



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

INFRASTRUCTURE AND CAPITAL INVESTMENT COMMITTEE

Wednesday 17 June 2015

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INFRASTRUCTURE AND CAPITAL INVESTMENT COMMITTEE
14th Meeting 2015, Session 4

CONVENER

*Jim Eadie (Edinburgh Southern) (SNP)

DEPUTY CONVENER

*Adam Ingram (Carrick, Cumnock and Doon Valley) (SNP)

COMMITTEE MEMBERS

*James Dornan (Glasgow Cathcart) (SNP)

*Mary Fee (West Scotland) (Lab)

*Alex Johnstone (North East Scotland) (Con)

*Mike MacKenzie (Highlands and Islands) (SNP)

*David Stewart (Highlands and Islands) (Lab)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Susan Anderson (ScotRail Alliance)

Mike Baxter (Transport Scotland)

Sarah Boyack (Lothian) (Lab)

Keith Brown (Cabinet Secretary for Infrastructure, Investment and Cities)

Aidan Grisewood (Transport Scotland)

Paul McNulty (Scottish Government)

Iain Moore (Scottish Government)

John Nicholls (Transport Scotland)

John Scott (Ayr) (Con)

Phil Verster (ScotRail Alliance)

CLERK TO THE COMMITTEE

Steve Farrell

LOCATION

The Adam Smith Room (CR5)

Scottish Parliament

Infrastructure and Capital Investment Committee

Wednesday 17 June 2015

[The Convener opened the meeting at 09:31]

Decision on Taking Business in Private

The Convener (Jim Eadie): Good morning and welcome to the 15th meeting in 2015 of the Infrastructure and Capital Investment Committee. All present are reminded to switch off their mobile phones as they affect the broadcasting system; however, I point out that, as meeting papers are provided in digital format, people might see tablets being used. No apologies have been received.

Agenda item 1 is a decision to take in private agenda item 6, which is consideration of evidence on access to Scotland's major urban railway stations. Are members agreed?

Members *indicated agreement.*

Public Procurement Reform

09:31

The Convener: Agenda item 2 is an oral evidence-taking session with the Cabinet Secretary for Infrastructure, Investment and Cities on public procurement reform. I welcome to the meeting the cabinet secretary, Keith Brown, and from the Scottish Government, Paul McNulty, deputy director of the procurement policy division; Iain Moore, head of the procurement policy branch; and Mark Richards, solicitor.

I invite the cabinet secretary to make an opening statement.

The Cabinet Secretary for Infrastructure, Investment and Cities (Keith Brown): Thank you very much, convener, and thank you for the invitation to come along and update the committee on our proposals for implementing changes to procurement legislation in Scotland. I will try to outline the progress that I believe we have made so far as well as our current position and our plans for implementing the changes, which, as I am sure the committee is aware, we must implement by April 2016 to comply with the deadlines set out in the European Union procurement directives.

The committee will be aware that the past few years have seen a period of significant improvement in public procurement in Scotland through the reform agenda. Some committee members will be familiar with much of the background, having been involved in the development of the Procurement Reform (Scotland) Act 2014, which builds on that improvement. The act, which establishes a national legislative framework for sustainable public procurement to support Scotland's economic growth through improved procurement practice, received royal assent on 17 June last year.

Since then, work on developing regulations and statutory guidance arising from the 2014 act has been carried out in conjunction with work on transposing into Scots law three new European procurement directives covering public sector procurement, utilities sector procurement and the award of concession contracts. The changes, taken together, are complex and the timetable is challenging, so in order to be as cohesive and consistent as possible, we are taking forward the changes as a suite of activity.

Our intention is to make the changes as simple and as easy to follow as we can for all our stakeholders and the procurement community alike and to avoid, where possible, one set of rules applying to large-value contracts and a different set of rules applying to lower-value contracts. We

believe that such a situation would be unhelpful to public bodies and the business community.

Although we must complete the transposition process by 18 April 2016, our aim is to try to do so before then; indeed, our intention is to lay the regulations before the Scottish Parliament before the end of this year. Those in the procurement community and beyond have requested that we allow a reasonable period of time between the laying of regulations and their coming into force to give time for public bodies to make the necessary changes to their internal processes and procedures, and we will have to look at that issue quite carefully.

Some of the changes introduced by the new directives are mandatory, but there are certain elements where the Scottish Government has a choice about whether to—or, indeed, how best to—implement further change. Those discretionary elements, and the Scottish Government's plans to implement them, were the main focus of our recent public consultation, which closed on 30 April. We hope to be in a position to publish the final consultation analysis in the coming weeks, and we intend to use its findings to inform the policy decisions that we need to take as we develop the content of the new regulations.

Unfortunately, I am not yet in a position to provide the committee with a copy of the analysis report. However, I can say that, with regard to those elements of the consultation in which the Scottish Government has set out its view on the best way of giving effect to new legislation in Scotland, respondents seem, for the most part, to have agreed with our proposed way forward.

The consultation might be over, but that is not the end of our stakeholder engagement. You will also be aware that, under the 2014 act, we are required to produce statutory guidance on a number of issues. We have been speaking to stakeholders about the content of that guidance, and we will continue to do so as we develop it.

I repeat what I have already made clear in the chamber: we are looking to introduce in the autumn statutory guidance that addresses workforce-related matters such as the living wage. Alongside that guidance, we will need to commence a number of other provisions for technical reasons. We might also take the opportunity to commence fairly straightforward and, I hope, non-controversial provisions, such as the prohibition on charging companies to participate in a tender exercise.

The changes introduced by the directives and the 2014 act represent a significant opportunity to make procurement easier and administratively less burdensome. As a major consumer in the economy, the public sector, which spends

£10 billion a year, can exert significant influence through its procurement policy to support economic growth. We can play a key role in promoting jobs and growth, encouraging innovation, boosting training and apprenticeship opportunities and helping Scottish firms, particularly small to medium-sized enterprises and third sector organisations, compete effectively for contracts.

I welcome the opportunity to engage with the committee at this stage. I hope that this update will provide you with the opportunity to understand our position, and we intend to keep members informed through written updates as we progress.

Thank you for your attention. I am happy to answer any questions.

The Convener: Thank you, cabinet secretary. Alex Johnstone will open the questioning.

Alex Johnstone (North East Scotland) (Con): Does the Government have an overall view on the European reform package? Is it a good thing or a hindrance?

Keith Brown: It is a good thing. The starting philosophy is to make it as straightforward as possible for companies to bid for contracts, and we certainly share that aim. The changes remove a lot of the current provisions, and they are also largely consistent with what we have been trying to do through the 2014 act. We can fine-tune them, because we can take decisions, some of which are discretionary, on how public bodies go about their business in Scotland.

Alex Johnstone: Do the changes fit well with the Scottish model of procurement? Will implementing them be problematic in some areas?

Keith Brown: That depends on how we go about the transposition process. By and large, however, they fit well.

Obviously, there are some issues. For example, the issue of the living wage has been played out a number of times in the chamber and in public debates, and, in that respect, we probably want to go further than we are allowed to by EU law.

There are also certain areas of tension, which are perhaps only inevitable when 28 countries are involved. We can address most of those through the 2014 act, the guidance that we are about to publish and our transposition of the directives. The point is that we are going with the grain of what Europe is trying to do.

Alex Johnstone: You mentioned the living wage. Is there a conflict in that respect between the directives and the Government's long-term objective?

Keith Brown: I was trying to point out that we would have liked to have had the backing of

European law to ensure that we could insist on the living wage being paid in contracts. However, I think that it is now acknowledged that we do not have that backing.

It has been said that certain public bodies have been providing the living wage or have been making it a condition of the awarding of a contract. However, when all those examples of local authorities and other bodies are examined, it appears that that is not the case. As everyone acknowledges, insisting on the payment of the living wage as a contract condition would be subject to challenge. There are other ways of achieving that aim, and that is the approach that we have been trying to take. We will make the best of the legislation to achieve our ambition for everyone to be paid a living wage and certainly for that to happen through public procurement. One might not call that conflict as such, but the fact is that European and procurement law does not allow us to go as far as we would want to in this area. However, we will try to achieve the aim by other means.

Alex Johnstone: I am trying to look into the future and see whether any difficulties might arise. Are there any other areas where EU reforms might bring Government policy into conflict with EU objectives?

Keith Brown: We intend to try to avoid that through the action that we are taking now. Some of the things on which we have consulted are discretionary, because European procurement law allows us to make them so. Public bodies could obviously end up on the wrong side of that if they did not function in the correct way, but as a general principle, we are obliged to comply with European law and that is what we intend to do.

Alex Johnstone: Finally, why has the Government waited a year to publish its consultation when other bodies, including the UK Government, have already introduced new rules?

Keith Brown: I think that we took a different approach to that taken by the UK Government. We wanted to consult, because we had just gone through the process of passing the Procurement Reform (Scotland) Act 2014. The UK Government just copied out legislation; in some cases, it just reproduced what it had been given by Europe. We decided not to go down that route, and we also wanted time to consider the implications of our legislation and the statutory guidance.

When I first got this job last October, I met the Welsh Minister for Finance, and when we discussed this issue, she told me that she had a high regard for the way in which the Scottish Government was using procurement law for other means and as a tool to achieve other things—I have to say that that was not down to me; it

happened before I came into post—and the Welsh Assembly was trying to reflect that in its own legislation. I do not want to misrepresent her, as I am sure she can speak for herself, but in her view we have used procurement law imaginatively to achieve other ambitions, whereas elsewhere in the UK, procurement law has been used in a fairly straightforward way. That is perhaps reflected in the fact that the UK Government merely copied out much of the legislation from Europe, instead of doing as we have done. I think that it is right to consult and take people with us.

Adam Ingram (Carrick, Cumnock and Doon Valley) (SNP): Good morning, cabinet secretary. What is the timescale for introducing and implementing the new Scottish regulations?

Keith Brown: We are required to give effect to the three directives that I have mentioned by 18 April next year at the latest, and we intend to introduce legislation to Parliament by the end of the year. As I said in my opening statement, some people have already asked for a gap between the laying of the regulations and their coming into effect to give public bodies and others time to change their internal procedures. We will consider that proposal further.

Adam Ingram: What has been the level of response to the Government's consultation? Are you able to give a broad overview of the emerging themes at this stage?

Keith Brown: I have already mentioned one or two. We are still analysing the 140 responses, 133 of which have come from organisations and seven from individuals. As expected, there has been broad consensus in some areas, and there is agreement on the Government's position on how best to implement the new legislation.

With regard to the statutory guidance, respondents have asked for consistency, proportionality and transparency—and not surprisingly so, given that these are features of European and, I think, Scottish legislation. There was agreement on consistency of rules, irrespective of the contract value, but of course there is discretion with smaller contracts and a different approach can be taken in that respect.

By and large, there was agreement that, instead of things being too prescriptive, public bodies should have as much discretion as possible to take decisions in procurement exercises that they believe are relevant and proportionate to individual circumstances. We have identified those broad themes from the responses, but detailed analysis is still on-going.

Adam Ingram: What happens post consultation? Do you intend to tweak the regulations according to the responses that you have received?

09:45

Keith Brown: Certainly. After all, that was the point of the consultation. Given that, in a number of the areas on which we have consulted, the Scottish Government has been left with a certain amount of discretion, I think that it is right that we talk to public bodies. Some of those public bodies are, of course, local authorities, and we want to take into account the fact that they have their own mandate and are democratically accountable.

As I have said, we have so far been able to identify a number of broad themes in the responses. It was always our intention for the statutory guidance and the regulations that we lay to be informed by those views. Sometimes we might not agree with those views, but as I have said, we have been able to identify certain large areas of broad agreement, and that will inform what we do.

Adam Ingram: Thank you.

James Dornan (Glasgow Cathcart) (SNP): Good morning, cabinet secretary. To what extent do the EU reforms simplify the procurement roles for business and for public bodies?

Keith Brown: I think that that was the intent of the EU legislation but until we see how the rules operate in a practical context, we cannot be absolutely sure whether they will simplify things.

Removing a fair bit of the existing architecture could have two effects. On the one hand, it could free things up and make it much easier for companies to apply for contracts. On the other, it could open up areas of doubt and hinder people. It is like what they used to say happened in Scotland with regard to planning applications and local government, although I am sure that it never happens anymore; in the absence of definitive guidance from the planning authority, people often had to put in their application and hope. Some people liked not having definitive guidance, because it gave them freedom of action, whereas others would have liked a bit more certainty or guidance. I suppose that there are always two sides to such matters but, by and large, we have come to the view that we want to make procurement as open as possible and to take away as much bureaucracy as possible. However, we will not be able to see the exact effect of that until we have moved forward.

The European Commission and member states set out with the goal of modernising and simplifying the procurement regime as a means of fostering economic growth. Either because of the recession or for other reasons, they have decided to look at the existing procurement architecture. Over the years, we have all seen different problems with procurement. Certain challenges have arisen that, in my view, have been driven by

the fact that we are in a period of recession—although others can speak for themselves on that matter. The Commission and member states have tried to make sure that we do what we can to foster economic growth, and I think that that objective has driven them to take out a lot of the architecture.

One key change is that we can give non-central public bodies a free hand in deciding how they run certain types of competition, and it is no secret that that move has been welcomed by many bodies. The only legal obligations on us will be to publish, for certain contracts, a prior information notice to demonstrate that we are going to run the competition in accordance with the treaty principles and an award notice at the end of the process. Such very light stipulations mark a pretty radical departure from the existing regime, which has detailed rules that govern both the detail of the process and the timescales that have to be adhered to.

The clear expectation is that this change will simplify the rules for businesses and public bodies. However, there is a risk that it will not achieve that objective in practice, because allowing such flexibility might make it more difficult for businesses to understand the processes that public bodies apply. I know that that sounds a wee bit odd, but I think that the planning analogy is, again, a good one. It is true that Governments and other bodies sometimes took action when they were not certain of how the Commission would respond. If they asked the Commission in advance to give them comfort about what they were doing, they often got either an equivocal response or no response at all, and they had to take the action and just wait to find out whether it was going to be challenged. The Commission is now trying to right the balance between making the process as easy as possible while giving enough guidance to ensure that people act correctly.

James Dornan: You have talked about simplicity and simplification. In its consultation document, the Government states that it does not intend to mandate that larger contracts be broken down into lots. Given that such a move would help small to medium-sized enterprises, can the Government explain why it does not intend to take that approach? Surely it cannot just be about simplicity.

Keith Brown: One of the key themes that emerged from the consultation and which we expected to see was that the types of procurement activity in which public bodies are involved vary so much that applying a one-size-fits-all approach is rarely appropriate. It is important that public bodies retain flexibility to structure contracts according to their individual circumstances. Apart from anything else, public bodies often know what the

marketplace is like in their area and might want to tailor their procurement processes towards it. We have to remember that the Procurement Reform (Scotland) Act 2014 places a clear duty on public bodies to consider, when they plan their contract, how they can facilitate access for SMEs and third sector and supported businesses. That duty should ensure that, where a larger contract can be broken down into lots without disadvantaging the authority, it will be.

We already have a pretty good track record on supporting SMEs in Scotland. We are one of only three EU countries where the SME share of the public procurement market exceeds the SME share of the economy. The process is taking time. I remember how, in the early years of the public finance initiative and public-private partnerships, a lot of smaller companies had to rule themselves out of bidding for contracts not only because of the costs of bidding but because of the size of the contracts. They were consigned to only ever being subcontractors and were very much at the mercy of the main contractor. That was 10 or 15 years ago, and we have changed things substantially since that time.

We have a good track record. That is the way that the culture is just now in Scotland, and that is why we have taken this approach.

James Dornan: So you are comfortable that the safeguards in place will protect SMEs from being squeezed out of the process.

Keith Brown: The safeguards and also the culture will do that. Central Government, local authorities and other bodies are now sufficiently well aware of the benefits of a vibrant SME economy, which in itself will drive change further. As I have said, we have already achieved a great deal, and we are one of the top three EU countries in that respect. That will safeguard the position of SMEs.

James Dornan: Are there any resource implications for businesses or public bodies in implementing the new rules?

Keith Brown: There is no doubt that there will be implications for the Scottish Government. No obligations are placed on businesses under the new legislation; all the obligations that have been brought in rest on the public bodies and relate to how they conduct their activities. Given that, as I have said, the new regime is designed to bring in simplification and modernisation, there should be overall benefits for businesses rather than new obligations on them.

During the first six to 18 months, there will be obligations on public bodies to get up to speed. I have mentioned the representations that we have received from bodies on giving them a bit of time to implement the legislation and the regulations.

Obviously, this will involve a cost to public bodies, as they will have to change their processes, and we are seeking to mitigate those costs by developing, among other things, training materials. We are working with the United Kingdom Cabinet Office to take advantage of material that it has already produced, including e-learning packages. The intention is to make the process easier and lighter; indeed, that will have to be the case, as European procurement law and the Scottish procurement legislation are moving in that direction. We are working hard on that, as the last thing that we want to do is to make the process burdensome.

Mary Fee (West Scotland) (Lab): A wide range of social and environmental factors can now be taken into account in public procurement. Which of those will bring the biggest change in procurement, and what will be the benefits?

Keith Brown: The answer is partly that we will know that in due course as we see the way in which the system is applied by different public bodies. You are right that there are a number of benefits. Eco-labels, which are a kind of shorthand way of knowing whether bodies that bid for contracts meet certain standards of environmental practice, can be taken into account. You mentioned social factors, which will be tangible and measurable—they are already there. We have done tremendously well in recent years on professional and apprenticeship opportunities through community benefit clauses.

In our view, the changes that will have the greatest impact are those under the new sustainable procurement duty, which includes the requirement on bodies above a certain level of procurement activity—£5 million, I think—to produce a procurement strategy and to report annually on performance against that strategy. That is quite a discipline for public bodies, which, every year, will have to account for what they have done.

As I said, making the process as easy as possible can create a vacuum, and a public body can help by putting its strategy out there. That will allow all those who are considering dealing with that public body to know what it is trying to achieve. Of course, they will also be able to use the public contracts Scotland portal.

We are looking to do some innovative things on workforce practice as well, but, like everyone else, we will have to put our strategy out there so that everybody knows the ground rules.

I think that that will produce the biggest benefits.

Mary Fee: How will you monitor that? Will there be a review process? Might you change the guidelines on the factors that are taken into account and sustainability?

Keith Brown: The review process will be forced on people, of course, because they will have to report each year on their strategy.

Obviously, we do not make regulations with the idea that they will be changed quickly. We would not want to do that, but we have to be open to the fact that times change. For example, with the economic cycle, the environment that we are in now is quite different from the environment five years ago.

The pace of change has been fast. I have been involved in the matter for 27 years in local authorities and the Government. That is a long time, and things have changed dramatically in that period. When I first went into local government, local authorities had a huge degree of discretion and sometimes did not go out to tender at all.

Things have changed and will continue to change. In the circumstances, we will, of course, want to be able to revisit matters, but we hope that this set of procurement regulations will be sustainable and that we will not have to change them too soon.

Mary Fee: Okay. How will the reforms on supported businesses work in practice? Contracts can be reserved for sheltered workshops, as long as 30 per cent of the employees are disadvantaged. I am not particularly comfortable with the term “disadvantaged”, which has not been defined in the European Union directives. How will you interpret it?

Keith Brown: We will arrive at a conclusion on that after we have had a look at the consultation responses in more detail, but you are absolutely right: a very vague term has been used, which we can see as either a problem or an opportunity. It could cover any class of employee who might have a harder time getting into the job market than others, whether because of their gender, race or disability or because of things such as geographical access. We are given that level of discretion.

We would want to try to apply the ethos, which is about proportionality and relevance. The changes in the rule book will substantially broaden the categories of business that can be regarded as supported in two ways: first, by broadening the categories in the way that you have mentioned, to include all “disadvantaged” people; and, secondly, by reducing the percentage of employees who fall within the classification from 50 per cent to 30 per cent. Most of the supported businesses that I have seen probably have closer to 100 per cent of employees who are “disadvantaged”. The reforms might even give someone the idea of taking up the opportunity to employ people with a disability, so that they make up 30 per cent of the workforce, for

example, which would allow that business to become a supported business.

You are right. The directives do not define “disadvantaged”, and we have not defined it, either. We will wait to see the responses and the analysis before we come to a conclusion, but we want to try to see this as an opportunity.

Mary Fee: Okay. Thank you.

The Convener: Adam Ingram has a quick supplementary question.

Adam Ingram: Cabinet secretary, you will probably recall that, when the Procurement Reform (Scotland) Bill went through the Parliament, there was some discussion about the level of prescription with regard to support for supported businesses. You might also recall that there was discussion about the number of contracts that public bodies should award to supported businesses, and perhaps also the issue of the value of contracts.

In what way will public bodies be monitored in practice so that each reports on the level of support that it provides or the number of contracts that it awards to supported businesses? If there is to be a monitoring regime, is it possible that the regulations could be reviewed or revisited, depending on the performance of public bodies in supporting supported businesses?

10:00

Keith Brown: The main thing is that, as I mentioned, bodies that procure above the £5 million level will be required to issue their strategy publicly, and awarding contracts to supported businesses can be part of that strategy. That would be a way to achieve the support that you are asking about.

When I was involved in a different area of Government, I was less aware of developments relating to the 2014 act—ministers tend to be focused on the area that they are involved in. However, we have all been to a number of events in the Parliament that have had supported employment at their centre.

I have mentioned annual procurement reports, and—this might relate to the second part of your question—a contracting authorities is

“required to prepare or revise a procurement strategy in relation to a financial year”

and

“must prepare an annual procurement report on its regulated procurement activities”.

The report must include a number of things, such as

“a summary of any community benefit requirements”

and

“a summary of any steps taken to facilitate the involvement of supported businesses in regulated procurements during the year”.

Contracting authorities will have to report on those things in any event, which will help to drive change. Those things will be reported on annually.

Mary Fee: How will reforms of the use of labels such as the Fairtrade mark work in practice? What benefits will those reforms have?

Keith Brown: Those labels have to carry credibility. They can be a useful way for companies to avoid substantial tick-box exercises. They are a kind of shorthand. As far as I am aware—Paul McNulty or another official could perhaps talk about this—the reforms are not prescriptive. Some labels will already be understood, such as the Fairtrade mark or eco-labels.

You might see the development of a fair work label. To some extent, the business pledge that we are encouraging people to sign up to is a shorthand way of saying that a company adheres to certain fair work standards.

Paul McNulty (Scottish Government): There are provisions in the new EU directives on labels, but they come with a number of preconditions, one of which is that the label must be relevant to the characteristics of what is bought. That presents certain challenges when you get into issues such as fair work or fair trade, because quite often the schemes relate not to the characteristics of what is bought but to the circumstances in which it is produced.

We are looking at the issue carefully and we will see what guidance is issued when the new rules come in. We will do whatever we can to promote fair trade, but the changes in the new rules are not a panacea that will mean that people will all of a sudden be able to use the Fairtrade label without going through the existing legal framework that people are required to go through.

Mary Fee: Will the preconditions overcomplicate things and make them more challenging?

Paul McNulty: In a way, they merely clarify the existing position, on the back of a European case that involved a Dutch authority that sought to buy fair trade coffee. That case says that you can specify the characteristics of what you require, but you cannot focus on a particular labelling scheme in isolation. You have to leave it open to other participants to demonstrate that they can meet the same criteria.

The new directives go a little further and say that you can refer to labels, but those labels must be relevant to the characteristics of what you are

buying. That presents a challenge when you are looking at labelling schemes that deal with the way that a producer is rewarded, if you like.

David Stewart (Highlands and Islands) (Lab): Good morning, cabinet secretary. What approach does the Government intend to take on the options for exclusion of businesses on the ground of tax evasion?

Keith Brown: The important point is that our approach must be legally defensible. Our options in relation to that question fall into two categories. The first is whether we want, through regulations and so on, to change from discretionary to mandatory the grounds on which public bodies can exclude a business from a tendering exercise. The second option is whether we want to replicate the rules that the directives make for higher-value contracts so that they apply to lower-value regulated contracts.

The proposals that we set out in the consultation paper were broadly that those grounds for exclusion—you mentioned tax evasion—that are at the discretion of public bodies should remain so, because making those mandatory would place them at significant risk of legal challenge, both from companies that claim to be wrongfully excluded and companies that complain that their competitors have been wrongly included. There is also the question of proportionality.

In addition, we propose that the same rules should generally apply both to lower-value regulated procurement exercises and to higher-value exercises. That is largely for reasons of consistency and to ensure that there is a properly transparent process.

The analysis of the responses to the consultation has not been completed, but the responses have been overwhelmingly supportive of our proposals. Trade unions are of the view that businesses that transgress in any way should not be allowed to win public contracts at all. Non-payment of tax, where that is not supported by a legal process—where a company has not been found legally to have not paid tax—is a key example for the trade unions. Firms that are in bankruptcy or insolvency proceedings have also been raised as a concern. Seventy-one per cent of respondents agreed with our proposal that public bodies should still have discretion over whether to exclude such firms. We all know of examples from our constituencies where a company might be in that situation and we want to try to safeguard the jobs that are there. That is why it is important to allow local bodies discretion.

We have not finally decided on the issue, but that is the thinking and the process so far.

David Stewart: Perhaps I can give a practical example of a Scottish Government contract, such

as the ferry contract that will be coming up next year, in which, as you know, I have a particular interest. When you carry out the tender exercise, how will you ensure that there are no skeletons in the cupboards of the firms that tender? There might have been tax avoidance, whether inside or outside the EU, that has gone through a legal process, or breaches of health and safety, where a worker may have died or been injured. Those are examples of things that can be proved, because they have been through a legal process. Even the Scottish Government does not have perfect knowledge and sometimes it is very difficult to determine what has happened to a firm. How sure can you be, particularly with high-value contracts, that bidders do not have skeletons in their cupboards?

Keith Brown: That is a good question. You have identified that there is a tension between trying to find out everything that we possibly can about a company and trying to have a process that is open to companies and that they can get through.

Companies, including those that are bidding for the ferry contracts, already have to go through a substantial amount of diligence in relation to financial and other statements. That process will be bolstered by the legislation and by the regulations that we intend to introduce. However, you are right that we cannot have perfect knowledge.

Without being too specific, I can give the example of another recent contract—for rail—where one of the companies concerned had been debarred by the UK Government from bidding for public contracts and was then un-debarred shortly beforehand. The Scottish Government felt fairly safe that if the UK Government said that a company could not bid for public contracts, we could also say that it could not bid. When the UK Government ban was lifted, that made it very hard for the Scottish Government, or any other body, to say that that company could not bid. The contracting authority would be open to legal processes and, potentially, claims for compensation for debarring.

We cannot have perfect knowledge, but even before we go through the processes that will be in the regulations, we already have pretty stringent processes.

David Stewart: You rightly predicted that that was the example that I was going to give next.

If you are going through a procurement process and your officials have checked the background of a company and given it a clean bill of health, yet subsequently you find that there has been a problem such as tax evasion in the EU, can you

pull it from the bidding process once that process has started?

Keith Brown: I will ask the officials to come in on that, but I can say that, because of the rules around blacklisting, any contracting authority that finds out that a company has been blacklisting can take a contract away.

Paul McNulty: It is standard practice to make it a condition of participation that a company tells the truth. If we find out subsequently that a company has not told the truth, certain steps can be taken. I have to say that that has not happened in my experience.

The cabinet secretary mentioned blacklisting. The guidance that we issued to public bodies in 2013 recommends that they include a clause in contracts that specifically says that, in the event that a company is found guilty of an offence connected with blacklisting—under the 2010 UK Government regulations—the contract can be terminated.

There are things that can be done if we find out that someone has not told the truth. It is standard practice in larger-value contracts for pretty dire warnings to be issued to companies of what the consequences will be if they do not tell the truth during the process.

David Stewart: Again, in the new ferry contract I notice that there is a break clause, so if you find that there are problems you can pull the contract half way through its term.

Paul McNulty: Yes, contracts often have break clauses.

On the general issue of perfect knowledge, when the concept of mandatory exclusion was introduced at a European level just over 10 years ago, the European Commission had on the table a proposal to create a pan-European database of relevant offences. However, I think that that project died a death, given its complexity.

David Stewart: I will not extend the debate, convener, as I know that time is moving on. I remember the committee having a meeting with a European commissioner who talked about contracts. What the commissioner said was interesting; he said that it was a state issue and that it was up to the member state to carry out the obligations.

As a general rule, sometimes we are far too dependent on getting legal advice handed down to us. In my experience, there is a halfway house: in many other European countries when something is not totally clear, they take the ball and run with it. As the lawyer here will testify, the law is not always totally clear when it comes to the EU. I sometimes think that we are little introverted when it comes to going ahead with what we feel is right;

instead, we get our hand held by the Commission. Perhaps that is an argument for another day.

Since the cabinet secretary mentioned blacklisting, I will ask about that. Do the new European directives give us more clout to ban firms that have been blacklisting?

Keith Brown: The directives give us the opportunity to do that. However, to go back to your previous point, you are right to say that sometimes it is possible to be too inhibited by what the EU might do. It is also true to say that that applies to the UK Government. The UK Government might decide to take a different approach, and because it is the member state we have to have regard to that. If we take the wrong approach, the UK Government does not like it. Those are not matters without consequence: a contract might cost several million pounds and cause individuals significant disruption. However, you are right to say that we should not be too inhibited; there are times when we could stretch those things as much as possible.

In relation to blacklisting, there are no substantive changes in the new directives. In drafting the regulations, we are taking the opportunity to make it explicit that breaches of employment law—over which we do not have control, of course—are to be regarded as grounds for exclusion; that also applies to the 2010 blacklisting regulations that you mentioned. We have given the Scottish Trades Union Congress a commitment that we will work with it and with interested trade unions on what that guidance should say. As I said, we expect to publish that guidance in the autumn.

David Stewart: I agree with your point about the member state, but notwithstanding that issue, if there is a potential disagreement between the Scottish Government—of whatever political complexion—and the UK Government, surely that should be raised at the joint ministerial committee on Europe, given that that is what it was set up to deal with. Have you had personal experience of that committee and of making the case for a Scottish Government view that is different from the UK Government's view?

Keith Brown: I have been at the joint ministerial committee before, but it is usually the external affairs ministers who are involved in that committee. However, that might not always be the best route to ensure that there is no legal dubiety.

It is not necessary for there to be two different parties in government at the Scottish and UK levels for there to be disagreement. Certainly, there were various disagreements between 1999 and 2007, when I was quite involved in the European side of things.

We can try and eliminate uncertainty, because uncertainty will inhibit people's actions. If we can make something as certain as possible, without being prescriptive, that will be the best outcome. We have discussions with the UK Government on those things, although not necessarily through the joint ministerial committee on Europe.

David Stewart: Alex Johnstone has touched on the living wage already. Do the procurement reforms help to give more clout to the idea that the living wage should be dictated? I know that you have received some advice from Europe. Can you put into a contract the expectation that the winning bidder will pay the living wage? As you know, there is a legal form of words that can still comply with directives on the matter.

10:15

Keith Brown: Yes—but the point is that we cannot stipulate as a condition of the contract that a bidder should pay the living wage.

You know as well as I do—I am glad to have the opportunity to say this—that it has often been alleged in the chamber that my Government and party voted against the living wage, but it is not possible to stipulate it. Although other places—including a number of London boroughs and other local authorities—have said that they have done that, it has been proved that that is not the case and they have now explicitly recognised that it is necessary to act in compliance with European law.

We know that we cannot stipulate the payment of a living wage and we are considering what provisions would allow us to achieve that without stipulating it. There are a number of measures; we can take into account workplace reforms and the economic benefits of awarding a contract in a particular way, for example. The measures have to be proportionate and relevant. If we can say that people being paid a living wage would make a contract more sustainable, we can achieve our aim through that different process, as we have managed to do in the Scottish Government.

David Stewart: Is it not possible to make it clear to everyone who bids in a competitive dialogue tender negotiation, such as you had for the northern isles ferry contract, that the Scottish Government expects that the winning bidder will pay the living wage?

Keith Brown: Which contract are you talking about?

David Stewart: I am using the northern isles ferry contract, which I think was a competitive dialogue, as an example.

Keith Brown: That is the case—although we cannot make it too clear to bidders that success depends upon their making a commitment to pay

the living wage because, if we did, that would get us into a breach. For example, if we were not to give a bidder a contract because it did not make that commitment, it could take action through European processes. We must use other methods to achieve payment of the living wage—for example, by making a case that payment of the living wage will make the contract more sustainable. What we do has to be proportionate.

Perhaps the officials might like to comment.

Paul McNulty: Last year, we published guidance that says that account should be taken not only of the living wage but of how a bidder generally treats its workforce. That is important because a bidder could be a living-wage-paying company but still not be a particularly good employer because of other terms and conditions that it applies to its workforce. We strongly recommend that, wherever it is relevant to the quality of service that is delivered under the contract, public bodies take account of workforce matters in general. We piloted that approach in our catering contract, and all five shortlisted bidders made a commitment to pay the living wage, so it seems to have the desired effect where it is applied.

David Stewart: I take Mr McNulty's point that just paying the living wage does not make a company the best employer in the world. For what it is worth, my experience with the trade union movement is that that is unlikely—Rachman-like employers do not tend to pay the living wage and then be poor in other areas—but I bow to a different view of the world.

Paul McNulty: No—our guidance says that we regard payment of the living wage as a key indicator of whether an employer is a good employer. It is just not the only indicator.

Keith Brown: A public authority recently ensured that the living wage was paid but there were subsequent changes to conditions of service, including cuts to employees' hours. It is difficult to say whether such changes happen as a result of the company paying the living wage. The approach that we have taken in the Scottish Government is designed to try to prevent that from happening. Even if a company is not a Rachman-like employer, it is possible for them to accept that they must pay the living wage but then to denude employees' conditions of service.

I will give one last example. Paul McNulty mentioned the catering contract, but the biggest contract that we let is the rail contract. Through that, we managed to get not only all directly-employed individuals but every sub-contracted individual, including cleaning and catering staff, to be paid the living wage.

By and large, people who are paid the living wage need to spend all the money that they have. That increases discretionary spend within the economy, which is beneficial to companies and the economy in general.

David Stewart: I agree with that. The jargon for it is "virtuous circle".

The Convener: You have had a good run now, David.

David Stewart: Thank you, convener.

The Convener: The Scottish Government has made it clear that it is committed to paying the living wage to its employees. If I have understood correctly what you have said this morning, you would have liked, when awarding contracts, to stipulate that contractors pay the living wage, but European Union legislation prohibits you from doing so. Am I right so far?

Keith Brown: Yes. We are pretty clear that we would be challenged, or would be susceptible to challenge, at European level if we were to make payment of the living wage mandatory.

The Convener: Have officials explored whether member states—which I accept Scotland is not, in this case—could seek a derogation on the matter?

Keith Brown: That is a good question. Perhaps the officials can comment on that.

Paul McNulty: We have had such discussions with the Cabinet Office, as the lead UK policy department on public procurement, and it shares our view of the legal position. We have also had discussions on the issue with the European Commission. It is clear that member states that have tried to stipulate payment of wages that exceed the local minimum wage that is set by statute have found themselves in the Court of Justice of the European Union. There have been three cases to date, and there is another one in the pipeline, on which we expect a judgment this year. All the judgments so far have gone against the member states.

The Convener: That is clear. Would you be able to share information on those cases with the committee to inform our understanding of the issue?

Paul McNulty: Certainly.

The Convener: Would it be possible for the UK, as the member state, to seek a derogation from the legislation?

Paul McNulty: No. It is not possible to seek a derogation because the fundamental issue is the treaty, despite cases having involved the posted workers directive, which could be repealed by the Commission if it had the will—which it does not, as far as I am aware—to do so. The treaty would

have to be reopened and rewritten in order to get over the European obstacle.

The Convener: Why has it been possible for the UK to have derogations on other issues, such as the social chapter, but not on this issue?

Paul McNulty: That is because the obstacle is the fundamental treaty principle of free movement of services and workers. I will happily write to the committee on the matter, if that would—

Keith Brown: Derogations tend to be won and lost at the point when the treaty is agreed. The Danish have won derogations in that context.

The more important point is that the UK Government could make it an obligation right now for the living wage to be paid, simply by ensuring that the national minimum wage is the living wage. If we had power over the national minimum wage, we could raise it to the amount of the living wage.

Paul McNulty: That is exactly the point. One of the reasons why the Commission tends to view this whole issue as one for member states is that there would be absolutely nothing to stop the UK Government from setting a national minimum wage that reflected local, regional or devolved Administration priorities on what they wished to pay. The UK Government is entirely free to set whatever national minimum wage it likes without infringing EU law.

The EU law position is that the Government cannot, having set a minimum wage in statute, then set a higher hurdle for participation in public contracts.

The Convener: Thank you for that. We will move on.

Mike MacKenzie (Highlands and Islands) (SNP): Good morning, cabinet secretary. As you know, I am a firm advocate of using technology to boost our efficiency and productivity. Could you describe the Government's approach to implementing the e-procurement requirements? What work needs to be done by public bodies and businesses to ensure that Scotland is ready for implementation, which I think will be in 2018?

Keith Brown: We are well placed because of the actions that have been taken so far, although there are new obligations. The Parliament is a very good example of an e-environment, if I can call it that.

We have some examples already. There is a comprehensive suite of e-commerce tools, including an e-ordering system, which is currently in use by about 100 public bodies and which currently processes about £5 billion-worth of transactions every year. For the most part, the e-commerce systems are operated as national shared services, which are centrally funded by the

Scottish Government. The financial memorandum that accompanied the Procurement Reform (Scotland) Bill identified the need for further investment in staff to support the development of those systems, but we are satisfied that we are at a pretty advanced stage of that development and at an advanced stage of readiness for implementation of the new legislation. We welcome it, and it goes with the grain of what we have been doing for a number of years. We do not foresee any problems with our implementing the Procurement Reform (Scotland) Act 2014.

Mike MacKenzie: Thank you. My final question is this: are there any other particularly novel or significant aspects of the new procurement directive or of the other directives on utilities and concessions that you wish to highlight to the committee?

Keith Brown: The provision that is different, I suppose because it has come from the UK Government, is to do with social enterprises—mutuals, for example. The UK Government, through its big society initiative, has sought to move some public services to, or to facilitate public services being delivered by, social enterprises. We do not share its view, so we do not intend to push things in that direction. The guidance that we eventually issue will reflect that. That is a fairly novel aspect. I am trying to think whether there is anything else. That provision is limited to circumstances in which, for example, the social enterprise that is bidding for the public works has not had a similar contract from the public body in a previous three-year period. As I say, that was negotiated by the UK Government in order to facilitate its broader policies. However, we do not share that policy objective, although it is possible that it could be of use in some limited circumstances. The UK Government has also excluded health services from that provision, which is the one that stands out to me. The officials may want to add to that.

Iain Moore (Scottish Government): It is probably worth drawing to the committee's attention the obligations in relation to enforcement in monitoring procurement activity. The new European directives introduce an obligation that organisations, including in Scotland, must monitor how procurement rules are being followed and must publish the results of monitoring every three years. Monitoring will look at things such as confirmation, which is often done incorrectly and causes legal uncertainty. The new rules also talk about the level of involvement of small and medium-sized enterprises and information on preventing, detecting and reporting all procurement fraud.

One of the options that we asked about in the consultation paper was what sort of body that

responsibility should fall to. The suggestion that seems to be coming back at the moment is that an option that should be considered is the Government's single point of inquiry, which currently resides within the procurement directorate. It is currently the place for both suppliers and buyers to seek advice where there are concerns about procurement roles.

In addition to monitoring, another element that we have to consider is that we will need to ensure that the new directives have within them some form of remedy. Currently the remedy process in Scotland is an application to the court, so it involves court action. Again, we are seeking views from stakeholders as to whether it would be appropriate to take forward that process in the new directives or whether there should be an alternative—something sitting alongside, or perhaps below, a court action—such as a tribunal or an ombudsman. Those are options that we are considering as we look at the analysis.

Mike MacKenzie: Thank you.

The Convener: As there are no final questions from members, I will ask the cabinet secretary to give a commitment to the committee. Will you keep us updated on the outcome of the Scottish Government's consultation on changes to public procurement rules and do that prior to publication of the regulations?

Keith Brown: I said in my opening statement that we would keep the committee up to date, so I am certainly happy to give that commitment.

The Convener: I thank the cabinet secretary and other witnesses for their evidence this morning. I suspend the meeting briefly to allow for a changeover of witnesses.

10:29

Meeting suspended.

10:33

On resuming—

Glasgow Prestwick Airport

The Convener: Under item 3, the committee will now take evidence on Glasgow Prestwick airport from Keith Brown, the Cabinet Secretary for Infrastructure, Investment and Cities, who remains with us from the previous item. With us from Transport Scotland we have Mike Baxter, director of finance and analytical services; and John Nicholls, director of aviation, maritime, freight and canals.

I invite the cabinet secretary to make a brief opening statement.

Keith Brown: I welcome the opportunity to update the committee on recent progress at Glasgow Prestwick airport. The committee last received an update on 12 November 2014. Since then, a number of changes have been made to create the right structure to take the business forward so that it can be returned to the private sector.

Members might recall that in November 2014 we appointed Andrew Miller, formerly of Air New Zealand, as non-executive chairman of both the holding company for Prestwick and the operational company. More recently—in the past two or three weeks—we have appointed four non-executive directors to help take the business forward. Those non-executive directors were selected because each had particular skills and a track record in the key areas that were identified by ourselves and others to help take Prestwick forward, including communications, property, engineering and marketing.

On the passenger side of the business, members are aware that Ryanair has increased its overall presence in Scotland, operating out of three airports rather than two. However, although that is good for Scotland as a whole, it has meant a reduction in the number of Ryanair passengers travelling through Glasgow Prestwick. Projected passenger numbers for 2015-16 are 782,500, compared with 1,058,000 last year. The team at the airport is working hard to secure growth in passenger numbers with other airlines, both scheduled and charter.

On the cargo side, projected tonnage for 2015 is 11,678, which represents a 3.4 per cent increase on last year.

I know that the committee is interested in financial support; £6.3 million was loaned in 2014-15. That loan was less than we originally earmarked because the company achieved additional income from wind farm mitigation, the Bristow Helicopters lease and a slower

development of some capital expenditure. Some £10 million of loan funding has been allocated in the current year, of which £2 million has been drawn down so far.

We have always been clear that Glasgow Prestwick is not a typical airport, and it will rely on the development of a wide range of business opportunities to make it successful. Since the last update, progress has been made in some of those areas. The Deputy First Minister has always said that this is a process that will take some time.

The Prestwick board decided to establish its own fixed-base operation to handle business jets, military aircraft and the like, a decision that is seen as being better commercially for Prestwick. That was a significant change, as the service was already being carried out by two companies and it was necessary to end their leases at Prestwick. Since the change, Prestwick has seen a significant improvement in both aircraft movements and revenues, which are up 74 per cent on last year.

The airport has also attracted other new business from Bristow Helicopters, which has constructed a new hangar for its search and rescue operations, and the Trump Organization, which has based aircraft at Prestwick.

Finally, members will be aware that Prestwick is on the short list to become the United Kingdom's first spaceport. Indeed, John Scott secured a debate in the chamber in which he and others highlighted the potential that Prestwick has in that regard. The airport has put in place a bid team that is headed up Stuart McIntyre, whom I have met and discussed the issue with and who strikes me as being very impressive. That team is working closely with South Ayrshire Council, the aerospace business around the airport and the space industry worldwide to put the airport in a good position to develop a robust and compelling bid.

Members will be aware that the owners of Campbeltown airfield are considering a bid, too. While it remains the case that more than one Scottish side is in the running, the Scottish Government will be neutral. However, as I said in the debate, I think that Prestwick is in a strong position, particularly given the amount of effort, care and thought that it is putting into the process.

We remain of the view that it will take time to turn the business around, given the trajectory that it was on before we took it over, but we believe that that can be done and that Prestwick and the business around it can thrive.

The Convener: Mary Fee will kick off the questions.

Mary Fee: I want to explore the issue of loan funding. You mentioned that in your opening

remarks, but could you give us a figure of projected loan requirements for the airport?

Keith Brown: We have put in place facilities for a certain amount of loan, but how much is drawn down and when has been up to the discretion of the business.

We previously announced that £25 million in loan funding was available. Any loan must be repaid, and we require to make a return on the investment. Some £4.5 million was loaned in 2013-14, the first year of the Government's ownership, and £6.3 million was loaned in 2014-15, which, as I said, was less than the £10 million that had been earmarked. That underlines my point that, although we can put in place the facilities and go through a process of diligence before we do that, how much of that is drawn down and when is up to the company.

As I said, last year, the airport drew in additional revenue through commercial activity, and the £3.7 million remaining has been carried forward, meaning that the 2015-16 provision will be £10 million plus that £3.7 million. As I said, around £2 million of that has been drawn down so far. We have made no commitments beyond this year, but we will be keeping the situation under review. I would be happy to update the committee as and when we reach conclusions about what further loan funding might be made available.

Mary Fee: Is the £25 million that you mentioned the maximum amount of loan funding that the Government is prepared to commit to Prestwick airport?

Keith Brown: No. We have based our judgment on what we think is necessary and what we have discussed with the airport. If we were to go any further than that, it would be on the basis that the money would be repaid, and that would involve a calculation that the airport had a future trajectory that would allow it to repay that money. That is the basis on which current loans have been made and it will be the basis on which any further loan funding would be made.

If you go to the airport, you will see the improvements that the loan funding that we have made available already has achieved. The rate of further improvement will depend on the airport's decisions and any future funding will depend on discussion between the airport and the Government.

Mary Fee: Audit Scotland recently estimated that loan funding of £39.6 million would need to be made available to Prestwick up to 2021-22. Do you disagree with that figure?

Keith Brown: I am not sure that that is exactly what Audit Scotland said. Mike Baxter might want to comment.

Mike Baxter (Transport Scotland): I am happy to comment. Audit Scotland projected £39.6 million. The cabinet secretary is making the point that we will need to continue to monitor the position because the profile of that drawdown is up to 2021. As the situation develops in the intervening period, we will keep it under review.

It is also important to say that we are not simply reviewing a one-year position. We are continually reviewing the long-term business plan with the airport and we have a presence on the airport's board.

Keith Brown: Audit Scotland did its own calculation of what would be necessary, and it made a comment about passenger numbers, which we might come to. However, other things are at play here. For example, air passenger duty could change the revenue and passenger numbers. We are happy to work in the staged way that we are working just now.

Mary Fee: I will ask about passenger numbers. The situation is very challenging for Prestwick airport. It is good news for Ryanair that it is expanding into other airports, but that has a significant impact on Prestwick. Passenger numbers have dropped by around 360,000. What discussions have you had or will you have with Ryanair to look to build passenger numbers at Prestwick?

Keith Brown: Such discussions would have to be between the airport and Ryanair, and they have been taking place before, after and during the decisions that Ryanair has taken. Ryanair has said that it remains committed to Prestwick and the substantial operations, aside from passenger traffic, that it has at Prestwick. I am sure that you are aware that Ryanair is also changing its business model, so there will be new opportunities there. The airport's management has been assiduous in looking for new passenger business and I hope that it will be able to make positive progress on that. It has to have commercially sensitive discussions with Ryanair and other potential users of their service.

The other point, which I know has been made previously, is that there are a number of facets to Prestwick. It is quite an unusual airport in the sense that it has fixed-based operations and maintenance and so on. It also moves freight that is of a different character from that going through other airports.

The answer to your question is that the discussions will be between Ryanair and the airport.

Mary Fee: Freight at Prestwick decreased, but it has started to pick up slightly. Between 2003 and 2013, freight tonnage fell from 40,000 to 10,000 tonnes but I note that you said in your opening

remarks that it has started to pick up. How significant to the future of Prestwick is freight?

Keith Brown: You are, quite rightly, asking me and I have to give my impression of that, having discussed it with the board. It could be of substantial significance because Prestwick has a good and growing reputation in the industry for the efficient way in which it turns freight around. There are some other challenges because of some of the flights that have come in and the tendency these days to put freight into the bellies of aircraft that carry passengers. You are right to say that there has been an increase—a 3.4 per cent increase between 2014 and 2015—and it is getting towards 12,000 tonnes.

I have had a bit of a discussion with the board and one of the things that came up is that it wants to increase its intelligence about the opportunities for new freight. The information that the airport gets can be a bit ad hoc. For example, truck drivers in the area will tell it about freight that they are carrying. The airport will want to improve its intelligence on the opportunities. However, the reputation that it already has both domestically and, increasingly, with the military presents an opportunity for it. Perhaps we are seeing that in the 3.4 per cent increase that it has had.

10:45

Mary Fee: The cabinet secretary will know that the committee recently finished an inquiry into freight transport, and air freight is one of the things that we looked at. It may be that Prestwick will benefit in some way from that work and the recommendations in our report.

Keith Brown: I hope, although I do not know whether it is the case, that the airport's board and senior officers have had a look at that. If not, we will certainly make sure that they get a copy of the committee's recommendations.

Mary Fee: Thank you. I add that the report is still in draft.

My final question is about the railway station. Last time we had an update on Prestwick, in November 2014, we were told that

"The railway station is an important part of the picture, as it is one of the big selling points for the airport"

but that

"It needs substantial capital investment."—[*Official Report, Infrastructure and Capital Investment Committee*, 12 November 2014; c 51.]

Has any capital investment been earmarked for the railway station? If not, why not?

Keith Brown: Again, that has to be a decision for the airport. You are right to say that the station needs investment. Anybody who goes past it can

see that it needs at least refurbishment. It is unique in that the ownership falls to the airport.

I have made sure that the airport is well aware of the different funds that are available from the rail franchise. We have the £30 million stations improvement fund. However, it would have to make a case for that. It is right that the airport looks at what its capital investment priorities are. It might not be able to do everything that it wants to do at once. If it wants to apply to the stations fund, it can do so, but it has to take the decision based on its capital investment priorities. The airport might have seen the work that has been done on the reception areas and the retail opportunities as bigger priorities at that stage.

I have mentioned the loan funding that we have made available and there are other possible sources of finance, but the airport has to make the decision.

Mary Fee: Thank you.

James Dornan: I have just one question, which is about the four non-executive directors who you mentioned have just been put in place. Are they the final senior appointments to be made? If so, are you satisfied that suitable governance arrangements are now in place to return the airport to profitability?

Keith Brown: The answer is yes to each of those questions. That series of appointments completes the board structure for the airport. I spoke to each of the appointees before I agreed to their appointments and I think that they have a breadth of experience, particularly in relation to marketing, which is important for the airport, but also in relation to governance. I am very hopeful that that breadth of experience will help the airport to move on to the next stage of its development.

One of the directors has tremendous experience of ports in the south of England moving from being a public authority back into the private sector. Having spoken to each of the non-executive directors, I think that they have a breadth of experience. Obviously, vacancies can arise, but those appointments complete the board appointments at this stage.

James Dornan: We will watch with interest. Thank you.

Alex Johnstone: I want to address some of the issues that were raised in the Audit Scotland report. It said that the purchase business plan identified average annual growth in passenger numbers of the order of 10 per cent in each of the first five years, but passenger numbers have fallen and they continue to fall. Have your officials assessed why the predictions at the beginning of the process were so inaccurate and how that might affect future plans?

Keith Brown: I do not accept that they were inaccurate. They were certainly different from and in general much larger than the UK Government's 1 to 3 per cent forecast, but they were consistent with other forecasts on a wider basis. The Audit Scotland report also said that, even at that lower level, the business case had been made for a positive decision to take ownership of the airport.

The figure that we provided was determined by our expert advisers at the time of the purchase, as noted in the report. It was growth of 10.2 per cent in each of the first five years. It was later revised. Of course, we did not pick and choose the timing of taking over the airport. That was presented to us by market conditions, and these things were done in less than ideal timescales. I think that that has been acknowledged.

The senior adviser whom we appointed reduced that figure to 6.5 per cent when he put together the stage 2 business plan. I know that the committee drew comparisons between those figures and the Department for Transport's aviation forecast for the whole of the UK. However, as I mentioned, one factor that that did not take into account was the impact of APD. As you will know, the Government's commitment is to reduce the impact of APD by 50 per cent in the next session of Parliament, with a view to eliminating it altogether when public finances allow. Ryanair and many others have pointed to the substantial growth that could be engendered if we are able to do that, because there is an inhibiting effect just now given that we have the highest level of APD in the world.

I do not accept that those figures were unrealistic. The forecasts were based on the information that was available at that time. It is worth making a comparison with the DFT passenger forecasts, which have as their primary purpose the need to inform long-term strategic aviation policy. The DFT's guidance states that making any prediction about the future is inherently uncertain, which is especially true in aviation.

The report places more weight on the role of those forecasts in informing long-term strategic policy than in providing detailed forecasts. Specifically on Prestwick, the DFT reported potential growth to 1.8 million passengers in 2020 and 2.6 million passengers by 2050 from a 2011 baseline of 1.3 million.

You asked about our assessment. Our projection of passenger numbers was reasonable at the time, and was based on the best information available. Our forecasts of growth in passenger numbers were lower than those of many passenger aircraft manufacturers, including Boeing and Airbus, but higher—as I have said—than the DFT's projections.

When Audit Scotland recalculated the financial return using that less optimistic prediction, the model still showed a positive return being achieved. We still consult on forecasts—we are talking to the airport management, and I have mentioned its efforts to increase passenger numbers. We have seen the effect of Ryanair's decisions to disperse its business across three airports in Scotland rather than two. We continue to look at those matters.

Alex Johnstone: The Audit Scotland recommended that the Scottish Government should develop an exit strategy that identified a timescale for privatising the airport. Has any action being taken to prepare such a strategy?

Keith Brown: We said from the very start when we took ownership of the airport that our intention was to return it to the private sector at the most opportune and earliest time. However, we believe that there are too many variables—some of which I have just mentioned—for it to make sense for us to be specific about a date.

I mentioned APD. If the situation with APD were to change quite dramatically, an improvement in the fortunes of the airport could be achieved much more quickly. That is just one variable.

Others have mentioned the spaceport. If the spaceport bid proved to be successful, that could have a transformative effect on the airport. Given those variables, we do not think that it is sensible to put a specific date just now on returning the airport to the private sector.

Alex Johnstone: You have mentioned—

The Convener: Mike MacKenzie has a supplementary.

Mike MacKenzie: I wondered whether it might be worth while for the cabinet secretary to remind us what the consequences would have been if the Scottish Government had not taken Prestwick into public ownership.

Keith Brown: It is worth saying, looking at the number of people who are directly employed and the number of those who are indirectly employed, that that would have had a massive effect on both the local Ayrshire economy and the Scottish economy. There was nobody dissenting from the point of view that we should take over the airport. It was not something that we wanted to do—we own a number of airports, but they are small airports that are vital to local communities. We did not want to be in the business of taking over an airport, but more than 3,000 direct and indirect jobs were put in jeopardy by the airport's potential closure. That is a massive number, and trying to replace those jobs in a place such as Ayrshire would have been extremely difficult.

It is quite easy subsequently to look back and say, "Well, maybe you should just have let it go," but in areas that have suffered massive job losses in the past it has been extremely difficult to get a critical mass of jobs back. I think that taking over Prestwick was the right decision. Had it not been taken over, those jobs would have gone, and those people, to the extent that they might not have been able to find new employment, would have been paid substantial moneys from public funds in unemployment benefit, with all the other issues that that brings.

Alex Johnstone: The minister has mentioned on more than one occasion the opportunities for the reduction or ultimate removal of air passenger duty. I have asked this question before, and I will ask it again. How can the reduction of APD be a positive for Prestwick when the airport is in competition with Glasgow and other airports? Is it not simply the case that a reduction in APD will boost air travel generally but have no specific benefit for Prestwick airport?

Keith Brown: Ryanair has been very specific in its calculation—I cannot bring it to mind just now; perhaps one of the officials will know—of what a reduction in APD would mean for Prestwick specifically.

You are right that there is a general benefit—for example, the York Aviation study showed huge benefits. Aside from those calculations—I am sure that we can get the details to give to Alex Johnstone—we know anecdotally that countries such as Mexico are taking plane-loads of passengers to Paris, Milan or Rome rather than London, not to mention Glasgow and Edinburgh. That is 300 people each time coming on a plane to discover a new country, but they are going elsewhere because of additional costs not only for visas, as has been mentioned, but for APD, which puts us at a competitive disadvantage.

Some people are leaving Scotland to go to Dublin if they want to fly to Dubai so that they can avoid the long-haul passenger duty. There is no question but that a reduction in APD would benefit Prestwick, but you are right to say that there is also a general benefit.

We have some figures from Ryanair and others that mention the specific benefits for Prestwick. I will undertake to provide Alex Johnstone with any specific information that we have on that.

The Convener: I welcome John Scott to the meeting. He has a constituency interest and wants to ask a quick supplementary question.

John Scott (Ayr) (Con): It is more a point of information, convener. I believe that Ryanair said that it would put 1 million new passengers through Prestwick if there was a reduction in APD. That was the figure as I recall it; the cabinet secretary's

officials will probably know the exact figure. I would fully support a reduction in APD.

John Nicholls (Transport Scotland): The figure of 1 million relates to Scotland as a whole, but it would include a proportion of passengers at Prestwick. As the cabinet secretary said, we will double check exactly what Ryanair has said and will report back to the committee.

Keith Brown: We will also do some work to help out Alex Johnstone on what the general uplift that we think we would see would mean for Prestwick specifically. There is no question but that a reduction in APD would be transformative for Prestwick.

The Convener: David Stewart has a quick supplementary question.

David Stewart: I take the cabinet secretary's point about the impact of reduced APD in stimulating passenger trade in Scotland. The other factor involves looking at route development funding. You kindly offered me a meeting on that issue, cabinet secretary, and I will take up that offer once I have received some European advice. You will recall that the Government withdrew that funding, which was brought in by the Labour-Liberal Democrat Administration in session 2 of the Parliament. I think that the problem was compliance with EU rules.

As you know, I have looked into the matter. At present, the de minimis level is less than 1 million passengers—in other words, the rule does not really apply to airports with passenger numbers lower than that. I note from the figures in our briefing that the Ryanair figure is currently 500,000 passengers.

I will pursue a meeting with you, cabinet secretary. I know that you cannot magic up a new policy overnight, but the air route development fund helped to develop more than 48 routes when it was brought in by Labour and the Lib Dems. It is clear that a reduction in APD—along with a better marketing strategy, which the Government could help with—would stimulate trade at Prestwick. Will you look at that in the longer term?

As you know, the UK Government brought in the connectivity fund, for which the de minimis level is 5 million passengers, which is 10 times as many as Prestwick currently has. I am not convinced that Europe is the problem. We need to look for other sources of funding that can help to stimulate smaller airports—I appreciate that we are not talking about the Glasgows and Edinburghs.

Keith Brown: The advice that we got on the route development fund was clear: it would have fallen foul of European law. I think that that may have happened before 2007—I could be wrong, so I will check that fact. There is no reason why, if we

had been allowed to continue to operate the fund, we would not have done so. That would have required a budget commitment, but there is no reason why we would not have done that.

We help our airports and—to return to an earlier question—we are doing that at Prestwick. Prestwick airport will have discussions with airlines that it wants to attract but, as happened at Glasgow, Aberdeen and Edinburgh airports, that often involves discussions about what support the Government can provide. That support is still available.

I will get back to you on your point about numbers and the de minimis level. There is a way to do this. We are keen to increase the range of long-haul direct flights because they prevent more environmentally damaging shorter flights and are better for customers. I am off on holiday soon, and I will have to go to Gatwick to fly to where I am going. If we can cut out those damaging journeys between airports, that will also be better for people.

We support the measure, and there has recently been tremendous growth at Edinburgh, Aberdeen and Glasgow airports. We have been involved in many of those things—support for the industry has not stopped.

11:00

David Stewart: The UK regional air connectivity fund operates for airports with up to 5 million passengers. I am no European lawyer, but how has the UK Government managed to get the scheme to operate for Scottish airports that have bigger turnovers than Prestwick? If it operates effectively for the UK, why is it not effective for the Scottish Government, which is operating under the same rules?

Keith Brown: I am happy to consider that. I know that the scheme was announced completely out of the blue and that people at Inverness airport, for example, did not have a clue what it was going to do or how it would work. Its application has taken a bit of time to achieve—perhaps the officials want to comment on that.

John Nicholls: The cabinet secretary is correct in saying that the application of the DFT scheme has not been clear. The Prestwick management team has been pursuing the matter with airlines and has told us that there is a lack of clarity about the terms of the scheme. We will help Prestwick to pursue that and see whether we can take advantage of those measures.

David Stewart: Perhaps the cabinet secretary could get back to us on that. I think that the UK scheme provides a good example, and I am not

convinced by the de minimis argument. Let us wait for a letter from the cabinet secretary.

Keith Brown: I do not think that it is necessarily a de minimis argument. We are saying that the scheme was announced overnight with no guidance behind it, and it then had to be worked through by airports and civil servants. I am happy to come back to you on that.

John Scott: I would like to be involved in that as well, please, with particular reference to Prestwick.

Alex Johnstone: I hate to burst the bubble, because the exchanges have been so optimistic, but the Audit Scotland report pointed out that the original business case for Prestwick suggested that it would not be viable without Ryanair. Is the minister still looking closely at what would have to be done if Ryanair withdrew completely?

Keith Brown: I am sorry to have to repeat the point, but that calculation is for the airport management. We are obliged to be at one remove from the management of the airports, and they will look at different scenarios. Prestwick will be comforted by the fact that Ryanair has made a positive statement about its future at that airport, which is not just down to the passenger side of things. I know that Prestwick airport is not resting on its laurels but is working hard to get other business. Ryanair made a long-term commitment to each of the three airports that it currently serves, so there is no immediate threat. Do the officials wish to add anything to that?

John Nicholls: I agree with what the cabinet secretary has said. Ryanair has reduced its operation at Prestwick, but there will still be 55 flights a week this summer, although that is a reduction on last year, and its substantial maintenance and repair operation employs several hundred people. The Prestwick management team is doing all that it can to enhance Ryanair's experience at the airport and pursue its offer of increased services when market conditions permit.

In parallel with that, the airport team is pursuing a number of opportunities with other airlines, which are commercially sensitive; I am afraid that we cannot say much about those just now. The airport management team is conscious of the need to pursue all the business development opportunities that Prestwick has to offer.

Keith Brown: It is worth adding that there is commercial aeroplane pilot training at Prestwick for Ryanair, Jet2, Thomas Cook, Loganair, Virgin Atlantic, easyJet and others. Prestwick has also had real success this year in its interaction with the military. The joint warrior defence exercise—a big NATO exercise—takes place twice a year, and there has been a huge improvement in both aircraft movements and revenues since Prestwick

Aviation Services was brought in. The feedback from the military about the joint warrior exercise has been excellent, meaning that there are very good prospects for building that business, which is quite lucrative for Prestwick, in the future.

Prestwick has a broad base—it is probably broader than those of most other airports; the challenge is in trying to raise it. The management do not anticipate a withdrawal by Ryanair and are doing what they can to make Ryanair's experience as good as possible—as John Nicholls said—with a view to expanding that business. They are also looking at other airlines.

Adam Ingram: There are commercially sensitive initiatives taking place that are aimed at increasing business in the airport, but has the Prestwick management team been able to attract any new freight or passenger services to the airport since our last update in November?

Keith Brown: The freight figures that I presented earlier when I cited the 3.4 per cent increase were not available at the time of the November update, so that is new business. I have also mentioned some of the other new business—not so much freight, but military aircraft movements, the Bristow search and rescue service and one or two other things.

As John Nicholls said in relation to passenger services, for each of the airports that we work with these things are extremely sensitive and confidential. However, I know that the team is putting every effort into trying to attract new business.

Adam Ingram: I appreciate that. You touched on the training of pilots and engineers as well as the maintenance, repair and overhaul work. How is that being pursued and what success has there been in attracting new business in that area to the airport?

Keith Brown: I have mentioned a number of areas. There is increased freight coming in from around the European continent and there is a substantial amount of oil-related freight as well, which the management are trying to expand. Perhaps John Nicholls or Mike Baxter will say more about those things.

John Nicholls: There has been an uplift in freight, a substantial increase in fixed-base operations and an increase in use by the Trump Organization aircraft, which the cabinet secretary mentioned. In addition, the board is pursuing a number of potential maintenance, repair and overhaul business development opportunities. Those are extremely commercially sensitive at this stage, and I cannot give any further detail beyond saying that those opportunities are actively being looked at by the management team.

Keith Brown: It is also worth saying that, in the area of aircraft movements and so on, revenues are up 74 per cent this year. Similar gains on last year were made in both February and March, so it is a promising area of activity for the airport. That relates to the military activities that have been taking place at Prestwick and to accommodating and servicing aircraft, which is a growth area. It is very convenient for the military to use Prestwick because of where the joint warrior exercise takes place.

Mike Baxter: In the overall financial position for the past year, the loss in revenue from the reduction in passenger numbers has been more than offset by the diversification into those other areas, so the overall turnover for the business remains pretty well on track to reach what is in the strategic plan.

Adam Ingram: That is encouraging.

Cabinet secretary, you mentioned capital investment priorities relating to the railway station. Will you update us on the progress on capital investment in Prestwick airport, please?

Keith Brown: Certainly. Adam Ingram and the other members will be familiar with the airport's condition, given that they recently had a tour of the airport and its associated facilities. There is a lot of opportunity for capital investment there, if I can put it that way.

The board is shortly to be asked to agree capex spend of around £1.2 million to resurface sections of the runway, the taxiways and the aprons and to replace sections of the glazing at the front of the terminal.

In April, a new body scanner became operational. It cost £500,000, and it builds on the cabin baggage X-ray replacement programme. When I last visited the airport, the security arrangements had improved substantially.

The board is also investing in a new information centre, which will consolidate car parking and car park management, lost baggage, ticketing and passenger information. Recladding work has been undertaken on the departure gates pier, which will be completed next week at a cost of around £285,000.

On radar, a wind farm mitigation solution procurement is in progress and should be concluded by the end of September. That is a new area of revenue, so it is important that the board gets that right.

As I mentioned, the airside tax-free retail area has been redeveloped and modernised, which brings the facility up to modern standards and provides a more attractive offering to passengers. The cost of that redevelopment was around £750,000.

A lot is being done.

Adam Ingram: You mentioned radar. As well as radar to mitigate the wind farm issue, the primary radar system needs to be replaced, which requires a fairly major investment. Has any scheduling of that work been done?

Keith Brown: Perhaps the officials can answer that question.

John Nicholls: I am afraid that I am not a radar expert, cabinet secretary. However, at the last board meeting that I attended, the budget was agreed. That would have included the capital plan and the various activities under it.

If it would be helpful to the committee, I could go back to the airport management team and ask it to confirm the position on the primary radar system's renewal. I could then write to the committee.

Keith Brown: It is not on our radar just now, but we will get back to you with the information.

Adam Ingram: Okay. I will let that pass.

Will you update us on progress towards reducing the airport's operating costs, including any savings that have been made to date?

Keith Brown: The due diligence that was undertaken at the time of the acquisition showed that Prestwick was being run efficiently and with little scope to cut operating costs. However, the management team has sought out best value and efficiency. The airport team is working with procurement officials in the Scottish Government on policy and the wider procurement approach. Post acquisition, the airport was able to enter into a larger utilities framework agreement, which is obviously beneficial.

Staff numbers are fluid because of the business's seasonal nature, but the head count has reduced. There were 364 staff in May 2013, 361 in May 2014, and 342 in May 2015, which represents a 6 per cent reduction since the airport was purchased. There were 325 staff in winter 2013 and 297 in winter 2014, which represents an 8.6 per cent reduction since the airport was purchased.

As I said, our advice at the point of acquisition was that there was no huge scope for reductions in operating costs. The big push is to increase the revenue coming into the airport.

Adam Ingram: On workforce matters, is the airport a living wage employer?

Keith Brown: As part of the pay negotiations between Prestwick airport and the unions, it was agreed that the implementation of the living wage would be discussed at future wage discussions. The two-year pay deal runs from 1 April to 31

March, and paying the living wage is on the airport's agenda.

David Stewart: We heard earlier that Prestwick is one of the five bidders to host the permanent UK spaceport, which is all very exciting. I know that John Scott has had a high profile in championing Prestwick. I have always felt that it would be sensible to link Scotland to the moon, which would probably be quite a good advertising slogan. Can you—

Alex Johnstone: We are linked to the moon already.

David Stewart: Thank you. Minister, can you give us an update on the airport's bid in what is, in effect, a very interesting and novel UK championship to host a spaceport?

11:15

Keith Brown: First, there are promising aspects here for not only Prestwick but any airport in Scotland that bids. I was recently in Canada and visited a company there called COM DEV International Ltd, which produces space satellites—it has been doing that for 45 years without one malfunctioning. That company has acquired a company in Newbridge in Edinburgh called MESL Microwave Ltd, which manufactures products that are important for the space industry. I think that there was an announcement just last week about an investment in Glasgow involving a space company, and there are the aeronautical-related businesses around Prestwick, which are obviously beneficial from the point of view of the spaceport bid. In addition, I know from the discussions that I had with COM DEV and MESL that they are looking at a massive expansion, because what are called constellations of satellites are being put into space now. That general background is very promising, and it is obviously why the UK Government felt it necessary to develop a spaceport.

As you said, the UK Government has shortlisted five bidders for the spaceport: Prestwick, Campbeltown, Stornoway, Newquay and—excuse the pronunciation—Llanbedr. We do not know how many of those five will chose to develop a bid, although we know that the operators of Stornoway have decided not to do so.

To speak about Prestwick specifically, it has in place a team that is charged with developing its bid, and we know that preparatory work is well advanced. It is working in conjunction with a range of local partners, including South Ayrshire Council, Ayrshire College and a range of aerospace businesses, to help develop a very strong bid; it is also carrying out significant work to build support among the international space community for its bid. I know that Prestwick's team has been to the

States—it went to the east coast, the north-east and down to Florida.

Crucially, at this point, we are waiting for further detail from the Westminster Government on the technical and other criteria that will be set for the bids, so the number on the shortlist might reduce further when the bidders see the technical requirements. However, the timing and the process are in the hands of Westminster.

I can say that the Prestwick bid is very well organised, and we are confident that it will be able to submit a very strong bid. However, as with any other aspect of the business, securing the spaceport has to be done on a commercial basis and there will have to be a return on any investment made.

David Stewart: Thank you. You will know that I have a regional interest in Campbeltown, which I should declare.

The Convener: David, I want to bring in Adam Ingram and then John Scott on the spaceport.

David Stewart: Sure, but I am still on the issue.

The Convener: Okay.

David Stewart: As I said, I have a regional interest in Campbeltown. Have there been any discussions about having a joint bid with Prestwick—in other words, a Scotland united bid, albeit on two sites?

Keith Brown: There have been discussions about how Campbeltown and Prestwick could go forward jointly, but John Nicholls might have more up-to-date information on that.

John Nicholls: I can confirm that there have been discussions. There was a meeting in the past couple of weeks between members of my team, Scottish Enterprise, Highlands and Islands Enterprise and representatives of Prestwick and Campbeltown. One of the outcomes of the meeting was that the two airport teams were going to have a further discussion about possible collaboration on a joint bid. Obviously, we will keep the committee updated as that progresses.

Adam Ingram: I am very grateful for that response. I suggested something along those lines in John Scott's members' business debate, so I am pleased that that is happening. Until now, the Scottish Government has basically said, "We're neutral, because we have a number of bidders." However, I suggest that being neutral does not mean being inactive, and it certainly appears to me to be a good idea for the Government to facilitate a Scottish bid, as it were, that would—I hope—incorporate the best elements of all the bids. Is that what you have in mind, minister?

Keith Brown: That decision has to be reached by the two airports. There are two reasons why we are neutral. One is that we should be neutral on different interests in Scotland. Of course, with Prestwick airport, we are the owners, and we cannot push the airport that we own at the expense of other airports, albeit that we also have a relationship with Campbeltown airport. Therefore, we have taken a neutral approach.

However, you are right that we have not been inactive. The relevant Government agencies—Scottish Enterprise and Highlands and Islands Enterprise—have been put at the disposal of any bidders in Scotland to help them out as much as possible. We have been as active as we can be. Whether the airports come together has to be a decision of both of them. As John Nicholls mentioned, there are promising signs that they might do that.

Adam Ingram: You would come in behind such a bid; you would not need to be neutral any more.

Keith Brown: If there was one Scottish bid, we would push as hard as possible—as we are doing now with the individual bids—with the UK Government to try to ensure that it succeeded.

The Convener: I ask John Scott whether he wants to come in.

John Scott: Thank you, convener. I pay tribute to my colleagues, who have, by and large, already asked all the questions that I might have asked.

Cabinet secretary, have you had any discussions with the new UK Government about the issue? If Campbeltown and Prestwick are in contention, perhaps you have discussed both of them being the preferred option for the UK, jointly or separately.

Keith Brown: The discussions that have taken place have been about trying to understand the process. John Nicholls can confirm this, but I do not think that we would have a discussion about a potential joint or sole bid until we know what is going to happen on that. Everyone is waiting for the technical information to come from the UK Government, which will help in making that decision. John Nicholls can say whether there has been any further discussion.

John Nicholls: I and a member of my team went to see DFT officials at the end of May to try to get some clarity on the processes that the cabinet secretary describes. We still await the Westminster Government providing further details of the specific criteria and the bid process. Until we get that, it will be difficult for any of the potential airfields to take a view on how best to frame their bid. Transport Scotland and the other agencies will continue to offer all the support that

we can to any airfield in Scotland that wants to pursue the matter.

David Stewart: My next question is just for completeness. The cabinet secretary will know that I have a high regard for Highlands and Islands Airports Ltd and that I have visited most of the airports and have a good relationship with HIAL management. Stornoway airport, which is part of the HIAL group, is vital. You run HIAL. Were there any discussions with HIAL management or was any advice or guidance given to HIAL that Stornoway should be taken out of the bidding process, or was that done purely and simply by the management of HIAL?

Keith Brown: No instruction was given. We do not run HIAL, although we own it, as you say. It is run by people whom you know at HIAL. I will confirm this with officials, but no instruction was given by me to HIAL not to proceed; HIAL took that decision.

John Nicholls: That is absolutely right. The HIAL board has said publicly that it considered the issue and decided that it wanted to concentrate on the core business at Stornoway. There are practical issues around the use of airspace. The current scheduled services at Stornoway might have been disrupted by the use of the airport as a spaceport. In those circumstances, and having regard to the resources that might be required, the HIAL board decided not to pursue a bid for the spaceport.

David Stewart: It is useful to have that on the record.

I move on to wider issues about Prestwick. Are there any plans to realise the value of the airport's land and property assets that are not required for aviation purposes?

Keith Brown: You are right to ask that, because anyone who goes round the airport will realise how substantial it is. Some surplus land round the airport has already been sold and the business intends to keep the issue under review. When we bought the land, it came with some pockets of land that were not within the airport boundary, some of which were originally bought for car parking. The company will give careful consideration to ensuring that any sale of land does not adversely impact on long-term aspirations, such as the one that we have just been discussing on the spaceport.

As I have said, we have new non-executive directors, one of whom has broad experience in property. She offers a new source of advice and expertise to the board. It is worth keeping our eye on that area.

David Stewart: That is a sensible point. We do not want to sterilise future development—it would

not be too clever to sell off land that might be needed for the spaceport.

What are the key priorities for the strategic and operating company boards for the current financial year?

Keith Brown: Quickly, on the previous question, Bristow's has taken a bit of land for the search and rescue operation, and that is providing a source of revenue, which is exactly the kind of thing that I want.

The priorities for the board are to continue to develop and implement the corporate business plan and to grow all the aspects of the business, including passengers, but also charters, the fixed-base operations and cargo. Other priorities include the completion of the Bristow search and rescue hangar and continuing to develop the bid for the spaceport.

The board will also proactively seek new business opportunities. It will consider all credible business propositions. Incidentally, I get a lot of those sent to me, which I pass straight on to the board, obviously. There is a great deal of interest out there in doing business at Prestwick.

The Convener: I thank our witnesses, particularly the cabinet secretary for his evidence, in this session and the previous one.

I suspend the meeting to allow for a changeover of witnesses.

11:26

Meeting suspended.

11:30

On resuming—

Major Urban Railway Stations (Access)

The Convener: I welcome Sarah Boyack MSP, who is joining us for item 4, which is for the committee to take evidence for its work on access to Scotland's major urban railways. I welcome Phil Verster, managing director, and Susan Anderson, route commercial manager, of the Network Rail-ScotRail alliance. Aidan Grisewood is the director of rail at Transport Scotland.

I invite Mr Verster to make some opening comments on the nature of the alliance between ScotRail Abellio and Network Rail.

Phil Verster (ScotRail Alliance): First, thank you for the opportunity to give evidence to the committee today.

We have formed an alliance between the Abellio ScotRail train-operating franchise and the Network Rail Scotland route that brings together two businesses under one senior management team and one managing director. The focus of the alliance is to make the railway better for Scotland—better for our communities, for our people and for our customers.

We have a very exciting programme over the next couple of years, including bringing in 234 new electric vehicles and significantly more services, such as 25 per cent more services to central belt destinations such as Stirling, Dunblane and Alloa. We have brought our customers intercity services and multiple offers that are cross-modal in nature. To be honest, the programme is really exciting for the customers in our communities. Some of the big areas for us are improving our focus with stakeholders and customers and improving our railway.

One of the principles that we have set for our business is putting the customers first. The focus on stakeholders—including every stakeholder throughout our communities, whether they be community rail partnerships, regional transport partnerships or local authorities—involves bold relationships that allow the stations on which the committee has been taking evidence to be managed in the best interests of the communities that we serve.

We are very excited about the programme. We would like to give you some examples of where we know that we can do things differently and where we have done things differently already.

The Convener: Thank you. I am sure that we will come on to that.

There is a lot of interest in today's evidence session, and a number of members of the public and stakeholder organisations will be watching. For clarification, are you able to speak on behalf of Network Rail about the committee's work on access to Scotland's urban railway stations?

Phil Verster: Yes, I am.

The Convener: That is fine. I just wanted to be clear about that, in case there is some confusion among those who are watching our proceedings today.

The first questions are from Adam Ingram.

Adam Ingram: During our inquiry, the committee heard that no single organisation is responsible for co-ordinating accessibility improvements to Scotland's railway stations, even when they are undergoing major regeneration or improvement. Which organisation should be responsible for that work? Why is such co-ordination not currently happening?

Phil Verster: Some of the evidence on the integration of transport options across stations included correspondence in which Network Rail indicated that it does not have a strategic transport integration focus, and that might not have been that helpful. It may also not have been helpful for people to think that a single organisation should have responsibility for transport integration.

It is essential to get this right—and Sustrans expressed its view well when it said that the passenger experience should be seamless. That is what we should aim for and we need a mechanism by which it can be made to work. We should not try to identify a single mechanism or organisation that is accountable. We should have a simple mechanism that says who is accountable for getting things started, and we have to identify that between us.

The keys to achieving integration and that seamless passenger experience right are intent, how a business is run, how we all work together and common sense.

One of the important things that we have been doing in the month since we formed the alliance is focusing all our business plans on putting the customer first. Large projects have a client or sponsor and that has been part of the role of the alliance for the past month. Now that we are putting the customer first, I expect us to play a very different role from the one that we played in the past so that we can facilitate the necessary discussions.

Some large projects sit outside the alliance's remit because, although the alliance looks after the operation of the railway, Network Rail still has good teams carrying out the Edinburgh to Glasgow improvement programme and the Queen

Street work. Those teams take their guidance from the sponsors in the alliance.

The alliance has a key future role in looking after ScotRail and the Network Rail's Scotland routes. That will allow it to achieve involvement and co-ordination differently in future.

What is important about schemes such as Waverley and Queen Street is that they are not just railway schemes. This is not just about the railway. It is about the community that the railway is in, the cities and towns that it affects, flows of traffic and people, business opportunities, and opportunities to leverage in more funds and integrate development plans.

We realise that that is so. As a result of the role that the alliance wants to and will play, we will pace things differently. Queen Street is a good example of where the teams are focusing on creating an integrated approach.

Adam Ingram: You will obviously have seen the evidence that the committee has heard. A particular issue has been the metaphorical red line around railway stations. Local authorities have been frustrated about not being able to influence or even have appropriate communications with the station developers about, for example, public transport outwith the grounds of the station. Will one of the tasks in your new co-ordinated approach be to address such issues as a priority?

Phil Verster: That is a really good question. The convener summarised the approach as concerning the three Cs of collaboration, co-ordination and a third one—

The Convener: Consultation.

Phil Verster: Yes, consultation. Those three Cs are the essence of what we need to get right.

With regard to the red line in the case of Queen Street station, I should clarify that two consultation-type processes are going on. There is an order under the Transport and Works (Scotland) Act 2007, which involves clear consultation duties and requirements with regard to statutory consultees. That is relevant to the red line issue for particular reasons, because it is about ownership and compulsory ownership of a geographic area.

The other consultation process—if you can call it that; it is consultation with a small c, but it is still important—is not about the statutory process to secure ownership of a piece of property; it is about the creation of the seamless interface.

The answer to your question is yes, we have a critical role to play. However, I want to make it clear that no organisation—not the alliance, not Network Rail—can get it all right. It needs the intent, collaboration and commitment of all parties.

I think that that is there. Everyone has a role to play.

Different developments in different cities must take different approaches. Dundee is doing good work on its development but decisions that are made about Dundee will be different from the ones that will be made about Waverley, and those will be different from the ones that will be made about Queen Street. We are talking about finding ways of working together to create solutions, rather than targeting one organisation to carry the burden of the necessary integration, if you follow what I mean.

Mike MacKenzie: Mr Verster, you said that some of the evidence has not been helpful. However, witness after witness has told us that the problem with having a proper dialogue and proper collaboration has been Network Rail. I can understand why you might feel that that is somewhat unhelpful, and it seems, from what you have said, that Network Rail has suddenly woken up and realised that things cannot go on like that. Why were you previously unable to put into practice all the virtuous things that you have laid out before the committee today?

Phil Verster: The thing that I referred to as being unhelpful was the Network Rail correspondence. I did not say that any of the evidence from other witnesses was unhelpful. During the past couple of weeks, I have carefully followed the evidence that has been presented to the committee and it was all helpful.

With regard to some of the correspondence that has been exchanged between parties, we could have done that better. I will give you an example. At one stage, Sustrans was receiving correspondence from us that looked like the type of correspondence that we would send to a member of the public. Sustrans is not a member of the public; it is an influential stakeholder and we should have approached it differently.

My view is clear. We have a different business now. We are setting up the alliance as a different business that has a significant and relentless focus on the customer.

A couple of years ago, the rail industry was fragmented. Practices and ways of working developed in various parts of the industry that are different to the way in which we want to serve the fare-paying customer. One of the things that Transport Scotland and the Scottish Government have put together is the alliance idea. It is a leading concept in the rail industry that involves bringing elements back together again so that there are fewer interfaces and more of a focus on the end customer.

11:45

Mike MacKenzie: Can I take that as a commitment from Network Rail that it will have a more constructive role in the alliance in the future than we have seen in the past?

Phil Verster: You can absolutely take that as a commitment.

Mike MacKenzie: Thank you.

Adam Ingram: Can I give you an example of a potential change in practice? The committee has heard evidence that Scottish stations fund moneys cannot be used for improvements to areas that immediately surround a railway station, even where they focus on improving the accessibility of the station for customers. Is that a correct state of affairs? Would you like the fund criteria to be revised to allow the fund to finance such improvements?

Phil Verster: The stations fund can be used for applications that the rules that govern it allow for. When we consider the stations fund and the City of Edinburgh Council submission to it, it is really important that we realise that we have a very clear set of rules according to which the administering of the fund is executed. Network Rail is not a funder; we just administer the fund. Aidan Grisewood may talk later about how the administering of the fund is being changed. In very simple terms, it is about doing stuff that helps the railway and passengers. Rightly or wrongly, that is what the fund focuses on.

A very important part of the concept behind the fund is that anyone who wants to use part of it must get their own development and feasibility work up to a stage of maturity such that the funders can say that £1.7 million—or whatever the amount is—is exactly what will be required because the design is mature. That is so that the funders do not sign up to a £1.7 million estimate that turns into a £17 million estimate later on, which happens with capital projects. It is really important that whoever makes an application to the fund does the groundwork really well.

I think that the question relates to Haymarket, so I will talk about it, if the committee does not mind. We have worked closely and will continue to work closely with the City of Edinburgh Council to look at issues such as access from the Dalry side and the possibilities for better access for cyclists. We will do that and we have to do that. Just this week, we opened our bike and go scheme at Haymarket, and we have rented out our first bicycle there, which is really exciting for us.

We want to continue those relationships and develop that scheme. However, there are huge demands on the stations fund. There are new stations in the offing that may be bought from that

fund. The fund must be approached within the governing rules that are set out for it.

Aidan Grisewood (Transport Scotland): I support what Phil Verster said. Transport Scotland has approved the stations fund criteria, too.

There are important principles behind the fund. First, it must be ensured that its impact is maximised. That requires emphasis on leverage and third-party funding elsewhere to ensure that we get the most out of it. As Mr Verster pointed out, there is a limited budget, so ensuring that we maximise its impact is a key principle.

The second key element is that, ultimately, the fund is borrowed as part of Network Rail's regulatory asset base and is therefore subject to regulatory rules to ensure that what is undertaken through it can demonstrably add value for rail passengers. There is a set of regulatory requirements for the sorts of things that can be specifically funded by a stations fund, which are set by the Office of Rail Regulation, considering the asset base and the borrowing that can be undertaken.

To go back to the previous discussion about the red-line issue, there is an important distinction between, on the one hand, the engagement that needs to happen and that is actively encouraged through the stations fund in terms of the participation of local authorities, RTPs and other third parties, the value that is placed upon third-party contributions and demonstrably showing something is consistent with local, regional and national plans and, on the other hand, the funding.

A major station development presents a huge opportunity to get parties together, work collaboratively and think about how the overall end-to-end journey can be improved for the passenger's benefit. Similarly, the stations fund is a reasonable slab of money that has been committed to improve stations, and it presents an opportunity to bring people together to think about what is best for the end-to-end journey. That means working closely with local authorities and RTPs to put together proposals.

Ultimately, however, the funding that can be presented through the fund must be predominantly for the benefit of rail passengers, so projects such as road improvements are clearly outwith its scope—although, if third parties made such investments, it would be a positive demonstration that leverage is being brought and the stations fund is maximising its impact.

The Convener: We move on to the access to Edinburgh Waverley station.

David Stewart: On the theme of consultation and communication, why was vehicle access to Edinburgh Waverley station removed?

Phil Verster: In May last year, road vehicle access to the concourse area was removed at short notice. That was triggered by a fatality—it was a safety incident. A vehicle that was approaching the ramps reversed and did funny things, the driver lost control of the vehicle and that had the tragic consequence of severely hurting a pedestrian, who died. For safety reasons, the decision was made to limit road access into Waverley.

To put that into context, Waverley was the last of the stations that Network Rail manages in Scotland and the rest of the UK that still allowed vehicles on to the concourse area. The decision was arrived at over time for security reasons and, in the end, was made for safety reasons. It is always easier to take stock in hindsight of how things were done at the time and it is fair to say that the consultation could have been better. There are ways to contain and mitigate risk in the short term that might not be feasible in the long term but, in the future, we must think about how we do things in the short term to allow all the other affected parties to adjust. That is a lesson that we can take away from Waverley. However, the decision was made for the strongest safety reasons at the time.

David Stewart: You talked earlier about partnership and you will recall that, last week, we took evidence from the transport convener from the City of Edinburgh Council who, to be frank, was kept in the dark about the matter. She told the committee that she read about it in the local press. That does not seem to be good partnership working. Why was the council not brought into the equation before the decision was made?

Phil Verster: Mr Stewart, I can only agree with you that the consultation should not work like that. It should be better, and it can be better.

I will give you an example. Since I joined the business a month ago, customers have been knocking on my door about cycling access at Waverley. I have gone down and looked at how the ramps work and how deliveries work, and I have also looked at how our risk assessments have been done. I think that there is a different solution out there that can be implemented, which could be a lot better for cycling—

David Stewart: I will stop you there, as I will ask you some questions about that later. I know that the convener is conscious of the time.

I have some specific questions for you. Some committee members, including me, have picked up informally that the reason for the decision, notwithstanding the dreadful fatality, was specific security advice. I ask you on the record whether you have had specific security advice from the Centre for the Protection of National Infrastructure,

the security services or the police that says that below-ground stations such as Waverley should no longer have vehicle access. That is important for our consideration. Have you received any specific advice? I do not need to know the content of the advice, merely whether you have received any. If you are not able to tell me now, perhaps you could write to the committee clerk and tell us whether that information has been received.

Phil Verster: I can take that away and correspond with the committee on it separately. What I can say at this point is that, although some of the evidence sessions highlighted concern that the decision to close Waverley to vehicles was somehow the result of a diktat—I think that that is the word that was used—from somewhere in the UK or advice from somewhere else, I can confirm that that is not the case. The decision was made locally. It was made by the local team on the basis of the safety considerations.

I will address the separate question of whether information, instruction or guidance was given for security reasons separately, if that is okay.

David Stewart: Yes. I will not continue with that; I merely say—as I think that the concern referred to was mine—that whether the decision was made locally is not really the issue. A local team could make a decision to close Waverley to vehicles on security advice that was received from elsewhere. That would be perfectly appropriate and understandable. The committee just wishes to know whether security advice led to vehicles being prevented from going into Waverley.

Phil Verster: We will respond on that.

David Stewart: You mentioned delivery vehicles and rail replacement buses, which are still allowed on to the concourse. You can see that there is a potential dilemma: on the one hand, you are saying, “We’re stopping vehicles going into Waverley”, but on the other hand you are saying, “By the way, we’re still having delivery vehicles coming in.” If the ban is for safety reasons, why do you still have those vehicles going on to the Waverley concourse?

Phil Verster: As you can imagine, accommodating delivery vehicles involves significantly fewer vehicle movements and therefore significantly less risk for our customers. Also, delivery vehicles can be scheduled. We are in the process of rescheduling delivery vehicles to the hours of the night, when customers are not on the concourse. You will see very few delivery vehicles during the day that pose any threat to customers.

The delivery vehicles are critical because they keep all our customer retail facilities on the station going. We are also doing interesting things with regard to complicated articulated vehicle

deliveries, which pose a risk to cyclists using the ramps as well as to the infrastructure.

The issue of delivery vehicles is more about controlling vehicles rather than having unfettered access and many vehicle movements across the concourse area.

David Stewart: I believe that rail replacement buses also use the concourse.

Phil Verster: At times. They use the ramps, but in a controlled fashion.

David Stewart: I will come back to you later on bike access.

The Convener: Mr Verster, you made a commitment this morning—it is still morning—to write to the committee outlining the security advice on which the decision was taken to ban vehicle access to Waverley station. When you do that, could you also address Network Rail’s point in February 2012 that it was seeking to ban vehicles because it was the run-up to the 2012 Olympic games and there was an anti-terrorism purpose in banning vehicles? If you could cover that point as well when you write to the committee, that would be helpful.

12:00

To go back to the point about consultation, I was interested that when you mentioned the three Cs earlier—collaboration, co-ordination and consultation—you hesitated before you introduced the word “consultation”. To be honest, I am not surprised that you did that because the evidence that the committee has received has been quite damning in regard to Network Rail’s lack of consultation on the decision to ban vehicles from Waverley station.

If I can just remind you, we had six separate pieces of evidence from our witnesses. When I asked on 3 June,

“What consultation did Network Rail engage in prior to imposing the station vehicle ban?”,

Tony Kenmuir from the Scottish Taxi Federation replied,

“None whatsoever”

and John Lauder from Sustrans said

“none”.

When asked whether there had been any formal consultation, Nathan Kaczmariski from Cycling Scotland said:

“Not with us.”—[*Official Report, Infrastructure and Capital Investment Committee*, 3 June 2015; c 11, 13.]

In a previous session, Anne MacLean of the Mobility and Access Committee for Scotland said:

“There was no consultation with us at all”.

John Warren of Transform Scotland said:

"There was none at all."—[*Official Report, Infrastructure and Capital Investment Committee*, 20 May 2015; c 21, 31.]

When asked about consultation last week, Councillor Lesley Hinds said:

"There was no consultation of the council on taking all taxis out of the station."—[*Official Report, Infrastructure and Capital Investment Committee*, 10 June 2015; c 9.]

What does it say about the reputation of Network Rail, as a public body funded by the taxpayer and accountable to ministers, that there has been no consultation or a distinct lack of consultation with your key stakeholders?

Phil Verster: Over the past seven years, we have invested around £50 million in Edinburgh Waverley and all of that investment has been in the interests of customers. All those changes and all the specification aspects and what we have implemented were consulted on. The one bit that was not thoroughly consulted on was the quick decision on the access of vehicles to the concourse area itself. I just want to put in context the fact that these are really big programmes and consultation around them is not as you have just portrayed it. Let us take EGIP, which is a £740 million programme, as an example: we have had more than 400 consultations with communities on EGIP.

The Convener: That is fine, but we are talking specifically about access to Scotland's major urban railway stations. We are talking about access to a major rail station in our capital city, which is the gateway to the rest of Scotland, and the overwhelming evidence that we have received is that Network Rail has failed in its public duty to consult with stakeholders on access to that station.

Phil Verster: As I have indicated already, there is huge scope for improvement in regard to consultation. I put that in the context of what has been done to date at Waverley, which has included multiple parties and multiple groups. We have quarterly meetings with the City of Edinburgh Council to discuss its aspirations and we also have meetings with accessibility groups and interest groups. I take the point very firmly that there is room for improvement and we will endeavour to improve.

The Convener: I accept that there have been on-going discussions with the City of Edinburgh Council over a period of time, but it clearly feels as if there has been, to use your phrase, a diktat in terms of decisions being imposed on it by Network Rail. What steps will you take to improve the relationship with the City of Edinburgh Council?

Phil Verster: One of the biggest steps that we have taken is to bring the train operating business

and the Scotland route Network Rail business under one umbrella to create a singular focus on putting the customer first. How we set up the business and are reorganising it is all about putting the customer first and delivering for the customer.

For the next phases of development, such as those around Waverley and where we can locate the taxi rank at the old Fruitmarket, we will engage with Sustrans, the south east of Scotland transport partnership and the City of Edinburgh Council to discuss ideas fully with them at the planning phase and not at the delivery phase. I can see that, if you start to discuss what you are going to do at the delivery phase, it is too late; the discussions need to be at the planning phase, and that is what we are moving towards.

There is a huge consultation going on at all times between our strategy and planning business, the RTPs and local authorities at the regular rail forums. It continues throughout the year and there are some good relationships there. At times, it might feel like some decisions are not thoroughly consulted on, and I think that we can do better.

The Convener: You talked about putting the customer first, and I want to ask you about putting the disabled customer first. We heard clear evidence from organisations representing disabled people and people who have disability and mobility issues that the accessibility of Edinburgh Waverley station is not as good as it was and not as good as it should be. Notwithstanding the investment that Network Rail has made, those groups feel that the experience for a disabled passenger is worse than it was.

Phil Verster: That evidence has been useful for us. We need to learn how to do these things differently and better.

Waverley now has step-free access and lifts at all its entrances. I will expand on that a little bit. For example, there is step-free access from the New Street car park, plus people who travel with people who have reduced mobility can park for free for 40 minutes so that they can accompany the passenger all the way on to the concourse. Based on feedback on the Calton Road side that we have had from stakeholders, we are looking at alternative arrangements for shelters and operational fixes to allow for the better accommodation of people who have reduced mobility.

We are doing so much for Waverley as it is now, relative to where it was before, to allow access for people who have reduced mobility. We have taken audits and feedback from interest groups such as Deafblind Scotland and we have an action plan for better signage and to improve the railway and the

station for people who have reduced mobility. I know that we are listening and I think that we are making it better.

The Convener: Some of my colleagues might wish to pursue that issue later in the meeting.

I move on to access to the station for cyclists, which is an interest of my colleagues Sarah Boyack MSP and Alison Johnstone MSP. We have all written to Network Rail on the subject. The perception of access to Edinburgh Waverley at the moment is best summed up in the phrase "Fortress Waverley", which is used by cyclists. I was struck when you, as a person who comes from a country that has a better record on cycling than we do, talked about the bike-and-go scheme. Cyclists view with incredulity a bike-and-go scheme at Edinburgh Waverley that involves cyclists having to push their bike into and out of the station. You aspire to implement a bike-and-go scheme, but you are not able to facilitate cyclists cycling into and out of the station. That seems rather absurd.

Phil Verster: I can only agree. That is one of the reasons why I take a personal interest in the situation. I have gone to look at it and I am working with my teams.

This is the way I think about it. When we have to fix things and do them differently from how they have been done before, I am keen to take the people in my teams with me in terms of how they look at the future, how they see our focus on customers and how they adjust their approach to making decisions so that we add up to a team of leaders that make decisions in the customer's interest.

At Waverley, we are working through the decisions that have been made and looking at how to change them into something that is more customer friendly. I see a huge opportunity for cycling at Waverley and a change from where we are now.

The Convener: I am reassured by that statement and the tone and content of your responses. In January 2014, Network Rail was willing to adapt access so that the north ramp would allow cyclists to cycle into the station, but it then reversed that decision and denied cyclists access. Can you give a commitment today that you will revisit that decision and look at reopening the north ramp to cyclists to ease the pressure on the very narrow space that cyclists, pedestrians, tourists and others have to occupy as they are moving into and out of the station?

Phil Verster: The current practice where the cyclist must push his or her bicycle on the same pathway that pedestrians use is not sustainable. I do not want to make a commitment about the north ramp, convener, but I can make a

commitment that we will come up with something for either the north or the south ramp that will work better. One solution could be to remove articulated and other vehicles from the south ramp and use it.

I can say that the commitment that you are asking for would be an easy one to give because I have already started the process and we will complete it in the next couple of weeks. We will start to put something better in place.

Sarah Boyack (Lothian) (Lab): First, I thank the committee for conducting this inquiry. My constituents raise the issue with me regularly. Having been the first transport minister and kicked off the big investment in the railway, I am proud that there has been huge change to Edinburgh Waverley, but it is a source of massive annoyance that some areas have gone backwards. The ramps are a problem for cyclists, but also for older people, people who have disabilities and passengers who have luggage. There is just not enough space. I go there regularly with my bike.

The issues are about getting to the station, accessing the station and getting on and off trains. The challenge is that all of that needs to work for all passengers all the time.

I had a great meeting with Susan Anderson and her colleagues last month. I took one constituent who is in a wheelchair and one who is blind, and I brought my cycling eyes and the views of lots of constituents. The staff were enthusiastic and keen to listen to us, but the reality check on a lot of the ideas that we were talking about was a revelation. A lot of work needs to be done there.

I welcome Mr Verster's commitment on the ramps. You have no idea how annoying they are for huge numbers of passengers. You talked about improvements, and the ramps need to be fixed. The escalators to the north are brilliant, but often one of them is not working and we see people with luggage, particularly those who are older or have families, really struggling because they have to revert to the steps.

People who have used the Calton Road drop-off point have reported to me that, even when they have phoned in advance and called when they got there, they have had to wait in the cold for a long time.

12:15

Every single entrance must be checked from all perspectives. The crucial issue is the physical changes. The signage is not good enough, particularly when people are changing trains. It is also a problem if the arrangements are different from one week to the next. Commuters must be dealt with, but in addition people use the station

for leisure purposes and others are tourists, so not everyone has day-to-day knowledge of the station.

There is also a staff issue. Staff in the station must be geared up to support people with disabilities.

I have seen the new cycle innovation plan. It looks wonderful on the page, but translating it into practice is another matter. We held a meeting with Spokes. I think that it was Des Bradley who was the nominated person from ScotRail that week, and he took a lot of detailed questions about matters that need to be fixed. The mood music is fantastic. If the ramp issue can be addressed, people across the city will celebrate that. However, a lot of other matters need to be addressed, particularly the need to make cycle access into the station easier. There is a need to talk to cyclists.

At the Calton Road access, I was shown a steep cycle rail beside the steps, where a person has to push their bicycle up. Not all cyclists have the physical capacity to do that. The range of users must be looked at.

There is hope in the improvement plan for the future of cycling, but we must see the changes implemented in practice.

I return to my first point. Passengers need to be able to get to the station and into and out of it, and they also need to be able to get on and off trains. A big issue that was raised at Monday's meeting was access for bikes on trains. The idea of having bikes at the station that people can rent would suit a lot of people. However, there are also people who will want to take their bikes with them—for example, on the Borders railway—and simply having two spaces for bikes will not work.

Phil Verster: There is very little of what you have said that I do not fully and whole-heartedly agree with. It is an absolute objective for us to provide multimodal abilities for our customers so that they can travel on our trains with their bicycles effectively and easily. Together with the idea of travelling as a passenger and then renting a bicycle, that contributes to the Scottish Government's broader focus on encouraging 10 per cent of journeys to be made by bicycle by 2020. We are very much switched on to that.

You are right that the solutions lie in the details. Calton Road, for example, is an access point, and we must consider how we use the lifts for bicycles. On the contingency plans for escalators, we should communicate more clearly that the plan is not for people who have big luggage to use the stairs or the steps, but for them to use the lifts.

As you say, the issue is about the awareness of our staff on the ground and their ability to help people. We will take your comments away in the constructive way that they have been shared.

Sarah Boyack: It would be good to get a timetable so that we know when changes will be made.

Phil Verster: As part of what I want to offer the committee, I am definitely willing to provide a timetable for Waverley station's work programme. I am also willing to come back to the committee every year or every six months—whatever you think would be appropriate—to give you an update on where we are with the issues that we have discussed this morning.

The Convener: That offer is much appreciated.

Mary Fee: Sarah Boyack mentioned the work that was done on the stairs at the Calton Road entrance to allow customers to push their bicycles up into the station. It was pointed out to me that the groove on the stairs is too near the wall and that a person cannot push their bike up because there is not enough width for the handlebars. I have looked at the stairs and I agree that the groove is far too close to the wall—you would not be able to push a bicycle up the groove.

Phil Verster: Thank you for that—we will definitely take that point away with us.

David Stewart: How will the Network Rail and ScotRail alliance work in practice? What will be the advantages for passengers, particularly around improvements to the accessibility of Scottish railway stations?

Phil Verster: In practice, the alliance is a combination of two businesses. It involves putting two teams together. More than that, it is about taking part of one organisation and moving it to another organisation, and vice versa. It is not just about bundling two businesses together, side by side, with an uncomfortable relationship; it is an integration of two businesses and the creation of a one-team entity that relentlessly focuses on the customer. It is about taking all our business strategy, our actions and our team focus back to that one single focus on our customers and growing our business in their interests.

In response to your question, I see that as the biggest single change from where we were before. Most of the things that get done in complicated industries and businesses depend on the starting point, on the orientation of the business and on what the teams think they are there to achieve. In our business, we are setting out a focus for our teams to succeed on customer focus.

The initiatives range from long-term strategic plans, which will now have that customer focus aspect to them, down to shorter-term plans involving the day-to-day management of station facilities and station conditions. In that spectrum, we involve parts of Network Rail that are looking forward 50 years in their planning horizon and

other parts of our alliance that look forward and plan on a two-week cycle in order to deliver a better customer experience. We are now bringing all of that together under a single focus.

David Stewart: That is an interesting model but, for ordinary passengers, particularly those with a disability, you will be judged on what actions you have taken and how you have delivered. Do you agree with that?

Phil Verster: I do. In order for us to better understand and continuously engage with disability groups, we are putting together a customer equality forum, where we will include all the disability groups, other interest groups and other stakeholders. That forum will be the place where we keep pace with concerns and opinions about particular issues.

I recently met the chairs of the RTPs. I have committed to seeing the RTPs once a year and we will send senior representation to every quarterly meeting.

You are right. In the end, customers will measure us by what happens on the ground, and that is what we will focus on. By using the stakeholder forums, we will create opportunities for people to feed back to us if parts of our delivery do not meet requirements.

David Stewart: At every transport conference that I have ever gone to, we have talked about integration between different modes of transport. People who use rail do not just use rail; they use buses, they might cycle and they might walk, and signage will be crucial. How important is the signing of other modes, such as signs showing where the bus is, where the tram is, how to get a bike or where the walking route is—say, between Central and Queen Street stations? All those things are vital, but there have been complaints about a lack of signage. Will the new integration mean that a better job is done with signage across Scottish stations?

Phil Verster: The answer is unambiguously yes. We have a committed obligation to introduce better wayfinding and signage to stations and other attractions in cities and towns where we have services and where attractions lead people to do other things. That is good in so many ways—not just for passengers, who will understand where to go, but because part of our strategy to develop our footfall and customer base is to provide more clarity for our customers about attractions that exist in other cities. Every time customers understand better what exciting opportunities there are in other cities, that means more journeys for us. We are committed to that and we have a plan and a programme to deliver it. We will come back and update the committee on that in the future.

David Stewart: This is my final question, as I am conscious of the time.

Witnesses in our survey—incidentally, we received one of the biggest responses to a survey by any committee, which we are pleased about—called for an increase of well-sited and secure cycle parking at railway stations. That is something that your home nation is very good at. We must do more on that because some people turn up with bikes and find that there is no secure access for their bikes or that they will not be covered. Secure cycle parking is something that the Netherlands does extremely well. What plans do you have to improve that aspect and encourage active travel?

Phil Verster: We will add more than 3,500 cycle berths in the first three years of our tenure. Part of that is the creation of cycle points and cycle parks; we have a clear station-by-station plan and commitment to add those additional cycle spaces. We have a clear programme for that and will share it with the committee.

The Convener: The committee heard during evidence that Network Rail normally focuses on access issues within its stations and leaves the development of the surrounding areas to other authorities, particularly local authorities. What steps will you take to improve collaboration and co-ordination between the areas that Network Rail is responsible for, and those that local authorities are responsible for, in order to deliver the integrated solutions that we want?

Phil Verster: Thank you for that, convener. I do not see any way of doing that except through multiparty collaboration and a focus on the customer. A structure that would mean that at least one party must trigger that process would be good practice, but from that point onwards all interested parties must collaborate and work together to produce a seamless experience for customers. The ScotRail alliance has accountability to provide sponsors and clients for those large projects, and those sponsors and clients will start the ball rolling and get all parties round the table. At that point complicated issues can arise. For example, at Glasgow Queen Street some of the contractual interaction with the development of Buchanan Galleries is an interesting and important phase of creating an integrated solution. Every project will have different challenges and issues, and those will be in the hands of all parties involved, who should work together to reach an outcome.

Sometimes compromises will be made, and some solutions will not be affordable. Those difficult decisions do not depend on just one party, and no single party can be accountable for that. I commit, however, always to be in a position to start the ball rolling on cross-party collaboration.

From that point onwards, it is very much in the hands of all contributing parties.

12:30

The Convener: Some of our witnesses expressed concern about the governance arrangements that apply to decisions that are taken by Network Rail. Can you say a little about Network Rail's decision-making process on access to stations? You talked about decisions having been taken locally at Waverley. Which of the decisions are local, which are Scottish and which are UK decisions? In view of the feedback that you have had and the evidence that we have taken, what steps are you taking to increase the transparency of your decision-making process, particularly at Scotland level?

Phil Verster: The division of responsibilities that it is really important to understand, because it will help you to picture how governance works, is the division between funder and deliverer. Aidan Grisewood could probably add to this discussion with clarification of the roles of the funder.

Sometimes, Network Rail is perceived as a funder, but it is not. It manages funds, such as the Scottish stations fund, according to a set of criteria that must be met. The governance, rules and communication around how a fund is assigned and allocated are clear and transparent.

Having distinguished between the funding chain and the delivery chain, we can look further down the delivery chain, where the governance sits with the set of sponsors and clients who work with Susan Anderson, who is my route commercial manager. In her team, there is a sponsor and client responsibility. The sponsor and client says, "Those are the outputs that the funder wants. We are now going to have a project over a year that will deliver it." The sponsor and client must ensure that delivery stays on track neither less than was specified nor more than was specified, which would bring about a cost overrun.

The client-sponsor role is important. It sits within the ScotRail alliance; that is quite exciting because, for the first time, that sponsorship role is closely related to the train-operating company part, so there can be a link to the primacy of the customer.

You can think of the client and sponsor as the conductor who ensures that the orchestra stays in tune. Below that, there is a project governance structure that can involve different project contractual agreements, including arm's-length contracting, alliances or partnerships. Following on from that, there is a part of Network Rail called Network Rail infrastructure projects that takes big projects and sets up big programmes of work, such as EGIP, which represents £742 million of

spending and includes work at Queen Street and Waverley. The decisions that are made in those projects are open to discussion on a regular basis. We are currently conducting a review of EGIP with stakeholders. We share governance, in terms of decisions that we make on EGIP, with Transport Scotland, which supports and helps the stakeholders and the sponsors and clients to keep us on the right track.

That is the structure of governance, but I can add one more thing. Since taking up this role, I have implemented a monthly governance review in week 2 of every railway period, whereby the projects report back to me on their progress. We close the loop between the big programmes that work on the long multiyear timelines through that monthly review, in which the sponsor sits in the same room with me and my team to give feedback on their progress.

The Convener: What steps are you taking to increase the transparency of the governance and decision-making processes that you have described?

Phil Verster: I think that Susan Anderson will take the opportunity to discuss some of the changes that we are now making to governance. We have already decided that we will involve RTPs, councils and interested parties in the regular update on the programmes.

Susan Anderson (ScotRail Alliance): We have also introduced a control room concept, whereby we use visualisation as the means with which to impart information. Everything that we want to talk about is on the wall; it is not hidden in a room, but is open and available to anyone who wants to come into our office. We have a weekly meeting to measure and talk through the progress of all our projects, and we have invited Transport Scotland into those meetings. There is full transparency and visibility on everything that we do. If there is anything about any specific project that anybody wants information on, they can let us know and we will share it with them. We are fully transparent and visible.

The Convener: We are going to move on because of time restrictions.

James Dornan: Mr Verster, in your opening comments, you talked about putting "the customer first" in a "seamless passenger experience". Yet the committee has heard concerns from witnesses about the apparent unwillingness of Network Rail to engage in access issues related to the redevelopment of Glasgow Queen Street station. Do you consider those concerns to be justified? If so, how is Network Rail now working with stakeholders to address those concerns?

Phil Verster: I think that the concerns are justified. The information and the evidence that we have had from the committee are very clear.

As an organisation, we have opportunities to improve consultation, especially consultation outside the TAWS order, and to create that seamless interface on which Sustrans has commented, which I think is very important. We have already adjusted our approach to Queen Street station and I am confident that, going forward, our consultation with stakeholders, including Sustrans, on Queen Street station will be better.

James Dornan: I know that time is limited, but can you expand on what you mean when you say that you have changed your approach to Queen Street station?

Susan Anderson: We have had two phases of consultation for the Queen Street redevelopment, as a result of which we have made significant changes to the station's design. The changes take on board the views in consultation responses. For example, the previous design had the access ramp for the station outwith the glass frontage, but it will now be contained within the frontage of the station, so that there is weatherproof access that feels more a part of the footprint of the station.

We have also taken on board the comments to the effect that the taxi drop-off facility was not part of the station footprint. It will now be enshrined as part of the Buchanan Galleries development, which is going on in parallel with the station development. We have also taken on board comments on the siting of toilets, left-luggage facilities and baby-changing facilities to make it a more customer-focused environment.

We are also very alive to the issues that Sustrans has raised regarding the need for cycle-hub provision. We are looking at facilities in Dundas Street and a facility off Cathedral Street.

As a result of all that consultation, a load of issues have come back to us that we welcomed and are working hard to address.

James Dornan: I may come back to you at some stage about the taxi rank, but that is very interesting to hear.

The Strathclyde partnership for transport took the "unprecedented step" of contacting the Office of Rail Regulation about the redevelopment of the North Hanover Street car park at Queen Street station, because it felt that Network Rail had not properly represented its views on the matter. How did that situation arise, and can you assure us that it cannot happen again, and tell us whether a mechanism is now in place that would allow SPT, for example, to make that representation itself?

Phil Verster: I am not familiar with the details of that particular representation—

James Dornan: The main issue is that SPT went through your organisation and was not, in its view, represented appropriately. That was accepted by the ORR; I believe that SPT then managed to make the representation itself. Is there any mechanism for SPT to bypass you in a situation such as that and to go to the ORR?

Phil Verster: Instead of commenting on whether there is a mechanism to bypass us, we should get to a situation in which there is no need for them to bypass us. We need enough collaboration on the ground, enough interaction and a forum where people not only talk, but have a genuine intent to listen. Sometimes you can talk to people without feeling that there is a genuine intent to listen; from the evidence that has come to the committee, one of the messages that is really clear to me is that the approach needs to be about listening and listening more.

For the Queen Street project there is a forum through which stakeholders participate in the consultation. We will ensure that that forum works better.

James Dornan: We will hold you to that.

Network Rail enjoys wide-ranging permitted development rights. The committee has heard evidence that that means that Network Rail does not normally engage with local authorities on planning matters, or contribute to improvements and co-ordination with other transport modes around stations, which we have discussed on a number of occasions. Is that correct and, if so, how do you intend to improve engagement on planning?

Phil Verster: I can see that permitted development rights can lead to some developments being progressed reasonably quickly, with a big focus on delivering the outputs. I can also see that consultation processes are really important and that a consultation process will not always give answers that will make everyone happy.

I have not looked in detail at cases in which permitted development rights in Scotland have been used or have caused consultations to be less effective. What we have to do—this is similar to the message that we have given on one or two previous examples—is ensure that even when developments are proceeding under permitted development rights, our sponsor and client that looks after those developments ensures that consultation is triggered properly and that all local authorities and other interested parties are consulted. I would give the same answer as I have given on any of the other examples, including Queen Street, that this is all about intent and how

we focus on the customer. We have an opportunity to improve that.

James Dornan: It would be interesting to know whether that was the case for Queen Street or any other example. It suggests that there might be that red line that we talked about earlier on, whereby you are not taking into account the other modes of transport that get passengers to the station in the first place. It might be helpful if you could come back to us with something on that.

Phil Verster: We will do that. Thank you very much, Mr Dornan.

Alex Johnstone: We are all desperately keen to get out of here, but I have three quick questions for Transport Scotland first.

Transport Scotland sets the strategic direction for Network Rail Scotland and specifies the ScotRail franchise. Do you think that that arrangement gives you the necessary muscle to ensure that those organisations take the right action when they interact with other modes of transport?

12:45

Aidan Grisewood: It gives us big opportunities. The opportunity was taken in the specification for the current franchise, and the consultation that took place, to focus on integration. The emphasis was on quality, not just price, and weighty marks were awarded in relation to commitments around integration and, as part of that, accessibility, over and above the legal requirements expected of the operator. All of that has now been fed through, and the reaction of the successful bidder, Abellio, in running the franchise and in its cycle plan, is a direct consequence of our putting in that specification the opportunity for it to win the franchise by showing that it could make such improvements.

That wide range of contractual obligations, which relate to a whole series of commitments around integration—for example, signage, which has been mentioned, provision for cyclists and improved spontaneous travel for disabled passengers—is now in the specification. That was a huge opportunity. On the franchise side, those are now embedded in the contract.

When it comes to the infrastructure, there is a high-level output specification around the five-year transport plan, and there are some big projects within that. There are also high-level specifications for those projects—for EGIP, the Borders railway and the like. In those specifications, we have set out the key outputs that we expect. It is then for Network Rail to take that work forward and engage locally on things such as station improvements to

ensure that the accessibility opportunity is fully realised.

Where we see that something is not as positive as we would like it to be, we have a track record of engaging with Network Rail and ScotRail to ensure that it happens. Provision for cyclists at Queen Street station is an example of that. We made representations about what could be done to improve cycling facilities in the Queen Street proposals and ensured that conversations with cycling groups happened.

On stakeholder engagement, we host regular stakeholder sessions on both the Borders project and EGIP. We do quite a bit to encourage that engagement.

Alex Johnstone: Transport Scotland specified and funds the Edinburgh to Glasgow improvement programme and the Glasgow Queen Street proposals, which you have already mentioned. We have also heard from people about some of the problems at Haymarket. Consideration of wider access issues appears not to have been an integral feature of those projects from the outset. Can you explain why?

Aidan Grisewood: We set the high-level specifications, and for a project such as EGIP, we set a very high-level specification. Inevitably, that is driven by quantifiable elements, such as the percentage increase in capacity that we expect throughout the network, or our expectation that eight-car train sets will run out of Queen Street and that there will be journey time improvements between Edinburgh and Glasgow Queen Street. We do not spell out all the integration aspects. That is partly because we expect those things to be inherent within the station redesign, and partly because they are difficult to quantify at a high level.

We would not want to pre-empt things and say that the integration proposition is X, Y or Z, because inherently it has to be developed as part of the detailed design, which means collaborating and working with local stakeholders to ensure that that is done correctly. If I were to take a lesson from this discussion, it might be that we need to spell that out, by means of a high-level reminder of our transport objectives.

As a funder, we set objectives at a high strategic level. If what we expect in terms of improved accessibility and integration needs to be spelled out—albeit at a high level, so as not to pre-empt the results of valuable discussions with stakeholders—we can take that away and consider it as part of the overall industry effort to improve the way that we work.

Alex Johnstone: I notice that the national transport strategy is to be refreshed. We have heard from many witnesses about their experience

of transport integration, particularly in major railway stations. Will that experience be reflected in any refresh of the guidelines?

Aidan Grisewood: I do not want to pre-empt what the minister will sign off, but the evidence that has been presented to the committee will obviously be an important source of evidence, as will the committee's report. The minister is already on record as saying that the refresh is not about completely redefining our objectives, and that integration remains a key objective. In that context, it is therefore sensible for everything that comes out of the committee to feed into that work, and access to major stations is an important consideration.

The minister has already spoken on the record about the need for clarity in relation to different organisations' roles. As we have heard, it is quite a busy field: on the rail side we have Network Rail and ScotRail—there is some alignment there—but we also have the RTPs and the local authorities. There is an opportunity to be clear about their respective roles, and the minister has already spoken about the issue in relation to the strategy.

The Convener: I thank our witnesses for their evidence. In particular, I thank Mr Verster for his openness and willingness to engage so constructively with the committee. We note your commitment to send us some information on the security advice about and the rationale for restricting access to Waverley station. We look forward to receiving that. I wonder whether, for completeness, you could send us some information on the improvement in air quality since vehicles were required to leave Waverley station. It would also be helpful to know about passenger numbers—that is, the annual figure for the number of people who pass through Waverley.

Phil Verster: We will do that.

The Convener: We also note your offer to come before the committee every six months or annually—you might live to regret that.

Phil Verster: I am sure. [*Laughter.*]

The Convener: We will certainly take you up on your offer, which we appreciate. There are no further questions, so I thank the witnesses for their evidence.

We will have a short suspension to allow the witnesses to leave the room.

12:52

Meeting suspended.

12:54

On resuming—

Subordinate Legislation

Property Factors Registration (Scotland) Amendment Regulations 2015 (SSI 2015/217)

The Convener: Agenda item 5 is consideration of a negative instrument. I refer members to paper 7, which summarises the purpose of the instrument and its prior consideration. Members can raise any issue that they wish the committee to report to the Parliament on the instrument. No motions to annul have been received. If there are no comments, is the committee agreed that it does not wish to make any recommendation in relation to the instrument?

Members *indicated agreement.*

12:55

Meeting continued in private until 12:58.

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