



OFFICIAL REPORT
AITHISG OIFIGEIL

Local Government and Communities Committee

Wednesday 19 June 2019

Session 5



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Pàrlamaid na h-Alba

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LOCAL GOVERNMENT AND COMMUNITIES COMMITTEE

18th Meeting 2019, Session 5

CONVENER

*James Dornan (Glasgow Cathcart) (SNP)

DEPUTY CONVENER

*Alex Rowley (Mid Scotland and Fife) (Lab)

COMMITTEE MEMBERS

Annabelle Ewing (Cowdenbeath) (SNP)

*Kenneth Gibson (Cunninghame North) (SNP)

*Graham Simpson (Central Scotland) (Con)

*Alexander Stewart (Mid Scotland and Fife) (Con)

*Andy Wightman (Lothian) (Green)

*attended

THE FOLLOWING ALSO PARTICIPATED:

John Edward (Scottish Council of Independent Schools)

Colin Gambles (Hutchesons' Grammar School)

Liam Harvey (St Mary's School, Melrose)

Cheryl Hynd (City of Edinburgh Council)

Fiona Law (City of Edinburgh Council)

Brian Murison (Highland Council)

Jack Orr (West Lothian Council)

David Torrance (Kirkcaldy) (SNP) (Committee Substitute)

Martin Tyson (Office of the Scottish Charity Regulator)

CLERK TO THE COMMITTEE

Peter McGrath

LOCATION

The James Clerk Maxwell Room (CR4)

Scottish Parliament
Local Government and
Communities Committee

Wednesday 19 June 2019

[The Convener opened the meeting at 09:45]

Decision on Taking Business in
Private

The Convener (James Dornan): Good morning, and welcome to the 18th meeting in 2019 of the Local Government and Communities Committee. I remind everyone to turn off mobile phones. We are joined by David Torrance, who is substituting for Annabelle Ewing.

Agenda item 1 is consideration of whether to take item 4 in private. Do members agree to take that item in private?

Members indicated agreement.

Non-Domestic Rates (Scotland)
Bill: Stage 1

09:45

The Convener: Agenda item 2 is evidence from two panels on the Non-Domestic Rates (Scotland) Bill. The first panel is made up of representatives of independent schools and the second is made up of representatives of local government. For the first panel, I welcome John Edward, director, Scottish Council of Independent Schools; Liam Harvey, headmaster of St Mary's school in Melrose; Colin Gambles, rector of Hutchesons' grammar school; and Martin Tyson, head of casework, Office of the Scottish Charity Regulator. Thank you all for attending and for your written submissions.

I will start the questioning by asking you to outline the difference between mainstream state schools and mainstream independent schools. Would anybody like to kick off?

John Edward (Scottish Council of Independent Schools): In our view, there is very little difference in the education that they provide. That is our point. They are education institutions like any other in Scotland. Some of our schools teach the Scottish Qualifications Authority exams, some teach the international baccalaureate, some teach to GCSE and A levels and some teach a combination of those, plus there are Steiner and Montessori schools and all sorts of other things.

The key difference is in the management. Apart from our schools, all schools in Scotland—with the exception of Jordanhill school—are under the control and management of local authorities. Our schools are specifically under the management of independent boards of trustees or boards of governors. All of our mainstream schools in Scotland are registered charities, so they are bound by the legislation that affects charities on the independence of the directors and trustees. For us, the big difference is the autonomy for the headteacher and the senior management in relation to the curriculum, the extracurricular offer, the management of the school, the size and the location.

Colin Gambles (Hutchesons' Grammar School): That is a fairly good summary, although there may be different details school by school.

The Convener: On a committee visit last week, we talked about mainstream schools providing support to state schools. Will you expand on that a bit? What exactly is the support that independent schools give to state schools?

John Edward: The interaction goes both ways. What our schools do is part of their commitment to

public benefit. They take their role in the community seriously, in a broader community sense and an academic sense. There may be subject and teacher sharing, the sharing of sports resources or coaches or the sharing of music or careers events. It is not necessarily about one sector helping out the other; it is about those parts of the school system in Scotland working together as best they can. By their nature, many of our schools have a slightly different offer, different facilities and different opportunities. It is about trying to make the most of them.

Of course, the Charities and Trustee Investment (Scotland) Act 2005 gave our schools a specific obligation to meet that public benefit requirement as registered charities. That changed the nature of the relations in terms of access to the schools and the provision of means-tested fee assistance to pupils who want to access the sector, since assisted places and all those other programmes had ended. It also meant that the schools began auditing their relations with the local communities that they sit in, which I am sure my colleagues can say more about.

Liam Harvey (St Mary's School, Melrose): We have a very good relationship with the local primary schools in Melrose. It is a small town, but we are often involved in joint ventures such as choirs that participate in charitable events and church events. Practices take place in our facilities. We are blessed with having a nice assembly hall with good acoustics. That enhances the relationship between St Mary's school and Melrose primary school, for example. It matters to us and it matters to them, and we have a good relationship with that school.

Colin Gambles: We find the situation to be variable, depending on the headteachers of the schools that are around us in Glasgow. We would like to do more, but we do not always find that easy.

The Convener: I put on record our thanks to George Watson's college for hosting a useful visit last week for the committee and our thanks to those who attended, who included you, Mr Edward.

We hear that independent schools offer tuition for state-school pupils on topics that are not covered in the school that they are enrolled in. How is that different from state schools that offer that to other state schools that do not cover certain topics? I know that that happens in Glasgow, and I am sure that it happens elsewhere.

Colin Gambles: One of the things that our sector prides itself on is trying to support what we might call niche subjects. Our parental body expects that we will provide the full range of the curriculum, which includes support for things such

as Latin or Greek, which the state sector finds increasingly hard to support. We can provide a breadth of curriculum and of permutations within the curriculum that the state sector finds much harder to provide.

John Edward: We see that in the subject teaching. For instance, George Watson's has developed a big programme in Mandarin teaching and has built that up in co-operation with state schools in the south of Edinburgh. One school on its own simply would not have been able to do that because of the scale. That happens in lots of places, as Colin Gambles mentioned. We see it in subject areas such as economics, business studies and design technology. For instance, one of our independent schools has one third of all the advanced higher design technology students in Scotland. That is an option for anybody who wants to do design technology and who may not have access to the appropriate laboratories or facilities in their school.

Therefore, to an extent, our schools are maintaining the breadth of subjects, but there is also the provision of more general academic opportunities. I think that the committee has heard from Kilgraston school in Perth and Kinross. The independent schools in Perth and Kinross provide an enormous amount of arts, drama and sports provision for the primary school sector in the area. That is because they have the facilities, a dedicated teacher or a background in an area and they see it as part of their purpose to extend that wherever possible.

The Convener: I have a question for Martin Tyson on that aspect of charitable status. The example of the support that independent schools give to mainstream schools is raised all the time. However, some state schools do that, so independent schools are not necessarily different from state schools in that way.

Martin Tyson (Office of the Scottish Charity Regulator): For us, it is about the assessment of public benefit. When we reviewed the charitable status of all the independent schools on the charity register between 2007 and 2014, we looked at the total picture of public benefit that they provided. That was looking at the benefit that they provided to their students—who are generally fee-paying students—and the benefit that they provided in furtherance of education to people outwith their student body, whether that was students from schools in the local area or otherwise. That counts as part of their public benefit and it is relevant in meeting the charity test under the legislation.

The Convener: I am trying to get my head round this, because I am not sure I am following it. If a school that is in the state system now decided for whatever reason to become independent, the work that it already does in that regard—most

state schools do that—would qualify it for charitable status.

Martin Tyson: If we had an application for charitable status from a state school, we would look at it in exactly the same way. I presume that it would not be fee charging, so we would not need to think about whether its fees unduly restricted access to the education that it provides. We would look at the whole picture of the benefit that it provides.

Our test is not a comparison between state schools and independent schools. It basically looks at the evidence of what a particular charity does and sees whether it meets the tests that are set out in the legislation. It is not based on a comparison with other sectors.

The Convener: To be fair, I am not here to interrogate the charitable status. I am just trying to get that anomaly clear in my head.

Graham Simpson (Central Scotland) (Con): If an independent school has kids in from the state sector to study Mandarin, Greek or Latin, for example, do you charge for that?

Colin Gambles: No—there is no charge at all, or not at Hutchesons' grammar school.

John Edward: I do not know of any school that charges for that. There will be community clubs or sports clubs that may be charged a minimal rent for the use of facilities after hours or whatever but, in the vast majority of cases that I have looked into for the past five years, such as shared careers events, shared music facilities and shared subject teaching, there was no charge at all.

Liam Harvey: There might be an occasion when, for example, a pupil attends St Mary's from a local authority school to be taught by a peripatetic tutor. The peripatetic tutor might charge a fee, but the facility would be provided free of charge by the school.

The Convener: On the cost of rent, are you saying that, if somebody rents your halls after 4 o'clock, they do it at no cost or at minimal cost? How does your rent compare to the local authority charging?

Colin Gambles: What we charge is slightly above cost. It is basically the cost of our janitorial staff. We are not looking to try to make a profit from that—it is not a revenue generator for us. We want to share the facility with the local community.

The Convener: Would it be at local authority prices or less than that?

Colin Gambles: I do not know what the local authority prices are, so I cannot comment on that.

The Convener: That is fair enough.

John Edward: For instance, it would be lower than the charges that have been discussed in Edinburgh recently for the rental of local authority sports provision. As was mentioned, in some cases, the janitorial or utilities costs would be featured, but I know that some schools do not bother to top that up—they just make sure that the access is there.

Andy Wightman (Lothian) (Green): I have a few follow-up questions, the first of which is in response to a question about whether a public school could become independent and get charitable status. I presume that it could not, because the charitable status is tied to the organisation. A local authority cannot be a charity.

Martin Tyson: That is exactly right. For us to be able to consider it for charitable status, the school would have to be a legal entity. That would raise a lot of questions about the relationship of the school to the local authority.

Andy Wightman: Can I pick up on something that you said in your submission? I want to understand this. On the consequences of removing charitable status, you say:

“There is the possibility that some schools may wish to request removal from the Scottish Charity Register under section 18 of the 2005 Act, in effect a voluntary de-registration as a charity.”

You then say:

“When a charity is removed from the Register for any reason, it must still prepare and submit accounts to OSCR for any outstanding charitable assets ... This is because the assets still need to be used for charitable purposes (but not public benefit)”.

I do not understand all that. If any entity—a school or any other charity—says that it no longer wants to be a charity, presumably on a certain date after that it is not a charity.

Martin Tyson: That is right, and it is removed from the charity register. However, the Charities and Trustee Investment (Scotland) Act 2005 provides for a bit of residual protection for the charitable assets after the charity comes off the register. Some of our regulatory powers still apply to the assets that the charity had at the time that it came off the register, and the charity continues to be under a duty to apply those assets for the charitable purposes that it had. A school would still be under an obligation to apply those assets for charitable purposes. However, the requirement to provide public benefit as defined in the 2005 act would not necessarily apply.

10:00

Andy Wightman: Are you saying that if somebody were to bequeath a building, that building would retain charitable status?

Martin Tyson: Obviously, for a school the relevant charitable purpose would be the advancement of education. If a building had been in the possession of a charity for the advancement of education, it would continue to require to be used for the advancement of education, even after the charity had come off the register; the charity would continue to need to report to us on that asset for as long as it was in its hands.

Andy Wightman: I still do not understand.

Martin Tyson: It is a safeguard for charitable assets.

Andy Wightman: But it seems to endure forever.

Martin Tyson: It depends on the nature of the asset. A cash asset will run down fairly quickly. If the asset is something like a van or a photocopier, it will endure for the life of the asset. If the asset is a building, it will have quite a long life.

Andy Wightman: Maybe I will go away and do some further reading on that.

John Edward: The Scottish Government is consulting on an extension or an amendment to charity law. As I understand it, that would aim to extend a public benefit requirement to assets once the entity was no longer a registered charity. There would be an additional responsibility on them.

Andy Wightman: The committee might get involved in that in due course. Are there any independent schools in Scotland that do not have charitable status?

Martin Tyson: There are a number of special schools that do not have charitable status, but to my knowledge all the mainstream schools have charitable status.

John Edward: At present there are no mainstream schools that do not have charitable status; 98 per cent of pupils in the independent sector are under registered charities. There is one school that is seeking to open in the summer that is not a registered charity and does not have sole charitable status. As was suggested, probably half of the special independent schools that we work with are registered charities, or sit under registered charities such as Capability Scotland or the National Autistic Society.

There are other schools that may work under a faith organisation or whatever, but they tend not to be members of our organisation because their statutes require them to be stand-alone in the work that they do.

Andy Wightman: In your submission, Mr Edward, under the section on

“How the Government has responded to the Barclay review, in particular on those recommendations it has rejected in full or part”

you say that

“The consultation did not address any of the wider context relating to independent schools”

and you go on to set out that context. For clarity, what consultation are you referring to?

John Edward: The whole process. The Barclay review called us in to give oral evidence, and we also gave written evidence. As I intimated, there was no discussion about the impact that such a move might have on the sector and no request for any data on the wider sector. Likewise, the only consultation that was undertaken subsequently by the Government was on its recommendations following Barclay; again, that took written evidence from organisations but we were not requested to provide sectoral details and—unlike the committee’s visit last week—nor was there any direct engagement with schools.

Andy Wightman: Is your point a criticism of the Barclay review and its aftermath, up until the point at which the bill was drafted and introduced to Parliament?

John Edward: It is not a criticism as such. However, you are left with a bill and a financial memorandum that talks about a move but makes no calculation of what the potential knock-on effects would be. The consequences may be entirely unintended, but our clear evidence, in speaking to the schools, is that there will be a knock-on effect in terms of the impact on the taxpayer and also on the schools. Therefore, to simply place it as a revenue-raising exercise denies the other elements that might fall from that.

Andy Wightman: In your submission, you also say:

“it is a matter of public record through FOI that neither OSCR, nor some departments of the Scottish Government, were convinced of the wisdom of creating a small, anomalous group of charities”.

Is that freedom of information request in the public domain?

John Edward: Yes. I think that the request was made by journalists, although I am not sure from which publication.

Andy Wightman: When you say that it is in the public domain, do you mean that it sits on the Government’s website?

John Edward: The FOI submission is there.

Andy Wightman: Could you provide us with a link? Do you have that?

John Edward: I have it somewhere, yes. There are also a couple of news stories on the back of it.

Martin Tyson: To clarify, it was an FOI request to the Scottish Government, so it would have come out there in the usual way.

Andy Wightman: Thank you.

Mr Tyson, let us say that you are looking at an independent school with 600 or 700 pupils. What would be the typical things that it does to satisfy you that it is a charity?

Martin Tyson: There is a set of things in the charity test that it has to do. Typically, the purpose will be to advance education and in most cases the schools do that primarily by providing education to their pupils. They have a charitable purpose and they have activity in furtherance of that purpose.

Another thing that we need to look at, if the school is charging fees, is whether those fees unduly restrict access to that educational benefit. How much does it cost to become a pupil at the school? If those fees are high, what help is there for people who cannot afford them? We also look at the rest of what the charity does in providing public benefit, which would include things that we have already talked about here such as access to subjects for pupils from other schools, access to facilities and so on.

We would look at the whole picture of the public benefit in furtherance of that educational purpose.

Andy Wightman: You referred to the fees not being unduly restrictive. More than 90 per cent of the population could not afford to pay the fees of a typical independent school, so are the fees not prima facie unduly restrictive?

Martin Tyson: We look at the level of the fees and, where people are not able to afford the fees out of their own resources but want to avail themselves of the benefit that the charity provides, whether help is available—and at what level—to enable them to do that.

There are a few principles involved. Where the fees are higher, we expect there to be more help in the form of bursaries, discounts and so on, to enable people to get access if they want to.

Andy Wightman: In your submission, you say that

“a number of independent schools are in marginal financial positions.”

What do you mean by that?

Martin Tyson: We get annual accounts and trustees' reports from all charities, including the independent schools. In looking at those, we have found a number of things that are common across the sector. Probably the majority of schools are running with small surpluses relative to their income. A number of schools are reporting

insufficient reserves, which is an issue given that continuity of provision of education is a crucial thing for their beneficiaries. In a number of cases, rolls are going down.

The overall picture that is emerging from the evidence that we have is a sector that is managing, but which does not have a lot of cushion to deal with additional costs.

Andy Wightman: Finally, you also say in your submission that

“some schools may wish to request removal from the Scottish Charity Register”.

Presumably, that is so that they can pay the rates out of income that they might have deferred from providing the kind of benefits that give them charitable status.

Martin Tyson: This is speculation, but one option would be that if they were released from the requirements of the charity test—particularly with regard to undue restriction in the fee levels—that would free them up to look at charging at a different rate and looking at different levels of bursaries, because they would not be subject to that element of scrutiny from us.

There is a lot of complexity around that, because rates relief is not the only game in town. If a school was doing that, there would be other tax liabilities and tax reliefs that it would have to consider. Those are not things that I can comment on.

John Edward: I do not know of a single school that would want to deregister, because they see their charitable status and their charitable purpose as integral to them. I do not know of a single school that would want to reduce the level of its means-tested fee assistance. In that respect, nobody is looking to go down that road to somehow avoid their responsibilities. Quite the opposite is true.

Unlike our colleagues down south who took the Charity Commission to court to deliberately not be held to a test, the schools in Scotland embrace the test and I do not know of anybody who would want to get away from that.

David Torrance (Kirkcaldy) (SNP): In its written submission to the committee, OSCR said:

“Allowing the creation of a ‘two-tier’ charity sector within a ‘single-tier’ regulatory regime could be damaging to the public’s trust and confidence in both the sector and charity law.”

Can you expand on how that could be damaging to the public’s trust?

Martin Tyson: Our concern is that that goes to the basis of what the charity law in Scotland says a charity is. The virtue of the system in Scotland is that it is very simple—if you are on the register,

you are a charity. For a long time, the assumption has been that any tax reliefs or rates reliefs apply equally to all charities, across the board. There are not some charities that are more charitable than others.

Our main concern is that we could start getting a blurring around the edges of what a charity is and of what the public can be confident of and understand a charity to be. Drilling down a bit, we could have a system in which there is a whole bunch of charities that are set up to provide education—schools, universities, colleges—and one group from among that set of charities starts to be treated differently for the purposes of rates relief. That starts to become very hard to understand and we start to get anomalies. At the level of principle, it is not clear why we would do that.

Alex Rowley (Mid Scotland and Fife) (Lab): I suppose that that is where confusion arises for the public. I have a 10-year-old granddaughter who attends the local primary school. What is the difference between our local primary school and a primary school in the independent sector? What makes one of those schools a charity and the other one not? I cannot remember what the rates bill is in Fife, but it is a lot of millions of pounds.

This is about public perception. What is the difference? My granddaughter is in a class of 32-plus. Maybe you could tell me what the average class size is in private schools.

You made a point about confusion, but the confusion is already there. I remember a really difficult budget round when I was the leader of Fife Council. One of the directors in education made a proposal to set up an arm's-length school company in order to save the rates. A number of arm's-length external organisations were already being set up in Fife when David Torrance was in the administration there. For example, Fife Sports and Leisure Trust saves about £3 million a year on rates. That is the only reason that that was done.

Had I not dismissed that proposal and made sure that it never saw the light of day, we could have decided to set up a Fife schools company at arm's length from the council and saved tens of millions of pounds. Is that right? Can you see why the public get a bit confused about this question?

Martin Tyson: I understand the comparison that is made between the state schools and independent schools. Obviously, our priority is charity law and the integrity of the charity sector and the confusion that would be created. On the question about the potential for an ALEO, I think that we would have had to look at that on its merits if Fife had applied for that.

10:15

Liam Harvey: Mr Rowley mentioned his 10-year-old granddaughter and her class size of 32 pupils. St Mary's spans the primary range and two years into the secondary range. I can speak for us only, and not for the sector. We have an average class size of 14, but we have a pupil to adult ratio of seven to one. If your granddaughter had a particular need—say, for example, she suffered attention deficit hyperactivity disorder—that would matter hugely to her. Assistance would be available to her and, if need be, we could facilitate one-to-one assistance for her in that class. That is very much a part of what we do and what we believe we should be doing.

As I said in my submission, I wish that that pupil to adult ratio and average class size was available to all children in Scotland and England—in fact, across the United Kingdom. It is what we do, and what makes us special.

Alex Rowley: I understand entirely. I suppose that, for the majority of the population whose children go to state schools, the question is why Fife Council is paying rates on, for example, the very large school that my granddaughter goes to when a private school 10 miles up the road that has an adult to pupil ratio of 1:7, compared with 1:32 at my granddaughter's school, is not. That is the public perception and why the public do not understand the difference here. You can imagine the tens of millions that Fife Council pays in rates. If it were not paying that in rates and putting that into education, perhaps the class sizes and certainly the adult to pupil ratio would be much lower. Do you understand the point of view of members of the public when they say, "Why would certain schools get rates relief when others do not?"

Colin Gambles: I am no expert on the rates system, but I have been reading the Barclay review. It states that the purpose of rates is to raise money for education. It does not seem to me to be real money. The Barclay review talks about cycling of money in that the Government gives the money to the schools and takes it straight back from them, so that they never see that money. I do not think that those schools should pay rates. I do not think that any schools should pay rates, because the Barclay review states explicitly that the purpose of rates is to generate money for education.

I have the paragraph in which Barclay states that. There are other reasons as well, but one of them is to generate money for education. No school should pay money in rates to generate money for education because it is nonsense. To then say that independent schools should pay as well is also nonsense, just as it is with universities. It is not the correct reason to generate money,

because it is about providing education. That is why the rates are charged.

John Edward: To pick up Alex Rowley's point, perceptually I think that he is absolutely right. There is a lack of understanding and some of it comes from terminology. That is why we do not use the term "private", because it somehow gives the indication of a private business wanting to stay on its own and be isolated from the rest of the sector, whereas "independent" speaks to the school's autonomy rather than its business status. These schools are by definition, because of what OSCR does, not for profit. They cannot raise a profit and they have no desire to.

Colin Gambles's point is well made about local authority taxation. If I speak to state school heads, which I do all the time, none of them knows what their rateable value is, because it does not matter to them. If their rateable value triples overnight or halves overnight or goes up fivefold, as is proposed for our schools, it makes no difference to that headteacher's recruitment of teachers and staff, to the equipment that they buy, to the subjects that they offer, to their facilities or to any of the offer that the school makes, because it is simply, as was mentioned, a cycle of money from general and local taxation going around.

Our contention would be that there are 11,000 charities on OSCR's register whose purpose is the advancement of education, of which we are only 50. They all pay rates. All those schools pay 20 per cent in rates, all of which is new money into the system. It is not cycled taxation money; it is new money from parents every year. The anomaly and the exception in Scotland is not our schools. The anomaly is charging a nominal rate to state schools, when it makes no difference to the financial decisions that those individual schools have to make.

Alex Rowley: It makes a difference in the sense that, in the example that I gave earlier, if the deputy director of education in Fife had set up schools as an arm's-length company, that would have saved millions of pounds. Had the budget transferred in its entirety, it would have made a difference because that money would have gone to the children. Therefore, it is wrong to say that it does not make a difference and it is just a paper exercise. It is what I am suggesting. That is why it would be difficult for parents whose children are in class sizes of 30-odd to understand that their school pays rates and a school along the road with a teacher to pupil ratio of 1:7 or 1:8 does not. That is just a fact.

Colin Gambles: I have found the note that I was looking for. In the background to the Barclay review, it states:

"Non-domestic rates are a tax based on property which is levied in order to help pay for the very wide range of services that councils deliver (such as education)."

I cannot understand why the state sector schools have to pay taxes and rates. They should not.

Alex Rowley: I will move on, but I think that we acknowledge where I am going to get to in terms of the public perception.

John Edward: To confirm your point about that money, I absolutely agree. I think that the local authority should have that money freed up. I do not understand why it is captured in a cycle, but it does not change the overall tax take of the local authority one way or the other. Our point is that, if you change the taxation rate on these schools, it has a direct and significant effect on them.

The Convener: I will let Kenny Gibson in very briefly.

Kenneth Gibson (Cunninghame North) (SNP): It is on this issue. All Governments of all political colours have charged rates on non-domestic properties. However, rates are not collected from, say, Fife Council and handed back. They are collected nationally and recirculated based on a needs formula, so it is not quite accurate to say that the rates that are raised are immediately thrown back. For example, a local authority such as East Renfrewshire, which is more prosperous than North Lanarkshire, might put in more rates from its schools, but then Glasgow will probably put in more rates than just about anywhere else in Scotland because of its huge retail sector. For example, people from North Lanarkshire and Ayrshire, which is the area that I represent, all come in and spend their money in Glasgow. That keeps businesses going in Glasgow and the money goes to a collective pot and then gets reallocated. It is all done on a national redistribution formula. If schools were suddenly not to pay rates in the state sector, there would have to be a reformulation of the formula and that is extremely difficult, because every area in Scotland then complains about the money that it gets or does not get. That is a brief explanation of that. It is more complex than it seems.

Alex Rowley: It highlights the question about the different levels of provision of education in Scotland.

Mr Tyson mentioned the availability of bursaries earlier. Is any work being done to quantify the value of bursary provision in Scotland and the number of people in receipt of full or partial bursaries?

Martin Tyson: We looked at that when we did the reviews of all the schools. I think that, on average, around 10 per cent of schools' incomes was going on bursary provision.

John Edward: Obviously, that is information from individual schools, but we looked at the situation before the charity test was brought in by the Parliament and subsequently. Means-tested fee assistance has more than tripled as a direct result of the bill that was brought in by the predecessor to this committee.

Means-tested fee assistance is now in excess of £30 million a year, which is derived purely from parental fee income—it is not coming from anywhere else. On top of that, there is probably about another £10 million in other forms of assistance, such as sibling or staff discounts. The bottom line is that means-tested fee assistance has tripled. By my rough calculation, if you exclude the publicity costs and other things that are done in the higher education sector to attract people in, the per capita fee assistance that is given out in higher education is now roughly the same as the fee assistance in independent schools, the difference being that ours is derived entirely from parental fee income.

Alex Rowley: If that data is available, it would be useful for the committee to have it.

Colin Gambles: Are you interested in a specific example? When Hutchesons' was set up in 1641, it was specifically for the education of 12 male children, all orphans. We now have 40 pupils in our senior school who are paying no money at all—they have a transformational 100 per cent bursary—and we have another 90 children who are on partial bursaries. In deciding on the ratios between those types of bursary, we have taken a steer from OSCR. It has advised us that, rather than giving solely transformational bursaries, the limited money that we have in the pot will be better spent by making it available to different strata of people who need different levels of support.

The Convener: How many pupils do you have?

Colin Gambles: In our senior school we have 850 pupils, and we have about 129 who are on bursaries, 40 of whom are on transformational 100 per cent bursaries.

Graham Simpson: What do you think lies behind this move against one small part of the charity sector?

John Edward: I would love to know. We do not detect any particular desire to single us out. Going back to Alex Rowley's point, I think that there is a problem with the general public's perception of how the schools operate. The money that they have is purely derived from what parents turn up with every term, most of which goes straight out the door on salaries or utilities. There were a couple of news stories that some education centres were paying 100 per cent rates while schools were paying only 20 per cent, which seemed to be unfair. It comes back to the previous

argument that, in our case, it is 20p in the pound new money on top of council tax and on top of income tax. Although it was an easy headline, I think that it was a slightly simplistic way of separating out 50 charities from the 23,500 on the charity register.

Our confusion as an organisation is about why this is being done after the Parliament specifically requested the same small number of charities to pass a public benefit test in detail, which no other group of charities was initially singled out for.

Colin Gambles: It seems to me to stem from a misperception of our parent body. At a typical parents evening, you will see two parents arriving pretty flustered because they are both working. They are using their salaries and are both having to work to try to afford the education that they value so greatly. They do not want to pay that money, but they feel that they need to. I do not want to go into that particularly. What we see is flustered parents arriving after working hard. They are talking to me all the time about the challenge that the fees bring and the fact that they are feeling very squeezed and that they are approaching a tipping point. You know that we have faced challenges to do with teachers' pensions and the teachers' pay review, which we are obviously aligned to. All those things are making the fees—it costs £12,000 a year to send a pupil to our school, which is obviously a huge amount out of post-tax income, but our parents value education so highly that they wish to spend that money. However, the tipping point is coming.

Graham Simpson: Before Mr Tyson comes in, I will just pick you up on that, Mr Gambles. Do you think that there is a perception that the parents who send their children to your school are all extremely wealthy, that they turn up in their Range Rovers with a Labrador in the back and that they can well afford to pay extra, so this will make no difference to them?

Colin Gambles: Some parents are truly affluent, but there are a great many who are struggling to pay the fees. We know that because we have a list of pupils whom we cannot give bursary support to every year but whom we offer places to, and they cannot come to us.

10:30

The Convener: You referred to people who value education and who are being squeezed as they put their child through your school. We should be careful not to suggest that there are parents out there who do not value education as much as that.

Colin Gambles: No, please, that is not what I meant.

The Convener: I know that that is not what you meant, but that certainly could be how it is perceived. We have to make it clear that there are lots of parents who cannot afford even the amount of money that allows them to get some support from you to get their children into school.

Colin Gambles: That is why we try to broaden access to our bursary programme and try to publicise it so that everyone knows that they can come to our school. There are bursary places and we are trying our best. We are strategically committed in our documents to raising more money for bursaries. Ideally we would be needs blind. If we could save £40 million or £50 million into a fund, we could start to become a needs-blind independent school.

Graham Simpson: Mr Tyson, could you answer the original question? Why are people picking on this area of the charities sector?

Martin Tyson: Looking back at the history of our engagement with this issue since the 2005 act passed, I think that it was clear to us that there is a lot of concern about the charitable status of the schools. That was acknowledged when the charity legislation went through Parliament originally. A lot of the provisions of the charity test came out of that discussion. We put a lot of effort and resource over those years into looking carefully and rigorously at the charitable status of the schools to try to address those concerns.

Graham Simpson: We heard last week, when we visited George Watson's and met a range of schools there—indeed, this has come out in OSCR's evidence—that some of the smaller independent schools are on the brink. They are not wealthy; they are struggling. In your evidence, Mr Gambles—I am not suggesting that you are on the brink—you give us some figures of what this could mean to your school. There could be an increase per year of £326,000.

Colin Gambles: That is our calculation. That is our understanding of what this will do to the bottom line for us, yes.

Graham Simpson: Do any of you think that schools could go under as a result of this?

Liam Harvey: Most certainly, and the increase in employer contributions is also going to put a dent in our budgets in due course. This is just another hit that will make it very difficult for schools to operate.

We have operated quite efficiently as a business over the past three or four years at St Mary's but, to go back to a previous point, we offer 15 per cent of our income to bursaries. We open our doors to as many people as we can financially accommodate. We have made a decent surplus and it is important that the committee knows that.

We have made a decent surplus over the past three years, but our intention is to reinvest that into the community at St Mary's. We intend to put down a sports facility that will be available for all local authority schools to use.

You may not be aware of this, but Scottish Borders Council went to the asymmetric model, which means that, on a Friday afternoon from 12 o'clock, children are not in local authority schools. It is our intention to welcome them into our facilities at St Mary's and provide them with expert coaching from our staff free of charge. However, of course, all of a sudden our plans have been put on hold, because we are now staring at an increased bill that is coming down the line at us. It is stifling our ability to widen our scope to welcome the Melrose community and the wider community into St Mary's.

The Convener: Further to that, Graham Simpson asked a question about schools closing. Does anybody have a name of a school that they think is under threat?

Colin Gambles: Yes, our neighbouring school has just closed its senior school after 150 years of history.

The Convener: Which one is that?

Colin Gambles: I do not like putting it on public record, but it is Craigholme school.

The Convener: Was it a small and specific school?

Colin Gambles: Yes.

John Edward: One of the attendees from whom the committee heard last week was from Hamilton college in Hamilton, which is a school that goes back less than 40 years that took over an old teacher training college. The school has said on public record, and it has been reported in the press, that it would close.

In the time that I have been at SCIS, pupil numbers have not dropped much. There has been a lot of belt tightening in the sector, but the one thing that has started to happen has been changes to the structures of schools, such as Craigholme. Beaconsfield school in Bridge of Allan closed last summer. In the projections that boards have to do six or seven years in advance—

The Convener: Are the schools that you mentioned, except for the one in Hamilton, which was a completely different type of school from the main stream, part of a cluster? Is Craigholme school part of a cluster?

Liam Harvey: The junior school at Craigholme is still operating. Craigholme sought to go into a connective days trust with Kelvinside academy, which is quite a unique model, basically so that the schools could support each other. Generally, most

of the schools are almost entirely stand-alone. There are two here in Edinburgh.

The Convener: They have not really closed; they have just merged.

John Edward: Part of the school has been closed and the expectation is that most of the pupils will go to one. However, in the case of Beaconhurst school in Bridge of Allan, for instance, some of the pupils may have gone elsewhere to independent schools but many will have gone back to the state. Hamilton college is not the same as Hamilton school in Aberdeen, which closed a couple of years ago. St Margaret's in Edinburgh closed. It does happen.

Liam Harvey: There are five remaining stand-alone prep schools in Scotland. Although I am not going to name schools, if the committee scrutinises the accounts of those five stand-alone prep schools, it will see that three of them are under threat.

Graham Simpson: OSCR has looked at the accounts, has it not? You said in your evidence that schools were struggling.

Martin Tyson: This goes back to a previous point. There will be as many individual circumstances as there are schools, but there are groups of schools that are in different circumstances from other groups of schools, such as boarding schools being in a different market from day schools. Rather than schools being on the edge, what we are seeing is a lot of schools operating without much in the way of fat to be cut. There will be some difficult decisions to be made about absorbing extra costs.

Graham Simpson: You said that schools are in "marginal financial positions." You could say that that is on the edge.

Martin Tyson: It is the idea that there is not much to play with.

John Edward: I go around schools speaking to governing boards regularly. I attend probably two or three strategy sessions at boards per term. All we have talked about for the past 18 months is money, not challenges of education or other aspects. I know for a fact that when boards such as Beaconhurst's have been looking ahead and taking their strategic decisions, they have had Barclay in mind.

Of course, if a school is giving means-tested bursaries to somebody in secondary 1, they are committing to five, six or seven years of education. If they are projecting into, say, 2025 and being told in 2020 that their budgets are all going to go haywire, that speeds up the decision-making process in schools quite quickly.

Kenneth Gibson: This has always been an issue. We heard earlier that there is a new independent school being opened this summer, but Allen Glen's school and St Mungo's academy in Glasgow went down the stank many years ago. There has always been evolution within the sector—mergers, new schools, and so on.

We are asking what the point of all this is—and we are going to ask the Government that directly. It would seem to many people that you are saying that you should have charitable status because of your involvement with the community. The schools in my constituency, none of which are independent, also allow the local community to use their halls and playing fields and swimming pools, and they have to pay rates.

One issue that we have not touched on is the fact that you choose who goes to your schools. I went to Bellahouston academy, which is near Hutchie, and we used to get all the pupils who were expelled from Hutchie. If folk were taking drugs or involved in fights or any other antisocial behaviour, they were effectively dumped on our school. You are able to select who you have at your school, and I understand that there is a vigorous selection process. The fees, according to your own evidence, are more than twice the average amount that is spent on a state pupil.

What has been the impact of recent changes in teachers' salaries and pensions on the sector? You said that you had 850 senior pupils at Hutchie. What is the capacity?

Colin Gambles: In 2006 we had 1,720 pupils and now we have 1,220.

Kenneth Gibson: Is that the school's choice or is that because there has been an erosion of the number of people who want to send their children there? What is the reason for that?

Colin Gambles: The pattern that I would describe is that the parents and the children still want to come to us. Our educational standards and our results are excellent. The only thing that I can see is that the fees keep going up, and the tipping point is coming for more and more parents.

Kenneth Gibson: Have you done any analysis of what you think? You have said, for example, that if 47 children—3.7 per cent of your pupils—left your school and entered the state sector, the state sector would have to fund them. Obviously, there will be economies of scale in the state sector.

If I divide the £326,000 rise in rates among your 850 pupils, it will be £400 or whatever, which would be an extra 3 per cent on the fees. Do you have any information on what impact that will have? Have you had any feedback from parents or pupils about that?

Colin Gambles: I believe that a number of parents have submitted to the committee on the issue, because they are starting to understand. A lot of our parents do not understand the import and have somehow not picked up on it—the process seems to have been a little bit stealthier. Those that have picked up on it have written to you. Remember, of course, that of those 850 pupils there are 130 who are bursary recipients and we cannot charge that money to them; we have to further subsidise them. Again, the effect is bigger than it looks.

Kenneth Gibson: How do you choose who comes to Hutchie as a bursary recipient? If, for example, 1,000 people in the south side of Glasgow who cannot afford the fees want to send their children there, how do you decide who gets in and who does not?

Colin Gambles: There is an entrance test and we rank people on their performance in that test. We go to the person at the top and say, “Do you need a 100 per cent bursary? Here.”

Kenneth Gibson: You rank people on academic ability.

Colin Gambles: Yes. We rank them on their performance in that test. It is a snapshot.

Kenneth Gibson: For many years, there has been an argument that that is effectively stripping out some of the better, more able and more capable pupils from the schools in the comprehensive sector that a lot of us went to.

Colin Gambles: I was at a state school myself.

Kenneth Gibson: Indeed.

Does it benefit the wider community if some of the more ambitious parents have their children removed from state schools? It may benefit their children, but what about the rest of society? That is one of the arguments.

The Convener: Can you all answer briefly, please, because we have a lot to get through and we have another panel coming in after this? It has been a very interesting discussion and I hate to curtail it.

Liam Harvey: I understand exactly what you are saying about people being dumped on your school because they had been expelled from Hutchie or wherever. In our means-tested bursary process, we screen children to assess their level of need.

You should not overlook the fact that we have a number of pupils at St Mary’s who are not coping in the local authority system because they have ADHD or are perhaps slightly on the autism spectrum and need one-to-one assistance. Do not overlook the fact that we provide and have in the past provided 100 per cent bursaries to children

who have been isolated and marginalised by their community because they have been disruptive in their local primary schools. Those pupils have come to us and we have done our level best to provide them with a level of assistance that makes learning accessible to them, while managing their conditions.

There is an assumption that we are creaming off the more academic pupils and the more affluent people who apply for places in our schools. Do not overlook the fact that that is not the case.

10:45

The Convener: Are there any statistics that would show the number of pupils who receive a bursary not because of academic ability but because of their level of need, such as the people that you were talking about?

John Edward: It would be slightly blunt, but we could put together figures for the selection processes for individual schools. In purely academically selective schools, there are relatively few such pupils. We have talked about the pupil to teacher ratio, and a lot of the schools’ attraction is precisely because there is a higher level of one-to-one learning support.

Liam Harvey: We have a number of pupils who are highly functioning autistic and have Asperger’s, for example. We know that parents are coming to us because those children are not coping in the state sector. They are not flourishing and that is why the parents have come to us.

The Convener: That is exactly the type of person that I am asking about.

Martin Tyson: When we reviewed the schools and looked at their public benefits, we saw that there is a separation between scholarships, which are usually awarded purely on academic merit, and bursaries, which are means tested. What we gave the weight to was the means-tested bursaries that are about need and ability to pay.

The Convener: The point that Mr Gibson makes is that both of them seem to have coalesced in the entry to schools such as Hutchesons’.

John Edward: The scholarships in that traditional model have almost died out in Scotland, apart from a nominal amount. Down south, people will still get offered places on their ability, with fee assistance attached, which is something that one simply could not do in our schools anymore. That has changed as a result of the test in the legislation that this Parliament passed.

To come back to Mr Gibson’s general point about parents, we are only 4.5 per cent of the schools sector, so it does not matter how many

pupils or parents there are in our sector. We pay no disservice to the 95 per cent in the state sector who do extraordinary things.

The Convener: The issue is about public perception.

John Edward: Yes, absolutely.

The Convener: That is very important.

Kenneth Gibson: It is not an issue where I am, where there are no private schools, but 29 per cent of pupils in Edinburgh go to private schools, so the impact is different in different local authority areas.

As I said last week, I am not against the private sector at all, although I know that other committee members are. If people want to spend their money on that, it is completely up to them. What the Government is looking for is a level playing field, and that is what we are debating. We are deciding what that should look like.

Alexander Stewart (Mid Scotland and Fife) (Con): You have talked about the marginal funds that are available and additional costs that many schools are having to manage. Many committee members have talked about some schools being on the brink. Specifically on the nursery sector, how many nursery schools that are run as part of the independent schools are likely to be affected by this removal of the rates relief?

John Edward: Every school that has nursery provision will be affected. Of course, what Barclay also did was extend 100 per cent rates relief to nurseries, irrespective of whether they were profit making and privately owned, but the proposal takes money away from those schools that contain nurseries. Some schools have nurseries that stand alone and could claim a different rates relief but, in every case, every school that has an incorporated nursery will be affected.

Colin Gambles: Within five miles of my school, there are 33 private for-profit nurseries that will get 100 per cent rates relief. A quirk of where we put our door means that we are not eligible for that.

Alexander Stewart: Does that devastate your sector?

Colin Gambles: It is inconsistent policy, it seems to me. We are for education; they are for education. They are for profit; we are a charity. However, we will pay rates and they will not.

Alexander Stewart: Do you feel that that would be penalising your sector completely?

Colin Gambles: That is how it appears to me.

Alexander Stewart: I see that you are all indicating that you believe that that would be the case. Do you believe that the relief that is being

proposed for specialist music schools is appropriate?

John Edward: That is a question for the one specialist music school. The justification for doing so involves the fact that most of the places at that school are allocated funding by the Government, which goes back to the argument about whether state schools should pay rates, because it is all taxpayers' money in the end. I assume that it is the status of St Mary's that is the justification for applying that relief, because I am sure that every school could say that they have a huge commitment to music. I know that a piece of regulation has come before Parliament in the last couple of weeks about the fee levels at that school. I believe that the reason for the relief is because the support has come primarily from central Government.

Colin Gambles: I support what Mr Tyson said earlier about the difficulties that arise as soon as you start trying to put a different value on different charities. My understanding is that the music school is exempted because it selects on the basis of musical ability or potential. Half of our pupils in first year are taking music lessons, and all of our pupils in first year are in music classes that are designed to develop musical excellence. If you would like us to put in place a requirement that all of our children have to have an instrument, the parents would be delighted because they perceive that as a good thing for their children's education.

John Edward: That goes back to precisely the point about arm's-length bodies. None of these schools is existing or educating because it wants to avoid paying taxes. That is the point. These schools are paying 20 per cent rates because they have been educating, in the case of Hutchesons', for hundreds of years.

Andy Wightman: To be clear, non-domestic rates are a tax on the rateable value of property that have been around for the best part of two centuries—150 years or so. They are a property tax. Do you agree that, in principle, every occupier of non-domestic properties should pay something because the local services assist them? For example, they provide the roads to your schools and all the rest of it. Do you agree with that, in principle?

Colin Gambles: Yes. All I would say is that the Barclay review said that the taxes are there to raise money for education, so you have to have net gain. Of course, we want to pay our way.

The Convener: Just to clarify, Mr Gambles, the review did not say "for education"; it said "including education".

Colin Gambles: Thank you, yes.

Andy Wightman: Non-domestic rates are a source of local government revenue to pay for all the services that local government provides—social services and everything else. Obviously, your schools could not exist in isolation. You need the roads maintained, you need the sewerage in place and all the rest of it. As a matter of principle, you agree that all occupiers of non-domestic property should pay something. Currently you pay 20 per cent. Do you agree with that?

Colin Gambles: Yes.

Andy Wightman: The argument is that just taking away the 80 per cent relief is a rather blunt instrument. The Barclay report says:

“Independent (private) schools that are charities also benefit from reduced or zero rates bills, whereas council (state) schools do not qualify and generally will pay rates. This is unfair and that inequality should end by removing eligibility for charity relief from all independent schools.”

That is Barclay's argument. I do not think that that argument has changed. I think that that is the Government's argument as well, but we will give the Government the chance to tell us whether it is. There might be some change, but we do not know whether it will involve the complete removal of mandatory 80 per cent relief. For example, it could involve making non-domestic rates more progressive—they are a flat tax at the moment, at 48p, but you could have tax-free amounts, based on percentages such as 10 per cent and 20 per cent. Alternatively, we could do something about phasing in the change over a number of years, or we could end up with the relief being 40 per cent instead of 80 per cent.

It is important to place on the record the fact that, last week, we visited George Watson's college, and some of the references that we have made are to conversations that were held last week in private. It was interesting to me to hear from schools what their school rolls were, how much the proposed taxes would cost them and what that meant per pupil. At George Watson's college, that cost would be £191 per pupil and at Hutchesons', where I think that there are 1,300 pupils, it would be £246 per pupil. However, it would be much more for the smaller schools, with the cost per pupil being £450 at Hamilton college and £500 at Kilgraston school. There is an issue about scale here.

There is also a question about your property, because the rates are being charged on your property. Are some of your schools inefficient users of property, in that, if they rationalised their estate, they could possibly reduce their non-domestic rates bill?

If we are to address the current unfairness—I know that you do not view it as unfair; we will take that as read—do you have any general ideas of

how we could do that in another way? What else could be done?

Colin Gambles: I would have thought—of course, this is just an opinion—that a calculation needs to be done for charities to see what would be a fair level in relation to their rates, and that should be applied to them.

Andy Wightman: At the moment, that is 20 per cent.

Colin Gambles: Yes. If that is wrong—if that is too low—I propose that you should bring the state schools to the same level. That is, you should devise a formula that says what a charity or a state school should pay, because it makes no sense at all for a state school to be paying the full rates. The headteachers need that money; it should not be being paid in rates to raise money for things, including education. I think that coming up with such a formula would be the fairest way across the sector.

Liam Harvey: I am thinking slightly outside the box, but, from the point of view of my own personal philosophy, I wonder why nobody—I ask Martin Tyson to forgive me—has suggested what I am about to suggest. In England, with regard to the level of bursaries per independent school, a level of over 5 per cent was balked at and, I believe, challenged through the courts. Whatever level per independent school in Scotland might be deemed acceptable—whether it is 6 per cent or 8 per cent—is there a possibility that raising that level, plus a consideration of public benefit being apparent in the function of the school, might help all concerned? For example, if there was an expectation, when the Office of the Scottish Charity Regulator was carrying out its inspections, that independent schools were expected to give up 10 per cent of their income, all of a sudden that would slightly alleviate pressures on oversubscribed state schools. Most independent schools in Scotland would be able to accommodate that.

The Convener: How would they be able to accommodate it if you are telling us that they are under huge financial pressure just now?

Liam Harvey: Half a fee would help the bottom line, as opposed to no fee at all.

John Edward: You are completely right in what you say about rates. Although Barclay suggested it, I do not know of any of our schools that pay no rates at all. Possibly, some of the special schools get full discretion from the local authority but none of the mainstream schools pays no rates at all. You are absolutely right that paying rates should be part of their role in society.

I think that the trouble that the schools have had is that, in contributing that money and in relation to

the charity test that is there, they are stuck with the question, "What do we do to maintain our situation as a school?" I take your point about facilities. There are no bursars on this panel, but if you ask a bursar whether their facilities are well used, they will say they are extremely overused.

Andy Wightman: I was not talking about whether facilities are well used; I was talking about whether a school's property is efficiently managed. It might have a high rateable value because it has too much property.

John Edward: Indeed, which ultimately comes back to the question: if rates go up, where does the money come from? The money comes from parental fee income. There is independent evidence that shows that, beyond a certain point, affordability cuts in and people start to leave. Each one of the pupils who leave our sector represents, on average, a £6,500 cost to the state. Other ways of getting that money involve selling off assets—rugby or hockey pitches, land, boarding houses and so on—or getting rid of staff. I assume that, given the aims of increasing physical activity and improving attainment in Scotland, those things are not what anybody wants to happen. There are no other ways of generating that income. If you start to sell off the buildings, you have a problem.

We sit in the shadow of a former school that for 60 years has sat letting in water, because it is a grade 1 listed building that nobody can do anything with. In the mainstream and the special needs sector, we have 17 grade 1 listed buildings. I know of one school in Edinburgh that has spent £1 million on its roofs in the past two years. Those schools are making a contribution and are keeping those facilities going. There are a lot of houses in Edinburgh, Glasgow and elsewhere that are built on former playing fields. I think that most schools would not want to go any further in that area.

Colin Gambles: As a specific example from Hutchie, we have some rugby pitches but we rent them from the council. They are on a flood plain, so they are not really fit for purpose. We maintain them, we keep them looking lovely and we play sport on them, but I think that our lease is up for renewal in the next few years. That is not a facility that we own.

Andy Wightman: Mr Tyson, is it the case that OSCR believes quite strongly that it wants to retain the integrity of the charitable sector and therefore the reliefs that are associated with it as one sector?

Martin Tyson: Yes. I have been meditating on your previous question, and I think that what we would want to see is a way of looking at that question that involves a consideration of principle—that is, the basis of what the charity law

is—and which bears in mind the issue of the integrity of the sector.

The Convener: I thank everyone for attending. This has been a useful session. We will suspend briefly to allow a witness changeover for the next panel.

11:00

Meeting suspended.

11:04

On resuming—

The Convener: For today's second evidence session on the Non-Domestic Rates (Scotland) Bill, I welcome Cheryl Hynd, customer manager (transactions), and Fiona Law, NDR team leader, from the City of Edinburgh Council; Brian Murison, revenues manager, from Highland Council; and Jack Orr, senior property executive, from West Lothian Council. Thank you for your submissions.

I will kick off. Does the bill as introduced, along with the early measures implemented by the Scottish Government, sufficiently address the Barclay group's findings and recommendations? Who would like to be the first to dip their toe in the water?

Jack Orr (West Lothian Council): I am happy to respond to that. In broad terms and in many respects, the bill has been drafted with the main recommendations of the Barclay report in mind. As ever with these things, the devil is in the detail. Having looked at the bill, I think that a few points of detail arise and that perhaps we have been invited along today to elaborate on some of those detailed aspects of the bill.

Brian Murison (Highland Council): We concur. We feel that the bill is work in progress. The details need to be ironed out.

The Convener: Do you have any views on the recommendations that the Scottish Government rejected? I refer to recommendation 28, which says that

"All property should be entered on the valuation roll (except public infrastructure such as roads, bridges, sewers or domestic use) and current exemptions should be replaced by a 100% relief to improve transparency",

and recommendation 29, which says that

"Large scale commercial processing on agricultural land should pay the same level of rates as similar activity elsewhere so as to ensure fairness."

There are no strong views about that—okay.

You will have heard some of the previous debate. The question of how non-domestic rates work within the state school system kept coming

up. Could somebody give us an easy-to-understand explanation of that?

Jack Orr: I am happy to give a brief view from West Lothian. All our schools are subject to the valuation process, and all of them—secondary, primary, nursery and special schools—are liable to pay rates as per the rateable value that is entered on the valuation roll. There are certain exemptions from or exceptions to that through various reliefs. The most obvious are some of the special schools. Reliefs are granted in relation to physical and other disabilities, so special schools get an element of relief. Otherwise, everything that is on the valuation roll is charged. I do not have the figures for individual schools, but the total non-domestic rates bill that West Lothian Council paid last year was £8.7 million. Of that, some £2.9 million was paid in respect of primary and nursery schools. The remainder is made up of the other schools, which form by far the largest part of our estate, together with other operational buildings.

To give some context to the total bill, the £8.7 million for non-domestic rates slightly exceeds what we pay for all our energy for all our estate. As a proportion of our total revenue budget, our property revenue budget is somewhere between £23 million and £24 million, so it is a substantial proportion of that total sum.

Cheryl Hynd (City of Edinburgh Council): As at March 2019, the total non-domestic rate bill for Edinburgh was £19.3 million, of which £12 million was for schools. That is a considerable amount of money. It has been interesting to hear discussions from colleagues in the private sector and to get a balanced approach. From some of the ideas in the submissions, it is clear that everybody is willing to have a conversation and agrees that by no means is this all set in stone. As far as we are concerned, that takes us towards the ethos of the Barclay review, which is that things are up for discussion and people's thoughts and views should be taken forward. We might be talking about just a number on a bit of paper, but it affects people's lives.

The Convener: Can you clarify for the record that that money does not get recycled back into the education system?

Cheryl Hynd: That is correct.

Graham Simpson: To clear this whole thing up, who pays the money and where is it paid to? Do individual schools pay? If the rates bill goes up, does that affect headteachers?

Brian Murison: Not in Highland. It is a central process, whereby the money is just taken from the top line of a service's budget. Many headteachers will not even be aware that they pay rates for the school building.

Graham Simpson: Is that the case for all the witnesses?

Fiona Law (City of Edinburgh Council): Yes.

Brian Murison: Yes.

Jack Orr: Yes.

Cheryl Hynd: Yes. There is a set budget at the beginning of the year, so we know the rateable value of our property roll. In Edinburgh, that includes all our buildings—for example, secure units, libraries and so on. We know the central costs for the council—that is why I was able to say that the total for Edinburgh is £19.3 million. That is an overhead and it has to be part of a council's considerations in relation to its budget. We know that we have to pay our bill and it is taken into account, whatever funding the authority gets.

Graham Simpson: Just for the record, so that people understand the point, does every council hand over that money to the Government? *[Interruption.]* Mr Wightman says "To itself"—the council pays that money to itself, in effect.

Cheryl Hynd: Councils fund themselves—they have council tax and non-domestic rates—and then there are grants and so on from central Government. The money that councils get has to pay for all the services and staffing costs.

Alex Rowley: Have any of the authorities represented here today set up ALEOs in order to avoid paying rates? Have you set up ALEOs where not having to pay rates has meant a saving to the council?

Brian Murison: Highland Council operates an ALEO, but I would not say that it was set up to avoid rates.

The Convener: You should not say that, no.

Alex Rowley: No, but a consequence is that it avoids rates.

Brian Murison: The consequence is that, as a charitable organisation, it gets the 80 per cent relief.

Alex Rowley: I will move on to whether there are additional measures that could have been included in the bill. One that comes to mind is the proposal to make changes to rates for out-of-town shopping centres. I want to try to focus on town centres and the impact on rates. Is there anything that could have been put into the bill to help councils and town centres?

The Convener: I take it that the lack of response means no.

Jack Orr: Alex Rowley mentioned out-of-town shopping centres. Clearly, they are already on the valuation roll. They are in direct competition with traditional town centres and in my view there is

generally only one winner, which tends to be the out-of-town shopping centre because of convenience and all the rest of it. I can think of a few places, such as Bridge of Allan, where there is a good range of independent shops and the like. However—this is certainly my experience of West Lothian—over the years, many town centres have become homes for charity shops and such like. Many of the multiples that we used to have, such as Woolworths and Poundstretcher, have failed and gone into liquidation. That has not helped.

11:15

Alex Rowley asked whether there is anything that should or could have been in the bill to help redress the balance. It may be difficult for the bill to do this, but I think that the only way to do that would be to incentivise town centres in some way. That could be done through further reliefs, with rateable values being reduced either through specific reliefs or through some other measure. It would be difficult, and I think that there would be all sorts of intractable problems if you started to go down that road of comparing one scenario with another.

Alex Rowley: Am I right that the Community Empowerment (Scotland) Act 2015 gave councils powers to make a town centre rate free if they so wished, but that they would have to pay for that?

Brian Murison: Yes. The problem is that the measure is self-financing. The authority would have to finance any relief scheme, which would cause difficulties, given pressures on budgets and so on.

Alex Rowley: Have any of your authorities looked at doing that?

Fiona Law: We have looked at it, but due to financial constraints we have not been able to offer any form of relief.

Alex Rowley: On the role of assessors in the potential application by local authorities of discretionary relief to recreational sports clubs, concerns around playing fields seem to come up as an issue in relation to the bill. Are there changes that threaten businesses that run cafes or whatever in public parks?

Brian Murison: In our view, the difficulty with the examples that we are aware of is that they are so small in value that they would be entitled to the small business bonus. As such, you would just be creating an administrative burden. The net gain would be very limited.

Jack Orr: I concur with that view. We already have a number of individual entries for some of West Lothian's public parks—cafes, shops and caravan sites, for example. In some ways, it is difficult to see how, without creating an

administrative burden, you might bring other activities on to the valuation roll.

We have an interesting scenario in front of us at the moment, with a proposal from someone who wants to do a winter wonderland in one of our country parks—it would be modelled on the enchanted forest at Pitlochry. It is probably focused on Christmas, so it would be time limited and would not be there all year around. I suppose that that kind of thing might attract an entry on the valuation roll, or perhaps a look from the assessor to see whether it would be appropriate to include it on the roll. Other de minimis things—an archery club or an ice cream stand, for example, which are seasonal—speak for themselves, I think.

Fiona Law: The Christmas market in Princes Street gardens in Edinburgh, which is the capital city, does not go on the valuation roll. If we were to include such things, would we deter them from happening? Given the tourist attractions at Christmas, that could be detrimental to other businesses in the area. We would need to weigh that all up.

Alex Rowley: Is there anything that we could put in the bill to try to help town centres? Throughout Scotland, most town centres are struggling. As the MSP for Kirkcaldy, David Torrance knows that it is not easy to see what the answers are.

Brian Murison: We have two main issues with town centre businesses. One is the rateable value, but that is an assessor matter that is driven by non-retail businesses that are willing to pay town centre rentals. The other issue is out-of-town centres and parking, but we are trying to address that by offering free parking in town centres for a limited period.

Jack Orr: We have no parking charges in West Lothian in any of our towns.

The Convener: That is great. Thank you very much.

Andy Wightman: Have you made any evaluation of the impact of moving to a three-year revaluation cycle on the administration of non-domestic rates in your councils?

Jack Orr: As far as I am aware, we have not specifically modelled that from a property perspective. Clearly, we would be supportive of a three-year cycle, because that would help to iron out the large swings that can take place at revaluation.

The revaluation has been seven years in the making. During that time, the property market has fluctuated widely for a number of reasons. Anything that helps to iron out the fluctuations for ratepayers in general and businesses in particular has to be seen as welcome. Reducing the tone

date from two years to one year in advance of the revaluation would also help that situation. I do not know whether that answers your question.

Andy Wightman: Yes. The question is more for assessors—I am just wondering whether there would be any other impacts for councils.

Brian Murison: There would be impacts. We often use revaluation years to review reliefs that are awarded, particularly the small business bonus and the rural rate relief, and obviously there would be an impact on those.

We have an automated interface with assessors, but we will still have to deal with manual rejections.

Yes, there would be an increased workload, but that is something that we would just have to manage.

Jack Orr: I should have said that there would be an obvious impact for staff in local authorities that deal with property, because we would be involved in appeals every three years rather than every five years. That change would have an impact on our day-to-day working.

Andy Wightman: You would be involved in appeals.

Jack Orr: Yes. I cannot think of any local authority that would not appeal against valuations throughout its authority, where it sees it as appropriate to do so. We manage appeals in-house, with some external assistance.

Andy Wightman: Do local authorities lodge quite a number of appeals? The non-domestic rates that a local authority pays go straight to that local authority, so why would you bother appealing?

Jack Orr: We appeal to ensure that our assessments are as fair as everyone else's—we do not want to be in a position where we consider that our assessments or our entries in the valuation roll of rateable values are significantly different from the rest of the market.

Andy Wightman: I turn to parks. The intention with the bill seems to be to make sure that commercial activities in parks are not exempted unnecessarily and that there would be parity between what goes on in parks of a commercial nature that is similar to what goes on outwith a park. Are you comfortable with the bill's provisions? Do you think that they are justified?

Cheryl Hynd: Yes. For Edinburgh, the issue is mainly about consistency of approach and making sure that rates are applied in the same way across Scotland.

A lot of our comments on the bill, which have been from an administrative and a ratepayers'

point of view, are about the need for consistency to be applied. Our concern is that whatever council someone falls under—whether it be West Lothian Council, Highland Council or the City of Edinburgh Council—exemptions, discounts, reliefs and so on are all applied in the same way. As I said, there needs to be consistency. We also need to make sure that people know exactly what the regulations are.

Andy Wightman: I have had a quick look at Princes Street gardens, and I note that the Scott monument is listed as a distinct historic building for example. In St Andrew Square in Edinburgh, which I think that many members will be familiar with, there is a Costa Coffee with a rateable value of £42,000. It would seem that there are premises in parks that are already on the valuation roll. The new provision in the bill would appear to be about making sure that all premises in parks, particularly local authority parks, that should be on the valuation roll are put on the valuation roll. Is that a fair assessment?

Jack Orr: If that is the intention, we would welcome that. As I said, in West Lothian Council's case, a number of commercial activities that are in our public parks are already on the valuation roll. If the intention is to treat commercial activities consistently across the board, we would certainly agree with that. As colleagues from the City of Edinburgh Council were saying, if the provision is applied across the whole country, that would be consistent and fair to everyone.

David Torrance: Do you think that the anti-avoidance measures in the bill, especially on empty properties and holiday homes, are strong enough to close any loopholes?

Brian Murison: I think that the measures are a movement towards that, but as practitioners, our view would be that certain ratepayers would just find a new way around the measures.

I think that there will always be constant movement in that regard, but the measures would certainly help. They are very welcome, because they would give us an opportunity to close some of the loopholes. However, much of it will, in the end, come down to case law.

David Torrance: Are there any measures that you would want in the bill to close the loopholes?

Cheryl Hynd: One proposal that we have made is to have a review panel. That would allow us—whether through the councils or the Institute of Revenues Rating Valuation Scotland—as practitioners, to get together and discuss what are being called loopholes. If any new ones come up, we would discuss, as a professional group, what is happening and what the best way is of dealing with those things. We would keep abreast of matters, and if analysis comes through from the

case load of a council that pinpoints to something happening, that could be used as a learning tool, to address the situation, and the panel could propose amendments to legislation and so on.

There is a need to review matters constantly and not just say, "We've addressed it through the Barclay review. Let's leave it." We have to keep our understanding fresh, and put in place committees or panels to review things, to make sure that all potential future loopholes are looked at. There has to be consistency and fairness; we have to make sure that we all approach things in the same way.

David Torrance: Phoenix companies, which are created for tax avoidance purposes, were mentioned in previous evidence. That issue is not covered in the bill. Do you think that it should be? Are there any examples of phoenix companies operating in your area?

Brian Murison: We have a particular issue at the moment. However, it is not about phoenix companies—we have moved on to shell companies, which are companies that are being created purely to absorb debt. Again, through the IRRV, we did a survey throughout Scotland and such companies owe about £2 million in outstanding rates.

11:30

A company has taken us to court, because it disagrees with what we have done, but, I hope, that will allow us to raise the issue. In many cases, basically, we have to be challenged in the court system before we can get a decision. We want there to be a link between spurious directors of companies and the owners of the properties, because properties are being bought by owners but shell companies are operating them on their behalf.

Andy Wightman: Are you willing to name the organisation that you are talking about?

Brian Murison: They go under a variety of names. I think that you will have about four or five in Edinburgh under various names along the lines of "tartan house of Scotland" or "Cashmere". If you trace them back, you will find that they have a single director, who is a 78-year-old gentleman from Edinburgh, who I am quite sure is unaware that he is the single director.

Andy Wightman: We previously heard evidence on this topic and I suggested that the problem is that we are trying to track occupiers and that the occupiers are liable, whether they are tenants or owners. Is there a case for revisiting the liability for rates and placing it on owners rather than occupiers?

Brian Murison: We suggested to the Barclay review that we made it an owner's tax that the owner was responsible for. If the occupier were a charitable organisation or any other that was entitled to some sort of relief, that relief would be claimed through the owner. Highland Council suggested that and we are fully in favour of that.

Andy Wightman: Were other councils in favour?

Brian Murison: I am not aware of that.

Jack Orr: I can see a difficulty. Although you can make the owner responsible for the tax, through commercial leases and all the rest of it, ownership can be transferred to the lessee or the occupier. I wonder whether, by a circuitous route, you almost end up again with a shell company—through the commercial leasing aspect of the situation—being responsible for the payment of rates. If something could be done to reflect that situation and cast the responsibility back to the owner, that would capture it, but I cannot think what that would be.

The Convener: That is a very interesting point.

Alexander Stewart: I will ask about the potential impacts of the bill. The Convention of Scottish Local Authorities has indicated that the financial memorandum is broadly reflective of the figures that it gave the Government, but that there will be room for refinement in years to follow. Can I ask whether additional costs for local authorities will be fully funded, including any additional costs that are higher than the estimations in the financial memorandum? Do you have a view on that?

Brian Murison: It is difficult. We obviously have an estimate of initial costs, such as software changes and so on, but until we see how the bill progresses it is difficult to make an adjustment for that.

Alexander Stewart: Would the biggest administrative effect normally be for the assessors?

Brian Murison: There certainly will be administrative changes required by the assessor.

Alexander Stewart: Could that have knock-on effects as to how it is progressed and processed?

Brian Murison: Yes.

Alexander Stewart: What discussions have local authorities been involved in regarding the cost for future years? The financial memorandum mentions only what will happen initially and it may have to be refined as years progress.

Cheryl Hynd: I have not seen anything for future years. If you change something, you need to take on board learning about what needs to be

amended to make the activity successful in the future. That would have to be considered.

Scottish councils are very good at sharing learning. As practitioners, we have shared learning about automation, the publication of non-domestic rates on websites and so on. That is one thing that makes me proud to be a local authority employee. The IRRV quite particularly talks about sharing learning. In relation to the administration of non-domestic rates in the future, it will not always be the case that it will be about money. It might be about how to do things in a smarter way. As authorities, we have become very good at that, because we have had to.

Alexander Stewart: You have been forced to adapt to many situations—and you will adapt to these circumstances—but there might be a knock-on effect on personnel and resources and implications for them.

Cheryl Hynd: At the minute, that is an unknown unknown.

Kenneth Gibson: Many things that I wanted to raise have been raised, but one issue about town centres that has not been mentioned—there is not a lot that we can do about it—is online shopping. There is a question about how those retailers get taxed at some future date. I know that the UK Government is at least thinking about that.

Have you noticed whether not charging for parking in West Lothian has had a positive impact? Are people not going into Edinburgh, for example, to shop? Obviously, the parking charges in Edinburgh are horrific.

Jack Orr: I would guess that people who go shopping in Edinburgh town centre mainly take the train. Although parking in all our town centres is currently free, it seems to me that that has not of itself had a positive impact. Some of our town centres—I am thinking of Linlithgow, for example—have a good range of independent shops in the high street and the occupancy rates in the high street are very high. In probably the remainder of our traditional town centres, which were formerly associated with coal mining areas and the like, that is certainly not the case. Free parking may help in some respects, but I do not think that it shows a specific positive impact. Many of the parking spaces are simply used on a daily basis by people who are perhaps the employees of the retail enterprises or whatever. Once that car is in there in the morning, it is there for the whole day.

Kenneth Gibson: In St Andrews, they have a two-hour turnaround time for parking. Studies in England have shown that that creates a 20 per cent increase in revenue, because people go and do their shopping and then they move their car. Bizarrely, in Largs in my constituency, many

shopkeepers were reluctant to have something like that because they like to park outside their shop, even though it means that a customer cannot. I understand what you say.

I want to mention compulsory sale orders. In my constituency, and I believe in many places in Scotland, we have buildings that have been left derelict for many years, particularly in town centres but also elsewhere. Perhaps the owners have bought them for speculative purposes and looked to invest in them but have not had the money. The owners may be overseas or may live here, but the buildings are an eyesore and we need to do something about them. Would a compulsory sale order, whereby if someone was not willing to use a property it could be auctioned, be a positive step?

Jack Orr: There are some issues around that. I do not know what the criteria would be to assess—

Kenneth Gibson: A building would have to have been empty for three years, for example.

Jack Orr: If there were workable criteria like that, yes. We can probably all think of properties in certain parts of our authorities that would benefit from that. Certainly, I can think of one in one of our towns. It is an imposing building and it has been vacant for probably 10 years and it now has various shrubs growing out of it and all the rest of it. In principle, I see no reason why a compulsory sale order would not be a positive move.

Kenneth Gibson: What do other members of the panel think?

Fiona Law: I agree with that.

Brian Murison: I agree.

Andy Wightman: The financial memorandum to the bill estimates an administrative cost to local authorities of £2.5 million from 2020 through to 2025. It also estimates the total administrative cost of the bill to local authorities, to assessors and to the Government as £32 million and the estimated cost to ratepayers of £68 million, so it will, net, raise more money. Are you broadly content with the estimated financial implications set out in the financial memorandum to the bill?

Brian Murison: I can comment only from Highland's point of view. We sat down when we were asked to estimate the cost of the bill to ourselves—from an administrative point of view—and I am comfortable that the figures that we provided were a fair and accurate figure of what the actual cost would be.

Andy Wightman: Who asked you?

Brian Murison: When the bill first came out, we were asked—

Andy Wightman: By COSLA, or by the Government?

Brian Murison: —by COSLA, yes.

Cheryl Hynd: That goes for Edinburgh also. All the councils were asked to sit down and have a look at it and make sure that they were comfortable and they have had a chance to feed back through COSLA.

Andy Wightman: If there are any discrepancies—if you get any surprises—will you be ready for them? The costs will be based on your figures, so will you be able to work out why they went askew?

Cheryl Hynd: Yes.

Jack Orr: We did the same exercise in West Lothian, but we had to make some fairly broad assumptions about what the costs might be, given the level of knowledge and detail that we had at that point.

Andy Wightman: I have one more question. Mr Orr wrote to us about nurseries.

Jack Orr: I did.

Andy Wightman: I do not know whether you were here for the previous panel. The witnesses were from independent schools and they also raised the issue of where they put a gate determining whether they get rates relief. Obviously that is not in the bill, and is covered by secondary legislation. Should we revisit the matter in the bill?

Jack Orr: I understand that members have had circulated to them plans that I supplied. We have raised the matter because of the nursery relief provisions that are already in place. I heard some of the latter evidence from the previous panel.

I can speak only from my authority's point of view. In terms of provision of relief, the regulations provide for 100 per cent non-domestic rates relief from business rates, from 1 April 2018 until 31 March 2021, for properties "wholly or mainly used" as day nurseries

"within the meaning of the Education (Scotland) Act 1980".

My reason for writing about that was to point out an anomaly or an unintended consequence of the regulations. I can give you figures to illustrate where I am coming from.

11:45

West Lothian Council currently has 58 nurseries—from one with a capacity of 140 places, reducing to nurseries with capacity of 40 places or thereabouts, generally. The bulk of them are contained within school campuses—they are the feeder nurseries for individual primary schools. Of

our 58 nurseries, only two are currently eligible for the nurseries relief. That is because they are included on the valuation roll as what we call unum quid, which means that we cannot claim the relief. That represents, across the authority, just under 4,000 nursery places.

In West Lothian Council's area, currently only two nursery schools qualify for relief out of 26 nurseries that are eligible: the other 24 are in the private sector and are stand-alone buildings that are used specifically as day nurseries. My point in sending the committee plans was to illustrate how in many cases, although not all, our nurseries are self-contained buildings within a larger school campus. On the face of it, it seems to me to be iniquitous that other stand-alone nurseries are eligible for relief, but because of how we use our education estate, in making efficiencies, that relief from property tax is denied to us.

Andy Wightman: I clarify that the bill deals only with the Barclay recommendations that require primary legislation. The Barclay recommendation on relief for nurseries did not require that, so the Government produced secondary legislation. Would you like us to revisit the matter in the bill?

Jack Orr: I would, from West Lothian Council's point of view; I do not know about my colleagues. I suspect that what I have said applies in other authorities. A fairly constant theme throughout the session has been the question whether anything else should be considered within the bill. I think that my answer to that would be yes.

The Convener: You have been asked to use your estate wisely. It seems to be strange that you are being penalised for using it wisely, so that is certainly something that we will discuss in our private session, later on.

David Torrance: You mentioned free parking in West Lothian. How much does that cost the council? I know that cost has restricted Fife Council, although it is implementing it in areas in Kirkcaldy. How much does it cost for your free parking?

Jack Orr: It does not cost anything because it is free. *[Laughter.]*

David Torrance: You have maintenance of these car parks and so on to pay for—for example, for multistorey car parks.

Jack Orr: There are no multistorey car parks that are not associated with the Livingston centre, whose parking is in private ownership. Our car parks are surface car parks and on-street parking. I cannot, unfortunately, give you the maintenance figures for the surface car parks, but inevitably there are costs, and there are rates to be paid on them. There are no rates paid for street-side parking.

The Convener: You must have done some calculations about lost income.

Jack Orr: Until a few weeks ago, the authority's only car park in the centre of Linlithgow had for the previous 20 years, from 1995 or thereabouts, been let to a private car-parking company. The reason was that it was being used as a commuter car park. People would park there of a morning, then walk along to the railway station and go wherever they were going. Our transport people at that time—I appreciate that it is many years ago—took the view that we should go for short-term parking. The two-hour maximum in St Andrews is the obvious comparator. That principle was employed in Linlithgow, and we decided to put that out to the private sector because we did not have the expertise or resources in-house to do it ourselves.

That had three effects. First, it very quickly removed commuters from the car park. Secondly, it provided us with a commercial income of about £40,000 per annum, and thirdly, it meant that the lessees were responsible for payment of non-domestic rates. It was a win-win-win situation, from the council's point of view.

The Convener: Why did you scrap the parking charges if there was income coming in and it had a positive impact on the town centre?

Jack Orr: The tenancy came to an end at the end of May, and the current operator decided not to renew the lease and relinquished its tenancy at that time. We currently have the car park on the market and have already had expressions of interest to do the same thing again in that location.

The Convener: There are no more questions, so I thank the panel very much for their evidence. It will be very useful. We will take more evidence on the bill at our next meeting on 26 June, then we will hear from the Minister for Local Government, Housing and Planning at a meeting in September. The committee will also visit East Ayrshire on 24 June. At a meeting there, we will discuss the bill with local businesses, enterprises and charities.

11:52

Meeting suspended.

11:52

On resuming—

Subordinate Legislation

Licensing (Personal Licences: Supplemental and Transitional Provision) (Scotland) Order 2019 (SSI 2019/177)

The Convener: Agenda item 3 is consideration of Scottish statutory instrument 2019/177. I refer members to paper 3. The instrument has been laid under the negative procedure, which means that its provisions will come into force unless Parliament agrees to a motion to annul it. No motion to annul has been lodged. The Delegated Powers and Law Reform Committee considered the instrument at its meeting on 4 June 2019 and determined that it did not need to draw the attention of Parliament to the instrument on any ground within its remit. Do members have any comments on the instrument?

Andy Wightman: In the circumstances, the instrument is sensible. I do not understand why personal licence holders, who knew that there was a deadline, did not get their applications in, so it is a proportionate response to the demands that have been placed on licensing boards by people's failure to apply to renew their licences.

The Convener: Does the committee agree to make no recommendation on the instrument?

Members indicated agreement.

The Convener: Thank you very much. That ends the public part of the meeting.

11:54

Meeting continued in private until 12:08.

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