a good model to go on. It does not apply just to the question of how much is paid; it applies to the question of when it is paid.

I think that the EIS—I have no wish to misrepresent its position—is, like me, in favour of maintaining the retirement age at 65. I think that most members on the committee with any knowledge of teaching would say that carrying on teaching until 67 is unacceptable. The commission is an important step forward, but what is required first is to get back to Scotland the power to make decisions on pension schemes. We do not have that power or, rather, the power that we have is so circumscribed by the financing and by the Treasury that it is not a power at all.

Liam McArthur: Is that not the problem with the advice that you have just provided to Jayne Baxter? You said that teachers should look at what is set out in the white paper but, from page 123 onwards, they will find a lot of promises but no calculation of the cost or what other compromises would need to be made to deliver something of greater value or benefit to teachers. Is that not the case?

Michael Russell: The white paper is rich in information, as you are aware.

Liam McArthur: It is not so rich in figures.

Michael Russell: It includes very substantial financial information in the second section that looks at the balance sheet. Pages 138 and onwards are clear about the need to take an overall view of public pensions and to make sure that decisions are made across the public sector. That is the right next step. Mr Bibby's motion is helpful because it allows us to focus on that issue. Consequently, we can ask ourselves what is the right way to move forward. The right way is to ensure that the pension scheme is run and the decisions are made in Scotland. By doing that, we can integrate the thinking on pensions across the public sector. That is a very positive thing to do.

Liam McArthur: That may be a fair assessment but, as you have indicated, your desire to spend more in that area will constrain the amount that you can spend in another area. The white paper rather unhelpfully glosses over that matter. The more up-front information about where the additional funds would come from in order to secure a more generous settlement for teachers or other public workers is sadly lacking.

Michael Russell: The word "generous" is an unfortunate one to apply, for example, to the requirement for teachers to continue to retire at 65. That is not generous; it is eminently sensible. The white paper has a lot of cross-referencing. For example, page 77 is headed "Early priorities for action within sound public finances." That section contains a considerable analysis of how you achieve sound public finances. We must remember that the greatest threat to pensions in the past decade started with Gordon Brown's stealth attack and has continued with attacks on, in particular, public sector pensions south of the border. Therefore, the prospects for public and private sector pensions in Scotland are immeasurably better because we are focused on progressing the issue with the commission.

Neil Bibby: You raised the prospect of independence and mentioned the white paper. Given that the teachers' pension fund is a notional fund and that contributions are paid indirectly to Her Majesty's Government and are underwritten by it, how can we be sure that teachers' pensions would have the same degree of protection in an independent Scotland, when the number of contributors is much smaller?

Michael Russell: The much smaller number of contributors is matched exactly to the number of people who take the pension. A smaller number of people draw out their pensions and a smaller number of people pay into the scheme because it is a Scottish scheme. That is axiomatic. I commend to Mr Bibby page 138 and following of the white paper, which give a good analysis of why public sector pensions need to be seen in the round. We need to discuss a lot of the issues.

Mr Bibby has chosen to lodge a motion to annul the regulations. I entirely understand why he has done so. It is with great reluctance that we must take forward the regulations, but a Treasury that is not listening has demanded that of us. However, in so doing, we should ask whether there is a different or better way of achieving what is required. The answer is yes, and the way for us to do that is to control the finances in Scotland.

Perhaps Mr Bibby could enlighten us about whether the proposals that Labour is announcing today include the pension schemes being run from Scotland. That would be interesting, because if Labour's proposals include money coming directly to Scotland for that, perhaps that is a small step forward, but it would be better to see a change across the board and to say how we could do it better for ourselves.

The Convener: Clare Adamson has the final question.

Clare Adamson (Central Scotland) (SNP): I declare an interest in that I am married to a retired teacher who is also a former National Association of Schoolmasters Union of Women Teachers rep.

Good morning, cabinet secretary. You mentioned that it would cost £18 million a year in perpetuity were we to mitigate what the EIS has called a Westminster "austerity tax". It seems to me that, if we were to decide to mitigate the tax, that would be extremely unfair on other public sector workers who will also be affected, such as our hard-working firefighters, police officers, nurses, other national health service staff and civil servants. Will you give us more detail on what the impact on the public sector as a whole would be should we decide to mitigate the tax?

Michael Russell: As I am sure the committee remembers, last year at this time, there was a similar motion to annul from Mr Findlay. At that time, the contribution was greater, so we would have been talking about a third of the £100 million cost, which would have been about £33 million or £34 million, and that would have been in perpetuity, too. If that had succeeded last year, and we did the same now, we would be up to roughly £52 million, or just over £50 million. That is equivalent to a considerable number of teachers.

There would be a knock-on effect. It would be inequitable if we reached such a decision for teachers but not for workers in other parts of the public sector. The cost in total last year would have been £100 million, and this year it would be £50 million. That is £150 million. We are never done with Labour telling us how we should spend money but, if we were to spend money in that way, because of the unrealistic nature of the Scottish budget—which needs to be changed in the way that is anticipated in "Scotland's Future"—we

would perforce have to cope with that. I do not think that that could be done.

The Convener: We move on to agenda item 2, under which, as I said, we will debate the motion that calls for the Teachers' Superannuation (Scotland) Amendment Regulations 2014 to be annulled. I remind everyone that only members of the Scottish Parliament may participate in the debate and that it may—but does not have to—last up to 90 minutes.

I invite Neil Bibby to speak to and move motion S4M-09312.

Neil Bibby: Ninety minutes? Is that 45 minutes each way?

The Convener: I would rather it was not.

Neil Bibby: We will see.

I welcome the opportunity to speak to my motion. As members will be aware, my colleague Neil Findlay moved a similar motion last year, and I do so for the same reasons today. Teachers, like many other public sector workers, have had their wages squeezed, have been subjected to the cost-of-living crisis and have been put under increasing pressure from cuts that are overstretching vital public services such as school education.

For two years, teachers have had their pay frozen and they are now finally receiving a long overdue 1 per cent rise. However, many teachers will be concerned that, yet again this year, they are set to pay an increase in pension contributions. In effect, that means that there is no 1 per cent pay rise for teachers, as they have been given the rise in the one hand while money has been taken out of the other hand to pay for an increase in pension contributions.

When we discussed Neil Findlay's motion last year, the cabinet secretary said:

"At a time of wage restraint and financial hardship, it is wrong to ask such public employees to pay more for their pensions in this way".—[*Official Report, Education and Culture Committee*, 26 March 2013; c 2140.]

I agree. Therefore, the question is: why have Scottish teachers yet again been asked to bear something that is wrong?

The general secretary of the EIS has described the latest increase as

"an austerity tax on hard-working teachers."

As members will be aware, the EIS has welcomed my motion. It has pointed out that this is the third increase in three years and that it will increase the average pension contribution that is deducted from teachers' pay to 9.6 per cent of their salary. That means that the amount that is deducted from teachers' pay will have increased by 50 per cent

since April 2012, from 6.4 per cent to 9.6 per cent for the average teacher. For classroom teachers on the main grade pay scale, the three years of increases will mean that they will be paying more than £1,000 more per year in pension contributions. The EIS has said:

"The objective of the Coalition Government was not to protect the low paid or to minimise opt outs. It was to raise revenue."

The Scottish Government has accepted that objective.

The Scottish Government has also decided to pass on the increases in the same tiered way as the coalition Government. The EIS has expressed concern that teachers who are progressing by increments through the main grade scale should have been protected. That point was raised last year and was supported by hundreds of emails from teachers, but the Scottish Government ignored it.

In October 2013, the Scottish Secondary Teachers Association conducted a survey of members, more than half of whom expressed concern about their likely financial situation post-retirement. Almost half said that they were ready to take industrial action to protect their pensions.

Teachers are working flat out and are under a great deal of pressure to prepare children for new exams and to implement the new higher. They deserve far more support and recognition than they are getting. They deserve far better from the Scottish Government, which is simply passing on a Tory teacher tax.

I move,

That the Education and Culture Committee recommends that the Teachers' Superannuation (Scotland) Amendment Regulations 2014 (SSI 2014/44) be annulled.

10:30

Liam McArthur: I see from our papers that the decisions taken by the Scottish Government under the regulations, including everything from the delay in laying them to their detail, are simply being laid at the door of the UK Government. As the cabinet secretary rather persuasively put it, if we spend more money in one area, we have less to spend in others.

Simply telling us and telling teachers that things would all be very different in an independent Scotland is not persuasive or satisfactory. Any Government would still be faced with the same challenges—spending more in one area means having less to spend in another area. The cabinet secretary has made much of his reluctance in laying the regulations but, as Neil Bibby has indicated, it does not appear to me that a great deal has been done to adopt and adapt an

approach in Scotland that is very much different—despite the fact that, as we heard last year, there are concerns about the structure of teaching in Scotland being different and perhaps meriting more focus.

Although I am prepared to support the Scottish statutory instrument before us, I do not think that it is credible to pretend that somehow everything would be very different were the rules of the game to be changed.

Colin Beattie (Midlothian North and Musselburgh) (SNP): The key point, which was not touched on by Mr Bibby, is the sheer cost. Where would the money come from? Which services would be cut so that we could afford to implement what is proposed? It has been a recurrent theme with Labour motions that they never seem to give the detail of where the money would come from. This is just another case of that—£50 million is a lot of money in our budget; where would it come from?

Nobody wants to increase pension payments for teachers. They are hard working, and they make a huge contribution. In the end, however, I do not see that we have a choice.

Jayne Baxter: I am pleased to support Neil Bibby's motion to annul the regulations. We have opposed the increase in the pension contribution before, and we oppose it again. The teaching unions have long-standing concerns and have highlighted the impact that the increased payments would have on deductions from teachers' salaries. As we have heard, the increases that have been implemented over the past three years have amounted to more than £1,000 per year more coming out of teachers' salaries in pension contributions. I am sure that many teachers view the increased contributions as a pay cut rather than as public sector pay restraint.

The EIS has welcomed the motion lodged by my colleague. It has highlighted the fact that significant challenges still face teachers and their incomes. I hope that the cabinet secretary will engage with the EIS and the other teaching unions on the issue of teachers' pay. I support the motion.

Mary Scanlon: Like others, I know exactly how hard teachers work, and I give credit to each and every one of them, given all the changes that they face, and given that they are doing so well.

I have two questions. I apologise again for going back to 2011 but, at that time, the Auditor General recommended that the Scottish Government should

“provide a clear statement of the aims and objectives of the public sector pension schemes in Scotland”

and

“consider whether differences among schemes in areas such as contribution rates and level of benefits are necessary to realise the objectives of each scheme”.

My first question, convener—

The Convener: We are not having questions to the cabinet secretary.

Mary Scanlon: My first point, then, is: what was done in 2011?

My second one is to Neil Bibby, and it is similar to the previous questions. We have heard that there is a deficit in the scheme of £240 million. Despite the increased contributions that there have been in recent years, there is still a deficit of around a quarter of a billion pounds, with money being taken from other budgets in order to fund it. I ask Neil Bibby to tell us, in his summing up, where that money will come from. Is the pension scheme affordable and sustainable in the long run? Is it fair to the contributors, to the pensioners and to taxpayers?

George Adam (Paisley) (SNP): Neil Bibby came out with a cheeky wee bit of alliteration when he referred to the “Tory teacher tax”, but part of the problem with this debate is that the Opposition parties are coming out with wee cheeky lines like that one without offering anything of substance. Once again, they demonstrate their begging-bowl mentality by asking for more money without telling us where that money will come from.

The situation in the real world is exactly as the cabinet secretary has described it. The choice is between two futures: independence or a future in which we continually sit here, being dictated to by a Westminster Government. That is the real and important debate that we should be having. After all, we are dealing with teachers' lives and I think that it is quite degrading for Mr Bibby to use a cheeky throwaway phrase like “Tory teacher tax”. It is glib and smug, and does not really represent the level of debate that we need.

As I have said, the reality is that we have a choice between two futures, and this SSI is a perfect example of why Scotland needs to vote yes on 18 September.

The Convener: I am probably about to repeat what I said last year, but I think that Mr Bibby makes a fair point about the teachers' situation. All committee members will agree that teachers are hard working and that none of us wishes to be in the situation that we find ourselves in.

However, unless Mr Bibby gives us a detailed answer to the question that Mr Findlay could not answer last year—where we find the £18 million, roughly speaking, that the cabinet secretary has said would be required this year—his motion to annul will, in effect, fall. Of course, that is just the

figure for teachers; the same approach would have to be taken for the whole of the public sector. Which part of the budget would that money come from? After all, we cannot make a hole in the budget without Mr Bibby saying where the money would come from to fill it. If he can do both sides of the equation, we can have a discussion, but if he cannot, his motion, I think, has no merit.

Liam McArthur: Convener, I should have declared an interest earlier, as Mary Scanlon and Clare Adamson did. I have a sister who is a teacher and a mother who was a headteacher and almost certainly benefited from the scheme.

The Convener: Thank you, Mr McArthur.

I call the cabinet secretary.

Michael Russell: I agree with Mr Bibby on almost everything that he said. The situation is regrettable and in the best of all possible worlds, which, in my view—I know that Mary Scanlon, Liam McArthur, Neil Bibby and Jayne Baxter will not agree—would be an independent Scotland, we would not be having this debate. Unfortunately, Mr Bibby's argument fell at the very end, when it revealed itself as belonging to the something-must-be-done school of politics instead of the this-is-what-should-be-done school of politics. That is the real issue.

I commend Mary Scanlon for her approach, because she is asking serious and important questions about pension provision for the future of the Scottish teachers' pension scheme, and I will be very happy to facilitate a meeting between her and Mr Dawtry to examine the detail of the scheme. That said, I point out that any such discussion will have to take place in the context of reserved policy on occupational pensions. We are really constrained on that matter and, indeed, are particularly constrained on the teachers' scheme. Every time we have sought variation—and I am happy to meet Mary Scanlon to tell her about the variations that we have sought—we have not been able to achieve even modest variation in our negotiations.

However, as I have said, Mary Scanlon is asking good questions, and it is important that we have that debate. In fact, it should continue after the powers for the scheme are repatriated to Scotland to ensure that we have a constructive debate about providing the best and most affordable pension scheme for Scotland's teachers.

Jayne Baxter sort of accused the Scottish Government of not engaging on the issue of teachers' pay. The fact that we have had a detailed negotiation for the best part of two years shows a serious level of engagement by the Scottish Government, and I find it gratifying that we now have a settlement not just on pay but on

supply teaching and the McCormac report and its recommendations. That is a tribute to the serious negotiations that the teaching unions, the local authorities and the Scottish Government have been undertaking, and it shows that we have engaged on all of those issues.

The difficulty with tiering, which has been mentioned by members, is that it has not been possible to get agreement among the unions themselves about how it should happen. I made that point last year, and I make it again this year. We have tried to get an agreement among the unions on the tiering proposals, but in the end we settled for these particular proposals, which we felt were the fairest and offered as much protection as we could find for new, lower-paid teachers. However, we could have gone further had we got agreement among the teaching unions.

In response to Liam McArthur, I agree that we can all be tempted by simplistic solutions. Mr McArthur has taxed me with having a simplistic view of the matter and with simply saying, "If independence existed, things would be better." That is certainly a simple solution—and, I think, the right one. "Scotland's Future" contains very considerable proposals for taking the whole issue of public sector pensions a major step forward. That is what we need to do, which is why Mr Bibby's motion is welcome. It allows us to have a discussion not only about a proposal that we are all dissatisfied with, but about being constrained by decisions that are made elsewhere. Instead of splitting on how we might take things forward, we could unify on the means to take forward better, affordable and sustainable public sector pensions in Scotland. That would be another major gain from independence.

It is with no great enthusiasm that I say that Mr Bibby's motion must fail. I just hope that we will not have to come back to this matter in future years, when we will have control over pensions and will be having the type of debate that Mary Scanlon has invited us to have.

The Convener: I invite Neil Bibby to wind up the debate and to indicate whether he intends to press the motion or to seek to withdraw it.

Neil Bibby: Scottish National Party members are beginning to sound like a broken record. Last year, they were saying, "If only we had these powers", and it has been the same today. Leaving aside the fact that promising Scandinavian levels of public investment and American levels of tax is financial nonsense and that the SNP's priorities for tax cuts in the white paper are not teachers but big business and millionaires, the truth is that neither the cabinet secretary nor SNP members have made the argument for increasing teachers' pension contributions. Indeed, Mr Russell said that he entirely understood why I had lodged my

motion and Colin Beattie said that no one wants to increase teachers' contributions.

I will therefore press my motion not to increase teachers' pension contributions and pass on the Tory teacher tax.

The Convener: The question is, that motion S4M-09312 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Baxter, Jayne (Mid Scotland and Fife) (Lab)
Bibby, Neil (West Scotland) (Lab)

Against

Adam, George (Paisley) (SNP)
Adamson, Clare (Central Scotland) (SNP)
Beattie, Colin (Midlothian North and Musselburgh) (SNP)
Maxwell, Stewart (West Scotland) (SNP)
McAlpine, Joan (South Scotland) (SNP)
McArthur, Liam (Orkney Islands) (LD)
Scanlon, Mary (Highlands and Islands) (Con)

The Convener: The result of the division is: For 2, Against 7, Abstentions 0.

Motion disagreed to.

The Convener: I thank the cabinet secretary and his officials for attending this morning, and I suspend the meeting briefly before we move on to the next item.

10:43

Meeting suspended.

10:46

On resuming—

Historic Environment Scotland Bill: Stage 1

The Convener: Our next item is evidence on the Historic Environment Scotland Bill. I welcome the witnesses on our first panel. Ian Walford and Diana Murray are joint chief executives of Historic Scotland and the Royal Commission on the Ancient and Historical Monuments of Scotland. Thank you for attending today. You are both most welcome to the committee.

We are joined by two non-committee members, Liz Smith MSP and Patricia Ferguson MSP, who have an interest in the bill. You are both welcome as well.

I invite questions from members. I am more than happy for Liz Smith and Patricia Ferguson to ask questions. Please indicate when you want to ask them. It would be helpful if you could ask your questions when the issue that you are interested in is being discussed. I will take questions from committee members first, but I will bring you in as soon as I can.

The first question is from Joan McAlpine.

Joan McAlpine (South Scotland) (SNP): The main policy aim of the bill, as I understand it, is that historic environment Scotland will carry out all the functions of Historic Scotland and the RCAHMS, with the exception of the strategic policy function, which will move to ministers. Could you outline for us in layman's terms what existing functions are being transferred to the new body?

Diana Murray (Royal Commission on the Ancient and Historical Monuments of Scotland): We are satisfied that all the functions that we carry out at the moment are accounted for in the bill as it stands. The commission's main functions are to investigate and record the historic environment and, as a research body, to go out and find out as much as we can about the historic environment, which underpins the decisions that are made about heritage management. We also have a collection of 20 million items, which will be incorporated in the new body, and we have a responsibility for outreach and education, which will also be taken into the new body, particularly our work with communities around Scotland.

Ian Walford (Historic Scotland): The various functions under different pieces of legislation that are carried out at the moment by Historic Scotland on behalf of ministers include regulation and looking after the properties that are in the care of Scottish ministers, and those are in the bill. The Government has made it clear that it wants to

protect and enhance the functions of both organisations.

Some of the functions that Historic Scotland has carried out over the years that are not explicit in statute but are more discretionary, such as education work and some of the conservation advice that is given across the country, are also encompassed in the bill, so the new organisation will be able to carry those out. It is about creating a new body where the whole is greater than the sum of the parts and enhancing as well as protecting the functions of the two existing organisations.

Joan McAlpine: According to the policy memorandum, some of the functions will be simplified and adjusted. Can you illustrate how that will be done?

Ian Walford: One example is the heritage management functions, which are currently carried out by Historic Scotland on behalf of ministers. The new organisation will carry them out broadly as they are carried out at present, but there is an important distinction: because historic environment Scotland will be on the same footing as the Scottish Environment Protection Agency and Scottish Natural Heritage, there will be a separation between ministers setting the strategic direction and specialists carrying out the functions. The fact that local authorities will consult the new organisation on listed building consent applications, rather than notifying it of such applications, means that the process will be streamlined, with potentially 28 days taken out of it. That is an example of where there will be an element of streamlining of the heritage management functions.

Joan McAlpine: The strategic policy function will be transferred to the core Scottish Government. Do you anticipate any difficulties with that change?

Diana Murray: That will be a huge benefit, because Scotland—and the world, I suspect, as this will be a first—lacks a heritage strategy. Having the policy unit in the Scottish Government will mean that we can mainstream historic environment policy in line with general environmental policy, place-making policy and all the other policies that the Government has, which will mean that historic environment policy will take its proper place. Giving it its proper place was very difficult when that function lay with Historic Scotland, so I very much welcome the change. The arrangement will be much better.

Joan McAlpine: Thank you.

The Convener: Before I bring in Liam McArthur, I mention for the record that the committee made an informal visit to the RCAHMS offices and has had previous discussions to inform its scrutiny of

the bill. I should have said that at the start of this item.

Liam McArthur: I thank RCAHMS for the visit, which was exceptionally useful.

On the streamlining of the process, a concern has been raised with me since that visit about the future of the finds panel for artefacts of archaeological value. There is a fear that it will somehow not be continued under the merged body and that the process will become internalised and more bureaucratic. Many people have found it beneficial to be able to approach the finds panel to have artefacts located for a period outwith Edinburgh or wherever. Can you say anything at this stage about the future of that specific aspect of the work?

Diana Murray: I think that there is every intention that the finds disposal panel will continue. One of the aims for the new organisation is that it will be much more transparent than the two bodies have perhaps been in the past, so I really do not expect what you mention to happen. I do not know whether Ian Walford has anything to add.

Ian Walford: I do not.

Liam McArthur: Thank you.

The Convener: Does Patricia Ferguson have a short supplementary question?

Patricia Ferguson (Glasgow Maryhill and Springburn) (Lab): Yes. It is on simplification.

The Convener: On you go.

Patricia Ferguson: Mr Walford, you mentioned that, in future, local authorities will have a slightly different duty in relation to what they do about buildings and issues that they have in the historic environment. Will you explain what that will mean in practice?

Ian Walford: The role of local authorities will not particularly change as a result of the transfer of functions to historic environment Scotland. The new organisation's separation from ministers is an element of streamlining that will put it on a par with equivalent regulatory bodies. However, with the new organisation, engagement with and the role of local government in the consents process will not particularly change. We have consulted local government interests closely over the past 18 months, and that will continue.

The Scottish Government is leading a group involving the Convention of Scottish Local Authorities, ourselves and a number of other stakeholders from across the historic environment. The group is looking very much beyond the bill—which will set up the new organisation, although it will not particularly change the functions of local government—at the longer-term possibilities and opportunities for reforming the system of care,

protection and regulation of the historic environment.

Patricia Ferguson: You said that local authorities would have a duty to consult but not to notify. Can you explain exactly what the differences are? Who, ultimately, will make the decision about a particular issue?

Ian Walford: On listed building consent, for example, let us suppose that an application is made to change a listed building. As happens now, the local authority would make the decision. It would consult historic environment Scotland, rather than notifying it at the end of its internal process, and if historic environment Scotland felt that the proposal was not in line with policy, it would have an opportunity to object at that point. The local authority would then take that into account.

Under the bill, what will not change is that the local authority will make the decision, taking the views of the new body into account. If the authority goes against the new organisation's objection, ministers will have the opportunity, as they do now, to call in the case for determination within Government.

Liam McArthur: I listened with interest to that exchange with Patricia Ferguson. Concerns have been raised with me about the way in which local authorities deal with their designation and scheduling roles in relation to scheduled monuments. There is a fear of a potential conflict between those two roles, and of local authorities not necessarily being set up to manage that conflict. Have you had an opportunity to reflect on that issue? Is the body or group that works with COSLA to which you referred likely to consider the issue and to try and find a way through it?

Ian Walford: Let me be clear about this, in case it is misinterpreted. The bill will not change any powers, whether those are local government powers or the new organisation's powers, in relation to the designation of listed buildings and scheduled monuments. Powers will not move from ministers to the new organisation. Historic environment Scotland will be the organisation that will decide whether to designate a building as listed or as a scheduled ancient monument. The relationship will be the same in that regard.

There will, however, be a slight change in relation to listed building consent. The role of local government was raised as an issue during the consultation on the bill and the strategy. People asked whether additional functions or burdens will pass to local government. We are clear that that will not happen.

With COSLA, work is being done to consider how the whole process could be streamlined in the longer term, so that we get better outcomes with

less cost and fewer issues for developers, applicants and others. The bill will not itself make any change to that relationship.

Liam McArthur: That is helpful. There may be a perception issue that needs to be clarified.

Neil Bibby: In the witnesses' opinion, why does the Scottish Government feel that ministers need more powers of direction?

Diana Murray: The Cabinet Secretary for Culture and External Affairs has been clear that she does not want more powers of direction. In fact, she would prefer the new organisation to be a non-departmental public body and there to be fewer ministerial powers of direction. The powers of direction under the bill are very similar to those under the National Library of Scotland Act 2012. Does that clarify the matter?

Neil Bibby: I have perhaps misunderstood the issue. Can you tell me what powers are being moved from the individual bodies to Scottish Government ministers?

11:00

Diana Murray: No powers are being moved from the Royal Commission on the Ancient and Historical Monuments of Scotland to become ministerial powers of direction. The royal commission is currently regarded as a non-departmental public body, and we are also a charitable body. Ministerial direction comes in the form of ministerial agreement of the corporate plan; in addition, just like any NDPB, we are obviously subject to ministers' general policies. However, there is no direction on what exactly is done on the curatorial side, for example. There is an exemption for charitable status under the Charities and Trustee Investment (Scotland) Act 2005. Along with the other national collections of Scotland, we have an exemption.

The bill as introduced does not alter that relationship with ministers. The new organisation will have the same relationship as the royal commission enjoys at the moment. The effect will be for Historic Scotland's functions.

Ian Walford: If I can just add that, Under the bill, ministers will have a general power of direction. As Diana Murray said, they will be required to approve the corporate plan.

I should be clear about the discussions that we have been having on regulatory and curatorial decisions and what the new organisation will do with individual properties and items in our collections that it will look after. There will be no power of direction for ministers in that regard—that is one of the tenets of the bill. Ministers will set the organisation's general strategy, but individual

decisions about regulation and curatorial matters will be taken by specialists within the organisation.

There is a safeguard. The new organisation will make the decisions about designations—if there is an application to list a building or to schedule a monument, the decision will be made by the new organisation. However, as you will have seen in the bill, such decisions will be subject to a new right of appeal. We are not expecting that right to be exercised very often but, if people wish to appeal to ministers, they will be able to do that.

Neil Bibby: If a local authority applied for funding, could the minister have a say in whether it got that funding?

Ian Walford: Historic Scotland puts out a significant amount of money for various grant schemes, which will carry on in the new organisation. Ministers will set the overall grants framework: they will approve schemes and, probably, the quantum of money to be passed from the new organisation to grant recipients. However, the decisions about individual grant applications will be taken by the new organisation, and the minister will not have a power of direction over that.

Neil Bibby: If the board and the minister disagree, it is still the minister who will determine the framework and the strategy.

Ian Walford: Yes, but if a particular applicant—whether it was a local authority or anyone else—applied for money from the new organisation, the decision on that application would be taken by the new organisation.

Neil Bibby: Who will appoint the board of historic environment Scotland?

Ian Walford: Ministers will appoint the chair and the board members.

Liz Smith (Mid Scotland and Fife) (Con): Mrs Murray, in answer to the first question you said that we need a heritage strategy, which I found very interesting. You pointed out that such strategies are needed not only in Scotland but around the world. Is that belief in the need for a heritage strategy one of the strongest reasons why we should support there being greater ministerial powers of direction and ministerial involvement in setting the strategy, which obviously involves public money through funding? After all, the overall idea is to have a more coherent strategy.

Diana Murray: The heritage strategy is a very interesting piece of work; I hope that you have seen it. I think that it is a fabulous document, and I hope that it will be a model for others. The strategy was created following a huge amount of consultation—I am sure that other colleagues will speak more about that.

The heritage sector feels that a heritage environment strategy for Scotland would provide a framework for the sector, not just for the Scottish Government, and the cabinet secretary has made it quite clear that the historic environment strategy belongs to Scotland, not just to the Scottish Government. The new organisation fits into that comfortably, because one of its tasks will be to lead and enable, which means that it will work with the heritage sector to deliver some of the strategy's key aspects and to align what is a diverse sector in a direction that everybody agrees is better. As I said, I do not think that there is any increase in ministerial direction in relation to the new body in comparison with the body that I currently work for.

Liz Smith: That is helpful.

There was some discussion in the early stages as to whether there might be a move to take away some Government involvement. I am more interested in the additional added value that can be brought to a coherent, fully workable and comprehensive strategy by having Government oversight of that strategy than in any decision that would have removed it. That is the key question.

Diana Murray: Having that Government oversight mean that the strategy can work across all the other areas of Government and can be incorporated in place making policy, in environmental policy—the historic and natural environments interlock—and in health and wellbeing policy. There is a stronger possibility of the social and economic value of the historic environment being realised than existed when it was in a silo, as happened when that function sat with Historic Scotland.

Jayne Baxter: If I heard correctly, Mrs Murray said that the strategy does not belong to any one body but to everybody in the sector. It is good to hear that it is being done so inclusively and with so much participation. The Scottish Government's website says that the strategy

“is owned, not by Government, but by the people of Scotland.”

I am interested, therefore, to know who is ultimately responsible and accountable for successful delivery of the strategy.

Diana Murray: It is difficult to say, because we do not have the new body operating, but I imagine that the intention is that there will be a partnership between the new body, which will deliver the strategy and enable the partnerships, all the other people in the sector—there are many—and, of course, Government. We will work in collaboration.

Ian Walford: I add to that that the governance structure will bring together a number of players including the Government, public bodies and the

voluntary and private sectors. The new body is being deliberately set up as the lead public body in delivery of the strategy, and the chair and chief executive of the new organisation will be part of that governance structure.

It is also intended that, apart from that, there will be a number of groups that will look at specific particular issues and measure progress. It will be an inclusive process and the new organisation will be the lead player across the public sector, but it will be only one of a large number of organisations involved.

Jayne Baxter: You do not see responsibility for delivering the strategy for the people of Scotland sitting ultimately at the door of the Government, which is elected.

Ian Walford: The Government clearly has an important role in bringing all the players together—particularly across the public sector. Ultimately, the money comes from Parliament through the Government, so it will be crucial for the Government to be a key part of that and to facilitate it. In developing the strategy, we and the ministers have been clear that we want as many people as possible to be involved in development and delivery of the strategy, but the Government clearly has an important role to play.

Jayne Baxter: I am glad to hear it. Thank you.

Liz Smith: Mrs Murray, you said in answer to Mrs Baxter that you

“imagine ... that it will be a partnership”.

Are you not entirely clear? One of the difficulties that we had when we looked at Creative Scotland was that nobody seemed to be entirely sure about what was intended, which led, as you know, to problems.

Diana Murray: I am very clear. I am just conscious that my colleagues behind me will answer questions on the strategy in more detail and I do not want to pre-empt their responses.

Liz Smith: Thank you.

Liam McArthur: The policy memorandum states that

“the historic environment has unrealised potential”,

and during our visit there were a number of references to punching below our weight. Are there aspects of how RCAHMS and Historic Scotland were set up, or are there budget constraints that point to reasons why we have been punching below our weight in recent times?

Ian Walford: I will start on that. There is always potential to improve and to deliver more economic, cultural and other benefits from the historic environment. When we look at the contribution that it makes to the economy and the jobs that it

creates, we can see that a lot has been achieved over recent years. Within Historic Scotland, our commercial income—which is all ploughed back into our estate and all that we do across the historic environment—has increased by some 40 per cent in the past six years. There are real success stories.

In the new organisation, the bill will create a powerful and sustainable new lead body for the historic environment. I will give a couple of examples of where the whole will be greater than the sum of the parts. The first is our education work. At present, the two organisations are involved in education in different ways, but by bringing them together under single governance, we will create powerful benefits for families and learners of all ages, including children.

Another example is the collections. Historic Scotland has 345 fantastic properties across the country, and the RCAHMS has a huge world-class collection of images and archives. It has not been impossible for them to operate together and there has been a lot of collaboration over a number of years, but bringing them together and integrating them will create a powerful entity in terms of both education and tourism benefits, and will enable us to move even further forward.

Liam McArthur: I mentioned the general perception that, on the historic environment, we punch below our weight. As we discussed during the visit, parts of the country can credibly lay claim to punching above their weight—I cite Orkney as an example. Can you offer any reassurance that, in trying to address the overall perception, we will not see a shift in focus, resource or attention away from areas that have been doing well, which also aspire to do better?

Diana Murray: It is really important that the new organisation is set up in a way that allows increased partnership and collaboration across the whole of Scotland, and I think that it will be incumbent on the new board to identify areas that need—shall we say?—more encouragement. However, that is not to take away from areas that are doing really well, which also need our support.

A key thing about the new body is that, because it will be a non-departmental public body if all goes well, it will be able to operate on a more flexible commercial model than Historic Scotland does at present. We hope that that will allow the new body, its partners and those who want to work with it to drive greater economic benefits for all parts of Scotland, as well as to increase social benefits.

Liam McArthur: On that point, an issue that has been raised in the discussions that I have been having over recent weeks is the idea of the newly merged body having a more regionalised structure. English Heritage operates something

like that model, and there appears to be support for a regionalised structure, particularly in places such as Orkney, even if people are based somewhere central but are responsible for distinct geographic areas. Has that been discussed? Is there any intention to go down that route?

Ian Walford: At the moment, Historic Scotland has staff the length and breadth of the country and people have a lot of autonomy because we have a regional structure for conservation, commercial and tourism activities. There will clearly be a new board and new management, who will make decisions about the structure of the new organisation. Among our drivers in the past few years have been the questions how we can develop in more fragile economic areas and how our properties and employment can bring cultural and economic benefit to those areas. I am sure that the new organisation will want to look carefully at that.

11:15

Liam McArthur: That would be helpful. The perception is that, although there are lots of people on the ground, the decisions are actually taken far closer to the centre. People are apprehensive about the idea that pulling together a body may achieve administrative simplicity and may make life easy in some respects, but in more rural parts it could become all the more difficult to get to the people who are making the decisions that matter. In particular, there is a perception that areas that have been punching below their weight will come into sharper focus, and I think that attention needs to be given to how the regional structure will work.

Ian Walford: I take that point; it is something for the new board to consider. The new organisation will have properties throughout the country and there will be grant-giving powers—as we mentioned—so money can go to all parts of the country. The new organisation will have an opportunity to look at the range of ways in which we invest in and support the historic environment throughout the country; doing so on a regional basis will, I am sure, be considered.

Patricia Ferguson: I was quite surprised to hear that the representatives of both existing bodies feel that there will be greater collaboration when you come together. I had expected that you would already be collaborating a great deal as separate organisations that are both working in the same field and toward the same purpose. Has mention been made of the commercial side of what the two organisations do? Do you know what the targets will be for the commercial side? Are you looking for more money from commercialisation? If so, how will you balance that with the educational side of the work?

Diana Murray: We have done quite a bit of work on that. At the moment, we are considering a business model that would be similar to the business model that is run by National Museums Scotland, National Galleries of Scotland, the National Library of Scotland and the Royal Botanic Garden Edinburgh, which have the status that the new body will have. The idea is to allow a proper commercial model to exist.

There is certainly scope for driving down core costs, which would allow more money to be used on the front line, and for driving more business through the organisations. There is a lot more that we could do without any detriment. For example, the commission makes an increasingly good income from sales of images, and there are plenty of Historic Scotland images that are not yet for sale, so we could expand that business in online sales. Because the new body will also have charitable purposes—education and historic environment conservation—that income would be used to reinvest in conservation, education and historic environment business activities, and not just on the tourism-facing side but more generally. I think that there is potential for that with the new body.

Mary Scanlon: I am also a member of the Public Audit Committee, which examined the Auditor General's June 2012 report, "Learning the lessons of public body mergers—Review of recent mergers", which looked at Skills Development Scotland, which lost 395 staff, the Care Inspectorate, Creative Scotland and Marine Scotland. I am interested in learning the lessons from those mergers, so I wonder whether you have read the document.

One of the key recommendations of that report was for newly merged organisations to

"develop and adopt a corporate plan for the new organisation within 12 months of its start date"

with a

"focus on the purpose and benefits ... and the further organisational change and development that is required to secure these benefits".

Do you have your corporate plan?

Ian Walford: We have looked carefully at the Audit Scotland recommendations, and we are working together, pending the outcome of the bill process, to facilitate joint working and to bring the functions of the two organisations together. One of the tasks over the next 12 months is to work with staff and with stakeholders across the country on the functions in the strategy and the bill and to develop a draft corporate plan, so that when the new board is appointed and takes up its powers it has something to work with. Clearly, it will be the board's decision whether to adopt that plan.

Mary Scanlon: You are talking to each other, but you do not have a corporate plan. When is the merger expected to take place?

Diana Murray: The chair and board will be appointed towards the end of this year, and the body will come into existence in April 2015—assuming that the parliamentary process goes smoothly. Operational activities and the staff will be transferred in October 2015, and from the time when the board starts work in April 2015 we will have a corporate plan and strategy for presentation to the board, which will discuss that plan and decide whether to adopt it. We cannot pre-empt a board decision on a strategy, neither can we expect the board to create a corporate plan from scratch at that point. That is the current timetable.

Mary Scanlon: I do not wish to digress, but the Audit Committee noted that one of the issues arising from the merger of eight police forces was the lack of a business plan. As a new member of the Education and Culture Committee, I would find it helpful if you would follow the key recommendation to produce

“a corporate plan for the new organisation within 12 months of its start date”.

If the start date is April next year, we should have a corporate plan now, or at least next month—within the next two weeks.

Ian Walford: I would have read that as meaning within 12 months after the start date, which is what we are working towards.

The Convener: I read that the same way—as meaning within 12 months after the start—so you would have 12 months from the beginning of the organisation to put the corporate plan in place.

Mary Scanlon: Right. Well, I hope that there will be some kind of business plan, because you will have to know what the savings, indicators and outcomes will be. Is there nothing to examine now? The Auditor General’s assessment was that there are

“no clear criteria against which to assess whether merged bodies were meeting ... aims”

and no

“clear approach to measure the effect of changes”,

and that

“The absence of specific objectives, clearly articulated benefits ... makes it difficult for the Scottish Government”

to measure success. When can we measure success? When will you have outcomes that we can look at, given that we are within 12 months of that date?

Diana Murray: We are going through the managing successful projects programme. An

outline business case was created last year and we are currently updating it. It contains what Mary Scanlon described—the key outcomes and benefits of the process. We have also been doing a lot of work on the purpose, vision and values of the new organisation, which have contributed to the bill, and the bill itself sets out the functions and operations of the new organisation quite clearly, as do the explanatory notes. We have contributed to that, and it will be the core of the new organisation, so we have the purpose, vision and values.

Across the organisations, we have done a huge amount of work on functional mapping and setting out what the organisations currently do down to a quite detailed level. We are now building that up with staff so that they can match activities and really merge, rather than just be banged together.

We are going to build out of those functional activities the key elements of how the corporate plan will be taken forward so that there is a business plan underpinning the corporate plan. There will obviously have to be work—we have started it already—on the costings that will be associated with that and the key performance indicators. We hope that all of that will be in place by April next year and that the new board will have a good start.

I must say that I, too, read the passage in the report as meaning to 12 months after the start date.

Mary Scanlon: Okay—but you need a business plan prior to that.

Diana Murray: Indeed, we do.

Mary Scanlon: That was what was missing from the police forces merger.

The key performance indicators are being outlined as you go forward towards the merger. Will they be sufficient to measure success against national outcomes?

Ian Walford: Again, there are two strands to that.

Mary Scanlon: I ask because none of the previous mergers achieved that.

Ian Walford: Yes.

Mary Scanlon: You have come here and it all sounds good. However, the Audit Scotland report “Learning the lessons of public body mergers—Review of recent mergers” states:

“No merged body has assessed net savings.”

I am just looking to see whether lessons have been learned in order to move forward on this merger.

Ian Walford: In terms of measuring effectiveness, the strategy that has just been published sets out very clear strategic aims for the historic environment. One of the groups is doing work on how we measure. I appreciate that it is quite difficult to measure benefits and progress under the overarching strategy, the functions of the new organisation, and the work that Diana Murray has just described, all of which will take place over the next 12 months. It will be for the board to decide how to measure progress in delivering the functions in the bill.

Mary Scanlon: The measurements are not in place now, but will be put in place as the bill progresses.

Ian Walford: Yes. The two constituent organisations will continue up to the point that the new organisation takes on its powers; obviously, we have our corporate plans and our key performance targets and we will report on them.

Mary Scanlon: The measures will be cost savings and of benefit to the new organisation.

Diana Murray: Yes.

Ian Walford: Yes. The six-month period that is enshrined in the bill—from 1 April 2015 to 1 October 2015—is a result of direct learning from Audit Scotland’s recommendations in analyses of previous mergers. There must not be a cliff edge; the new board should exist and be able to make decisions during those six months while the two organisations continue, after which it will take on its functions and staff, and assets will be transferred.

Colin Beattie: I declare an interest in that I am a life member of Historic Scotland. In addition, my domestic residence has an A-listing from Historic Scotland.

Some of the terminology in the bill appears to be less than well defined. For example, there appears to be no definition of “historic environment” in the bill. The policy memorandum seems to be a bit abstract about what it means by that term. How comfortable are you with the definitions?

Ian Walford: The strategy provides a very clear definition of the historic environment. Again, that has been worked on, as we discussed earlier, with lots of people and a huge amount of consultation. The new organisation is being deliberately set up as the lead public body to deliver the strategy. In our view, the bill is very much there to set up the new organisation that will deliver the strategy. It is proving to be more appropriate that the definition to which you referred be in the strategy rather than in the bill.

Colin Beattie: I am also concerned about definitions of “collection” and “object”, which are

very generic words. How are they going to be defined?

Diana Murray: The definitions in the bill are those that were used for the National Library of Scotland Act 2012, and they also apply to National Museums Scotland and National Galleries of Scotland. That was done quite deliberately to give the scope for collections to change. In the past 10 years we have seen a huge change from material collections—paper and photographs—and most collections that come in now are in digital form. The terminology in the bill allows for that range and, as I said, it matches the definitions in the National Library of Scotland Act 2012.

Colin Beattie: Are you saying that it is deliberate to have catch-all definitions?

Diana Murray: Yes.

Colin Beattie: Does that create any legal issues for the new body, if the bill does not define “object” or “collection”?

11:30

Diana Murray: I do not think so. What normally happens in national collections is that the national body has a collecting policy. We have spoken with the other national collections to ensure that our collecting policies are aligned, so that we are not overlapping on what we collect and so that we are operating to the standards of the archive, museum and heritage worlds.

Colin Beattie: Overlapping is an important issue. If you have general definitions, there is a danger of overlap with other collecting organisations. Are you satisfied that that will not happen?

Diana Murray: I am satisfied that it does not happen at the moment and that it will not happen in future.

Liam McArthur: The witnesses touched on the intention for the newly merged body to be established as a charity in due course. What are the advantages and disadvantages of such an approach?

Ian Walford: As we said, the policy memorandum sets out a clear charitable purpose for the organisation. The charitable purpose—the functions of looking after assets and collections on behalf of the nation in the long term, education and community heritage—was set out in May in the outline business case, on which the Government consulted. Questions were asked during the consultation, but broadly speaking people were satisfied that the charitable purpose is sound. Throughout the process, we have been talking to the Office of the Scottish Charity Regulator, which is comfortable that the

combination of functions that is set out for the new organisation would qualify for charitable status if the board decided to apply for such status.

On the benefits, charitable status would put the new organisation on the same sort of footing as the other national collections in Scotland and elsewhere in the UK. There is a clear precedent in that regard; organisations that have culture and heritage functions and a similar charitable purpose have charitable status. The new organisation will be a powerful player in the national collections field and will be able to collaborate on the same sort of footing when opportunities to work together are presented.

The new body will also be able to work with organisations across the historic environment, including, of course, the National Trust for Scotland. We have had close dialogue with the National Trust for Scotland about charitable purpose—NTS has asked some questions about that. Charitable status will provide opportunities to work with the national collections and other players in the voluntary sector to consider buildings, archives and collections more generally. Instead of areas being compartmentalised by organisation, there will be the opportunity to work more widely in the context of the national collection for Scotland of buildings and artefacts of the highest status.

Diana Murray: The royal commission is a charitable body, and the commissioners are trustees of the charity. The commission will be dissolved by the bill and its functions will be taken on by the new body. Commissioners and trustees would find it hard to transfer their responsibilities to an organisation that was not a charity, because they have a trustee relationship with the organisation's collections and assets.

In addition, we run the Scottish cultural resources access network, which is the main provider of web cultural assets, in every school as well as most libraries in Scotland. In addition, people can subscribe to SCRAN for lifelong learning purposes. SCRAN is a charity, which operates in partnership with the royal commission as a subsidiary charity.

If the new body was not a charitable body, we would have to dislocate SCRAN from the new organisation, and it would have to set up in a different way. Ministers felt that having SCRAN alongside and involved with the new body would be advantageous. We benefit hugely from its activities, and there is a great deal of crossover in the work that we do. That is another reason why the new body—if it decided to apply for charitable status—would have a major advantage in having that charitable benefit.

Liam McArthur: Both those answers are helpful in setting out the justification and benefits of charitable status, but they were perhaps slightly less illuminating in relation to the potential disadvantages.

A number of bodies are clearly concerned about the implications of HES taking on charitable status, because of the potential displacement effect on funding applications. The National Trust for Scotland and university departments operate in a similar space. Is there not a danger that the newly merged body will move into an environment where it could crowd out the limited amounts of funding that are available for those partner organisations?

Is there not also a concern about funding from the Heritage Lottery Fund effectively coming in to replace what had previously been government grant funding? That would go against the grain of what lottery funding was intended to do.

Ian Walford: I will take your last point first. Both our organisations and the other national collections, which are NDPBs with charitable status, are able to apply to the Heritage Lottery Fund at the moment, and we have successfully applied for lottery funding.

On the more general point, the precedent is there: lots of different organisations in the culture and heritage field have charitable status. We want to work with them and other organisations including those in the voluntary sector to take the opportunity to grow the cake—this being a term that has been used in heritage tourism and also with regard to diversifying funding for the sector more generally.

Our feeling is that working collaboratively under the aegis of the strategy provides all sorts of opportunities for an organisation with charitable status coming into the field with a different kind of reach to work with others so as to grow the overall pot of income, and to grow cultural and economic value.

As I said, we work very closely with the National Trust for Scotland. Just in the past couple of weeks, we have opened the new Bannockburn heritage centre, on which Historic Scotland and NTS have worked extremely closely over the past three or four years.

We want to consider a national heritage collection that features buildings, archives, museums and galleries, and to work together—targeting or prioritising investment and working with the Heritage Lottery Fund, taking into account the rate at which applications come to it. There are real opportunities to do that. We cannot see particular downsides of charitable status.

Liam McArthur: Clearly, however, concerns are being expressed.

Ian Walford: Yes.

Liam McArthur: As regards the creation of a larger single entity, the concern is presumably that there would be such a dominant single player that the partnership is difficult to discern, other than in terms of the thought, "This is what we're doing; you can come along with us if you want." I am not sure how you get round that, but that perhaps goes some way to explain where the nervousness comes from and how people might perceive a risk of displacement of activity and available funding.

One other issue that has been raised—

The Convener: Before you move on, Diana Murray has something to say on the matter.

Diana Murray: It is helpful to unpick the point about competition and charities. One of the advantages of the body being a charitable body is that it puts the current competition on a level playing field.

At the moment, members of Historic Scotland get a better deal because it is not a charity than they would do if it was a charity. The National Trust for Scotland have always complained about that, because Historic Scotland members—I know that Colin Beattie is a Historic Scotland member—get a 20 per cent discount in the shops, which is a greater discount than their members get.

As a charity, the new organisation will have to abide by the rules on membership benefits that all charities abide by, including those on a magazine and car parking. In many ways that will be better, because it will mean that the competition will be level.

Apart from the charitable benefits that an organisation gains in tax and rate relief and so on, the other thing to bear in mind is that the main purpose of charities is raising revenue and philanthropic giving. Most of that usually involves a particular project, which is how things happen with the National Trust for Scotland, the board of which I was on for a time.

If the National Trust for Scotland has a big ask, such as its work on the Burns centre, it will ask its members for money for that particular exercise. National Museums Scotland, for example, might ask people to give philanthropically for its new building. People who give money like that might be interested in paintings rather than buildings—we are looking at a wide spread.

By working together we might be able to improve the way that we develop work of that kind. That would not be by having one development office for both organisations; I know that fundraisers and development officers work

together and work out how they can work to best effect for the benefit of their organisations. It sounds as though it is a real problem, but once you start to look into the detail it becomes a much smaller issue.

Liam McArthur: I have one brief—

The Convener: Try to make it brief.

Liam McArthur: Yes. Concerns were raised in the consultation that historic environment Scotland "may be at an unfair advantage should it be able to access its own grants or apply different standards to"

applications for

"listed building or scheduled monument consents relating to the sites it directly manages."

Can you provide any reassurance on that?

Diana Murray: It is wrong. We will not do that.

Liam McArthur: You will not. Okay.

The Convener: That was brief; thank you.

I will finish with Clare Adamson's questions but, as I expected, we have not got through everything today. Members should be aware that we will write to the organisations, and we will start questions with the second panel where we are leaving things with this panel.

Clare Adamson: I will ask around the staffing of the proposed historic environment Scotland organisation and the implications that the dissolution of RCAHMS might have for RCAHMS staff. The policy memorandum says that the envisaged organisation will have 1,100 staff, but the two existing organisations have a combined staff of 1,170 including temporary staff at RCAHMS. Can you confirm that any loss of posts will take place in the context of a voluntary early exit scheme?

Given that there is a commitment in the financial memorandum that transfer of staff will take place at no detriment to their existing terms and conditions, how will the envisaged savings be made?

Ian Walford: The Government has made it clear that its no compulsory redundancy policy will apply, so there will be no compulsory redundancies throughout the merger. It is very clear, as you said, that staff will transfer to the new organisation with no detriment to their existing terms and conditions.

Regarding the financial memorandum and staff savings, both organisations and others across the public sector have been looking at how to reduce costs and increase income. Both organisations have had voluntary early severance schemes that will generate savings as we move forward.

We are looking at more efficient ways of running our business. In particular, the natural wastage over a number of years will enable us to ensure that functions are being carried out more efficiently.

That is the basis on which we have projected our staff savings for the 12-year period; it is clear that those savings will not be made through compulsory redundancies.

11:45

Diana Murray: The staff and assets will transfer to the new organisation. The RCAHMS staff are currently public servants and will remain so in the new body, with the same terms and conditions. We will harmonise terms and conditions, but they are very similar at present anyway. Historic Scotland staff are currently civil servants, and the big change for them is that they will become public servants. However, those two categories are very close and so those staff will not notice a huge difference. As Ian Walford said, their terms and conditions will stay the same.

Ian Walford: We have been working closely with the four constituent unions over the past 18 months on all the issues, and we are continuing to do so. The unions are comfortable with where we are at present.

We have made it clear that people will transfer to the new organisation without detriment under the Transfer of Undertakings (Protection of Employment) Regulations 2006. There is also a commitment to allow “common citizenship”—a term that applies across the Scottish Administration and to the various agencies and NDPBs—to continue for at least two years beyond the vesting day of the new organisation. If people feel for whatever reason that they do not want to transfer, the common citizenship will apply and anyone who wants to apply for a job anywhere in that family of organisations will be able to do so. We hope that the period will be extended beyond that time, but it will certainly be in place for two years.

We hope that there is no one who would not want to join the new organisation, and we will work closely with staff in that regard, but that assurance is in place.

The Convener: In keeping with my generous nature, I will allow a small supplementary from Patricia Ferguson.

Patricia Ferguson: Thank you, convener—as you know, I always say how generous you are when I have the opportunity. I thank you for your generosity this morning.

I am always slightly concerned when we talk about things such as natural wastage and hear

that there will be no detriment to staff. Inevitably, you cannot choose which members of staff will decide to leave the organisation in question; I am conscious that Historic Scotland has not been without its troubles in recent times with regard to staffing.

How will you ensure that you are able to retain people who have the correct skill sets for the work that the organisation will want to do, and that the people you lose are not those who happen to have all the necessary experience and institutional knowledge?

Diana Murray: I go back to my earlier point about how we are engaging in corporate planning and looking at the functions across both organisations to identify activities on which people can work together.

We are doing our best to engage all members of staff in helping to build their future in their particular areas of activity. How often does an organisation get the opportunity to really look at what it is doing and think about how it will do things in the future? We are trying to get our staff involved in that work, which will help us to identify and—I hope—secure the skills that we need.

We achieved a 69 per cent staff engagement index in the recent staff survey that we undertook, which I believe is one of the highest results in the UK. Staff are engaged, and they want to be part of the merger and to get involved. We are trying to address the issue of morale to keep people on board.

Natural wastage is just one of those issues that we have to plan around. If we lose key skills—as we do when people retire—we will be engaging, as in fact we already are, in succession planning so that when people leave the organisation the same skills are vested in some of our younger members of staff. We are conscious of that issue, and we are just about to start our organisational development work in that respect. We hope to invest in our staff as we move forward.

The Convener: Thank you. As I said earlier, we have not managed to get through all our questions but, given the time, I want to move on to the second panel. If you do not mind, we will write to you with a substantial number of questions, and we will look forward to your response. I thank you for coming along this morning and giving evidence.

11:50

Meeting suspended.

11:52

On resuming—

The Convener: I welcome our second panel of witnesses, who are Scottish Government officials Andrew Fleming, Noel Fojut, David Fleetwood, Jennie Marshall and Emma Thomson. Thank you for coming along this morning. I invite Noel Fojut, who is the bill team leader, to make some brief opening remarks.

Noel Fojut (Scottish Government): I will just delegate the opening statement to my boss, Andrew Fleming.

The Convener: I apologise. My briefing note said that Noel would do it.

Andrew Fleming (Scottish Government): That is no problem at all. Thank you for the opportunity to give evidence today.

The cabinet secretary announced in July 2012 that RCAHMS and Historic Scotland would merge and that their combined functions would be delivered by a new lead body for the historic environment. That action will support the long-term sustainability of the functions of both organisations by creating a new body that is equipped to lead and support delivery of Scotland's first historic environment strategy.

We argue that it is easy to take the historic environment for granted, although it needs careful management, active engagement and a clear sense of direction. Challenges such as climate change bring additional maintenance burdens, and the individuals and organisations who look after the historic environment face real financial pressures, especially at this time. There are also opportunities for the historic environment—for example, in technological advances. In addition, there are heightened public engagement and expectations because there are more people with leisure time who want to engage and participate in the historic environment in new and different ways. Those are great opportunities, but they also bring financial consequences.

Fundamentally, the historic environment is a precious asset that provides real benefits for Scotland's people. However, there is a persistent belief—we heard about it in the earlier evidence today—that despite the great work that is done by Government, funded bodies, many third sector organisations and thousands of individuals, Scotland's historic environment could deliver so much more.

We began two years ago work with key stakeholders to consider what changes to existing policies and ways of working might improve performance across the sector. The outcome of that work is "Our Place in Time—The Historic Environment Strategy for Scotland", Scotland's

first historic environment strategy, which was published this month alongside the bill.

The strategy commits us to a genuinely shared approach to Scotland's historic environment—on protection, management and promotion. It will provide clear direction for a long-term ambition to do more by way of securing economic, social and cultural benefits. It will bring the sector together within a governance structure, and through a series of working groups that will take forward that vision in partnership.

Now that we have sector-wide agreement on collaboration through the strategy, and consensus on the challenges and opportunities, the Government needs to set an example: we cannot exhort others to work together yet continue to support two separate bodies ourselves.

The creation of a new single body will build resilience and sustain existing functions, and it will maintain the expertise and knowledge base for the long term. It will simplify the landscape, as there will be only one national organisation to deal with when seeking information and advice. It will deliver greater efficiency via shared services and help to realise the opportunities that technological advances and public engagement offer. It will create new opportunities to collaborate and work in partnership across partner bodies and with our other national cultural bodies, and it will establish a lead delivery partner for the historic environment strategy.

Working hand in hand with the wider sector, historic environment Scotland will promote more effectively the potential of the historic environment to create a better sense of place, identity and physical and social wellbeing, and will thereby benefit the economy, civic participation, tourism and lifelong learning.

The new arrangements also address current concerns about transparency in relation to regulation, grant-giving and relationships with ministers. The bill will ensure that the new body operates on a level playing field, which we know is of importance to other bodies. The new body will function as another of Scotland's national collections, alongside National Museums Scotland, National Galleries of Scotland and the National Library of Scotland, which will increase opportunities for collaboration and partnership working.

In brief, the bill will establish historic environment Scotland, which will be an NDPB that combines the functions, staff and assets of Historic Scotland and RCAHMS, and it sets out the functions of HES and how it will be governed. The bill also provides for delegation or transfer of ministerial powers and responsibilities; enables the transfer of property, staff and liabilities to HES;

provides for changes to other legislation, principally to ensure that HES is added to schedules for consultation or other purposes; and provides for the dissolution of RCAHMS. Finally, it will simplify current procedures in respect of heritage management in order to ensure that regulation of the historic environment is better aligned with the planning system, thereby delivering a more proportionate and efficient system of designation and consents.

As I have said, the bill sets out in one place the historic environment functions that the Government wants to see being sustained and developed. As well as defining the duties for historic environment Scotland of investigating, caring for and promoting our historic environment, it is also an affirmation of the Government's support for that important task.

The Convener: Thank you. For members' benefit, I intend to start where we left off, with the questions that we missed out with the first panel. I will come back to members who raised questions earlier after that. If members' questions have been answered and you do not feel that it is necessary to repeat it, you can move on to other areas of questioning.

George Adam: In appointing the board of the new body, the bill states that ministers must appoint

"in a manner which encourages equal opportunities".

How best will we encourage that?

Noel Fojut: The bill follows a very similar line to that of the Post-16 Education (Scotland) Act 2013 in respect of equalities. The issue is not so much that the bill will provide for equalities in how the board is selected, or for diversity in how the organisation operates, but that—Mr Adam is right—there is a difficulty in encouraging a sufficiently wide field of qualified candidates to come forward. Advertising will need to cast the net really wide to ensure that a good range of good-quality applicants come forward.

12:00

The historic environment sector is sometimes perceived to be a bit narrow in focus—the same sorts of people tend to come forward time and again—so we will get more equality simply by putting out the message that there is a new organisation that has a new mission and strategy. We hope that the vision of what it and the wider strategic approach can achieve will attract candidates from a very wide range of backgrounds so that we can get more equality. However, at the end of the day, one can appoint the board only from the candidates who put themselves forward.

The issue is not so much the policy in the bill, but how we get out the message that there is a big, important and exciting job to be done and that it does not require only the usual suspects who have come forward in the past, who have narrow specialist interests. It is about what the changes can do to improve matters. That is difficult. It is difficult to get a wide range of candidates to come forward for many public bodies. I am sure that the new body will not be alone in that.

George Adam: The bill also requires the new body to promote

"the diversity of persons accessing the historic environment".

My wife is a wheelchair user and I know that some of the places and buildings that the bill will cover are not the best place for a day out for someone in a wheelchair. How will you influence the ability of such people to access the historic environment?

Noel Fojut: In some cases, we will have to accept that it is simply physically impossible; there will always be some properties that are not physically accessible. George Adam will know far better than I do that there is an acceptance that only so much can be done on physical adaptation.

It might be possible to improve access using modern technology. For example, a proposal that has been talked about a lot is provision of access to sites that are, in effect, inaccessible to everyone by having video cameras on those sites. That relates to places such as St Kilda, which is difficult for anyone to access—even people who are fit and well, like us—and especially people who get seasick. Doing much more to provide high-quality virtual access will be important. Careful adaptation of properties can allow more access for people who have mobility problems.

There are also issues with how information is provided on sites, in that it is frequently not particularly friendly to people who are partially sighted or who do not have sight. More can probably be done using technology—for example, audio guiding, which is becoming much more efficient and is no longer as clunky as it used to be.

Those are directions in which Historic Scotland and RCAHMS are already moving. It is a matter of trying to bring that together and make it move in the right direction. It is about using existing best practice and applying it more widely.

George Adam: My wife and I have found that the Europeans seem to do a lot better than we do when we go to access their historic buildings; it always seems to be a lot easier for us to get about. Did you consider some of the things that have been done abroad when you put the bill together?

Noel Fojut: It is fair to say that the staff of both organisations are very much in favour of seeing what happens abroad. There are some good practices abroad, but there are also some in this country. However, it takes time and resource to spread improved facilities around the various properties. It is a key objective of both organisations to provide such access, but only so much can be done within a certain time within the budget, which has other calls on it.

There is also the question of conserving properties. There is not much point in providing access to them if they are falling down, so we need to strike a balance between what can be done to improve facilities and what has to be done simply to maintain the asset for present and future generations. Those issues are at the forefront of both organisations' minds.

The Convener: I will pick up where George Adam left off. Everyone would accept that a person in a wheelchair will be unable to access some parts of a historic property no matter how much effort has been made. Would that person pay the same entrance fee as somebody who was fully able to get up the towers and to access other parts of the building or would they get a discount based on the fact that they could not access all of the property?

Andrew Fleming: I need to look into that and get back to you. My initial response is that I think that they would pay the same price, but I need to check that.

The Convener: I would have thought that there would be an equalities issue if people who are physically unable to access all of a property must pay the same price as people who can access the whole property. I would be grateful for an answer on that, when you have the information.

If we take a broad definition of equalities, what do you do about discounts for people who are unemployed and on benefits or who do not have a full wage and cannot afford to take their families to visit properties?

Andrew Fleming: Are you asking about current practice?

The Convener: Yes.

Andrew Fleming: Again, I need to check that. I think there is a discount scheme, but I will get back to you with a complete answer.

The bill will place on the new body a duty to promote better access. We will ask the new body to take on the challenge of considering equalities issues and seeing what it can do to address them.

The Convener: If you do not know what is happening now, it is difficult to know what

improvements will be made. I would be grateful for a full answer subsequent to the meeting.

Colin Beattie: The Scottish ministers have about 345 properties in their care. I understand that the intention is to delegate responsibility for those properties to historic environment Scotland. Will that include all the properties? Will all responsibilities be delegated?

Andrew Fleming: The arrangement is that ownership or title of the properties will rest with the Scottish ministers and that, through a scheme of delegation, ministers will delegate the operation of all 345 sites to historic environment Scotland. Through that delegation, there will be specificity about conservation standards, and pricing and public access issues. Potentially, the equalities issues that Mr Maxwell raised could also be included in the scheme of delegation. The Scottish ministers will clearly set out their expectations of what the body will deliver and there will be a transparent process for assessing whether the body is meeting those requirements.

Colin Beattie: Will that be done on an individual property basis or will there be a generic scheme?

Andrew Fleming: There will be a generic scheme of delegation, but there will also be specific references where necessary.

Colin Beattie: I understand that any revenue streams from the properties will accrue to historic environment Scotland. Any change in that could affect the organisation's viability, given that the revenue stream must be quite substantial. Has anything been put in place to guarantee that?

Andrew Fleming: Are you asking whether the Government is guaranteeing that the revenue stream will come into—

Colin Beattie: Is there a guarantee that the revenue stream will accrue to the organisation? Of course we cannot say what the level will be, because that will depend on numbers of visits and so on.

Andrew Fleming: The clear policy intention is that the revenue stream will go to the new body.

Colin Beattie: What proportion of the new body's income will that revenue stream account for?

Andrew Fleming: I think that gross income is around £30 million, out of about £70 million.

Colin Beattie: That is quite significant.

Andrew Fleming: Yes.

Liam McArthur: There are plenty of properties that have no revenue stream—I can think of half a dozen in my constituency of Orkney. Will there be guarantees around requirements to maintain

properties for which there is not an incentive to look at ways of increasing revenue?

Andrew Fleming: The great opportunity in that regard is that through the scheme of delegation we will be able to be much more transparent about conservation of the whole estate—all 345 properties, and not just the ones that make a profit. The intention is for the scheme of delegation to specify conservation standards across the entire estate.

Liam McArthur: That is helpful, thank you.

Neil Bibby: What powers will transfer from the individual bodies to the Scottish ministers? Why do the Scottish ministers think that they need additional powers?

Andrew Fleming: I am sorry. Will you explain your question?

Neil Bibby: What powers will transfer from individual bodies to the Scottish ministers as a result of the bill?

Andrew Fleming: As things stand, all the powers lie with the Scottish ministers; we are transferring powers to the new body—historic environment Scotland—and retaining powers with the Scottish ministers. If you like, I can try to explain—

Neil Bibby: No, that is okay. You are saying that no additional powers are moving from individual bodies to the Scottish ministers.

Andrew Fleming: Yes.

The Convener: I would like to know what the split of powers is, if that is what you were about to explain.

Andrew Fleming: Perhaps my colleagues will help me with this, because there is quite an array of things to highlight.

As has already been discussed, the strategic policy function and responsibility for the whole of the historic environment, which previously sat with Historic Scotland, now sits with the Scottish Government and has done so since last year. That move came out of the historic environment strategy and the need for a more holistic approach to Government policy on the historic environment. The power to designate the historic environment in the heritage management area will transfer to the new body, and although ministers will retain powers over properties in care, they will delegate to the new body responsibility for their operation. The new body will also get powers over conservation and collections.

Noel Fojut will tell you what I have missed out.

Noel Fojut: The key point is that the new body will do the things that require decisions based on

professional knowledge. Ministers will keep the overall power of guiding and directing the organisation, as is only appropriate for an organisation that, despite its earnings, receives rather a lot of public money, but they will not get involved what you might call day-to-day casework such as decisions on individual grant applications, decisions on conservation work on individual properties or management of collections, archives and so on that have been held by RCAHMS and Historic Scotland. In general, what might be called operational activities will move across to the new body, leaving ministers to look at the direction in which the great ship historic environment Scotland is sailing instead of interfering with the work of the ship's officers and crew.

Neil Bibby: Obviously the board will be set certain outcomes to meet in order to deliver the strategy. What will happen if the board does not achieve the expected outcomes?

Andrew Fleming: Scottish ministers have two roles: first, they have responsibility for establishing the overall policy and strategic context for the historic environment as broadly defined and, secondly, they have responsibility for setting and accounting for the organisation's role. In response to the specific question, ministers will hold the board of the new body accountable for delivery of its targets as specified in the corporate plan, which will be agreed in dialogue between the body and ministers and which, once set, will clearly establish the body's requirements. Through their sponsorship role, ministers will, as with any public body, hold that body to account and report to Parliament on progress.

Neil Bibby: On a more general issue, how will the merger be different from or improve on previous organisational changes?

Andrew Fleming: As we have been discussing, both at this meeting and earlier, the merger has two elements. The first is the strategy for the historic environment, which has been broadly developed and shared with the sector and which sets the broad direction for activity around which the whole sector can promote better benefits for the historic environment and the people of Scotland.

The other element is the simple merging of two bodies. The benefit of creating a new body to deliver the strategy is that we will get much more partnership working and cohesive activity, which will have more impact on communities.

You might also want to ask me where those benefits actually come from. They will come not only from the educational functions that we have heard about but from place making. The historic environment is a key element of making good places for people to live and work in by providing

context and connecting them to their place. By protecting the historic environment and, indeed, enhancing it in line with the development of an area, you can create better townscapes, cityscapes and places to live. People will engage in all of that through civic participation and volunteering, and you will create a better sense of wellbeing in ordinary people.

There are other elements—*[Interruption.]* I am sorry, Mr McArthur. Did you want to say something?

Liam McArthur: I thought that I was being subtle.

Andrew Fleming: I could stop there, before I move on to other benefits.

The Convener: If you do not mind. It sounds fantastic—it sounds great. We have heard a lot about the strategy, but what has not been clear is who is ultimately responsible for its successful delivery.

12:15

Andrew Fleming: The strategy is essentially a partnership arrangement involving a range of different bodies that have their own reporting arrangements: the National Trust for Scotland; voluntary sector organisations; individuals, to an extent; and professional bodies and groups. In a sense, you are asking whether Government can control all those entities, and clearly it cannot. However, Government can, through the cabinet secretary chairing that board, attempt to bring the bodies together so that they move together to deliver good outcomes for the historic environment. Government can persuade, encourage and engage to try to achieve that outcome.

Ultimately, the cabinet secretary has taken the strategy on board. It was published by the Scottish Government, but we have made very clear that it is the product of collective endeavours around the sector. We are taking it forward through the governance structure and the various working groups that sit underneath it.

The Convener: I am not entirely convinced by that. Effectively, the Government publishes a strategy and delivery is a collective responsibility—I know that that sounds very touchy-feely—for the sector, but I am not getting a clear idea of responsibility and accountability from your answer.

Andrew Fleming: We might be challenged on whether the Government can tell the NTS what to do or not do, and clearly the answer is that it cannot, because the NTS is a private body. However, the NTS is a fundamental player in the delivery of the historic environment strategy, so we

want to work with it, and the cabinet secretary has already had many discussions to agree to take forward collectively common projects and plans. That is the broad structure. Individual groups sit underneath that, and they seek to take forward individual endeavours in the areas of education volunteering, working with local government and heritage tourism. One of those groups is looking at how we measure success, so that the sector can agree what good outcomes are and can collectively endorse them.

Achieving such outcomes is similar to the process of taking forward early years intervention, in the sense that it involves bringing people and resources together, as happens in justice and in other policy areas where such endeavours are needed.

Liam McArthur: It is interesting that you point to early intervention. In relation to the Children and Young People (Scotland) Bill, which has just completed its passage, there was a concern that was similar to the one that the convener has alluded to: if everybody is responsible, there is a danger that nobody is responsible. In a sense, that was one of the underpinning arguments for the named person approach.

In your initial remarks, you seemed to suggest that the merger of RCAHMS and Historic Scotland is critical to the delivery of the strategy, and that without the merger of the bodies we could not have a strategy in anything like its current form. Is that your view?

Andrew Fleming: It would be much harder without the merger. The sector is quite diverse in nature and has a lot of players. The strategy also delivers a policy outcome that supports many others. It is more of a second division issue rather than a first division issue. It supports planning and place making, wellbeing, regeneration and other public policy areas. By bringing the sector together around a strategy with shared outcomes, you can have much more influence in other public policy agendas.

Liam McArthur: I can understand the rationale for bringing the bodies together and the benefits that you expect from that, but you could lose the distinctive characteristics of the two individual organisations. RCAHMS is very much an impartial organisation that provides advice and support and which operates and functions differently from the way in which Historic Scotland operates and functions—Historic Scotland, perhaps of necessity, has been more partial. It is difficult to see how, in bringing those two organisations together, you can retain the best elements of both. In order to function, an organisation must adopt a character, whatever that character may be. Is that something that we will lose?

Andrew Fleming: In creating an NDPB, one of things that we are doing is giving a proper place to the professionalism and professional decision-making that sits around all the decisions. Although I see how the royal commission could be typified as being more of an academic and objective institution, professionalism and objectivity also exist within Historic Scotland around decisions on consents, listing and so on. Academic rigour is part of—

Liam McArthur: I was in no way suggesting that there is a lack of professionalism or rigour within RCAHMS.

Andrew Fleming: I know.

Liam McArthur: I was talking about the way in which it engages with the sector and how that reflects the character of the organisation. I am struggling to understand how that can be retained. Presumably, the new body will have a character and approach that will be consistent across the organisation.

Andrew Fleming: Noel Fojut will speak to that.

Noel Fojut: I should probably declare an interest, in that I worked for Historic Scotland for 30 years before I transferred to the Scottish Government about six months ago. It is the case that the organisations have distinct characters, but within the organisations—particularly within Historic Scotland—there are also distinct sub-characters. When one deals with the architects about a matter of architectural conservation, one uses language that is different from the language that one uses when dealing with the commercial and tourism people about developing a tourist activity. I am sure that those sub-cultures will exist in the new organisation: different types of language will be used and different types of interaction will go on, depending on the purpose of the interaction.

On the question of there being a clear separation, people sometimes forget that it is not always useful to have impartial information. At the moment, a developer or someone who is thinking about buying a plot of land would go to RCAHMS and ask about the historic environment features of interest on that land, and it will give a helpful and responsible answer. Nowadays, people can probably do that for themselves online. However, the next question will probably be, “What does that mean for what I can and can’t do on that land?”, to which the answer is that they will have to speak to Historic Scotland about that. That aspect of the distinct cultures, which might be holding things back, will disappear under the bigger vision of working together.

There will be swings and roundabouts. There will still be distinct cultures within the organisation, and they will evolve and change over time. The

Historic Scotland that I worked for until recently is nothing like the organisation that I joined 30 years ago. The key question is whether those changes in culture are driving the organisations towards more openness, more joining up of information and providing services that are better for users. That must be the key test, and I am sure that ministers will hold the new organisation firmly to account in that regard.

Liz Smith: I seek clarity from Mr Fleming on the question of strategic accountability. Before I ask my question, I declare an interest as a member of the National Trust.

Mr Fleming, you said that the strategy was a collaborative piece of work that put together a lot of people who decided the key strategic points. I think I am correct in saying that you said that the National Trust was part of that work, but that, obviously, the Government is not able to tell the NTS what to do.

What happens if the strategic interests are not quite agreed on a specific issue that relates to a body over which the Government does not have that power of direction? Who is accountable for any problems in the strategy?

Andrew Fleming: It is very difficult to put that into a specific context. The point is that we collectively agree that these are good outcomes. I imagine that there will be ways of working around any particular issue but, by bringing everyone together to agree the strategy, we have a moral agreement that it is a good thing and that we should all work together. Arrangements will always need to be made around who is best placed to take forward individual projects—who is available to do them and who can do them—but those arrangements will have to be negotiated on the ground in each individual circumstance.

The document is very much akin to George Reid’s team Scotland approach, which was about working together across the sector, sharing rather than competing and collaborating or finding ways to work together. Some of the principles of sharing information and working together are enshrined in that approach. In many ways, it could be described as a very simple approach: we all want to follow it, and we do so throughout most of our lives. The document is important for the sector. People who give evidence to the committee will be able to report their own view of it, but it will take the sector forward in agreeing a platform of activities.

Liz Smith: I understand that. I listened carefully to the answer that you gave to the convener and I totally accept and fully understand how the strategy has been developed. I am asking about a potential situation in which an issue arises because the strategy is not being delivered

particularly effectively. It is the accountability that I am interested in, given that the Scottish Government does not have terribly much say over some of the players or institutions that have developed the strategy.

Andrew Fleming: At the end of the day, as we have published the strategy, it will be for us to report, on a regular basis and, we hope, collectively with the sector, on how the sector is progressing. We will report transparently through that process, so any particular issues will be identifiable. I am not sure whether that answers your question.

Liz Smith: Like the convener, I am not sure that I am entirely persuaded.

Andrew Fleming: Okay—sorry.

The Convener: As we go through the process and take more evidence, we will return to these subjects.

Mary Scanlon: I have a brief question. We know that the corporate plan will be delivered 12 months after the start-up date. The financial memorandum gives significant details on cost—no doubt it achieved that following discussions with the two organisations. Is there sufficient baseline data? Have key performance indicators been agreed at this stage? Did you have absolutely clear information on the national outcome KPIs as well as on the cost savings in providing the information in the financial memorandum?

Andrew Fleming: We worked closely with the organisations to develop the best available information for the financial memorandum. As with all information, it has a particular currency and is of its moment, but we tried to respond to the uncertainties by identifying where there is greater or less certainty in the data and then using optimism bias. That optimism bias was applied in the calculations.

Mary Scanlon: You say that you worked with the organisations to develop the information, but I would have thought that the organisations would have done more to develop KPIs. You say that they are totally signed up to this and that the cost savings will be achieved.

Andrew Fleming: Yes.

Mary Scanlon: The baseline data is there.

Andrew Fleming: Yes, it is in the financial memorandum, and we believe that it is robust and accurate.

Mary Scanlon: On KPIs, I have been looking at the national outcomes and, as an economist, I believe that some of them are slightly difficult to measure. The one that is most relevant to the issues that we are discussing is national outcome 12, which is:

“We value and enjoy our built and natural environment and protect it and enhance it for future generations.”

What key performance indicators are being developed or are in place so that we can measure progress on that?

Andrew Fleming: From memory, the current indicator for that is buildings at risk, which is an indicator of list A buildings that are assessed as being at risk. By risk, we mean that they have an uncertain future. That indicator is measured through the Scotland performs website and within the national performance framework. It is monitored on a two yearly basis, I think, using data that is collected by the royal commission. That is a proxy measure for the condition of our historic environment.

Mary Scanlon: I can understand very well the point about buildings at risk, but how do you measure how much we “value and enjoy” the built environment?

Andrew Fleming: There are various measures of levels of participation in the historic environment, such as measures of visitor numbers, recorded access to records, recorded school visits and the number of members of the National Trust for Scotland and Historic Scotland. There are other measures around events such as doors open day, Scottish archaeology month and volunteers, which I mentioned.

Mary Scanlon: Do you expect all those measures to be enhanced as a result of the merger?

Andrew Fleming: Absolutely. Jumping back to the strategy, we are trying to share that measurement across the sector. Some of the measurements are similar to the ones that the NTS uses. If we bring them together and create a common framework for measurement, we will understand not just what individual organisations contribute to the historic environment but the broader collective benefit.

12:30

Colin Beattie: I have been looking at the issue of definitions. Some of the terminology in the bill seems to be capable of being interpreted quite widely. Also, there is no definition of the term “historic environment”, and the policy memorandum is a wee bit abstract on that. Is that a problem?

Andrew Fleming: We do not believe that it is. The historic environment is one of the issues that we addressed as part of the historic environment strategy, and it is defined in that document. The sector wrestles with exactly what the historic environment is, and we explored that issue when we started discussions around the strategy. The

definition that you see in the strategy is a product of the sector coming together to agree a common definition that seeks to be a focus, because in the past different organisations have identified it in different ways. In the strategy, we have a common definition that resonates for all the organisations that are involved.

Colin Beattie: There are other issues of terminology. For example, what is a collection and what is an object? Is there not a danger of overlapping with other organisations?

Jennie Marshall (Scottish Government): We certainly recognise—we refer explicitly to this in the policy memorandum—that many organisations hold collections that relate to the historic environment, and we value their place within the overall framework.

As you would expect, there are existing overlaps between the two bodies and other collections in terms of the broad definitions of what they may collect. However, there will be a collecting policy for historic environment Scotland that is much more about refining exactly what it will collect. As Diana Murray mentioned, there have already been discussions with, for example, the other national collections, and we are working closely with bodies such as National Records of Scotland in developing the policy to ensure that different collecting bodies have complementary, but not overlapping, roles. Ministers are dedicated to the success of all the collecting bodies in the portfolio, and to have unhelpful overlaps would be detrimental.

Colin Beattie: I note your intentions, but are there any legal issues here? Are you going to encounter legal problems because you do not have clear definitions of any terms?

Jennie Marshall: The Government's view is that there are no legal issues with the definition. Many other terms in the bill are also not defined, and many of them are also found in other bills. For example, the word "education" would not necessarily have a specific definition in a particular bill. It is important that policy and practice over time are allowed to define how the terms are used.

The point that was made earlier about electronic formats of collections is important. We hope that the legislation will exist for a long time. Electronic formats could not have been envisaged, say, 50 or 100 years ago, and we do not want to unnecessarily restrict the body's collecting practices in the future. As we cannot envisage the circumstances that it will face, we have to ensure that the bill is future proof so that the body can flex and change to meet the demands of the day.

The Convener: Can I take that a step further? I seek some reassurance from you on the definition of the term "historic environment", which Mr

Beattie started his questions with. If there is not a clear understanding by all bodies of exactly what the term means, is there not a danger that organisations could stray beyond their responsibility into areas in which other organisations work? To put a common phrase on it, is there any danger of a turf war between the new body and other bodies if there is not a clear definition of historic environment?

Noel Fojut: As Diana Murray and Jennie Marshall alluded to, the way in which the organisation works relative to other organisations will be the key.

The difficulty with a tight, clearly defined and specific definition of the term "historic environment" is that although there is agreement about what that is now, the understanding changes. For example, 20 years ago everyone was interested in battlefields. However, if the definition of historic environment had been taken to be what Historic Scotland did, that would not have included anything to do with battlefields. Having a loose or flexible definition, or not having a definition at all, allows certain aspects that might have been ignored previously to be recognised as heritage or historic environment; proposals can be worked up about how to integrate that with the generally accepted understanding of historic environment and move forward.

If rigid boundaries are put around what the body would do, in effect that would fossilise things. For example, in 50 years' time, everyone could end up asking what has happened about the heritage of X area that is not regarded as historic environment and the answer would be, "Oh, we've done nothing about it, because it's not in our remit." A further example is industrial archaeology—30 years ago that was not thought of as heritage, but now it is pretty much considered to be mainstream and there are major visitor centres and huge tourism interest around that area.

What is considered to be the historic environment changes over time. It is appropriate to leave the definition flexible, but there will be boundaries because it will be continually reviewed. Should the organisation dive off down some strange alleyway, it could be asked whether it is sure that that is the correct place to prioritise the limited resources that are made available.

The Convener: I was not for a moment trying to suggest that you should put rigid and inflexible boundaries around what you do; rather, I was suggesting that there must be clear understanding about where those boundaries are. Would that be the case?

Noel Fojut: It is clearly understood where the boundaries are—the strategy sets out how they are defined. Nonetheless, the boundaries are quite

fuzzy. They include associations and what sites, monuments and buildings mean to people. Those meanings change, so around the core of the physical surviving remains of the past is a hugely important cloud of associated significances and meanings.

It is very difficult to legislate directly for significance, meanings and so forth so, in a sense, it is necessary to concentrate on the work that can be measured as the physical core of the historic environment. However, that is done in such a way as to not neglect the fact that that historic environment matters to people because of significances, which could be personal or historical associations and either very individual or general things. Consequently, the work centres on what survives from the past. Why people value and benefit from the historic environment is largely about what that means to them. It would be extremely difficult to capture that meaning in a definition that would sit happily in a piece of legislation.

The Convener: I am sure that we will receive evidence on the definition from other organisations, so we will be interested in how they view that particular point.

Liam McArthur: You will have heard the exchange with Ian Walford and Diana Murray about the calls in some sections for the merged body to have a more regionalised structure. As I understand it, that approach has been taken south of the border subsequent to merger. I suppose that that is an approach that is seen in SNH and other organisations north of the border. Has much thought been given to that? What can you say about what is envisaged in that regard?

Andrew Fleming: We would see those as operational matters for the board to consider. We would want the body to operate efficiently and effectively and to have geographic connections. To some extent, Historic Scotland has much of that structure in place through the conservation depots that exist across the country and its heritage management team has geographically specific people focusing on individual local authorities. Furthermore, Historic Scotland is engaging in and supporting community planning partnership structures in that process. The new body would need to take a look at that and agree how best to engage at a local level and to put in place that structure as appropriate.

Liam McArthur: That is helpful. I dare say that I will follow up on that issue. The apprehension with mergers is that what looks administratively efficient does not necessarily give the organisation the character or the reach into those places outwith the centre.

Ian Walford and Diana Murray gave a fairly thorough going over of the justification and the benefits to moving to charitable status. I am interested in your take on some of the concerns that have been raised about a crowding-out or displacement effect were historic environment Scotland to move into the area where the National Trust, university departments and so on currently seek vital funding for their operations, and whether what you have is less of a partnership than a dominant player around which everybody else is forced to operate on its terms.

Andrew Fleming: For me, that is the debate that sits in the strategy. It is about growing the cake, as Mr Walford said, and ensuring that ministers hold the body to account to support the delivery of the strategy. In terms of their role for the wider historic environment, ministers will not want the unintended consequence of bodies suffering as a result of an organisation that, through its scale, is more successful or displaces money. That is not what the approach is about.

We have spent a lot of time in encouraging a different approach and a different level of engagement to foster partnership engagements, working with organisations at community level and community groups. That is very much what we want the new body to do and that sits within the drafting of the responsibilities in the bill, regardless of whether the new body gets charitable status. It is for the board to decide on charitable status and for the Office of the Scottish Charity Regulator to approve it, once the board is established. We have said that the body will work in partnership with organisations, which is fundamental. We would not expect to engage disproportionately in that process.

Liam McArthur: That is an interesting perspective. Can you see a situation whereby the relative roles and the types and sources of funding are not necessarily set down in legislation, which would be inappropriate, or even in a more formalised sense but are presented in such a way that it is clear where the sources of funding are likely to come from, not just for the merged body but for the other players and partners in this sphere, in order to provide some reassurance that we are not simply seeing Peter being robbed to pay Paul?

Andrew Fleming: If you look at the financial memorandum, you will see that most of the benefits that we have identified from charitable status relate to gift aid and rates relief, primarily, with a small element of donations. There is no expectation that suddenly there would be a great opportunity to secure money at the expense of other organisations. As we have said, that would just destabilise the sector and not achieve a positive outcome; it would make it even harder for

the organisation to work with partner organisations if they become comparable. We do not see that becoming an outcome. Indeed, ministers can use their broader sponsorship powers—the powers of holding the body to account—to ensure that that behaviour does not happen.

Liam McArthur: Again, this is probably less for the bill and more for the strategy, but is there anything that provides a degree of comfort that we will not see lottery funding in particular simply being used to displace funding that has traditionally come from central Government?

Andrew Fleming: At the moment, Historic Scotland and the royal commission can apply for, and to some extent have benefited from, heritage lottery funds.

Liam McArthur: It is the additionality that has been key and has underpinned the rationale for lottery funding. As I said, this is probably more for the strategy than for the bill, but is there anything that would give some comfort that we will not see that additionality eroded?

Andrew Fleming: Primarily, we would not be seeking for the organisation to pursue those particular avenues through the sponsorship role. Where it is appropriate and where the organisation enters into partnership with other organisations and funding is possible, that is fine, but we would not be seeking to compete there. We would seek to hold the organisation to account through the sponsorship role as well as through the discussions in the strategy to ensure that people are working collaboratively. For example, the heritage tourism group involves NTS, the Historic Houses Association and Historic Scotland working together to grow the heritage tourism cake. That is their *raison d'être* and that is why they will work together.

It is not about gaining advantage at the expense of another player but about working together to grow the tourism cake and collaborate on it. The collaborations could be around issues such as ticketing and other elements that are appropriate for the bodies. We do not necessarily want to specify what they are, because the organisations have to decide that. However, those are the sorts of arrangement that we want to be achieved through the strategy discussion.

Clare Adamson: What are the technical reasons for the necessity of dissolving RCAHMS by primary legislation? Why has that approach been taken?

12:45

Noel Fojut: The royal commission was set up by royal warrant in 1908, so it is in itself part of our cultural heritage. The normal provision when such

a body ceases to undertake its functions is that it simply ceases to exist. Once the new organisation has been set up, the board has had its six-month breaking-in period and everyone is convinced that it is the correct time to transfer the staff, assets and responsibilities across to the new organisation, RCAHMS would cease to have any purpose.

We have looked into this and, strangely enough, there is no requirement to do anything other than say that the body is finished with its work. There is no process whereby Her Majesty has to issue a dissolving warranty; it is sufficient to say, as we have provided in the bill, that at a particular date the provision will be commenced that the royal commission will be dissolved. We had some interesting discussions about the word “dissolved”, which seems a bit disrespectful. However, that is the word that is used in statute, so we had to stick with it. We were hoping, though, for something a bit more celebratory.

Clare Adamson: May I have a final question, convener?

The Convener: I just want to clarify a point first with Mr Fojut. My understanding is, as I think that you have just said, that there is no legal necessity to put the dissolution of RCAHMS in the bill and that it can just say that it is finished.

Noel Fojut: That is correct. We could simply have let the body disappear.

The Convener: So why did you provide for its dissolution in the bill?

Noel Fojut: We did so simply for the avoidance of doubt, otherwise people might have said in three, four or five years' time that nobody had told them that RCAHMS had stopped functioning, or people might have wondered whether the body was still hiding out there undertaking some very small function that they were not aware of. We put the dissolution of RCAHMS in the bill so that it is clear that there will be a point at which it will be decided that everything is safe to go to a handover and that the commissioners can be stood down with, I hope, a degree of honour and celebration. However, you are right to suggest that it is a belt-and-braces approach; we could simply have decided to let the royal commission die once all its functions were gone, without any mention that that was the case. However, it seemed appropriate to mention it for the sake of clarity.

The Convener: Thank you. Ms Adamson, do you want to ask another question?

Clare Adamson: No. That is fine. Thank you.

The Convener: I thank the team of witnesses for coming along to give evidence today, which has been very helpful. We might follow up on some questions as we go through the process. I

know that you will come back to us on some issues that you mentioned earlier.

Our next evidence session on the bill is likely to be in May, but it will certainly be after the Easter recess because we want to wait until all the consultation evidence that we have asked for has come in. Once all the written evidence is in, we will pick up the bill again.

I hope that this evidence session has been useful for members. It was important that we got an early start to discuss the bill with the bill team and others. I thank you all again for your help.

Meeting closed at 12:47.

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