



**OFFICIAL REPORT**  
AITHISG OIFIGEIL

# Economy, Energy and Fair Work Committee

**Tuesday 16 June 2020**

**Session 5**



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Pàrlamaid na h-Alba

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**Tuesday 16 June 2020**

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**ECONOMY, ENERGY AND FAIR WORK COMMITTEE**  
**19<sup>th</sup> Meeting 2020, Session 5**

**CONVENER**

\*Michelle Ballantyne (South Scotland) (Con)

**DEPUTY CONVENER**

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

**COMMITTEE MEMBERS**

\*Colin Beattie (Midlothian North and Musselburgh) (SNP)

\*Rhoda Grant (Highlands and Islands) (Lab)

\*Alison Harris (Central Scotland) (Con)

\*Dean Lockhart (Mid Scotland and Fife) (Con)

\*Richard Lyle (Uddingston and Bellshill) (SNP)

\*Gordon MacDonald (Edinburgh Pentlands) (SNP)

\*Andy Wightman (Lothian) (Green)

\*attended

**THE FOLLOWING ALSO PARTICIPATED:**

Janet Egdell (Registers of Scotland)

Jennifer Henderson (Registers of Scotland)

**CLERK TO THE COMMITTEE**

Alison Walker

**LOCATION**

Virtual Meeting



## Scottish Parliament

### Economy, Energy and Fair Work Committee

*Tuesday 16 June 2020*

*[The Convener opened the meeting at 09:30]*

### Decision on Taking Business in Private

**The Convener (Michelle Ballantyne):** Good morning. I welcome members and our witnesses to the Economy, Energy and Fair Work Committee's 19th meeting in 2020. The first item on the committee's agenda is to decide whether to take in private item 3 today and consideration of our energy inquiry report at future meetings. I will pause to allow members to state any objections.

As there are no objections, we agree to take those items in private.

## Registers of Scotland

09:31

**The Convener:** Our main item is an evidence session with Registers of Scotland. I am pleased to welcome our witnesses: Jennifer Henderson, who is the keeper of the registers of Scotland, and Janet Egdell, who is the operations director and accountable officer of Registers of Scotland. Good morning, ladies. I invite Jennifer Henderson to make a short opening statement.

**Jennifer Henderson (Registers of Scotland):** Thank you for inviting us. As the committee will know, we are a non-ministerial office and as such we are directly accountable to Parliament, so this opportunity to answer questions is important to us as part of our on-going engagement with members of the Scottish Parliament. The minister who speaks for us in Parliament is currently Ben Macpherson, the Minister for Public Finance and Migration.

I will take a minute to make sure that everyone remembers what we do. We currently run 20 public registers. The big ones are the register of sasines and the land register, which are all about securing people's property rights, but we run a number of other registers, such as the register of applications for communities to buy land, the crofting register and judicial registers, which support communities and secure other types of legal rights. The information in those public registers is, by definition, made available to the public in order to support their decisions, underpin the economy and give people confidence in securing their legal rights.

I will touch briefly on our finances, which have recently changed—Janet Egdell, as the accountable officer, will address any detailed questions in that regard. Registers of Scotland is a fee-earning body, but we are now part of the Scottish Government budget. That means that in any years in which we generate a surplus, that money will return to the Scottish Government consolidated fund, and in any years in which there is a gap between our expenditure and income, we will look to the Scottish Government to cover that. We no longer have our own reserves. We can explore those points in more detail later.

In addition to delivering our fundamental registration activity, we are working towards four strategic objectives: completing the land register, which I am sure we will explore later; delivering digital improvement, so that people can interact with the registers more efficiently and securely; improving the ways in which our data is used and making more innovative use of it; and investing in our people, so that we have the right skills that we

need now and in the future. At the heart of everything that we do are our customers, and we need to ensure that we continue to serve them well now and in the future. Most recently, we have obviously been responding to the Covid-19 public health emergency. It has driven a lot of rapid transformation in our business, but we are pleased with the progress that we have made.

That is us in a nutshell. I cannot possibly do our work justice in a couple of minutes, so I extend to any members of the committee who have not yet visited us an invitation to do so. We now have a virtual tour of Registers of Scotland while we cannot be in our buildings, and we would be delighted to welcome members there for further discussions after our appearance today.

I thank the committee for the opportunity to talk to you today. We look forward to your questions.

**The Convener:** As a newcomer to the committee, I am one of the members who have not yet managed to visit Registers of Scotland. I look forward initially to doing your virtual tour, and I will perhaps visit in person once the lockdown restrictions are eased.

We move to members' questions. The order of questions has been prearranged to make things easier for our broadcasting colleagues. I ask that we keep questions and answers succinct to allow enough time for everyone to ask questions. I hope that we have a good range of questions that will allow you to tell us more about what Registers of Scotland does.

I will start by asking about something that is very important to most people: when do you aim to be able to declare both property registers—the land register and the register of sasines—fully open to digital applications? Are you confident that your digital solutions for those registers can handle an increase in activity in the housing market? As we come out of lockdown, a lot of people will be hoping to move on from where they currently live.

**Jennifer Henderson:** That is a great question. We are currently accepting applications to the land register. If anyone is moving house now, their solicitor will be able to complete the transaction and get their application straight on to the record—that is not a problem. Over the past few weeks, we have worked hard to get to the point at which we have fully caught up with applications and any transaction can happen. The reason that we have not yet declared the land register fully open again, even though it is accepting all applications, is that we are very much aware that many of our solicitor colleagues will not be physically able to retrieve the paperwork for applications, as it may be locked up in their offices while they are working from home.

As the committee will know, the emergency legislation—the Coronavirus (Scotland) Act 2020—provides that all advance notices in the system will be extended for 10 days after we declare the application record fully open. Before we do so, we need to ensure that solicitors have sent to us every last application that has gone ahead during the emergency period. We are in regular dialogue with the Law Society of Scotland with regard to when it thinks that the record should reopen. We would be ready now to declare the register fully open, but that would not help solicitors and it might encourage them to go into their offices when they should not be doing so.

We are currently able to accept applications to the register of sasines only through one of our emergency processes. The register of sasines does not get many applications: if someone is buying or moving into a house, their application will, by definition, come to the land register. We are currently building a digital solution for sasines—it will go live at the end of June, and we will then be fully open to accepting digital applications across our property registers.

On the third part of the convener's question, about the volume of work, we are ready to ramp up our response. We have enabled a further 500 members of staff to work remotely through this period, and applications are now coming through to the land register in almost the same volumes that they were before lockdown, which is quite surprising. A lot of things have been progressing, and we can ramp up our work further if we need to, so we have no concerns there.

**The Convener:** That sends a really confident message, to all those who are hoping to move house, that the register will not cause a blockage.

**Jennifer Henderson:** Absolutely not. We are obviously watching with interest to see when phase 2 of the route map out of lockdown will be announced. Guidance will need to be updated on what that means for the housing market, but we are ready to go with as many transactions as people want to send us.

**Andy Wightman (Lothian) (Green):** I will ask about a couple of policy areas, and touch on reclassification.

In 2014, as the committee discussed with you last year, two targets were set: to complete the land register for public bodies by 2019, and to complete it for all bodies by 2024. We know that the first target has not been met. Do you still intend to meet the second target?

Given that some of the funding for meeting that target was derived from your reserves—that touches on reclassification, which we will come to—how do you now propose to manage the process?

**Jennifer Henderson:** It is still a strategic objective to complete the land register by 2024. You are quite right to say that the target for all public bodies to have registered all their land by 2019 was not met, although we have made good progress on that—I will be happy to provide the committee with a written update if we do not have time to go into it now.

You are entirely right to identify that there are a number of challenges in trying to achieve the completion of the land register by 2024. Registers of Scotland has the resource—we currently still have the funding, as secured through our budget—to deliver the original programme of work. The funding position may change, but we can resource that work, given the way in which our corporate plan is currently funded.

One challenge, however, is that we will not get all the registrations that we need voluntarily. A second challenge is that, if the housing market does not pick up as we come out of lockdown, we will not get all the first registrations that we might have expected. From the point of view of completing the land register, the second challenge is less of a worry than the first. Although keeper-induced registration can, on many occasions, substitute for first registration, it certainly cannot substitute for voluntary registration. We are therefore having to think more imaginatively about how we find a solution to the gap that we will face in the voluntary registration space, simply because many of the people who need to submit those applications cannot afford to do all the background work.

We have been having some thoughts—I would be happy to go into this in more detail—about how we might answer the question “Who owns Scotland?” differently, by using and integrating other data sets. However, that would not be the same as having a fully complete set of land register titles.

Unless we can find a way of getting more voluntary registrations, there will still be a gap in the register by 2024. Nonetheless, we will still be able to answer the question “Who owns Scotland?” by 2024, and in addition there will be other benefits of having a complete land register. It will ensure that, where people want to transact on property, those properties are there on the register. I am happy to explore that in more detail.

**Andy Wightman:** Thank you—that is extremely useful, especially given that the circumstances have obviously changed a little.

Another policy area that you have been working on is the Scotland’s land and information system—ScotLIS—project, on which you advised the Deputy First Minister back in 2015. Where is that project now?

I understand that, although you are operating the system for your own data sets, it does not—as we heard when you appeared before the committee last year—include data sets for valuations, planning consents, environmental designations and so on. Is ScotLIS still a live project, with plans and ambitions and a live project board?

**Jennifer Henderson:** I am really glad to get a chance to talk about ScotLIS. In the past year, we have managed to roll out a version of ScotLIS for the public to ensure that people can access land register information directly at a much-reduced cost in comparison with the cost when they previously had to contact customer services. That is a big change.

In effect, there are now two ScotLIS offerings. Our business ScotLIS offering is largely for property professionals, and we continue to work with them to ask what they want in terms of extra features and data. They tell us that it is not a priority to have the extra data to which Andy Wightman referred available on ScotLIS. When we rolled out the citizen version of the system, the first request that came back was for a feature that enabled users to search by map. We have now implemented that feature, and we have also added other features, such as aerial photography, for which citizens have asked.

There is a broader question about the integration of data sets that goes beyond whether they are displayed on ScotLIS. Over the past year, we have continued to talk with the Improvement Service, the Coal Authority and other organisations about how, as technology develops, we might be able to make the process easier. For example, if someone goes into ScotLIS to look at the information that we hold and they want to jump across to look at the information that other organisations hold, how can we make that process more seamless?

That is how we envisage taking forward our strategic objective of improving the innovative use of our data over the next few years: not by pulling all the data sets into one place, but by making it more seamless for people to move between them. As an organisation, we will continue to respond to our customers’ needs and deliver on what they are asking us to do.

**Andy Wightman:** I want to touch on the reclassification of Registers of Scotland by the Office for National Statistics. That is quite a significant change. Previously, you were able to plan ahead financially for years to come.

In May, Janet Egdell wrote to the committee to say that it was anticipated that your income this year would be around half of what had been expected. Previously, you would have managed

such a situation by dipping into reserves. Now that your budget is part of the Scottish Government budget, do you have any protocol in place, or are there any discussions under way with the Scottish Government, with regard to how you are going to handle the gap? Will you have a reserve in the Scottish Government budget so that things continue as normal, or are you moving towards budgeting from year to year?

09:45

**Janet Egdell (Registers of Scotland):** I can answer that one. We are in contact with the Scottish Government, and we will be drawing on the Scottish consolidated fund rather than holding our own specific reserve. A separate part of the budget will not be allocated to us.

Registers of Scotland used to be a bit of an anomaly. Section 9 of the Public Finance and Accountability (Scotland) Act 2000 made us an exception, in that the keeper could keep her own reserve; any income that was not used in any one year could be held for future years. As part of the ONS reclassification last year, it was decided that, for statistical purposes, Registers of Scotland should be part of central Government rather than a public corporation. That being the case, we now form part of the central Government statistics, which means that we should follow the same budget guidelines as everybody else.

It is more efficient to have one big reserve pot, rather than having many public bodies hold separate reserves. We have therefore been brought into line through the Public Services Reform (Registers of Scotland) Order 2020, which the Parliament passed in March. We will not have a separate reserve. We will be part of the on-going monitoring and budget process, whereby we will engage in regular dialogue with Scottish Government finance colleagues, as we have already been doing.

It is clear that the current year will be challenging for budgets across the piece; we have already engaged in dialogue about that, and we know that there will probably be a reduction in our income. The extent of that reduction will need to be managed within the wider Scottish Government reserve.

**Andy Wightman:** Okay—I will leave it there, although I would like to pursue the matter a little further later on, if there is time.

**Richard Lyle (Uddingston and Bellshill) (SNP):** Good morning. We can all agree that registration is important. In July 2018, 43,833 cases fell outside Registers of Scotland's target processing times, and on 31 May 2020, the figure stood at 64,777 cases—an increase of 48 per cent from July 2018. Monthly figures that have been

provided by the Scottish Parliament information centre on your backlog of applications for registration suggest that, despite your reassurances to the legal profession in June 2018, and to the committee in January 2019, the backlog has grown significantly since those dates. Why? What factors are causing that?

**Jennifer Henderson:** When talking about the backlog, the first thing that I always like to say is that a case having not fully finished the registration process, and our having not completed updates to the register does not, for the vast majority of people, stop them from doing anything with their property. It does not stop them from selling it, remortgaging it, or applying for money to improve it. For most people, it does not have an impact.

For people on whom it does impact, we have brought in a process to expedite applications. If, for reasons of financial personal hardship, or possible loss of a transaction, a person needs their application to be fully registered and returned, we can complete that in 10 days. I always like to set the backlog in context.

When I took over as keeper of the registers we were adding 250 or more cases to the backlog each week and we were not keeping pace with the amount of work that was coming in. The first job was to put the brakes on; we did not simply go out and recruit more people, because we thought that that would not be sustainable. We wanted to figure out how our processing could be more efficient, while using the people whom we already had. It took time to design new processes and to work out how we could deliver more efficiently. It was like a runaway train: we had to get the brakes on and stop it going any faster. The backlog has grown while we have been doing that.

By the end of last year, we had reached a point at which the backlog had stopped growing. We knew how to process everything as efficiently as possible, so that was the right time to bring on board more people to work with that efficient process and to take cases out of the arrear. We recruited new staff at the end of last year; they started in January. They were completing their training and were raring to go, then we went into lockdown, which slightly delayed that work. That is why things have got worse before they will get better. We were confident that we had reached the point at which we could get better.

We have been setting targets. When we did our modelling on how long it would take us to stabilise and how quickly we could get things done, we aimed to have nothing left in our first-registration arrear by September this year. All the first registrations—when someone buys a property for the first time and it goes on to the land register—should have been done. We were a little behind on that target as we came into the new calendar year,

but we were confident that we would, with the arrival of new staff and the acceleration that we would get from that, be able to get rid of almost all the first-registration arrear by September.

The other element of arrears comes from transfer of part—for example, when a person sells the bottom of their garden. That is a trickier problem to solve because each one of those cases is unique, so figuring out how to process them more efficiently required some quite deep thought. Just before lockdown, we were confident that we had cracked the problem, that that arrear had been arrested and that we would be able to work more efficiently and set a target for clearing it. I accept that the numbers have got worse, but we have cracked the problem.

The set of cases that are now in that arrear are not the cases that were in it a year ago. When I spoke to the committee in January 2018, we had 25,000 cases from 2017. We now have about 10,000. We are getting cases out the door at the back of the arrear. I accept that there is a lot more to do, but I want to emphasise that the expediting process is there if the arrear causes anyone a problem.

**Richard Lyle:** I know that every case is different. I am pleased that you are tackling your pyramid. How many extra staff did you take on? When do you expect to see a downward trend in the backlog, or to have the backlog cleared? I appreciate that you are trying to do that in the context of Covid-19.

**Jennifer Henderson:** Janet Egdell might wish to correct me. I think that we took on about 30 staff at the start of the year, who were being trained. That is not a lot of extra people to make the difference, but it was the number we thought we needed. We are lucky to have a very good analysis team who were able to crunch the numbers and work out how many people would be needed for the process.

We had intended that those people would have been making a real difference by February. When lockdown began in March, we had to suspend their final training. When a person has been trained as a registration officer, they initially work under quite close supervision. It is fundamental that we maintain accuracy in the register, so we do not train people then just let them loose; we train them then supervise them pretty closely.

Lockdown has made it very difficult to get those people working effectively. While we are in lockdown, we are thinking about how we can do more remote working and how we can have those people supervised remotely so that they can get going.

We also anticipate a side effect of the unfortunate downturn in the housing market. If less

work comes through the housing market, we will have capacity to put more people on to clearing the arrears. We are modelling what we think might happen with the housing market and how many extra people we might then have available.

It is not realistic to expect that we will achieve the September 2020 target for getting rid of our first-registration arrear: we have lost too much time in the past three months. However, I will tell colleagues that I expect the target to be achieved no later than Christmas; we have no excuse for losing more than three months. I will be pleased to write to the committee when we have finished our modelling, to confirm the new dates that we set for getting rid of the first-registration arrear and the transfer-of-part arrear, if that would be helpful.

**Richard Lyle:** Although it does not affect people, I am sure that you want to get of your backlog. I wish you well. Thank you.

**Colin Beattie (Midlothian North and Musselburgh) (SNP):** I am not sure which of our witnesses should answer this, but I would like someone to comment on Registers of Scotland's approach to statutory and non-statutory fees in order to give us a general understanding of that.

**Jennifer Henderson:** I will start, but Janet Egdell, as accountable officer, might want to come in.

Registers of Scotland offers two types of service. There are a number of statutory services relating to maintenance of the registers, which is where statutory fees come from.

I can also offer commercial services, which use information that is contained in the registers and which other organisations can also offer. The best example is reports. People who are thinking about buying property commission property reports. We do them, and so do other providers. That is a commercial service for which I can set whatever fee I feel is appropriate, because it is a non-statutory fee. We ensure that we recover our costs, are appropriately competitive and are not anti-competitive by charging a lot less than our competitors, which would not be appropriate. That is the fundamental difference between the two types of fee.

With statutory fees, what normally happens is that ministers decide whether to review them and, if they decide to do so, there is a consultation, then an instrument that is subject to affirmative procedure goes through Parliament to set the fees. All the fees for the statutory duties that we deliver are normally set by Parliament. The most recent fees order was in 2014, although there were no changes to the fees in it; it was about bringing in the Land Registration etc (Scotland) Act 2012.

We have not changed our statutory fees since 2011, but we revised some of our non-statutory fees last year. The only quirk in the statutory fees space is that I have a power to uplift the statutory fees by £10 only, and for a maximum of two years, if we find ourselves in a financial situation that creates a real imperative to do that. The committee will be aware that I wrote to the convener last week or the week before it to say that we had done just that. We have faced such a challenge with our income during lockdown that doing so felt appropriate.

I am not sure whether Janet Egdell wants to add anything, or whether that has answered Mr Beattie's question.

**Colin Beattie:** That has broadly answered the question and has provided the background that I need. What additional income do you expect will be generated by the increase in statutory fees?

**Janet Egdell:** I can take that question. That depends on how much activity there is in the housing market in the latter half of the year. We have just given notice to customers that from the beginning of October we will increase our fees by £10, which should raise about £2 million in the latter half of the year. We are monitoring that closely to see where we land; we are keeping an eye on what is happening and on how the market recovers.

**Colin Beattie:** In your previous communications, you said that you were estimating a 50 per cent reduction in income. Is the increase in statutory fees factored in to that?

10:00

**Janet Egdell:** No. We have done monitoring and have taken a lot of business intelligence from as many sources as possible in an effort to do our best to predict what might happen with the market, but we are looking at a range of scenarios. It is too early to tell.

The 50 per cent figure is a mid-point. The £2 million will help us to get more than 50 per cent rather than less than 50 per cent of our income, but we are certainly still within that bandwidth.

**Colin Beattie:** I want to be clear. Are you saying that despite the increase in statutory fees you still face a reduction in income of approximately 50 per cent?

**Janet Egdell:** Yes.

**Colin Beattie:** What further changes to statutory and non-statutory fees might be anticipated?

**Janet Egdell:** We could do a full fees review. We have highlighted that that might be something that we should do. Before the health emergency

period, we had set out our corporate plan for the next five years. I realise that I did not really answer Andy Wightman's question about this. That involved taking a five-year view, rather than a one-year view, of what we expect to achieve and how much it might cost. We were acutely conscious of the fact that, given the cycles of the housing market, we needed to take a longer view.

We saw that we would not fully recover our costs across the five-year period, which meant that our fees would be a bit low, so we needed to review their levels. We want to fully cover our costs and not have to call on the Scottish budget every year to subsidise our services.

**Colin Beattie:** On the back of that, will further expenditure reduction measures be required? How might they be achieved?

**Janet Egdell:** Yes. We are looking across all our expenditure. We have already taken a number of actions. We have paused planned investment, we have paused recruitment and we are doing no overtime. Those are examples of immediate measures that we put in place.

We also supported everybody through the first few weeks of the lockdown period. For example, we helped people who had to shield or who could not come into the building, including our suppliers and all our contractors, and we have spent some time reviewing those arrangements.

Of our costs, 75 per cent relate to people. We have looked at our permanent staff and our temporary staff. There is more flexibility where we have had temporary contracts in place, so we have taken two actions there. We have a group of staff who are on temporary contracts who deal with our post and our scanning services. We know that we will not need those staff in the long term, so we have given notice on those contracts.

Our other temporary staff are largely in the digital space. We can foresee that there will be work for them in the future, so we have been negotiating lower rates across the piece in that area and have been able to make some savings.

In addition, we have been able to make use of the job retention scheme. There are members of our permanent staff whom we have not been able to get actively working. It was a big change to go from everyone working in the office; not everyone had laptops or was remotely enabled. While we have been rolling out laptops and enabling people to work from home, we have been able to make use of the job retention scheme.

**Colin Beattie:** So your key cost area is staff. You are reviewing the staff situation at the moment, starting with agency staff. Do you anticipate that permanent staff might be involved in the review, too?

**Janet Egdell:** No compulsory redundancies is part of the public sector pay remit, so we do not expect redundancies and we expect to have plenty of work for all our staff. We want to address the backlog of cases and complete the land register. The issue is the logistics of getting everybody able to work as productively from home as they do in the office.

**Jennifer Henderson:** Another thing that we might look at with our permanent staff is an element of reskilling. We would love to be less reliant on contractors in our digital space, so we want to look over the next year or two at how to accelerate moving more of our permanent civil service staff to be the digital staff whom we will need in the future. This situation gives us an opportunity to think about how we reskill people for what we will need them for in the future.

**The Convener:** Rhoda Grant wanted to ask some questions about this area.

**Rhoda Grant (Highlands and Islands) (Lab):** Thank you, convener. I am slightly puzzled about the evidence that has just been given. You have put people on notice while furlough is still available. Why have you made the decision to get rid of staff during this period—given that there is little opportunity for people to get new jobs—when there is a furloughing scheme available that would allow you to retain them for the time being and allow them to keep some of their income?

**Janet Egdell:** Those people are not on our payroll; they are agency staff. A group of 38 staff have been working with us on work that we will not do on the same scale when we go back to the offices, because we have moved to being able to accept digital submissions. That work will not be available in the future. The agencies have furloughed the staff or redeployed them to other work.

**Rhoda Grant:** Are they still being paid as part of the furlough scheme, and will that continue?

**Janet Egdell:** Yes. In effect, they were not our staff to furlough, because they were agency staff.

**Rhoda Grant:** You do not think that you will need any of them again in the future.

**Janet Egdell:** We will not need that group of staff.

**Rhoda Grant:** You also spoke about reducing the number of contracting staff that you require and—if I caught you right—changing rates of pay. Is that correct? It sounds like sharp practice for a Government agency, given the current climate.

**Janet Egdell:** There is a further group of 129 contractors in our digital space who are on different rates of pay. They were employed for a range of contracts through a number of agencies.

We have given fair notice and negotiated a change in those rates. Our income has reduced by about half, and we are looking across the piece to try to share the pain of the reduction in expenditure across all areas—the permanent staff and various groups of temporary staff.

**Rhoda Grant:** When did the reduced rates come in? How reduced are they? Surely it is the wrong time to put people through that, as they end up with little choice but to accept what you are offering?

**Janet Egdell:** The reduction that we have been negotiating with the agencies is 10 per cent. Individuals have their own negotiations with their agency about whether they take a reduction of 10 per cent and how it would work out for them. We have done that across the board. We looked at options and thought that it was best to have the same 10 per cent reduction negotiation across the piece.

As yet, nobody has decided to leave us. They always have that option—with most of those contracts, we are on a week's notice either way. We will see how that pans out.

**Rhoda Grant:** I dare say that those people cannot afford to leave you at the moment, because no other jobs are available to them. I am speechless that a Government agency would treat people in that way during a crisis.

Finally, do you expect the reduced staffing levels to continue in the future? Obviously, you were looking to save money before the crisis. The housing market is not in a good place, and one cannot but acknowledge the recent vein of employers using sharp practice and that there will be a lack of confidence among people in buying and selling houses. Do you expect even more redundancies, given the reduced level of income that you will have?

**Janet Egdell:** I want to be clear that none of our permanent staff has had any change in their terms and conditions. I was talking about the group of staff who are temporary workers and who have particular digital skills. We struggle to retain such staff over a period. We frequently have people coming and going in that area, whereas our turnover of permanent staff is very low. In some of the development areas, we can have 50 per cent turnover in a year. It is a fluid market in which people choose to work in that kind of way. We are choosing to renegotiate within that scope. They are well-paid digital workers to whom we have given work for a number of months, and we expect that many of them will continue with us for the time being.

**The Convener:** I want to ask Janet Egdell to clarify a couple of issues. We have received a letter from the Public and Commercial Services

Union, which covers Registers of Scotland, in which it indicated that, because the use of agency staff has spanned about 11 years, in the past four years, it has entered negotiations with you on creating permanency for some of the jobs that are involved. Will you say whether that is the case, from your perspective? Obviously, there is a big difference for people if they become permanent as opposed to agency staff.

It looks as though Jennifer Henderson wants to answer.

**Jennifer Henderson:** Yes. To go back to Ms Grant's question, I make a clear distinction between our agency staff and our digital contractors. As Janet Egdell described, we have used agency staff in our scanning and post opening function. We have always planned to digitise that function so that we do not need people to do that process. For that reason, it is appropriate to continue not to employ permanent people and to use an agency to deliver the service.

PCS has rightly wanted to champion the rights of non-permanent staff in the organisation and to see what we can do, in compliance with the fair work agreement, to give those people more permanent opportunities. When we have recruited for permanent roles in the organisation through a fair and open external recruitment process, a number of the agency staff have taken the opportunity to say that they want to stay with Registers of Scotland permanently and have applied to move into those roles, which would allow them to become permanent civil servants.

We have always been clear that the scan and post function is not an enduring people-staffed activity. It would have been irresponsible of us to have taken on a number of permanent staff in that area, knowing that there would not be enduring work for them.

To go back to Ms Grant's question on the contractor rate, as Janet Egdell said, we want to pay the market rate for our digital contractors. They are well-paid people and it was appropriate to say that the market had fallen a little and we should not pay above the market rate. Therefore, there was the opportunity to renegotiate, which I think was the appropriate thing to do with public money.

As Janet Egdell said, digital is much in demand, so those people could take their skills elsewhere if they wanted to. I stand by the decision not to pay above market rates for some of our very highly skilled contractors as the right thing to do, given the financial situation that we were facing.

10:15

**The Convener:** Is it fair to say that the Covid pandemic led to the completion of your digital transfer in a faster manner than would have otherwise been the case? It is the pandemic that made the difference.

**Jennifer Henderson:** The pandemic caused us to prioritise our road map differently. We had planned to digitise our scanning function, but that would have been done slightly later in the plan—we were going to do a bunch of other things internally first in order to put in place some of the back-end systems, after which we were going to do the customer-facing bit. Obviously, the necessity to bring forward the customer-facing bit because of the pandemic means that we have accelerated that work further up our road map. We are following that with some of the things that we would have done first, if we had been working in a non-pandemic situation. We are very much still on track to deliver everything that we want to.

The main aspect that has come out of the pandemic is just how much our customers want to embrace the new digital ways of working—they cannot get enough of what we are delivering and they want it to be a permanent solution.

**Dean Lockhart (Mid Scotland and Fife) (Con):** I want to return to the question of the impact of the change in classification, the move to an annual budget and the removal of access to the reserve. What longer-term investment plans might be affected by the change in classification? For example, might the completion of the land register by 2024 be adversely impacted by the funding change?

**Jennifer Henderson:** I will pick that up, and Janet Egdell might want to come in. You are entirely right that moving to a situation in which our funding has to be sorted out annually means that we cannot plan for the long term as much as we did previously.

It is important to emphasise that we want to continue to cover our costs with our fees, because that allows us to make year-on-year investment decisions. We can project ahead, see how much income we will have and therefore see how much we will have to spend. That allows us to plan digital investment, data improvement investment and land register completion investment.

Clearly, what will happen in the housing market is unknown, so the challenge is how we plug the gap this year. Our registration arrear represents unreleased money to us. When customers submit their registration application to us, they pay. However, we cannot release the money into our accounts until we have completed the work. The potential downturn in the housing market will allow us to do more arrear cases and release that

money, some of which will plug the gap this year. We hope that the fee increase that we have just introduced, and the potential for a fuller fee review, will allow us to balance the books and get back on to a steady keel and plan for the long term.

We are having good discussions with the Scottish Government finance team about the money that we will need to deliver our strategic objectives. Janet Egdell might want to build on that. Our aspiration is to pay for all that ourselves, but it will be up to the Scottish Government to make up the gap, if there is one.

**Janet Egdell:** On land register completion, our challenge is not resourcing. As Jennifer Henderson alluded to earlier, we think that others might not want to work with us on bringing forward voluntary registrations. That is more of a challenge, and we will be looking at whether we can use data in a different way in order to complete the register within the resourcing that we have.

**Dean Lockhart:** That is helpful, thank you.

I want to explore the funding aspects a bit further. You said that you hope to cover your funding through fees that are generated. However, the market is volatile just now and I imagine that, over the next couple of years, we will continue to see a bit of volatility in the housing market and in the fee revenue that you are able to generate. What assurances has the Scottish Government given you that it will cover any shortfall between what you are receiving and what you need for your long-term investment plans? I am talking about formal arrangements, not just the discussions that you might have had with someone in the Scottish Government. Is there a formal arrangement whereby the Scottish Government will make up that shortfall?

**Jennifer Henderson:** There is not a formal arrangement in place. Clearly, the Scottish Government is not in a position to commit on a long-term basis to what funding it might give us to make up shortfalls, given that it does not yet have a clear idea what draws it might have on its money.

When we went through the reclassification process, we received a commitment that the Scottish Government and ministers were committed to us delivering our corporate plan, which includes land register completion and the delivery of our digital and data improvements. We have that kind of top-level commitment to what we are expected to deliver. However, what we clearly do not have is a definitive commitment to giving us all the money that we need to do that. That is why, as we discussed earlier, it is incumbent on us to figure out how we can trim down our costs so that

we deliver as efficiently as possible and keep the cost of whatever we are trying to do to a minimum.

The other thing that I would say with regard to the level of commitment is that the Registers of Scotland has a large number of permanent civil service staff and that there is a no-redundancy policy. Therefore, the minimum commitment from the Scottish Government is to continue to give us sufficient funding to cover the level of staff that we have. That means that we know that we have enough staff to do the job that we need to do, and the Scottish Government has an obligation to continue to support us by paying for those employees. We have that level of commitment, but nothing beyond that.

Janet Egdell might want to add something, because she is the one who is having the detailed discussions with Scottish Government finance colleagues.

**Janet Egdell:** It might be worth talking about the experience to date. Because we are in an unprecedented situation, we have already been donated some cash back from the Scottish Government. April was a particularly low-income month for us—normally, the fees coming in during that month would have covered all our costs. That process is working fluidly and successfully for both sides, and we are able to meet our needs on an on-going basis. Further, all the discussions that I have been having with finance colleagues in the Scottish Government are around the need to take a longer-term view. We are talking not only about the need to get through this year, but about whether expenditure changes that we make right now will be sustainable into next year and so on. The fact that we are having those discussions reassures me that people are not taking a short-term view.

**Willie Coffey (Kilmarnock and Irvine Valley) (SNP):** Good morning, everyone. I wanted to ask a question about income generation, but that has been pretty well covered by other members. Instead, I will ask a few questions about your digital transformation strategy, which we also touched on earlier.

Do you think that we are on track with regard to the delivery of the digital agenda? Earlier, there was a discussion about contractors and whether we should reduce their rates or not hire as many of them as we might usually do. Do you have the right balance between core and contractor information technology staff to enable the delivery of what must be delivered?

**Jennifer Henderson:** I welcome the opportunity to talk about our digital agenda. We are doing customer-facing digital stuff, the most obvious recent example of which is what we have done around digital submissions. Behind that, there is

an awful lot of back-end digital stuff, which involves improving our mapping systems and the systems that create the land register and so on. We have a road map that takes us through the next few years for everything that we need to do with that. We have the plans, the people and the budget in place.

One of the reasons why we use highly skilled and well-paid digital contractors in that space is that, once all that development work is done, we will not need the same number of digital staff to keep our digital systems running. We are developing digital skills in our civil service cohort so that, as we move beyond the development phase for all our digital systems, we can do the keeping-the-lights-on digital activity with civil servants as far as possible.

We are very much on track. The pandemic has caused us to reprofile and reprioritise the order in which we do things.

The degree to which our customers are ready to embrace the technology has really shown up in the past few weeks. There was one thing that had slightly held us back previously. We had the people and the skills and we knew what we wanted to do, but we were not able to really persuade our customers that changing their working practices to embrace digital ways of working in the end-to-end conveyancing process was what they wanted to do. However, as soon as all the other options of how to work were not available to them, our customers were, of course, delighted to accelerate the embracing of a digital submission system. To the surprise of some of them, they found that that was obviously more efficient and enabled them to save some costs, for example.

We are now pushing at an open door, so much so that the Law Society of Scotland's property law committee has established a digital conveyancing and registration working group to figure out how to accelerate going forward with all that digital stuff—I should not call it “digital stuff”; it is digital technology and digital transformation—as quickly as possible to capitalise on where we have managed to get to in the space of just a few weeks.

It is really exciting. The possibilities of properly bringing in a digital conveyancing and registration system in Scotland are there for the taking at the moment.

**Willie Coffey:** When I visited you in February, I was really impressed by the progress that you had made in the digital arena. However, you must be aware that several public sector IT projects have experienced difficulties in the past. That is usually because of a lack of in-house skills to deliver. We usually employ external contractors, as you have

done. When contractors ultimately leave the project and deliver it to you, how can you ensure that the software components and so on that are left behind are usable, editable and changeable by your in-house IT staff? That seems to have been the problem that we have come up against in a number of IT projects. Will you say a little about that, please?

**Jennifer Henderson:** I would be delighted to.

The way that we work in Registers of Scotland overcomes that problem. We do not truly outsource our IT developments. We do not contract with a third-party company and say, “Here are the requirements. Over to you. Build it.” and then get the product. We have our contractors with us in-house working alongside our permanent civil service staff.

The way in which we have set up every digital product that we have has involved having an in-house permanent product owner whose job is to ensure that they understand how the system is being built and everything about it, and who is agnostic as to whether the individual person who has done the coding is there or not through the life of the project, never mind beyond it. We will be able to ensure that we can keep those systems maintained.

A huge amount of work that we have done behind the scenes has been about ensuring that we have real resilience in all our digital systems and that we do not face the kind of problem that Willie Coffey has described, whereby the minute that the people who have built the system go away, the organisation struggles to maintain it. We have very successfully taken that out of how we do our IT development.

10:30

**Alison Harris (Central Scotland) (Con):** How does the ROS plan to achieve a 9 per cent reduction in salary costs and a 16 per cent reduction in non-salary costs over five years?

**Janet Egdell:** You said “over five years”; are you asking about our corporate plan?

**Alison Harris:** Yes.

**Janet Egdell:** The 9 per cent reduction in salary costs is based on a mixture of things, part of which refers to the answer to one of Colin Beattie's questions about digital contractors. It is much more expensive for us to have staff who are not on our payroll and during that five-year period we think that we have a good chance of improving the balance between temporary staff, digital contractors and permanent staff. We will be able to grow our own staff. We have an aspiration to do that and, although it is hard and takes time, it is definitely our five-year plan.

It is exciting that we have four members of staff who are on graduate apprenticeships; two are learning cybersecurity and two are learning data science. We day release them to university once a week and they work with us the rest of the time. Learning skills on the job will be very important for the organisation in future. Some of the salary cost reduction will come from that.

Much of the reduction in other costs will be about working more efficiently. That includes moving away from having on-premises data centres to being able to work with the public cloud. It also relates to the efficiency of our systems. We are introducing processes under the emergency legislation to accept things digitally. Our processes will be much more streamlined if we can make that change permanent.

Over the five-year period, those things will make a real difference.

**Alison Harris:** Is the 9 per cent reduction in salary costs basically because you will get rid of the temporary agency staff who are working with you?

**Janet Egdell:** We will shift some of those roles to permanent roles, but we do not think that we will need them all in the long term. We have some work to do to move on to more efficient digital systems. At the moment, we are still running our 25-year-old mapping system. We have moved half of our staff on to working on new geographic information systems, but we have not been able to fully decommission the old system. We will be able to do that during the next year. Things like that will make a real difference to the investment costs that we will need, and also to the numbers of staff that we need working in that area.

**Gordon MacDonald (Edinburgh Pentlands) (SNP):** I want to continue the discussion about fees that you had with Colin Beattie. I would like to get clarification on some things.

Your corporate plan projects a 10 per cent reduction in income over five years. When was the last time that there was a full review? Also, do you make recommendations about the scale of fees to the Scottish ministers following review processes?

**Janet Egdell:** Yes. The last time that we increased our fees was 2011. They have been static since then. We have been absorbing quite a lot of increased costs in the meantime, through efficiencies.

Every year, we review whether our costs are covering our fees and we discuss that with ministers. It is for ministers to bring forward a fee order to change fees. We have reviewed fees and have come to the conclusion that we have not needed to change them, or that it has not been the time to change fees in the interim period. It is for

ministers to decide whether it is the right time to make a change.

**Gordon MacDonald:** Do you make the recommendation to ministers?

**Janet Egdell:** Yes.

**Gordon MacDonald:** We have heard a couple of things this morning; the first is that you want to be competitive, and the second is that you want to try to cover costs. Is the priority being competitive or is it covering costs, and how do you balance those competing pressures?

**Janet Egdell:** Ninety per cent of our income comes from statutory services that we provide and around 10 per cent comes from our non-statutory services. Within the 90 per cent, we clearly should be covering our costs, and that is our aim. There is more leeway with the 10 per cent, but perhaps in a competitive market we should charge the going rate for the service, rather than the rate that it costs us to provide it. However, that is a more nuanced discussion. We would welcome a broader discussion and consultation on our fees, to see what our customers think of them and where we should set the balance of fees.

**Gordon MacDonald:** You have highlighted some financial difficulties moving forward and your corporate plan highlights your existing financial pressures. The average house price in Scotland is £180,000. Your fees against that sum were £360 in 2010, but 10 years later they are still £360. The Bank of England inflation calculator highlights that those fees should be £465 today. Is there a requirement for your scale of fees to keep pace with inflation? If not, why not?

**Jennifer Henderson:** I will come in on that question. We want to break even over the cycle of the housing market. We built up a reserve, which we handed to the Scottish Government at the end of March as part of the reclassification. That reserve was made from the fact that, year on year, we were making slightly more money than it cost us to deliver our services, so it was appropriate for us to draw down on that reserve, reinvest it and not pass those costs on to our customers. Now, as you rightly point out, we are in a situation where the forward projection is that we would start to dip below an acceptable level of reserve, if we still had it, so it is the right time to think about a fee review.

I am glad that you highlighted that if we had put up our fees regularly in line with inflation, they would be considerably higher than they are now and would certainly be considerably higher than the very modest £10 increase that we have just brought in. That is why, as Janet Egdell said, we think that, if ministers are in agreement, this is the year to do a more wholesale review that follows on well from the change in our financial status and the reclassification. That review would allow us to

reset the bar on an appropriate fee for our services that will cover our costs and, going back to the earlier discussion, allow us to continue to invest in improving our services.

**Gordon MacDonald:** My point is that any organisation, whether it is a public body or a company, should as a bare minimum cover its costs and not rely on reserves. Reserves are for emergencies and unforeseen circumstances, such as the Covid-19 pandemic. You seem to suggest that there is a cycle and that therefore, as long as you cover your costs over the long term, using the reserve is not an issue. Surely, your previous full reviews should have taken account of the inflationary increase that would have been applicable at that time.

**Jennifer Henderson:** We could have approached it like that. Perhaps the term “reserve” is unhelpful here. When we had a reserve, our board set a reserves policy that outlined that the reserve was for covering compensation payments and fluctuations in the housing market. The reserve was there to ensure that, instead of having to go through a formal fee review every year, with all the consultation and parliamentary time that that would take, we could smooth out the blips in the housing market. The reserve also had provision for a wholesale downturn in the housing market. Had we still had our reserve, we would have been drawing down on it now.

The language of calling it a reserve was probably not helpful, because it was there to do more than a traditional business reserve. It was to help us to move out year-on-year costs as well as build up an extra buffer for proper emergencies.

**Gordon MacDonald:** Thank you very much.

**The Convener:** I have no further requests for questions. As no other members wish to come in, I thank Jennifer Henderson and Janet Egdell for their time and for giving evidence this morning, which has been very helpful.

We will now go into private, as previously agreed. I thank broadcasting staff for making this meeting possible and our committee clerks and the Scottish Parliament information centre for their assistance in bringing together this evidence session. Thank you very much. I will see all the members shortly in our private session.

**Jennifer Henderson:** Thank you very much for the opportunity. We look forward to following up with the committee.

**Janet Egdell:** Thank you.

10:40

*Meeting continued in private until 12:40.*

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