



The Scottish Parliament
Pàrlamaid na h-Alba

FINANCE AND CONSTITUTION COMMITTEE

AGENDA

16th Meeting, 2019 (Session 5)

Wednesday 26 June 2019

The Committee will meet at 9.30 am in the David Livingstone Room (CR6).

1. **Funding of EU Structural Fund Priorities in Scotland, post-Brexit:** The Committee will take evidence from—

Ivan McKee, Minister for Trade, Investment and Innovation, Hilary Pearce, Deputy Director, European Structural Funds and State Aid Division, and Susan Tamburrini, Team Leader, Smart Growth, European Structural Funds, Scottish Government.

2. **Referendums (Scotland) Bill:** The Committee will take evidence on the Bill at Stage 1 from—

Rebecca Whyte, Referendums (Scotland) Bill Team Leader, Penny Curtis, Deputy Director, Colin Brown, Solicitor, and Graham Fisher, Solicitor, Scottish Government.

3. **Non-Domestic Rates (Scotland) Bill:** The Committee will take evidence on the Financial Memorandum from—

Carol Sibbald, Non-Domestic Rates (Scotland) Bill Team Leader, and Anouk Berthier, Non-Domestic Rates (Scotland) Bill Team, Scottish Government.

4. **Work programme (in private):** The Committee will consider its work programme.

FCC/S5/19/16/A

Jim Johnston
Clerk to the Finance and Constitution Committee
Room T3.60
The Scottish Parliament
Edinburgh
Tel: 0131 348 5215
Email: James.Johnston@parliament.scot

The papers for this meeting are as follows—

Agenda Item 1

Cover paper FCC/S5/19/16/1

PRIVATE PAPER FCC/S5/19/16/2(P)

Agenda Item 2

Cover paper FCC/S5/19/16/3

PRIVATE PAPER FCC/S5/19/16/4(P)

PRIVATE PAPER FCC/S5/19/16/5(P)

Agenda Item 3

Cover paper FCC/S5/19/16/6

Agenda Item 4

PRIVATE PAPER FCC/S5/19/16/7(P)

Finance and Constitution Committee

16th Meeting, 2019 (Session 5), Wednesday 26 June 2019

Funding of EU Structural Fund Priorities in Scotland, post-Brexit: evidence with Minister for Trade, Investment and Innovation

Introduction

1. The purpose of this paper is to provide background information in relation to the Committee's inquiry into the Funding of EU Structural Fund Priorities in Scotland, post-Brexit.

Background

2. European structural funding supports economic development across all EU countries and is intended to promote smart, sustainable and inclusive growth. In Scotland, the structural funds are composed of two similar sized funds: the European Regional Development Fund (ERDF) and the European Social Fund (ESF). Scotland has been allocated a maximum of €476 million from the ERDF and €465 million from the ESF for the period from 2014 to 2020.

3. The allocation of structural funds is based on an EU-wide formula that defines three categories of regions by GDP per capita. Depending on the categorisation, the formula used to calculate regional allocations differs. For the region categories found in Scotland ('more developed' and 'transition') the formula is based on population, employment levels, education indicators, GDP and rurality.

4. LEADER funding is also included within the terms of the inquiry as, although it is not funded through structural funds, it seeks to achieve similar outcomes to those of structural funding.

5. In a post-Brexit environment, the extent to which the UK would continue to participate in EU funding streams or what would replace such funding streams remains to be agreed. To date the UK Government has proposed that it will replace European structural funding with a UK Shared Prosperity Fund (UKSPF) which will "respect the devolution settlement" and will be aimed at reducing inequalities between communities across the UK.

Written Evidence, Research and Previous Committee Work

Written Evidence

6. The Committee launched a call for written evidence in February 2019 in response to which 50 submissions were received. All written submissions can be found on the [Committee's website](#) along with a [summary of written evidence](#).

Engagement Workshops

7. Members of the Committee recently held workshop discussions in Dunfermline, Inverness and Paisley with representatives of organisations with experience of working with structural funds. Summaries of the key points raised during these discussions are available on the [Committee's website](#).

SPICe Briefing

8. In September 2018 SPICe produced a briefing paper on [European Union funding in Scotland](#). In April 2019 SPICe produced a briefing paper [EU Structural Funds in Europe](#) in which they set out:

- How Structural funding works and how much comes to Scotland
- How much LEADER funding comes to Scotland and how it works
- Key questions for post-Brexit funding of Structural fund priorities.

Previous Committee Work

9. The Committee previously took evidence on the [funding of European Union competences](#) whilst the [Economy, Energy and Fair Work Committee \(EEFWC\) previously undertook an inquiry into Structural Funds](#). The EEFWC then wrote to the [Parliamentary Under Secretary of State for the Department for Business, Energy and Industrial Strategy](#) and the [Minister for Trade, Investment and Innovation](#) setting out its recommendations on the design of the UK Shared Prosperity Fund including its guiding principles, funding, timing and transition, and institutional arrangements.

10. At its meetings on 12 and 19 June 2019 the Committee took evidence from a range of stakeholders. The official report for the meeting of [12 June](#) is available on the Committee's webpage with the Official Report for the meeting on [19 June](#) available from Monday 24 June.

Next steps

11. The Committee will consider a draft report on its inquiry in the autumn.

**Committee Clerks
June 2019**

Finance and Constitution Committee

16th Meeting, 2019 (Session 5), Wednesday 26 June 2019

Referendum (Scotland) Bill – Bill team evidence

Introduction

1. On 28 May 2019 the Scottish Government introduced the [Referendums \(Scotland\) Bill](#) which the Policy Memorandum explains will provide a legal framework for the holding of referendums on matters that are within the legislative competence of the Scottish Parliament.
2. The Finance and Constitution Committee is the lead Committee for Stage 1 scrutiny of the Bill and has issued a [call for views](#) with a deadline of 9 August. On 19 June 2019 SPICe published a [briefing on the Referendums \(Scotland\) Bill](#).
3. At this meeting the Committee will take evidence on the Referendums (Scotland) Bill from the following Scottish Government officials—
Rebecca Whyte, Referendums (Scotland) Bill Team Leader,
Penny Curtis, Deputy Director,
Colin Brown, Solicitor,
Graham Fisher, Solicitor.

**Committee clerks
June 2019**

Finance and Constitution Committee

16th Meeting, 2019 (Session 5), Wednesday 26 June 2019

The Non-Domestic Rates (Scotland) Bill Financial Memorandum

Purpose

1. This paper provides information on the evidence session on the Non-Domestic Rates (Scotland) Bill Financial Memorandum (FM). The Committee will take evidence from the Scottish Government Bill team.

The Bill

2. [The Bill](#) was introduced on 25 March 2019 and the [policy memorandum](#) states that the policy objectives are to:

- deliver a Non-Domestic Rates system designed to better support business growth and long-term investment and reflect changing marketplaces;
- improve ratepayers' experience of the rating system and administration of the system;
- increase fairness and ensure a level playing field amongst ratepayers by reforming rate reliefs and tackling known avoidance measures.

3. The FM sets out the estimated costs of introducing the legislation and the additional receipts that are expected to be generated as a result of the changes proposed. Costs are analysed according to four broad groups that will be affected:

- Scottish Administration;
- local authorities;
- Scottish assessors;
- other bodies, individuals and businesses.

4. The SPICe Briefing on the Bill summarises the costs for those groups in the table below.

Table 1: Costs arising from the Non-Domestic Rates (Scotland) Bill, £ million

	2019-20	2020-21	2021-22	2022-23	2023-24	2024-25	Total
Scottish Government	0.2	-	-	-	-	-	0.2
Local authorities	-	0.5	0.6	0.4	0.4	0.6	2.6
Scottish assessors	2.5	4.6	5.2	5.3	5.5	6.0	29.1
Ratepayers	-	16.0	11.1	9.0	18.2	13.4	67.7
Total	2.7	21.1	16.9	14.8	24.2	20.0	99.6

Note: totals may not add due to rounding
Source: Non-Domestic Rates (Scotland) Bill Financial Memorandum

5. Over a six year period, costs are expected to total £100 million. Around two-thirds of these costs are expected to fall to ratepayers (Ratepayers being those people who pay Non-Domestic Rates) through higher Non-Domestic Rates bills and through the payment of newly-introduced penalties. These additional costs to ratepayers will represent additional revenues to the public sector and, if realised, should offset the estimated costs of the legislation.

Call for views

6. The Committee issued a call for views and received 171 responses which have been published on the website at the following link—

<https://www.parliament.scot/parliamentarybusiness/CurrentCommittees/112160.aspx>

7. Respondents raised a number of issues in relation to the costs and savings set out in the FM covering the following areas—

- Charitable relief for independent schools;
- Revaluations;
- Secondary legislation;
- Information provision;
- Parks;
- Tribunal Scotland.

8. A summary of the responses to the Committee's call for views is detailed below.

Responses from individuals

1. [Section 10 of the Bill](#) makes changes to the charitable relief options available to independent schools. Under current legislation:

- a relief of 80% is automatically granted to independent schools which are registered as a charity
- local authorities have discretion to grant further relief to these schools, which means that it could grant relief from the remaining 20% of the rates payable leaving such organisations with no Non-Domestic Rates liability.

2. This applies to both mainstream and specialist independent schools registered as charities. By contrast, mainstream schools provided through local authorities do not have charitable status, and will generally pay rates.

3. The Bill makes provisions to remove the mandatory 80% charitable relief from mainstream independent schools registered as charities. These schools will still maintain their charitable status, but will be liable to pay NDR. Independent special schools will retain the mandatory 80% relief.
4. The [Policy Memorandum](#) points out existing legislation provides that all independent schools who are registered as a charity are eligible for 80% mandatory rates relief and that local authority schools do not qualify for charitable relief. It states that—

“Whilst the Scottish Government agreed with the Barclay Review Report that this is unfair and that this inequality should end by removing eligibility for charity relief schools from independent schools, the Scottish Government considers this change should apply to mainstream independent schools only.”

Responses

5. All the responses from individuals, most of whom were parents of children attending independent schools, focussed on the cost implications of [Section 10 of the Bill](#) on charitable relief for independent schools. A number of responses were identical and others very similar, a copy of the identical response is attached at the annexe.
6. Respondents argued that removing charitable rate relief will result in independent schools increasing their fees to meet additional costs. Most respondents said that as a result, there will be additional costs for local authorities due to an increase in the number of pupils moving from an independent school to a state school as parents would not be able to afford these increased fees.
7. Respondents highlighted that the FM does not include any information regarding any potential additional costs to local authorities associated with increased pupil numbers and the extent to which these costs would offset any additional revenue gained through the collection of non-domestic rates for independent schools.
8. The removal of the relief will potentially result in a reduction in bursary support meaning more pupils moving to state schools was another point raised in the submissions and it was suggested that the cost to taxpayers for each pupil moving to a state school would be at least £6,500 per year.
9. Respondents also stated that the potential closure of some independent schools as a result of section 10 could mean in job losses as independent schools either close or lose staff which, in turn, could mean a loss of income tax revenues.
10. A few submissions made the point that this provision could result in the closure of independent boarding schools which could be detrimental specifically to those pupils whose parents are in the military or who routinely work abroad or in a number of different locations.
11. The removal of relief would create a second tier of charitable status was a point made by a number of respondents.

12. In terms of parity, some argued that should this provision come into force, the Scottish Government should bring in provisions to allow independent schools to fully reclaim VAT charges as is the case with state schools.
13. It was argued that independent schools would struggle to justify allowing community groups to use their facilities for free or at a reduced cost which would have a negative impact on the wider community.

Responses from organisations

14. A number of organisational submissions were from independent schools who made broadly similar points to those made by individuals on section 10 of the Bill. Other points made by organisations not related to section 10 are outlined below.

General points

15. CBRE Ltd felt that the costs have been underestimated and that the non-domestic rates system outlined in the Bill does not go far enough in delivering a system which will support business growth and long-term investment. They also argue that the costs to ratepayers associated with penalties is 'hugely understated'.
16. The Scottish Chambers of Commerce (SCCC) also said that the Bill as currently designed does not go far enough to deliver a Non-Domestic Rates (NDR) system that will better support business growth and long-term investment and reflect changing marketplaces.

Revaluations

17. Currently rateable values of non domestic properties are set by independent Assessors on the basis of market value every five years. [Section 2 of the Bill](#) allows for revaluations to be carried out every three years, rather than every five years.
18. COSLA said that the estimated costs in the FM are reasonable and broadly accurate. COSLA explained that it expects to undertake future work with the Scottish Government and the Scottish Assessors Association to further refine the costs associated with moving to a 3 yearly revaluation and reform of the appeals system.
19. JLL welcomed these provisions but noted the lack of future alignment of the Scottish revaluation with England. They said, while future alignment would have been preferable, they would 'strongly warn against' delaying future revaluations in order to re-align with England.

20. On the other hand, Aberdeen and Grampian Chamber of Commerce (AGCC) said that they have continually argued that the Scottish Government should maintain an aligned revaluation cycle with England and Wales. They state that further analysis should be carried out on the potential financial impacts of moving to an asynchronous revaluation cycle with the rest of the UK, and the relative magnitude of this change.
21. The Chartered Institute of Taxation (CIOT) said that it was disappointing that there has been no attempt to quantify the costs relating to increased frequency of valuations and that it is essential that when the secondary legislation is published, there is an assessment of the administrative costs to ratepayers and that there is adequate time for scrutiny. The Committee will be aware though that the FM process does not apply to subordinate legislation.
22. Renfrewshire Council stated that there could be significant additional costs for assessors and funding councils in moving the revaluation cycle out of line from England and Wales, a point also made by the (SCCC).
23. The Scottish Property Federation (SPF) argued that the shorter timescales for making proposals to appeal against rateable values would mean that to be effective, the notification of draft valuations and the preceding period for gathering evidence from ratepayers must be earlier in the revaluation cycle than it has been under the present system.
24. Three-year revaluations may increase rateable values above the current thresholds for the small business bonus scheme resulting in a loss of relief and higher rates charges for some ratepayers according to North Ayrshire Council. They suggested that threshold levels may need to be realigned with revaluation to support small business thereby increasing the cost of the Scottish Government's scheme unless the rate poundage is reduced proportionately to compensate.
25. Renfrewshire Council highlighted potential additional costs associated with increased administration costs of more regular revaluations and potentially from the pursuit of debt; and with the increased financial pressure on the Assessor which would fall to requisitioning councils to fund. The Council said these costs should continue to be monitored and met by the Scottish Government, as did North Ayrshire Council, Aberdeen City Council and West Dunbartonshire Council who all said the Scottish Government should meet any new expenditure arising from the Bill.

Secondary legislation

26. The Scottish Assessors' Association highlight that many aspects of the NDR reforms such as the appeal process in [section 7 of the Bill](#), lie within secondary legislation and the associated costs are unknown at the moment, a point also made by CBRE Ltd. The Chartered Institute of Taxation also refer to the unknown costs saying that *'the fact that the SFC has chosen not to produce forecasts suggests that it did not believe there was sufficient information available at this time to enable it to make reasonable assessments of the financial implications of the Bill'*.

27. Jll and others argued that the Small Business Bonus Scheme should be restructured saying the current system of granting full relief where the rateable value is up to £15,000 provides 'too much of an incentive to lodge appeals' and encourages second home owners to 'remove properties from the council tax list to change use to self catering units'.
28. The Bill introduces a new civil penalty for failure to provide information to local authorities (both by the ratepayer being required to notify their local authority of a change in their circumstances and upon a request for information from the local authority).

Information provision

29. The AGCC said there was a lack of clarity around the financial implications for taxpayers of the penalties, administrative costs and costs of communication provisions. The UK Petroleum Industry UK were concerned that the introduction of penalties could provide an opportunity for revenue raising and urged for penalty data to be collected and published annually.
30. SAA stated that additional costs may arise through the valuation notice provisions in [section 6 of the Bill](#) as these provisions have not yet been specified and could contain a requirement to provide information via dual delivery methods which would incur additional costs to Assessors.

Entering parks in the valuation roll

31. The National Caravan Council said that the Bill would have financial implications for many of its members including mobile home parks, caravan holiday parks and dealerships, all of whom have premises directly affected. They asked whether COSLA will have discretion when applying Business Rates in their local areas, and in particular those businesses with large land areas such as caravan parks.
32. Aberdeen City Council argued that businesses operating from within parks and currently benefitting from relief may not be able to absorb the additional costs within their current business model, in which case they may seek reduced rental costs, or may seek alternative premises, resulting in loss of income to the local authority.

Tribunal Scotland

33. The [Policy Memorandum](#) said that a number of changes are required to be put in place before the next revaluation including, amongst others, the transfer of the current appeals structure into the Tribunal Scotland structure. SCCC said that the FM does not account for the costs that will be incurred by businesses in relation to the move to Tribunal Scotland and the new processes in dealing with the new Proposal system as it fails to reflect the additional time and resources companies will face.

Duplicate response received from a number of individuals reproduced either wholly or in part.

1. Scottish Government's own figures identify that it costs £6500 per annum per child to be educated in the state system (excluding PFI and certain other costs). Fees will increase as a result of the remove of charitable relief for independent schools. Local authorities will face additional costs of providing education for those pupils: school accommodation, teachers and other facilities. The Financial Memorandum takes no account of this cost.
2. Scotland has a strong reputation for excellence in education. This proposal to remove rates relief puts the independent sector in Scotland at a competitive disadvantage as against schools in England and abroad.
3. The Financial Memorandum makes no reference to the fact that the loss of 1 in 30 pupils from the independent sector in Scotland, either to state schools or boarders relocating to schools outwith Scotland, will cost the Scottish tax payer more than the entire rates increase.
4. Independent schools in Scotland employ teachers, groundsmen and finance staff. They employ local firms of builders, joiners and maintenance teams. If the rates relief is removed, fees for parents will have to increase. If parents cannot afford to pay the fees, they will remove their children from school. Independent schools in Scotland face real challenges, as evidenced by Beaconhurst School in Dunblane closing in recent years. Removing rates relief puts added financial pressure on these schools and puts jobs at risk with implications for the wider Scottish economy, particularly in some of the rural areas. The Financial Memorandum makes no mention of the wider economic implications of the removal of charitable relief for independent schools.
5. Scotland can be proud of the rigour which OSCR applies to the charitable sector in Scotland. It applies and regulates the statutory test for charities set out in the Charities and Trustee Investment (Scotland) Act 2005. The Bill proposes to remove charitable rates relief from independent schools even though they have met the requirements of OSCR. It is hard to understand what is fair about singling out 56 schools from over 24,000 Scottish registered charities. There seems no suggestion that OSCR is failing in its duty as regulator. The Bill will create a sub sector within the charitable sector - for 0.3 per cent of Scottish charities. That this small percentage of regulated charities should somehow be not be regarded as "full" charities (despite having met all of the statutory requirements) seems illogical, lacking in transparency and creates, rather than solves, an anomaly.
6. The Barclay Review recommended rates relief for day nurseries on the basis of economic development: that by reducing the rates liability for nurseries, costs

would reduce enabling more of the workforce to return to work after starting a family. This is at an estimated cost of £7m. This proposal applies to nurseries, whether profit making or not-for profit. Yet, nurseries which are attached to independent schools will pay 100% rates and private profit- making nurseries will receive 100% relief. This is unfair, and creates an anomaly, contrary to the stated aim, and remit of the Barclay Review.

7. The Barclay Review states at 4.120 that independent schools that are charities benefit from reduced or zero rates bills, whereas council schools do not. The Review (and the Bill) propose that this “anomaly” be removed.
 - (a) This premise ignores that council owned schools do not in practice pay non-domestic rates. The nominal rates liability is funded by central/local taxation.
 - (b) The Barclay Review’s remit was to examine non-domestic rates liability only. It was not possible for it to consider any other tax. In removing the “anomaly” regarding relief for non-domestic rates relief through the Bill, there has been no consideration or public debate on other tax anomalies that apply as between council schools and independent schools (for example, in relation to VAT). Council owned schools benefit from a more advantageous VAT position than independent schools.
 - (c) If the true aim of removing the mandatory non-domestic rates relief for independent schools is about fairness, a full review regarding the tax basis for both types of educational establishment should be conducted, openly, fairly and with due public scrutiny. To proceed with legislation, based on a Report whose sole remit was to consider a single tax in isolation does not correct an anomaly. It risks creating further anomalies and is potentially unfair and undemocratic. If the basis for the removal of rates relief for independent schools which are also charities is to be “fairness”, then to be truly fair, a full review of the full tax basis for both types of schools should be undertaken, openly and with due process.
 - (d) It seems illogical to argue that independent schools should have the rates relief removed because council schools do not benefit from it, yet to recommend (at paragraph 4.121 of the Barclay Review) that universities should continue to be eligible for charitable relief because their “core functions” are education and research. Independent schools which are also charities (and therefore the entities which are potentially to suffer the loss of rates relief in terms of the Bill) have all met the Office of the Scottish Charity Regulator’s (OSCR) public benefit test, as have the universities. On the one hand, the basis for removal of rates relief for independent schools appears to that they are schools, because they have a theoretical rates advantage over council schools which should be removed in the interests of fairness, ignoring the charitable status of these schools. Yet, universities with a similar charitable status and educational purpose are not regarded as an anomaly and are to be

allowed to retain charitable relief. This seems illogical and unfair and appears to create, rather than solve an anomaly.

IN CONCLUSION

- The removal of the relief will result in increased fees which many parents cannot afford. Pupils moving from independent schools to council schools will put increased pressure on already stretched Education Authority budgets.
- The removal of even 1 in 30 pupils from the independent sector will cost Scottish taxpayers more than any benefit in removing the relief
- The removal of the relief puts at risk the wider economic benefits which independent schools bring to Scotland in terms of employment.
- The Barclay Review's remit was to examine non-domestic rates liability only. It was not possible for it to consider any other tax. In removing the "anomaly" regarding relief for non-domestic rates relief through the Bill, there has been no consideration or public debate on other tax anomalies that apply as between council schools and independent schools.

That part of the Bill relating to the removal of the charitable relief for independent schools should not be proceeded with. The costs, both financial and economic outweigh any potential benefit.