



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

FINANCE COMMITTEE

Wednesday 10 February 2016

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FINANCE COMMITTEE

6th Meeting 2016, Session 4

CONVENER

*Kenneth Gibson (Cunninghame North) (SNP)

DEPUTY CONVENER

*John Mason (Glasgow Shettleston) (SNP)

COMMITTEE MEMBERS

*Jackie Baillie (Dumbarton) (Lab)

*Lesley Brennan (North East Scotland) (Lab)

*Gavin Brown (Lothian) (Con)

*Mark McDonald (Aberdeen Donside) (SNP)

*Jean Urquhart (Highlands and Islands) (Ind)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Malcolm Beattie (Northern Ireland Public Sector Innovation Lab)

Peter McColl (Nesta)

Dr Colin Sullivan (Northern Ireland Public Sector Innovation Lab)

John Swinney (Deputy First Minister and Cabinet Secretary for Finance, Constitution and Economy)

CLERK TO THE COMMITTEE

James Johnston

LOCATION

The David Livingstone Room (CR6)

Scottish Parliament

Finance Committee

Wednesday 10 February 2016

[The Convener opened the meeting at 09:30]

Decision on Taking Business in Private

The Convener (Kenneth Gibson): Good morning and welcome to the sixth meeting in 2016 of the Finance Committee of the Scottish Parliament. I remind everyone to turn off mobile phones, tablets and other electronic devices.

Agenda item 1 is a decision on whether to take item 5 in private. Do members agree to do that?

Members *indicated agreement.*

Scottish Fiscal Commission Bill: Stage 2

09:30

The Convener: Agenda item 2 is stage 2 consideration of the Scottish Fiscal Commission Bill. We are joined by the Deputy First Minister, who is accompanied by Alison Cumming and John St Clair of the Scottish Government. I welcome you all.

We move to the formal proceedings on the bill.

Section 1 agreed to.

Section 2—Functions

The Convener: Amendment 5, in the name of Gavin Brown, is grouped with amendments 6 to 11 and 13 to 16.

Gavin Brown (Lothian) (Con): The substantive amendments in the group are amendments 5 to 7, the combined effect of which is that official forecasts would be produced by the Scottish Fiscal Commission rather than, as currently under the bill, the Scottish Government. That reflects the conclusion that the committee reached in paragraph 69 of its stage 1 report, which says:

“The Committee, therefore, recommends that, in order to ensure that the Commission is seen to be independent, it should produce the official forecasts. The Committee believes that giving the Commission ownership of the forecasts in this way addresses many of the concerns we have raised in the previous section of this report on independence. If the Commission does not produce the official forecasts then these concerns could remain.”

Accordingly, amendment 5 instructs the Scottish Fiscal Commission to

“prepare reports setting out its forecasts of receipts from the devolved taxes”;

amendment 6 instructs the commission to

“prepare reports setting out its forecasts of receipts from income tax attributable to a Scottish rate resolution”;

and amendment 7 instructs the commission to

“prepare reports setting out its forecasts of receipts from non-domestic rates.”

I reflected the wording of the bill as closely as possible.

John Mason (Glasgow Shettleston) (SNP): You have put forward some of the arguments for the Scottish Fiscal Commission producing its own forecasts, but do you accept that a body can be independent while performing a checking function? For example, Audit Scotland, which is very independent, does not produce anything but checks other people’s work. The proposed approach leaves the question of who would check

the forecasts if the Scottish Fiscal Commission actually made them, given that the commission currently does the checking. Also, would there not be duplication of resources if both the Scottish Government and the commission produced forecasts?

Gavin Brown: On your point about Audit Scotland, auditing is, by its nature, backward looking, so it is a very different beast. We can distinguish auditing from forecasting reasonably straightforwardly.

I accept that there might be a degree of duplication, but let us look carefully at the sums that we are talking about. According to the financial memorandum, the maximum spend for the Scottish Fiscal Commission would be £850,000 per annum, but the commission would be looking at tax receipts of about £600 million in land and buildings transaction tax, more than £100 million in landfill tax, £4.9 billion in income tax—this year's figure—and something like £2.7 billion in non-domestic rates.

When we add all of that together, we arrive at more than £8 billion of public spend. Being out by a fraction of a percentage point could make a huge difference. Given that the commission's total budget will be £850,000, I think that we can easily argue to the general public that it is in the public interest to take a belt-and-braces approach, even if there is a degree of duplication. The level of duplication relative to the size of the sums that we are talking about is, in my view, de minimis.

On the question of checking, I think that the point is dealt with in the Organisation for Economic Co-operation and Development principles for independent financial institutions. The last principle, which comes under the ninth heading, "External evaluation", states:

"IFIs should develop a mechanism for external evaluation of their work—to be conducted by local or international experts. This may take several forms: review of selected pieces of work; annual evaluation of the quality of analysis; a permanent advisory panel or board; or peer review by an IFI in another country."

There are therefore clear ways of carrying out such evaluation, but it is not clear to me that with the current format we are getting independent external evaluation. I think that there are blurred lines between the advisory process and the evaluation process. It was unclear to the committee where one started and the other ended, which was one of the reasons why we reached the conclusions that we did.

Coming back to the specific amendments, I have outlined what amendments 5 to 7 do. As I have said, I have attempted to mirror the wording of the draft bill as closely as I can. Amendments 8 to 10 remove the commission's function of

assessing Scottish Government forecasts, which would be unnecessary if the commission was doing the official ones. Amendment 11 removes the definition of "economic determinants", again because the commission would be doing the official forecasts. Amendments 13 to 16 are technical in nature and reflect the changes made in amendments 5 to 7.

Presiding Officer—convener, I mean; I gave you a promotion there—I think that the committee made clear in its report why it reached this particular view. It was because of the quality of the evidence that we received, particularly from Dr Armstrong, Professor McGregor, Professor Peat and Chris Stewart. The current set-up leads to blurring. It is unclear where the challenge function stops and the evaluation function begins, and there are legitimate concerns that we could end up with advisers as opposed to an independent fiscal institution.

The commission has said to the committee on the record that it does not look at numbers or outputs, and it was unable, when I put the question, to say what would be classed as not reasonable. That caused me huge concern. By having the commission do the official forecasts, we avoid the optimism bias that can plague any Government; it removes the inbuilt incentive to be optimistic. Ultimately the commission needs to be independent and—just as important—needs to be seen to be independent.

I move amendment 5.

Mark McDonald (Aberdeen Donside) (SNP): I have a couple of points. Members will know from my statements in the chamber and discussions that we have had in the committee that I had some reservations around this area. Those reservations remain. After listening to Gavin Brown, particularly his citation of the OECD principle, I remain unclear as to the exact mechanism through which the work of an SFC that produces forecasts would be appropriately and adequately scrutinised.

Gavin Brown talks about checking after the fact, for example. However, we have seen from the reports that the SFC has produced that the commission is performing an on-going challenge function. Gavin Brown categorises that as an advisory role, but I see it as a challenge role; indeed, it is an important challenge role, because it ensures that when the final forecasts are produced, they have been subject to challenge throughout the process and then, at the end, they are subject to analysis by the SFC.

There is also a question around the independence of the SFC, as Gavin Brown puts it. I think that it would be dangerous for us to assume that the individuals on the SFC would not be capable of exercising their functions with the

degree of independence that we would expect from them.

The SFC's evidence makes it clear that it is discharging its functions with independence as well as taking on board the importance of its role. There is also a question here around individual reputation and credibility; if individuals on the SFC were authorising as "reasonable" forecasts that they were not convinced were reasonable, they would be staking their reputations and credibility against those assessments.

From that perspective, I am unconvinced by the proposed amendments. Gavin Brown has cited the OECD principle, but nothing in amendment 5 says how the forecasts would then be scrutinised or what the roles of different bodies would be. There had been discussion and debate about this committee having a role, but I would have great reservations about its—or a successor committee's—capacity and expertise to enable it to perform that role to the same degree as the SFC is currently doing. At the moment, I do not see where that question is answered in the amendments. The citation that Gavin Brown gave is helpful in outlining what he thinks will happen, but given that nothing that I see in the amendments would lead to that automatically being the case, I am afraid that at the moment I cannot support them.

John Mason: I echo quite a few of the things that Mark McDonald has said. My understanding is that, internationally, it is quite normal for the independent institution to do the challenging and checking and not actually produce the forecast itself. The situation is not totally black and white. On the visit that Jean Urquhart and I made to Ireland, it was clear that although the Irish equivalent had started off in a purely checking, examining and challenging role, it had started to do some of its own forecasts in specific areas. That is fine—I am quite happy with that—but that is quite different from saying that the main role of the Scottish Fiscal Commission as an independent body should be to produce the main forecasts.

I want to raise three points with Gavin Brown. First, independence is an issue that we discussed a lot during committee meetings. I am convinced that we get independence partly because of the structure, and partly because of the attitude of the individual people involved. You could have a good structure, but if you did not have the right people, you would not have independence. On the other hand, you could have all sorts of other structures, but you would still have independence if you had the right people. We might have put a little bit too much emphasis on linking independence only to the structure. If we get the right people—and they are, after all, going to be appointed by the Parliament—they can be independent. I still think

that Audit Scotland is a good model for that, as it can be very critical and challenging of Government at all levels and is widely seen as independent.

The question of who does the checking remains open. The Scottish Fiscal Commission itself has said that if it were to produce the forecasts there would need to be some kind of checking role.

Finally, on the question of duplication, I take Gavin Brown's point that the costs are not huge. However, they are already quite considerable compared with the costs in Ireland and Sweden—and given that we are tight for money these days, doubling up on forecasting is not where I would be spending any extra money that I had.

Lesley Brennan (North East Scotland) (Lab):

The importance of having an independent forecast ought not to be underestimated. I note John Mason's comment about getting the right people, but as somebody who has produced forecasts for different organisations, I know that you cannot depend solely on an individual's agency. There might be a model that everybody agrees on, but the variables that you put into the model will affect the outcome. You have to detach the politics from the economics. This is not a precise science. One of my degrees is a masters in science; it is in economics, and I know that economics is an art. It is about picking variables, and optimism bias will always be a significant factor. That is why peer review is important, but it is also why there really needs to be independence. The body must be at arm's length, and it must be independent.

Forecasting is not like audit. In auditing, you go through the actuals, and actuals are actuals; they are either right or wrong. Forecasting is a completely different ball game.

John Mason: I think that Lesley Brennan is being a little bit unfair to auditors—

Jackie Baillie (Dumbarton) (Lab): She is being perfectly fair.

John Mason: Auditing, which I have some experience of, is also about valuing buildings and a whole range of other things. I accept that that is not the major point, but my basic argument is still that independence comes more from the attitude of the individuals than from the structure. Does Lesley Brennan not accept that?

Lesley Brennan: You cannot just factor that in and say that it is going to be dependent on an individual's agency; you need to have the structure, too. That is why I think that Gavin Brown is right to say that the body needs to be independent in order to have credibility. I really do not think that we can pin the whole independence factor on an individual's agency.

09:45

Jean Urquhart (Highlands and Islands) (Ind):

John Mason has summed up what I was going to say. I, too, wanted to mention our experience in Dublin. Some forecasting was done by the Irish commission, but that approach had developed. What we are doing here is very new; we are at the very start of the Scottish Fiscal Commission. Indeed, the letter from Lady Susan Rice, the chair of the Scottish Fiscal Commission, is relevant in that context.

I feel that we are trying to anticipate issues and, by doing so, are perhaps creating problems where problems do not exist. We should let the Scottish Fiscal Commission do the job provided for in the bill but, as with everything that the Parliament does, the situation should be reviewed—and, in this case, reviewed in consultation with the commission.

Lesley Brennan: You talked about creating problems where they do not exist. A later item on today's agenda is prevention. Do you accept that we are trying to prevent problems from arising?

Jean Urquhart: Not really. The Parliament has been here for 17 years, and we are at the start of a process. We must acknowledge that we have professional people on the Scottish Fiscal Commission—people whom the Parliament accepted were the people for the job—and we should hear what they have to say, just as we hear what you have to say.

Lesley Brennan: I wonder whether I might make one final point. The Parliament's whole focus has been on a cultural shift from being reactive to being preventative, and it has been trying to mainstream preventative measures in health and other spheres. That is what this group of amendments is trying to do.

Jean Urquhart: You might also say that the establishment of the Scottish Fiscal Commission is a preventative measure. The approach offers a degree of reassurance and security. We should accept the bill as it is, on the basis that things can always be reviewed.

Jackie Baillie: This is the most important element of the bill, so it is critical that we get it right; after all, it is all about securing the independence of the commission for the future. I have heard what people have said about individuals, and with all due respect to the many individuals who are serving and will serve on the commission, this is about not them but the commission itself. It is about how we secure the operation of the commission for all time, irrespective of who serves on it. That is critical.

Gavin Brown has mentioned the OECD principles for independent financial institutions. It

is not beyond us to draw from that approach and put a robust scrutiny regime in place.

The Deputy First Minister has said in the past that other, similar bodies do not do the kind of forecasting that is envisaged and that that is not something that he has seen. In fairness to him, he has not said that in many of those other cases—in Ireland and elsewhere—there are other independent institutions that produce forecasts on which the commissions rely. There is no similarity with Scotland in that regard, because there are no independent organisations out there producing forecasts.

Mark McDonald: Do you accept that, as Jean Urquhart has pointed out, we are at the beginning of a process? The independent institutions that exist elsewhere have been absent from Scotland because until now there has been no requirement for such a role to be performed here. Perhaps we need to develop the capability and capacity of such organisations—some of which have given evidence to the committee—to allow them to undertake that function.

We have also taken evidence from the Office for Budget Responsibility, which has said that although the OBR produces forecasts it is in the gift of the Treasury to ignore and reject them. Would you be happy with a situation in which the Scottish Government could do the same thing?

Jackie Baillie: I do not think that the Scottish Government would reject forecasts; I think that it would seek to work with whatever commission was in place to arrive at a conclusion. That has certainly characterised the method of operation so far so, as far as Mark McDonald's second point is concerned, I do not see that as an issue.

In relation to his first point, Mr McDonald has put forward one argument that could be made, but surely when we have the opportunity to set out in legislation what a fiscal commission should do, we should take that opportunity instead of hoping that somebody else out there might do those independent forecasts. We have no control over those organisations, but we do have control over the bill that is before us, and I would hate us to miss the opportunity that it presents.

Many witnesses, including—and I would like to highlight this to Jean Urquhart—professional people from the Royal Society of Edinburgh and others besides, have made a compelling case for why the commission should do forecasting. I respect Lady Rice, but the fact is that others hold a differing but equally valid point of view, and it is our job to balance that.

Irrespective of the Government—because this will impact on future Governments, too—this is all about setting out how we want to proceed in future. We need to be quite clear that we should

have a robust scrutiny regime and that we have nothing to fear from that, and I think that giving the commission the power to forecast and to be responsible for forecasting is exactly what we should be doing.

The Deputy First Minister and Cabinet Secretary for Finance, Constitution and Economy (John Swinney): I acknowledge that this is a central issue for the debate and I respect the committee's interest and the energy that members have applied to considering the issues as part of their scrutiny of the bill and of the wider questions with which the committee has been engaged for some considerable time.

I would like to go through some points of principle and some points of detail about the amendments that are before the committee today. As the committee knows, I believe that the core function of the statutory commission should be to independently scrutinise and report on the Government's forecasts of tax revenues published in the Scottish budget. I have previously set out to the committee my view that Scottish ministers should be responsible for the production of tax revenue forecasts and should be directly accountable to Parliament for those forecasts.

The Scottish Government's proposed approach maximises the transparency of the forecasting process and maximises public value by ensuring that the forecasts underpinning the Scottish budget are independently assured as reasonable. There is indisputable evidence that the weight of international practice favours the approach that is provided for in the bill as introduced. That is clear in the Scottish Parliament information centre briefing on the bill and in the various OECD publications. Twenty of the 23 independent fiscal institutions that are in place in OECD countries do not prepare official forecasts. They independently review those forecasts and some of them may also prepare alternative forecasts—something that the Scottish Fiscal Commission is already, and will continue to be, empowered to do.

There are also practical and resourcing issues to consider. The Scottish Government would need to retain a forecasting function to support policy development and responsible management of Scotland's public finances. The amendments would inevitably increase the operating costs of the commission above those that are provided for in the financial memorandum. They would either give rise to significant duplication of effort and resources, at significant cost to the public purse, or lead to a replication of the OBR model, whereby fiscal forecasts continue to be produced by Scottish Government or Revenue Scotland staff, potentially threatening the commission's independence. That is an important point, given the evidence that the committee heard from

Edward Troup of Her Majesty's Revenue and Customs. Mr Troup made the point that the groundwork and the detailed work in the preparation of OBR forecasts were invariably undertaken by officials of Government, and that that had the potential to undermine the independence of the OBR. That is my interpretation of Mr Troup's remarks.

John Mason: That is an interesting point. Would the cabinet secretary therefore say that the OBR is not completely independent, in the sense that it is impossible to have an organisation that is completely independent, because it needs input from the other side?

John Swinney: It is perfectly possible for an organisation to be independent in its decision-making capability because, once presented with the evidence and information, that body can determine and take forward its stance. What we have to be careful about—and I think that this is the point that Mr Troup was making to the committee—is the danger that, although we may label an organisation such as the OBR as independent, its source of information and of interpretation of a lot of data is actually the Government.

Therefore we have to be careful about the degree to which we believe an organisation to be independent in that respect. In the model that I am putting forward to the Parliament, it is crystal clear that the Government is doing the forecast and then the Fiscal Commission—free of Government and absolutely distinct from Government—is able to challenge that forecast.

Aside from those issues of principle and practical application, I consider that Mr Brown's amendments would not provide for a workable statutory solution should the commission be required to prepare official forecasts.

I would like to go through some technical issues for the benefit of committee members in their discussions today. The amendments would reduce rather than increase the scrutiny of forecasts used in the budget. They make no provision for timely, independent checking of or assurance over official tax forecasts prior to their inclusion in the Scottish budget. The amendments would undermine the challenge to which official forecasts are subject and lead to a diminution of scrutiny, with a consequent increase in the risk that forecasts may not be robust. That concern was also raised by the Fiscal Commission when it gave evidence to the committee in November.

It is not clear how Parliament, the Government or the public will be assured as to the robustness of the forecasts, which are critical to determining the level of resources that are available for allocation in the Scottish budget and critical for the

responsible management of Scotland's public finances.

Parliament and the public would be reliant on the existing requirement for the commission to subject its performance to independent review at least once every five years. I believe that that could undermine or even threaten the integrity of the Scottish budget. Furthermore, the amendments do not address the additional access to information that the commission would require if it were to prepare official forecasts.

The commission would require statutory rights of access to additional sources of information, in particular to support the proposed new function to prepare forecasts of revenues from non-domestic rates. The amendments therefore do not equip the commission to prepare robust and reliable tax forecasts.

The amendments to section 4 do not require the Scottish Government to use the forecasts prepared by the Fiscal Commission to underpin the Scottish budget. It would remain open to Scottish ministers to make their own forecasts and to use those forecasts in the Scottish budget, just as the charter for budget responsibility enables the United Kingdom Government in effect to disregard OBR forecasts. It is therefore not clear what public value is served by the amendments. The commission would be required to produce forecasts, but the Government could simply replace them with forecasts of its own.

Indeed, in her comments to the committee, I think that Jackie Baillie accepted that the existing SFC arrangements essentially subject the Government to accepting the SFC's analysis and perspective because of the test of reasonableness that is inherent in the Government's—

Jackie Baillie: Would the cabinet secretary give way on that point?

John Swinney: Of course.

Jackie Baillie: Gavin Brown has already demonstrated that the test of reasonableness is such a high one that there are going to be very few occasions, if any, when the Fiscal Commission is not going to say that your assumptions have been reasonable.

John Swinney: I do not share that opinion, for many of the reasons that Lesley Brennan put to the committee earlier. There will be assumptions that will underpin the forecasts that are made. Those assumptions are utterly exposed to challenge by the Fiscal Commission. If the commission considered the assumptions that the Government made in its forecasting not to be appropriate or correct, it would explain—just as Lesley Brennan set out earlier—the basis on which it judged our forecasts not to be reasonable.

The test is one whereby the assumptions made by the Government must be subjected to significant rigour of analysis.

Amendments 15 and 16, which would amend reporting functions in section 4, do not provide for a workable process by which the commission prepares forecasts to feed into the budget process. There is no indication of how the forecasts are to be provided to the Scottish Government in time for it to prepare the draft budget. Forecasts that are delivered on the day of the budget are of no purpose in setting a budget that must be finalised several days before the budget announcement is made to Parliament. Indeed, section 4(1), as amended by amendments 15 and 16, would not require a report on all matters in time for the budget; it would require a report on only one of them. If so minded, the commission could choose not to produce devolved tax forecasts.

I suggest that that is a fundamental weakness of these amendments. They clearly do not provide a workable legislative vehicle by which the commission could be required to produce official tax forecasts to support the production of the Scottish budget. Critically, the Scottish Government would be under no obligation to use the commission's forecasts when preparing its budget. The amendments would create duplication; they could dramatically increase costs; they make no provision for access to relevant information; and they do not provide for independent scrutiny of the forecasts that underpin the Scottish budget. That places the integrity of the budget at risk.

10:00

I recognise the aspiration of committee members to address the issues that motivated the formulation of these amendments. I would like to offer the committee the opportunity to discuss with interested members, well in advance of stage 3, how members' aspirations may be addressed. I also would like to provide better reassurance about the contents of the provisions inherent in these amendments.

I invite Gavin Brown not to press amendment 5, and not to move the remaining amendments in the group. If the amendments are pressed, I urge members not to support them.

The Convener: I call Gavin Brown to wind up and decide whether to press or withdraw.

Gavin Brown: There was a huge amount covered there, so I hope that you will bear with me as I address each point in turn. The first point was that there are currently challenges to the budget, and that everything is transparent. However, we know that that is not correct because there was a

challenge to the forecast for non-domestic rates last year, and we still do not know what fiscal changes were made between the initial forecast and the published one. Therefore, there is a lack of transparency and, in my view, the bill as drafted does not change that.

Mark McDonald: I think that the cabinet secretary has been on the record about this. Does Gavin Brown not accept that putting two different forecasts into the public domain, rather than putting forward only the forecast that has been assessed as reasonable and which has been subjected to challenge throughout the process of compiling it, would lead to confusion? That is why the Scottish Government has only ever put forward the final forecast that has been arrived at following that challenge process.

Gavin Brown: I entirely accept that the cabinet secretary said that, but I think that one of the weaknesses of the bill is a lack of transparency caused by not being able to see both forecasts. Mark McDonald may remember signing up to a recommendation in the committee report that everything ought to be published, so it is interesting that he brings that argument forward at this stage.

John Swinney: Gavin Brown makes a reasonable point, but I think that he is confusing two things. One is the transparency of the process, and the other is the exercise of a challenge function. The Fiscal Commission said—and I confirmed this—that it exercised a challenge function, because it led me to change the forecast. It is beyond dispute that the commission exercised that leverage over me.

Mr Brown also raises the issue of transparency, which is fair. That issue is about whether all the traffic regarding the change in forecast should be published. It is reasonable that that issue should be addressed. It has always been my view that we should not have competing numbers, as that may lead to a question as to which is the right number. That is why we settle on one forecast. However, if publishing the traffic around how that was arrived at would help transparency, I am entirely prepared to consider that.

Gavin Brown: I certainly welcome that. I think that that is a change in your position from the last time that you gave evidence.

The second point we hear is that, because those on the commission are capable individuals, they would not say that the budget was reasonable unless they thought that it was reasonable. I suspect that that is probably correct. However, witnesses pointed out to the committee that “reasonable” is an extremely low bar to set. After our report, we took evidence from members of the commission on that point. I stress that they

were unable to give us a single number that could be classed as unreasonable. They told us specifically that they do not look at the numbers or the outputs but at the methodology. For that reason, I do not think that there was a genuine, full assessment that could be seen to be independent.

The cabinet secretary raised the issue of international practice. He suggested that the changes that I have suggested would somehow make us an international outlier, or certainly close to being one of those outliers. Actually, the changes that I put forward bring us closer to international practice than the current bill is. Yes, it is a matter of fact that the majority of OECD independent fiscal institutions do not do the official forecast, but there is not a single IFI on the planet that I, or the Government, have been able to find that looks only at the official Government forecast, does none of its own forecasting and does not have another independent forecast to use as a benchmark for the Government’s forecast.

Mark McDonald: Mr Brown will know that there is nothing in the bill that prevents the SFC from undertaking its own forecasting. The cabinet secretary has confirmed that on the record today, so to categorise it as a fiscal institution that does not do its own forecasting is incorrect.

Gavin Brown: I do not agree. The OECD principles say pretty clearly that the functions of an IFI should be on the face of a bill, and it lists examples of functions, including forecasting. Forecasting is not on the face of this bill, and I think that there is a severe danger that the SFC will argue that it is not in its official remit to produce them and that they will not be produced.

When you add to that the statements over a period of time from the Scottish Government and in particular from the cabinet secretary—who has made it clear that he does not approve of the SFC doing forecasting and that, although he is not going to stop it legally, he wants to discourage it with his statements—I do not think that there is sufficient comfort in the bill as it stands.

John Swinney: I hear what Mr Brown says, but we have been round the houses on those matters before, during the committee’s scrutiny of them. I have put on the record very clearly my view that the ability of the commission to prepare any alternative forecast it wishes is adequately provided for in sections 2(1), 2(3) and 2(5). I do not think that it is in any way fair to say that it is not on the face of the bill.

Gavin Brown: The word “forecast” is not in the bill.

John Swinney: The issue of the commission being able to exercise that function if it wishes to do so is provided for by three subsections that I have set out.

Gavin Brown: Convener, I stress again that the word “forecast” is not in the bill. We have been round the houses, and we disagree with the Government on that particular issue.

In terms of international practice, I repeat that there is not a single country—not a single IFI—that relies on Government forecasts and nothing else.

John Mason: On that point, although clearly the cabinet secretary and I want us to be an independent country, the reality is that we are not. We count as a subnational Government, I believe. I think that it is very unusual to have any forecasting by a body equivalent to the SFC at that level. Can the member not accept that we do not need quite the same level of forecasts, or we are not going to have the same level of forecasts, as an independent country would have?

Gavin Brown: I cannot point to a subnational IFI either that relies only on an official Government forecast. If Mr Mason can, he is welcome to do so. We were told that Sweden and Ireland were in a similar basket, but we now know, from having visited both, that that simply is not the case.

The next argument in principle that was brought forward might be described as the Troup argument, which the cabinet secretary has raised before. It gives a very misleading picture of reality to quote only Edward Troup and not the very clear and exact response to that quote from Robert Chote. I will quote from that response, because it is important. A couple of months after Mr Troup spoke, the convener of this committee asked Mr Chote for his comments on that quote, and he said:

“He is right in the sense of the ‘first cut’ ... What then happens is that we have very detailed discussions in which we tell HMRC how we want it to change those numbers ... It is our forecast; we tell HMRC what the forecast is ... the key point is that these are our forecasts ... That may well condition what sort of first cut they bring to us, as distinct from the sort of first cut that it might have brought to the politicians in the old days ... it does not have the whiff of political interference about it.”

Mr Chote concluded:

“Speaking personally on how we are doing the job, I take comfort from the fact that, at the end of the day, I am coming up with a central forecast and not judging whether I am willing to accept someone else’s forecast. I also take comfort from the fact that we have HMRC as a good, robust professional organisation providing us with material that, as I say, does not ... have the whiff of politics about it.”

It is important to put that on the record, because the convener’s response was:

“Thank you very much for that comprehensive answer”.—[*Official Report, Finance Committee*, 1 April 2015, c 36-8.]

It countered a number of the points that were made by Mr Troup.

Lesley Brennan: Will the member give way?

Mark McDonald: Will the member give way?

Gavin Brown: I will give way to Lesley Brennan first and then to Mark McDonald.

Lesley Brennan: Does Gavin Brown agree that the cabinet secretary is coming up with process issues to do with timing and access to data rather than focusing on the substantive point about having an independent forecast?

Gavin Brown: They are process issues. I intend to address the process issues because they have quite rightly been raised, but I addressed the principles first, in the same way that the cabinet secretary did. Those are the principles, and I have set them out pretty clearly.

Mark McDonald: Gavin Brown cites some of the evidence that Robert Chote gave to the committee. He will recollect that Robert Chote also confirmed in that evidence session that it is in the gift of the Treasury to disregard the OBR forecasts should it wish to do so.

Gavin Brown: I can quote exactly what was said in the charter of budget responsibility, which is the secondary legislation:

“The Government intends to adopt the Office for Budget Responsibility’s (OBR) fiscal and economic forecasts as the official forecasts for the Budget Report. The Government retains the right to disagree with the OBR’s forecasts and, if this is the case, will explain why to Parliament.”

So, yes, the UK Government is perfectly at liberty to do that, should it choose to. It has never happened, and it would be a pretty unusual situation in which a Chancellor of the Exchequer had to go to Parliament to explain why the independent experts that the Government had appointed were going to be ignored.

John Swinney: Mr Brown makes my argument for me. He has just said that it would be a very unusual circumstance for a Chancellor of the Exchequer to go to the House of Commons and disagree with an OBR forecast. Can Mr Brown therefore not accept my argument that it would be an inconceivable situation for a finance secretary in the Scottish Government not to change his forecast if the SFC said that it was unreasonable?

Gavin Brown: The point is this, and in some ways Mr Swinney makes my argument for me too. First, in its report, the SFC has expressed huge concern about the lack of behavioural analysis and yet no change has been made in a year and a half by the cabinet secretary or the Government in relation to that analysis on the residential aspects of land and buildings transaction tax.

John Swinney: Could I—

Gavin Brown: Let me finish the answer first. The commission has expressed huge concerns,

yet the forecast is still deemed to be reasonable. I return again to the point that the commission could not give me a single number that would be deemed to be unreasonable—not a single one. The bar is therefore so low that I cannot foresee a circumstance in which the commission would say, “This is unreasonable.”

John Swinney: The issue that Mr Brown raises about the commission’s comments on behavioural analysis essentially confuses the point that he is trying to make. The point is about the assessment of the reasonableness of the forecast. That is the test in law that the commission must assess. The commission considers that issue in law and it judges whether the forecast is reasonable. If it judges it to be unreasonable, how on earth could a finance secretary put that forecast to Parliament?

As part of its reporting, the commission has said that the Scottish Government needs to improve its behavioural analysis. In no way does that question the reasonableness of the forecast. It means that we have a job to do, which I have already told the committee will be done before the next forecasts are undertaken.

Two things are being confused to try to suggest that something other than a very hard test in statute has been applied to the Fiscal Commission.

Gavin Brown: It is not an attempt to confuse at all. I just do not accept that it is a hard test. When the commission is unable to give me a single number that would be unreasonable, it seems pretty unlikely that it is ever going to—

Mark McDonald: Will the member give way?

Gavin Brown: I will give way once more, but I feel that the committee is now attempting to prevent me from getting to the technical points. We are going round the houses a little.

The Convener: I can assure you that I will allow you to get to the technical points. I am not going to cut you short.

Gavin Brown: Thank you, convener.

Mark McDonald: I am in no way seeking to filibuster Gavin Brown. He is being very generous in accepting interventions.

The discussion has brought us back to Lesley Brennan’s point about economics being an art rather than a science. If we fixate on the number that comes out at the end of the process, rather than focusing on the robustness of the methodology that is applied, as we should do, we get away from the point about reasonableness. The issue is whether the methodology that is applied in coming to a conclusion is reasonable, rather than the precise number that is arrived at in the conclusion.

10:15

Gavin Brown: I make no apology for fixating on the final number, which is pretty important. I do not accept the idea that we would not look at it.

Let me move on to the technical points that were made about the effect of my amendments. One point was that the commission would lack the right to information. I am not sure that I accept that. Section 7 gives the commission pretty significant powers to access information. Indeed, the commission will be able to get information that is

“in the possession or under the control of ... any member of the Scottish Government”.

If the Scottish Government has information and is able to use it, it seems pretty obvious that the Scottish Fiscal Commission will be able to have it and use it.

If the Deputy First Minister thought it necessary to add a paragraph (f) to the list in section 7(2), to include local authorities, I would have no objection. Under paragraph (e), the Scottish ministers will be able to make regulations to specify “such other person” as they want to specify, but it probably would be wise to add in local government at stage 3. However, the fact that the Scottish Government already has the information and the commission can get it from the Government means that what has been suggested about the commission lacking information is not a concern. It is certainly not a reason to object to my amendments.

Given that the Government is keen on framework acts—I think that most of the bills that the committee has seen have been classed as framework bills—and that it often argues that it should not include every piece of procedure in a bill because it wants to deal with such matters in secondary legislation, the Government’s approach in this context is confusing. The Budget Responsibility and National Audit Act 2011 was a very basic act; the detail was filled in by secondary legislation. The idea that the UK Government might disagree with a forecast was established in the charter for budget responsibility, under secondary legislation. If, at a later stage, the Scottish Government wants to include a provision that gives that sort of comfort, it is perfectly entitled to do so.

The fact that the bill does not specify the number of checks that need to take place over a year does not nullify my amendments in any way. Section 9 clearly provides for a review of the commission’s performance every five years. If the amendments in my name are agreed to, I will want to lodge amendments to decrease that timeframe massively, and I suspect that I will be beaten to it by the Government, to ensure that there is a much

shorter timeframe for review—that would be sensible. I do not accept that that is a reason to object to the amendments. Section 9 could be bolstered pretty easily at stage 3 or indeed by using one of the regulatory powers that are present throughout the bill, although I think that it would be better to amend the bill at stage 3 in that regard.

I have mentioned the principles behind my amendments, and I have said that the technical arguments against them do not stack up. I have attempted to deal with every point that has been put forward and every intervention that has been made. For all the reasons that I have given, I press amendment 5.

The Convener: The question is, that amendment 5 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Baillie, Jackie (Dumbarton) (Lab)
Brennan, Lesley (North East Scotland) (Lab)
Brown, Gavin (Lothian) (Con)

Against

Gibson, Kenneth (Cunninghame North) (SNP)
Mason, John (Glasgow Shettleston) (SNP)
McDonald, Mark (Aberdeen Donside) (SNP)
Urquhart, Jean (Highlands and Islands) (Ind)

The Convener: The result of the division is: For 3, Against 4, Abstentions 0.

Amendment 5 disagreed to.

Amendment 6 moved—[Gavin Brown].

The Convener: The question is, that amendment 6 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Baillie, Jackie (Dumbarton) (Lab)
Brennan, Lesley (North East Scotland) (Lab)
Brown, Gavin (Lothian) (Con)

Against

Gibson, Kenneth (Cunninghame North) (SNP)
Mason, John (Glasgow Shettleston) (SNP)
McDonald, Mark (Aberdeen Donside) (SNP)
Urquhart, Jean (Highlands and Islands) (Ind)

The Convener: The result of the division is: For 3, Against 4, Abstentions 0.

Amendment 6 disagreed to.

Amendment 7 moved—[Gavin Brown].

The Convener: The question is, that amendment 7 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Baillie, Jackie (Dumbarton) (Lab)
Brennan, Lesley (North East Scotland) (Lab)
Brown, Gavin (Lothian) (Con)

Against

Gibson, Kenneth (Cunninghame North) (SNP)
Mason, John (Glasgow Shettleston) (SNP)
McDonald, Mark (Aberdeen Donside) (SNP)
Urquhart, Jean (Highlands and Islands) (Ind)

The Convener: The result of the division is: For 3, Against 4, Abstentions 0.

Amendment 7 disagreed to.

The Convener: I call amendment 8, in the name of Gavin Brown.

Gavin Brown: Convener, if it is helpful, I should say that the other amendments in my name in this group all flow from amendments 5, 6 and 7—

The Convener: I am aware of that, but I still have to ask whether you intend to move them.

Gavin Brown: I do not intend to move any of them. That might speed things up.

The Convener: Okay, but I also have to check that no other member of the committee wants to move them. You are not moving amendments 8 and 9, so no question will be put—

Gavin Brown: I can say “not moved” if it helps, convener.

The Convener: Indeed—you have already said it. The clerk wants us to go through everything precisely; we have got the general drift.

The question is, that amendment 10, in the name of Gavin Brown, be agreed to. Are we agreed? No, because he is not moving it.

The question is, that amendment 11 be agreed to. Again, Gavin Brown is not moving it, so that amendment is not being taken forward.

Amendments 8 to 11 not moved.

The Convener: Amendment 12, in the name of Jackie Baillie, is in a group on its own.

Jackie Baillie: The committee was unanimous in its view that the bill should be amended to widen the functions of the commission, in particular to include assessment of the Government’s performance against its own fiscal rules and of the long-term sustainability of public finances. That view was shared by many of the professional witnesses who came before the committee. Amendment 12 therefore reflects what I regard as an emerging consensus.

Scottish ministers have already set a few fiscal rules, and it is entirely appropriate to judge how the Government’s performance can be measured

against them. A long-term look at public finances and their sustainability must be a positive thing. Amendment 12 would enable the commission to look back and see whether it got the forecasts right—not that it will be producing them now.

John Mason: Will the member give way on that point?

Jackie Baillie: Fine.

John Mason: I thank the member for giving way. Paragraph (c) of the new subsection that her amendment proposes to insert in section 2 refers to

“an assessment of the accuracy of fiscal and economic forecasts previously prepared by it.”

Does that refer to the commission? If so, is the amendment dependent on the commission preparing the forecasts?

Jackie Baillie: It presumed that the commission would prepare forecasts. From listening to the cabinet secretary, it seems that he has not closed down the possibility of the commission producing its own forecasts, and therefore the amendment still stands. I see that members are nodding. If it is clear to John Mason, that is great.

The OBR produces reports on financial sustainability, and it is not alone in doing so. I will read from a list of fiscal councils that have such powers and actually use them. They include the fiscal councils in Austria, Belgium, Canada, Denmark, Germany, Hungary, the Netherlands, Slovenia, Sweden and the UK—as I have mentioned—as well as the US Congressional Budget Office. It is not a strange thing to do; it is quite usual in countries around the world.

When we look at the International Monetary Fund fiscal council data set, we see that the second most important function of both previous and new and emerging fiscal councils is to judge the long-term sustainability of public finances. The third most important function of the emerging new generation of fiscal councils is to check the Government’s compliance with its own fiscal rules. It is nothing unusual. Across the range of fiscal bodies, particularly those that have been most recently established, assessing long-term sustainability and compliance with rules is a very important part of their remit.

I move amendment 12.

Gavin Brown: I support the amendment entirely. It reflects the conclusion at paragraph 119 of our report, which was reached unanimously by the committee, and it backs up the Scottish Fiscal Commission’s evidence to the committee.

I have to say that the commission’s letter yesterday was extremely surprising in both its

timing and its content. In its written evidence to us, the SFC said that it

“believes it should have responsibility for assessing the ... forecasts on the sustainability of Scotland’s public finances, such as adherence to fiscal rules ... and it would welcome the Bill being amended now to anticipate this additional responsibility”.

Professor Hughes Hallett said in evidence to us that the bill should be amended to make explicit that the commission has a role in carrying out sensitivity analysis and in assessing fiscal sustainability.

The wording of the amendment appears to be similar to the wording in the 2011 act, which is quite clear and exact. At one stage, the Government argued that this is a role for members—it is, but having the SFC look at the overall finances in terms of longevity would do nothing to diminish our role; indeed, it would enhance it. If members look at any budget debate in the House of Commons, they will see that MPs from every party regularly quote the OBR analysis, which enhances their ability to hold the Government to account and look at the state of public finances. For all those reasons, I support amendment 12.

John Swinney: I acknowledge the committee’s interest in the point, but the purpose of amendment 12 is far from clear. Having listened to how Jackie Baillie has explained it and how Gavin Brown has supported it, I think that its purpose is rather confused.

I would like to comment on three separate elements of the amendment: the proposed requirement on the commission to assess performance against fiscal policy objectives; the proposed requirement to analyse the sustainability of public finances; and the proposed requirement to assess the accuracy of forecasts that the commission has previously prepared.

I turn first to the proposed function to assess performance by Scottish ministers against fiscal policy objectives. I understand that the provision is an attempt to require the commission to assess the Scottish Government’s performance against fiscal rules. However, the amendment seems to include assessment of performance against policy objectives as well as against any strictly termed fiscal rules that would normally relate to levels of borrowing. It is not clear whether Jackie Baillie intended the proposed function to be so wide in its scope but, as currently drafted, it would conflict with the OECD principles for independent fiscal institutions, which provide that such institutions should not have a role in normative assessments or evaluations of the merits of Government policies. That is where I think that the amendment is confused.

That highlights the difficulty of defining fiscal rules under the devolved fiscal framework that supports the exercise of the tax and borrowing powers under the Scotland Act 2012. The Scottish Government is subject to statutory aggregate borrowing limits and annual borrowing limits that are set administratively by the UK Government. We do not have free rein to act or operate outside those predetermined limits.

We are also subject to budgetary rules, performance against which is assessed firmly by the Auditor General as part of the annual audit of the Scottish Government's annual financial statements. I am concerned that the amendment would intrude on the proper statutory arrangement of the Auditor General holding the Government to account.

My points reinforce the Government's view that it would be more appropriate to consider the proposed function when we collectively assess how the commission's remit should be expanded to reflect the Smith powers that are proposed to be devolved.

Turning to the proposed function in relation to fiscal sustainability, I remain of the view that that is primarily a role for elected members of the Scottish Parliament, who should hold ministers directly to account for the robustness of our financial judgments. It is not an appropriate role for the Scottish Fiscal Commission; it is appropriate for Parliament to determine the robustness of the Government's budget choices.

Gavin Brown: Do you accept that members would be aided in that scrutiny by having such reports from a Scottish Fiscal Commission? Do you seriously think that scrutiny would be diminished by those reports?

John Swinney: Members would be aided by having such reports from a range of bodies. In the earlier debate, Jackie Baillie mentioned that we do not have any bodies that comment on some of these issues. Last week, she hosted an event in Parliament on behalf of the Fraser of Allander institute, which has made very clear its aspiration to challenge and scrutinise aspects of the Government's delivery of policy. However, that would be different from the Fiscal Commission's specific statutory role.

I know that Mr Brown takes a different view of the Fiscal Commission's role, but in my view it faces a hard test in assessing the robustness of the Government's forecast of revenues. The evaluation of policy and the consideration of long-term fiscal sustainability are issues on which plenty of commentators can comment but, ultimately, they are for members of Parliament to form a judgment about. That is what we are here

to do; that is the role that the Finance Committee undertakes.

The final aspect is the amendment's reference to the accuracy of economic forecasts prepared by the commission, but neither the bill as introduced nor any amendment lodged at stage 2 requires the commission to prepare any economic forecasts. It is therefore unclear what the commission would be tasked with doing here and how much resource it would require to—

10:30

Jackie Baillie: Will the cabinet secretary take an intervention?

John Swinney: Of course.

Jackie Baillie: I think that I recall the cabinet secretary saying earlier that the commission had the ability to do its own forecasting. That ability is not excluded by the bill and therefore it would be appropriate for the commission to be able to do that forecasting.

John Swinney: Clearly, the commission has the scope to undertake that activity. However, the question of economic forecasts gets us into even more uncertainty about the purpose and scope of the amendments. I have been making the point that amendment 12 has been drafted with a scope that is broader than is compatible with the remit and outlook of the Scottish Fiscal Commission.

I would suggest that the area is revisited once the fiscal framework has been agreed and the Scottish Government has greater fiscal flexibility and, potentially, can set fiscal rules within that flexibility, which would extend beyond the constraints that are applied by the United Kingdom Government's borrowing rules. Therefore, I invite Jackie Baillie not to press her amendment. Failing that, I ask that members do not support it.

The Convener: I call Jackie Baillie to wind up and to indicate whether she wishes to press or withdraw amendment 12.

Jackie Baillie: I will be pressing the amendment in my name. There is nothing terribly confused about it; it is quite simple in what it wants to achieve. The approach is common to other countries, so there is nothing unusual about it either.

The drafting of the amendment was done on the basis of looking at OBR practice and seeking to emulate that practice here. The Scottish Government sets fiscal rules on borrowing, and I entirely accept that the significance of that will increase once the fiscal framework is agreed. Nevertheless the amendment stands now and can be applied now, so we do not need to put it off.

Of course I expect Parliament to scrutinise the long-term sustainability of public finances and whether the Government is meeting its own fiscal rules. However, I see the work of the Fiscal Commission informing the work of the Finance Committee and the Parliament in that regard. I recognise that the amendment is all about the future—it is about Government implementing systems that are as robust as they can be as we assume new powers.

The cabinet secretary said that it was the aspiration of the Fraser of Allander institute to set up a body to look at the financial aspects of this, and that is indeed welcome. However, the speed at which it would be set up and what its coverage would be is not something over which we have control. Therefore, it is important, as a signal from the Government, that we give the Fiscal Commission the power to take on that role.

Lesley Brennan: You mentioned the Fraser of Allander institute's aspiration. It does not have that role, and it may say that, due to scarce resources, it can no longer take it on.

The cabinet secretary said that the amendment's scope was too wide, but paragraph (a) of the new subsection that the amendment would insert refers to the Fiscal Commission's

"assessment of the Scottish Ministers' performance against any objectives set by them relating to the formulation and implementation of fiscal policy".

Do you agree that, rather than being too wide in scope, the amendment is explicit and focuses on what would be looked at, namely the

"formulation and implementation of fiscal policy"?

Jackie Baillie: I agree with that. Amendment 12 is focused, and it is entirely appropriate for the Fiscal Commission to undertake such scrutiny. As I have said, such a role is not unusual, and the amendment is not too wide. Of course one needs to look at economic policy if one is to be able to look at the money that this Parliament raises through taxation.

The amendment has a significant number of supporters. They included the committee—I hope that that remains the case.

Carlo Cottarelli of the IMF talked about fiscal rules often being part of a fiscal commission's responsibility—

John Mason: Will the member give way?

Jackie Baillie: Let me finish making this point.

Ian Lienert, who was the adviser to the committee, made similar comments. In its written submission, the Fiscal Commission talked about having responsibility for assessing the Scottish Government's forecasts on the sustainability of Scotland's public finances and aspects such as its

adherence to the fiscal rules. Professor Hughes Hallett and Professor Campbell Leith have both been quoted in support of the commission having that remit.

On that point, I am happy to give way.

John Mason: Jackie Baillie says that the committee has signed up to the provisions of the amendment. My agreement to paragraph 119 of the committee's stage 1 report was based on the understanding that the Fiscal Commission can assess the Government's performance against its fiscal rules, but the amendment refers to assessing the Government's performance against fiscal policy. The cabinet secretary made the point that those two things are not the same, and I agree with that. Does Jackie Baillie accept that the two are not the same?

Jackie Baillie: I do not. Paragraph 119 talks about the commission

"assessing the performance of the Government against its fiscal rules and an assessment of the long-term sustainability of the public finances."

It needs to be done in the round.

I am genuinely disappointed that members of the committee are not—

Mark McDonald: Will the member give way?

Jackie Baillie: No, I will not. Frankly, I have heard enough excuses. As a committee, we agreed this—

Mark McDonald: Aw—the consensual approach.

Jackie Baillie: I am genuinely disappointed that that consensus has not held good.

I will press the amendment on that basis.

The Convener: The question is, that amendment 12 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Baillie, Jackie (Dumbarton) (Lab)
Brennan, Lesley (North East Scotland) (Lab)
Brown, Gavin (Lothian) (Con)

Against

Gibson, Kenneth (Cunninghame North) (SNP)
Mason, John (Glasgow Shettleston) (SNP)
McDonald, Mark (Aberdeen Donside) (SNP)
Urquhart, Jean (Highlands and Islands) (Ind)

The Convener: The result of the division is: For 3, Against 4, Abstentions 0.

Amendment 12 disagreed to.

Amendments 13 and 14 not moved.

Section 2 agreed to.

Section 3 agreed to.

Section 4—Reports

Amendments 15 and 16 not moved.

Section 4 agreed to.

After section 4

The Convener: Amendment 1, in the name of the cabinet secretary, is in a group on its own.

John Swinney: As I indicated in my response to the committee's stage 1 report, I will seek to take all action that I can to promote and safeguard the independence of the commission. Amendment 1 responds to the committee's recommendation that there should be greater transparency in interactions between the Fiscal Commission and Scottish ministers.

Amendment 1 introduces a requirement for a protocol between the commission and Scottish ministers, and for the commission to publish that protocol. The protocol must set out the manner in which the parties are to engage during the scrutiny process; the parties' respective responsibilities; and the procedures for handling draft reports. The amendment also requires that the protocol be regularly reviewed and revised over time, as appropriate.

Amendment 1 has been crafted so that the protocol focuses on the relationship between Scottish ministers and the commission. That is important because it avoids requiring the parties to agree to anything that might impinge on the independence of the commission or its approach to the discharge of its statutory functions.

I move amendment 1.

Amendment 1 agreed to.

Sections 5 to 11 agreed to.

Section 12—Disqualification for appointment

The Convener: Amendment 2, in the name of the cabinet secretary, is grouped with amendments 3 and 4.

John Swinney: Amendments 2 to 4 respond to the committee's recommendations on the subject of term length and the ability to reappoint members of the commission to serve a second consecutive term. Amendments 2 and 4, which amend sections 12 and 13, allow for the reappointment of members on one occasion. Members will therefore be eligible for one reappointment, provided that they are a member of the commission at the time of the reappointment, or that they were a member no more than three months prior to the reappointment. The period of three months is

designed to ensure that there is sufficient time to follow the procedure for reappointment, including parliamentary approval. That applies even when the vacancy arises around the time of the summer recess.

The changes also remove the proposed statutory bar on the reappointment of the current members of the commission, who will now be eligible for appointment for a second term.

Amendment 3 relates to the committee's recommendation that maximum term length should appear on the face of the bill. It provides that members, including the chair, may be appointed for a term of up to five years. I urge members to support amendments 2 to 4.

I move amendment 2 .

Amendment 2 agreed to.

Section 12, as amended, agreed to.

Section 13—Period and terms of appointment

Amendments 3 and 4 moved—[John Swinney]—and agreed to.

Section 13, as amended, agreed to.

Sections 14 to 28 agreed to.

Long title agreed to.

The Convener: That ends stage 2 consideration of the bill.

10:40

Meeting suspended.

10:50

On resuming—

Budget (Scotland) (No 5) Bill: Stage 2

The Convener: The next item on our agenda is stage 2 consideration of the Budget (Scotland) (No 5) Bill. Committee members have a note by the clerk with their papers. We are again joined by the Deputy First Minister, John Swinney, who is accompanied for this item by Scott Mackay of the Scottish Government's finance directorate.

I ask the Deputy First Minister to make an opening statement.

John Swinney: I welcome the Finance Committee's work during this year's budget process as reflected in its assessment of the draft budget and thank the committee for its willingness to undertake that scrutiny in the constrained timetable that was created by the timing of the United Kingdom Government's spending review. As I informed Parliament last week, I will respond in full to the committee's report in advance of the stage 3 debate. This session of the committee focuses on the content of the budget bill as approved in principle by the Scottish Parliament on 3 February. The Parliament will consider the Scottish rate resolution tomorrow.

As members of the committee are aware, there are a number of differences in the presentation of budget information between the draft budget and the budget bill. To assist the committee, I will explain the main differences with reference to table 1.2 on page 3 of the supporting document. Column H in table 1.2 sets out the draft budget as it is required to be restated for budget bill purposes and columns B to G provide details of the adjustments, including the statutory adjustments that are necessary to fulfil a parliamentary process.

I will highlight one substantive change to the spending plans that are outlined in the draft budget. To ensure that budgets align with the latest available information, there is an adjustment of £141.3 million to the annually managed expenditure budget provision for the teachers and national health service pension schemes. That reduction to the draft budget 2016-17 number reflects Her Majesty's Treasury's update to the discount rate applied for post-employment benefits announced in December 2015.

The other adjustments set out are as follows: the exclusion of £148.1 million non-departmental public body non-cash costs that do not require parliamentary approval, which relate mainly to depreciation and impairments in our NDPB community; the exclusion of judicial salaries and Scottish Water loan repayments to the national loans fund and Public Works Loan Board, which again do not require parliamentary approval; and

the inclusion of police loan charges to be approved as part of the budget bill. There are technical accounting adjustments to the budget of £129.5 million that reflect differences in the way that HM Treasury budgets for those items and how we are required to account for them under international financial reporting standards-based accounting rules that apply in respect of the Government financial reporting manual. I remind the committee that the budget conversion to an IFRS basis is spending power neutral.

The adjustments to portfolio budgets reflect the requirement that a number of direct-funded and external bodies require separate parliamentary approval. They include the National Records of Scotland, the Forestry Commission, Food Standards Scotland, the Scottish Courts and Tribunals Service, the Office of the Scottish Charity Regulator, the Scottish Housing Regulator, Revenue Scotland and the teachers and NHS pensions schemes. The restatement of specific grants included in the overall 2016-17 local authority settlement remains under the control of the appropriate cabinet secretary with policy responsibility. Full details of all grants treated in that way are included in the summary table on page 41 of the supporting document.

I again make it clear that those are, in essence, technical adjustments and do not change in any way the budget that has so far been scrutinised by this and other committees and approved in principle by the Parliament. I also remind members that, for the purposes of the budget bill, only spending that scores as capital in the Scottish Government's or direct-funded bodies' annual accounts is shown as capital. That means that capital grants are shown as operating in the supporting document. The full capital picture is shown in table 1.3 on page 4 of the document.

As I made clear to Parliament last week, I remain committed to an open and constructive approach to the 2016-17 budget process and continue to seek consensus on a budget that will meet the needs of the people in Scotland.

I will happily address any points that the committee has.

Gavin Brown: I have a couple of questions about process. Cabinet secretary, you said at stage 1 that you would respond formally to our report before stage 3. Should we expect that response this week, next week or the night before? Do you have a plan for roughly when we will get it?

John Swinney: I aim to get it to the committee in a timely fashion for the committee to consider it before stage 3. It would certainly not be the night before, but it might be—

Gavin Brown: The afternoon before.

John Swinney: We could debate what night-time is, but—

Jackie Baillie: Soon.

John Swinney: Yes, soon. The report will be with you shortly. I will endeavour to get it to the committee no later than the Monday before the stage 3 debate.

Gavin Brown: My other question relates to page 10 of the bill. I am sure that there is a technical answer to the question, but I would like to know what it is. In schedule 3, “Borrowing by statutory bodies”, paragraph 4 refers to

“Section 42 of the Water Industry (Scotland) Act 2002 (Scottish Water).”

John Swinney: Is this in the bill as opposed to the explanatory document?

Gavin Brown: Yes. It is in the Budget (Scotland) (No 5) Bill, on page 10.

John Swinney: I wonder whether Ms Baillie could come to my rescue and lend me her copy of the bill. This is the only time that I will invite her to rescue me.

Jackie Baillie: I could do it several times.

Gavin Brown: That is a caption competition in the making.

I am referring to paragraph 4 of schedule 3, which refers to

“Section 42 of the Water Industry (Scotland) Act 2002 (Scottish Water)”

and shows an amount of £150 million. My understanding was that the net figure in the draft budget showed that there was literally zero being borrowed in the next financial year for Scottish Water. Is the £150 million some kind of maximum if things go wrong, or is the £150 million the plan? Can you explain the difference between that and the figure in the draft budget?

John Swinney: As Mr Brown knows, there are always borrowing transactions—both of borrowing and of repayment—that are undertaken by Scottish Water. The budget bill document contains a neutral position that provides the capacity and capability to undertake borrowing transactions that are necessary to underpin the neutral position.

Gavin Brown: Thank you.

Jackie Baillie: I turn the cabinet secretary's attention to schedule 1 on page 7, in which purpose 8 relates to central Government's grant to local government. The reduction, as I understand it from the Scottish Parliament information centre, is £10.7 billion down to £10.1 billion. In your helpful supporting document for the Budget (Scotland) (No 5) Bill, which was gratefully received, there is a table on page 41, under

“Social justice, communities and pensioners' rights”, in which you show a budget last year of £10.5 billion and this year of £9.9 billion. I am trying to understand why, when you talk about a £350 million cut to local government, that document talks about a £600 million cut to local government. Can you explain what the difference is?

John Swinney: There are three relevant factors. The first relates to an implication of the current spending review period, which will conclude in March of this year. As Jackie Baillie will be aware, the Government came to an agreement with local government over the past four years that capital budgets would not be given to local government in a uniform fashion but would be varied year on year. I think that the term is “reprofiled”. What that essentially means—

Jackie Baillie: Is a cut.

John Swinney: No, it is not. It most definitely is not. It means that in earlier years of the spending review, the amount of capital is reduced and the difference is repaid at later stages, so the capital budget for local government in 2015-16 is inflated beyond its normal trend position because we are paying more in capital, because we paid less in capital in the earlier years of the spending review. The comparative number that Jackie Baillie uses for the start of the analysis for this financial year is a comparatively high figure because the budget was inflated by an additional fund for capital expenditure that, if my memory serves me right, is about £120 million. I will write to the committee with the specific details of all the numbers that I use in this explanation. So, the first thing is that the figure for 2015-16 is inflated by about £120 million, I think, because of capital reprofiling.

11:00

The second factor is that I am applying another tranche of that capital reprofiling over the next four years. Local government has been assured by me that it will receive 26 per cent of the capital departmental expenditure limit that is available to the Government over all of the next four years but that it will not come in a uniform, flat line—it will be lower in 2016-17 and it will be much higher in the later years of the spending review. That is the second component of the explanation.

The capital figure is about £150 million lower than it should be in 2016-17, but that capital will be put back in later on in the spending review, as it has been in the previous spending review. That is just to enable me to have more capital flexibility and to ask local government to use some of its capital flexibility, which relates both to reserves and to borrowing, to make up the difference.

The final element is a reduction of £350 million in the resource budget of local government.

11:03

Meeting suspended.

Those are the three components that explain the differences in the numbers. If it would be helpful, I will write to the committee swiftly to explain the precise numbers that underpin those elements.

Jackie Baillie: Thank you.

The Convener: That concludes questions from committee members. We now turn to the formal procedure regarding the bill. There are no amendments to deal with but, under the standing orders, we are obliged to consider each section and schedule of the bill as well as the long title, agreeing to each formally. We will take the sections in order, with schedules being taken immediately after the section that introduces them and the long title being taken last. Fortunately, the standing orders allow us to put a single question when groups of sections or schedules are to be considered consecutively. Unless members disagree, that is what I propose to do.

Jackie Baillie: Convener, I do not know whether this is contrary to what you just said, but I want to record my dissent to section 1(1), which introduces schedule 1. I know that there is no vote on that; it is simply a matter for the record.

The Convener: We can record that point and still take all the sections together.

Section 1 agreed to.

Schedule 1 agreed to.

Section 2 agreed to.

Schedule 2 agreed to.

Section 3 agreed to.

Schedule 3 agreed to.

Sections 4 to 11 agreed to.

Long title agreed to.

The Convener: That ends stage 2 consideration of the bill. The bill now proceeds to stage 3, which is scheduled to take place on Wednesday 24 February. As members are aware, only the Scottish Government can lodge amendments at this stage, and we have received a commitment that we will have some information from the cabinet secretary by Monday 22 February.

I thank the cabinet secretary once again and suspend the meeting for two minutes to allow a change of witnesses and a natural break.

11:04

On resuming—

Prevention

The Convener: Item 4 on the agenda forms part of the committee's work on prevention.

I welcome Peter McColl of Nesta and Malcolm Beattie and Dr Colin Sullivan of the Northern Ireland public sector innovation lab.

I intend to allow about 60 minutes for the session, starting with opening statements from each organisation.

Dr. Colin Sullivan (Northern Ireland Public Sector Innovation Lab): Good morning, and thank you for the invitation to come to speak to the committee.

I am happy to lead from the Northern Ireland perspective. My colleague Peter McColl will then cover the work that he does.

The Northern Ireland public sector innovation lab started in 2013 as part of an initiative that Simon Hamilton, the Minister of Finance and Personnel at the time, launched on public sector reform. The drivers were the resource pressures that we faced and increasing demand.

We have taken a three-pronged approach to public sector reform in Northern Ireland; we have looked at it from the strategic point of view, from the perspective of operational delivery and from the point of view of improving engagement. The lab was one of the tools that we developed: it ticks all three boxes. The committee will be aware that a number of such teams and innovation labs have been springing up around the world. There are now over a hundred of them.

For Northern Ireland, the minister specifically commissioned the innovation lab to deploy new ways of addressing complex public service issues. Our remit is to help to improve public services. We are a regional lab—the only one within Government in Northern Ireland, funded by central Government and housed within the finance department, at present. We provide support across central Government but we are also keen to work across the wider public sector and with local government.

To date, we have tackled a range of different topics, both at strategic level and at operational delivery level. We have looked, for example, at dementia services, at business rates, at how our voluntary and community sector can prosper, at internal issues such as data analytics within Government and reward and recognition of staff.

There are three main methods to the operating model that we have deployed. The first method

draws on the approach of the Helsinki design lab: that approach is often called hothousing. It involves bringing people together for a number of days and using them in a concentrated effort to examine a subject in depth and to generate ideas and solutions. We used that approach when we looked at regulatory impact assessments and our big data strategy.

The second method places greater emphasis on co-design and human-centred design and involves the development of solutions that could be prototyped and tested with users and citizens. We used that approach when we looked at dementia.

We are also looking at behavioural insights, which are sometimes called nudge approaches. That has been inspired by the work of the UK behavioural insights team. We are beginning a number of such activities, at present.

In crafting our approach to public sector reform, we have looked at different approaches across the different jurisdictions in these islands and beyond, including the approaches that have been adopted in Scotland previously, such as the work of the Christie commission.

We welcome the opportunity to participate today.

Peter McColl (Nesta): I bring apologies from my colleague Simon Brindle, the director of the Y Lab. I think that is how it is pronounced: there is a common accent at this end of the table and I do not think that any of us speak Welsh. Y Lab means “the lab” in Welsh and is a programme delivered by Nesta, the Welsh Government and Cardiff University, as a government innovation lab. I will talk a bit about that and will also talk about the wider principles of government innovation and why a government innovation lab is a strong way to adopt a more preventative approach in public services.

Nesta recognises and is excited by the work that has been done in Scotland around the Christie commission and the prevention agenda. We are keen to bring to that some of what we have learned about bringing together Government and external agencies to deliver on social and broader forms of innovation through an experimental and social innovation approach.

The lab approach is common in Governments around the world and it is growing. I think that there are around 200 Government innovation labs—

The Convener: The number has grown by 100 in the past five minutes.

Peter McColl: There is a good question to be asked about what a Government innovation lab is. We think that there are about 200, but there are obviously issues to do with the definition.

Substantial opportunities are available from the labs. By bringing together practitioners and people who want to innovate, and by taking an experimental approach to Government policy without necessarily being drawn in by the monolith that is the randomised controlled trial, Government can effectively change how it works and can innovate and enable change.

We are very keen for there to be greater understanding of the value of risk. For understandable reasons, Governments can be risk averse, so we want to find ways of building more risky approaches into the delivery of public policy.

If we look specifically at the opportunities in Scotland, it appears to us that the creation of integration joint boards in the context of health and social care will create an enormous opportunity for experimentation, evaluation and rapid profiling of public services, and that spreading what is learned from that throughout health and social care and broader public services will have considerable value, in general and in delivering a preventative agenda.

I invite members' questions on anything that I have said.

The Convener: Thank you both for your interesting opening remarks. I will ask a few questions before opening out the session to other members.

Dr Sullivan talked about the lab that has been set up in Northern Ireland to consider how to alleviate pressures on the public sector. What has been delivered in practice in Northern Ireland as a direct result of the lab's work?

Colin Sullivan: We have completed 15 labs. We started in April 2014 and have worked with seven of our 12 Government departments. We are based in the finance department, and currently there is a team of eight staff in the lab. In many ways we are facilitating a process; we set up the infrastructure for the lab and we encourage colleagues to bring to the lab their thorny, difficult issues. Initially we were, perhaps, more embracing of topics, because we did not have a portfolio to work to, but we have now developed criteria that we apply when choosing whether the lab is the best place to progress an issue.

As I said, a number of different methodologies can be deployed. We have been asked about and responded to strategic and big issues including dementia, which has huge implications for public service delivery, as well as smaller issues, such as how we help citizens to respond in particular ways. For example, we looked at a change in the wording of letters in relation to the payment of court fines, and we helped our social security agency with a benefits uptake campaign, to encourage people to take up benefits to which

they are entitled but which they are not taking advantage of. We have taken diverse approaches. As time has gone on, we have developed a body of knowledge about methodology.

The Convener: What has the response been in the public sector? It is human nature for people not to want to be moved out of their comfort zone. If people have been delivering a service in a particular way for years and have come to believe—we hope rightly, but perhaps wrongly—that that is the best way to deliver the service, but then your lab looks at that and says that they would be more effective if they were to do things differently, how do they respond? Has the response been positive or negative? Has it been mixed?

11:15

Colin Sullivan: The response has been very mixed. It is important from the outset to get the right people in the lab. We are keen that we have a committed sponsor department that wants us to explore. As we have developed our work, we have seen the importance of getting the sponsor to sign up to the importance of our taking away a group of staff with “experts”—in inverted commas. The officials concerned may not be open to the experts' ideas, but they must be prepared to look around the issue and to take away their thoughts. We take the staff away from their work setting; sometimes, the work is done in a residential setting and sometimes it is done on a 9-to-5 basis. We give staff the freedom to think outside the box.

With that approach, the sponsor department takes a risk that it might not get the answer that it wants and that issues may be raised that it had not thought of. In order to be truly a lab, we must not only come up with the idea; we must test it, prototype it and take it to the next stage.

Malcolm Beattie will be able to give you more practical examples.

Malcolm Beattie (Northern Ireland Public Sector Innovation Lab): I cannot overemphasise the importance of having a fully engaged sponsor. Our work is not something that we do to people or to organisations; rather, they must buy in from the start. The big lesson that we have learned from our experience of trying to open doors is that we just have to accept that we are not getting in so we have to leave it. As Colin Sullivan suggested, it is about involving in the whole process the people who own the problem and who administer the particular service, so that it is not about something being done to them. Instead, they are front and centre in designing the new interventions and they work collaboratively with the people whom we bring to the process.

It is interesting that, when you corral together the right mix of people and expertise, attitudes change. Sometimes, resistance filters away when people begin to hear that there is a bigger world and that there are different and smarter ways of doing something. That process has been a big help to us in introducing some proposals. Involving the end user in the innovation lab is critical to that success.

We did work on dementia, during which we located ourselves in a residential home that had been specifically built for folks with dementia and their families. People with dementia and their families participated in the events, and the people who deliver services heard the lived experiences of people who were contending with dementia and their families. That richness and experience change views and attitudes. By those means, it is possible to work to a point at which we help the problem owner to find a solution, or we make recommendations that we want—as Colin Sullivan said—to trial and to prototype.

You want to find a solution that everyone has bought into so that when that solution is deployed you do not meet too much resistance or too many barriers. That is the theory that we try to deploy in the innovation lab.

The Convener: That is interesting. The public sector's holy grail is improved outcomes with savings. Have you been able to achieve that to any significant degree?

Malcolm Beattie: Our objective is to get away from the hothousing that we mentioned. That approach comes from Helsinki and tends to look at strategic issues. The experts provide perhaps six or seven big recommendations—that is where they leave you. People must then take the recommendations and turn them into operational reality.

In our operating model, we now focus more on the design of small measurable interventions. We would need to see some of the projects pull right through the process, so I cannot give an example to the committee today of where we have saved so many millions of pounds.

We are trying to get to solutions that have been designed by service users and service delivery people that we can test in small areas and morph in the live environment before we get to point of implementing them more widely.

My view at the moment is that we need to see the innovation lab not as a holy grail or magic bullet, and that is what I say to sponsors when I meet them. We do not have the answers, and it is not going to revolutionise the world overnight. It is about taking a measured, structured approach, bringing people with you and the best minds being

applied with a view to delivering tangible benefits at the end of the process.

The Convener: That is important. We are not talking about savings on their own; people are looking for savings with enhanced outcomes. It is relatively easy to make savings, although it is painful for people at the sharp end. The challenge is in trying to persuade people that they can deliver more for less. That is often talked about, but the proof of the pudding is what we are looking for.

Page 4 of the Nesta report states:

“We need to move to a position where prevention is about catalysing social innovation to help people”,

which you talked about in your introductory statement. You continue:

“Some of this needs to harness developments in technology, but much of it can be done on the basis of community action and supporting those with the best ideas.”

How can that be delivered in practice, and how is it being delivered?

Peter McColl: There are huge opportunities. Scotland is extremely well placed because of its existing health data, which is world leading. The potential addition to that of social care data, and some of the really interesting things that are coming out of the Scottish Government at the moment about identifying individuals who are users of public services and identifying their care journeys, could unlock for us ways to intervene earlier and more effectively in order to ensure that those people have a better journey through care and the health service. That means using things like predictive analytics to identify who is likely to be using health services so that we can put in place the adaptations, structures or support to either ensure that they end up not needing the health service—we put the adaptations in their homes so that they do not fall over and break their hip—or find ways in which to manage their journey.

When we cannot prevent a condition such as dementia, for example, identifying care plans early and co-producing with the individual their journey through the care system or finding ways in which we can empower the individual will, I think—the data will give us the opportunity to analyse this—reduce the overall cost. It would give us the optimal outcome of ensuring a better outcome for the individual while also reducing the overall cost to the NHS and social care.

The Convener: Malcolm Beattie is nodding vigorously at that. Clearly, there is similarity in your approaches.

I am sorry, Mr McColl. Did you want to say something else?

Peter McColl: I will deal with the second part of the question, as well. We know that there are a lot of programmes, projects and community groups out there that want to deal with the pressing problems of our age. However, they quite often come up against institutional barriers or find that funding is short term and does not support them to deliver appropriately. We need to develop rigorous models so that we can identify what is successful and replicate it elsewhere, and so that we can identify the financial models associated with that. That would enable a third sector organisation that was delivering a very effective community service to identify the savings through the system so that we would know what we should protect. Often, when it is time to get tough, organisations that are external to local government are the first to be cut, despite the fact that they may be delivering more effectively than some other services. We need to understand exactly what an organisation is delivering, and we need to be able to assess that. That is an important element of the process. It requires some externality and much more rigorous use of data.

The Convener: Thank you for that.

In your report, you talk about adding

“a new dimension to healthcare by creating networks of volunteers and non-clinical professionals that support people to take control of their health maintain healthy behaviours and stay on top of their health conditions on a day-to-day basis.”

I am a wee bit unsure about that. How sustainable is that? It sounds like the kind of thing that you might to be able to do here and there, but how sustainable is something like that on an all-Scotland, all-Wales or all-Northern Ireland basis? Is it practical to seriously consider relying on volunteers? Most people would consider health to be beyond that and would believe that most of it should be delivered not only through individual responsibility but by a very strong, professional health service with volunteers as an add-on rather than the mainstay. Can you talk us through your thinking on that issue?

After this, I will ask one more question and then open up the discussion to colleagues around the table.

Peter McColl: I absolutely agree—and Nesta would absolutely agree—that we must have a strong, professional health service; what we are talking about is the additionality that can be delivered through volunteering. We can deliver something that is worthwhile for the individuals concerned—the volunteers—that adds real value to public services and which helps the users of public services.

There are all sorts of examples of that; indeed, I will give you a practical example. In a previous job,

I worked with former nurses who had retired but who wanted to stay in a health setting. They would go into hospitals to accompany people while they ate their meals, and it was found that that increased patients' hydration and nutrition, which helped with discharge. It was fulfilling for the retired health professionals, reduced costs in the system and improved the quality of the service that was being provided.

Of course, such a service is not free, and it is not something that can be done purely through voluntary action; we need to put in place structures to support it. Nevertheless, volunteering is in itself health promoting and, if we can introduce it into the health system—which we all know needs as much help as it can get—in addition to the excellent professional services that we already provide, we can begin to improve outcomes while, as you say, reducing some of the costs.

The Convener: My next question is again directed at Mr McColl, but I would also like the other witnesses to respond. On page 6 of your report, you conclude:

“There are huge opportunities to transform our public services”,

and you say that by

“adopting a rapid prototyping approach we can begin to make prevention a reality.”

I think that we would agree with that. However, I wonder about scaling and mainstreaming. It is wonderful to have lots of innovative approaches, but how can we make that the mainstream rather than something around the edges? That is key to the entire issue. If you could respond to that, Mr McColl, I will then ask Dr Sullivan or Mr Beattie to respond.

Peter McColl: One of the observations of the change fund process has been that, although a lot of good things were done and although the fund delivered very effectively right across Scotland, at times effective things that were happening in one place were not being transferred to another. We need to find a way to take the things that work in one place and allow them to be delivered in others.

In order to do that, you would bring together practitioners from across Scotland—indeed, from across public services, as things that work in public health might also work in criminal justice or education. One way of doing that would be to have a lab with practitioners coming together to discuss common problems and how the solutions that they tried either worked or did not work. If we could begin to get the experience and learning from particular areas and apply it more generally. At the moment, that structure is not being delivered through the

processes that we have, but it could be delivered through those processes quite easily.

In the 100-day change programme that we have in the NHS in Essex, we get management buy-in to bring a lot of front-line practitioners together to identify and solve problems. On some occasions, the interesting thing about that programme is not so much the solution that is reached as the fact that professionals on the front line in different areas of public service come together and develop strong working relationships, which allows them to deliver more effectively on solving problems. That focus on problem solving and solutions builds relationships that can help with integration.

11:30

The Convener: The fact that best practice has never been adopted across the whole country, even in a country such as Scotland with a population of 5 million, is frustrating for many people.

Dr Sullivan: I would make a number of observations about that. You have highlighted one of the key difficulties, which is that good ideas do not necessarily translate quickly into the system. I think that the lab could come up with good ideas but with the ideas that stick, you need to evaluate them and compare the old with the new. You could have randomised control trials, say, or you could have just a straightforward evaluation to indicate whether the new world that you are predicting, prototyping and testing is better than the old one. That is not just a matter of getting evidence; it is also about hearts and minds, and getting sponsors in the room as part of the co-design exercise is also absolutely key.

Of course, other impediments to rolling out and mainstreaming are finance and releasing finance from existing services to use in what will be your new services. I can give you an example that involved new finance that was allocated through a relatively straightforward process. We had a change fund, which was on a smaller scale than Scotland's, through which we encouraged bids for ideas. Those ideas had to meet certain criteria: they had to be cross-cutting and preventative, and they had to offer a new approach. One department in Northern Ireland put together a project targeted at improving good relations for youth between 16 and 24 years old, with a focus on employability. It was a new approach that had not been adopted before; we funded it through the change fund, which was managed by the finance department, and fortunately we were also able to access European funds to roll it out. We had the benefit of separate finance that was not tied up in anything else, and that enabled us to facilitate the roll-out of the project.

Of course, things become difficult when you have to take numbers out of existing services. In order to turn these things into reality, you have to get the hearts and minds of those who are already in the services.

Malcolm Beattie: I will complement or supplement what has been said by emphasising that, as far as our approach to the lab is concerned, it is all about the sponsor's views and ambitions. We might develop a prototype and prove that it works, but the sponsor needs to have the legs or finance to take it forward.

Our aim, which we have borrowed from our Nesta colleagues, is always to make a systematic change, but you have to start small, get proven prototypes and then begin to make the case. After that, you have to answer all the questions about funding. It is all about achieving something tangible, measurable and sellable that you can grow from there.

The Convener: Thank you for that.

I will now open up the session to questions from colleagues. The first to ask questions will be Mark McDonald, to be followed by Jean Urquhart.

Mark McDonald: I listened to the description of how the lab operates and the point about testing ideas before they are rolled out. What kind of time period is there between people coming into the lab to discuss how to do things differently and your having something that is sellable as a policy on a wider scale?

Malcolm Beattie: Our work on behavioural insights is a sort of microcosm of what you are asking about. From beginning to end, we can look at a particular problem that a Government department faces and set up a trial within three or four weeks. In that time, we will have analysed the problem, come to an understanding of the sort of intervention required, designed the intervention and agreed with the department that it needs to trial the intervention over a short period of time with a group of customers or service users. By the end of that process, we can very rapidly begin to see whether the small intervention that has been designed actually works. Obviously, if the problem is more complex—or if we are talking about one of the wicked issues—it can take a lot longer than that.

Once you really understand the problem and have a design, you can go from there. The idea of rapid prototyping adds value and if you have a sponsor that is able to open doors and which allows you to test these things in the real world, you quickly begin to see the relative merits of various ways of doing things, get something that works and begin the process of rolling that out.

Mark McDonald: I am interested in hearing about who gets brought into the initial discussion. A number of us around the table have previous local government experience. When I was a councillor, some of the best ideas for changing the way in which things worked came from those working on the front line. How involved are they in the discussions? Although it is great to have strategic directors and heads of service in the room, the best innovation can sometimes be suggested by those on the front line who are living with the situation every day and might well have been thinking about how to fulfil their roles in different ways that could themselves make a difference.

Dr Sullivan: You are absolutely spot on. Getting the right people in the room—the people who know the situation and who are dealing with it every day—is key to resolving some of the practical issues.

When we looked at the structure of the Helsinki design lab—typically, it brought together a group of eight to 10 international experts, 80 per cent of whom were external to Finland—we thought that it was very expensive and that there was no local ownership. Instead, we decided that it was better to turn the equation around and have only a small number of external experts from outside the jurisdiction; most of the people would be from Northern Ireland, working in the setting and dealing with particular problems. Having the right professionals is key. It is important to have external scrutiny and challenge in the lab—it should not be totally made up of local people—but the balance needs to be more local than international.

As for the timelines, they depend on the scale of the issue. During the initial research, it is important to take the time to ensure that you are asking the right question and to get the right people in the lab. The lab itself might run over a week, but the whole exercise could run for four to six months.

Mark McDonald: Mr McColl, you have highlighted the importance of the change fund for health and social care. From my local experience in Aberdeen, I am aware of a number of projects that have been funded through the change fund. Some have been successful and some less successful, but that is always going to be the case when people are doing something different or innovative. I expected that, after the change fund moneys ran out, people would look at mainstreaming any new successful way of working that had been developed, but that did not seem to happen. In a number of areas, a short-term project was discontinued instead of any serious attempt being made to mainstream what had worked. Indeed, I think that the convener has made that point already. How do you break that mindset?

Peter McColl: That is related to an answer that I was thinking of giving to your previous question. It is all about permission. We find that the solutions often come from the front line, sometimes from outside the public services and very often from the users of public services. We need the permission of senior management to allow those solutions to develop, but often that permission is not forthcoming. We need that to change.

Moreover, one of the things about the change fund is that successful projects were either self-evaluated—they were evaluated by the organisations themselves, sometimes very well—or they were not terribly well evaluated and the evaluation was not very robust. Therefore, if a project was not going to continue, little learning could be taken from it. In the move to integration joint boards, it will be important to create robust data mechanisms and research mechanisms so that we can conduct appropriate and on-going evaluation of what works and what does not work. Then, even if a project does not get funded—in some cases, it might not—we can take the learning from it and use it elsewhere. That is one of the absolutely critical things that need to emerge from the process, and it should be at the heart of that process if we are to do prevention properly.

Mark McDonald: For a long time now, I have had the opinion that the biggest barrier to prevention is our electoral cycle. There is an election coming up this year and there will be another election next year, and it is very difficult to get a consensual approach to changing the way in which things are done, because there will always be a temptation to say, “Vote for me and things will never need to change” instead of selling the message that we need to change things to derive a longer-term benefit. How can we get beyond that? How can we break out of that and ensure that we get wider buy-in to the idea of a preventative approach that might require radical changes to take place in the short term that will nevertheless pay off in the longer term?

Peter McColl: It is important to have robust data and evaluation. I will give you an example of something that we did in the 100-day challenge. If a frail elderly person appeared at the front door of an accident and emergency department, they were refused admission, unless they had an identifiable problem that could be fixed in hospital. Such a policy sounds as though it would be unpopular, and I imagine that, if you were to take it to the electorate, it would be unpopular. However, we know that the second greatest cause of admission among frail elderly people, after falls, is their having a turn or an unidentified medical episode. Very often, that sort of thing is helped not by a stay in hospital but by a referral to social

services and a change in the person's care plan. Nevertheless, we tend to admit the person to hospital, which has low political risk but generally has a higher risk for the individual. If, through rapid prototyping and actual experimentation, we create the evidence to show that the policy of refusing admission is good, not bad, for people, we can begin to build a consensus around it. That is how we can begin to answer that question, although I entirely understand the difficulties involved.

Mark McDonald: Does Dr Sullivan or Mr Beattie have anything to add?

Dr Sullivan: I concur that you need evidence to drive those political decisions, which can be difficult if there is a short political cycle.

Mark McDonald: I guess that the issue, initially, is getting people to buy into the need to gather that evidence before we can sell the change.

My final question relates to the convener's point about best practice being a bad traveller. No nation is monolithic from top to bottom; there are variations between rural communities and urban communities and between communities of poverty and communities of plenty. How robust is it to say that an example of best practice from a well-off community is going to translate well to a deprived community, or vice versa? Similarly, there are different pressures in urban and rural communities and different considerations when it comes to service delivery. How robust is it to say that you can translate best practice? Does there need to be more variation in the way that you look at things?

Dr Sullivan: It depends on the topic, because it depends on whether rurality or poverty is the key issue. With service delivery, the response required in a city could certainly be different from that which would be required in a rural community, and the lab might need to look at different ways of delivering in those two settings. However, I would not have thought that people's behaviour on getting a letter about a court fine would be linked to the rurality issue; it would just not be relevant in that case. The answer is that it depends on the circumstances.

11:45

Peter McColl: Your question is one that we need to answer and, indeed, which needs to be answered for each programme. I think that the answer is for us to be more robust in our analysis and to identify what the differences and problems might be.

We can now collect and analyse data in a way that we have never been able to previously. However, I am anxious that, for all of the reasons that you have described, the Government is not going to do that analysis and that Tesco will be the

one able to tell you about your impending chronic health condition—although you will not know that. It has the data analytics about what you buy that will allow that to be identified.

That is a real prospect. There is an opportunity for the country that gets data protection, data security and the person-centred nature of data right to be a world leader in data analysis. We could be talking about a new Scottish enlightenment with regard to data, and I think that we need to embrace that idea. It seems to me that some ways of embracing that are risk laden, so we need to find ways that are not. For me, it is important that we begin to use the ability to analyse what is happening to determine whether rurality or poverty is a factor in that respect.

Mark McDonald: That is why I do not have a Clubcard—Tesco is never going to know anything about me.

The Convener: That is what you think.

Jean Urquhart: I will follow on from Mark McDonald's point about good ideas not travelling. The Finnish lab sounds very exciting and has clearly been inspirational. Do you try to incorporate pointers from its experience into the work of Nesta and the work in Northern Ireland?

Dr Sullivan: The Finnish lab was very helpful. I should say that it is now disbanded—not because it was not a good idea but because the people involved wanted to do other things with their lives. They saw the lab as something that stimulated ideas, and we certainly learned a lot from it. Marco Steinberg, one of the key participants in the lab, is on a ministerial advisory council for my minister. The council helps to advise us on structure, ideas and guidance on structuring the lab. The Finnish lab has been a very important part of that.

When you look at lab methodology, you come to the conclusion that there are different ways to skin a cat and, with that in mind, we have looked at various methodologies. We have links with labs in France. The SILK lab—the social innovation lab in Kent—has also been very helpful to us. Some of the labs are specific to a particular area of business. There are labs that work on transportation, and there are labs in New York that are concerned with local government and other specific issues, such as education. We have drawn from a lot of different areas, but the Helsinki design lab and the MINDLab in Copenhagen have been some of our main sources of inspiration.

Jean Urquhart: Do you look for solutions within the lab, or do people come to you with solutions? Do people come with problems and ideas? Is the lab generally known about in your respective areas? Do you have links with researchers at universities and so on who can introduce ideas? Would the local health service use your service?

Would anybody approach you to find the solution to a situation?

Malcolm Beattie: We have had a lot of approaches from across the public sector in Northern Ireland. People come in with assumptions about what we are and what we do, and we have to show them that they have the wrong perception of what we are and what we do.

Each innovation lab tends to reach out to academia. As Dr Sullivan said, we aim to have an academic expert in each lab, along with a practitioner from another jurisdiction who has had big success in solving a particular problem that the lab is seeking to address. They come into the group with us as a moderating point. They can talk about international research or the richness of their lived experiences.

To try to answer your question more precisely, we tend to have conversations with, for example, Belfast City Council. We go out and introduce ourselves and spread knowledge about what we try to do. We tend to have problems presented to us. The people who own those problems may have a very fixed view of exactly what their problem is and, as Dr Sullivan said, we spend a lot of time unpicking that. Sometimes we find that the problem is quite different from what they thought that it was. They also tend to come with some ideas about what the solutions will be. Part of the purpose of the innovation lab is to take a step back from that and to help the problem owner or sponsor to understand the problem that they are handling. We then work with them to get recommendations or prototypes that we can trial.

Peter McColl: The approach that Nesta took with Y Lab was to partner with the Welsh Government and Cardiff University. Some of the people from those organisations sit around the table, and they know the contacts of other relevant people in academia and the Government. I think that the experience elsewhere is right. It tends to be that people come with problems, because that is the nature of this sort of thing. Our innovation lab, which is part of the organisation, tends to offer solutions that people subsequently pick up. The experience that I have is of people picking up how-to guides and other pieces of literature, and using those to do things that are similar to what has been done through the Nesta innovation lab.

Jean Urquhart: I think that you mentioned that there were 15 labs in 2014. If you were to give a presentation, what would you use as an example of the most interesting or successful lab? What made that one the most successful? What was the magic formula?

Dr Sullivan: They are all very different.

Malcolm Beattie: I have two examples. I never answer with one.

The piece that we did on dementia was exceptionally rich. It really got to grips with a specific problem, and the people suffering from dementia were involved in the work. It was a seminal experience for me—a public servant of 35 years—to hear what it is like to live with some of the problems that public servants attempt to solve. I am sorry that a lot of this is personal, but I learned a big lesson through that work. In my experience in the public sector, we always tend to think that we know the answers. We design, build, deliver and implement solutions for lives that we do not live and, very often, we have no perception of what it is like to live in those worlds. For me, that was the richness of that particular event.

The other piece was the one that we did on data analytics. I will echo what Peter McColl said about the fact that citizens in our jurisdictions are used to services in the private sector that are tailored to individuals. In contrast to that, the public sector is continually wedded to the notion that one solution will fit everybody. The richness of data analytics is that it gives you the ability to tailor solutions to meet individual circumstances. From that lab, I learned that it is vital that the public sector really gets to grips with data science and with what predictive analytics can do to shape services to meet individual needs.

Those are the two big things that we learned in those two labs.

Jean Urquhart: Finally, you mentioned a change fund, and I believe that you also gave an example of something that had been put in place but which had been weakened when the funding came to an end. Do you find that a challenge from the very beginning of a piece of work? There might be funding to find solutions to things, but how do you bed that work in? The issue is not necessarily the funding itself but how it all works thereafter.

Dr Sullivan: The change fund in Northern Ireland lasted just a year—there is another fund in this year's budget—and it was a relatively small sum of £30 million. It was allocated on a competitive basis; in other words, we asked departments to come up with good ideas and make bids against certain criteria. We were oversubscribed five times over, which means that we could have spent £150 million but, in the end, the money supported 19 projects. However, the funding was given on the basis that it would be used for a year's trial, the people involved had to demonstrate that the idea worked and they then had to go back to the core department to look for a change in how, in light of the evidence, resources that had already been voted to that department would be utilised.

I have already talked about the expansion of a good relations youth programme that targeted those who were finding it difficult to get into

employment and who were facing challenges with regard to community difference issues in Northern Ireland. We were able to access European funding to expand that programme so that it had more possibilities and helped more people. However, with these labs and the resulting prototypes, we very rapidly get into big decisions about questions such as, "Does this actually work?" and, "If so, what are we going to do about it?" After all, there is no new funding; the normal procedure is to go back and use what you have in a different way.

Peter McColl: The experience that we would like to create is one in which you can make a very strong case for shifting resources into something that is effective. All too often, we have programmes that do good work but, as Mr McDonald has made clear, we move on from them without mainstreaming them or moving them to a position where they are delivered on an on-going basis. A lot of that has to do with the case that is made for such programmes and the way in which they are delivered, and that is where we need to do things much better and where, I think, there are real opportunities.

Jean Urquhart: Thank you.

Lesley Brennan: I have a couple of questions. First of all, this is about the scaling up of projects. For example, I have been involved in projects that pulled data from the primary care and acute sectors into a predictive risk stratification model. As a result, projects get designed around putting in extra nurses to help loads of people, because it is meant to save so much money, but they run for only six months, after which there is an evaluation. Nothing moves forward, as Mark McDonald has said. There is always a balance to be struck between spending on the acute sector, where people are turning up right now, and trying to front-load. Most of us will agree with what you are saying, but how do you implement that in reality, when hospitals need the money now? How do you front-load funding to ensure that you can provide, say, nurses in the community? After all, not all of these services will be voluntary—you will need to pay for them. How do you make the case for bringing the money forward when budgets are constrained and, indeed, shrinking? Is there not going to be a double spend initially? How do you avoid that sort of thing?

Peter McColl: It is really difficult to avoid double spending, but what we need to do is to identify the problems where we think we can make very substantial savings, particularly in year or across a comprehensive spending review, because those tend to be the problems where, if you address them, you will have the greatest impact on the quality of the lives of the people who use the services. Generally speaking, the way in which you can most improve quality of life also happens

to be the way in which you can save the most money, and that will allow you to free yourself up to invest more in preventative services and to shift the balance of care in the way that I think everyone is committed to.

12:00

However, there is a real issue about having to double fund at times; indeed, given the current financial situation, that is going to be particularly difficult. We need to understand what works best and to identify how we can do it. With delayed discharge, for instance, getting better data through taking a real-time rather than a census approach would allow us to identify in a much more accurate way the causes of delayed discharge and to find a way of reducing it. Nobody agrees with delayed discharge, but the problem has been to identify and overcome the barriers. We now have the ability to use real-time data and to catalyse activity.

Please do not misunderstand me: I am suggesting not that we have lots of volunteer nurses but that where we can catalyse social action, we do so, because it adds a huge amount of quality to the process. That is something that we have not necessarily been good at in the past. It has to be additional to what exists, not a replacement for it.

Lesley Brennan: With regard to big data, I remember that, in the work that I mentioned, we spent two years pulling data together and getting a good picture. When I took what we had produced to a general practitioner in Wigan and said, "Here are your high-risk people," he just said, "Do we really need that? The fact is that these people are poor, and the real issue is poverty." Obviously you want a parsimonious model and the key factors, but what is your big line for selling big data, other than saying that the underlying issue is poverty? What is the benefit of having big data instead of focusing on one key thing?

Peter McColl: There are some problems for which I can suggest a solution using an innovation lab or innovation approach, but others are simply big social problems, and it is a category error to try to solve one by using the other.

I agree with you that if the problem is poverty, we need to solve poverty, but if we have to deal with that situation, we can take certain approaches that better identify where resources can be spent. That is the case that I am making today. I agree that we cannot end all the world's problems with these approaches, but what we need to do is use our resources in a smarter way.

Dr Sullivan: Big data can be used to help with the symptoms of poverty, to target resources at those who need the help the most and for

educational and health support. It can be used to ensure that those in greatest need get the services that they need.

John Mason: I would like to unpick a little more the dementia example that Mr Beattie has mentioned a couple of times. From what you have said, you—I cannot remember how you described yourself; you said that you were a civil servant or something similar—the end users and presumably some of the people in the middle such as carers and managers all got around the table or somewhere and talked to each other. Should that sort of thing not be happening anyway without having to get a lab involved?

Malcolm Beattie: That is a good question. My experience of the subject is that, when we convened that innovation lab and brought in consultant psychologists, psychiatrists, mental health nurses, occupational therapists and representatives from the voluntary sector—the Alzheimer’s Society and so on—they all came to the event very much in their chimneys, so to speak. They would say, “I’m X, I do this, and this is how we do it in our world.” However, when they all came together and started hearing the stories, the group gelled and began to say, “We need to address some of these problems.”

One of the things that became very clear in Northern Ireland—it might be the same here, but I cannot speak for Scotland—is that how a person with dementia is treated depends on where they are. Indeed, the term “postcode lottery” was used very frequently. In that case, the benefit of the innovation lab was that a group of disparate people with disparate views from different parts of the health sector, the voluntary sector and, indeed, academia corralled around the need to do something about the issue, the need for a regional model for dementia services and the need to support carers 24 hours a day so that they could access help and so on. There were various things that the group agreed needed to be done; we brought those ideas forward, and the NHS started to address some of them.

You might have thought that those conversations were already happening; perhaps they are, and perhaps, having had this experience, I am still speaking as a rank outsider to the health system, but there was a real recognition—I do not want to use the word “shock”—even among the professionals in the room that the current system was not really working and that the situation needed to be addressed and changed. That is my observation of what happened.

John Mason: My suspicion is that the same is the case in Scotland and that, with certain issues such as dementia, a lot of people might be interested and committed to them but things are not joined up. Is that what the lab is best at? Is it

best at bringing together people who do not normally come together?

Malcolm Beattie: If that is all we achieve in many cases, that still shows the richness of the approach. In the example that I have given, we had one overnight, and I had dinner with a number of clinical psychologists from different parts of Northern Ireland. Even though Northern Ireland is a small place, none of them had met before, and they began to tee up, they shared ideas and they agreed to meet. I see the innovation lab partly as a gathering point or a collaborative that pulls together people who have an interest in a particular subject and allows them to look at it in a collective way. However, you need the sponsor or decision maker behind it to ensure that the outputs are taken, tested and perhaps implemented.

John Mason: I take it that, in the case that you have mentioned, there might be more than one implementer. There would be the statutory services and the voluntary sector, both of which would be able to implement things.

Malcolm Beattie: The approach that we tend to take in the innovation lab is that we go to the owning department—

John Mason: Which would be the public sector.

Malcolm Beattie: Yes, the public sector and the health service—or, in our case, the Department for Health and Social Services. That is where we find our sponsor, because it ensures that the outputs from the innovation lab are sponsored by the most senior person who owns the policy area in question and that they can start to influence change in the health system.

John Mason: Thank you.

Dr Sullivan, you have talked about the need to test as well as have ideas. What does that mean in practice?

Dr Sullivan: That is the challenge for us. As our lab has evolved, it has proved to be very good at bringing people together; Malcolm Beattie has already given an example and, indeed, I have been involved in conversations in which people have said to each other, “We should have met before this.” It was the lab that brought them together.

However, if a lab is really going to do what a lab does—in other words, test things out—it should not just come up with recommendations, and some of our early work has involved getting the right people together, making sure that we are dealing with the right problem and then coming up with recommendations. With the memorandum of understanding that we are now developing with the sponsor, we will get permission to test things in the lab, which means that we will go and do something with the group. Of course, it all

depends on the circumstances and whether the necessary legislation is in place, but the aim is that, when we hand things back to the sponsor, we give them not just recommendations as the endpoint of the lab but some albeit fairly small-scale and rough-and-ready pilots that can be responded to.

John Mason: Can you say how that has worked in the dementia example or, if it has not worked so far, how it might work?

Dr Sullivan: It would be about trialling different service provision with dementia sufferers.

John Mason: Right.

Malcolm Beattie: For example, you might use the diagnosis process. In an experiment that is being carried out in Bristol, the diagnosis is not in all circumstances the preserve of a consultant; the people involved are trying to get GPs to do some of that work. The lab might say, "Let's design a similar trial in Northern Ireland," and you would go out to the system and say, "Look, we want to test this to see whether it has any value and at whether it speeds up the diagnosis process or helps get people the support that they need." That is just an example of what we might do and how we might trial things.

John Mason: Mr McColl, you gave a hospital example. Part of me believes that we should just close down hospitals and put the resources into the community, but there is some resistance to that.

Mark McDonald: Really?

The Convener: Aye, there would be. [*Laughter.*]

John Mason: You suggested that an elderly person who has had a turn or whatever could be turned away from accident and emergency. Part of me is attracted to that, but part of me says, "What if they have had a stroke or a urinary infection? Surely social services could not cope with that." How do we get a balance?

Peter McColl: The approach in such a case would be that social services would provide somebody to be with the person. If they had had a stroke, the care worker would identify that and have them admitted to hospital.

The reality of hospital care is that there are risks associated with it as well. We underplay those risks and we overplay the risks of care in the community, which you have identified. The approach that we need to take is one that is based on the evidence so that we can identify what would happen in a particular circumstance and the costs for the individual of admission to hospital. For example, how many individuals in hospital get dehydrated, have poor nutrition or pick up hospital-related infections? Admitting someone to

hospital is not a guarantee that nothing will go wrong, any more than someone being sent home is a guarantee that things will go wrong.

John Mason: So it is about a lack of information or, perhaps, understanding on the part of the public. I was interested in what you said in the conclusion to the Nesta written submission:

"By giving people and communities more power over decisions we can move public services to co-production, enhancing their ability to be preventative".

However, my feeling is that the public want A and E, and hospitals. Is it just that the public do not understand?

Peter McColl: I think that what the public want is a guarantee of good care and they see the NHS as a guarantee of good care. I think that in almost every case that is correct. The problem is that the NHS is often not the appropriate destination for an individual. We need to build the case that that is correct and to be able to say to people, "Admission to hospital is not always the best thing for you in every circumstance."

We have moved from a culture in which people used to go into hospital for long stays to a culture of more day surgery and much shorter stays. We have built an understanding among the public that that is a better way of doing things and that, if they have major surgery, they do not go into hospital for two weeks but go for a much shorter period. That is the circumstance that we need to move to for the hospital admissions that we have been discussing, because people believing erroneously that hospitals are better for them is not good for anyone.

John Mason: That is very helpful. Thank you.

The Convener: Thank you very much. That concludes questions from the committee. I thank all our guests for an extremely interesting question and answer session, which has stimulated committee members' thoughts. However, I would add that shutting down hospitals is not Scottish National Party policy.

Mark McDonald: Just before that press release goes out.

Jackie Baillie: It has gone—too late.

The Convener: If there are no further points from the witnesses, we will now go into private session.

12:14

Meeting continued in private until 12:39.

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