



OFFICIAL REPORT
AITHISG OIFIGEIL

Finance and Public Administration Committee

Tuesday 11 November 2025

Session 6



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FINANCE AND PUBLIC ADMINISTRATION COMMITTEE

30th Meeting 2025, Session 6

CONVENER

*Kenneth Gibson (Cunninghame North) (SNP)

DEPUTY CONVENER

*Michael Marra (North East Scotland) (Lab)

COMMITTEE MEMBERS

*Ross Greer (West Scotland) (Green)

*Craig Hoy (South Scotland) (Con)

*John Mason (Glasgow Shettleston) (Ind)

*Liz Smith (Mid Scotland and Fife) (Con)

*Michelle Thomson (Falkirk East) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Natasha Douglas (Bancon Homes)

Anna Gardiner (Scottish Land & Estates)

Claire Hughes (Scottish Government)

Julie Jackson (Miller Homes)

Hazel Johnson (Built Environment Forum Scotland)

Fionna Kell (Homes for Scotland)

Craig Maidment (Scottish Government)

Ivan McKee (Minister for Public Finance)

Josie Sclater (Scottish Property Federation)

CLERK TO THE COMMITTEE

Joanne McNaughton

LOCATION

The Robert Burns Room (CR1)

Scottish Parliament

Finance and Public Administration Committee

Tuesday 11 November 2025

[The Convener opened the meeting at 09:30]

Subordinate Legislation

Budget (Scotland) Act 2025 Amendment Regulations 2025 [Draft]

The Convener (Kenneth Gibson): Good morning and welcome to the 30th meeting in 2025 of the Finance and Public Administration Committee. The first item on our agenda is an evidence session with the Minister for Public Finance on the Budget (Scotland) Act 2025 Amendment Regulations 2025. The minister is joined by Scottish Government officials Claire Hughes, head of corporate reporting, and Craig Maidment, senior finance manager. I welcome our witnesses to the meeting and invite the minister to make a short opening statement.

The Minister for Public Finance (Ivan McKee): Good morning. The Scottish Government is once again on track to balance its budget despite continuing to face a challenging financial situation. Persistent high inflation, lower economic growth across the United Kingdom, the continued cost of living crisis and wider geopolitical events mean that careful consideration has had to be given to balancing the budget. The UK Government's decision not to fully fund the increase in the rate of employer national insurance contributions has added to the challenges that we face in balancing the budget.

Our prudent management of the 2024-25 financial year has allowed us to carry forward £557 million through the Scotland reserve, which is being used in full to support the 2025-26 position. Those amounts, in addition to in-year Barnett consequentials and an anticipated increase in the social security block grant adjustment, allow us to provide additional budget cover across portfolios to meet the emerging pressures within this budget revision.

The autumn budget revision sets out the funding changes and amendments to the budget since the 2025-26 Scottish budget was set. The revision that has been allocated deploys almost £1.2 billion of additional funding to support our public services. It contains the usual four categories of changes. The net funding changes increase the budget by £1,137 million and include the provision of £697.5

million to support health services, £173.7 million to local government, additional funding for the increased pension age winter heating payment and the removal of peak rail fares.

All the consequential funding that has been received from the UK Government in respect of employer national insurance contributions is allocated out as part of the budget revision. The technical Whitehall and internal transfers are presented in the document in the usual way. The supporting document to the autumn budget revision and the finance update prepared by my officials provide further background on the net changes as well as updates on information that has been requested by the committee. I am happy to answer any questions.

The Convener: Thank you. Eight or nine months on from the budget, the range and extent of some of the changes is incredible. I understand that, as you pointed out, the health and social care budget has increased by £697.1 million, which is welcome, but £667.8 million of that has been transferred into finance and local government portfolios. Although the net changes are not quite as significant, I wonder whether you can talk us through some of those changes.

At every autumn budget revision—and, often, at spring revisions—the committee raises the fact that the same budget lines are moved every year. The committee has raised concerns about that. Will you talk us through those at this time?

Ivan McKee: It is important to reflect on the principle that, in most cases, the policy decision on how the funding is spent is in one portfolio but the delivery sits in another. That reflects the cross-cutting nature of the challenges that we face. Portfolios do not operate in silos. Indeed, as the committee recognises, a huge part of the work that we are taking forward through the public service reform agenda is to break down silos and allow funds to flow more easily so that we can deliver on outcomes and not just focus on inputs in the budget sense. If, therefore, you accept that policy decisions need to be made as part of overall policy on health, for example, but the delivery of that resource is through another portfolio, it makes sense to have those transfers.

The Convener: We get that answer every year—that there is policy here and delivery there. Surely, the policy is where the delivery is. It seems to me ludicrous, frankly, that every year we get this huge shift. It distorts the budget line. I plead again for the Scottish Government to rethink that; otherwise, we will be asking the same questions ad infinitum. It does not seem sensible to me.

Ivan McKee: I welcome input from the committee on how to address that issue. I would not say that having those transfers is ludicrous; it

reflects the complexity of the work that we are doing. The reality is that policy decisions are taken in the round across the budget so that those resources have the greatest impact. The delivery of that does not—

The Convener: Sorry to cut across you, minister, but if the funding is for delivery in one area, that is really where the policy lies. It is a bit of a mirage to suggest that the budget is ever in health and social care if it is always going to be transferred. The Government's policy is clearly to transfer the funding every single year to where it is being delivered.

Ivan McKee: The question is how much is transferred and how that transfer co-ordinates with other work that is happening in that portfolio. Those are important considerations. As we take forward the public service reform agenda, our approach is to recognise that it is more about outcomes than it is about inputs. We recognise that getting budgets in the right place requires them to move between silos. We are breaking down those silos as we focus on, for example, where corporate costs are deployed, how we deploy digital costs across the piece and how we move towards a preventative budget. I can only see it getting more—rather than less—complicated, and we need to work together to understand how best to deal with that. Putting money into portfolio silos and leaving it there is a great way to focus on inputs, but it does not really help to co-ordinate outcomes in a way that breaks down silos.

The Convener: Let us move on. Technical adjustments increased the budget by £246.8 million. Will you talk us through what those technical adjustments are and what that really means?

Ivan McKee: Yes, there was an increase of £246.8 million. That includes the annually managed expenditure provision for future national health service and teacher pension costs, which is obviously not available for day-to-day spending. At £141.9 million, AME is the biggest part of that figure. Under Transport Scotland, there is an extra £78.7 million for Scottish Rail Holdings, a non-departmental public body, for the lease costs of existing rolling stock—again, that has no impact on Scottish Government discretionary spending. There is a transfer of £24.1 million within the student loans budget line, which reflects updated estimates for student loan capital and capitalised interest requirements. That is another technical issue that does not have any impact on Scottish Government day-to-day spending.

The Convener: Another question that I seem to find myself asking every year is about pensions. For example, the justice and home affairs portfolio received an additional £122.6 million, of which

£72.7 million relates to police and fire pensions. There is another £141.9 million addition for NHS and teacher pension costs. As I said last year, surely the Government knows more than one year in advance what pensions are likely to be for the number of teachers, firefighters or police officers. I can understand that the estimate might not be exact, but there seems to be a chronic underestimation of what those costs will be, with multimillion-pound increases every year to make up for that. What is the Scottish Government doing to assess those figures more accurately and effectively so that we do not see the same extent of adjustment next year?

Ivan McKee: I will defer to officials on the technical aspects of that. Pensions are usually a complicated subject. They are affected by a range of factors.

Claire Hughes (Scottish Government): The NHS pensions are dealt with in the AME budget—that is, under annually managed expenditure. AME budgets are very hard to predict and very complex. They are basically balancing payments. We get money from employer contributions to pension schemes, but there is often a gap; the cost of the pension is more than what we are receiving. The volatility element arises out of a correction to that. It is a balancing payment to make up the total value of the pension. That sits under AME—

The Convener: But hold on—you are talking about £141.9 million, not about £5 million or £10 million here or there. I have looked at the figures over a number of years, and the volatility only ever seems to go one way. It is never overestimated; it always seems to be underestimated. That is a huge amount of money. Surely, the Government must know roughly how many people are going to retire next year, yet it underestimates pensions by £141.9 million for the NHS and teachers alone.

Claire Hughes: Basically, the Treasury manages the volatility on our behalf for AME budgets. It appreciates that the situation is very volatile and we cannot manage it in our Scottish budget. There is no loss of spending power. If we start changing the conditions or if it reaches a certain value, the Treasury would expect us to pay it out of our departmental expenditure limit budget, but it recognises that it is AME and it is volatile, so it covers the costs because it is broadly similar to what we see in the UK. Justice payments come out of our DEL budget, but the Treasury has recognised that justice should be in AME, because it is far too volatile for us to manage.

The Convener: I am not suggesting that we change those; I am suggesting that there is concern about the accuracy of the figures, which means that the autumn budget revisions need to

be revised more than perhaps they should be. It is about trying to get accuracy in the figures.

Ivan McKee: If it is helpful, we can come back with a more detailed explanation of how this flows through, but the bottom line is that on paper the number is moving but, in reality, that does not have a day-to-day impact on the Scottish budget. That is a function of a number of factors, including how the UK Government treats it.

The Convener: One thing that seems to have had a major impact on finances is that the finance and local government portfolio is receiving an additional £204.3 million, of which £144 million relates to local government employer national insurance contributions.

Ivan McKee: Indeed.

The Convener: Can you talk us through that?

Ivan McKee: The overall picture is that the cost of increased national insurance contributions to the Scottish public sector is about £700 million, and the amount of money received from the UK Government is about half of that. Money has been transferred to portfolios to cover those costs, including everything that the UK Government added in to support that—which was barely half of it—and additional funds that the Scottish Government has had to find to help with support for those costs.

The Convener: In my area, the council is about £6.8 million down, even after the Scottish Government has made those payments, which accounts for about 54 per cent of the increase in council tax this year. What has been the practical impact of that across the board?

Ivan McKee: The cost runs into hundreds of millions. The total cost is around £700 million, and the UK Government has paid roughly half of that. As for the rest of it, I think that we paid 60 per cent in many cases; I will check the exact numbers. The Scottish Government has made transfers to support portfolios, but you are absolutely right that the pain caused by that has been shared. The Scottish Government is putting in funds where we can to provide support for that to a significant degree, but those funds do not cover all the costs for all parts of the public sector, due to the scale of the impact.

The Convener: The briefing paper says:

“The Transport portfolio ... has delivered £53 million in capital savings through reprofiling the vessel procurement schedule”.

Is that Government-speak for delay?

Ivan McKee: It means that the cost that it had estimated is not all being spent in a particular year. We will never be able to judge in advance exactly what the cost profile might be. Things will

change throughout the year for a number of reasons. As a consequence of that, as you know, we regularly see a capital position in which not all the capital budget has been spent in that year.

The Convener: There has been a lot of talk in the media about the alleged £1 billion underspend. Do you want to talk us through the Scotland reserve? I understand that £566.7 million has been carried forward. That represents about 79.5 per cent of the cap last year, falling slightly to just under 76 per cent this year.

09:45

Ivan McKee: As you rightly say, a figure of £1 billion has been quoted, but that contains significant elements of non-cash items that are not relevant to day-to-day expenditure. The relevant figure is £556.7 million, which represents less than 1 per cent of the total budget of £63 billion. None of that money is lost to Scottish Government spending power. The underspend will allow us to support spending in this financial year.

The Convener: That figure represents about three or four days' expenditure by the Scottish Government.

Ivan McKee: Yes—if we spread things out over 365 days, it represents about three days.

The Convener: The Scottish Parliament information centre has provided us with some information on portfolios. Earlier, we talked about how money gets transferred from the same budgets to the same budgets each year. If we compare the position when the Parliament passed the budget with the position now, we see that the finance and local government budget has increased by 9.9 per cent, whereas the education and skills budget has decreased by 8.7 per cent. Other variations are smaller than that—for example, the health budget has increased by 0.1 per cent. The fact that there are such huge variations does not reflect well on the budget process. I have heard what you have said about cross-portfolio working, but surely more must be done to ensure that the budget that is passed by the Parliament is, wherever possible, what is delivered across the financial year.

Ivan McKee: What is important is where the money is spent and the impact of that money on outcomes and services. If we want to compare sets of numbers, it is important that we compare apples with apples. To do so, we need to compare figures at the same point in the process—either before transfers are made or after they are made. That will give a more accurate reflection of how trends are operating. We are very transparent in setting out the transfers and the need for them. We can agree on that. From our perspective, the split between policy and delivery is important, and

we are transparent in articulating that. As I said, to compare apples with apples, we need to compare figures at the same point in the process, rather than at different points in the process, so that we can see what shifts have taken place.

The Convener: Over the years, the committee has pushed for that, and I am pleased to say that there have been some changes in that regard.

Colleagues are keen to come in.

Craig Hoy (South Scotland) (Con): Good morning. I agree with what the convener said about the difficulties when considering year-on-year and in-year positions, given the way in which the figures are presented. According to my tallying up, additional expenditure relating to pay and pensions totalled somewhere between £400 million and £500 million. Given that, as you have said, you need to balance your budget—I accept all the constraints, including those relating to ENICs—had you not been able to draw down that money or had you not received additional consequentials, where would you have found £400 million to £500 million?

Ivan McKee: That represents less than 1 per cent of the total budget.

Craig Hoy: It is still a significant sum.

Ivan McKee: The Scottish Government balances our budget every year. There are rules about how consequentials relating to pensions operate, and those funds are transferred from the UK Government. I am not pretending that the process is easy, but the Scottish Government works on a weekly and daily basis to ensure that, when we get to the end of the year, we balance our budget, as we are required to do.

Craig Hoy: One of the elements in balancing the budget would involve sticking to your pay policy, but there is significant reference to pay deals littered through the figures. Local government was given another £29.7 million for pay deals, the police were given £6.2 million for pay awards and £85.4 million was provided to address pay pressures in the health service. What are those pay pressures in the health service, for example? Why could you not have accounted for them as part of your 9 per cent pay strategy?

Ivan McKee: As we go through the year, there are negotiations with the relevant trade unions and workforces to arrive at agreed pay awards, which obviously have an impact on the budget figures. We do not necessarily know at the start of the year exactly what the figures will be. However, the move towards multiyear arrangements—many of the deals now cover two years or more—will provide us with a bit more certainty on the numbers.

We value our public sector workers and think that they should be adequately rewarded. Obviously, the impact of the cost of living and high inflation flows through into those payments. I think that the general public would be comfortable that we are paying the people who are serving them well to do their jobs, whether they are in the front-line in the health service, in classrooms, or in the police service. Unlike down south, we have avoided the need for industrial action, which is important.

Craig Hoy: You have avoided that so far. Taxpayers would look at it and think, “The Scottish Government is telling us that there is a three-year 9 per cent pay deal, but it already seems to be exceeding that in year 1 of the deal,” which the figures highlight. Should they have any confidence that you will stick to the 9 per cent pay deal over three years?

Ivan McKee: That is what the policy is based on. Negotiations with each of the unions take place in that context. You need to reflect the fact that inflation will be higher in some years, and it will not necessarily be 3 per cent each year.

Craig Hoy: In order not to have to cut expenditure elsewhere, if you have set a 9 per cent pay policy over three years and in one area the two-year projection is 7.5 per cent, that leaves you with 1.5 per cent. Does that not mean that you will bust your own pay policy?

Ivan McKee: The pay policy is in place over three years, which is what we are working to, but you are speaking as though spending money on paying public service workers is not public service; of course it is. Half, or more than half, of the budget goes on pay for the person-centred services that people receive, whether that is nurses, doctors, teachers, or police officers. If we are to retain those numbers and hire and recruit to those services, it is important that we pay people. That is precisely what the public would expect us to do in order to maintain the quality of those services.

Craig Hoy: I accept that, but it is taxpayers’ money. You set a public pay policy of 9 per cent. What confidence do you have that the 9 per cent will be achieved over the three-year cycle?

Ivan McKee: That is the policy that we are working to.

Craig Hoy: How can you compute 7.5 per cent over two years? In the year after the election, are we looking at you potentially playing hardball with the public sector unions, which you have not done so far, and saying to them, “It is 1.5 per cent. Take it or leave it”?

Ivan McKee: The 9 per cent is clear and everyone understands that. The negotiations

happen with trade unions; each situation is different depending on the circumstances. We have had discussions and reached those agreements in the context of the three-year policy for current pay deals. The policy is clear.

Craig Hoy: You are the minister who is responsible for public sector reform and you have set ambitious targets to reduce the core civil service head count. We are two thirds of the way through the year. How have you achieved on the targets that you set yourself for this year?

Ivan McKee: As you will be aware, recruitment has been significantly focused on ensuring that we are only bringing in absolutely essential staff, or staff for which there is a cost saving by bringing them in, because we are replacing more expensive contractors or third-party services that are more expensive. There has been a reduction in each of the last two years in the total Scottish Government workforce. This year, the reduction has continued, and we are on target to deliver another significant reduction. I do not have the numbers to hand, but the Scottish Government has fewer staff now than we had at the start of the financial year and we have fewer than we had two or three years ago. That reduction is continuing.

Craig Hoy: Should you not have the number at your fingertips?

Ivan McKee: It changes week on week.

Craig Hoy: Can you say roughly what it is?

Ivan McKee: I cannot remember the exact percentage, but there was a significant reduction in the first part of the year. I go through the information with officials every two weeks and look at updated numbers every month. We are on target to deliver another significant reduction this year, which will continue in the next five years. We have committed to that reduction.

Craig Hoy: It strikes me that the vulnerability of the budget this year relates to pay and pensions. There is also an issue with social security. I would have hoped that you would have had the figure to hand, because it is vital to this year's budget.

Ivan McKee: I will provide the updated number to the committee to show you exactly where we are on that, but there has been a reduction so far in the first six months of the year, which will continue. We have targets for each of the next five years that we will deliver on, as we have in the past two years.

Craig Hoy: To clarify, as we interrogate the numbers more closely, we can see the vulnerability. It is possible to bring down head count but employ far more senior civil servants and lose a significantly larger number of those who are on lower salaries, which means that the pay bill is still rising. Do you have confidence that

the pay bill as well as the head count will fall over time?

Ivan McKee: Absolutely, that needs to be delivered. I understand the point that you are making. Part of the answer is that we might bring in information technology staff, for example, who are well paid because of their skills, but that is significantly cheaper than hiring contractors or contracting a third party to deliver those services. That has been a significant aspect of the increased bill for those pay grades, but across the whole budget it has delivered significant cost reductions.

Craig Hoy: At the start of the next financial year, will you be able to get back to the committee and say that both the head count and the cost of the core civil service fell this year?

Ivan McKee: The civil service is now operating on a total operating cost that is to target. That is one of the changes that we are making as we go into next year. Something that adds another layer of complexity, which the committee wants to get its head around, is that, traditionally, the total operating budget for the Scottish Government has been allocated by portfolio, so the budget for the core Scottish Government has been a small part of much bigger portfolios' budgets. We are looking separately at that, through the lens of the total operating cost, and at setting budgets for that. That means that the Scottish Government core civil service has not only workforce targets but financial targets that have been laid out.

Craig Hoy: But you could still get around that by cutting other areas.

Ivan McKee: Which other areas?

Craig Hoy: You are saying that pay and pensions are going to fall. Total operating costs—

Ivan McKee: The total operating cost budget has been set during the spending review period. Taking inflation into account, there will be a year-on-year reduction in that budget.

Craig Hoy: I will move to some other areas and points of detail. In relation to the £11.3 million that has been provided for the two-child limit mitigation, am I right to say that that policy will come into effect next year? What is the £11.3 million for?

Ivan McKee: It will come in in March. A small part of it will fall into this year's budget.

Craig Hoy: Fine. There is also the issue of £30.2 million for the Scottish Qualifications Authority to support on-going activities. Can you say what those on-going activities are and why they are one of the budgeted costs?

Ivan McKee: They are operating costs for the SQA. That budget needs to be reset to reflect the

reality of its costs. That is an issue that we need to address.

Craig Hoy: Why was that not in the original forecasts?

Ivan McKee: It is the on-going costs of the SQA. You are right—

Craig Hoy: It is a big chunk of change, though. You do not suddenly find £30.2 million.

Ivan McKee: If you look back at historical SQA budgets, you will see the reality of what its spend has been. That needs to be reflected in the budget going forward.

Craig Hoy: It probably should have been in there at the beginning of the year.

In relation to an underspend—this is welcome in some respects, albeit you have net zero targets—significant savings seem to have been identified in demand-led schemes such as remediation to windows in housing. Why is that not being spent?

Ivan McKee: The total budget across that area was just above £300 million, if you add up all the various schemes that are in play and the funds that are operated. The underspend is about £18 million, so, in the scheme of the £300 million and given that it is a demand-led service, that reflects the fact that 90 or 95 per cent was delivered.

Craig Hoy: Building societies are saying that people are not borrowing in the same way any more to do that kind of work to their houses. Is the public's appetite for that sort of activity on the wane?

Ivan McKee: I think that there is an appetite, which is evidenced by the fact that almost £300 million was spent to support that investment. It will be dependent on everybody's circumstances, which will be different, but the ability to save on energy bills makes a significant difference. The cost of energy is very relevant; individuals will find themselves in a place where that investment could make a huge difference over time to their energy bills and to the quality of their housing and their lives—not to mention the net zero impact. It is an important investment and clearly there is still an appetite for it.

Michael Marra (North East Scotland) (Lab): My questions are about similar areas. To start, where in those figures can we see your agenda for public service reform?

Ivan McKee: That goes back to the point that I made earlier about looking through that lens. Last year, for the first time, we identified what the corporate costs were across the public sector. That pulled out a number of approximately £5 billion, which has driven the target of £1 billion of savings that we are identifying. The issue is that it is spread across every portfolio in every public

body and across Government. Corraling that into one place so that you can see it in a separate virtual pot is an important piece of the mechanics, but it adds another layer of complexity to how you look at those budget lines.

10:00

The answer to your question is that, throughout the accounts, the budgeting process is developing to set those corporate cost-reduction targets as part of portfolio budgets. For every portfolio, you will see what has been done previously, what the new budget looks like and, on your corporate costs, whether it is projected that there will be savings. That will be different for every portfolio, depending on the profile, but now that we have the information, we are able to do that.

Michael Marra: There is £1.4 billion of additional money available to the Government, and £1.1 billion available to portfolios, but it seems that it is being allocated to the increasing cost of delivering the same model of public services across Scotland. That is my reading of it.

Ivan McKee: As I said, the targets in relation to the corporate cost savings, which is one part of it, are clear. They have been allocated across the piece. In you look at, for example, the health portfolio through the portfolio lens, you will see that there will be more doctors, more nurses and more spend on various parts of the service, including social care. However, you will also see that the corporate costs are being reduced. Where that sits in the profile of the portfolio at the top level—level 2 or whatever—will depend on the amounts of corporate costs that are in each portfolio; however, there is a very clear focus on the corporate costs and the reductions in each portfolio, and on how they impact the overall budget.

Michael Marra: Is that what your scheme amounts to? Is it about bearing down on corporate costs rather than being a different way of delivering public services in Scotland?

Ivan McKee: There are different parts to it. If you go through the public service reform agenda, there are 18 workstreams in there. I will not go through them all, but some of that is about core efficiency, whether in estates, procurement, digitisation, automation, and so on. A lot of that is in the corporate space. However, when it comes to looking at the size of the prize, you will see that there is a significant amount about how we do integration more effectively, how we join up services and how we invest in prevention.

The whole-family support work is an example of integration. It is about getting a number of agencies in a local area to work together to understand how they interact with the individual

and the family they are all supporting—it involves joining up those services. What do you need in order to do that? We also have a workstream on data sharing, so that the same story does not have to be told multiple times. Different agencies and parts of the public sector are then able to provide support because they have the full set of information on the people they are working with. It also means that budgets might need to move between silos at a local level to best corral the resources and deploy them in the most effective way.

There is a whole range of stuff in there on leadership, culture, empowerment and data sharing, as well as on the corporate cost savings.

Michael Marra: It is fair to say that very little of that is visible in the briefing. I realise that these are budget revisions and that we would not necessarily expect to see the information laid out as a mission-led piece of work, but when we match it up to your programme of reform, we will have to reflect on whether we are seeing the output.

Ivan McKee: We are very clear on this. The way in which we traditionally do budgeting—we have been doing this stuff for a long time in the public sector—does not necessarily lend itself to an environment in which there is money moving between silos and to prevention and so on. I recognise that and I am happy to work with the committee on how we address it. Indeed, workstreams 5 and 6 are all about preventative budgeting and how we configure budgets.

Michael Marra: That is useful.

On the point about the net zero and housing underspend, that is not a this-year thing; every year, there is significant underspend in different areas of demand-led schemes. That has been the case for quite a while. Have you challenged colleagues who are running those portfolios about whether they are making accurate forecasts of actual demand?

Ivan McKee: You say “significant”, but if you look at that example, I think that £18 million out of £305 million was carried forward, so around 94 per cent was spent. You make an assessment at the beginning of the process of what the demand will be. There are only three scenarios. We either hit it right on the button—which, statistically, is unlikely—or we spend more or we spend less. We have had conversations about spending more on certain demand-led services and less on others. There will always be—

Michael Marra: Is there no concern about that?

Ivan McKee: The concern would be to get the spending on a demand-led service within 5 or 6

per cent of the budget. I suggest that that would be a reasonable projection.

Michael Marra: The land and buildings transaction tax has realised about £40 million less than forecast. We have an evidence session later this morning on construction taxes. Can you account for why the LBTT receipts are lower?

Ivan McKee: That number had been increasing. Last year, the conversation was that we would receive more from LBTT. That is a prime example of where we are either higher or lower. There was perhaps an overcompensation. Historically, that number has increased significantly and, in most cases, it overshoot the estimate. I will let officials talk to the extent to which the Scottish Fiscal Commission’s forecast is relevant. It was estimated that the number would continue to increase, but it did not quite increase to the expected level. Again, that is £40 million out of about £1 billion of LBTT in total, so it is within 3 or 4 per cent.

Craig Maidment (Scottish Government): That is an internal figure at the moment. We are still waiting for the SFC to kick off its forecasting as part of the budget work, and we will reflect on what comes out of that at the spring budget revision. There has been a degree of slightly lower than anticipated LBTT take. We did not want to overestimate that at this stage and then come to the spring budget revision and have a significant reduction in funding. We have chosen to revise down our estimate, subject to what the SFC forecasts as part of its budget work.

Michael Marra: Housing completion rates are among the lowest in recorded history, and there is a reasonably cool commercial property market at the moment. Does that give you concern, minister? I understand what you are saying about it being a relatively small percentage against the overall figure, but, looking at trajectory and trend, do you have any comments on what you are seeing in the marketplace?

Ivan McKee: There is a lot of complexity in the housing market. The LBTT numbers, which are a function of house prices and the number of transactions, have been increasing strongly over a number of years. This year, the numbers have not quite met the target, based on previous years’ growth. House price inflation is running ahead of general inflation and there is clearly demand in the system, which is driving both the requirement to increase completions and the work that my colleague Màiri McAllan is taking forward. Reflecting on those numbers, what you are seeing is a housing market that is still active and generating returns. However, we need to consider all that in the round, because house price inflation is good in one sense but not necessarily in another. For example, if you are trying to get on to

the property ladder, the market could be too hot. However, considering where we are now, we have seen growth, which, for a number of years, has been stronger than expected. That is reflected in the LBTT numbers.

Michael Marra: Would you be comfortable with additional taxation in that area?

Ivan McKee: Do you mean rates of taxation?

Michael Marra: Under the next agenda item we will be looking at a tax on construction.

Ivan McKee: I think that I am coming back next week to talk to you about that.

Michael Marra: I look forward to that.

Looking at the trend in the numbers, do you feel comfortable that the marketplace can take additional taxation weight?

Ivan McKee: The genesis of the Building Safety Levy (Scotland) Bill follows on from Grenfell and the requirement to find the funds to support retrofitting at-risk buildings. The intention of the building safety levy is, from memory, to raise about £30 million a year for Scottish Government funds over a 15-year period. The total fund required to retrofit is significantly in excess of that, so the levy covers only a small part of it. The rest will come out of general Government spending, which impacts other services. The levy is a mirror of the policy that has been taken forward in the rest of the UK by the UK Labour Government.

Michael Marra: That is not an answer to the question; that is a description of the policy.

Ivan McKee: Indeed—I am rehearsing my lines for next week.

Michael Marra: Indeed. We are talking about the trend. My question is, do you think that, at the moment, there is space in the marketplace for additional taxes?

Ivan McKee: We are very conscious of the cost pressures that house builders, particularly SME house builders, are under. There has been extensive engagement with Homes for Scotland and round-table meetings have been held with SME house builders on that. We recognise that a number of legislative and regulatory cost pressures are impacting on the cost of delivering housing units. I look forward, with interest, to seeing the evidence that you are taking on that this week and I will reflect on that before I talk to you next week.

Michael Marra: We will chat about that next week. Thank you.

Liz Smith (Mid Scotland and Fife) (Con): Minister, I want to explore the issue of the underspend. It is not the case that the money will

not be spent. The issue is the timing of the spend, which is something that is perhaps missed in some of the media reports.

Ivan McKee: Indeed. Thank you for mentioning that.

Liz Smith: Nonetheless, this year, the underspend in the economy portfolio is substantial—it is £106 million. That comes on top of the real-terms cut of 8.3 per cent to the economy portfolio three budgets ago, which, as you know, was widely criticised by business and industry.

I want to ask about policy direction. Why is it that, at a time when the Government—rightly—has so much focus on economic growth, the overall spending in Government on the economy portfolio is being put at a disadvantage compared with some of other areas? That money is essential when it comes to boosting economic growth. Will you talk us through that decision making?

Ivan McKee: I do not have to hand the figure on that underspend, but officials can pull up the specifics of that. Again, what is important is outcomes, and we continue to outperform the rest of the UK in terms of inward investment. We also have strong export growth. Yesterday, I had the pleasure of opening a premises for a Scottish biotech business in Glasgow—a spin-out from the University of Glasgow—with world-leading technology. It is one of many, many businesses in that space, and Scottish Enterprise is supporting its move to new and larger facilities.

That support is there, and it is impactful, but it is important that it is targeted, effective and cost effective, and that we get results from that.

Liz Smith: Notwithstanding the fact that there are some good signs within inward investment, there are other very serious signs about the weakness in, for example, productivity and economic growth. It does not sit well with the Government's focus on stimulating the Scottish economy when there are quite disproportionate cuts to the economy portfolio. I do not really understand why that is happening. It would be helpful if you could explain that to the committee.

Ivan McKee: First, as I said, we recognise the importance of economic growth—of course we do; it is central to the Government's mission. Enterprise agencies are not the only players there, but they have a role to play. The funding that is allocated is to support their activities, which are delivering results across a range of areas.

The budget process is about ensuring that we allocate funds as appropriate across all portfolios, given competing pressures—and there is no shortage of pressures across the piece. We believe that the money that is allocated means

that enterprise agencies can effectively deliver what they need to. Of course we would like there to be more funds, but they are getting significant results with the funds that they are being allocated.

Liz Smith: Two budgets ago, when there was considerable criticism from business and industry, one of their concerns was that, within the economy portfolio, there are quite a lot of enterprise schemes that help with the development of skills, which are essential to boosting both the labour market and productivity. Those things are very real to the potential of the Scottish economy, and it seems strange—I say it again—to have cuts or underspends at this particular juncture, given the urgency of ensuring that the labour market is as buoyant as possible, that productivity is improving and that we get some benefit from economic growth.

Ivan McKee: I absolutely recognise that we want to be supporting that. As I said, when it comes to economic growth and economic activity, we can pull a number of levers. One of them is the investment that goes into the enterprise agencies, the Scottish National Investment Bank and others. I think that that funding is effective when it comes to delivery. We would, of course, like to spend more but that would be a conversation about the shape of the budget in general. There are competing pressures and it is a question of balance.

10:15

Liz Smith: I am not going to ask you to give anything away.

Ivan McKee: A lot of the specific underspend is to do with historical issues regarding European structural funds, which were running down.

Liz Smith: Within Scottish Government decisions about recent budgets, there has been considerable pressure on the economy portfolio and the related enterprise schemes that try to boost growth. Three weeks ago, we took evidence from Colleges Scotland about the pressure within the college sector due to exactly the same issues. Colleges are worried about the effect that pressures on the education budget will have on skills development, and, given that they are at the heart of many of our local communities, they worry about the prospect of another budget in which there will be difficult decisions that will affect their ability to contribute to skills development and economic growth. Can you guarantee that that is at the forefront of the Government's mind as it approaches the budget?

Ivan McKee: First, regarding the underspend, we are confusing a number of different issues. The bulk of the underspend was due to the final phase

of the winding down of European structural funds. That addresses that point.

We are now moving into the budget-setting process for next year and I can give an absolute guarantee that economic growth is central to the Government's mission. It is one of the First Minister's four priorities and we absolutely recognise the centrality of skills provision in that agenda to enable us to drive growth across the economy. That will absolutely be given its place in any discussion about the allocation of funds in the budget process.

Michelle Thomson (Falkirk East) (SNP): We have these tinkering discussions between the autumn and spring budget revisions every year because that is a function of having yearly budgets, and I am always struck by the fact that a lot of what we discuss is just for information and we do not get anywhere near looking at the aggregate picture or the real issues. I am thinking about that because of the convener's opening discussion about reassigning money to the delivery point. My working assumption is that the Scottish Government does that so that it can retain control, because the only way to retain control of a fixed budget is to have reassignment. Is that correct?

Ivan McKee: I would not use the word "control". I go back to the fact that we have a complex and interrelated system and that, in order to set a budget and have accountability, that has to be broken down into chunks or what you might call "silos". There is huge recognition that one of our biggest challenges is about having the ability to co-ordinate, integrate and join up so that funds flow to where they will make the most impact, which may not be where they sit on the page. That requires flexibility but also co-operation, and money has to move between portfolios to facilitate that.

Michelle Thomson: What underpins all of that is the fact that we have a fixed budget.

Ivan McKee: Of course.

Michelle Thomson: I have a gentle challenge. Although there may be a shift in the future, there is still ring-fenced funding for local government so that the Government can ensure that its priorities are met. I may have asked this question last year, but why do you not attribute the same discipline to yourselves in respect of, say, the housing budget—I use that example because of the multi-factor economic benefits, although it may be a bad example because of the issue of capital, which we may get to—by fixing that as a per cent of the overall budget?

The problem with "tinkering", as I describe it, is that it always involves short-termism. If you do not set aside a certain percentage and say that it will

always be spent on something that we know gives economic benefits, you are perpetuating the status quo of tinkering. Notwithstanding that, I fully accept that annual budgets are a function of a fixed budget and the role of the Treasury. However, every year I hear about the constant tinkering of moving budget moneys from pot to pot, which has an insidious impact on long-term strategic planning that is aligned with economic growth.

Ivan McKee: You can call it “tinkering”, or you can call it “agility”, but—

Michelle Thomson: One person’s tinkering is another person’s agility.

Ivan McKee: There are a number of points in response to that. Yes, we work in an environment where there is a fixed budget, which we need to balance—and it is not even a fixed budget, because it moves in-year, depending on consequentials. Even at this point, we do not know the final position for 2025-26, nor will we for a period of time yet. We are always trying to hit a moving target, but the money with which we have to hit it is also moving. We have to balance all that, which creates complexity. If we were in an environment where we knew the multiyear position from the UK Government, we would be able to lay out multiyear spending for various parts of the system.

Michelle Thomson: With respect, local government does not know that.

Ivan McKee: Exactly.

Michelle Thomson: However, the Scottish Government says to local government—and you can track the numbers—that an aggregate percentage has to be ring fenced for an entire session’s policy priority. If you can do that for local government, why can you not do it for yourself, as fiscal discipline?

Ivan McKee: As I said, we are trying to hit a moving target. There are a number of dimensions to it. There is demand-led stuff, which changes; there is what you have to spend, which also changes, depending on the consequentials—

Michelle Thomson: But that is the same for local government—that is the point that I am making. Local authorities always have a whole range of things and are subjected to the same—

Ivan McKee: I appreciate that, but I do not understand your point. They operate within that environment, knowing that their budget could change during the year, and they have reserves to manage as well. They have the whole range of levers that they can pull, as do we, but we are constrained by that broader picture.

Michelle Thomson: That is my point. I am sorry if we have been at cross purposes. The scenario that you are illustrating for the Scottish Government is the same for local government, yet the Scottish Government will choose to make ring-fenced spending allocations in order to ensure that policy commitments are met and to allow a sufficiently long-term basis for that spending in order to see the outcomes at the other end. My question, or my challenge, to you is, that if you understand that a slightly longer-term picture is needed in that case, and you are saying, “Right. You just need to manage all these other moving parts,” why will you not apply that to the Scottish Government in the areas where we know it would give material benefit on a longer-term basis?

Ivan McKee: In terms of multiyear funding?

Michelle Thomson: No. Perhaps I am not being clear, but, for example, there will always be money for transport, because everything would fall apart if folk could not travel from A to B. So, the Scottish Government is able to say, “Within an envelope, we are going to be spending roughly X to Z on transport.” You are not thinking, “I wonder if we will get any money for transport next year.” You are making working assumptions about money that will be in the budget.

What I am saying is, why can you not—or will you not—ring fence money that goes into other areas that you know bring economic growth in the same way you would do for transport? Not everything is on a year-by-year basis. You ring fence money for councils and leave them to manage those in-year budget challenges, but you do not ring fence money for particular areas in your own portfolio, despite the vagaries of all the stuff that is happening.

Ivan McKee: Again, I am not following. Local government delivers services such as education, social care, housing and so on, which are within the total budget. There is complexity in terms of what moves around. Everybody is working within that environment. Unfortunately, we do not have certainty on multiyear funding, and things change in-year.

As we roll out the reform agenda we increasingly find an interconnectedness, with a requirement for flexibility in how funds move. Take whole-family support, for example. That consists of a whole series of funding pockets from different portfolios. The range of public servants who are engaging with a family on the ground will want those elements of funding to be joined up, and that requires a mechanism that allows funds to flow effectively at the local level. That is the reality of what we are doing.

There is very little ring fencing with local government. The vast majority of that has now

been taken out and, for the most part, local authorities must now make decisions as to how they allocate the resources.

Michelle Thomson: For the sake of other committee members I will not labour the point, but I want to pick up on AME versus DEL for pension contributions, which is something that Claire Hughes mentioned earlier. I find it staggering, from a Treasury perspective, that pensions have been going through DEL, given their type and nature. How did we get to that position? That surely cannot be the case for other budgets coming out of Whitehall. It seems staggering.

Claire Hughes: There are arguments for having AME or DEL. The benefit of AME is that the UK Government covers the losses. However, we do not get to keep the gains; if the amount is less than expected, we do not get to keep the underspend, and it goes back to Treasury.

Michelle Thomson: When is it ever less than expected?

Claire Hughes: Pensions are risky, as has been recognised by officials and ministers. There have been extensive conversations with the Treasury on that, and on the risks that we carry. There has now been an agreement to transfer that budget into AME for police and fire pensions. Their treatment will be similar to that of NHS and teachers' pensions.

Michelle Thomson: That risk is not a surprise to me, and I suspect that it is not a surprise to you, either. I am therefore surprised that we are in this position. An assessment of risk—not just a treatment of what funds come back—must surely have been part and parcel of the decision on which budget pot those contributions went into. Is that a matter of catching up with what is still a relatively immature system of Whitehall fiscal transfers? Is there something more?

Claire Hughes: Craig Maidment might have something to add on that. It was a historical decision.

Craig Maidment: That arrangement has been in play for the best part of 20 years, I think. When the system was devolved, police and fire pensions were attributed to DEL budget in Scotland, and they were DEL in the rest of the UK. There was a point in time when that was switched to AME in the rest of the UK. We did not reach agreement, at that point, for it to be switched in Scotland, and we have borne the top-up element costs out of DEL over the past 15 to 20 years. As Claire Hughes has said, there have been discussions and there is broad agreement on transferring that to AME in future. That will remove that risk, but it has been a relatively long-term feature.

Michelle Thomson: That was just out of interest. Thank you.

The Convener: That appears to have exhausted the questions from the committee.

I would make an appeal to you, minister. You have mentioned flexibility, and you have talked about the outcomes of most impact. On the credibility of the budget and the portfolios that we discuss and debate as we go through the three stages of the budget, we are dealing with stuff like investment in the integration of health boards and social care, costing £257.2 million this year, a transfer of £79.2 million from housing to local government within the finance and local government portfolio for discretionary housing payments and a transfer of £49.3 million from health and social care to the education and skills portfolio to pay the teaching grant for nursery and midwifery students. Given that such transfers are happening every single year at this point, would it not be much better to have such funds in the budgets where delivery will take place? I do not see how that would adversely affect outcomes, although it might affect how some budget portfolios look, in the context of the public presentation of the budget. There is perhaps an element of that in Government thinking.

I wonder how many more years we will have those continuing transfers for, given that they happen every single year. As the Parliament has to vote for a budget every year, the more the budget reflects actual expenditure, the better it will be.

10:30

Ivan McKee: Let us explore that issue, because it is important. Let us look at the health and social care budget, which involves the biggest transfer. When it comes to the health and social care environment, the whole thesis is that it is cheaper, more cost effective, better for the individual and better for outcomes for people to be moved through the system into social care. To some extent, the reason that that does not happen is that the funding is not there for that. If we look at the health and social care budget in the round, we can see that it is more cost effective to have that money in the social care environment than it is to have it in the health environment. In order to recognise that balance, the funding is in the same portfolio.

However, the reason for the transfer is that the delivery of social care takes place in the local government portfolio. Part of the issue is that, if we were to keep those aspects of spend completely separate, that would create restrictions on spending on social care, which would affect our ability to invest to the extent that we need to in

order to free up beds in acute hospitals. That is a concrete example of the policy being in one place and the delivery being somewhere else, and the need for the relevant budgets to reflect that.

The Convener: If the money is moved every year, it should be allocated to where it is going to be spent.

Ivan McKee: The key question is how much is moved every year.

The Convener: Indeed. Next year, the transfer is going to be £250 million or £300 million. If that money was in the relevant budget, and only £5 million or £10 million had to be moved one way or the other, that would not be the same as having to move such a large sum.

Discretionary housing payments will always be roughly the same amount—they are usually about £75 million or £80 million. Next year, they might be £85 million. We know that the Government will not spend less than £75 million on DHPs next year, so why not just have that money in the local government portfolio to start off with?

The transfer to education and skills for the training of nursery and midwifery students is £49.3 million. If there was £45 million for that in the education budget, members would have a clearer view of what was happening in that area. If you had to move a few per cent here or there, that would be fair enough.

Including the money in the portfolio in which it is spent would present a much clearer and more accurate picture of the budget, not just to parliamentarians but to the wider public.

I thank the minister for his responses to our questions. We now move to item 2, which involves formal consideration of the motion on the instrument. I invite the minister to move motion S6M-19303.

Motion moved,

That the Finance and Public Administration Committee recommends that the Budget (Scotland) Act 2025 Amendment Regulations 2025 [draft] be approved.—[*Ivan McKee*]

Motion agreed to.

The Convener: I thank the minister and his officials for their evidence. In due course, we will publish a short report to the Parliament setting out our decision on the draft instrument.

We will now have a break until 11.05, when we will reconvene following the remembrance events in the garden lobby.

10:33

Meeting suspended.

11:08

On resuming—

Building Safety Levy (Scotland) Bill: Stage 1

The Convener: Under the next item on our agenda, we will take evidence from two panels of witnesses as part of our stage 1 scrutiny of the Building Safety Levy (Scotland) Bill. For the first panel, we are joined by Natasha Douglas, land and planning manager, Bancon Homes; Fionna Kell, director of policy, Homes for Scotland; and Julie Jackson, general counsel and company secretary, Miller Homes. I welcome you all to the meeting.

We intend to have about one hour for this evidence session, which will be followed by a session with our second panel. I will move straight to questions, and the first is for Julie Jackson.

In your submission, you said:

“evidence shows a site will not be viable if subjected to the levy”.

In your submission, you were talking about smaller sites. One of the issues with the bill is whether the sites that it will apply to should include every house or just those of a certain size. Will you talk us through your views on that?

Julie Jackson (Miller Homes): I would like to widen the question a bit further than just being about the viability of smaller sites. It might be helpful to the committee if I explain what we mean when we talk about viability from a house building perspective. If we were looking at a site to develop in Scotland or anywhere else, the first thing that we would consider is what the revenue would be. We do that by asking, “What prices can we sell the houses for?” A lot of that depends on the location and the ability of the people who live in the locale to afford that type of house.

We start with revenue, then we consider costs. In many ways, build costs are the easy bit. We know how much a build will cost in relation to bricks, blocks, roofs and so on—we are able to attribute a cost to the build quite easily. What we cannot consider so easily is what we call “abnormals”—the cost of what is in the ground. Is a house being built in an ex-mining area and will there therefore need to be a lot of grouting? Will we need to move services? Are there access problems? Do we need to build roads outside the house? Will we need to build roundabouts? Those are the big variable costs for a house build. We then need to consider the section 75 cost, which relates to the planning gain. That is largely set in local policy and can vary depending on the viability of a site. Again, that is another big cost.

We then add a margin to the costs—we are house builders and we make a profit—and out pops a land value at the end. Natasha Douglas will be able to explain how she produces a land value, but that is how we do it. Land value is what makes a site viable or not. In Scotland, on average, land values are roughly 10 to 14 per cent of revenues. The sites that are in less desirable secondary and tertiary locations will have land values that are sub-10 per cent of revenues. Land values go down in the more post-industrial type of land.

If more costs are added to the build, which is what would happen with a building safety levy, the land value will decrease again, because the levy will be added to the cost element of the build. Sites will therefore become unviable. There are already sites, particularly on the west coast of Scotland, that are unviable because the cost of remediating them and the abnormal costs are too high. Such things hit the delivery of affordable housing, because the cost of affordable housing cannot be factored into the land value—it would just make sites unviable. There has already been a decrease in the delivery of those types of sites in Scotland. Those sites are in the very places where the delivery of homes is needed, which is in the more affordable parts of the country.

Adding more costs into the build will make more sites unviable, because landowners will just not sell their land. There will be no point, because the land will not have a value that is worthwhile. They might as well sit on the land and wait until land values increase or there is a different policy in place.

I cannot really talk about the rural perspective because Miller Homes does not build in rural places; we are more builders of suburban family homes. However, I am certain that the levy will have the same impact on rural house building as it will on sites that are in the more secondary and tertiary locations.

The Convener: That is one of the issues that you have raised in your submission, Natasha Douglas, so Bancon is concerned about that.

In Bancon's submission, you have also asked why the company is subject to the legislation—it has not been involved in or had any issues with cladding, but it might be adversely impacted. Fiona Kell said something more or less identical in her submission.

The legislation will not include islands, for example, so there is an issue there. Can you talk more about your frustration with that issue?

11:15

Natasha Douglas (Bancon Homes): We feel that it is severely unfair that we are being

penalised because, as you have said, convener, we have not delivered buildings with unsafe cladding, yet we are being asked to provide contributions to help remedy the cladding issue.

We are gravely concerned about the impact that the legislation will have on our business and its expansion plans. Based on an assumed cost of around £3,000 per home, it could have an impact of between 17 and 20 per cent on our profit margins. That might not seem like a lot, but for a smaller business such as ours—we generally build around 130 homes per year—it will impact on our expansion plans and our ability to invest in our people and continue with recruitment.

We have predominantly operated in Aberdeenshire, and the cladding remediation update from quarter 3 of this year shows no expression of interest for the cladding remediation programme in Aberdeenshire. We also operate in Aberdeen city, where I think that the number of expressions of interest is around 60, but, again, we have not delivered any buildings with unsafe cladding in Aberdeen city.

In 2020, Bancon Homes expanded into the central belt with the purchase of its first site in Strathaven, which was predominantly for family homes. We expanded further in 2023, again delivering family homes in West Lothian.

We feel that it is unfair to ask a company to pay if it has not delivered any building with unsafe cladding. Julie Jackson might be able to expand on this, but we are aware of the Supreme Court decision in the case of URS Corporation Ltd v BDW Trading Ltd, which found that developers, even if they no longer owned the property or had decided to remedy the cladding of their own accord, could seek contributions towards the remedy cost from consultants and designers who were involved in the design of the building. If you are looking for contributions towards the cladding remediation programme, it would seem fair to us that that should go further than just the house building industry.

As Julie Jackson said, we generally build family homes. Bancon Homes certainly does not build flatted properties of more than four storeys.

The Convener: The Supreme Court ruling is also mentioned in paragraph 9 of your submission.

Fionna Kell, you said in your submission that the Government is pursuing

“a £30m funding target that is not based on accurate estimate of the work required or funding gap.”

Fionna Kell (Homes for Scotland): To date, we have certainly not seen robust evidence from the Government about the extent of the problem in Scotland. We understand that there have been various expressions of interest. There was a call

previously for a mapping exercise of all the buildings, but we have not seen that yet. We remain concerned that the Government is intent on setting a target for remediation—the levy—without actually knowing how much needs to be raised.

The Convener: My understanding is that, at today's prices, it will be about £3.1 billion over 15 years. The £30 million a year that the Government hopes to raise through the levy will be about 15 per cent of the cost, while the rest will be paid by general taxation.

I know that they are all different sizes and shapes, but what is the average price of a new house in Scotland?

Fionna Kell: I do not have the exact figure for a new-build property in front of me, but it is somewhere in the region of the high £200,000s.

The figures that you quoted were in the business regulatory impact assessment and the subsequent financial memorandum that accompanies the bill, and they are based on assumptions of assumptions. A lot of this is taken from figures that relate to a proportion of the buildings in England, because it is slightly further ahead and there is a better understanding of the extent of the programme there. Some proportionality has been applied back to Scotland, and assumptions are being based on assumptions instead of on detailed evidence about the actual position in Scotland. That is our concern.

You mentioned the £30 million, which is in addition to the receipts that will be coming to the Scottish Government from the residential property development tax, which a number of home builders in Scotland are paying towards. It is also in addition to the remediation of their own properties in scope that many home builders are undertaking. We are concerned that some builders are remediating their own properties voluntarily and paying the residential property development tax, which means that they are, in effect, facing a triple hit and are paying for remediation three times over. Meanwhile, at the other end of the spectrum, some businesses, such as Bancon, have not built anything in scope but are being hit, too.

The Convener: I have just been advised that the average price of a new-build house in Scotland is £335,447, so the levy would be about 1 per cent of the sale price. Would that not just get passed on to buyers?

Fionna Kell: When someone buys a property, the mortgage lender will look at its value. A four-bedroom house in a certain street might be worth £300,000. Whether that is a new-build property or an existing property, the valuer will say that that four-bedroom house will sell for £300,000.

However, if, for example, the cost of building a new-build house is £320,000 but the mortgage valuer says that its value is only £300,000, that £20,000 difference cannot be passed on to the consumer because the mortgage lender will say that the property is worth only £300,000. In effect, the home builder and its wider chain have to absorb the additional £20,000 cost, which cannot be passed on to the home owner.

The Convener: I looked this up and found an example from 2021, which is not exactly recent, when the average cost of constructing a house in Edinburgh was £126,400 but the average sale price was £375,870. That is more than three times the construction cost. I am well aware that other costs are involved, but those figures show a 197 per cent profit. I do not for a minute accept that that is the real profit, but we are looking at £3,500 out of a price that was £375,000 in Edinburgh four years ago. Developers will pass that on to buyers, and the reality is that no one will put a house up for sale for less than the cost of building it.

You sent a really detailed and excellent 26-page submission full of facts and figures. What impact do you see on the elasticity of demand? Do you think that the levy will reduce demand by 5 or 10 per cent, or will it have no impact? What is your view of the impact on actual demand?

Fionna Kell: I am not an economist, but the Scottish Government was very clear in its recent housing emergency action plan. The cabinet secretary set out an ambition for year-on-year growth of 10 per cent in the number of starts and completions in Scotland, and she has been very clear that that is what Scotland needs to get itself out of a housing emergency. We have that on one side.

On the other side, you have heard very clearly from Julie Jackson and Natasha Douglas that the levy will have an impact on the number of new homes that are built in Scotland and that we will see a reduction in that number. So, one part of Government has a very clear ambition to increase the number of new homes, while there is a very clear impact from the other side that will decrease the number of homes being built.

The Convener: When you say “homes”, you are talking about homes for sale. All the submissions talk about the fact that 44 per cent of housing in Scotland is classed as affordable, compared to 19 per cent in England. Should affordable housing be included if the levy is implemented? That seems to be the implication of what you have said.

Ms Kell, in your submission, you state:

“The exemption of affordable housing, which is more than twice the size of that in England, in terms of its proportion of the market, does not reflect the reality of the make-up of the Scottish market which differs from England.

This also ignores that UK Government seeks to substantially grow the tax base in England, through its ambition to deliver 1.5m homes.”

Over five years, that would require 75,000 houses to be built each quarter in England. In fact, however, 43,030 houses were built in quarter 2 last year in England, and the figure has fallen to 36,180 in quarter 1 this year, which is less than half of the target. That is not really much of an example to follow.

Fionna Kell: That is the point: the more you continue to add costs and levies on to the cost of the build, the fewer homes will be built—and the future tax base will reduce rather than increase.

I am assuming that the Scottish Government wants more homes to be built in order to get more revenue to meet the £30 million annual target. However, the extent of the levy will reduce the number of homes being built and reduce the tax base. You are not doing what you want to do, which is to build more homes, house more people, get out of the housing emergency and increase the tax base.

The Convener: Indeed, the people who build those homes will be paying income tax, council tax and all the rest of it. Therefore, if they are not building houses, they will not be paying those taxes, which will also have an impact.

I am really keen to get fired into your submissions and go through them all in great detail. However, because of our time restrictions and the fact that I am dead keen to let my colleagues come in, I shall leave it at that.

John Mason (Glasgow Shettleston) (Ind): The convener asked you about the problems with having the levy, and you have explained some of them. However, if we do not have the levy, where should the money come from for the cladding repairs?

Fionna Kell: Is that question for me?

John Mason: I am happy for anyone to come in, but you can start.

Fionna Kell: I am happy to do so.

John Mason: Before you do, I would just say that your submission was so long that I was not able to read it in detail. For future committee meetings, you might want to make submissions a bit shorter.

Fionna Kell: Okay—we will try to do that. As you can see, we are very passionate about the issue.

You asked where else the money would come from. There are a number of issues here. Taxes must be proportional and, as has already been referenced, a wider systemic issue led to the tragic

events at Grenfell, and we are all trying to resolve that. The issue is system wide but, at the minute, the only part of the system that is being taxed, and the only part that is being looked at to remedy the issue, is the home builder part. If we are looking at how we fill the gap, we need to broaden that out and look at the wider system.

John Mason: So, you would be happy with the levy if it applied to more people. Should we just add the amount on to, for example, corporation tax, income tax or business rates?

Fionna Kell: In addition to corporation tax, we already have the residential property development tax, which the largest home builders pay. Our point is that home builders are remediating their own homes, they are paying RPDT and the levy will add another level on top of that.

John Mason: I accept that the developers do not like the levy, but we must find the money. Should we add it to business rates and all businesses would pay for it?

Fionna Kell: I am not a taxation adviser. All that I can do is tell you about the impact that it will have on home builders—

John Mason: Do you not have an alternative?

Fionna Kell: There are a couple of issues. One thing that we suggested in our submission is a sunrise clause. That, in effect, would mean that, at such a time when the home-building industry is in a stronger place in Scotland—

John Mason: That could take for ever. It could be in 50 years' time.

Fionna Kell: It could be, but it is certainly not when we are in a housing emergency that the Government has declared.

John Mason: We will always be in a housing emergency. We will never have enough houses.

Fionna Kell: That is the whole point. We are never going to build enough houses, and what you are doing is exacerbating the situation by putting another tax on house builders.

Our view is that we should have a sunrise clause. That would apply until such time as you have a more stable base—that might be in three years' time, if the cabinet secretary has achieved the Government's ambition of a 10 per cent year-on-year increase. We have called for there to be an all-tenure target of 25,000 homes a year, which is what Scotland had been building on average until just before the financial crisis back in the mid-2000s. I would suggest that, once we get back up to those kind of numbers, the Government's self-declared housing emergency—

John Mason: Okay. I want to move on to one of the other witnesses.

Ms Douglas, it sounds like Ms Kell would like to put this off for ever and ever. You said that it was not “fair” that the decent developers should pay for the bad behaviour of bad developers or bad manufacturers. Surely, tax is always like that. I reckon that I am a decent person, I am law abiding, and I pay tax for the police to deal with the bad people. Is that not just how tax works?

Natasha Douglas: I am not a tax expert, but it is important to recognise that there are no good or bad developers in this situation. The developers that created buildings with unsafe cladding did not just decide to do so one day with the intention of causing harm to the people living in those buildings. The building was signed off through a building warrant, so a process was followed before the building was erected.

11:30

John Mason: Did the developer have no responsibility to check the materials that it was using?

Natasha Douglas: The developer would have been given guidance by the designers and manufacturers at that moment in time. Things have moved on, and we know now that the cladding that was used historically is not safe. To go back to your point, Bancon Homes has never delivered a building with unsafe cladding. The nature of the business is that we deliver homes for people to live in, and they are generally one to two storeys in height. Historically, we have delivered flats, but they are generally around four storeys in height and, as I have said, they have not used unsafe cladding. We feel penalised.

John Mason: If the levy is not fair, how should we raise the money?

Natasha Douglas: As we have said in our submission, the levy as it stands is almost a blanket approach against house builders, but there are other parties that inform the design and build of new homes.

John Mason: So, would you spread the levy out further? Would you still have a levy but spread it out more?

Natasha Douglas: We feel that, if a levy is to be introduced, it should certainly go further than just the house-building industry.

John Mason: Would the admin costs for that not be pretty horrific? Normally, we spend 1 per cent on admin for getting a tax, but this time we are up to about 10 per cent or thereabouts. If we go after every single manufacturer, the admin costs will be huge.

Natasha Douglas: I am not an accountant or a maths person. I am not an expert in that field, and

I would suggest that I am the wrong person to answer that question.

John Mason: Fair enough. I will try a different question. There is the suggestion that a development with a small number of units would not pay the levy. Say that somebody builds a £1 million house out in the countryside. Surely, they should be paying a levy for that.

Natasha Douglas: On the exclusion of developments over a certain size, I think that south of the border, in England, they have increased the number of units for a development to be excluded fivefold—from 10 homes up to 50 homes. I am not sure whether that would be considered in Scotland, but it would certainly help us as a business.

Your question about the £1 million property is difficult to answer because, as you will appreciate, viability can be very different from site to site. The viability of a development of 100 houses will be different from the viability of £1 million homes. Without looking in detail at the construction cost of such a house, it would be difficult to see what level of profit would be made on it, and whether that would involve a developer or whether someone is building it for their own sole residence. I am afraid that your question is quite a wide one to answer.

John Mason: I will come back to Ms Jackson. Can you say what we should do if we do not do the levy? Also, surely, if a person is spending £1 million on a house, an extra £5,000 or £10,000 does not matter to them, so, surely, they should be paying a levy.

Julie Jackson: I will start with your first question. As has been mentioned, and to be clear, Miller Homes has buildings that we are remediating that have had fire safety defects. We are quite far advanced with that programme in England. We are also committed to doing the right thing in Scotland and to remediating the buildings that have fire safety defects. We have made provision for that, and that involves a lot of money. We also pay residential property developer tax. Again, the levy would definitely be the third dip for us in terms of a tax. We are very concerned that it has not been addressed in Scotland that there are contractors, architects, engineers and insurers—a plethora of individuals and companies out there, including cladding suppliers—who are not paying for this.

John Mason: If we put a tax on each one of them, the cost of collecting it would be horrendous.

Julie Jackson: We do not have to do that. We have to change the law in Scotland to allow us to go after the people who are responsible for the cladding.

John Mason: When you say “go after”, do you mean tax them or sue them?

Julie Jackson: No, I mean recover the cost, because that is what the Government is doing with house builders.

At the moment, house builders are saying that we will voluntarily remediate the buildings, but shoddy workmanship by contractors, architects who specified defective materials and cladding companies that hoodwinked the industry into believing that their products were non-combustible are not paying at all. It is possible to go after some of them in England because Barratt took a case to the Supreme Court. We do not have that ability in Scotland.

John Mason: Does Scotland have the power to do that? You are not sure.

Julie Jackson: There are definitely things that the Scottish Parliament could legislate to do to change that. We have been discussing those with the cladding remediation team without a great deal of success, but there is a way of recovering money, and not just for developers but for the Scottish Government.

The vast cost of remediating buildings in Scotland will sit with the Scottish Government. There are way more orphaned buildings here than there are south of the border. That would be my answer. We need to look at some way of recovering costs from those who are actually responsible. It is the polluter-pays principle, which is a settled legal principle across the world.

John Mason: We would all agree with that. There is the question of whether we have the powers, but I accept that we need to pursue that with other witnesses. We got the impression from the Scottish Government that the window that it has been given to operate in is quite limited by Westminster. It is not a tax that we could just do anything with.

Julie Jackson: On the tax, I agree.

By all means, come and chat to me afterwards. I am willing to explain what might be possible; I am a lawyer.

The Convener: Go on—tell us all!

Julie Jackson: There is obviously not time to go into what might be possible today, but there are possibilities.

John Mason: You said that the developers are doing something about this voluntarily. Presumably, the manufacturers could also do something voluntarily. That would be one option. Another option is that somebody sues them—either the house builders, the Government or somebody else—and another is that we put a tax on them. Are those all available options?

Julie Jackson: I do not know how a tax would be put on them, but, again, that is outside my—

John Mason: I will leave it at that, convener.

Craig Hoy (South Scotland) (Con): Good morning. Fionna Kell, you talked about a sunrise clause—quite a novel concept—that could become part of the fabric of building in Scotland.

When Peter Drummond, from the Royal Incorporation of Architects in Scotland, appeared before the committee, he said that every 10 or 15 years, another building scandal seems to come along. Given the timeframe for remediation, and given that this has been going on for a number of years, how likely do you think it is that another building scandal will come along for which the tax would potentially have to be used to start remediation? Does that not give rise to concern that this is going to become a tax on house builders or house purchasers in Scotland?

Fionna Kell: We are very concerned that the bill should be set to address only building safety and cladding remediation issues. Scottish ministers have said that that was their intent, but we remain concerned that the definitions in the bill are not as tight as they should be in that regard.

It is fair to say that house builders remain committed to continual improvement of standards. New homes are generally covered by a 10-year warranty, and the new homes quality code and a voluntary ombudsman are now in place.

The industry welcomes the commitment from Westminster and the Scottish Government to the introduction of a statutory new homes ombudsman, which we understand is coming.

So, I do not think that it is appropriate to say that it is inevitable that another issue will come along in 10 or 15 years' time. As Natasha Douglas has said, no one sets out to build homes that are not of the appropriate standard. Indeed, there is a commitment to continuing to improve standards.

At the moment, there is not a clear sunset clause in the bill. Home builders need certainty as to when the levy will come in, how much it will be and when it will end, so that businesses such as Natasha's and Julie's can plan for future investment. With the current uncertainties, they cannot do that.

Craig Hoy: I want to ask about how manufacturers could be brought into the system. It is clear that that will happen in England. What is the risk to Scotland of having a system that excludes manufacturers? Is there a specific concern, other than the fact that you have identified that it appears that the Scottish Government will be on the hook for most of this?

Julie Jackson: There are no specific concerns in relation to manufacturers. It would be difficult to recover money from manufacturers, but there are others from whom it would be a lot easier to recover money, such as contractors and architects, who are all insured. The ability to do that is missing.

Craig Hoy: When we spoke to a representative of the architects' profession, they said that, in many respects, it was not regulated architects who were working with the building firms. They were almost implying that the people in question were rogue operators and that building standards simply signed off the buildings without professional architects being present at the scene of the crime, as it were. Would you contest that?

Julie Jackson: Yes. I have evidence that that is not the case.

Craig Hoy: So, there is buck passing going on here.

Julie Jackson: Yes.

Craig Hoy: Okay.

I want to look at the broader impact on the market. It seems that certain areas could be badly hit by the proposed tax. Starter homes are one example, and the build-to-rent market is another. The Government has set a clear target of a 10 per cent increase in house building. The Westminster Government is doing more modelling on what impact any intervention would have on housing supply. What do you want the Scottish Government to do before it presses ahead with its proposed tax?

Fionna Kell: As you have said, there is an absence of modelling at the moment. The Public Accounts Committee at Westminster was clear on the need for such modelling, and it has asked the Westminster Government to go off and do it. It felt that there was a clear link between the introduction of the levy and the remediation programme and the impact on the UK Government's ability to meet its home-building targets.

The Public Accounts Committee identified that link and raised it with the UK Government. We would say that exactly the same thing is the case here. We think that there is a very clear link between the two issues, and we have not seen robust modelling to show that that will not be the case.

Julie Jackson: I would like to comment on a more personal level and bring the discussion back to what we do as a house builder.

I had a wee look back to see how many homes we delivered between 2019 and this year, and the percentage of that volume that we delivered in

Scotland. I was surprised to see that, year on year since 2019, Miller Homes has been delivering fewer houses in Scotland, as a percentage of its output. There has been a decrease of 2 to 3 per cent per year. We started off delivering 25 per cent of our output in Scotland, and we are now at less than 14 per cent.

That appears to be a cumulative effect. That has not happened as a result of a desire on our part not to grow in Scotland—that is absolutely not the case. We are a Scottish company that is headquartered here. We want to invest and grow in Scotland, but the numbers are telling us that we are going backwards.

Craig Hoy: Is that to do with increased regulation and things such as Passivhaus building standards?

Julie Jackson: It is to do with all sorts of things. Much of the issue goes back to viability and the availability of suitable sites for development.

I also looked at the delivery of affordable homes and the percentage of affordable homes that we delivered in the Scottish context over the same period. The figure has consistently gone down over that period, which means that the delivery of affordable homes in Scotland is going down. Why is that? Again, it goes back to the point about sites not being able to hold affordable homes in terms of their viability.

11:45

We already have a double whammy in Scotland. We still want to invest. Everyone wants growth—nobody is telling us that growth is a bad idea. We all need sustainable growth so that we pay more tax in order to fix issues such as cladding. However, the delivery of homes is going into reverse, so the tax base for the levy is going backwards. That will continue, and the current policies on house building in Scotland are making it worse. That is the only reason that I can see for the fact that we are growing everywhere else but not in Scotland.

Craig Hoy: We had the Minister for Public Finance before us earlier, and Mr Marra asked him why LBTT receipts in Scotland are lower than the projections. Have you or anybody else in the industry made any calculation as to what the loss in LBTT might be if there was to be a contraction in the number of properties being traded, notwithstanding how we might undershoot the goal in terms of what the building safety levy might bring in? Is there a risk that one could offset the other and that the Scottish Government could be worse off?

Fionna Kell: We have not looked specifically at LBTT. Rather than look at what could be lost, we

have looked at what we could have if the sector was growing. As I said, our stated ambition is 25,000 homes per year, and the cabinet secretary's commitment to 10 per cent year-on-year growth would get us to roughly that number in about three years' time.

We estimate that, at the minute, the industry contributes approximately £3.4 billion to the Scottish economy. By growing from where we are to the target of 25,000, we would be at roughly just under a further £1 billion contribution to the Scottish economy, with a further 22,000 jobs being supported.

We have estimated an uplift of about £8 million in council tax receipts and an additional £46 million in developer contributions, and an additional 1,200 affordable homes. That is what could be lost if we do not get to the 25,000 target. We can then begin to work back from that. We estimate that there are roughly about four jobs for every home that is built, so the fewer homes we are building, the more jobs we are losing.

Craig Hoy: That is interesting. It means that the figure of £3,000 per home is suddenly wiped out.

Fionna Kell: It is roughly £3,000 per home. That is what we have calculated but, as I said, we have not yet had anything from Government and we do not know what the levy will be. We did research this year with our home builders in small and medium-sized enterprises, and they have estimated that the additional cost of regulation over the past five years, including what is coming, is putting £20,000 to £30,000 on the cost of a home. That is not including cost-price inflation, Brexit, war in Ukraine and whatever else happens to be going on. The cost of regulation is estimated at between £20,000 and £30,000 per home, which is not viable for many homes.

You mention the cost of new-build houses in Edinburgh. There may be places in Edinburgh where those kinds of costs can be absorbed, but there are plenty of places outwith the central belt of Scotland where that is not the case. Visualising the picture across the central belt, our fear is that the area where development will be viable will reduce. We will see it moving further and further up or down into the central belt, so that the area of development viability will be really tightly squeezed.

Craig Hoy: I have one final question. One general criticism of legislation in this Parliament and at Westminster is that the Government is increasingly using skeleton legislation. That is what I call fill-in-the-blanks-later legislation, and that is sometimes the controversial blanks. With the bill as it stands—or rather, once it has been fleshed out with law making through delegated

powers—is there any capacity for legal challenge to it on the basis of fairness or equity?

Fionna Kell: To be honest, I have not looked at issues around legal challenge, but we have raised the issue with such legislation consistently. We raised the same issue with regard to the Housing (Cladding Remediation) (Scotland) Act 2024, which was framework legislation, too, meaning that a lot of the detail was going to come through secondary legislation and regulations.

As I said, that gives us concern. Home builders need certainty to be able to make business investment decisions, and the lack of certainty and detail around that causes us a lot of concern.

Craig Hoy: Ms Jackson, you are a lawyer, so you might have thought about this more.

Julie Jackson: I am not that kind of lawyer.

I would echo what Fionna Kell has said. One of our main concerns is about the legislation being brought in and the point at which it will impact us. It will hit sites that we have already bought and are developing, so it will lead to a sudden increase in the costs that we had already calculated for those developments. It would be a lot easier for us, as developers, if the costs came in at the beginning, and if there were some period of grace to allow us to get up and running on a site, knowing what the costs were and how long we would have to pay them for.

Natasha Douglas: On the issue of viability, impact and not knowing what the costs are at the moment, we are putting together our next five-year business plan and, without sight of what the costs will be, we will find it incredibly difficult to provide that to our lending facility with any degree of certainty.

Craig Hoy: Thank you.

Michael Marra: In the submissions and the evidence that we have received so far, the polluter-pays principle has been highlighted, but it strikes me from what you have said today and from reading the bill that many people who are not polluters will be asked to pay, too. Is that correct?

Fionna Kell: Yes. There are many who are not polluters who are being asked to pay, and there are many who potentially are polluters who are not being asked to pay.

Michael Marra: In essence, house builders are meeting a public need and providing a public good, and are building good houses for people to live good lives in, but they are being called polluters. I understand that parts of the sector have done bad things—if we want to use Mr Mason's terms—and I can understand why some of that language is used, but some companies

must find such a description a little bit difficult to wear.

Fionna Kell: We do. We have many members who are home builders; Bancon is one, but there are many others. I know of a family-run business, based predominantly in Perthshire, that has been going for the past 50 years and has never built anything more than two storeys. It has had to significantly reduce its workforce and output as a result of the raft of issues that are on-going at the minute, and to call it a polluter is more than offensive. Such companies have not built anything within scope; they are Homes for Scotland members, and they are also stepping up voluntarily to remediate any fire safety defects that have been found. The vilification of the industry is, I think, wholly inappropriate.

Michael Marra: I appreciate that.

You have talked about the marginal viability of sites. I understand that this might be difficult, in the absence of rates being set, but have you managed to do any modelling in respect of the number of homes that you think might be impacted by the levy?

Julie Jackson: What we are seeing with our model, which is predominantly delivering private homes to the market, is a lot of sites that are already not viable, given where they are located—and, therefore, given the price that we can sell them for—and the remediation aspects on the ground. We are definitely seeing that in the west of Scotland, and the levy will just tip the balance even further. In answer to your question, we have not modelled anything, because what happens is that these sites come to us, then we do our numbers and say, “Actually, this isn’t for us. Thank you.”

Michael Marra: So there is a cumulative effect, and it is quite obvious that there will be tipping points where we move beyond viability.

Fionna Kell: Yes.

Michael Marra: The construction cost for building a three-bedroom house is roughly £270,000—I have managed to get that from the internet, and I do not know how common that would be across different builders and so on, but let us take it as a benchmark. The Government also pays to build houses—it pays local government to do so, for example. If the Government paid £30 million for building on one side of the ledger, that would cover about 110 houses across Scotland. It would seem to me a bit perverse if we were to find ourselves in a position where that number was offset by potentially stopping the building of 110,000 homes. In the absence of modelling from the sector, I find it difficult to measure that trade-off.

Fionna Kell: As I said, we have not done that modelling. I refer back to the Public Accounts Committee in Westminster, which has put the modelling firmly back in the Government’s court and said that the Government should undertake that before it introduces such a levy. The Government needs to understand whether it is doing something in one place that might have a negative impact somewhere else.

Without that robust modelling, we are in danger of bringing in something that could have significant consequences that we have not worked through. If we have done all the modelling and understand that X will impact Y, we can then make an informed decision. If a decision is made to introduce a levy, and the Parliament knows that the introduction of that levy may result in a 1 per cent decrease, or whatever the percentage might be, that is on an informed basis. However, I fear that we do not have that robust modelling at the minute.

Michael Marra: You have given evidence today on other secondary effects around employment tax revenue. Has the Public Accounts Committee asked for those issues to be included in modelling as well?

Fionna Kell: Yes, it has asked for that broad modelling.

Michael Marra: That is interesting. Mr Hoy touched on the issue of LBTT receipts, so I will not go there.

We are eight years on from Grenfell. In quarter 2 of 2025, only three single-building assessments were completed in Scotland. Meanwhile, in England, remediation was either started or completed for 2,490 buildings. In your view, is the limiting factor in Scotland the availability of money to do the work?

Fionna Kell: That might be the case, but there is a step behind that. In Scotland, we were a couple of years behind in setting up the governance structure—the appropriate legislation and contracts and so on. However, there are buildings in Scotland that home builders have already voluntarily remediated, are in the process of undertaking single-building assessments for, or have completed single-building assessments for and are in negotiations with home owners about the appropriate remediation contracts for. Those buildings might be in addition to the numbers that the Government is publishing through its remediation programme, but there is certainly a commitment to progress from the home builders, and many of them are making progress.

Michael Marra: Do any of your colleagues want to comment on that? Is the availability of finance the limiting factor in the lack of progress in Scotland on delivering safety for people?

Julie Jackson: Not for the buildings where there is a commitment to remediation from home builders. We are one of the home builders who are remediating in England, and we are pretty far through that programme. In Scotland, we are among the developers that Fionna Kell just mentioned. We have been trying to get to the point where we can properly remediate those buildings for five years. It has been very difficult, but that is not due to lack of money. The landscape in Scotland is very complex, and we need the Government to help to get us on site to be able to do the work. We have been trying for a number of years to collaborate with the Government to do that. I do not see the issue being a lack of money.

Natasha Douglas: I do not have anything further to add.

12:00

Michael Marra: Assuming that the bill progresses, do the witnesses want to see anything added to the list of exemptions?

Fionna Kell: We sit in a difficult position. We represent home builders of all sizes, so we understand that, if there is to be a levy, the more exemptions there are, the larger the amount those in the tax base will have to pay. However, we are also balancing against that the need to support the home building industry in Scotland. Definite consideration needs to be given to protecting small and mid-sized home builders.

As I understand it, the Government's current suggestion is that all home builders will benefit from a levy-free allowance. At the minute, I think that the figure for the levy threshold that it is talking about for all home builders is somewhere around 10 homes a year. However, that is too low, because a very small home builder who builds seven, eight or nine homes a year, will not look at a site and think, "Maybe I'll move on to 20 homes a year." Instead, they will say, "No—you know what? I'm going to sit at my 10-home threshold, because anything more than that means I have to begin to interact with the revenue system."

If you set the levy too low, it will have a behavioural impact on the SMEs. If you set it somewhere in the region of 30 homes a year, you will hit more of a sweet spot because home builders will have some ability to grow the business before they begin to interact with the revenue system.

Michael Marra: Is there any reason why the figure for exemption levels in Scotland should be different from those in the rest of the UK? Do you want us to take on board the different character of the sector here, meaning that a different signal of viability should be sent?

Julie Jackson: In England, it is set by local authority, and by viability relating to house prices. The big issue is that you need to keep some sort of tax base in order to collect the levy and pay for the remediation. You need to find the point at which the levy would make a site unviable. To go back to Mr Mason's £1 million house, it is not about the numbers or about home builders having 10 free passes or whatever. If it is linked to viability, it then has a hope of keeping the tax base as broad as possible, so that the sites that can afford to are those that pay. That is probably not the answer that you would expect from me, but that seems to be the fairest way of doing it, and that is how it is done in England.

Natasha Douglas: We are content with the exemptions in the bill as it stands, but we ask that there is a levy-free allowance, as Fionna Kell suggested. Equally, as Julie Jackson suggested, if you can demonstrate that the site is not viable with the levy, it would be beneficial for that site to be exempt if possible, so long as it can be demonstrated that the viability is in question and at stake.

We are content with the buildings that are listed as exempt.

Liz Smith: In response to question 8 in the call for views, which was about the financial memorandum, all three of you were very sceptical about the methodology that had been used. In particular, examples were cited of levy rates and the possible effects that they would have on developers being able to estimate their liability. Could you explain your concerns about the financial memorandum to us in a little more detail?

Fionna Kell: There are a couple of points to consider. The Government's assumption about the size of the new-build market in Scotland is that its value is about £4.6 billion a year. However, Registers of Scotland calculations for the same time period put that figure at about £3.2 billion per year. That is Registers of Scotland's data, whereas the Government's assumption was based on assumptions of assumptions. Therefore, we think that the Scottish new-build market size has been overstated by about £1.4 billion. That has a significant impact.

As I said at the outset, there is no clear list of properties in scope to which we can apply an estimated cost. We have had an estimate of the number of buildings in Scotland that is based on an estimate of what happened in England, and then an estimate of what the cost might be. In the absence of anything else, those are not bad proxies, but eight years down the line, we are getting to the stage at which we should not have to rely on estimates of estimates. We should have a robust modelling system. If we had that, we could at least have the confidence that we are making

informed decisions that are based on the right evidence. However, I do not think that we have that currently.

Liz Smith: That is quite a concern.

Fionna Kell: It is a very big concern.

Liz Smith: Ms Jackson, would you like to comment on the financial memorandum?

Julie Jackson: We take the same position that Fionna Kell outlined. We do not understand how the numbers have been arrived at. We can only look at our own numbers, and it is difficult to work out how the Government has arrived at the number of buildings that need remediation and who is going to pick up the cost of that remediation. That is still not clear to us.

Liz Smith: I presume that that is quite a big concern to people in the industry.

Julie Jackson: Yes. I am not clear how the numbers have been arrived at. I know roughly how much it costs to remediate a building, because I am doing that elsewhere, but that does not seem to have translated into the numbers that the Scottish Government is talking about.

Liz Smith: Apart from presenting your concerns to the committee—and I thank you for your extensive submissions—have you engaged with the Scottish Government about your concerns over the financial memorandum?

Julie Jackson: I personally have not, although I have engaged extensively with the Scottish Government on the subject of remediation of buildings.

Fionna Kell: Yes. I have raised the overall questions about the modelling, where the numbers have come from and so on. I spend most of my working week engaging with the Scottish Government on cladding-related issues.

Liz Smith: Are those on-going discussions with the Scottish Government about your concerns?

Fionna Kell: Yes.

Liz Smith: Ms Douglas, do you have anything to add?

Natasha Douglas: I would just add that the concerns that have been raised are shared by Bancon Homes.

Michelle Thomson: I will turn to a practical point. I hear what you are saying very clearly. For the record, the quality submissions that you have submitted have been very helpful. We read them all, even though they are extensive.

The planned date for our stage 1 report is December, and we will then have 11 working weeks before the Parliament goes into dissolution

for the election that is coming down the line. I would like to hear your reflections on what can be done in the time that we have. Given the timescales and having listened to what you are saying, I think that we are really up against it.

I fully accept the premise that something has to be done, and the bill is something. In other words, all the other people who were party to the issues at Grenfell are getting off scot free. I also hear what you say about not having the hard data to properly estimate the behavioural effects.

However, thinking about the timescales and assuming that the bill gets past stage 1 okay, we will have 11 weeks to try to amend the bill. How practical do you think that is? Bearing in mind what you say about behavioural stuff, if you had to pick your top two or three things that have to be changed or done, what would they be? I would like your sense of where we are at. Fionna, I will come to you first.

Fionna Kell: I do not have specific comments on the parliamentary process, other than that you are going to have a very busy 11 weeks to get through.

Michelle Thomson: You should see how many other bills there are.

Fionna Kell: I can imagine.

What concerns us is what we see if we look at our counterparts—the guys building north and south of the border. If they were building in England, they knew 18 months before the levy was to be introduced exactly how much it was going to be, who was going to be exempt, how it was going to be collected and so on. All of that was clear. We are now sitting less than 18 months before the proposed implementation date in Scotland. We would ask that consideration is given to the implementation date.

Mr Marra asked whether money is the key barrier. We do not think that money is the key constraint at the moment. There are a lot of other things. Potentially, in about two years, we will start to need to see much more of that cash coming into the system. I do not see there being a major burden in pushing back the implementation date, but until we have that clarity, we will be pressing officials on it. Indeed, I pressed them on that at a meeting just last week. I was advised that the next meeting of our expert advisory group was going to be in the new year, so another couple of months will pass and we will still not have that clarity.

The other priority for the bill that I would seek is that it needs to be clear about the sunset clause, so that we have a clear understanding of how the bill is going to operate, when it is coming in and when it is going to end.

Julie Jackson: Assuming that the process is in train, there are two things that are important from my perspective. First, it must be made clear that the money is to be used to remediate fire safety defects and not for any other building defects or anything else. It is important to us that it is made clear what the money can be used for—where it is going to go, where it sits and how it is going to be used.

The second thing that is important to us is phasing in how we can plan for those costs in our budgets. I would ask that, somehow, the levy is not applied to existing sites and existing plans for homes to come, but is about new sites that are coming through the system. Even if the levy is charged earlier in the process rather than at the end, through section 75 contributions or whatever, I would ask that it is applied only to new homes—homes on new sites. Those would be my two asks.

Natasha Douglas: My views are similar to those of Julie and Fiona. We would also ask that, if a company can demonstrate that it has not delivered a building with unsafe cladding, it should be exempt from the levy. If there is to be a levy, like Julie, we would ask that it is for new sites only, as opposed to sites on which there is currently construction. The introduction of a sunset clause is also important to us.

The Convener: Thank you. We have a few more questions, but we have another panel to hear from, so I will not hold you back. I thank you very much for your evidence this morning. It has been very helpful.

We will take a break for a couple of minutes to allow for a change of witnesses.

12:13

Meeting suspended.

12:16

On resuming—

The Convener: We continue our evidence taking on the Building Safety Levy (Scotland) Bill. I welcome to the meeting Hazel Johnson, director of Built Environment Forum Scotland; Anna Gardiner, senior policy adviser at Scottish Land & Estates; and Josie Sclater, senior policy officer at the Scottish Property Federation. Thank you, everyone, for your written submissions.

I refer people to my entry in the register of members' interests.

As with the previous panel, we have approximately an hour for this evidence session, so I will move straight to questions.

Hazel, your submission is somewhat different from everyone else's, as you say:

"An appropriate levy on future residential builds is a logical route for setting foundations to protect people from this situation, in which defects are discovered years or decades after construction, but public bodies, owners and other stakeholders do not have access to the level of resources required to deal with them."

Hazel Johnson (Built Environment Forum Scotland): That is in relation to BEFS's remit of examining the existing and historical built environment. The defects that come to light are part of a wider issue around recognising that there is an awful lot of remediation, and not just with cladding; it comes to light with the various issues that we recognise.

The Convener: Josie Sclater, I suggest that Hazel Johnson has a point. A number of people have raised concerns about building standards over the years. Builders did build according to the standards that applied at the time, and there have been issues over the years. I and members of other committees have looked at the reduced numbers of clerks of works and so on, which has meant that corners have been cut. Does Hazel have a point, in that a fund such as the proposed levy would help, almost as an incentive for builders to be a bit more careful in construction? Otherwise, the levy will fall upon them.

Josie Sclater (Scottish Property Federation): Thank you, convener, and I thank the committee for inviting us to give evidence. I would reaffirm that, as an industry, we are very much committed to addressing all critical building safety issues, including the swift remediation of any unsafe cladding.

We acknowledge the very good intentions behind the building safety levy, and we know that there is a very limited pool of funding that can be drawn upon to help with remediation efforts. Our members are deeply concerned that the levy essentially constitutes yet another tax on development. If I could leave the committee with three key things today—

The Convener: You do not need to leave us—you just got here. [*Laughter.*]

Josie Sclater: Well, to start with, anyway, I will say that the three key things that the levy will impact on are development viability, investor confidence and, ultimately, the supply of new homes. It is about whether you want to target the sector with the levy and then have a potential reduction in the number of homes in the future.

The Convener: You said in your submission:

"We must stress the importance of a discounted levy rate for schemes on previously developed land."

How would that work?

Josie Sclater: Brownfield land is very important. We speak with a lot of local authorities that are very much of the view that we need to encourage greater city centre living, because it has a wider social and economic benefit. We are seeking an exemption from the building safety levy for land that was previously developed, with at least 50 per cent of the land according to brownfield. There are many barriers to developing on brownfield land—contamination and remediation costs are higher and there are often more fragmented ownership structures and greater infrastructure constraints on remediating it. That is why we are seeking the exemption.

The Convener: Are you talking about a total exemption or a discount? If it is a discount, what percentage are you talking about?

Josie Sclater: In an ideal world, it would be an exemption, but we understand that there are constraints on funding. We also consider that at least 50 per cent of the land needs to have been previously developed.

The Convener: Looking at the evidence, we see everyone talking about exemptions. If all the exemptions were in place, there would not be any money to collect. Anna Gardiner, in your submission, you said:

“we would suggest that an exemption in the region of 50 units would provide a more meaningful degree of protection in rural Scotland.”

I do not know how many developments of more than 50 units there are in rural Scotland—I cannot imagine that there are many. Surely developers would just build 49-unit developments, to avoid the tax.

Anna Gardiner (Scottish Land & Estates): You have to take a lot of care when looking at the scale of a development. You also have to look at the pace of the development, because that pace will be dictated by how quickly units sell. The slower that units sell, the slower the pace of the development moving forward.

I will give the example of Leet Haugh down in Coldstream, which is a development of 106 units. It started in 2011, but the site is currently on hold due to viability challenges, because the market values have not kept up with the cost of inflation. We are now in 2025, and 35 units are still outstanding. Even though that is, by rural standards, quite a large development, if you compare the pace of the delivery of that development with a development of a similar size in the central belt, you are very much dealing with apples and pears.

Notwithstanding what I said in our response to the call for views, scale cannot be treated in isolation. You must look at all the factors that have an impact.

The Convener: You also said in your submission that you

“welcome the exclusion of islands in Section 5(d). However, Scottish Government regulations on local business taxation have already acknowledged that some rural mainland areas, such as Knoydart, Scoraig, and Cape Wrath, face similar levels of inaccessibility and challenges as island communities.”

Knoydart can be reached only by boat, for example.

Anna Gardiner: Exactly. My point is that, in drafting the bill, for simplicity, islands have been excluded—which is great, because that is really important—however, there are many places in rural Scotland that have the same challenges over housing delivery. The issue is that there has been a problem with defining where you draw the line between difficult and unviable, and viable. That has created a situation in which the whole of rural Scotland has been swept into the scope of the levy.

The viability, as I have just illustrated through what I said about Leet Haugh in Coldstream, is a problem. You must remember the impact of housing in rural areas, the necessity for housing and, indeed, the commitment from the Scottish Government to ensuring that housing is delivered in rural Scotland.

The Convener: Hazel, in your submission, you said:

“BEFS wishes to highlight its position that not enough action is being taken in policy and practice to promote the productive reuse of vacant and derelict buildings and brownfield land, including for housing.”

Would the proposed levy be a stimulus for that?

Hazel Johnson: I come back to the issue of exemptions, I am afraid. It is worth noting that there are existing barriers to the development of brownfield land, and it would be a shame if a levy were to further disincentivise the use and reuse of existing buildings in delivering homes.

The Convener: The Government is hoping to raise £30 million a year from the levy. If it were to introduce all the exemptions that have been suggested, what would the levy bring in, other than zero? I cannot see there being many areas in which the levy will bring in any revenue for the Government.

Anna Gardiner: In relation to exemptions, we need to look at whether the levy is the right thing.

The Convener: Your view is that it is not.

Anna Gardiner: If we end up stealing from Peter to pay Paul, we have a problem.

The Convener: I understand that. Of today's six witnesses, Hazel Johnson is the only one whose submission has been supportive of the levy. The

submissions from the other five witnesses are not supportive. What is your view on who should pay for the work that needs to be done? We have heard it suggested that everyone from architects to manufacturers to companies that were involved in previous construction should pay. I do not know whether the cladding was manufactured in Scotland, China or Germany, so I do not imagine that that would be a big source of potential income.

Who else could the Government raise the levy from? We are talking about spending £200 million a year, but it will cost £3.1 billion to remediate cladding in Scotland. The proposed tax is aimed at only 15 per cent of that. It will go some way towards raising funds, but who else should the required funding be raised from? Others can answer that question as well.

Anna Gardiner: I think that the argument that is based on the polluter-pays principle is very strong. I also think that there is a lot of value in ensuring that the housing market is adequately stimulated so that the tax take from other sectors is generous enough for some of that take to be creamed off. That could help to fill the gap.

The Convener: But many developers set up single-purpose vehicles—in other words, subsidiaries of the main company—so that when things go a bit awry with a development, the main company has no liability. I have experienced that situation with a number of developments in my constituency, so there will be a myriad of examples across Scotland and the rest of the UK. How likely is it that we will be able to pursue some of the companies that are responsible on a polluter-pays basis? They could simply rename and restructure the company so that it is not the same company that did the stuff that we are all upset about.

Anna Gardiner: I do not have any experience of phoenixing and all the other games that corporations get involved in.

The Convener: Unfortunately, those are the realities that we have to face. That is why we are discussing an up-front levy. When a local authority supports a housing development, it tends to put a bond in place so that, when all the shenanigans go on, there is still money to repave the roads, put bollards in and all the rest of it. That could include fixing the sewers, which are sometimes not installed properly.

Anna Gardiner: The challenge with bonds is that they often involve up-front payment. With rural developments, if the up-front payments are too great, the developer will face cash-flow challenges from the beginning, which is an issue in itself.

The Convener: If the council does not put in place a bond, the developer can just scarp and

the council will be left facing those costs. That has happened with at least two developments in my constituency, and I know that it has happened in other places. If everyone behaved according to the rules, things would be fine, but that is the issue that the Government faces, which is why it is proposing an up-front levy.

Hazel Johnson: I recognise the concerns of colleagues at the table.

With regard to the polluter-pays principle and why everyone should pay, rather than just polluters, I would suggest that that is a practical approach to raising the necessary resources for all homes, given that those who were responsible for historical issues might well no longer be around. They might have moved overseas, they might have worked the system in such a way that they are no longer identifiable or responsible, or they might wish to delay any payments.

There was a conversation about banding, but I think that BEFS members might be supportive of a whole-system approach.

12:30

We are supportive of a levy, but not one that places additional burdens on those who are least able to bear them. In our submission, we were clear that small and medium-sized developments should not be included. I recognise that that does not necessarily address some of the concerns that colleagues have, but it is something that we are clear about.

The Convener: There is more that I could ask about, but colleagues want to come in.

John Mason: If you were here for the earlier session, you probably heard my question and I will ask much the same again. Would it be better to forget the levy and add it on to, say, business rates, corporation tax or income tax?

Josie Sclater: I recognise that there is a difficult balance to strike. It is worth noting, and was highlighted in the previous session, that many developers already contribute to remediation of their own buildings. There is also, as was mentioned, the UK residential property developer tax, some of the funds of which are used towards cladding remediation. The levy might, in effect, be adding a triple tax to some of the developers.

John Mason: Would you accept that, although it is a triple tax, we all pay income tax and VAT? We all pay lots of taxes, but we still need that money.

Josie Sclater: The money is still needed but we must recognise that development viability in Scotland is currently in crisis. Developments that were viable five years ago would no longer be

viable today. There has been a range of cumulative impacts on the industry, including from the market—I appreciate that it is not all from Government policy. Tender costs have risen by between 20 and 30 per cent; development finance interest has doubled, from 5 to 10 per cent. That is only in the past year—let alone the other layers of Government regulation and policy, such as increasing affordable housing requirements, the Housing (Scotland) Act 2025 and increasing net zero targets and building standards. Cumulatively, that impacts the sector as a whole. Each policy is often developed in isolation. A lot of them are well-intentioned but there is no consideration of how each one impacts the industry and our ability to deliver housing.

I know that that does not quite answer your question. It is a difficult question because as soon as you deflect that money into other levies, it will impact on the industry in another form.

John Mason: Ms Gardiner, that is a fourth witness who has made that argument—three made it earlier, and we will come back to Ms Johnson later. It sounds like an argument that, if the housing sector—or the building sector or whatever we call it—is struggling, it would be better for the money to come out of general taxation. That would also save us money—Revenue Scotland is going to spend something like £3.7 million in the first year, which is more than 10 per cent of the money that we would get from the levy. It seems to me like a strong argument: forget the levy, let us just put it on income tax.

Anna Gardiner: I am not a tax expert. I would not like to—

John Mason: But are you against the levy?

Anna Gardiner: It is right, to be fair, as we said in our response to the call for views, that we are against the levy as it has been presented. Our key point is that if it is not carefully calibrated, it will exacerbate the housing shortage. When you take that in the context of rural Scotland, it will exacerbate the economic decline and depopulation of rural Scotland. We have said that we support the commitment by the Scottish Government to addressing that issue, but we do not support the way that that has been proposed in the bill.

John Mason: You are not totally opposed to a levy, but maybe we should look at it in more detail.

Anna Gardiner: Exactly that.

John Mason: Would one of the details be to include hotels? If Donald Trump builds a big hotel and people pay hundreds of pounds a night to stay there, surely the hotel should pay a levy as well.

Anna Gardiner: The issue of hotels is an interesting one. In the main, the construction of properties is something that needs to be considered. Housing is not the only thing that is affected by cladding—but, for rural property, cladding is not a thing. I am no expert to talk about hotels with cladding; typically, a hotel in rural Scotland does not have cladding because it is built traditionally.

John Mason: I accept all that. The thing is, we have a problem. You are telling us what is wrong with the levy and you are suggesting that we make more exemptions and so on, but we still have to raise the money, as the convener was suggesting. Do you have any suggestions, or do you feel that it is not your job to suggest alternatives?

Anna Gardiner: I would say that you need to stimulate the economy, so that we can get more tax take in general. Rather than having a negative tax approach, we should have a positive tax approach.

John Mason: Ms Johnson, you have been the most supportive of the levy so far this morning. Can you defend it? Would we not be better just adding 0.1p to income tax, say, which would mean that we were not targeting the building sector?

Hazel Johnson: I am not a tax expert, so it is not for me to comment on that specifically. I would make the general point that, while we are supportive of the levy in principle, the regulatory frameworks should really catch the areas of greatest risk, with effective checks and balances to minimise the adverse outcomes for the honest brokers and developers who have been mentioned.

On the point about a robust framework, the levy is part of a wider approach; it does not sit in isolation. We have already talked about the wider policy landscape: there is the levy, there are regulations and there is scrutiny through compliance checks. I mentioned a whole-systems approach for construction, involving existing and nascent legislation, to ensure that the matter can be considered holistically. You mentioned hotels, specifically. Focusing on principle over economics and arguing for holistic approaches to place, a hotel might be the right thing for one area, but not for another. That is also the case with regard to homes. It is also about what that looks like with regard to other taxes, such as the visitor levy, say—I appreciate that that is not for this committee—within the wider policy landscape.

John Mason: It becomes difficult if we have to start assessing every single development and every single hotel.

Hazel Johnson: It is complex; I recognise that.

John Mason: That would add to the cost of collecting the levy.

As I understand it, the levy is to be based on floor area. Would it not be fairer to base it on value?

Hazel Johnson: BEFS members may have various views on that issue. There are members who are supportive of a floor-area approach—while recognising that it will be difficult to calculate.

John Mason: Especially if there are communal areas.

Hazel Johnson: I recognise that that will be a bit of a headache for somebody.

Josie Sclater: If the levy is introduced, we would support a floor-based approach, with some accountability for regional variation. I understand that the Government is considering taking a different approach to calculating that regional variation. We support the granularity, balanced with not having too many complex rates.

There is one thing about having a floor-area based approach in relation to communal areas. We represent many build-to-rent providers and those building purpose-built student accommodation. There is a much higher proportion of communal areas there, including co-working spaces, gyms and lounges. Applying a floor-area based approach to such accommodation will mean inflating the calculation of the unit. We suggest that, if build to rent is not excluded from the levy, you at least need to exclude the communal space, as such buildings tend to have a higher proportion of communal areas than other developments.

John Mason: I was particularly interested in the part of your written evidence that states:

“the industry is already making significant contributions both voluntarily and via UK taxation to remediate cladding that they were led to believe was safe”.

I asked the witnesses on the first panel about this as well. Is it fair just to blame the manufacturers but build with whatever they give you, or do builders and developers bear some responsibility for checking the safety of the materials that they use?

Josie Sclater: It is important to recognise that developers must go through a building control process and they must receive a building warrant that deems a building safe to use. These issues have come into play several years later. No developer wants to build an unsafe building—it is not in their or anyone else’s interests to do so. They were using their knowledge and skills, and they were using materials that, at the time, they thought were safe to use, but, unfortunately, they were not.

John Mason: I have a final question—whoever wants to respond to it can. It has been suggested that the levy should be used only for cladding remediation. However, the bill talks about it being used for wider safety issues. Reinforced autoclaved aerated concrete is another big issue, and other people have said that some other issue will come down the line. Would it be wiser for the levy to have a wider use, so that we can use the funds not only on cladding remediation but on other things, or should the funds be purely used on cladding remediation?

Hazel Johnson: As you have stated, the purpose of the levy is to fund building safety expenditure. All serious building defects could be dealt with using the same mechanism, so it would seem reasonable to widen its use at some point.

Anna Gardiner: The overarching objective of the bill is to address the cladding remediation requirements. I do not believe that the consultation has been remotely focused on addressing other issues, so I am not prepared to comment on that. I suggest that, if the scope were to be widened, we should go back to the drawing board.

Josie Sclater: I am much of the same opinion. Further, we think that there should be a sunset clause so that the levy, if implemented, should have an end point after around 10 years. Otherwise, it is essentially a tax on development.

Craig Hoy: I will continue in a similar vein to Mr Mason. When Peter Drummond from the Royal Incorporation of Architects in Scotland was before us, he elaborated on the point that such issues come along every 10 to 15 years, stating that the next ones will be to do with cavity walls, retrofit, structural fire protection to steel buildings and lightweight rainscreen cladding systems, which he said that you cut through with a craft knife.

Ms Johnson, does the industry recognise that we are already aware of potentially two or three further significant remediation projects? Would it not be more honest, therefore, to have this debate in the round and say that it is not only about cladding but about changing the landscape in which we remediate problems that will routinely come along?

Hazel Johnson: I recognise my esteemed colleague’s turn of phrase. Yes, the list is as Mr Drummond put it to the committee. I will not elaborate on that specifically. What BEFS members would like to advocate for is improved data to understand what novel technologies are in which buildings and how to avoid having similar conversations about future issues.

Looking at unintended consequences of those novel technologies, we do not want to add to the list, but we do want to recognise that inappropriate interventions might well have been undertaken

during previous retrofitting work—perhaps, say, under green deals. However, I note that there have been many good examples of that, and that we support the reuse and retrofit of existing buildings as a means of meeting other targets such as net zero.

This is about recognising that we are having this conversation in the context of a wider issue and being cognisant of the limitations of what we are discussing today when we consider the levy.

Josie Sclater: I recognise that issues might come up in the future that we are not aware of just now; however, that is impossible to predict. As I mentioned previously, I think that, if the levy is going to be implemented, its duration needs to be limited to around 10 years.

Craig Hoy: Ms Gardiner, in your submission, you proposed an exemption for rural areas from the levy. The issue with exemptions is that you can point to any area of the market, such as build-to-rent properties, and ask for it to be made exempt. However, having read your submission and spoken to other stakeholders, it strikes me that the impact of the levy on the rural property market is a very real concern—and there are already issues with that market. If we were to implement a rural exemption in law, how would we go about that? How would we, for example, define a rural area? What more could be done to tie that down before we started looking at how an exemption might work?

12:45

Anna Gardiner: We have been talking to the Scottish Government team about that, because it is really important to get the definition correct. Any rural exemption should target the fragile housing markets. We have already talked about the high costs and tight margins, and the critical issue is that we have a massive housing shortage in rural areas. The sixfold urban rural classification that is typically used for such things does not work, because the accessible rural class also includes, for example, areas within the Edinburgh city bypass. Just because it has “rural” in its name—

Craig Hoy: So, Gilmerton, where a lot of house building is under way, could be exempt.

Anna Gardiner: Exactly.

We are saying that we should go with what we know. Classes 4 and 6 in that classification—“Remote Small Towns” and “Remote Rural”—are black and white; you can look at the map and see clearly how rural those places are. However, we would argue that you would need a layered approach to class 5, which is “Accessible Rural”. That is what we are working on with Government officials, and we hope to make headway on

creating a clear definition so that we can have a very simple process and ensure that anyone, whether it be Revenue Scotland or a builder, can see very simply whether they are in or out.

Craig Hoy: That is all from me.

The Convener: I call Michelle Thomson, to be followed by Michael Marra.

Michelle Thomson: You probably heard me express concern about timescales to the earlier panel. I do not know the exact date, but it is proposed that the stage 1 debate on the bill be held in the chamber in December. When we come back in the new year, we will have 12 working weeks—not 11 as I said earlier—in which to deal with a multitude of other legislation. After the stage 1 debate, the bill will come back to the committee for stage 2, before returning to the chamber for stage 3.

First, based on your knowledge and experience to date, how realistic is it that the required work can be completed within that timescale?

Secondly, what must be put in place for that to happen? What would be your top ask to get the bill into the condition that we might like it to be in? I fully accept your comments about the levy not being fair, which is what we have heard from contributors across the board.

Anna Gardiner looked at me first, so you can go first.

Anna Gardiner: The timescale is really tight and, if measures are to be dealt with through secondary legislation, it will be even tighter. In fact, if we look at it in the context of planning a development, it becomes impossible—there are so many known unknowns. If I am planning a development that will come out of the ground in three years’ time, I will already be years into it, and the legislation will mean having to go back to the drawing board with the numbers.

You have to remember the other inputs that are coming in. Come 2026, we will have the Passivhaus standard, and it is estimated that that is already adding £12,000 to £20,000 a unit. There are also the section 75 costs, which are always unknown until far too far down the line. Finally, we do not even know what the levy will be. It has been suggested that it will be around £3,500 a house, but is that right? Will it be less or more than that? All those costs are swishing around in the pot, and the developments that they might apply to have already been in design for years.

In the previous session, the point was clearly made that, with the levy, a line will need to be drawn in the sand to take account of all the developments that have been in planning. Otherwise, everything will grind to a halt, and we cannot really afford for that to happen. Our big

ask, therefore, is to get as much detail into the bill as possible so that we can have certainty.

Josie Sclater: As I said, I want to leave you with three points today. The second one is confidence. If the consideration of the Housing (Scotland) Bill taught us anything, it is that capital is very mobile; it will seek to move to other parts of the country—indeed, to other parts of the world—if the environment is deemed too risky.

Lenders need a certain level of return in order to take on, and compensate them for, the inherent risk of development. As Anna Gardiner has rightly said, many plans are already in process, and we need clarity on the transitional arrangements. Members are coming to us and asking, “Will my building qualify for a levy in two or three years’ time?”, and we are unable to give them certainty on that.

That is one thing. We also need an understanding of whether the communal space in build-to-rent developments will be included in the levy, and, indeed, whether build to rent is even covered. We need to know the rates for the levy, too. As was mentioned in the previous evidence session—and as we, too, have raised—England had 18 months to provide indicative rates. Scotland is now past that; there are now 17 months left, and we will probably not see those rates until early next year, at the very earliest.

It is important to get right the modelling but, at the same time, we need to be able to tell our developers and investors what is happening down the line, so that we can have a proper pipeline of development.

Michelle Thomson: Ms Johnson, I do not know whether you have any final comments.

Hazel Johnson: I would support the comment about the pipeline. I reiterate the need for a whole-system approach, the need to look at skills and capacity, and the need to ensure that we do not look at the timeframe in isolation. Indeed, we have talked about the heat in buildings bill. I think that the timescale is tight, and I share some of the concerns that have been expressed.

Michael Marra: I want to pick up on a point made by Josie Sclater. You will have heard the earlier discussion and the concerns that I expressed about the polluter-pays principle and the language that is used in that respect, given that many building contractors are not polluters in that sense. It is not just those people.

You said that it is in the sector’s interest to build good homes. The Grenfell report made it quite clear that there was systematic dishonesty in the sector and not only manufacturer but corporate culpability in some respects. For example, the

principal contractor came in for very heavy criticism about a lack of concern for fire safety.

Therefore, there is a body of evidence showing that parts of the sector have done the wrong thing. I have concerns about some of those things, and the fact is that many people lost their lives as a result. I just want to put on record that there is an issue with some of the language that is used, but we must be clear that there has been a problem in the sector. Do you accept that?

Josie Sclater: I cannot comment on the specific examples that you have just mentioned. However, I can say that, for many of the members whom we represent, particularly in the build-to-rent sector, it is in their long-term interest for their buildings to be maintained properly, because that investment is for the long term. A developer would not go out to make a building that would be unsafe.

Michael Marra: No. In this particular instance, though, I am talking about a public inquiry into something that resulted in the death of many people, and I think that the Scottish Property Federation should take a view with regard to acting on its recommendations. However, I understand your point about the particular relationship with regard to build to rent. I will just leave that there.

My more general question, which is for all of you, comes back to some of your evidence and the comments that you and the previous panel of witnesses made about regional variation. Perhaps Anna Gardiner might comment on this, but there is, perhaps, a feeling in Scotland that there is a lack of viability outwith the central belt—indeed, almost outwith Edinburgh. Are you seeing a trend in viability that you fear might exacerbate that situation?

Anna Gardiner: You simply have to look at how much Government support is required to help to bring forward rural housing. The margins of viability are so much lower.

There is a reason why so many smaller developments in rural Scotland are community or landowner led—indeed, that applies to many developments in rural Scotland because, typically, they are small. Developers do not touch them, because there is no money in it. When margins are so low, any development is left to those who bring forward housing for other reasons—typically, the critical role that it plays in the rural economy.

Every area is unique, but I go back to Mr Gibson’s comments about the average house price. We should put that in the context of what it might cost to deliver a house in, for example, Assynt—I have just plucked that off the top of my head, as it has a development proceeding. The price per square metre is north of £3,000, which means that, if those houses were sold at the

average price, people would make a massive loss. On paper, the capital value of those houses is way up at £450,000 or thereabouts—forgive my maths—but that illustrates just how unviable it is to develop in those parts of Scotland.

Every area has different characteristics, but you cannot understate the positive impact of housing development across rural parts of Scotland. It does not stand alone; a single new house in a rural community will sustain a local school, enable a business to grow or help with services. South of Scotland Community Housing did a fantastic piece of work on worker housing across the region, and it made pretty miserable reading, frankly, because of the massive shortage of housing across the south of Scotland and its impact on the economy. Anything that holds back housing will not be helpful.

Michael Marra: Does the approach lack sensitivity to that regional variation? We have heard that the system in England will be constituted differently, with more local authority input into levels and so on, whereas there will be a national approach here.

Anna Gardiner: Yes. You must also take into account what the market is doing. Ultimately, the market dictates the sale price. If the houses are not selling, the prices must go down, and if they do not go down, the properties will not come forward and the market for that site will stall.

In those regional locations—that is, out in the sticks—that sensitivity is far greater, because there is far less choice, and people know what they can afford to pay. That is the key feature of a free market.

Josie Sclater: I mentioned some work that is being carried out with the Government on how you calculate the regional variation, and I want to reiterate that, although we need to account for local variation in house pricing, we must also make sure that it is not an overly complex process. In some instances, there were thousands of different rates. That is just too complex.

We share the same concerns about SMEs, which are a very important part of the housing approach. Typically, they develop on land that tends to be overlooked by the larger volume house builders, so we need to protect them. Indeed, their share of development has fallen from 40 per cent in 2017 to 20 per cent in 2023. We must ensure that the sector is not affected disproportionately or inadvertently by the levy.

Michael Marra: Hazel Johnson, do you have concerns about regional variation and viability?

Hazel Johnson: I would say so. I agree that regionality needs to be recognised, and I suppose

that that, perhaps, comes back to scope, definitions and the detail in the bill.

Michael Marra: Thank you.

The Convener: I thank you all for your invaluable evidence today. It will be a heavy shift for the minister when he gives evidence to us next week, along with Revenue Scotland.

Meeting closed at 12:59.

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