



**OFFICIAL REPORT**  
AITHISG OIFIGEIL

# Finance Committee

**Wednesday 15 June 2016**

**Session 5**



The Scottish Parliament  
Pàrlamaid na h-Alba



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**FINANCE COMMITTEE**

**1<sup>st</sup> Meeting 2016, Session 5**

**CONVENER**

\*Michael Russell (Argyll and Bute) (SNP)

**DEPUTY CONVENER**

\*Alex Johnstone (North East Scotland) (Con)

**COMMITTEE MEMBERS**

\*Neil Bibby (West Scotland) (Lab)

\*Willie Coffey (Kilmarnock and Irvine Valley) (SNP)

\*Ash Denham (Edinburgh Eastern) (SNP)

\*Kate Forbes (Skye, Lochaber and Badenoch) (SNP)

\*Murdo Fraser (Mid Scotland and Fife) (Con)

\*Patrick Harvie (Glasgow) (Green)

\*James Kelly (Glasgow) (Lab)

\*Ivan McKee (Glasgow Provan) (SNP)

\*Adam Tomkins (Glasgow) (Con)

\*attended

**CLERK TO THE COMMITTEE**

James Johnston

**LOCATION**

The David Livingstone Room (CR6)



# Scottish Parliament

## Finance Committee

Wednesday 15 June 2016

*[Michael Russell opened the meeting at 10:30]*

### Interests

**Michael Russell (Argyll and Bute) (SNP):** As the oldest member of the committee, I will convene this meeting. I welcome you to the first meeting of the Finance Committee in the fifth session of the Scottish Parliament.

Agenda item 1 is declarations of interests. With members' permission, I will go round the table for their declarations. Members will have read the paper on declarations that was circulated.

I start by declaring my own interests. I am a part-time member of staff at the University of Glasgow in the role of professor of Scottish culture and governance. I earn approximately £17,000 for that and I have an office provided by the university at 5 Lilybank Gardens. I point out the address because it is next to the Scottish Fiscal Commission—in fact, the buildings are joined by a corridor, just in case people pick that up.

I am a writer and commentator; I have written seven books, for which I still receive meagre royalties; and I do occasional consultancy work for a range of bodies that include a not-for-profit global conservation charity called CyArk, which does data processing of monuments around the world. Those are my relevant registrable interests.

**Alex Johnstone (North East Scotland) (Con):** I believe that I have no relevant registrable interests, but I draw members' attention to the entry in my register of interests declaring my ownership of property.

**Kate Forbes (Skye, Lochaber and Badenoch) (SNP):** My only potential relevant registrable interest is that I am currently in negotiation to become a member of the Institute of Chartered Accountants of England and Wales.

**Murdo Fraser (Mid Scotland and Fife) (Con):** I have three registrable interests to declare. First, I am a member of the Law Society of Scotland, although I do not currently hold a practising certificate. Secondly, I have an interest in two residential properties that are currently rented; I am, therefore, a landlord and in receipt of rental income. Thirdly, like Michael Russell, I am a published author in receipt of meagre royalties and occasional payments for appearances at book festivals.

**Patrick Harvie (Glasgow) (Green):** I have no relevant registrable interests.

**James Kelly (Glasgow) (Lab):** For the record, I declare that my brother, Tony Kelly, is a sheriff in the sheriffdom of Glasgow and Strathkelvin.

**Ivan McKee (Glasgow Provan) (SNP):** I declare that I own a house that I rent out in the Stirling local authority area. I also own 50 per cent of a company that lets residential property. Further, I am an unremunerated director of the Common Weal and an unremunerated trustee of Charity Education International, which is a charity that provides education in rural Bangladesh. I was a director of a number of manufacturing and consultancy businesses, but I resigned from those directorships prior to being elected to the Parliament.

**Michael Russell:** Professor Tomkins.

**Adam Tomkins (Glasgow) (Con):** Thank you—it is Mr Tomkins in the Parliament.

**Michael Russell:** I am just trying to be respectful.

**Adam Tomkins:** I have three relevant registrable interests to declare. I hold the John Millar chair of public law at the University of Glasgow, where I am in receipt of remuneration for services as an employee of the university; I have an irregular income from conferences; and I am the published author of more books than I can remember—mainly about constitutional law—from which I have some royalty income.

**Neil Bibby (West Scotland) (Lab):** I have no relevant registrable interests to declare.

**Willie Coffey (Kilmarnock and Irvine Valley) (SNP):** I have no relevant interests to declare, other than what I have declared in the voluntary section of the register of interests. For the record, those are that I was formerly a councillor in East Ayrshire Council; I own a very small number of shares in Kilmarnock Football Club and I serve on that club's community engagement board; and I am a former employee of Learning and Teaching Scotland, which is now Education Scotland.

**Ash Denham (Edinburgh Eastern) (SNP):** I have no relevant registrable interests to declare.

## Convener

10:34

**Michael Russell:** Item 2 is the selection of a convener, which requires a member to be nominated by at least one other member of the committee. The Parliament has agreed that only members of the Scottish National Party are eligible for nomination as convener of this committee. That being the case, I seek nominations for the position of convener.

**Willie Coffey:** I nominate Michael Russell.

**Michael Russell:** Are there any other nominations? As one nomination has been received, I ask the committee to agree—

**James Kelly:** I have a point to raise about your nomination.

**Michael Russell:** I think that we should probably proceed with the process, unless you wish to object to the process or make an observation about it.

**James Kelly:** I wish to object.

**Michael Russell:** You object to the process. Please do so.

**James Kelly:** The basis of my objection is that I believe that you have a conflict of interest. As you declared in the previous agenda item, you hold the position of professor at the University of Glasgow, for which you are remunerated to the sum of £17,000. As the committee will be considering matters of finance, including the budget and the allocations of that budget to universities, you have a conflict of interest—you have a paid interest in a university that has an interest in the budget process. Therefore, there is an issue with your nomination.

**Michael Russell:** There is nothing in the standing orders about objecting to a nomination so, in my view, this becomes a matter of an election. If you wish to object, I suggest that we put the matter to a vote and you can vote as you wish. Is that acceptable to the committee? Is that acceptable practice?

**James Johnston (Clerk):** Yes, but does the member wish to push the matter to a vote? That is the issue.

**James Kelly:** Yes, I wish to push it to a vote, because the matters that I have raised are relevant.

**Michael Russell:** In that case, I will put the nomination to a vote and members can vote for it or against it. As one nomination has been received, I ask the committee to agree that I be

chosen as the convener of the Finance Committee. Are we agreed?

**Members:** No.

**Michael Russell:** There will be a division.

### For

Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
Denham, Ash (Edinburgh Eastern) (SNP)  
Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)  
Fraser, Murdo (Mid Scotland and Fife) (Con)  
Harvie, Patrick (Glasgow) (Green)  
Johnstone, Alex (North East Scotland) (Con)  
McKee, Ivan (Glasgow Provan) (SNP)  
Russell, Michael (Argyll and Bute) (SNP)  
Tomkins, Adam (Glasgow) (Con)

### Against

Bibby, Neil (West Scotland) (Lab)  
Kelly, James (Glasgow) (Lab)

**Michael Russell:** The result of the division is: For 9, Against, 2, Abstentions 0.

*Michael Russell was chosen as convener.*

**The Convener (Michael Russell):** Thank you for the nomination and for my election to the role.

## Deputy Convener

10:37

**The Convener:** Item 3 is to choose a deputy convener. The selection requires a member to be nominated by at least one committee member. The Parliament has agreed that only members of the Scottish Conservative and Unionist Party are eligible to be chosen as deputy convener. That being the case, I invite nominations for the position.

**Murdo Fraser:** I nominate Alex Johnstone.

**The Convener:** There are no other nominations.

*Alex Johnstone was chosen as deputy convener.*

**The Convener:** I should have asked whether you were willing to be deputy convener.

**Alex Johnstone:** Indeed, I am. I had been pre-primed.

**The Convener:** Good. That is fortunate; otherwise we would have had to start again.

## Decision on Taking Business in Private

10:38

**The Convener:** The next item is consideration of whether to take in private item 7, which is on a contingent liability issue that the Scottish Government has requested that the committee consider before the summer recess. Such issues have been dealt with regularly in private in the terms set out in the written agreement between the committee and the Government, as they often relate to Scottish Government contracts that involve third parties. It is, of course, open to members to object to items being taken in private if they so wish. Do members agree to take item 7 in private?

**Members** *indicated agreement.*

## Committee Adviser

10:38

**The Convener:** Item 5 is the appointment of a budget adviser. Members will have read the related paper. The committee has traditionally appointed an adviser to assist the committee in its scrutiny of the Scottish Government budget. I should perhaps start the discussion by saying that there is a question in some people's minds about whether a single adviser, at this stage of the process, can do the job that we would be requesting of them. We should discuss what that job is. This is not part of our discussion about who would do the job; that will come at the next meeting when we look at the nominations that we have been seeking. However, the work of the committee, as we will come on to under item 6 when we discuss the work programme, is likely to be complex. For the first time, the committee will consider substantial matters of taxation; it will also carry out the usual budget scrutiny, which is a complex process.

The committee will not consider matters of the constitution at this stage because the standing orders have not yet been changed to give the committee that responsibility. That will happen only in September, if it happens.

**James Johnston:** That question will be considered by the Standards, Procedures and Public Appointments Committee. I am expecting it to report sometime after the summer recess.

**The Convener:** So this committee, certainly for the period into the early part of next term after the summer, will deal with finance and not the constitution. We can come back to the issue of advice on the constitution later, but this specific item is to do with the budget process. Adam, did you want to speak?

**Adam Tomkins:** No, not yet.

**The Convener:** Ah—you were waving your pencil, so I wondered whether you wanted to come in. It is a good thing that this is not an auction or you would have bought something.

I invite comments on the appointment of a budget adviser and any views that members have.

**Ash Denham:** It might be difficult to find somebody who is an expert in both those areas and therefore it might suit us better to have two people.

**Alex Johnstone:** If such a person existed who had all the talents that cover the responsibilities, it might be possible to have just one adviser. However, I agree that it may be necessary, given the additional powers that are coming to the

Parliament, for us to look for two individuals from two separate areas of expertise.

**Ivan McKee:** They are two very different areas, potentially requiring people with different backgrounds and experience. It would make sense to look at two options if that was possible.

**The Convener:** As I understand it, we would probably have to seek additional resource, but that is not impossible to do. It would be better than finding ourselves constrained in the advice that we could get, particularly in what is going to be a complex year.

**Patrick Harvie:** I am happy with the approach that you are suggesting.

**Adam Tomkins:** I was constitutional adviser to the House of Lords Constitution Committee for six years, which was an annual appointment that was then subject to reappointment. I think that the papers suggest that the proposed term in this case would be for two years. I recommend, at least in the first instance, having a one-year appointment or perhaps two one-year appointments, on the basis that the responsibilities that are coming to the committee are different from those that our sister committee had in the previous parliamentary session and we should give ourselves some wiggle room and room for manoeuvre.

**The Convener:** That is a sound suggestion; I would tend to agree with that. Do members agree to take that approach at this stage?

**Members indicated agreement.**

**The Convener:** When we come to the work programme, it will be clear that we are in a process of transition. I suspect that Adam Tomkins is right that we should not tie ourselves down too much.

**Patrick Harvie:** Can the clerks advise whether shortening the proposed term is likely to affect the number of people interested in taking on the job?

**James Johnston:** The Scottish Parliament information centre is currently putting together a list. I could not answer that question at the moment. We already have some names on the list. We would have to speak to those people again in relation to that point. We will do that before the next meeting when we bring back the lists and we will have that information for you then.

**The Convener:** We seem to be minded, first, to split the post into two and, secondly, to make the posts annual appointments if, as Patrick Harvie points out, that would not be a disincentive to people accepting the appointments. If it was a disincentive, we would want to reconsider that aspect. Is that where the committee is minded to go? Is that approach acceptable?

**Members indicated agreement.**



**The Convener:** Can we take that forward and look at a list of suggested names for two posts at the next meeting? Perhaps we could also start the process of seeking the resource by saying that we think that it should be two posts at this stage.

**Members** *indicated agreement.*

**Adam Tomkins:** Can I just be clear that this does not preclude us from considering the appointment of an adviser on the constitution in the future?

**The Convener:** No, it absolutely does not.

**Adam Tomkins:** So resources would potentially stretch to three advisers.

**The Convener:** If we require that resource, it is right that we seek that resource. These are not items that can be skimmed on. However, we will not be in a position to do that until the autumn, I suspect.

**Adam Tomkins:** Understood.

**The Convener:** Given that we are going to be dealing with names of appointees at the next meeting, I suggest that we take that item in private at the next meeting. I think that it is impossible to do it in any other way, frankly.

**Members** *indicated agreement.*

**The Convener:** Thank you.

## Work Programme

10:44

**The Convener:** The next item involves consideration of the legacy paper. Two points are particularly important. However, first, having read the legacy paper on several occasions now, I think that we should record our thanks to the members of the previous Finance Committee and to its convener and deputy convener for the work that they undertook. This is a robust and informative legacy paper and it should give us food for thought, particularly in shaping what is going to be a busy and complex series of actions over the next few months.

We need to do two things to start up the process: one is to invite the cabinet secretary to give evidence to us at our next meeting, because it is important that we know what he and the Government are thinking about the matters that are in front of us; and the other is, at that meeting, to look at our work programme.

I want to make a couple of points before I ask Alex Johnstone to contribute. We have a clear role to fulfil in budget scrutiny. Our hands are tied, to some extent, with respect to what we will be doing at certain times of the year. When the budget process starts in September, we have a clear run through until January or early February with the things that we have to do.

In addition, Parliament will, for the first time, be giving serious consideration to matters of taxation—the budget scrutiny model that we operate on is predicated on spending money, not raising it. That change creates a new situation, which we and the Government have to consider, from the point of view not just of timescale but of how that scrutiny goes forward. We have a budget scrutiny model that is much respected and has been effective. I would not want to lose that. Equally, though, we will have to adapt it.

The first task that we have to undertake is our budget scrutiny and, as ever, we must negotiate that with the Scottish Government. However, we must also, along with the Government, address the issue of how we put in place a new model. That will require parallel actions to take place over the winter and into the spring.

There are other issues that each of us will bring to the table that relate to our interests in the subject and, ultimately, our interests in the constitution, which we will want the committee to consider. In the period until January, the space for us to do that will be very limited. It is more likely that we will have time and space thereafter, probably from the beginning of February until the

summer. That is likely to be our annual programme.

We hope to have an away day in August to start to take those issues forward and to help us to get to grips with some of the complex issues that we will be dealing with. I have asked the clerks to consider how else we can do that. Those of us who were in the previous Parliament and who nodded sagely when the fiscal framework was going through have not necessarily engaged in the greatest detail with it, and it is now incumbent on us to do so.

To sum up, we need to look at the budget process and the process of putting in place a new construct for scrutiny. We will also have our own issues to bring forward. Those are all things that we need to address.

**Alex Johnstone:** I look forward to an early opportunity to have the cabinet secretary before us. A close relationship between the members of the committee and the cabinet secretary is vital. Although we may have disagreed to a large extent with John Swinney on many of the things that he did, the fact that we had a good working relationship with him was key to the success of the process.

I agree that, with the new powers of taxation coming our way, this committee will have to adapt the way that it processes the budget. It is not only taxation; my concern extends to borrowing—but that is just me.

**The Convener:** No, absolutely.

**Alex Johnstone:** The convener mentioned the fiscal framework. I was on the Devolution (Further Powers) Committee when the fiscal framework was being developed and it was disappointing to some extent that members of that committee and of Parliament were almost excluded from the process. If it is possible, I would like a stronger relationship to develop so that we can better monitor what is going on in that area. For that reason, the constitutional element will become very important to us and has an importance that will be reflected in the fiscal work of this committee, not just in some separate box marked “constitution”.

**The Convener:** Those are good points.

**Murdo Fraser:** I want to raise two issues in the legacy paper that I think are important. The first is the role of the newly established Scottish Fiscal Commission. Its remit was agreed in detail as part of the fiscal framework discussions. It is important for the committee to have an early opportunity to meet members of the commission to get a full understanding about how they see their role and how the committee might interact with the commission. I hope that we can do that.

The other issue concerns the land and buildings transaction tax. Having met the Law Society tax committee last week, I think that there are issues with LBTT and its operation. I noticed that paragraph 14 of the legacy paper contains a recommendation that the committee should review the first year of LBTT—how it has operated, what the impact has been on the market and what the tax take has been, as it is suggested that the tax take is below original expectations. Specifically, we should review how the additional dwelling supplement, which has been newly introduced, is operating in practice and how practitioners—lawyers included—are dealing with the practicalities of the measure. I hope that the committee will consider that.

**The Convener:** That should certainly be passed to the clerks for consideration for the work programme.

I believe that the intention is to have the Fiscal Commission present at the away day for an informal presentation. I will meet the chair of the Fiscal Commission and have a first conversation before the summer recess. I will report on that, and we will have a chance to meet all the members and have a conversation. We will require to establish a close relationship with them.

**Patrick Harvie:** I am happy to support the proposal to have Derek Mackay and the Fiscal Commission engage with the committee in the near future.

I will pick out one or two issues in the legacy paper. One is the recommendation that the committee should lead a wider debate in Scotland about tax policy. I struggle to see when we will have a chance to do that. We are about to break for the summer recess and, not long after the recess, a draft budget will be published. It seems that there is no space for that wider debate about tax policy to take place. It would be regrettable if we simply had to dinghy that aspect of the legacy paper. It is worth noting that that will be a lack.

On the timescale of the budget process and the impact on other committees, during the previous parliamentary session, other committees justifiably complained on a number of occasions that they were unable to make the judgments that they needed to make. The issue that irritated me most frequently was that the carbon assessment of the budget was not produced in time for the Rural Affairs, Climate Change and Environment Committee to do its budget scrutiny. There are a number of other examples that relate to the remits of other committees that will report to us on the budget with regard to their portfolios. We need to put pressure on the Government to ensure that those committees have the information to enable them to do their job.

I will also say something about minority government. Experience tells us that, in a period of minority government, there can be much more substantial changes to legislation as it goes through the Parliament and, when substantial changes are made to a bill, the financial memorandum as introduced might bear little relation to the final bill that is passed. I notice that there is a recommendation in the legacy paper that the Government should be asked to give some sort of post-stage 1 update on the financial memorandum. Perhaps that proposal needs to be beefed up in the context of minority government so that the Government is asked to give an assessment of the changes that are under consideration by Parliament. We might want to make other changes to the budget process in the context of minority government, but that is one aspect that might be relevant.

**The Convener:** Everything that is said in this discussion will be considered and refined by the clerks in the work programme. In essence, we are laying out the ground. The issues that you mentioned are all important.

I hope that we will have the Cabinet Secretary for Finance and the Constitution at the committee in two weeks' time. Members—particularly you, Patrick—will want to raise with him one or two key issues from the legacy paper. It is not my intention to suggest questions for members in the briefings that the committee will have. Members will want to ask their own questions but, as questions occur to them, they might want to ask SPICe or the clerks for further information to allow those questions to be filled out.

There will be a chance to influence the timescale strongly because we are talking about a new budgetary model.

**Kate Forbes:** I want to pick up a point that has already been made about timescales, new powers and moving from scrutinising spending to including discussions on tax. We need to get that right. Tax has a big impact on behaviour so we need to make sure that we have enough time for discussion and scrutiny so that, in a year in which there is a lot of flux and we have to deal with new powers, we get it right. We should not hurry this side of Christmas.

**The Convener:** There is an established protocol and it will require to be considered as we go on. Obviously, the committee will have to be happy that we can make a recommendation to Parliament.

**James Kelly:** Members have commented on the changing landscape and additional tax powers, and I know that they will be a great focus for the committee.

Two practical points come out of the legacy paper. The first is the use of the Scottish Fiscal Commission's forecasts, which will greatly help the committee, working with the budget adviser, to forecast the impact of changes and different scenarios. They will inform our discussions and give some robustness to our decisions.

The second point of interest is the outcome-based budget scrutiny. I first sat on the Finance Committee in 2007, and there was a lot of discussion about outcome-based budgeting at that time. It is probably fair to say that we have not addressed the issue correctly; I think that even the Government would acknowledge that we have not got it right. The approach is about not just pushing the spending into different areas but what that spending is achieving. It is right to focus on outcomes, and we need to put a framework around that so that we can assess them properly and see whether the spending that has been allocated to various areas is effective.

**The Convener:** That point requires to be built into our work programme both in relation to how we scrutinise the budget and as a special item.

**Ivan McKee:** I echo James Kelly's point. I am also on the Health and Sport Committee, which deals with the portfolio with the biggest spend. It is important to consider the relationship between where the money is going and the outcomes that it is delivering, and how those outcomes align with priorities and are measured.

**Adam Tomkins:** I found the legacy paper to be extremely helpful and echo the remarks that have been made about it.

One of the committee's short-term priorities should be a careful look at the Scottish Fiscal Commission's role. It would also be valuable to do some post-legislative scrutiny—or post-agreement scrutiny, as it is not legislation—of the fiscal framework agreement.

I am concerned about building enough time into the committee's crowded autumn agenda for whatever the constitutional consequences are of next week's referendum. I am conscious of the purdah rules so I will not say anything about the referendum but, whatever the result on Thursday, it will have constitutional consequences for the United Kingdom and Scotland. With respect, convener, we should not imagine that it would be appropriate only to start consideration of those consequences in the new year. Whether we like it or not, we will have to find time in the autumn to take some of that on board.

**The Convener:** You are absolutely right about that. Although we cannot go into any detail, that will be imperative. There is no question but that that will require to be done.

I am entirely in the committee's hands over the way in which we operate but, during the discussion about committee reform in the previous session, there were suggestions about ways in which committees might operate through rapporteurs. This committee has used rapporteurs before, has it not?

**James Johnston:** Not particularly, but it depends what you mean by rapporteur. The committee has tended to work as a whole, to be honest.

**The Convener:** We might work through rapporteurs or small groups, with the committee's consent, because we will be pressed. The committee will meet once a week; I really do not think that it is sensible for committees to meet twice a week but other things will have to be done. I hope that the committee will agree to work in slightly different ways from time to time. We should develop the confidence in each other that will allow that to happen.

11:00

**Neil Bibby:** I have a couple of points to make. I echo Murdo Fraser's point about looking at LBTT. The Scottish Property Federation and others have expressed concern about the impact of the tax; we should be monitoring that. I also agree with what was said about outcome-based budget scrutiny. It would be beneficial to look at not only the outcomes but the impacts of budget decisions.

Our predecessor committee said in its legacy paper that it was often put under "unrealistic timescales" by other committees. I think that it considered more than 60 financial memorandums in the previous session of Parliament—I am not sure whether there will be a similar amount of legislation in this session. I have not been on the Finance Committee before, so I do not know whether there is anything that we can do about that, but it might be something for discussion.

**The Convener:** That is an important point. There is secondary legislation, too, which I suspect will be considerable in the context of the implementation of tax powers. We will have to look at that.

**Willie Coffey:** You talked about a new construct for scrutiny. I completely agree with the comments about outcome-based budget scrutiny, but there is also a case to be made for putting in place some kind of scrutiny process at an early stage in financial planning.

Murdo Fraser might recall some of our experiences in the Public Audit Committee over the years. There were common threads running through public sector finances, but our scrutiny or intervention always seemed to come at the end of

the process. I hope that members agree that any element of early scrutiny of financial planning would be good practice.

We might not get the opportunity to do much of that, and I am not suggesting that we attempt to micromanage capital projects or whatever. However, there is a job to be done to consider, at as early a stage as possible, whether financial planning is reliable enough. If we do not do that kind of activity, who should do it? I hope that all members support such an approach. The committee might have the opportunity to do something in the area.

**The Convener:** If there are no further comments, I think that the clerks have a clear indication of the initial priorities. I think that we have agreed to invite the cabinet secretary to come in two weeks' time. I suggest that, at that meeting, we consider a paper on our work programme in private—that is the normal approach. The paper will take account of the points that have been raised in this meeting and in the legacy paper. We will then be able to discuss in more detail what we might do. We will also know what things look like post the Brexit vote, so we will have an idea of what will fit in. Do members agree to take the paper in private?

**Members indicated agreement.**

**The Convener:** We have come to the end of the public part of the meeting. We move into private for item 7.

11:03

*Meeting continued in private until 11:10.*

This is the final edition of the *Official Report* of this meeting. It is part of the Scottish Parliament *Official Report* archive and has been sent for legal deposit.

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