FINANCE COMMITTEE

Tuesday 10 February 2009

Session 3

£5.00

Produced and published in Scotland on behalf of the Scottish Parliamentary Corporate Body by RR Donnelley.

CONTENTS

Tuesday 10 February 2009

FINANCE COMMITTEE
† 4th Meeting 2009, Session 3

CONVENER

*Andrew Welsh (Angus) (SNP)

DEPUTY CONVENER

*Jackie Baillie (Dumbarton) (Lab)

COMMITTEE MEMBERS

*Derek Brownlee (South of Scotland) (Con)
*Joe FitzPatrick (Dundee West) (SNP)
*James Kelly (Glasgow Rutherglen) (Lab)
*Alex Neil (Central Scotland) (SNP)
*Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD)
*David Whitton (Strathkelvin and Bearsden) (Lab)

COMMITTEE SUBSTITUTES

Roseanna Cunningham (Perth) (SNP)
Murdo Fraser (Mid Scotland and Fife) (Con)
Lewis Macdonald (Aberdeen Central) (Lab)
Liam McArthur (Orkney) (LD)

*attended

THE FOLLOWING GAVE EVIDENCE:

Jonathan Dennis (Forestry Commission Scotland)
Dave Gorman (Scottish Environment Protection Agency)
David Henderson-Howat (Forestry Commission Scotland)
Susan Love (Federation of Small Businesses)
Alec Millar (Scottish Government Directorate for the Built Environment)
Fiona Page (Scottish Government Climate Change and Water Industry Directorate)
Kevin Philpott (Scottish Government Environmental Quality Directorate
Philip Wright (Scottish Government Climate Change and Water Industry Directorate)

CLERK TO THE COMMITTEE

Mark Brough

SENIOR ASSISTANT CLERK

Lewis McNaughton

ASSISTANT CLERK

Allan Campbell

LOCATION

Committee Room 2

† 3rd Meeting 2009, Session 3—held in private.

Scottish Parliament

Finance Committee

Tuesday 10 February 2009

[THE CONVENER *opened the meeting at 14:03*]

Climate Change (Scotland) Bill: Financial Memorandum

The Convener (Andrew Welsh): Good afternoon and welcome to the Finance Committee's fourth meeting in 2009, in the Scottish Parliament's third session. I ask everyone to turn off mobile phones and pagers.

Agenda item 1 is oral evidence on the financial memorandum to the Climate Change (Scotland) Bill. The committee agreed to adopt level 3 scrutiny of the memorandum, which means that, as well as seeking written evidence, we will take oral evidence from affected organisations and the Scottish Government's bill team. The written evidence forms paper FI/S3/09/4/2.

I welcome Dave Gorman, the head of environmental strategy at the Scottish Environment Protection Agency, who forms the first of three panels of witnesses. He will make a short opening statement.

Dave Gorman (Scottish Environment Protection Agency): Thank you for the opportunity to give evidence. I remind members that SEPA is the national environmental regulator for Scotland. We do two principal tasks. We monitor and report on the state of the Scottish environment, and we use our regulatory powers, along with our submissions to the planning system and support to businesses, to protect and improve the environment. As part of that, we have an interest in climate change.

The Convener: I invite questions from members. Alex Neil and David Whitton have been designated to lead on the bill, but other members are of course welcome to ask questions.

David Whitton (Strathkelvin and Bearsden) (Lab): Mr Gorman, were you responsible for the written submission from SEPA?

Dave Gorman: Yes—I produced it along with my colleagues.

David Whitton: That is fine—that makes life a lot easier, because you will know what is in the submission.

SEPA's written evidence says that the financial memorandum contains nothing on invest-to-save programmes or funding to promote programmes to reduce carbon emissions. Is that a startling omission?

Dave Gorman: We thought that it would be useful to describe in our submission some of the plans that we have in place, so we provided figures on what we are doing. However, that work is not driven by the bill. SEPA feels that it needs to lead by example, so we have joined the Carbon Trust's local authority carbon management programme. Our evidence shows the targets and costs that result from that.

I am not sure whether we are saying that a huge problem exists, but we wanted to draw the issue to people's attention. Much of the investment to drive down carbon emissions makes sense for energy costs, too. Sometimes, the issue for us—we do not know whether it applies to other organisations—is finding enough money as quickly as we would like to invest to make such savings. We are not necessarily saying that a big problem exists; we are simply pointing out that, for organisations such as ours, the numbers that we are talking about are fairly chunky.

David Whitton: It could be argued that if SEPA cannot set an example for the rest of Scotland, no one can.

Are the costs that you mention those that are detailed in table 1 of your submission for activities such as replacing roof insulation and cavity wall insulation in your buildings?

Dave Gorman: That is right. We call that our direct environmental impact, which we are trying to find ways to reduce. As you say, if we cannot do that, we are not in a position to lecture others. The costs are for reducing our own carbon emissions.

David Whitton: SEPA's evidence says that some estimated costs—for carbon accounting and so on—do not concur with its experience. Will you say a bit more about that? How far out are the figures?

Dave Gorman: We said that the figures look reasonable, as far as we can tell and given the difficulties of making firm estimates at this stage. However, our experience is of being responsible for implementing several regulatory regimes under the Government's policy of fully recovering from business the costs of operating those regimes. We point out that the costs in the memorandum look like a modest underestimate—some of the figures look like marginal costs rather than full cost recovery.

David Whitton: How do you react to Aberdeen City Council's submission that the memorandum is "vague" about costs, East Ayrshire Council's comment that cost estimates are needed for secondary legislation and East Lothian Council's comment that the memorandum is not helpful?

Dave Gorman: I can give our view, which is that the memorandum is helpful. The difficulty for the Scottish Government is that the bill sets out the framework, but the annual targets have not been finalised. The pathways and some of the policies that are needed have also not been finalised. It is reasonable to have first-cut estimates as part of the financial memorandum.

David Whitton: So you are a wee bit out of step with some other organisations, whose evidence talks about vagueness.

Dave Gorman: I think so, but perhaps that is because we have a lot of experience of implementing European legislation that comes to the United Kingdom and Scotland, when the devil is often in the detail. The costs of different approaches to implementing regulation can be wide ranging. Only as the approaches are narrowed down over time do we produce reasonable cost estimates. It is not unusual for us to narrow down on the costs as time goes on.

David Whitton: The financial memorandum estimates the cost of administering a carbon accounting scheme at about £60,000 per annum. Is that estimate still reasonable, or should it be higher or lower?

Dave Gorman: We have gone out on a limb slightly in that regard—the Scottish Government might want to comment on that. We think that the estimate is a little on the low side, although it is not extraordinarily out of sync with what we would expect. We tried to be helpful by pointing out that some of the costs look a little on the low side. However, the issue is marginal in the scheme of things. Given that we are talking about 1 per cent of gross domestic product, the estimated costs are in the right ballpark.

David Whitton: I think that the £60,000 per annum is a figure for a salary as much as anything else—you will correct me if I am wrong about that. Will no costs be associated with the carbon accounting task other than the salary of the person who does the work?

Dave Gorman: I am sure that the Scottish Government will have more detail. We tried to be helpful on that, too. In our experience, associated costs, such as software costs, are often needed when systems are set up. As I said, the estimate looks a little on the low side, but it is not outrageously low.

The Convener: We are considering 2050—that is futurology. Who knows what will happen next year, never mind in 2050? Are we talking about margins of uncertainty or margins of certainty? Vagueness and uncertainty are surely in-built in the bill, by its very nature.

Dave Gorman: You are right. I alluded to that. I understand that although we have targets for 2030 and 2050, the pathways whereby we will meet the targets have not yet been set. Much of the discussion at macro level is about the right balance between early expenditure and early cost. I understand that the Scottish Government must do much more work to get a handle on some of the costs.

We are not alone in Scotland and the UK in trying to understand the costs; reports that try to do that are constantly coming out. However, there is so much uncertainty about the technology that will prevail, for example, that it is difficult to look forward and decide that one option will be better than another. You are quite right, convener.

David Whitton: I might be putting you on the spot by asking you this. Does Scotland need an independent scrutiny facility? Could not that be done through the UK?

Dave Gorman: What aspect of scrutiny do you mean?

David Whitton: It is suggested that either we get advice from the UK Committee on Climate Change or we set up a Scottish committee. There is a huge difference in cost between opting to be part of the UK set-up and establishing our own committee. The financial memorandum says that being part of the UK committee would cost us £275,000 per annum, whereas setting up a separate Scottish committee would cost £2.5 million per annum.

Dave Gorman: We do not have a direct relationship with the UK committee, but we have been impressed by the quality and thoroughness of its work and by its publications to date. We have seen nothing that suggests that anything is wrong with the process. It is for other people to decide whether the advice that they are getting is adequate for the purposes of the bill, but from our point of view the UK committee has made an impressive start.

The Convener: There are different demographic factors in Scotland and there could be a problem with ensuring that the UK committee can take account of Scottish conditions. Can you guarantee that there will be adequate Scottish input to the UK committee?

Dave Gorman: It is not for SEPA to give such guarantees. The advice will come through the Scottish Government. SEPA can consider what comes in and make a judgment on it privately, but the responsibility for commenting on the adequacy of the advice lies with the Scottish Government. You would have to ask the Government about that.

Alex Neil (Central Scotland) (SNP): East Ayrshire Council said that the lack of detail in the financial memorandum is problematic and referred to the wide range of estimates of the potential cost to local authorities of improving energy efficiency. Will you comment on that?

Although energy efficiency measures require up-front investment, after a period the investment starts to pay for itself, because energy costs are saved. That is a major benefit. Have you estimated the net impact on costs, or the net benefits, over a five or 10-year period?

14:15

Dave Gorman: Your second question is easier for me to answer because we have put such information in our evidence about the local authority carbon management programme, which we have joined. The Carbon Trust runs that scheme. The name gives away the fact that it is principally aimed at local authorities, but we were able to join it. It provides a structured way of considering the opportunities and balancing the costs against the benefits. We considered the measures that we could take on the SEPA estate to get our energy costs down, assessed their cost effectiveness and feasibility and came up with an action plan—which you have—that outlines which actions look feasible and how quickly we can deliver them. We absolutely agree that there are substantial energy efficiency opportunities. If SEPA cannot show leadership in that regard, we should be concerned.

It is much more difficult for me to comment on the first point, as my local authority days are behind me—for the moment, at least. SEPA has 30 buildings if it is lucky, but local authorities may have 500 or more, so managing the direct building stock is clearly a much bigger issue for them than it is for us.

David Whitton: I will take you back a step to the climate change-related duties of public bodies. The bill provides for the Scottish Ministers to impose such duties on public bodies and to identify an appropriate body to monitor whether the duties are being fulfilled. Should SEPA be the monitoring body? If it was, would it require additional funding?

Dave Gorman: We have not given that specific question a lot of thought, to be honest. We found it helpful that the Scottish Government's consultation last year outlined three levels of scrutiny. The first was advice on what the targets and pathway should be. The UK Committee on Climate Change currently provides that. The second level was the reporting on, analysis of and bringing together of physical data. We certainly thought that SEPA could have a role in that regard, and we commented on that. The third role was the assessment of performance. We are less certain that we are the right body for that work because we may be subject to some of the duties that we would be asked to report on.

David Whitton: If you are not sure about that, I guess that I might get the same answer to the question whether SEPA should be the body to monitor whether organisations are achieving their waste reduction and recycling targets.

Dave Gorman: The answer to that question is probably much closer to yes. We might be in the frame for such activity. Although I started out in the waste industry some years ago, it is a while since I was directly involved in it, so I might need to write to you with a bit more detail. Certainly, SEPA has a lot of experience in waste of setting up systems, reporting on data and inspecting and taking enforcement action.

David Whitton: How difficult would it be for local authorities and other organisations to set up monitoring of their waste management plans?

Dave Gorman: It would not be too difficult. As I understand it, the purpose behind the plans is to try to make bodies think through the consequences of, for example, big construction projects in which they might engage. The trick is to include environmental consideration up front. When we do that and people look for the opportunities up front, the costs and difficulties are often not as great as they would be if such aspects were not considered until later in the process.

We do not envisage huge difficulty in putting waste management plans together. The trick will be ensuring that they have an impact as they are written.

David Whitton: Glasgow City Council reckoned that doing away with free plastic bags would cost £3.5 million. How would you monitor whether a local authority was doing away with free plastic bags?

Dave Gorman: I find it difficult to comment on that specific point. The general point is that SEPA has a fair amount of experience of trying to find ways to require businesses that have duties on them to meet those duties, often through education and support. Yes, things have been made statutory and therefore people need to comply, but often the best starting point is to make people aware of the requirements, to publicise them and to try to make people think about them early in their decision making rather than after the event.

David Whitton: Under the various powers in the bill, all sorts of regulations are to be introduced for waste prevention and management, recycling facilities, deposit return schemes, waste data returns, reduced packaging, carrier bag charges and so on. I return to Aberdeen City Council's point that the financial memorandum is "vague" on the costs of introducing all that stuff. I think I am right to say that every local authority that provided evidence is worried about the possible future financial implications. Do you really think that the Government has got the financial memorandum right?

Dave Gorman: I can only give SEPA's point of view, which we tried to make explicit in our submission. We think that the financial memorandum is a reasonable first stab at some of the costs, bearing in mind that the actual costs will depend on the detail. The devil will be in the detail of how the measures are framed, the scope of the duties and powers, and the enforcement regime that is put in place. With all that in mind, we think that the Scottish Government made a good attempt.

We would be concerned if we could not home in on the detail at the regulation stage, but our experience has been that, as we move towards the regulation stage—as opposed to looking at what is in the statute itself—some costs will be firmed up by the regulatory impact assessments. At present, we are reasonably comfortable. As far as we can see, the estimates are good ones, given the available information.

The Convener: You said that the financial memorandum is a reasonable first stab at the costs, but the bill will involve extra monitoring, enforcement and other duties. How well equipped is SEPA for the role in terms of staff and resources? Do you have any thoughts about the resources that will be required for the extra duties that you will be given? Have you estimated the costs that will arise for your organisation if you take on those duties?

Dave Gorman: I am not trying to dodge the question, but again it is difficult to comment without knowing the detail. There are two ways in which SEPA recovers its costs. One way is through the grant in aid that we get from the Scottish Government, but the more common way in the case of regulatory regimes is through the setting up of a charging scheme. There is a process to be gone through at that stage to establish what the costs might be. That usually involves a discussion between SEPA and the Scottish Government about what we think we will need to deliver the measure and whether the costs will be acceptable to the businesses that will pay them. That is a well-understood process that ends up with Scottish ministers approving the charging scheme.

We are reasonably confident that, as we move into the detail via the regulatory impact assessments and then to a charging scheme, that will give us ample opportunities to argue our case.

Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD): Given that the Government has decided to confer on SEPA responsibility for carrying out some of the regulatory functions, have you done any modelling of potential charging frameworks?

Dave Gorman: We have not done so yet, but that will certainly be the next step for us.

To give a specific example, we are the enforcing authority for the pollution prevention and control regulations. Whenever a new process or industry is added to those regulations, we go through a pretty detailed financial modelling exercise to work out what we think the costs might be. There is subsequently a consultation on those costs, and a charging scheme is put together for ministers' approval.

There is a whole process to be gone through. The problem for us at this stage is that it is difficult to do anything to that level of detail without knowing exactly what our duties and the design of the systems will be.

Jeremy Purvis: The reason why I ask is that it does not seem from the financial memorandum that SEPA has done any modelling. It seems that the Government does not have many options for the regulatory body, unless it wishes to establish a new climate change regulatory body. The role can be performed by SEPA, by the local authorities or by the Government itself. With previous legislation, indicative levels have been provided at the financial memorandum stage, but in this case it seems that we are doing unnecessary work, because we are told that all the information will be in the regulatory impact assessments, which will not come to the Finance Committee.

Has the Government asked SEPA to do any work? A range of costs is provided for the options that are laid out, but it does not seem to be informed by information that SEPA has provided as a result of modelling work that it has carried out.

Dave Gorman: I would need to check with my waste colleagues exactly what conversations they have had with the Scottish Government, but I know that extensive discussions have been held. We commented on last year's consultation, and in preparing our submission we talked to waste colleagues. Do the figures look like a reasonable first assessment? In our view, they do. Have we done a lot of modelling at this stage? No. However, I reiterate that if, in due course, the duties in question become our responsibility, we will carry out modelling at that stage.

Jeremy Purvis: I have a specific question on SEPA's interesting point about energy performance certificates. In your submission, you say that the Government should

"clarify the role of w ho pays"

for the costs associated with the production of energy performance certificates. My question is about the range of costs in the financial memorandum. You refer to paragraph 186 of the financial memorandum and identify some of the on-going costs, in which there are huge variations. Depending on the option, the potential cost to the Scottish Government—the cost to the Administration, not the cost to those who will pay the charges—ranges from £0.3 million to £12.4 million. Were you involved in the work that the Government did to produce those figures? There is a colossal variation in the annual cost, which, over the first 10 years following the bill's implementation, could amount to more than £100 million.

Dave Gorman: The simple answer is that we tend not to have direct involvement in building regulation, so we have not done any work on that.

Jeremy Purvis: But we are talking about the cost to the Scottish Government of the administration of an assessment regime. You do assessment work for the issuing of licences and you also do checks, so you have the infrastructure for operating a charging regime. As I understand it, the part of the financial memorandum that we are discussing deals with cost of the administration of an inspection regime, rather than with the costs that could be charged to building owners.

Dave Gorman: Although we can comment on issues that we are familiar with, such as the waste provisions, SEPA does not get involved in areas such as building regulation. Local authorities are responsible for planning and the building warrants system, and the Scottish Government is responsible for the building standards side. It is therefore difficult for us to comment on whether the figures in question are right.

However, you are correct to say that our submission hints at the fact that, as one moves out of areas that we understand, such as waste, to the costs associated with energy performance certificates, there is a great deal of variation in the costs, as the local authorities said. That needs to be considered.

The Convener: We might ask the bill team whom it consulted. That would help.

You are almost off the leash now, Mr Gorman. Do you wish to make any final comments?

Dave Gorman: I have one final comment. I have said several times that the devil will be in the detail. That is the key point for us.

I do not need to tell the committee that the case for taking action is clear. At present, we are still at the framework stage. There will be much greater clarity as we move into the next round of the process, which will involve the setting of pathways, targets and policies. At that stage, organisations such as ours will come back with much clearer information. We have done our best to give you our sense of the financial memorandum, but it has been difficult.

The Convener: The committee knows only too well that the devil is indeed in the detail. We look forward to finding out more of that detail. Thank you for your written and oral evidence and for attending the meeting.

We will have a short suspension to allow the next witness to take her seat.

14:30

Meeting suspended.

14:31

On resuming—

The Convener: I welcome Susan Love, Scottish policy manager with the Federation of Small Businesses. I believe that you wish to make a short opening statement.

Susan Love (Federation of Small Businesses): For the committee's understanding, it might be helpful if I clarify that our primary interest in the bill is in part 5, chapters 3 and 4, which relate largely to what will be secondary legislation.

David Whitton: It certainly simplifies matters if you want to be asked only about part 5, chapters 3 and 4. Before I get there, however, I have a general question. Do you share the concerns that have been expressed in the written evidence about the vagueness of the estimates of the costs of the bill?

Susan Love: I am happy to take wider questions about the bill but, from a small business perspective, it is only the practical implications of chapters 3 and 4 on which we are able to comment.

I am not sure whether the committee has had sight of our response to the Scottish Government's consultation last year, particularly on waste. We made some critical comments about the information on costings that was provided at that stage. We are disappointed with the subsequent level of information that is in the financial memorandum. It is inconsistent, not enough attention is given to the impact on business, I am not sure where partial regulatory impact assessment feeds into it because there appear to be differences in the two sets of information given, and I do not see a separation between policy and administration costs. I am sure that we will go into those points in more detail but, generally, we felt that a lot more could be done at this stage.

David Whitton: I am sure that you heard Mr Gorman's evidence about how SEPA is putting its own house in order on the environment front. How much of that will your members do? I assume that any small business will be trying to keep its energy bills as low as possible and will be doing things such as insulating its premises. That sort of thing is not included in the costs, is it?

Susan Love: Absolutely. It is important to understand that most small business people try to act in their business in the same way that they do in their home. As citizens, they are keen to do that. Our most recent survey evidence suggests that 40 per cent of our members have changed the operation of their business in recent years as a result of climate change. When asked about motivations for making environmental change to their business, the biggest factor that was cited was care for the environment, rather than penalties or regulation. It is clear that there is motivation to change among businesses. You can already see change happening in several areas that are covered in the bill, for example carrier bags.

David Whitton: I am not sure that I share your view that most of your members are doing it because they care for the environment—perhaps that is the kind of box that they tick when they get a wee survey because it looks good on paper. I would have thought that the bottom line is of more interest to any small business than caring for the environment.

Did the earlier evidence that you mentioned say anything about the likely impact on your members of caring for the environment, such as the potential costs of building surveys and calculating their energy performance and so on?

Susan Love: We made the general comment that, until the Scottish Government decides exactly what it wants to do, it is difficult to come up with exact costs. Until we have a policy proposal on the table, it is hard to start examining the different options for different sectors. The bill proposes waste management plans. That appears to refer to site waste management plans, which are primarily for construction—that is the example that is most frequently given in the financial memorandum, whose costings relate to the option that is in force down south.

However, according to the policy memorandum, that could be anything from construction-managed site management plans to complete waste management plans for all business premises. Clearly, those are two completely different things, with hugely varying costs, so until the Government indicates to us which one it wants to go for, it is hard to come up with a precise cost. If the Government goes for the latter option, and every business premises in Scotland has to have a waste management plan, it then has to decide whether it will enforce the recommendations in the plan. Obviously, there are different implications for different groups of our members.

David Whitton: That would bring in the issue of extra regulation. I imagine that you have misgivings about the quantity of new regulation that may flow from the introduction of the provisions in the bill.

Susan Love: That is one of our major concerns about the bill. We would like the Government to be clear about its intentions for regulations for small business, and business generally. That would allow us to design a regime that has the most streamlined impact. What we sign up to is better regulation. We want to ensure that if the Government has a commitment that is in everyone's interests in Scotland, we introduce it in a way that mitigates the impact on small businesses and other vulnerable groups.

As the bill is set out, those opportunities have not been fully exploited. For example, if all business premises are to have energy performance certificates—if that is the option that the Government goes for—and waste management plans, that will be an opportunity to consider streamlining such regulations for business premises. In the waste and energy efficiency sections of the bill, I have counted about six or seven regimes that would require enforcement, paperwork and record keeping. As drafted, the bill makes it extremely costly both to business and to the public purse.

David Whitton: Do you think that the bill is good or bad for business?

Susan Love: It is good for business to think about how it can approach environmental issues. Waste is a key issue for us. We would support any drivers that helped and encouraged small businesses to recycle. The problem is that there is no point in introducing the stick unless there are ways for small businesses to comply with the legislation. One of the major problems associated with many of the duties to recycle is that the facilities simply are not there.

I have been involved in other evidence sessions on the bill, and the consistent message is that unless resources are put into tackling the major infrastructure issues for waste, particularly in local authorities, which are a major waste source for small businesses, there is nothing that small businesses can do. You can give them a duty to recycle, but they will not save money if they cannot do it. Infrastructure costs relating to waste do not appear to be mentioned anywhere in the financial memorandum.

David Whitton: Will you give us a flavour of your membership's experiences of waste collection and management across the country?

Susan Love: The evidence that we have suggests that most small businesses' waste streams are fairly similar to households' waste streams. Most small businesses are not throwing out toxic or hazardous waste; they tend to throw out small amounts of fairly run-of-the-mill general waste and paper. Our evidence suggests that about 80 per cent recycle some of their waste. That figure was 40 per cent four years ago, so there has been progress. The evidence also suggests that local authorities are still key, because they are the main bodies that pick up waste from small businesses. That is a critical point. I know that local authorities are keen to get out of it, but the bottom line is that they are the only ones who will pick up waste from small businesses. If they do not have the facilities to cope with that, I do not see how small businesses can recycle.

David Whitton: In its evidence, the Scottish Retail Consortium was concerned that the waste reduction and recycling provisions would have a serious impact on operational costs for retailers, which reinforces what you have said. From your previous answer, it is clear that the FSB shares the Scottish Retail Consortium's concerns about whether you can offset some of those costs, for example.

Susan Love: My reading of the SRC's evidence is that it has particular concerns about the packaging aspects of the bill, which I suppose is obvious, given its perspective. We have a slightly different take on that. We are not as concerned about packaging in relation to the production and sale of the goods. Most of our members will buy in goods that are already packaged, so there will not be the same supply chain-pressure issues for them.

The issues for our members in retail in particular are to do with the practicalities of measures such as requiring all businesses to supply recycling receptacles for customers and employees. I am thinking particularly of small grocers who are already going to have to change their premises because of licensing and tobacco measures and who will now also have to find room for different recycling receptacles in their shop.

David Whitton: If you could make one suggestion to the Government about the bill, what would it be?

Susan Love: My suggestion would be that it should just decide what it wants to do. There has been a lot of consultation on various options, particularly in relation to waste. It should just decide which options it wants to take, put them into the bill and ensure that the assessment is done so that parliamentarians know what they are voting for and what the costs will be. If it does that, decisions can be taken and everyone can move forward together.

The Convener: I am well aware that small businesses are, by definition, cost and time sensitive and that they are wary of extra burdens being placed on them. How can small businesses play a positive part in climate change measures? What strength can they add to such measures?

Susan Love: Small businesses can do a lot, but they will need support. Many small businesses will come up with the technology that would help other businesses. I know of many businesses that are keen to trial microgeneration of renewable energy. They are also keen to play their part in recycling, but the infrastructure is not always there to enable them to do so. We have worked closely with our members over the past few years to encourage them to play their part. We have produced an energy toolkit for small businesses to take around their business premises and consider how they can become more resource efficient. Small businesses can do a lot and they are interested in playing a role. However, all policy that is directed at the public and small businesses has to be manageable.

Jeremy Purvis: I see that the information on estimating the cost of drawing up a waste management plan is based on information from the Department for Environment, Food and Rural Affairs. Was the FSB consulted, in advance of the Government drawing up the financial memorandum, about the potential costs to businesses of drawing up a waste management plan?

Susan Love: No, although we work closely with officials in the relevant department.

14:45

Jeremy Purvis: The Government information appears to show that the indicative cost of between £350 and £1,600 per waste prevention and management plan is the same no matter whether the Government, a local authority or a sole trader draws up the plan. That is patently absurd. To me, table 8 on page 51 of the explanatory notes looks like a cut-and-paste exercise. What are your thoughts on it?

Susan Love: On the table as a whole or on that point?

Jeremy Purvis: The Government appears to have taken the information from DEFRA. It says that cost depends on project size. How then can the cost estimate for businesses and the Government be the same?

Susan Love: It is fairly obvious that the costs are purely indicative. The table shows costs for three different sizes of building project. Clearly, the size and complexity of the project will affect the development costs.

Jeremy Purvis: Every business may be required to have a standing waste prevention and management plan and not simply to draw up a plan for individual construction projects. One can understand the need for such a plan in the case of major construction projects—indeed, I think that SEPA requires that for some projects. Has the Government given you an indication of the form that these plans might take?

Susan Love: No. As I said earlier, all that we know is what the Government has said in the bill. The duty may apply only to construction-related projects or it may be a general duty on all business premises. My understanding of the costs in the table is that they relate only to site management plans in England and Wales. I understand that no estimate has been done of the cost of requiring all businesses to draw up a general waste management plan. Again, the costs involved in doing that would vary hugely, given that we are talking about businesses that range from a one-person small business to one with numerous and complex sites.

Jeremy Purvis: I guess that the figure could be extrapolated by taking the average cost and multiplying it by the number of businesses in Scotland. How many members does the federation have?

Susan Love: There are 20,000 members in Scotland.

Jeremy Purvis: We would therefore multiply by 20,000 the average cost of between £350 and £1,600 per plan. Surely the total would represent a colossal sum for small businesses.

Susan Love: A cumulative cost for Scotland is given for some but not all items in the table. For example, there is only a cost per business for waste prevention and management plans, which you mentioned; no simple calculation has been done from that of the cost for all businesses. That is what I meant when I spoke about inconsistencies. It would be better if we were to look at the cost for each of the measures across Scotland.

Jeremy Purvis: But the Scottish Government has neither carried out that work nor asked the federation to become involved in modelling costs across the country.

Susan Love: No, but I imagine that we will be asked to contribute to the regulatory impact assessment. However, I would much rather that the Government had already done that work. If it had done that, the committee could have considered the detailed evidence before reaching its judgment.

Jeremy Purvis: It is too late for that.

I turn to chapter 3 on energy performance. Again, we do not know whether the Government will place the requirement on all non-domestic buildings. In table 7 in the financial memorandum, which is entitled, "Potential costs for other bodies, individuals and businesses for each energy performance scenario", the average annual cost varies between £5.3 million and £64.7 million. That is a fairly extraordinary difference. Has the Government told you which scenario is most appropriate for businesses?

Susan Love: No. We have had signals that de minimis exemptions may apply on some measures. We were told that it may not be worth while for small businesses to be included in some of the measures—the benefits may not outweigh the costs. In our view, option 5 of the seven options for environmental performance certificates is the only one that covers all businesses. Most of the other options are for large businesses. I cannot say where the cut-off is; I have not been asked.

The Convener: You may want to follow up in writing on some of the more specific questions.

Susan Love: Sure.

The Convener: Do you want to make a final statement?

Susan Love: No. I may reflect on some of the points that were raised and give the committee a further written response. I think that that might be helpful to the committee.

The Convener: That would be excellent. I have a long-standing interest and connection with small businesses. I thank you for your attendance at committee and for your evidence.

Susan Love: Thank you.

14:51

Meeting suspended.

14:52

On resuming—

The Convener: Our third and final panel of witnesses is made up of members of the Scottish Government's bill team. The panel is larger than normal, which reflects the wide-ranging nature of the bill. I welcome to the committee Philip Wright, Fiona Page, Jonathan Dennis, Alec Millar, Colin Imrie, Kevin Philpott and David Henderson-Howat.

I invite Philip Wright and Fiona Page to make opening statements.

Philip Wright (Scottish Government Climate Change and Water Industry Directorate): The main aim of the bill is to introduce a target to reduce Kyoto protocol greenhouse gas emissions by 80 per cent by 2050. Part 1 of the bill introduces the 80 per cent target and an interim target and establishes a framework for annual targets to be brought forward in secondary legislation. Parts 2 to 4 cover the advice and reporting aspects and provide a power to apply duties to the public sector. Part 5 covers a number of adaptation and mitigation topics that would benefit from new and updated legislation.

Jonathan Dennis, Fiona Page and I are involved in the central climate change policy area, so we will deal with questions on parts 1 to 4; David Henderson-Howat will respond to questions on forestry provisions; Colin Imrie will respond on energy efficiency and renewable heat; Alec Millar will answer questions on non-domestic building provisions; and Kevin Philpott will respond to questions on waste provisions.

Before we take those questions, however, given the interests of this committee, I will say something about the financial and economic aspects of the bill.

There is a need for climate change to be tackled at a number of levels. First, there is a need for continued global action at an international level. We are awaiting the agreement that we hope will be reached in Copenhagen later this year, which will set the scene for future emission reduction efforts and set the pace for action by developed countries. We hope that that agreement will bring in the countries that are not covered by the Kyoto protocol and its emissions reduction targets.

Secondly, as part of the UK, Scotland is bound by what is happening at the European Union level and the measures that the EU introduces to drive forward action to reduce emissions. That is a key issue for the committee to take into account, and we will probably refer to it later in our responses. For example, the EU emission trading scheme is a key part of our regime for reducing emissions as it covers up to 50 per cent of our CO_2 emissions.

Thirdly, we are partners in the Climate Change Act 2008, which requires effort by the UK Government and the three devolved Administrations to reduce emissions.

Finally, we have the Climate Change (Scotland) Bill, on which we are focusing today. The bill represents Scotland's opportunity to drive forward the actions that we need to take to meet the Scottish Government's ambitious target to reduce greenhouse gas emissions by 80 per cent. That will involve effort at different levels by central Government, local government, individuals and, as you heard in the previous evidence-taking session, small businesses. It is important that there is interaction between the EU, the UK, the Scottish Government, local government, the public sector and individuals.

It is important to bear it in mind that parts 1 to 4 of the bill contain a framework for future action. It is obvious from the earlier panels' evidence that a lot of detail still needs to be filled in, but we are happy to do what we can to help.

The Convener: Does Fiona Page wish to add anything?

Fiona Page (Scottish Government Climate Change and Water Industry Directorate): I think that Philip Wright covered it all.

The Convener: Thank you for your assistance in organising your responses according to subject responsibilities and expertise.

David Whitton: I presume that Mr Wright will answer this question. How do you respond to the comments in the submissions from Aberdeen City Council and others about the vagueness of the estimates of the costs that they will face?

Philip Wright: To be frank, I was surprised by Aberdeen City Council's response. There is a more balanced view in the other local authorities' responses, and a better appreciation of what we are setting out to do with the general provisions of the bill. Climate change is a complex area. When you ask us specific questions about the costings and the economics, we will address those, but I do not think that Aberdeen City Council's response was helpful.

David Whitton: To be fair to Aberdeen City Council, it is not alone. East Ayrshire Council, East Lothian Council, Glasgow City Council and Fife Council, which are not all under the same party's control, all made much the same comment that things are a bit vague.

Philip Wright: I was certainly not making a political point. I agree that some other local authorities picked up on the point about detail, but a number of them had a general appreciation of the complexity that is involved in providing detailed costings for the implementation of the general provisions of the bill.

David Whitton: What steps is the Government taking to try to alleviate the local authorities' concerns?

Philip Wright: We are taking a number of steps. We now have the Committee on Climate Change's advice, which came out in December. That relates to the UK act, but it will help to inform our contribution. That committee identified a range of abatement options, considered their cost effectiveness and examined a range of other factors in coming forward with its advice.

We also commissioned research from a firm of consultants to identify the abatement options that will be available to Scotland in the next 40-odd years. That report is now in the public domain. Using it as a starting point along with the Committee on Climate Change's advice, we are producing what we call a strategic overview of the available abatement options in Scotland. However, we also recognise that contributions will come from EU and UK policies. The process is under way.

15:00

David Whitton: When will the strategic overview be available to local authorities?

Philip Wright: We hope that it will be available towards the end of the first half of the year—around about June or July.

David Whitton: This year?

Philip Wright: Yes.

David Whitton: I am sure that you are aware that the Parliament will debate the local government settlement tomorrow—it might or might not get through; who knows?

Joe FitzPatrick (Dundee West) (SNP): Is that a threat?

David Whitton: No, no, far from it.

In their submissions, Glasgow City Council mentioned the contribution that Glasgow makes to Scotland's GDP, and Highland Council said that the unique geography and climatic conditions of the Highlands might give the council more problems. How will the various costs on local authorities be accommodated in their funding allocations?

Philip Wright: Do you mean in the context of the bill?

David Whitton: Yes.

Philip Wright: I cannot give specific information. We have not considered the issue at such a level of detail. For parts 1 to 4 of the bill, we have tended to consider the macro level, with the exception of some points of detail on additional costs.

David Whitton: That explains why local authorities are a wee bit worried. If they do not know what assistance they will get from central Government, they will be reluctant to follow procedures that you are laying down.

Philip Wright: You are focusing on local government, but there will be a broad sweep of measures and not only local authorities but the power sector and the manufacturing sector will contribute to reducing emissions. Local authorities will have a contribution to make, but we do not quite know what form that contribution will take. In part 5, we set out some policies that might in future contribute to reducing emissions, but there is nothing overly specific in the bill.

Highland Council commented in its submission that the carbon reduction commitment would cost £0.5 million. Other councils mentioned such costs, too. However, that is only part of the story. The carbon reduction commitment is an interesting measure in that it is fiscally neutral. Highland Council might pay out £500,000 for allowances, but there is every possibility that the council will recover that a year later, when it has performed on energy efficiency and achieved emissions reductions. The approach could be cost neutral to the likes of Highland Council.

David Whitton: You said that the strategic overview will be available in June or July. Have the costs of delivering the 2050 target been revised in light of the overview?

Philip Wright: We are working on the matter with colleagues throughout the Scottish Government, given that there will be an amalgam of abatement effort in the energy, transport and agriculture sectors. Work is in progress and the overview will be published by the summer.

Jonathan Dennis (Forestry Commission Scotland): It is fair to say that, so far, we have tried to consider the bigger picture first. We accept that considering the macro level takes us only so far and we are looking to put in place secondary and more detailed analysis, such as the work around the AEA Technology report, which Philip Wright mentioned, and other pieces of work. We are considering more detailed costings, but we thought that it was important first to try to box in the probable costs in a macro sense and then to consider more detailed information as we go forward.

The Convener: We have been told that the estimated costs are only proxy figures, which are arrived at by disaggregating UK figures. In studies that you have done, how do your figures compare with the estimated costs of meeting the 2050 target, which are based on disaggregating UK costs?

Jonathan Dennis: It is fair to say that the work is based on UK figures. The Stern review considered costs in the global context. Work that has been undertaken at UK level has considered UK aggregates, as you said. Beyond that, we instigated a couple of pieces of research on Scotland-specific data. We realise that, in certain policy areas, such as transport, housing stock and agriculture, there are significant differences in Scotland. So far, we have undertaken two pieces of work that examine Scotland-specific data. Both of those have been published and further work is now under way to consider in more detail not only the 2050 target but the mid-range targets around 2030.

It is all part of a jigsaw. We considered whether the costs look okay from a UK perspective and then whether they are appropriate from a Scottish perspective. Now we are undertaking more detailed work on costs using Scotland-specific data.

The Convener: The trouble with the forward planning is that, as we get closer to the reality, we do not want to continue with figures that do not appear to fit into the Scottish pattern. However, getting a better picture for Scotland will depend on whether you can roll out other figures. I presume that that work is under way.

Philip Wright: I will fill in some of the detail again. The bill sets out the general trajectory through to 2050, but a key provision is the requirement on the Scottish ministers to introduce annual targets. If the bill is passed, ministers will be required to do that by some point next year. When we produce those annual targets, we will say a lot more about how we will achieve them, which will take us through to about 2020. There will certainly be a lot more detail at that point.

The Convener: I am concerned to ensure that the annual targets are appropriate to the Scottish situation rather than being extrapolated from UK figures.

James Kelly (Glasgow Rutherglen) (Lab): I have questions on the figures that are in the financial memorandum and the work that is being done on the strategic overview. Has the Government made any projections of the likely energy mix between now and 2050 and the likely costs per megawatt hour?

Jonathan Dennis: The work that has been undertaken on the likely 2050 energy mix has now been published, and we are happy to point the committee towards that information. That work involved the consideration of various options for the renewable energy strategy, such as carbon capture and storage and the place of coal and gas in the energy mix, as well as the potential additional costs of introducing more renewables or carbon capture and storage.

Having had that overarching consideration, we are now trying, as part of the strategic overview, to drill down into the specifics of the options to identify how deliverable and achievable each is and the timescale under which it could be delivered. As part of the bill process and the production of the annual targets, it is important to know when the options might come on stream.

James Kelly: Are there different scenarios in the energy mix projections, or do you have a specific set of energy mix targets for the run-up to 2050?

Jonathan Dennis: Two complementary reports have been published. One, which is more specifically about energy, examined the range of options from heavy coal to heavy renewables and the introduction of carbon capture and storage. It tried to capture the range of energy mixes that are available to us. We did not focus deliberately on one scenario but considered the range of options.

James Kelly: To be topical, how did nuclear power feature in that?

Jonathan Dennis: We included the existing nuclear power stations to the end of their lives. From that point onwards, no additional nuclear capacity was included; after the end of their lifespans, the existing nuclear power stations were replaced with renewables and carbon capture and storage. We tried to capture the realities and consider the longer-term picture of the energy mixes.

James Kelly: I appreciate that it is a complex matter. You said that a couple of pieces of work are going on. How has that work fed into the calculation of the cost of delivery as £1.7 billion at 2005 prices?

Jonathan Dennis: That costing relates to a piece of research that was undertaken and which has now been published. We considered all sectors in the Scottish economy—not just energy, but agriculture, transport, housing and so on—so that we could start to drill down and consider whether what has been widely proposed in the UK context is achievable in a Scottish context, what the cost might be and how everything might come together to deliver the wider targets in the bill. That overview exists; in the strategic overview that we are undertaking we are moving on from initial costings to the next level, to ascertain whether what is proposed is achievable and whether the costings are appropriate.

James Kelly: I want to be clear about this. The £1.7 billion figure in the financial memorandum was derived from a particular piece of work, but other work is going on and the figure will be updated as that work develops.

Jonathan Dennis: That is the case. The financial memorandum reflects the most up-to-date published work that we had when the bill was introduced. The strategic overview will give us a finer level of detail and will provide a credibility check on the costings in the financial memorandum. We will consider whether the costings are appropriate and whether there are alternative options.

Fiona Page: Mr Kelly made a valid point. Much work is going on. The Scottish Government has been leading on a number of studies, which Jonathan Dennis and Philip Wright talked about. We have also been waiting for the publication of key reports and advice, such as the report of the UK Committee on Climate Change. That report was published in December and is a very important empirical piece of work, which will set many of the ground rules, not just for the UK legislation but potentially for what we do in Scotland.

It is a case of getting everything lined up. First, we needed a number of things, such as the UK committee's report. We need the UK Government to respond to the report and to agree the emissions budgets to which it will sign up under the Climate Change Act 2008. Work on our strategic overview builds on the report that we published in November. That report, which is referenced in the financial memorandum, is where the £1.7 billion figure came from.

Many pieces of information are part of the jigsaw, and it is difficult for us to leap-frog over things that are not yet in place. That is why it is a challenging task for the committee to consider the financial memorandum as it stands. We will be more informed as things progress. When the strategic overview is finished and we know what the UK emissions budgets will be, we will have a much clearer idea of the pace of activity that will be needed. We will be able to add another level when we bring forward our annual targets, which we hope will be put in place through regulations in June 2010.

The Convener: You describe challenging work, which is being approached in logical steps.

Joe FitzPatrick: David Whitton talked about the allegations of vagueness in the financial memorandum. Susan Love told the committee that the FSB would have preferred details on waste to be in the bill rather than in secondary legislation. By how long would the bill's introduction have been delayed if there had been an attempt to include all the secondary detail on that huge area?

Kevin Philpott (Scottish Government Environmental Quality Directorate): I do not know, but the delay would have been considerable. There are things in the bill that are not without precedent. For example, on waste data, there are currently regulations in secondary legislation; site waste management plans exist in England and are based on secondary legislation; and there are deposit and return schemes elsewhere—one in Denmark was introduced in 54 pages of secondary legislation, doubtless written in deathless Danish prose. It would not be proper to reproduce such stuff in the bill, and doing so would have delayed the bill's introduction considerably.

The other point to make is that we are not doing things once and for all. Regulations on waste provision, for example, will have to be amended from time to time. Also, if markets for recyclates improve, we might be able to add more of them to plans. It would be inconvenient—to say the least—to have to take such action through primary legislation every time. We need the power to do it through secondary legislation.

Fiona Page: On the climate change targets, we would probably have had to delay the bill by about 18 to 20 months if we wanted to bring forward the annual targets at the same time as the bill. At the very earliest, you would have received the bill in September or October 2010.

15:15

Joe FitzPatrick: Would that have made it difficult for us to achieve the 2050 target?

Fiona Page: It would, but we are talking about a longer-term trajectory. Through the bill, we are trying to set the long-term framework and to recognise that the Scottish Government is serious about climate change and wants to have specific Scottish legislation on it. We could just have sat back, given that we are covered by the UK Climate Change Act 2008 through the legislative consent motion that was agreed in the Parliament about 14 months ago. It is a bold step to introduce Scottish legislation that goes further than the UK act in recognising the important role of international aviation and shipping emissions.

More important, we are getting the legislation on to the statute book and getting you talking about climate change. We hope that that will get the public more engaged, because climate change is a very serious issue for you and for future generations. Introducing our own legislation gives us the opportunity to open up the debate, have the discussions that we need to have and acknowledge that we all have to play our part in tackling climate change.

Philip Wright: I want to reinforce something that I said at the outset. This is a difficult time for us to introduce the bill, because the global position is in a state of flux. We are waiting for an international agreement to be reached at Copenhagen. The EU has already committed to a 20 per cent reduction in emissions across the EU. If agreement is reached at Copenhagen, that will increase to 30 per cent.

That is reflected in the advice from the Committee on Climate Change, which offers two budgets: an interim budget and an intended budget. One is based on the 20 per cent target and the other is based on the 30 per cent target, and they reflect the measures that will be developed at EU level to deliver either a 20 per cent or 30 per cent reduction. That will impact on the UK and on Scotland. The level of ambition at EU level is key to the level of effort that will be required in the UK and Scotland. For example, transport emissions are problematic. We will rely on car technology standards to bring about emissions reductions—the main reductions will come from that area. Product standards are EU driven. We need the EU to deliver the potential transport emissions reductions.

The Convener: We are seeking islands of knowledge in a sea of complicated uncertainties.

Derek Brownlee (South of Scotland) (Con): We all appreciate the uncertainties that you are dealing with and understand the difficulties that you faced in drawing up the financial memorandum. Obviously, we face the converse difficulty, as we are trying to scrutinise the financial memorandum. The most material number is the impact on GDP—the £1.7 billion, or whatever it is. In drawing up the bill, did you consider regular reporting on the impact of its measures on GDP?

Fiona Page: That is a fair question. We have set out in detail in the bill the kind of information that ministers would want to be reported on, which generally is performance driven in relation to reducing greenhouse gas emissions and related activities around energy and electricity. We did not consider regular reporting on the impact on GDP because it is quite difficult to determine Scottish GDP. My economist friend Jonathan Dennis will be able to keep me on track with this, but GDP figures are generally UK based, and it is very difficult to extrapolate to obtain Scottish GDP numbers. I suppose that it would be possible to measure Scottish GDP, which is what we would report on and refer to, but I think that our solicitors would be worried about placing an obligation on the Scottish ministers in primary legislation to report on it, because we would have to define exactly what we meant, given that UK GDP would be different from what we would view on the Scottish side.

I do not know whether Jonathan Dennis wants to say anything about the challenges.

Jonathan Dennis: No, the challenges are fair. The Committee on Climate Change will examine the impact of emissions on GDP as part of its annual report, and we will rely heavily on its advice. We have seconded an economist to work with the committee to input into the Scottish elements. Undoubtedly, we will look to the committee to see the impact in a UK sense, but we will also seek to identify whether the impact is likely to be different in Scotland.

Fiona Page: We will have the power through some of the provisions to amend what ministers are obliged to report on. If it were felt in future that it would be beneficial to assess the impact on GDP, ministers could bring that forward.

Derek Brownlee: I appreciate that it is technically difficult to produce the figures, but if the impact on GDP is the largest cost of the bill, and if it is difficult to extrapolate the data for reporting purposes, it is difficult to assess the potential impact of the bill. We need a methodology for extrapolating the data in the first place. We have all the very laudable reporting regimes for carbon units, which are fair enough, but if we do not try to measure the bill's impact on GDP, it will be difficult to form a view on whether we are pursuing the most cost-effective way of reducing carbon emissions or whether we are missing opportunities.

It is difficult to measure the potential cost to the economy. By your own admission, the biggest impact will be on GDP. This is not an academic exercise; it is relevant to the cost of the bill to Scotland plc and the private and public sectors. Should not the impact on GDP be part of the reporting mechanism, even if we are only taking a best stab at it? Should we not at least try to measure the impact not only of carbon emissions but of the year-on-year costs of reducing them?

Philip Wright: I will try to answer that. When we set annual targets, which will be the subject of a statutory instrument under the affirmative procedure, part of the process will involve a set of policies to deliver those targets. When we come to look at the targets in a bit more detail, we will give more information about costs, which will give a much better picture of the cost implications, certainly for the first 10 years. After that, the path is still open, although we will have started to narrow it down. A lot more information will be available between now and 2020, but the picture will be fuzzier after then, because the pathway is not clear. However, you will have a lot more information about costs after summer 2010.

Fiona Page: It is important to recognise that section 4(4) details all the key criteria that the

Scottish ministers will have to be aware of when setting the annual targets. Many of those criteria are fiscal and economic, but they go further and require ministers to take account of, for example, Scotland's special circumstances, such as our remote and rural communities, which go far beyond what the rest of the UK experiences. The criteria include a wide range of circumstances and ministers will have to take account of them. As a result, the advice and expert guidance that ministers will be required to obtain before they set the annual targets will have to consider those criteria.

Jeremy Purvis: I want to go back to some of the information that we received from previous witnesses. I was struck by the information about energy efficiency and waste management, and some of the requirements on local authorities and businesses. Just so that I am clear in my mind, when did the consultation conclude and when did you start making policy decisions about what was going to be in the bill?

Fiona Page: The consultation on parts 1 to 4 ran between January and March 2008. If I recall correctly, we published the analysis of the responses around 20 August and ministers published their response to the consultation with their views of what was likely to be in the legislation on something like 27 October.

Jeremy Purvis: I am looking at the seven scenarios for the EPCs and the scenarios that will affect waste management—

Fiona Page: I am sorry to interrupt, but I should let you know that there were separate consultations on the provisions that you are about to talk about. A consultation on the energy efficiency of non-domestic buildings was run separately from the consultation on the bill. There was also a zero waste consultation, which again was separate from the consultation on the waste provisions in the bill. If you would like to know the dates of those consultations, my colleagues can give them to you.

Jeremy Purvis: It would be helpful to know when they were concluded.

Alec Millar (Scottish Government Directorate for the Built Environment): The consultation on improving the energy performance of existing non-domestic buildings was opened on 2 September and closed on 25 November last year. The report is being completed, and we are currently analysing the responses.

Jeremy Purvis: So nothing would have been held up if further work had been carried out with the Federation of Small Businesses, for example, on the cost to small businesses. The Government has not actually concluded its work, so it is a bit of a red herring to say that further work would have delayed the bill considerably.

Fiona Page: It depends on what you are asking. If you are asking us to engage more with stakeholders on a specific provision, such as the energy efficiency of non-domestic buildings or the waste provisions, that work would be separate from further work on parts 1 to 4, which contain the main targets and purpose of the bill. There will be opportunities for further engagement when we get the additional advice and finish the strategic review, when we know what we are doing under the UK emissions budget, which we are part of, and when we propose our annual targets.

Jeremy Purvis: This committee is considering the financial implications of the bill. The bill presents seven policy options with hugely variable costs, without any modelling having been carried out of the potential impact on the economy or the efficacy of the options in relation to the environment. There are seven policy options, but no policy decision has been taken about whether any of them could be excluded.

Fiona Page: You mean the seven scenarios for the non-domestic building energy efficiency provision in chapter 3 of part 5.

Jeremy Purvis: Yes. As I understand it, the provisions on waste prevention and management plans could apply to every business in Scotland annually or they could exclude almost all businesses in Scotland in perpetuity. The secondary legislation provisions are so broad that there seems very little point in them being in the bill. However, I want to return to the huge variation in the seven policy options, because they have caused local authorities and businesses considerable concern.

Alec Millar: The costs that were established in the consultation and brought in to the financial memorandum were prepared by the Building Research Establishment for those scenarios that we set out. They cover the one-off costs to the Scottish Government of setting up each scenario, but they also cover the annual costs, which depend on the scenarios. The scenarios range from covering only larger buildings to all public buildings or all buildings. They also cover the variation between carrying out certificate assessments and just recommending measures that could improve building performance or making the uptake of those recommendations compulsory. The scenarios cover quite a wide range of possibilities, and they gave those whom we consulted a broad picture of the alternatives. We are taking advice on what we got back and reporting to ministers on how we should progress. We are hoping to find a way forward for the next stage of the bill.

Jeremy Purvis: Was the information provided by the Building Research Establishment public, and was it provided to all local authorities and business organisations?

Alec Millar: It was placed in the partial regulatory impact assessment within the consultation document.

Jeremy Purvis: Was it the full information?

Alec Millar: Yes.

Jeremy Purvis: So why did businesses feel that they were not consulted on the potential impact and the variations? No modelling was carried out for businesses on the variation in costs, which, depending on the policy position that the Government takes, range from £5.3 million to £64.7 million.

15:30

Alec Millar: That is correct—the information was in the partial regulatory impact assessment.

Jeremy Purvis: I have one further question on the information that has been presented on the potential secondary legislation on waste prevention and management plans. I presume that the secondary legislation will clearly state which body will act as the enforcement authority.

Kevin Philpott: Yes, it will. With regard to the waste prevention and management plans—and all the waste provisions—not only have we not decided on the exact form that the regulations will take, we have not yet decided whether they will be made at all. The cabinet secretary, Richard Lochhead, made that point at the Rural Affairs and Environment Committee last week. At this stage, we hope that voluntary work might achieve a lot of the outcomes that we seek. At present, Scottish planning policy 10 encourages people to make site waste management plans, although the uptake so far seems to have been disappointing.

It is conceivable—the cabinet secretary was quite open about this—that the backstop of potential secondary legislation will encourage people to think more carefully about voluntary action. If we make regulations, they will establish which body will act as the enforcement authority.

Jeremy Purvis: So the proposed secondary legislation is, in effect, a threat.

Kevin Philpott: I would not use that word.

Jeremy Purvis: Part of our work involves considering the impact of the bill on the public purse and on those whom it will affect. There might as well be a blank cheque, given that one aspect could relate to every business or no business in Scotland, and another major aspect might never happen at all. We have been asked to scrutinise the bill and its financial memorandum. I am sure that we could have used our time for other activities, given that the legislation might not actually be used at all.

Kevin Philpott: I agree that it might not be needed at all, but if it is not, it will be because voluntary action has succeeded. If voluntary action does not succeed, we will need to do something, which is why we need the powers. It is no good for us to say in five or 10 years' time, "We need the powers—where is the bill?"

Jeremy Purvis: Would that not be for Parliament to decide at that stage?

Kevin Philpott: It is certainly for Parliament to timetable its bills, and Parliament has timetabled the Climate Change (Scotland) Bill. I think that most people accept that waste and resource use is closely linked to climate change, and the bill is therefore an appropriate vehicle to take forward waste provisions. There is not, at present, another vehicle that can take forward the type of waste provisions that we might need.

Jeremy Purvis: Mr Wright, do you really believe that local authorities have a full and accurate estimate of the cost that will fall on them when the bill is enacted?

Philip Wright: Considering the bill as a whole, and the response that you have received from the panel so far, you would probably be correct in thinking that I do not. The cost depends on the exact nature of the regulations that may be made 10 or 20 years down the line, if they are made at all.

We know for a fact that towards the end of the 40-year period it will be much more difficult to squeeze carbon out of the system. We will go for the easy and cost-effective hits over the first 10 or 20 years, but as we move towards 30 and 40 years it will become more difficult. We might have to turn to more regulatory measures and enforcement action to squeeze out the necessary carbon to achieve the 80 per cent reduction. The bill provides a framework and some building bricks that we might use in the future, but it is not possible at the moment to state with precision the cost implications for local authorities and others, because we are introducing enabling powers.

Fiona Page: It is also fair to say that the bill should not be the only thing that drives forward action in public bodies, local authorities, businesses and homes across Scotland. At the individual level, people can change their behaviour and take simple energy efficiency steps, which, frankly, they should be doing now. The bill may act as a stimulus and encourage people to do those things, but action will need to be taken at different levels in the future.

Local authorities are busy bodies, and I have full confidence that they have asset management plans in place, that they take facilities management seriously and that they will develop upgrade plans for certain equipment, where necessary. For example, they could introduce low-carbon technologies and invest in better boilers when they need to replace them. That kind of thing can be done now, at very little cost, and does not require primary legislation.

It is important that we take early action on climate change now. Besides setting the targets, the bill contains a number of other measures that make part 5 quite long and protracted. I appreciate that it is difficult for everybody to consider the bill to the level of detail at which we would like it to be considered. We are introducing measures now to address certain things that we hope will happen voluntarily but which may not. We will probably need a powerful stimulus at later stages, when things become harder to do, which is why the bill contains the waste provisions that Kevin Philpott talked about and the public sector duty provisions. It is all part of the big picture and aims to ensure that everybody plays a fair part. Nevertheless, Mr Purvis raises some reasonable questions.

The Convener: I presume that there is no model that you can follow in the work that you are doing. The same problems that arise at the Scottish level and at the UK level would be faced by anybody who tried to deal with the complexities that you are addressing.

Fiona Page: Absolutely. We are learning and will be part of the UK model through the emissions budgets approach. However, we are going a step further in Scotland. Frankly, we are doing something an awful lot harder and much more challenging for ministers. We are setting annual targets that are much more challenging and that we are much less likely to achieve if we do not ensure that the right things happen. We will learn from what is happening at the UK level—we will take the same steps as the UK and be bound by the UK Climate Change Act 2008—but we will have to do additional things in Scotland, because we are taking a slightly different and, frankly, more demanding but potentially more successful approach.

The Convener: Can you give us an approximate timetable for the implementation of the energy efficiency measures?

Alec Millar: Once the bill is enacted, subject to ministerial approval we will produce regulations covering particular types of buildings, which will be based on research to ensure that the regulations are robust. We will then give the organisations whose buildings are affected around two years to obtain an assessment certificate and then perhaps a further two years to implement any measures that the certificates require. Such measures will be mandatory rather than recommended. We are probably talking about four years. Time is of the essence.

The Convener: Will those measures be included in the first batch of annual targets, in 2010, and will they be funded through the current spending review?

Philip Wright: It is intended that the first of the annual targets will kick in in 2010. There is every possibility that, if ministers decided to proceed with the regulations on non-domestic buildings, they would be caught within the first 10 years of annual targets. The targets would reflect the emissions reductions that we expect from buildings, and the regulations would be part of that package. The current spending review continues to 2011, and the measures would come in shortly after that.

David Whitton: In case you thought that your afternoon had been wasted, Mr Henderson-Howat, I would like to turn to forestry. I believe that you are the forestry expert.

The financial memorandum refers to transfers from the Forestry Commission. On joint ventures, the estimated costs are £0.5 million this year and £0.5 million next year, with a potential net income of £10 million by 2012 and £30 million by 2020. I am sure that you have seen the evidence from the Confederation of Forest Industries, which questions those income figures. Will you give us a bit more detail on how you reached those estimates?

David Henderson-Howat (Forestry Commission Scotland): At present, the Forestry Commission has power to lease land only for renewable energy projects. At current gross bundled electricity prices, a 150MW wind farm could deliver about £3 million of income per year, if 7 per cent of the gross income was paid on the lease. A lot of research has been carried out into the potential use of Forestry Commission land for renewables developments, particularly for wind farms, but also for hydro. It is reckoned that, at present, about 1.3GW of developments are either committed or subject to option agreements and that there is scope for considerably more development. That is the basis of those numbers.

The point about leasing versus joint ventures is that, as I said, at present, we can only lease land and we do not have powers to set up joint ventures. Our colleagues south of the border in England and Wales can set up joint ventures, which means that, when they are in negotiations with developers, they have more strings to their bow, as they have the option of leasing or a joint venture. At present, developers know that we can only go down the leasing route.

David Whitton: The financial memorandum refers to the intention to release capital from the forest estate by letting timber-cutting rights, the income from which would depend on a variety of factors. As paragraph 180 points out, one option that is being evaluated is a 75-year lease of 100,000 hectares. Will you clarify how much of the £850 million of national forest estate it is intended will be released for timber cutting?

David Henderson-Howat: As you will be aware, a consultation exercise on the forestry provisions in the bill has just concluded. Many representations have been made to the Scottish Government about the terms and conditions that might be included in such a lease. Clearly, the income from a lease will, to an extent, depend not only on the area that is let but on the terms of the lease and other issues, such as what might or might not be said about future timber marketing agreements. Another factor affecting the value of a lease, if leasing were to go ahead, would be the lessee's anticipation of future timber revenues or development values. As with anything looking ahead, there is a degree of uncertainty. Subject to those factors, we are talking about a sum in the range of £150 million to £200 million.

David Whitton: Has a business plan been prepared by the Forestry Commission on that?

David Henderson-Howat: Ministers launched the consultation exercise on 4 November. In parallel, we were asked to carry out what they call an options review, on which we will report to ministers by the end of this month. As part of that exercise, Forest Enterprise has considered in detail the sort of areas that might be suitable for leasing, bearing in mind that the intention was to identify areas that had relatively less value for recreation and conservation but good commercial value. The process has identified about 100,000 hectares or so in Argyllshire and the south of Scotland. That is being considered as part of the options review.

David Whitton: I am a bit confused. Is there a business plan or is it just an options review?

David Henderson-Howat: The options review will include the type of financial analysis that one would expect in a business plan.

David Whitton: So we should see some hard numbers on expected income from such a lease.

David Henderson-Howat: As I said, the problem with expected income from a lease is that we are always in the realm of uncertainty. If someone takes on a lease for 75 years, the amount that they are prepared to pay for it depends on their expectations of timber prices over the period. One need only look at how timber prices have moved even in the past five years to see how much they fluctuate.

David Whitton: Does the options review predict what such a lease would do to the Forestry Commission's financial viability?

David Henderson-Howat: The need to take a view on that is an important element in considering a lease. Before entering into any lease, it would be essential to set a reserve price, which would be the bottom line. In effect, we would set that by valuing how much the assets are worth to the Forestry Commission at present and factoring in additional costs that might be associated with leasing, such as paying grants to the lessee.

15:45

David Whitton: The financial memorandum also says that consideration is being given to

"transferring cutting rights receipts to a membership-led body",

but that you have not yet developed any detailed proposals. Do you have any further information on the consultation that is taking place on that?

David Henderson-Howat: That is part of the consultation exercise that I mentioned. I cannot recall any consultees who gave unconditional support for the idea of a trust.

David Whitton: No, indeed. I suppose that the options review will include any associated costs of setting up such a body.

David Henderson-Howat: That is right.

David Whitton: Sorry, but will you remind me when you are expected to get back to ministers? Is it the end of this month?

David Henderson-Howat: The deadline for the options review is the end of the month.

The Convener: I will draw the proceedings to a conclusion. We have rightly covered in detail a substantial range of topics. Any issues that have not been covered can be followed up in writing. Do our witnesses have any final comments?

Fiona Page: I have no specific comments, but I want to thank the committee. I appreciate that the financial memorandum is particularly challenging for you. It has taken us into a new arena. I thank members for their patience in taking us through the questions.

The Convener: The committee likes a challenge. I thank all the witnesses for their expertise and evidence.

I suspend the meeting for a moment to allow our witnesses to leave.

15:47

Meeting suspended.

15:48

On resuming—

Scottish Local Government (Elections) Bill: Financial Memorandum

The Convener: The second item on our agenda is to consider our approach to the scrutiny of the financial memorandum to the Scottish Local Government (Elections) Bill. Members will see from the clerk's note that level 2 scrutiny is proposed, which means that we will take oral evidence from the Scottish Government's bill team and produce a report for the lead committee. We will also seek written evidence from relevant parties. Do members agree to conduct level 2 scrutiny of the financial memorandum?

Members *indicated agreement*.

The Convener: Do members agree with the suggestion that, as the costs fall entirely on local authorities, we should seek written evidence from all local authorities and the Convention of Scottish Local Authorities?

Members *indicated agreement*.

Arbitration (Scotland) Bill: Financial Memorandum

15:48

The Convener: Item 3 is to consider our approach to the scrutiny of the financial memorandum to the Arbitration (Scotland) Bill. Members will see from the clerk's note that level 1 scrutiny is proposed, which means that we will seek written evidence from relevant parties. Do members agree to conduct level 1 scrutiny of the financial memorandum?

Members *indicated agreement*.

The Convener: Do members agree with the suggestion that we should seek written evidence from the organisations that are noted in paragraph 18?

Members *indicated agreement*.

Decision on Taking Business in Private

15:49

The Convener: Item 4 is to decide whether to consider in private at a future meeting our draft report on the financial memorandum to the Climate Change (Scotland) Bill. Do members agree to take that item in private?

Members *indicated agreement*.

Meeting closed at 15:49.

Members who would like a printed copy of the *Official Report* to be forwarded to them should give notice at the Document Supply Centre.

No proofs of the *Official Report* can be supplied. Members who want to suggest corrections for the archive edition should mark them clearly in the daily edition, and send it to the Official Report, Scottish Parliament, Edinburgh EH99 1SP. Suggested corrections in any other form cannot be accepted.

The deadline for corrections to this edition is:

Friday 20 February 2009

PRICES AND SUBSCRIPTION RATES

OFFICIAL REPORT daily editions

Single copies: £5.00
Meetings of the Parliament annual subscriptions: £350.00

The archive edition of the *Official Report* of meetings of the Parliament, written answers and public meetings of committees will be published on CD-ROM.

WRITTEN ANSWERS TO PARLIAMENTARY QUESTIONS weekly compilation

Single copies: £3.75

Annual subscriptions: £150.00

Standing orders will be accepted at Document Supply.

Published in Edinburgh by RR Donnelley and available from:

Blackwell's Bookshop

53 South Bridge
Edinburgh EH1 1YS
0131 622 8222

Blackwell's Bookshops:
243-244 High Holborn
London WC 1 7DZ
Tel 020 7831 9501

All trade orders for Scottish Parliament documents should be placed through Blackwell's Edinburgh.

Blackwell's Scottish Parliament Documentation Helpline may be able to assist with additional information on publications of or about the Scottish Parliament, their availability and cost:

Telephone orders and inquiries
0131 622 8283 or
0131 622 8258

Fax orders
0131 557 8149

E-mail orders
business.edinburgh@blackwell.co.uk

Subscriptions & Standing Orders
business.edinburgh@blackwell.co.uk

Scottish Parliament

RNID Typetalk calls welcome on
18001 0131 348 5000
Textphone 0845 270 0152

sp.info@scottish.parliament.uk

All documents are available on the Scottish Parliament website at:

www.scottish.parliament.uk

Accredited Agents
(see Yellow Pages)

and through good booksellers

Printed in Scotland by RR Donnelley