

LOCAL GOVERNMENT AND TRANSPORT COMMITTEE

Tuesday 13 September 2005

Session 2

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LOCAL GOVERNMENT AND TRANSPORT COMMITTEE

23rd Meeting 2005, Session 2

CONVENER

*Bristow Muldoon (Livingston) (Lab)

DEPUTY CONVENER

*Bruce Crawford (Mid Scotland and Fife) (SNP)

COMMITTEE MEMBERS

*Mr David Davidson (North East Scotland) (Con)

*Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP)

*Dr Sylvia Jackson (Stirling) (Lab)

*Paul Martin (Glasgow Springburn) (Lab)

*Michael McMahon (Hamilton North and Bellshill) (Lab)

Euan Robson (Roxburgh and Berwickshire) (LD)

*Tommy Sheridan (Glasgow) (SSP)

COMMITTEE SUBSTITUTES

Colin Fox (Lothians) (SSP)

Mr Bruce McFee (West of Scotland) (SNP)

John Farquhar Munro (Ross, Skye and Inverness West) (LD)

Dr Elaine Murray (Dumfries) (Lab)

*attended

THE FOLLOWING GAVE EVIDENCE:

David Hart (Scottish Executive Enterprise, Transport and Lifelong Learning Department)

Dr Peter Kenway (New Policy Institute)

John Park (Scottish Trades Union Congress)

Tavish Scott (Minister for Transport and Telecommunications)

Dave Watson (Unison Scotland)

CLERK TO THE COMMITTEE

Martin Verity

SENIOR ASSISTANT CLERK

Alastair Macfie

ASSISTANT CLERK

Euan Donald

LOCATION

Committee Room 4

Scottish Parliament

Local Government and Transport Committee

Tuesday 13 September 2005

[THE CONVENER *opened the meeting at 14:05*]

Ferry Services (Clyde and Hebrides)

The Convener (Bristow Muldoon): Good afternoon and welcome to the meeting. The first item of business is on the tendering of ferry services for the Clyde and Hebrides. I welcome Tavish Scott, the Minister for Transport and Telecommunications, and his group of advisers: Graham Laidlaw, David Hart, Jim Logie and David Dow.

Before I invite the minister to make introductory remarks, I want to check that members have received copies of “Clyde & Hebrides Lifeline Ferry Services—Scottish Executive’s Consideration of the Requirement to Tender” and “Research and Advice on Risk Management in Relation to the Subsidy of Ferry Services”. Those two documents should be available; any members who have not received copies can ask the clerks for them.

Mr David Davidson (North East Scotland) (Con): Were they sent to us in the post?

The Convener: Mine were delivered to my desk; I do not know where yours went.

The minister wants to make some introductory remarks. I realise that tomorrow in Parliament there will be a full debate on the issues, which will provide an opportunity for members to explore them further. I know that the minister’s time is limited by other meetings today, so we should try to keep questions concise to get through as much business as possible.

Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP): On a point of procedure, convener. The *Official Report* of our meetings is not normally available for about a week. Would it be possible to see whether the report of the part of our meeting today relating to Caledonian MacBrayne could be made available tomorrow morning to all members of Parliament and others who express an interest?

The Convener: I am certainly prepared to explore with the official report whether it has the capacity to produce that. If it has, the request is reasonable, so we will pursue it.

The Minister for Transport and Telecommunications (Tavish Scott): My understanding is that all members should have had a copy of the documents delivered to their office on Monday morning. I apologise to Mr Davidson if that did not happen; I will look into it. As far as I can tell, the majority of committee members had them delivered.

I had hoped to provide clarity on some of the key issues surrounding tendering of the Clyde and Hebrides ferry services. I am grateful to members of the committee for their earlier and continuing interest in the subject and for their contribution to an important debate. I am also grateful to the Scottish Trades Union Congress, other members of the Scottish Parliament and the many people who have contributed their views. Although politicians and officials are paid to take an interest in the matter, I am conscious that some have contributed simply because of their interest in, and concerns about, those vital lifeline services. I share their interest and concerns, even if I take a different view on the way forward, and I value their contributions.

I trust that today we can inform tomorrow’s debate. I made a commitment to report back to Parliament after we had concluded our discussions with the European Commission, which I will do tomorrow. I am of course aware that my predecessor appeared before the committee back in March, and that further meetings of the committee heard evidence, especially from academics and trade union representatives, who offered their thoughts on the requirement to tender.

The Executive has considered carefully all the evidence that has been presented to the committee, particularly the papers that were prepared by various academics and which suggested alternative models. In addition, we have explored other alternatives to tendering that were not suggested or considered. The Executive raised, debated and analysed each option with the European Commission over a considerable period of time. I met M Barrot, the Commission vice-president and the commissioner with responsibility for transport, in Brussels on 18 July. That followed Nicol Stephen’s meeting with Commissioner Barrot in December last year following the debate in the Parliament that month.

The concerns that the Parliament expressed in December were raised with the European Commission. We fully explored the question whether there were any alternatives to tendering that would comply with European Union rules and law. I wrote to all members on Monday, enclosing an Executive report that sets out our consideration of the requirement to tender. We considered fully the information and analysis that fed into the

report. On that basis, none of the papers that have been submitted to the committee with proposals for alternatives to tendering would comply with EU law. In some cases, even if the proposals complied, they would still end in tendering, but on a route-by-route basis. I have therefore concluded that tendering is the only way that is open to ministers and Parliament to protect the lifeline Clyde and Hebrides ferry services.

I want to dispel the notion that, because other EU member states ignore EU law, we can do the same. Following a review of experience elsewhere in the EU, the results of which have been published, it is clear that all other EU member states that have subsidised ferry services follow, or will follow, the maritime state aid rules. Five EU countries—Italy, Greece, Spain, Portugal and Denmark—have in the past been faced with formal action from the Commission to ensure that they brought their services into line. During my visit to Brussels in July, it was made clear that the Commission wants the matter to be resolved. If the devolved Government does not initiate tendering, the Commission, having begun formal action, will make that action count, which would jeopardise the Clyde and Hebrides ferry services and affect those who depend on them and those who deliver them. The United Kingdom Government has already been sent a pre-infraction letter and the Commission has indicated that it has received complaints from third parties about the services.

The Executive's priority is to protect the Clyde and Hebrides ferry services to ensure that they can continue to serve the fragile island and remote communities that depend on them. I want to ensure that services under the new contract are every bit as good as those that are currently provided. We attach great importance to the future of Caledonian MacBrayne staff and crew and we acknowledge the experience and skill that they bring to operation of the vital lifeline services. Consequently, I will do everything that I can, within European Union rules and domestic legislation, to secure the continued employment of those staff and to protect their terms and conditions and pension rights. We will ensure that the protection that is available to CalMac employees is as robust as possible. We have strengthened those provisions since the debate last year. I emphasise that we are committed to protecting the pension position of staff who transfer.

When I was in the Western Isles a fortnight ago, concerns about the ferries were raised with me at every meeting that I attended. People who depend on the services are, to be frank, fed up with the uncertainty. Irrespective of whether we like the route that ministers and Parliament must take, further prevarication will not help a single islander or service; nor will it protect CalMac staff's pension

rights. Therefore, we are right to make progress on the matter. I will do my best to answer any questions that members may have.

The Convener: I will start with a couple of questions. You said that the UK Government has been given a pre-infraction letter in relation to compliance with EU law. The STUC wrote to you recently encouraging a delay in the final decision, pending its visit to M Barrot's office on, I think, 27 September. Why is it not possible to comply with that request? If there were material changes in circumstances following the meeting, would the Executive be able to take them on board?

Tavish Scott: I appreciate the STUC's interest in the matter. I met representatives of the STUC before I met Commissioner Barrot in July and I will meet them again today. I thank them for all the constructive work that they have done on the issue. However, I have found no indication in all the analysis that I have done that the Commission is likely to change its mind. In fairness, the Commission has been entirely consistent, not just in the past 12 months, but in the five or six years since devolution. That has not been only in dealing with ministers and the STUC, but right across the board. Indeed, some members who are sitting in this room have also met the Commission and been given exactly the same message. It is important to reflect on the fact that the Commission has been straight in its approach.

In addition to that, the lengthy discussion that I had with Commissioner Barrot in July was on the basis that this is where we are. He said that the commission wished us to move forward on the matter as quickly as we could. I said that I was not prepared to do that until I returned to the Parliament—which is, of course, what today and tomorrow are all about. I said that we would thereafter seek to take forward the matter, which he respected. At that moment, I did not know—indeed, he may not have known—that he was to have another meeting. I was not, having given the commitment, in a position to change it.

14:15

The Convener: I have a second question before I bring in my colleagues. The concerns that the STUC has expressed come from two angles. First, many of the employees are islanders themselves; they depend on the services and live in communities that depend on the services.

Secondly, and equally important, a major issue of concern to the STUC is the on-going employment conditions of staff—issues such as pensions, about which there has been some speculation in the press. In respect of the commitments that you can give the committee today on pensions and other conditions, you are

not meeting the STUC until later today, so I realise that you may not be able to gauge its reaction until after today. Will the commitments that you have given allay the fears of the STUC and members of the Scottish Parliament who expressed concerns on the issue in the debate last year?

Tavish Scott: If I may, convener, I want to reflect on the degree of concern that existed last November and to suggest that we have made a lot of progress in addressing the issues in relation to employment rights and, indeed, pensions. I can say no more than that we will absolutely find the mechanism to ensure that the pension arrangements for Caledonian MacBrayne staff will be guaranteed in the future. Their position is, I hope, strengthened in that regard. I am determined that that is the case.

However, despite what some in this room may believe, I cannot tell the trustees of a pension fund what to do. Certain people in recent political history tried to do that and we might reflect on what happened to them. It would be wholly erroneous for anyone in this room to suggest that to direct—which is what some in this room have tried to say I should do—the CalMac pension trustees is a course of action that is open to a minister. We will have, can have and will continue to have discussions with them in relation to their responsibilities for their pension fund.

I read the papers, as we all do. I read about the pension issues for every pension fund in the country, not just for this year but for a number of years now. When MSPs comment on these issues, it is important that they do so with some context, which has been missing from some of the nonsense that has been talked by one or two members in the room.

Finally, on the specific arrangements to do with pensions, it is important to recognise that any successful tender will be required to provide actuarially equivalent pension schemes and entitlements for transferring staff. I think that that is helpful both to the STUC and—if I may say so directly—to the men and women involved.

The Convener: I will bring in other members, but I may want to come back in later.

Fergus Ewing: As the minister knows, I have been pursuing the issue of the occupational pension fund for some time. In case he was referring to me in his remarks about the member who was peddling nonsense, perhaps I should point out for his benefit that, since last Friday, when I put out the press release to which I suspect he referred, I understand that CalMac's management, many of the directors of which are also pension trustees, have confirmed that every single word in that press release was factually accurate.

Unless we can absolutely assure the nearly 1,000 members of the occupational pension fund that their rights will be fully protected and that the deficit will be removed, the pension trustees are in a position in which they cannot give their assent to the tender proceeding. As the minister said, the issue has been considered for many years and yet in a letter to me, Laurie Sinclair, the CalMac managing director and pension fund trustee, made two significant comments. First, he said that despite the fact that we are now several years into the process, the trustees have received no plan or proposal to protect the rights of the members of the fund. Secondly, he said that he and his trustees were "concerned". I think that we can expect pension trustees to use euphemistic language.

The Convener: Fergus—

Fergus Ewing: To come to my question, there are three different methods of assessing a deficit. One is the winding-up method, which produces a figure of £25 million. The second is the past-service method, which yields a deficit of about £6 million. The third is the method that I quoted in my press release, which results in a figure of around £8 million. CalMac has a plan to reduce the deficit. Have you a plan to reduce the deficit and, if so, what is it? If you have still not produced a plan, how can the tendering process go ahead without the pension trustees being completely comfortable?

Tavish Scott: I wonder what would have happened if I had done all the things that Mr Ewing has asked me to do, even if I had been able to do them. If I had done them all weeks or months ago—or rather, if another Executive minister had done them months ago; I was not in the job then—I wonder what Mr Ewing's attitude would have been towards me or towards that other Executive minister. I have no doubt that, at the first possible press release opportunity, he would have accused us of presumption and of treating the Parliament with contempt, among other allegations.

Mr Ewing is factually wrong about the number of members in the pension fund. The number is about 600, not 1,000, as he said.

Fergus Ewing: I did not say 1,000, but—

Tavish Scott: You did, and the *Official Report* will reflect that. [*Interruption.*]

The Convener: Fergus, let the minister respond.

Tavish Scott: Mr Ewing is factually wrong in that regard.

As to the concern of the trustees, I would be interested to learn of any trustee of any pension fund who, given pension performance generally at the moment, would not express some concern

about the pension fund for which they were responsible. It is ridiculous to blow matters up in such a way. Of course pension trustees are bound to have concerns, but to suggest that that is in any way out of the ordinary, as Mr Ewing is doing, is wholly unfair on the trustees, who in my view are trying to do an important job.

I say again that we will enter into discussions with the trustees and work closely with them, but we cannot direct them, nor should we; it would be quite inappropriate for any minister or civil servant to do that. We will hold discussions and seek to resolve the issues. It may not be Mr Ewing's focus, but my focus is to ensure that individual members of staff are protected if a transfer has to happen. In addition, we will consider other mechanisms for protecting rights that we can use in the tender process. My focus will be on the individual men and women concerned and what we can do to protect their rights, rather than on other issues, which in my view are not central.

The Convener: I will allow Fergus Ewing one more question before I bring in other members. I will come back to Fergus Ewing later if he has more questions.

Fergus Ewing: Earlier, the minister said that staff's pension rights

"will be guaranteed in the future."

He has not yet addressed what will happen about the deficit, however we calculate it. Is the Executive taking the stance that the deficit will be covered and fully protected, or not?

Tavish Scott: I will answer the question in my way, not in the way in which Fergus Ewing would want me to answer what is a loaded question. The answer is that my attention is on the pension rights of the men and women concerned. The successful tenderer will be required to provide actuarially equivalent pension schemes and entitlements for transferring staff. That deals decisively with the important point. Mr Ewing is trying to draw me into directing the trustees of the CalMac pension fund. I will not do that; we will have proper discussions to sort matters out. We will do that in the appropriate and proper way, not in this way.

Mr Davidson: I will ask you a simple question, minister. Do you want CalMac to win the tendering process?

Tavish Scott: I want three objectives to be met: I want islanders to get the best lifeline services; I want those services not just to stand still, but to improve; and I want to ensure that the employment rights and the pension rights of the men and women who work for Caledonian MacBrayne are protected. I look forward to the company that can fulfil those three core objectives winning.

Mr Davidson: Are you saying to the committee that you look forward to an open tendering process and that you hope that many companies submit tenders?

Tavish Scott: Mr Davidson would be surprised if I did not hope that a tender was of that nature. If we have to tender—that is the requirement that has been placed on us by the European Union's rules—then the process must be fair and transparent and it must above all be seen to be fair to all the companies that tender. Any company that tenders will have to meet the three objectives. I will not go back over those objectives but they are extremely important.

Mr Davidson: In the—

The Convener: I am limiting members to two questions initially so that everyone has a fair chance. I will come back to you later.

Michael McMahon (Hamilton North and Bellshill) (Lab): Minister, you mentioned the pre-infraction letter that has been sent. Clearly that means to you that a requirement has been placed on the Executive. What do you believe will be the consequences of our failure to act on that pre-infraction letter both financially and in relation to the powers that the Executive would have thereafter to control the tendering process?

Tavish Scott: The final part of Michael McMahon's question is the important part. I believe that this devolved Government and the Parliament would both lose the ability to ensure that the specification is as we would wish it to be in respect of all issues such as lifeline services, improvements for islanders and employment conditions for current members of the Caledonian MacBrayne workforce. That would appear to me to be the worst of all worlds. We would lose our ability to control those aspects and deliver those objectives.

If we were taken down the course of not tendering, proceedings would undoubtedly be started against the member state. The penalties would be financial and heavy and in those circumstances it is difficult to know quite what would happen. However, I am darned sure that the objectives that we all share—or that I hope we all share—would not be at the top of the list of issues that have to be resolved.

Michael McMahon: You said that you believe that there might be financial penalties and that they might be heavy. From which budget would those financial penalties have to be drawn?

Tavish Scott: I dare say that every other minister would take the view that that was the Minister for Transport and Telecommunications' problem and that he would have to solve it from the transport budget. I would not wish to go there.

Tommy Sheridan (Glasgow) (SSP): Minister, it would appear that you are being less than candid with us about the type of regulation that is going to be applied to any new tender. You have mentioned best lifeline services, improvements in the services, employment and the protection of pension rights. Does that mean that you are no longer sticking by paragraph 1.3.10 of schedule 1 of the Executive's draft invitation to tender? That paragraph says:

"In practice this means that the tender should be awarded (except in exceptional and duly justified circumstances) to the bid requiring the lowest financial compensation."

Is not it the case that that is what will drive the successful tender application? Given the evidence that the committee has heard that most ferry production and costs are fixed, is it not the case that the service's variable component is the labour costs? If there is to be any reduction in costs, it will be in labour costs. Is not it therefore a contradiction to suggest that you are going to deliver the protection of employment rights, best services and improvements to the services, but that it is still going to cost less than it does currently?

Tavish Scott: We have never argued that it is going to cost less. I do not think that my predecessor, any civil servant or anyone else has ever argued that it would cost less. The one point that I concede to the STUC is its argument that the process might cost more. That gives me no pleasure; it is not a particular advantage. I am sure that Mr Sheridan and I could have an interesting philosophical debate on whether the market would in this context deliver what modern financial parlance calls best value. It is simply the case that tendering costs exist, and that ensuring that we secure fulfilment of the three objectives that I outlined this afternoon will cost money—I accept that. I do not disagree with the contention that overall we may spend more money than we did before on delivering the lifeline services in the way that we do. I did not write the European rules—I may have a personal view of them, which I had probably better not express today, but we have never argued that the exercise will cost less money.

14:30

Tommy Sheridan: On that basis, the academics who have given evidence to us have made the point that given that the whole exercise is going to cost the Scottish taxpayer more money rather than less, the compulsion to tender is a figment of the Executive's imagination, rather than reality. Given that the Executive ignored the academic evidence on NorthLink Orkney and Shetland Ferries Ltd, that it went ahead and

tendered and that it then had to spend £13.4 million extra to bail out that failed exercise, are you not in danger of repeating the mistake by ignoring the copious amounts of academic evidence that tell us that there is no compulsion to tender?

Tavish Scott: That is just nonsense. Mr Sheridan cannot have read a word of the analysis. His example of the northern isles is even more nonsense, because the contract was tendered not just the last time, but the time before that and the time before that, so he does not know what he is talking about. It would help if he did his homework better. Let us be clear: he is mixing up the maritime cabotage rules. There is a copious amount of information in the analysis to illustrate that. He can go through it and believe it or not, but it is the evidence that we have taken. We have performed our own internal analysis, we have produced our own legal interpretation, and we have also received external legal advice on the maritime cabotage regulation. I may not like the regulation, but it does not matter what I think of it—the reality is that it is the European regulation. It might be open to Mr Sheridan to ignore or break European law, but it is not open to any Scottish minister.

The Convener: I will bring in Bruce Crawford, then once I have exhausted members who have not been in I will return to members who want to come in for a second time.

Bruce Crawford (Mid Scotland and Fife) (SNP): Thank you, minister, for appearing before us today and giving evidence. Will you confirm that Audit Scotland intends to investigate the robustness of the tendering process that was carried out with NorthLink, how the Executive awarded the contract to NorthLink, whether the Executive followed fair and proper procedures and whether the processes for monitoring the contract were robust enough? If you can confirm that that is the case, should we not wait to learn lessons from Audit Scotland? I heard what you said earlier about prevarication, and I understand your desire to proceed, but there may be good lessons to be learned from Audit Scotland's examination of the contract that was awarded to NorthLink.

Tavish Scott: I do not know what Audit Scotland has said today; I think it will be in front of the Finance Committee this afternoon. I know that it is going to conduct an inquiry, and I state on the record that I welcome that. No one would be more pleased than I if it could report quickly enough for this process. I will welcome any recommendations that it makes on the tendering process and if it sets out its work plan to the Finance Committee this afternoon, we may find that it can achieve that, which would not slow up any of this process. That may be possible, and it would genuinely be a

useful exercise for us all. That is all I can say on that matter.

However, Mr Crawford should not infer—he may not be drawing this inference, so I may be being unfair to him—that we can delay indefinitely on the basis that an appropriate agency of Government is reviewing a particular mechanism. That does not alter the reality of the maritime cabotage rules.

Bruce Crawford: I have more questions for later, convener, but I have one final one for now. I have not had the chance to examine closely the difference between the NorthLink ferry tender process and the one that is proposed for CalMac but, given that we have an on-going investigation by Audit Scotland, the issue is germane. Leaving aside public service obligation requirements, how similar are the tender process that was carried out for the NorthLink ferry services and the one that is proposed for CalMac?

Tavish Scott: That depends on what Mr Crawford means by “similar”. If he is talking about the Government processes rather than about the handling of the contracts, I should point out that there is an appropriate separation involving the team that assesses the bids. However, I believe that the Audit Scotland investigation will—rightly—examine all those process issues and come to a clear judgment and make clear recommendations on the effectiveness or not of those processes. I should also make it clear that, if those recommendations are made within the timescale that I understand will be applied, we will have plenty of time to accept and deal with any appropriate comments on the processes that we follow.

Dr Sylvia Jackson (Stirling) (Lab): On Professor Kay’s five-part proposal, you say in your report:

“Professor Kay’s proposal is based on the assumption that the Altmark criteria can be used to satisfy the requirements of the Maritime Cabotage Regulation. However”,

as the Executive sees it,

“this is not the case. Even if the Altmark criteria were relevant, Professor Kay’s proposal would not avoid tendering. Instead, tendering would occur on a route by route basis”.

Will you explain that in a little more detail? After all, you feel that an advantage of your approach is that you can keep the bundle together as much as possible.

Tavish Scott: If it is acceptable to Sylvia Jackson, I will ask David Hart to deal with the detail of her question. However, I point out that paragraph 12 of the paper already goes into the matter in a lot of detail.

I hope that you will forgive me for dealing with the generality of the matter, convener. I believe that tendering on the basis of the complete network of routes has profound advantages. Indeed, convincing the Commission of that proposal was a significant victory for Sarah Boyack, the minister with responsibility for transport at the time. Initially, the Commission’s view was that each route should be tendered individually. Such an approach would be wrong. Principally, our method has practical advantages for crewing and vessels. For example, under the current mechanisms of the service, a vessel being used elsewhere in the network can be redeployed to cover a vessel that is being refitted. Similarly, with regard to crewing, if appropriate ticketing staff, skippers and mates are available, they can cover different routes.

Splitting up the network would make it more difficult to achieve existing core operational efficiencies and objectives. This summer, I was on the sound of Harris, which is in Alasdair Morrison’s constituency. During the challenging navigation of that shallow channel of water, the vessel has to make 18 separate course changes. Not every skipper can do that. If that route had to be tendered individually, I can only imagine the complexities of crewing the vessel, never mind any issues that might need to be addressed in relation to the vessel itself. I hope that colleagues see those core operational advantages of bundling the entire Clyde and Hebrides service together.

Paul Martin (Glasgow Springburn) (Lab): I note that the correspondence between the Executive and the commissioner for transport suggests that the possibility for discussing a way forward remains at the Executive’s disposal. However, neither that correspondence nor the briefing pack appears to include any exchanges in which Executive officials have set out specific creative proposals for taking the Commission up on the offer of finding a way forward. Where is that evidence? The information that we have received shows only that there has been correspondence between the Executive and the Commission, not that any specific proposals have been made to and then completely refuted by the Commission.

Tavish Scott: The numerous proposals for alternatives to tendering in the consideration of requirement to tender document were shared with the Commission, discussed, debated, analysed and tested against the criteria for the maritime cabotage rules. We thought it best to illustrate that simply in the document by going through all the options that have been proposed by the committee, academics, the STUC and so forth and to show them in that context. I assure Paul Martin that those proposals were discussed option by option with European Commission officials in the

transport commissioner's department and that the officials were clear in their response to all of them.

Paul Martin: I appreciate that you deal in the document with a number of the academic proposals. However, given the wide range of academics who work for the Scottish Executive, is there a particular example of theirs that you can advise us of today that was proposed to the commissioners and dismissed in an exchange of correspondence?

Tavish Scott: The two slightly newer proposals were, first, the subsidy-for-all option and, secondly—this one might raise eyebrows in some quarters—the option for the Scottish Executive to take the whole service in, making all the employees civil servants and putting the transport minister in charge operationally. That is a highly scary thought for me and was not considered appropriate for perfectly good and sensible reasons.

The other proposal—the subsidy-for-all option—was seriously considered. It would involve the requirement to provide subsidy to any company, but it would mean the loss of some of the core objectives in the provision of a complete bundle, such as ensuring operational efficiencies and effective working. There is a lot more detail in the document as to why the subsidy-for-all option would not meet our objectives. Even though the option complies with European Union law, it simply does not meet the wider objectives that we share.

Paul Martin: I have one final point.

The Convener: I am limiting everyone else to two questions, Paul, so I will be consistent with that. Fergus Ewing is next.

Fergus Ewing: My question relates to the substantial paper prepared by Steer Davies Gleave, which I had the chance to read only this morning. The minister warned us that, if the CalMac services are not put out to tender, there might be horrendous consequences, such as the cessation of services and fines. However, from my first reading of the document, it appears that there are directly funded services in Finland, but the plan there is not to move to tender for at least three years, and that, in the case of Malta, there will be no move to tender until 2010. In the Netherlands, there is free use of ports and other facilities and the legislation is not expected to be in place for another four to five years.

Those are just extracts from an initial reading and I know that the academics whom the minister mentioned would like to have had an opportunity to study the response to their work. I put it to the minister that there is no immediate threat, that it is wrong to exaggerate the threat and that the bogeyman disappears when the light is turned on. I also suggest that the correct thing to do to make

sure that we get the details correct is to look at the matter very carefully, because many expert commentators argue that the minister's proposals are fatally flawed in several specific respects and that there is absolutely no rush—as the Executive's own document proves—because other countries have several years before they have to go to tender.

14:45

Tavish Scott: Frankly, I resent the accusation that we have not looked at the matter very carefully. We have spent the past year working very hard on it and for that to be airily dismissed by Mr Ewing's rhetoric is insulting to the people who have worked hard on the issue over time. I do not accept the accusation.

What Mr Ewing does not even begin to recognise is that the matter has been an issue since 1992, when the member states of the then European Community passed the maritime cabotage regulation. From 1992 to 2005 is quite a long time. The matter has been an issue for this Parliament since 1999—every previous transport minister has had to deal with it. The suggestion that we have been doing nothing or that every other member state has been done a favour by the European Union is wrong. The two or three years that other member states may have in which to comply does not alter the fact that they will ultimately have to comply.

Mr Ewing has been fond of referring to the Spanish. I have dug up the ruling on Spain that he is quoted in the press this morning as referring to. The ruling is a Commission decision of 19 July 2000. Article 2 of the judgment states:

"Spain shall terminate the current contract on or before 26 July 2001, suspending any payment of aid on or before that date."

Mr Ewing's suggestion that we are the only ones complying and that everyone else is not is wrong. The example that he gives in the press today to argue that the Spanish are getting away with not complying is wrong. The Spanish were given less than a year to sort out their ferry service. Mr Ewing's comments are grotesque exaggerations of what is going on in other parts of Europe. He suggests that we can break European Union rules because every other member state does, but the facts demonstrate that that is not the case.

Fergus Ewing: I will respond to that briefly. I note that the minister did not refute the specific extracts that I read from his own paper. He mentioned the Spanish case. Dr Paul Bennett stated in his evidence to the committee that, although the Spanish were found to be in breach of the rules and were initially fined, not one penny piece of the fine was paid because there was

adjudged to be no overcompensation. No ferry routes were suspended. If there was an infraction, it was an infraction without consequences or penalties of any kind. My point is that it is wrong to exaggerate the threat and to create a bogeyman given that, even when it was found that there was an infraction, not one penny piece was paid and not one ferry service was cut. Is that not a legitimate point?

Tavish Scott: Mr Ewing is wrong. The Scottish National Party's position is to break the law. Everyone who lives on an island that the Clyde and Hebrides services serve will recognise that the SNP's position, articulated today by their spokesman Mr Ewing, is to break the law.

All the objectives that we share about protecting lifeline services, protecting the employment rights of individuals who work for Caledonian MacBrayne and dealing with the pensions issue would be put in jeopardy by Mr Ewing because he would allow the infraction proceedings to continue. He would allow the member state, the United Kingdom Government, to be taken to court by the European Commission, with all the consequences that would flow from that. In addition, the Scottish Executive's role and therefore the scrutiny role of the Scottish Parliament might disappear, because the matter would become an issue for the member state.

Mr Ewing may want to go down that road, but I do not. I want to ensure that we deliver the services and defend and protect islanders' rights to a good ferry service. Above all, I want to ensure that the future of the individuals who work for the company is guaranteed. That is my objective, but it is clearly not Mr Ewing's objective.

Mr Davidson: I take the minister back to the response that he gave to Dr Sylvia Jackson and his comments on the subsidy-for-all approach. In looking for efficiencies, has he considered not only efficiencies in the running of the services, which are obviously important, but efficiencies in the costings? Some of CalMac's vessels will need to be replaced, which will be an expensive exercise. Has he considered the possibility of having smaller bundles, which would make it more attractive for companies to come in? I accept that there must be reserved vessels and so on to maintain a service; I am not arguing that every route could be run on standard vessels. There is no dispute that the service must be maintained, but has the minister considered smaller bundles to attract more competition into the marketplace, while guaranteeing that the services are at least as good?

Tavish Scott: I do not wish to be disrespectful to Mr Davidson, but, to find the answer to his question, he could do no better than travel on a wide variety of the Clyde and Hebrides services. Three or four days of travel this summer

convinced me that the approach that he suggests would not work. If I needed convincing before, I certainly did not need it after spending time on the services. I honestly do not believe that it would be possible to break up the network in the way that he suggests without causing considerable and genuine difficulties in relation to our objectives for the services, for islanders and for the men and women who work for the company. I believe that the disruption would be considerable and that those objectives would be put at risk. I can only suggest that Mr Davidson uses his holiday next summer to go on what are fine services, whose integration is the important aspect of ensuring that our core objectives are met.

Mr Davidson: In fact, I was on the MV Bute before your good self and I travelled on various other services with CalMac. I am asking about your proposal for tendering and the way in which the services have been bundled. My question, which you have not answered, was whether, at any time, you had considered smaller bundles.

Tavish Scott: No.

Mr Davidson: Why not?

Tavish Scott: As the minister, I have not considered smaller bundles because I do not believe that that would achieve the three objectives that I think are important for the future of the service. I do not want to go over all the reasons again, because we have done that, but I do not see any advantage in breaking up the CalMac network.

The Convener: What assurances will you—either directly or through Caledonian MacBrayne—be able to give the onshore staff who work for CalMac that their future employment will be protected under whatever tendering procedures you proceed with?

Tavish Scott: The assurances that we can provide are the same for shore-side and sea staff, which I think is as it should be. It is particularly important that the operational effectiveness of the service is not compromised by change, in particular with regard to the ticketing offices and some of the mechanisms that Caledonian MacBrayne currently operates where it has ticketing offices. Let us be honest: there are important employment considerations in the places where those offices are. I can certainly give the assurance that the men and women who work for the service, both onshore and at sea, will be dealt with in the same way.

Tommy Sheridan: It sounded as though you protested too much in response to my earlier remarks, minister. The evidence that the committee has heard from academics is to the effect that the Executive does not understand EU law. You may accuse me or us of not

understanding EU law, but the academics' evidence is that the Executive does not understand it. Sylvia Jackson asked you about Professor Neil Kay's paper and I remind you that Professor Kay had no hesitation in saying that there is no basis at all for your claims about the break-up of the routes and the possible infringement of the Transfer of Undertakings (Protection of Employment) Regulations should his suggestion be followed. Are you saying that you have complete confidence that the academics' conclusions are wrong and that the Executive is right?

Tavish Scott: Mr Sheridan may express it that way if he wishes. I believe that we have made the best analysis of all the options that were presented. We have taken internal and external legal advice and we have discussed the matter with the Commission throughout. The issue has been relevant not just this year, but over the six years since the Parliament came into being. I am recommending a course of action. I cannot add to that.

Tommy Sheridan: I know that you dismissed the NorthLink Ferries example, but it was raised because the academics advised us that there would be serious consequences if your tendering process for the NorthLink routes was followed through. The Executive's response at the time, which was similar to yours just now, was, "We don't foresee that as a problem." Some £13.4 million of public money later, we realised that there was a problem.

Given that 13 years have passed since the original regulation came out and six years have passed since the Executive became responsible for the matter, are you honestly suggesting that, instead of taking another few months to allow a task force to be established, which would include the academics who have given evidence to us, the STUC and the National Union of Rail, Maritime and Transport Workers, and which would allow the STUC to meet the EU commissioners, we must take the steps that you propose now? Would another couple of months really be far too long to wait after all this time?

Tavish Scott: Mr Sheridan is mixing up a financial argument about tendering with the requirement on the devolved Government to comply with the maritime cabotage regulation and European law. He may continue to do that, but I will continue to point out that there is a difference between those two issues. I may like or dislike the maritime cabotage regulation—I may have my own view as to the consistency with which European policies deal with different modes of transport—but neither I nor any other minister can ignore the facts of the regulation.

We will, of course, deal with any Audit Scotland recommendations on our tendering processes. If that is what Mr Sheridan is asking, I can say to him only, as I said to Bruce Crawford, that I will be happy to consider those recommendations. If Audit Scotland provides recommendations for improvement, I will be happy to take those forward. However, if Mr Sheridan is asking that everything stop because he judges that the European Commission will do nothing and allow us to continue as before, he is just wrong.

Bruce Crawford: Let me pick up on that last point before I proceed to my main question. I thank the minister for reiterating his position on the Audit Scotland report on the tendering process for NorthLink Ferries. If that report says that the Executive's process was flawed to such a degree that it causes concern for Audit Scotland, will the minister reconsider the tendering process for CalMac?

Tavish Scott: Of course I would investigate the processes involved. Depending on the recommendations, the issue might involve more than just NorthLink Ferries or CalMac. If Audit Scotland makes recommendations for improving the process, any Government should respond to those.

Bruce Crawford: I just wanted to ensure that I had that on record.

In the document "Clyde & Hebrides Lifeline Ferry Services—Scottish Executive's Consideration of the Requirement to Tender", the section entitled "Are there Alternatives to Tendering?" has a paragraph headed "Meeting the underlying objectives of EU rules—meeting the Spirit of the Treaty". The last sentence of that paragraph—paragraph 17—is not only interesting but enlightening in what it says about the obligations under the maritime cabotage regulation. It states:

"The potential costs of complying with that obligation cannot be taken into account in assessing whether or not that obligation applies."

What will the tendering exercise for CalMac cost? What is the Executive's upper limit for complying with the regulation, which seems to apply so rigorously? The document almost suggests that there will be a blank cheque.

Tavish Scott: Indeed, that is one of my concerns about the whole process. I think that I tried to make that point in response to an earlier question from, I think, Mr Sheridan. We have never argued that the European Union's requirement under the maritime cabotage regulation to tender the services will either save us money or be cheaper. We are required to bear the costs for the system that the European Union has laid down for subsidised ferry services in all

member states. We may have a view on that—I can assure Mr Crawford that the Executive has a view—but that does not alter the fact that we need to comply with those costs.

I apologise for not answering the question directly, but at this stage I do not know what our tendering costs will be. However, those costs will be published—the process will be audited and the cost will be made available. We will be able to provide that information when it is available.

Bruce Crawford: Let me just be absolutely clear about that. If the costs were to reach ridiculous amounts—for instance, £1 billion—would the Executive still pay those costs because it is required to do so by law? Would it not tell the European Union, “Hold on a minute, this is getting out of hand”?

15:00

Tavish Scott: If the costs reached £1 billion, even I might start to question the level that had been reached. We will continue to look for improvements to the system through the appropriate channels. Do not believe that, just because the system is in place, the Executive does not have a view on how it might be improved and refined. I will work hard on that matter. I can see where Mr Sheridan and you are going on the matter and, no doubt, your press releases after this meeting will say that we are prepared to spend any amount of money to comply—

Tommy Sheridan: It is ridiculous—

Tavish Scott: There you go—he has got his press release out before the meeting has even ended. No change there.

We will work hard to do what we can in this area. Again, Mr Crawford might think that we can rewrite the rules, rip the whole thing up or break the law, but we cannot, I am sorry.

Bruce Crawford: I do not expect that you would do that, minister—

Tavish Scott: That is what your party thinks that we should do.

Bruce Crawford: I do expect you to do something, though. You have just set a potential limit of £1 billion—

Tavish Scott: Oh, come on.

Bruce Crawford: You have said that you would question such an amount. If the Executive is prepared to question the amount at that level, at which point below it will the Executive say, “Enough’s enough, we can afford to go no further”?

Tavish Scott: If that is your line of argument, Mr Crawford, it is clear that you have never been in a

decision-making position in relation to European matters. I know that you have had a lot of local government experience and I am sure that you opened a lot of tenders in the past—

Bruce Crawford: This is not just about the tender price, though.

Tavish Scott: Let me make my point. Like all of us who have worked in local government, you will have dealt day in, day out with issues of contract compliance and so on, so you can exaggerate the case as much as you want to, but I know that you are aware of what happens in such a process. We will do our best to ensure that we minimise the costs. That is my commitment to the committee.

The Convener: In answer to several questions, minister, you have indicated that you might harbour concerns about the maritime cabotage regulation. I recognise that the way in which the Executive proceeds depends on the vote in the Parliament tomorrow, but do you know whether the Executive intends to press the UK Government to do something about updating and reforming the maritime cabotage regulation so that the rules make more coherent sense in relation to the way in which they apply to lifeline services?

Tavish Scott: You can be sure that I, my predecessor and every former minister with responsibility for transport in the past six years have reflected on what we have had to deal with in relation to these matters. You can also be sure that I will seek to take the issue forward in a constructive manner.

Dr Jackson: Paragraph 3.21 of “Research and Advice on Risk Management in Relation to the Subsidy of Ferry Services” talks about Finland, which Fergus Ewing mentioned earlier. It says:

“The plan is to move towards open tender for all island ferry services in Finland. This is, however, likely to take at least three years”

principally because

“the tendering and contracting process will take time to ensure maximum efficiency.”

Bruce Crawford has raised the issue about the Audit Scotland report feeding into the process. Could you say a bit more about that process and what is meant by “maximum efficiency”? What issues will be taken into account in that process? Do you imagine that the process might take up to three years, as it probably will in Finland?

Tavish Scott: David Hart will be able to lay out the timescale for tendering. However, it is important for me to say that, if the Parliament accepts the requirement to tender tomorrow, we will not be tendering on the Monday of next week. There is a process to be gone through. As the committee will know, there was a considerable consultation exercise on the services earlier in the

year. I consider it important that islanders should be involved in that and that interests in the islands have an opportunity to ensure that they are comfortable with both the timescale and the process that we are following. My recollection of the situation is that, following the normal process of tendering, we will not be in a position to award a contract until well into 2006.

David Hart (Scottish Executive Enterprise, Transport and Lifelong Learning Department): Our current timetable envisages that the time from the launch of the process, which would be the publication of an advertisement in the *Official Journal of the European Union*, to the point at which the new contract started would be in excess of two years, which, if we were to start now, would take us into late 2007. We would probably award the contract before that, as there has to be a lead time for implementation. Our estimate of two years is not hugely out of line with the Finns' estimate of three years.

Dr Jackson: Given that this is 2005, that means that it will be 2007 before open tendering goes through. What does the Scottish Executive mean in paragraph 3.21 of its risk management research paper when it says that it wants to "ensure maximum efficiency"? What kind of things is it thinking about?

David Hart: If you are interested in that point, I would be happy to ask the researchers for more detail. You have the report as it was given to us; we have held nothing back. If you are particularly interested in that subject, I would be happy to consult the researchers.

Dr Jackson: That would be useful.

Tavish Scott: I assure Sylvia Jackson that we will try to get that to her before lunch time tomorrow. I appreciate that there is a debate tomorrow and it would be fair to give the answers before it.

Paul Martin: In response to the Executive's correspondence of 4 May, the commissioner advises that he wants matters to move forward because there are complainants who want the issue brought to a conclusion. Can we identify the complainants? Have we made our concerns known, perhaps through the UK Government, about countries that may not be complying with the requirements of the procurement process?

Tavish Scott: I am not sure that we know who the complainants are; that information is not released by the European Commission. I do not think that we have been told their identity, either formally or informally. I will check that, however, and make sure that Paul Martin gets a response.

I do not know whether the United Kingdom Government has pursued the issue of other

member states' compliance with the procurement process. I merely observe that that is the job of the European Commission. After all, it is pursuing us on the matter and, as the research paper shows, it is pursuing other countries about their ferry services. We can find out whether the UK Government has made representations to the Commission as a member state.

Paul Martin: The commissioner says that he wants matters to move forward because he is concerned that the complainants have contacted him and asked him to get the issue sorted out. Do you accept that every possibility has been explored, even though the complaints have been communicated to the commissioner? Surely we cannot just say, "Well, we have received correspondence from complainants, so let's rush the process forward." Are you satisfied that, despite the complainants having been in contact with the commissioner, you have explored every possibility in the time available?

Tavish Scott: We have gone through the process rigorously. It has not just been about the past nine months; the process has taken several years. I repeat what I said at the outset: the Commission has been consistent on its line since 1999 when the Parliament was established. I would not like to suggest that it has in any way changed its view at any stage.

I suspect that getting complaints encourages the European Commission to make sure that member states are complying with the rules and regulations. I suspect that that happens in relation to other European countries as well.

The Convener: I am going to draw questions to an end, because the minister has gone almost 10 minutes over the time that he committed to us. I realise that members may wish to raise other points. However, we have a two-and-a-half-hour debate tomorrow in which additional points may be raised to which the minister can respond. I thank the minister and his advisers for attending our meeting.

Council Tax Abolition and Service Tax Introduction (Scotland) Bill: Stage 1

15:10

The Convener: We move to agenda item 2, which is further evidence on the Council Tax Abolition and Service Tax Introduction (Scotland) Bill. I welcome to the committee Dr Peter Kenway, director of the New Policy Institute, which has done a considerable amount of work on the subject of council tax and possible alternatives for local taxation.

Your paper has been circulated to members, Dr Kenway. I give you the opportunity to make some introductory remarks if you wish. After that, we will have a question-and-answer session.

Dr Peter Kenway (New Policy Institute): Thank you for the invitation. As we are, in a sense, self-appointed experts on the subject, we are always grateful to be asked for our opinion. I do not want to make any opening remarks, except to say that, if it is not evident from what we have written, I am a strong supporter of retaining but reforming the council tax. We wait to see what will happen in England when Sir Michael Lyons reports at the end of the year and whether that will have an impact on anybody's thinking.

The Convener: Your position is that you support a reformed council tax. I note from your paper that you would support more bands, both at the top and at the bottom, which would obviously amend the gearing ratio between what someone at the bottom would pay and what someone at the top would pay. Have you done any work on the level of gearing that the council tax system could support? The current gearing varies by a margin of 3:1. Do you have a figure for what you think is an appropriate gearing system?

Dr Kenway: I should say that we have done no detailed work on Scotland. In fact, we have done no work at all on Scotland as far as council tax is concerned, and the answer to the question is closely related to the underlying numbers. I do not mean to be obscure in answering your questions, but we think that the answer in England is that the multipliers or ratios between bands B and F are broadly about right. We say that because of their relationship to average income of households in those bands. Our argument then is that there should be extra bands at the top and bottom. In the English case, that certainly means splitting band G, which is self-evidently a double band, and splitting band A so that there might be three bands there.

How many band Hs there are is really a matter of choice. In estate agents' windows in parts of London there are properties quite openly on sale for £15 million. How far one goes is really a political choice—a choice for Governments. If the suggestion for bands B to F was followed, the ratio could easily be 6:1 or 8:1, but most people in the middle would still be being left alone. The extreme position would be to have multipliers going up with property values; then one could have a ratio of 50:1. One could decide to do that, but we assume that that would involve lots of changes to middle-income, middle-sized households that would be deemed unacceptable. We could certainly get to 6:1 or 8:1 without any difficulty at all, but probably not to 50:1.

The Convener: Just to be absolutely clear, when reform of council tax has been discussed in the past some people have suggested that it would result in a large percentage of council tax payers facing a substantial difference in their local taxation bills. However, if I understand you correctly, if the Scottish Executive were to go down the road that you suggest, leaving the heart of the system between bands B and F more or less as it is and introducing more bands at the bottom, people in the middle bands would pay the same local taxes as they currently pay, people in the new lower bands would pay less, and the only people who would pay more would be those in bands G and H.

15:15

Dr Kenway: That is correct. If there was reform, a revaluation would almost certainly be done, so anybody who happened to move up a band would pay more and anybody who moved down a band would pay less. You summed it up correctly. In a sense, we are trying principally to deal with the ends of the system.

Michael McMahon: You talked about the number of bands that we could have to make the council tax work better. You will have seen that the bill proposes five bands of income. In your assessment, is such a policy conducive to making the system fairer?

Dr Kenway: We have not studied the proposal. It certainly has the considerable advantage of clarity, but one could argue that the community charge had that. In taxation, there is always a trade-off between clarity and justice; much of the detail is there for good reasons. I do not think that one would want to go down to five bands of council tax, although in a sense it is a question of the distribution of property values in Scotland. The system is driven by the numbers in an unhealthy and unhelpful way. One has to know the detail of those numbers before deciding on the principles, and that is rather tricky.

Michael McMahon: It seems to me that the principle is a sound one. We want to help people who struggle to meet their council tax payments. Those in society who are most disadvantaged should not have an unfair burden placed on them. However, we cannot ignore the fact that any change might have an impact elsewhere in the economy. Do you believe that, in attempting to alleviate problems for the poor at one end, the proposals might create general instability in the wider economy, and that despite their intentions, they might have an adverse effect?

Dr Kenway: The danger in abolishing the council tax is that we might do away with an important form of taxation on dwellings. For obvious reasons, basing local authority tax on houses is an extremely good idea: houses do not move and it is clear why someone is being taxed by a certain authority. We are taxed on most things that we do—that is a fact of life. It would be unwise, and there could be unsatisfactory consequences, if we did away with a tax on the size of properties. The proposal would obviously have a big impact on people with high incomes, but presumably it represents an incentive for property prices to soar, with no control on that.

I am concerned that there are some real dangers in doing away with a property-based tax. In the English context, it has been argued that doing away with the council tax would lead to the Bank of England being given something like the council tax as a second golf club in its bag, which it could then use to control the housing market. I suspect that the economists would not let a tax on property go and it would be unwise to do so.

It should be said, and we make it clear in our submission, that council tax benefit is of primary importance. Almost everyone, including the Westminster Government, regards it as a secondary issue, but it is a crucial part of the council tax system. Some 20 per cent of households are entitled to it, although that does not mean that 20 per cent of households get it. With a couple of additional quirks, council tax benefit is related to income, so the council tax system has within it elements that try to protect people who are on low incomes. However, the system does that badly, which is why a key part of our submission concentrates on how we might reform council tax benefit.

Michael McMahon: At present, local authorities set their expected tax take in any given year based on the number of people who pay tax and the amount that they expect to recover. Should a downturn in the economy occur in a particular area, the council tax benefit system would maintain the level of taxation that the local authority receives. With the Scottish service tax, or even a local income tax, if people stop earning,

they stop paying. Would that have a detrimental impact on local authorities' ability to deliver services as planned in any given financial year?

Dr Kenway: It would certainly introduce uncertainty into local authority incomes. However, whether services would suffer or the Executive would have to provide additional money is a separate question. You are right that one of the drawbacks with income-based taxation is that revenue is uncertain in advance, whereas the council tax, subject to collection rates, is a certain tax, which is obviously a strong argument for it.

Paul Martin: As I said last week, one of the challenges that we would face in collecting the service tax relates to those who are self-employed. At present, we are able to identify their wealth through their property, but it would be more difficult to identify people's wealth using an income-based system, because of creative Inland Revenue returns. Do you accept that that is an issue?

Dr Kenway: Yes. Accountants cannot help people with their council tax, but they can help with income tax. That obviously makes the council tax unpopular among some people, but it makes it a sensible tax, as it is hard to evade.

Paul Martin: In the evidence that we received last week, there was concern that the loss of revenue from the Treasury through council tax benefit could affect the economy locally. Do you accept that?

Dr Kenway: I do not think that I could comment on that specific point. The issues of money that Scotland gets from Westminster and money that goes back to Westminster are important—the tax credits system is a similar issue. Council tax benefit is a reserved matter but, given that it is integral to the local taxation system, it strikes us as “curious”—that is the word that we use in our submission—that that should be so.

Paul Martin: Do you accept that, as the bill contains no proposals to provide council tax benefit, the income that comes from the Treasury through that benefit would no longer be available to the Scottish economy?

Dr Kenway: I presume that that is correct, unless Scotland could somehow negotiate the money, for which precedents exist. However, there is no need for a council tax benefit arrangement in the bill because of the particular details of the proposal.

Bruce Crawford: I might not like it, but it is a given that the Scottish Parliament cannot deal with issues such as council tax benefit or pension levels. You are beginning to come to the inevitable conclusion about where council tax benefit powers should lie. Will you say more about that and

whether you think the Scottish Parliament should have control over the issue to enable us to deal with the council tax issue more effectively?

Given that the Parliament does not currently have those powers, how else can it deal with those on fixed incomes? In particular, I refer to pensioners, whose pensions cannot be raised in Scotland at a rate that is equivalent to the approaching rate of increase in the council tax?

Dr Kenway: It is easy for me to sit here and say that council tax benefit should be a devolved matter—which I think it should—but that opinion does not have much weight. It seems strange that the Scottish Parliament should have control over only part of the system and not over all of it. As I have said, council tax benefit is an important part of the system.

Two fundamental things are wrong with CTB. There are differences for pensioners and people of working age. I would not want to say that council tax benefit is now generous for pensioners, but—to use a double negative—it is a good deal less ungenerous for them because of how the levels at which pensioners start to lose full council tax benefit relate to pension credit levels. To put things crudely, pensioners do not start to lose council tax benefit until they are likely to be above the poverty line. The issue for pensioners is that they resent the idea of having to apply for a means-tested benefit—all people resent that idea, but the resentment always seems to be stronger among pensioners.

Strictly speaking, there is no need, in fact, for council tax benefit to be administered as a means-tested benefit. Assuming that a pensioner has a stable income and knows their income for the year, it is possible to work out from the information that they give or receive from the pension service or the Inland Revenue, if they fill in a tax return, that they or the household should not have to pay more than, say, £500 a year in council tax. If their ordinary council tax bill turns out to be £1,000, the process of charging them £1,000 and then giving them back the difference in CTB does not have to be gone through. The most that they will have to pay can be stated, which effectively acts as a cap, and that will not rise unless the pensioner's income rises.

What I have described is not a change in the algebra or arithmetic that is used in the system, but it would be a big change in how it is represented. It would mean that pensioners on fixed incomes in particular would not need to apply for relief, which people object to doing. It should be borne in mind that pensioners who do not collect their council tax benefit are likely to be owner-occupiers—pensioners who are on housing benefit are likely to receive the CTB to which they are entitled. A group of lowish-income pensioners

who own their own homes and do not have much money resents having to apply.

Running the system differently is possible but not within the Parliament's control. However, it is within local authorities' control to do something about the appallingly low take-up rate of the benefit. Why should that not also be under the Executive's control? It has been estimated that around 40 per cent of pensioners are not claiming what they are entitled to claim, which is an important failing of the system. Obviously, that is an issue for local authorities, but why is it not an issue for the Executive too if it wishes to make it an issue?

Mr Davidson: My question is probably hypothetical. Has the New Policy Institute considered the Treasury's likely interpretation of the Scottish service tax as another form of general taxation?

Dr Kenway: No, I am afraid not.

Mr Davidson: Do you have a view on the matter?

Dr Kenway: No.

Mr Davidson: What about the work that you have done in England on local authorities' accountability, which arises as a result of the council tax but would not arise as a result of other forms of taxation?

15:30

Dr Kenway: In some ways, we began as great radicals on the issue, but, in a sense, we have become conservatives. We think that the accountability of local authorities to their electorate that exists as a result of the council tax is an important feature of the system that should not be lost.

The danger that one runs with reform of the last remaining tax that local authorities have is of ending up losing all freedom for local authorities to raise money. That is always the peril. In the early 1990s, the peril was the possibility of, instead of having a community charge, just banging it on income tax and, as a result, losing any local ability to raise funds and losing local accountability. That ability is crucial, but at the moment it is, if anything, weak.

I am not convinced that local authority independence would survive a major reform, certainly in England. It is not clear how strong public support for such reform is; we see that in the local income tax proposal in England. Although there is probably a fair degree of support for abolition of the council tax, it is not at all clear what support there would be for something else. People are asking themselves, "What do I really think

about my local authority having that power? Is it really legitimate for it to tax me on my income?" It is not clear what the outcome of that will be. There are big dangers in changing the system to do with questions of legitimacy and of the continued independence and accountability of local authorities.

Mr Davidson: I presume that you agree that the current proposal that is before the committee, to entrust the collection of the proposed new tax to Government, virtually removes the point of having local government.

Dr Kenway: That is my understanding of the situation, and it is a feature of the proposal that I do not like at all. It would be a bad step for local government.

Mr Davidson: Do you feel that local government should collect a larger percentage of its funding?

Dr Kenway: The fact that local government collects only about a quarter of its funding is certainly a major problem. When asked, the public think that it collects three quarters of that funding. It would be easier if local government collected and had control over more of its funding. The answer probably lies with the business rate. I know that there are arguments both ways, but it seems sensible that, if local government is able to run a policy that improves the prospects of business in its area, it should be able to get some of that money. There is also the problem that the business rate rises with inflation rather than with council tax. In England, although people such as ourselves, experts in local government and committees such as yours debate the minutiae of the system, what caused the trouble was the 13 per cent hike in the business tax in 2003 on the back of a steady rise since the tax was introduced in 1993. Levels are important in this.

Tommy Sheridan: Peter, I say from the outset that I am disappointed in your paper. To be fair to you, I would say that the invitation to you to give evidence is probably misplaced. It would have been better if you had given evidence to the independent inquiry into council tax; we are scrutinising a bill that, frankly, you have not read or understood. I do not blame you for that, as your work is on council tax. However, in the one observation that you make in your four-page paper, you state that the purpose or outcome of the tax would be

"to shift the burden of taxation in favour of one earner households".

How do you substantiate that?

Dr Kenway: I have read the bill, but I do not want to give the impression that we have studied it or the work that you have done. Perhaps I am wrong. My understanding is that the proposed tax

would be levied on individuals rather than on households. Is that correct?

Tommy Sheridan: That is correct.

Dr Kenway: Let me ask you a second question to check that we have understood your work correctly. As I understand it, the detailed figuring rests on the assumption that households are one-earner households. Is that correct?

Tommy Sheridan: We are illustrating the problem here, in that you are now asking me as many questions as I am asking you. The research on which the policy memorandum is based is from the Scottish Parliament information centre. It is independent research, the analysis of which was based on one-earner households. At 46.8 per cent of households, one-earner households are the largest proportion of households in Scotland. If SPICe had based its research on two-earner households, would you be surprised to learn that 95 per cent of households would gain, not 71 per cent?

Dr Kenway: The basis of the analysis cannot affect the number of gainers and losers. I agree that about half the working-age households in Scotland have two earners in them. What I am saying is that if one wants to consider the impacts of shifting from a household-based tax such as council tax to the Scottish service tax, one cannot just list a group of people in different jobs; one must also take account of their partners. The way in which the outcomes are represented is an incomplete picture.

Tommy Sheridan: I have to caution you a wee bit. I know that you do a lot of research, some of which is very useful, but by questioning the basis of the research for the bill you are questioning independent researchers, who have used gross household income in Scotland, broken down to the best data that are available, and the breakdown of income per household to the best data that are available. If we were to apply this tax on the basis of one-earner households, the gainers would be 71 per cent. SPICe makes the point that if we base the tax on two-earner households, based on the breakdown of incomes throughout Scotland, the gainers would be 95 per cent. To illustrate that, my colleague Michael McMahon gave a reasonable example last week that disproves your point. He talked about two houses, one in which there is an earner on £50,000 and one next door in which there are two earners, each on £25,000. Under the proposal, the earner on £50,000 would pay more than the household next door. However, you say in your evidence that the effect of the tax is to put the taxation in favour of one-earner households. You can see how false that premise is when you consider the details of the tax.

Dr Kenway: It is not false. You have quoted one particular case, and I fully understand that a £50,000 single-earner household would pay more tax than two £25,000 earners. What I am saying, in essence, is that the analysis cannot be on the basis that all households are one-earner households or that they are all two-earner households. There are important ramifications there for what households decide to do. I am not necessarily making the observation that the analysis is wrong; it is an observation on incompleteness, which we are saying must be taken into account. Equally, one cannot ignore council tax benefit. However poorly the benefit works, there are plenty of low-income households that pay no council tax. That point needs to be made, not abstracted from.

Tommy Sheridan: Would you accept that the overwhelming majority of the points that you have made in your paper are beyond the remit of the Parliament and the committee, because we do not have control over how council tax benefit is administered and evaluated?

Dr Kenway: Yes, I accept that; we have already touched on that. The reason why I am not really prepared to make a judgment on the proposal is that I recognise that in some senses it is trying to take advantage of the powers and the scope that you have in Scotland. It is not the same as sitting down with a Labour Government—or any Government—in London and saying, “This is what the local taxation system ought to be.” I recognise that your situation and which powers you have and do not have make a difference to what you can sensibly propose and not propose.

I do not think that it would have been right for us, as number crunchers, to comment in detail on your proposal without having thought a lot harder about it and tried to understand the detailed analysis that was done. However, that was not what we were asked to do.

Tommy Sheridan: I can only apologise then, Peter, because I had hoped that that is exactly what you would have done, given that we are supposed to be scrutinising the bill. I thought that you would have analysed the bill and criticised it—or, indeed, praised it—where necessary.

I want to deal with elements of the bill that I hope you can comment on. The essence of the bill is its intention to redistribute income across Scotland in favour of low-income households, which make up the majority. To do that, we would put a zero rate on the first £10,000 of anyone's income, because it would be a marginal tax. What would the New Policy Institute's advice be on the anti-poverty effect of such a measure and on its general economic effect in terms of the marginal propensity to consume?

Dr Kenway: The implications for poverty of the measure would be very good—there is no question about that. Council tax is a real problem for working-age households, whether people are in work or out of work, but something could be done about that at the stroke of a pen. It is a question of making the system a great deal more generous than it is at the minute.

Your proposal of not starting to tax until income is over £10,000, with tax then kicking in at only 4.5 per cent, would have a very good effect. It would do away with the need for means testing. Although people in some circumstances must make a tax return, that is not the same as means testing. Therefore, I fully accept your point and would regard your proposed measure as positive. If it were possible to arrange our tax system so that we could start most of our taxes at the £10,000 level, that would be very desirable. The problem is that, in general, we would not be able to do that.

The question then becomes a political one, which is the point at which we become no longer competent, if you like. The political question is whether we want the balance of local taxation to be as your bill proposes and whether we can persuade the Scottish electorate to accept it. On paper, there are clear technical advantages to the proposal, and it would definitely be a very good anti-poverty measure. However, whether people would be prepared to wear it is a different matter.

Tommy Sheridan: If I was to suggest to you—

The Convener: I want to bring in other members.

Tommy Sheridan: I apologise. I thought that I was getting in only because there were no more questions.

Dr Kenway: I have one more point to make on the proposal, which is that I am sure that it would increase consumption at the bottom. Again, that would be a good thing.

Tommy Sheridan: I am glad that you made that point. You said that you believed that the council tax was unpopular but that you were not sure what support there would be for alternative systems. Just for your information—I will make this evidence available to the committee—two NFO System Three polls have been conducted in Scotland on the matter. They were not on the service tax proposal, because most people would not understand what that means. The polls were on a tax that would be based on personal income. In 2001, 71 per cent of respondents supported such a tax as a replacement for the council tax, and in 2003, 77 per cent supported it. That shows that the level of support for an income-based tax is increasing.

Given that we are sitting in a Parliament that does not raise the money that it spends, would you accept that, as far as those who use services are concerned, what is important is not whether we raise the money or how accountable or democratic the process is, but how the money is spent and how services are delivered? Would you also accept that it is wrong to suggest that there is no property element in the proposal in front of you, given that there is a clear reference in it to those who have heritable property in Scotland, or rights or trust deeds to any heritable property? Would that not mean that anyone who thought that they could simply move income that was taxable by the Inland Revenue into property in order to get away with not paying the proposed tax would be up a gum tree?

15:45

Dr Kenway: There were two or three questions in that. On the last point, those provisos are in the bill, although I could not say whether I think them sufficient. The question is not whether people's liability for tax is connected with whether they own property—I think that the community charge basically worked like that—but whether the amount that people are liable to pay is related to the size or value of their property, or, possibly, to the notional rental value of their property, as with rates. That link is worth saving and protecting.

We are having this debate back home, too: articles have appeared in the London papers saying that people think that tax based on income is fairer. Over the past 30 years, central Government—involving both the political parties that have been in power—has viewed it as desirable to reduce income tax wherever possible. It seems that there is at least a question mark over people's claims that income is the fairest basis on which to tax.

If you compare the situation of people who are bringing up children with that of other people on the same income and ask whether income is a measure of their ability to pay, the answer is that it is not—although income is clearly one measure of ability to pay. Our major tax is income based and it seems sensible to have another tax that is property based. The question seems to be why people who live in £15 million, £5 million or £1 million houses pay only a fraction more than people who live in two-bedroom council flats. I think that the income stuff is, in a sense, a distraction from that; we could argue about whether income tax should be more progressive, but I want property to be taxed more fairly than it is now.

The Convener: If you were to assess whether or not the Scottish service tax as proposed by Tommy Sheridan was beneficial to individuals, and

by what degree, would it be fair to exclude council tax benefit and council tax discounts from such an analysis?

Dr Kenway: They should certainly be included in the analysis; they are an important part of the system and it would not be too difficult to include them.

The Convener: We heard last week from a professor of economics that high differentials in taxation could lead to differences in individuals' economic behaviour. I asked him whether he believed it likely that having marginal tax rates on income at the higher levels of 18 per cent or 20 per cent—higher in Scotland than in England—might lead to some individuals deciding to move to other parts of the UK. Do you believe that differential rates would lead to some higher earners deciding to seek their living elsewhere in the United Kingdom?

Dr Kenway: I am sure that it would lead to some shift—one does not need to be an economist to come to that conclusion. It is impossible, however, to quantify that—this is where the economist's black arts come in. Would only five people leave, or would the number have a lot of noughts on the end? Some people would certainly change their behaviour, but I do not know how many, and I would be surprised if the economics professor to whom you referred knew either.

The Convener: Before embarking on such a radical change to the taxation system, would it be reasonable to conduct some research into how many people would lose out and into the possible impact on the yield of the tax?

Dr Kenway: Of course I think that it would be a very good idea to conduct some research—that is my job. At the risk of being inaccurate, my understanding is that very little external research was done when Wales changed its council tax system to the one that was introduced this year.

One advantage of the trouble that there has been around council tax and the way that it has become political in England since 2003 is that a lot of people are looking at its effects, which is good. No tax is more visible than council tax. Although reforming it is a politician's nightmare, you must have as much information as possible on the likely effects before choosing a particular set-up. That so much information is required is deeply unsatisfactory, but that is a reflection of the council tax system—so much of the detail involved affects things in a big way. Income tax is much clearer, with three or four factors, such as the rate and the level at which it is introduced, that we can all understand. However, research needs to be done into all the possible options, whether you are considering reform, updating or something much more radical.

The Convener: I asked a number of witnesses at our meeting last week whether they felt that a hospital consultant who was given the choice of working in Manchester, Newcastle, Edinburgh or Glasgow would make the economic decision that it was better for them as an individual and for their family to work in Newcastle or Manchester, rather than Glasgow or Edinburgh, if the marginal rate in Scotland were 20 per cent higher. If people were to make such decisions, would the positive benefits of the proposal in terms of poverty alleviation have to be weighed against the lack of specialist medical practitioners?

Dr Kenway: I have said that not taxing anyone until their earnings reach £10,000 and then introducing tax at 4.5 per cent is a desirable approach and would certainly have an impact on poverty. Wearing my poverty hat for a minute, I can tell members that in Great Britain—the figure will not be different for Scotland—nearly half the children who are in poverty have someone in their household who is working. The council tax is a big part of the burden that low-income working households bear, so those features of the service tax are extremely attractive. They would have to be weighed against the disadvantage that you mention, but the advantages should not be overlooked, because they are important.

The Convener: It would be possible, given your proposal for a reformed council tax, to reduce the burden of the tax on low-income households by introducing more bands at the lower end and by reforming the council tax benefit system.

Dr Kenway: It certainly would. We had not thought that the council tax benefit system would be so generous that a person's income would have to get to £10,000 before they started to pay council tax. At the moment, people start to pay council tax long before they start to pay income tax. Various simple things could be done to align the systems, and then the question would arise whether the income tax system should also be more generous at the bottom. It would certainly be possible to move quite far in that direction.

You need to concentrate most on people who are in work but on low incomes. People who have low incomes and who are out of work ought to be on benefit, and there is no concern at all about the people on middle incomes and above. You want to examine the impact of any proposal on people who are in work but on low incomes—we are most concerned about them. Particularly in areas where property prices have gone up a lot, that group could find itself in property that is in quite a high band and therefore paying quite large sums of money—the London problem, if you like.

Bruce Crawford: Do you accept that sometimes it is dangerous to generalise when talking about some of these concepts? We can accept at face

value the proposal that people will change their behaviour and move because of high taxation levels and suddenly having to pay a bit more. However, would it not be equally relevant to point out that people living in the city of London have to pay exorbitant property costs and have a higher cost of living than elsewhere, yet London is not empty; it is a thriving metropolis? Working people have to pay a lot to rent or buy property, therefore, if taxation levels or outgoings in general affect behaviour, why has there not been a considerable outward migration from the London conurbation?

Dr Kenway: There has been. London's population is not stable; the city is a melting pot. Middle-aged, middle-class people like me are departing in droves to leafier suburbs and places that are further out of town. London is an extreme version of what is happening in every city in Britain. It attracts a huge number of immigrants—highly skilled, low-paid workers from across the world—and its economy runs on them. The situation is quite extraordinary. Council tax is a burden for low-income workers, who are key workers. The worry is about what will happen to those people if, after the revaluation in 2007—which, to an extent, is what has triggered much of the discussion about this subject—their properties go up two bands, which could easily happen.

Tommy Sheridan: In relation to the back-and-forth argument about fiscal flight, are you aware of Kay and King's work of 1991 on the British tax system? It stated:

"The most important tax on factors of production is the income tax on individuals. If labour income is taxed too heavily in country A, you can often reduce the burden by working in country B instead. Again, this is an issue which generates more anecdote than evidence of serious effect."

Similarly, are you aware of the 1981 study by Fiegehen and Reddaway, which showed that even the high tax rates of the 1970s appeared to have had little effect on the mobility of senior managers in practice; that, for most people, the ties of family, home, culture and language outweigh fiscal incentives to work in other countries; and that the opportunities for advancement within people's current workplaces are seen as more important than lower tax rates? Would you accept that the argument about fiscal flight is often used by those who are worried that they might be affected by higher taxes?

Dr Kenway: Those are very old pieces of research, especially the one from 1981. You asked whether I was aware of them and the answer is that, if I once was, I have since forgotten about them. I would assume that the mobility of labour situation is extremely different from what it was 25 or 20 years ago. Were those studies referring to people moving between various parts of the UK or between the UK and France,

Germany, the United States of America and so on?

Tommy Sheridan: To be fair to Kay and King, they published their research in 1991.

Dr Kenway: That is still quite a long time ago.

Tommy Sheridan: The point is that there has been no other study since.

Dr Kenway: That might well be true. In such circumstances, our gut feeling might be all that we have to go on. I would agree with you entirely that economic research should be more relevant and helpful.

Tommy Sheridan: My final question relates to the New Policy Institute's attitude to the argument about marginal tax rates. Under the proposal that we are discussing, someone with an income of more than £90,000 a year will have an effective marginal tax rate of 20 per cent, which means that the portion of their income that is more than £90,000 will be taxed at a marginal tax rate of 20 per cent.

Last week, Citizens Advice Scotland told us that people on the lower income scale of £4,000 to £7,000 a year have an effective marginal tax rate not of 20 per cent but of 85 per cent, because of the withdrawal of housing benefit and council tax benefit. Is the New Policy Institute concerned that we have a hue and cry about marginal tax rates for those who are on exorbitant incomes but that we do not seem as concerned about those who have crushing marginal tax rates on low incomes?

16:00

Dr Kenway: I agree absolutely: the situation is absurd. There are reasons for the tax rates—as there always are—but you are right. The disincentive for people to enter work is enormous. People can face rates that are above 90 per cent, because they lose housing benefit and council tax benefit. If their income rises, they start to lose tax credits. Those are big issues.

It would be nice to construct our whole tax system—to replace not just council tax, but income tax—so that people did not start to pay tax until they earned £10,000, although I imagine that that would be seen as imposing too great a burden on the top. From a rather academic point of view, the proposed tax is attractive because it raises ideas that have long not been advanced and deserve to be considered. However, that is easy for me to say; I do not have to implement the system or accept the consequences of implementing it. The ideas are attractive. The proposal would take out at least one element of the high marginal rates that low-income households experience. If that can be done, it is always worth doing.

Michael McMahon: Mr Sheridan referred to reports from the early 1980s—I am surprised that he did not go back to one by Mr Marx in 1848 to make a point. He also mentioned the independent review that is taking place.

Tommy Sheridan: I think that Michael McMahon said 1948; he might have meant 1848.

Michael McMahon: I think that I said that.

The Convener: It might have been by Groucho.

Michael McMahon: The independent review continues. Dr Kenway talked about the political decisions that must be made. From an academic point of view, is it better for politicians to wait for the outcome of independent studies before making political decisions on the way forward?

Dr Kenway: In some ways, the answer is no, because the question is deeply laden with values. One danger is that civil servants get hold of something and politicians are offered this or that. Guidance is needed, although it is obvious that deep political divisions will exist between and within parties.

The subject is not one to sit back and wait for experts to pronounce on, because choices are available. How progressive do you want council tax to be? Mr Sheridan's proposal offers a progressive tax that rises steeply at the top. Members could decide to apply the same principle to council tax. No experts can comment on whether that might be a good idea; the principle that a much more progressive system is wanted must come from politicians rather than from experts, who can then be asked to go away to design the system and consider its detail and implications.

Michael McMahon: Would it be best to stop the review and deal with each proposal from each party one by one until we have agreement?

Dr Kenway: I do not know enough about the details of the review. I presume that what is decided in London will influence your thinking a little bit—you never know.

Tommy Sheridan: That is unfortunate for those of us who believe in independence.

The Convener: I have a couple of final questions. I am sure that Tommy Sheridan was accidentally misleading when he said that the marginal income tax rate that the highest earners would pay was 20 per cent, because they would pay 20 per cent on top of the existing 40 per cent tax rate, so the marginal tax rate would be 60 per cent.

Dr Kenway: If the marginal income tax rate and the marginal service tax rate are added together, they make 60 per cent, but in this context, 20 per cent is the marginal rate.

The Convener: Tommy Sheridan quoted research that shows that, aside from taxation, factors that influence where people choose to live include family ties and language. Given that a significant proportion of medics in the Scottish national health service were born in England and that the language that is spoken in England is—the last time that I checked—broadly the same as that in Scotland, if income tax is added to that, are they not three reasons why a medic who was born in England might want to return there?

Dr Kenway: Tax is clearly a factor. A study might have to be undertaken to determine how big a factor it is. I say with respect that I suspect that 25-year-old studies are probably not relevant. Important differences already exist between what happens in Scotland and in England. One would not go so far as to say that you cannot have any differences. I do not know whether a rate of 20 per cent is too big a difference—one would have to find the appropriate point. I do not think that you are saying that no room for manoeuvre should exist; some room for manoeuvre clearly exists, but I cannot say how much.

The Convener: That brings us to the end of questions. I thank Dr Kenway for his evidence.

Members will have a swift break before our final group of witnesses.

16:06

Meeting suspended.

16:10

On resuming—

The Convener: Our next evidence-taking session on the Council Tax Abolition and Service Tax Introduction (Scotland) Bill is with two representatives from the Scottish Trades Union Congress. I welcome John Park, who is the STUC's assistant secretary, and Dave Watson, who is from Unison Scotland. Their written submission has been distributed to members in advance, but they have the opportunity to make some introductory remarks before we move into the question-and-answer session.

John Park (Scottish Trades Union Congress): I will say a few things about our submission, then Dave Watson will say something about Unison's position.

Our written submission was first submitted to the Parliament four years ago as part of the then Local Government Committee's inquiry into local government finance, so only certain aspects of the paper are relevant. Our reason for providing the paper to the committee is that we have not developed a full position since then. We hope that

members will be able to take from the paper elements of what we said about the council tax to provide some background.

Although we have not developed a position—the trade union movement has not had a significant debate on the issue, at least within the STUC at the levels at which policy changes are made—it is important to note that at least three unions now support the tax that Tommy Sheridan has proposed. However, we also know of two unions—Unison and the Union of Shop, Distributive and Allied Workers—that support the retention of the council tax in some form. I will try my best to answer questions today in the context of our written submission, but Dave Watson will be able to elaborate on the details of Unison's position.

Dave Watson (Unison Scotland): Unison's position, as set out in the STUC submission to the previous Local Government Committee's review and in our own submission to Sir Peter Burt's independent review of local government finance, is quite clear: we do not support the proposed Scottish service tax.

We do not support the switch from a property tax to an income tax, as we believe that a property tax—although by no means the major element—is rightly part of the basket of taxation. In our view, it is right that, like most western industrialised countries, we continue to have some element of property tax because there is a broad, albeit not perfect, relationship between the value of property and overall wealth. In our experience, a property tax, unlike income tax, is difficult to avoid. The fact that property is fixed in a locality makes it a good way for local authorities to raise taxation.

We are concerned that a switch from property-based taxation to income-based taxation would shift the tax burden on to working families. In effect, it would mean a tax on employment rather than on property. A particular concern about the SST is the proposal that the level of taxation would be set nationally rather than locally. We strongly believe in the principle that local accountability and autonomy should be strengthened and we believe that the raising of taxation is one factor—although it is not the only one—in determining local autonomy.

I emphasise that our analysis does not compare the proposed SST with the existing council tax, as we do not support the council tax as it stands. We believe that the council tax should be reformed. Within Unison, we have had some fairly extensive discussions over the past couple of years. Obviously, our long-standing position is that we are in favour of a property tax, but we reviewed our policy last year in light of the proposed SST and because we knew that we would need to give evidence to the independent review. After considering the alternatives, we came out in

favour of a reformed council tax, largely along the lines that were recommended by the review of local government finance that was undertaken by the previous Local Government Committee. We believe that the council tax bands need revising and that there needs to be regular revaluation.

We believe that the council tax needs to be reformed, but we accept that such reform is a reserved matter. We believe that it is possible to work in partnership with the Westminster Parliament to deal with a reformed council tax benefit on both sides of the border. We are minded to follow the argument that there is a case for devolving council tax benefit, although we have not reached a final view on that.

We also believe that business rates should be returned to local control, so I agree with the policy memorandum on the Scottish service tax in Tommy Sheridan's bill. We also believe that there should be minimum ring fencing of grants, and you will not be surprised to hear that we are in favour of a level playing field between public and private finance. Those are the five principles that Unison has adopted on local finance.

16:15

The Convener: Thank you. I note that the STUC does not have an agreed policy on the Scottish service tax or on a form of local income tax that others have suggested. You say that some unions are moving in that direction, and that other unions still support the council tax, albeit in an amended form. Which unions have adopted which position?

John Park: Sorry, I should have mentioned that. The Public and Commercial Services Union, the Fire Brigades Union and the National Union of Rail, Maritime and Transport Workers—the RMT—are in favour of the Scottish service tax. We have not carried out an internal consultation. A couple of methods are used to make policy decisions in the STUC; one is through the general council and the other is through the annual congress. Time has not allowed us to have the debate that we need to have on the matter, but the other unions have told the STUC as an organisation and me as an individual what their positions are and the reasons for them.

The Convener: Apart from Unison, does any of the other unions support the council tax?

John Park: Sorry, have I answered that question the wrong way round? Unison and the Union of Shop, Distributive and Allied Workers have told us their position. We have a policy position that we arrived at through a discussion at general council or through debate at congress four or five years ago.

The Convener: Could you encourage the STUC or its affiliates to make their views clear? It would help us to hear the views of the whole trade union movement. You will recognise that several major trade unions have not expressed a view on the matter one way or the other.

John Park: We have already started to do that. When we spoke to the unions about the fact that we were to give evidence to this committee, we told them that our closing date was 30 September. We hope that they will participate.

The Convener: Dave, you said that a reform of council tax should include a reform of council tax benefit. Should the threshold at which people start to pay council tax be raised? Should there be an additional alleviation of council tax for those on a fixed income? I am thinking particularly of pensioners.

Dave Watson: Yes. Some of the work that we commissioned from the New Policy Institute has formed the basis of our policy discussions. We tabled much of that work to colleagues when we were discussing our policy position. Its work showed us that low-paid members in particular were suffering as a result of how council tax benefit is calculated at present. That is an area that we want to deal with.

You cannot reform council tax without reforming council tax benefit at the same time. That inevitably leads us to ask why we in Scotland do not have powers to reform council tax benefit, since we have the power to reform council tax.

The Department for Work and Pensions has a master plan for taking over the world of benefits, and it has argued its point accordingly. However, we are coming to the view that there is merit in council tax benefit being administered in Scotland through local authorities. That seems to us a reasonable position.

You have to look at the two things together. Council tax benefit can be reformed to deal with many of the anomalies that are set out in the SST proposal.

The Convener: Does Unison Scotland conclude—as I have concluded—that reforming council tax and council tax benefit would improve the fairness of the council tax system and alleviate its heavy impact on many people at the lower end of the income threshold?

Dave Watson: That is precisely our position.

Bruce Crawford: Do the Scottish Trades Union Congress and Unison share the same position on council tax benefit?

John Park: Yes, our position on reforming council tax, spreading bands and so on is broadly similar.

Bruce Crawford: Do you want council tax benefit to be brought under the auspices of the Scottish Parliament?

John Park: We are silent on such matters.

Dr Jackson: John Park said that he would provide on paper the views of other unions on the service tax. However, are you able to give us any reasons why they might be for or against it?

John Park: I am encouraging other unions both to engage with the committee and to participate in our consultation. Earlier, I was given a letter from PCS that provides a broad view of why certain unions support the service tax. PCS broadly agrees that the

“service tax would remove the burden of the existing council tax system from pensioners ... and those least able to afford it”

and believes that it would also help people in poverty. PCS also supports the fact that, under the bill,

“The service tax rate set by Scottish Ministers would be the same across all Scottish local authorities”,

and it says:

“There is a clear recognition in the consultation document that any staff affected by the proposals should be dealt with by redeployment, retraining and reskilling”.

We also support that. However, although it is nice to see that money will be set aside in that respect, such an approach raises not only financial but practical challenges.

Finally, with regard to the bill's reference to Scottish ministers' consultation with the STUC and the Convention of Scottish Local Authorities, we believe that such a framework should exist anyway, no matter whether we are talking about this bill or about reforming the council tax system.

Dr Jackson: Bruce Crawford mentioned the obvious benefit of the service tax to lower income groups. However, what about the other end of the scale more generally? How do you think—

John Park: Sorry—I cannot quite hear what you are saying.

Dr Jackson: Is my microphone not working?

John Park: It might be my ears.

Dr Jackson: In response to Bruce Crawford, you said that the service tax would help people on lower incomes. What has been the feedback from various unions with regard to society in general and the economies of Scotland? For example, we have heard that people in Scotland on higher incomes might move to England simply because they would be disadvantaged by the service tax.

John Park: I must admit that the matter has not been discussed much. However, as someone who

has moved about the country for work, I was struck by the same point when I read it. I have to say that, although it might be an issue, it might not be relevant to many Scottish trade union members.

Dr Jackson: My question was only a general one.

Paul Martin: I want to discuss the role that the trade unions play in setting the council tax and—considering the future of their members' jobs—the role that they would play under the Scottish service tax proposal. At the moment, the unions have an opportunity to make representations to a local authority when it is setting its council tax. However, that will not be the position under the Scottish service tax. Do you believe that the unions' role to make such representations will be diminished?

Dave Watson: As a predominantly local government union, Unison strongly supports the concept of local government autonomy. For that reason, we believe that local authorities should control their own spending. That also involves returning business rates to local authorities, which would provide them with just under half their income to be determined at a local level.

We think that that is a good thing and that it would enable us to have partnership discussions, as we have now, with local authorities throughout Scotland about the appropriate level of council tax and other expenditure issues. It is important because it would enable each local authority to respond to local needs. Local government is local government—not local administration. If the Scottish Parliament set the level of taxation in Scotland, councils would have no flexibility to respond to those local needs—it would be in the hands of MSPs. Local democracy and accountability are important and local councillors are best placed to make those decisions on behalf of their electorate.

Paul Martin: Just to be clear, you argue that your opportunities to represent your members should increase or that you are satisfied with the current level, but that you could argue for an increase. However, those opportunities would definitely diminish and almost be obliterated under the proposed bill.

Dave Watson: It is not so much the opportunity that we have; we argue that it is the opportunity that all civic society has in a particular locality to be able to argue its case, not least of all to turn out a council through the ballot box if it does not like the decisions that are taken. That is democracy.

Our view of democratic accountability is much broader than simply having elections every four years. There is a strong case for increasing local democratic accountability through participative and

deliberative involvement of local people in the decisions of local councils and by democratising quangos and other boards as well. We are in favour of Bill Butler's proposed bill on direct elections to national health service boards for similar reasons.

We have a general view that we should strengthen democracy not just through the ballot box, but through dialogue. Expenditure levels are an important part of that because that enables people to make judgments. People might well make judgments at local level that it is right that local councils should raise more expenditure through local taxation to fund services in their area to deal with particular needs. Another area might not reach that view, but that is right and proper and a decision for the people in that locality to make.

Paul Martin: Both the STUC and Unison have raised concerns in the past about those businessmen who seek to evade paying tax and you touched on that in your earlier presentation. However, under the proposed bill, would those individuals who make creative Inland Revenue returns evade the only opportunity that exists to identify and tax that wealth?

Dave Watson: One of the reasons why we favour a property tax is that it is more difficult to avoid than income tax—I emphasise “avoid” rather than “evade”—because a property is difficult to move. One can see it, touch it or photograph it. Our members can and do assess that.

In fairness to the Scottish service tax proposal, one must never make legislative decisions on the basis of a few exceptions, but there are people in Scotland who do not pay income tax in the UK, such as foreign businessmen who own property in Scotland. Under the proposed tax, they would end up paying nothing, whereas they do pay under the council tax system. That is a concern. As regards equity, it is important that those people are brought into the taxation bracket, although we would favour reform of the top bands so they would pay more than they do under the current council tax arrangement, thus making it more progressive than the current arrangements.

Mr Davidson: That was really where I was headed. I ask both gentlemen about the revaluation comment that was made. How would they structure bands? Dave Watson just gave me the impression that he would not change the bottom bands. Will you explain?

Dave Watson: We would favour changing the bands at the bottom and the top. The middle bands are probably about right. The difficulty with being too specific is that you have to look at the circumstances when you fix the bands. I would not say, “Band D should be X pounds at this time,”

because you need to look at the impact of a revaluation. Although people say, “A revaluation means we all jump up a band,” a revaluation would also result in some adjustment of the bands. The impact of revaluation is a relative difference in property prices between one part of Scotland and another. That is where the impact might occur and where you would have to do something about transitional arrangements at the very least.

Our view is that although revaluation is difficult, to keep putting it off—as has happened, to a large extent—does not solve the problem. Our view is that revaluation needs to be done regularly so that the bands have some relevance for people and so that they can make economic judgments for themselves. That way, people would be able to make a better connection between the value of their property and what they were likely to pay in council tax, rather than have to rely on 1991 prices. That would mean, for example, that people who were on fixed incomes would be able to make economic judgments about whether to spend more of that income on a larger property and incur the energy, maintenance and council tax costs of having such a property, or whether to make the gains of moving into a smaller property. We have all been there, with relatives and so on, in making such economic decisions. If there were regular revaluations and the council tax bands had much greater relevance to existing property prices, people would be able to make the link and, as a result, would understand the council tax more fully.

16:30

Mr Davidson: That said, if there was a revaluation tomorrow, the total take of council tax would not necessarily increase.

Dave Watson: That is absolutely right. In our view, revaluation should be a revenue-neutral exercise. In other words, when the revaluation was done and the banding arrangements were changed, the new bands should be worked out such that the process would be revenue neutral.

Mr Davidson: You mentioned special groups such as pensioners. How would those groups be dealt with in a rebanding exercise? I presume that means testing would be used.

Dave Watson: They would be dealt with by revising council tax benefit along the lines that the New Policy Institute has indicated in the work that it has done for us in a booklet on the reform of council tax benefit, which we and a number of other trade unions, including PCS, sponsored; I could make a copy available to the clerk. The booklet sets out a number of ways in which council tax benefit could be reformed. Our primary concern is how that could be done in such a way as to benefit low-paid workers, but there is also a

need to look after the interests of pensioners, especially those who are on fixed incomes.

We accept that there is an issue about those who are on fixed incomes and who live in high-value properties. It is clear that a property tax will always fall on them more heavily than will an income-based tax, but our view is that property is part of the basket of taxation. In those circumstances, everyone makes economic judgments.

Mr Davidson: What is your union's principal argument with the proposed Scottish service tax?

Dave Watson: Our principal argument is that we believe that property should be part of the basket of taxation. The effect of moving tax away from property would be that people in employment would be taxed more heavily. In effect, most of the burden of taxation would be placed on income. We believe that a basket of taxation that includes income, sales and property is the best way of raising revenue.

Any form of taxation has to be considered in the context of the total tax yield that the Government takes, both at UK and Scottish levels. To try to solve all the benefit and other issues on the back of a single tax—worthy though the proposed tax is in seeking to address poverty issues—is probably unwise. If we are to deal with poverty and, in particular, low pay—as we must—we need to take a broader view of taxation.

Mr Davidson: Mr Park, I appreciate that your organisation has not yet come to an official view, but do you agree with some of the comments that your colleague has made?

John Park: Broadly speaking, we agree. Part of the reason for having Unison at the meeting along with the STUC is that we broadly agree with its position. In addition, Unison obviously has an interest in local government.

The Convener: Before I bring in Tommy Sheridan, I want to clarify whether Mr Watson's reason for wanting to retain a property element in the taxation system is the fact that property can be a key indicator of wealth in the same way that income can.

Dave Watson: To answer that, I must again rely on some of the work that the New Policy Institute has done in the area, which shows that it is right that property is a broad indicator of wealth. I would not dispute that, in many ways, income would be a better judgment of wealth if we had a properly progressive income tax system. However, there is a broad correlation between property wealth and taxation and, in our view, that is of value when it comes to the basket of taxation, even though the use that is made of property in the present tax

system is not perfect, as I think I made clear at the outset.

Tommy Sheridan: My question is for both Dave Watson and John Park. Is it fair to say that neither Unison nor the STUC has examined the detail of the bill?

Dave Watson: No. I do not think that it is fair to say that. We and the STUC have a long-standing position in favour of the council tax and of property as the basis for taxation. We could have just maintained that position and said that an income-based tax was not in line with our view, but we reviewed the position in the past 12 months in the light not of the minute detail but of the broad proposition. Some colleagues in Unison argued in favour of the SST proposal and some argued in favour of other income-based tax proposals. Given that we are a big trade union with 150,000 members, it is inevitable that a variety of views will be held. Discussions took place at several levels, culminating in a full debate at our Scottish council, in which all our branches are represented. The decision was taken to stick to our view that a broad property tax is the best way forward and not to support the SST proposal or other forms of local income tax.

Tommy Sheridan: I do not want to be unfair to you. If I picked this up accurately, you said that one problem would be that a foreign businessman who owned property in Scotland would end up paying nothing under the proposed tax. You also said that the big problem with the proposed tax was that Unison thought that property should be at least part of a basket of taxation.

Dave Watson: That is exactly what I said.

Tommy Sheridan: Under section 2(1)(c) of the bill—I believe you have a copy—one of the conditions for a person to be a “qualifying individual” is that he or she is

“the owner of heritable property in Scotland.”

You might not know this, but heritable property means all property that cannot be moved. It is not true to say that a foreign businessman who owns property in Scotland would not be liable for the proposed tax; such a property in Scotland would be heritable property so they would be liable. Secondly, it is not true to say that, under the proposed tax, property would not form part of the basket of taxation.

Dave Watson: I read section 2(1)(c) and I am familiar with heritable property. I might be more an employment lawyer than a property lawyer, but I am familiar with what I learned at law school—I am a Scots lawyer as well—which certainly touched on heritable property, although it was a rather tedious part of the course. I agree that, as I read the bill, such businessmen would be

qualifying individuals. However, you would still have to find the income on which to tax them. I know that a number of highly paid tax lawyers and others are skilful in ensuring that such businessmen's income does not qualify in Scotland or the UK; they do not pay UK income tax on much of their income. I accept that a person could be a qualifying individual under section 2(1)(c), but I fail to see how they would qualify in relation to their income, or what you would tax—that is where I am struggling. If we read section 2(1)(c) by itself, you are right that there is a theoretical element of property in the proposed tax. However, with the current council tax, property qualifies as a significant element of the basket of taxation; it is not a marginal element. It is right that property sales and income should be part of a basket of taxation.

Tommy Sheridan: I want to be absolutely clear about what you are saying. Do you accept that, under the bill, foreign businessmen who own property in Scotland would be liable for taxation? You might have questions about whether we can force them to pay their tax, although they would be breaking the law if they did not. If the bill were passed, it would be law and people would have to pay the tax based on their income wherever it was declared. If they did not pay the service tax based on the heritable property qualification, they would obviously be breaking the law. I am sure that Unison would not want individuals to do that. You accept that the legal architects of the bill have tried to close as many loopholes as possible, particularly in relation to UK-resident individuals, who might be very wealthy and sometimes use Scotland as a playground for second, third or fourth homes, but do not pay any taxation on that basis. You accept that those individuals would be liable, but you question whether we could trace them.

Dave Watson: I accept that such people would be qualifying individuals under the bill, but there are two aspects to collecting a tax. First, a person has to be liable and, secondly, they have to pay it. Income tax is based on declared income. That is the difficulty, particularly in relation to foreign businessmen, which would be the issue. The Inland Revenue has well-documented cases of such circumstances. I will not name names, for obvious reasons, but there are some well-kent individuals in Scotland who pay little if any income tax in Scotland or the UK. I accept that you have tried to plug that gap, but the difficulty is that if you opt for an income-based tax and give up on property-based tax you will inevitably rely solely on tracking down income.

We believe that a basket of taxation that includes taxes on income, sales and property offers a better chance of recouping a larger amount of income from those people than would

be the case if you put all your eggs in one basket. That is our principal difficulty with the SST proposal.

Tommy Sheridan: Fine. You continually say that we are putting all our eggs in one basket, but we do not accept that everyone is in the same position as the Al Fayed of the world, or others. There are people in that position, but we should not accept that. We are certainly rigorous in pursuing people who do not pay council tax; I hope that we would be just as rigorous—in fact, even more so—in pursuing people who did not pay the service tax. I am sure that Unison would support that. The people at the top end should not be able to avoid taxes just because they are rich.

Both my sisters are members of your union. Do you have a breakdown of the membership of your union based on average income? In other words, can you tell how many of your members have an income of less than £20,000, less than £15,000, less than £30,000 and so on?

Dave Watson: First, I should perhaps declare an interest as far as Mr Al Fayed is concerned, in that I am a Fulham supporter and any income that he might acquire might strengthen the squad of my team. Even allowing for that, we ought to track him down.

Bruce Crawford: You just denied yourself your next striker.

Dave Watson: Yes.

We do not have an exact breakdown of our members' average incomes, but we have rough figures because our members' subscriptions are paid relative to their income. Many unions have flat rates, but in Unison people pay a much higher subscription if they earn more. We have progressive subscriptions, so MSPs pay the top whack and low-paid workers pay the least. I do not have a breakdown of the figures but, in response to the broad point of the question, I confirm that the bulk of our members are on average incomes or low incomes. We have a large number of members in the £20,000 to £30,000 group. Only a small number are in the highest category, although they exist.

Tommy Sheridan: You made the point that the SST might shift the burden of taxation on to working families. However, the evidence from the independent research centre here at the Parliament indicates that only people on higher incomes—in the region of £40,000 and beyond—would pay more under the SST. Given that that level of income is in the top 10 per cent of incomes in Scotland, do you accept that the majority of Unison members would stand to gain from an increase in disposable income because they would pay less than they pay at present?

The Convener: Out of fairness to the witness, I should point out that the evidence to which Tommy Sheridan refers is evidence that he commissioned. Other members of the committee received it only during the course of today's meeting, so they have not had an opportunity to interrogate it fully. *[Interruption.]* I received it during the meeting, but I do not think that other members have it. Asking the witness to comment on research that has been available only briefly—

Tommy Sheridan: Let me rephrase the question. The research that we have available indicates that the level at which individuals would start to pay more is in the region of £40,000. There are a lot of qualifications because £40,000 is the household income but there may be one, two or three earners and so on. The more earners that there are, the better it is for the bill. Given that the majority of your members would be on earnings below £21,000, because that is the average wage in Scotland, do you accept that the majority of your members would benefit?

16:45

Dave Watson: I have not seen that evidence. I have, of course, read the policy memorandum and when we were developing our policy I read the material that your political party had produced, so we are aware of that argument. My response is that the comparison figures that you produced are comparisons with the council tax as it is, but Unison's position is that we do not defend the council tax as it stands. Our view is that council tax bands should be made more progressive and that we should reform council tax benefit. If that were done, a comparison could be made with the Scottish service tax.

I accept that we represent predominantly people who are at work and that a large number of our members will be in two-income families. In that light, comparisons with households in which there is one earner—which is what is referred to in the policy memorandum—would clearly mean that there would be different figures. The bottom line is that it would depend on what the service tax is being compared with; we would like to compare it with a reformed council tax, not the existing one.

We should be wary about deciding a taxation system based on comparisons of who might gain and who might lose at a particular time. Taxation is a policy issue; it is not a matter of law in itself. It is for politicians at national and local levels to decide on levels of taxation. Therefore, any comparisons will depend on political judgments that are made locally. Clearly, our opinion poll evidence demonstrates that, as a broad policy thrust, the public are prepared to pay more in taxation as long as they get better public services. We believe in that position and we make that

political argument. However, we would not seek to change the law to achieve that. We would make a political case for more public spending to provide better and more comprehensive public services.

Tommy Sheridan: I do not know whether you heard the previous evidence sessions, but the evidence is based on a one-earner household because that is the largest section of households in Scotland: 46 per cent of households in Scotland have one earner and 43 per cent have two earners. If you assess the evidence from the independent research, based on two-earner households, the gainers increase rather than decrease. That position is favourable because the level of income in Scotland is so low and so badly distributed.

Dave Watson: We have done some quick calculations in relation to typical Unison families, such as members who live together, for example a social worker and a member of another Unison profession. Clearly, that would bring household income way above some of the figures that have been mentioned. In fairness to your proposal and to our position, we think that to make such comparisons is not fair on either argument because apples are not being compared with apples. Your proposal is being compared with what is, in our view, an unreformed council tax.

Tommy Sheridan: I hope that Dave Watson and John Park accept that, with the best will in the world, we must compare the proposal with what we have rather than with what we would like to have, because that is the reality. You guys deal in reality every day of the week. If I were to come to the committee and talk about how we would like things to be, I am sure that quite a few members would say, "Well, Tommy, you have to live in the real world." In the real world we are dealing with council tax as it is here and now and with a council tax benefit system that is regressive as it is.

John, do you accept that, although your paper is only five years old, it has dated by more than five years because of changes in, for example, property values? I refer you to the point that you make about the council tax:

"Operationally, it is successful and there are few problems regarding its comprehensibility, administration, enforcement and collection."

The evidence that we got last week from Citizens Advice Scotland is that on one day 19 individuals were in court having their property sequestered because they were unable to pay their council tax. That does not fit in with the description in your paper.

You go on to state that the council tax

"is a reasonably buoyant tax, given the normal rise in property values with inflation."

Five years on, that statement has become totally and utterly inapplicable to the current situation. We have heard how Dave Watson and Unison arrived at a position. Unfortunately, I was not involved with Dave's Scottish council, although I was involved in all the other Scottish councils—of the RMT, the Fire Brigades Union and PCS—and perhaps I will be involved in the STUC's deliberations. How would you arrive at a decision? Is it a matter of the general secretaries of all the other unions coming along? Is a block vote taken? Does it work by a simple majority? What type of process takes place?

John Park: We do not currently have a position on the SST. We do not have a position on it in its current form, because we have not had our discussion on it. Normally, a motion would go before our annual congress. For issues that are as complicated and technical as the proposed tax, I think that that is the best way to secure the full support of congress. People have the opportunity to debate a resolution and to talk about the sort of issues that you and Dave Watson were discussing for about 10 minutes about the various possible approaches. I think that that would be the best way to proceed.

There are other ways for us to arrive at a position. It is difficult to reconcile some of the positions that are held by different members of our general council, which is mostly made up of senior union officials from around Scotland, but which also includes senior lay officials and has a good balance from our equalities committees and representative committees. Those would be the two mechanisms that we could use.

It would be unusual for someone from a political party to come along and talk about such a policy. However, many of our affiliates—although not all—have mechanisms for that through their Scottish regional committees. That is why we have not arrived at a conclusion. There has been no upward pressure for it, and it has not been seen as a priority.

We have been involved in the CalMac stuff and in issues around public sector pensions, civil service efficiencies and so on. Those are the sorts of day-to-day priorities that we have been pushing recently. It is because of the bill's timing that we have not had a debate on this subject. It might be that, following such a debate, people would take the position of some of the larger affiliates. Unison represents a lot of people in the areas concerned, and some other unions might have a view. I think that most unions have been silent on the matter and have had no internal debates on it. It is difficult to gauge whether there would be support for the proposals. With respect to our position on the matter, it has been like comparing apples with

pears, because the discussion has been about a different inquiry.

Dave Watson: The SST proposal is clearly inconsistent with STUC policy as set out in the paper that is before the committee. If colleagues from other unions want to make a case for changing their policies, the STUC has a democratic procedure through which people can make their case. We will argue our case accordingly.

On Tommy Sheridan's question about comparisons, I cite Sir Peter Burt's independent review of local government finance, which relates to a commitment in the Scottish Executive's partnership agreement. The issues are being considered, and we have made our case strongly. Our policy and various submissions are set out on our website. There is a policy opportunity in addressing the issue to deliver what we believe to be the right approach: a reformed council tax.

Michael McMahon: We have been talking about realities and where we are at present. The evidence that we have received with respect to those realities has taken account of the fact that the economy is cyclical and that, at any given time, it can either become more buoyant or go into decline. Tommy Sheridan will correct me if I am wrong, but I do not see anything in his bill that says that the Scottish Executive should come to the rescue of local authorities should there be an economic downturn. In a tax system based entirely on income, if the number of people paying income tax were to be reduced, the consequence would be that local authorities' tax take would reduce. Has the STUC or Unison done any analysis of the levels at which service and/or employment would be reduced given a percentage downturn in the economy?

John Park: We have not given any consideration to that.

Dave Watson: We have not done any detailed number crunching because there is a range of hypothetical factors. During the work that we did when we compared the various models, we considered the argument that one of the advantages of a local tax was greater certainty about yield in terms of the way in which the revenue comes in, subject to collection rates. There are particular issues in Scotland in relation to collection rates. The rates have been improving, but not as quickly as we would like. Our concern about any proposal for a local income tax is that there is a risk that the yield would go up and down.

Anyone who has served on a local authority or public body knows that financial decisions are made mainly on the basis of marginal changes in expenditure, so 90 per cent of what is spent each year is fixed and there is not much that can be

done about it. In effect, we are playing around at the edges. Any marginal change in tax yield and the resultant income of the public authority would be cause for serious concern and, from our perspective, would lead to the risk of job losses and cuts in services for the public.

Dr Jackson: I have a quick question about John Park's answer to my question about the obvious benefits to low-income families. He rightly said that there would be a benefit for union members, and that they might not be so concerned about higher earners. What I was trying to get at—Dave Watson might want to comment on this—is an issue that the convener has raised before about the higher-earning people such as doctors and consultants and the implications for an area if national health service staff were to decide to take a job in England rather than in Scotland. That might well have an effect on everyone in Scotland. I was trying to get at the wider picture and to find out how you view it.

John Park: The wider issue of retention is something that struck me when I read the paper. We could take it on the chin if some jobs and professions went, but in respect of others such as those Dr Jackson mentioned, there would be severe implications if such people were to consider leaving Scotland because of the local income tax.

Dave Watson: We considered that point. The difficulty that we found is that although there is some evidence, it was based largely on what were viewed as penal tax rates in the 1970s. There are those—some even on the left of the political spectrum—who argue in favour of a flat tax, for example. That is very topical at the moment. There are not many people on the left who argue for that, but there are some and they argue for it on the basis that it would maximise yield from taxation, unlike a complicated taxation system with allowances, and based on the evidence—as they see it—of penal levels of taxation reducing the tax yield and not allowing it to deliver what the theoretical model says it might do.

As I said to my colleagues when we considered the policy, we should be wary of that. It is a factor and we should bear it in mind, but it is not the strongest argument against the SST proposal. We should not decide on legislation on the basis of such examples, worrying though they might be. We should choose a taxation system that is right for the whole country. If that has consequences of the sort that Bristow Muldoon and others have highlighted, we might have to deal with those in other ways in terms of retention factors and so on. Such arguments should not be the driver for legislation; there are better public policy arguments against the SST proposal than the

impact that it might have on one or two particular public services.

The Convener: On that last question, you acknowledge that there would need to be other mechanisms for retaining people such as consultants. Would it therefore be appropriate to say that the projected yield from the SST should also take account of any potential additional costs to the Scottish block grant of retaining such key individuals? Would some analysis of that potential cost be appropriate before we try to reach a decision about the impact of the bill on public finances in general?

Dave Watson: Yes. In fairness, the lack of evidence makes matters difficult. In reality, no one would know what it might be like until it is done. It is difficult to come to a view based on the policy memorandum for the bill and to work out what impact it would have on the tax yield. We do not know how individuals would respond and therefore we do not know what other public policy measures might have to be put in place to take account of their responses. Clearly, the concern is that there would be an additional cost. We would have to work that out and take it into account in any decision.

17:00

Tommy Sheridan: To be fair to the research, I am sure that Dave Watson is aware that, if we compare like with like, the yield in the 2002-03 financial year from the service tax would have been £269 million more than the amount that the council tax generated. Therefore, although Dave Watson is talking about a loss, there would be a lot of slack before we got into problems as a result of there being less money available.

We keep hearing about shortages at the top of the income scale, but will you comment on shortages at the bottom of the scale in the health service and other public services? For people such as auxiliaries, porters and cleaners, there is obviously a disincentive to work at such low levels of income given the large marginal income tax rate that they are on as a result of withdrawal of housing benefit and council tax benefit. Do you agree that, under the proposed tax system, some individuals would be encouraged to take up employment because it would give them a higher disposable income?

Dave Watson: I have seen the figures in the policy memorandum. The question of how much a tax would raise is inevitably speculative, because we do not know what impact the yield might have. Of course, a political decision must be made about how high the tax should be.

Tommy Sheridan is right to highlight that the shortage of public service workers is not at the

highest levels of income. However, ironically, the greatest pressure on public services is not at the top or the bottom, but in the middle; that is where we have a major skills shortage and that is why we are having to upskill. In our bargaining, we put a lot of effort into improving the skill levels of lower-paid workers. Depending on the level at which the SST or a reformed council tax was pitched, people on middle incomes would be on the margins of either gaining or losing as a result of the decision between a reformed council tax or the SST. The case is probably a bit more marginal with middle-grade and junior professionals, but those are the jobs in which there are the greatest shortages at the moment in Scotland.

Tommy Sheridan: I have two final points.

The Convener: Be brief, Tommy, because the last one was the final point.

Tommy Sheridan: Sorry.

First, I ask Dave Watson to provide us with some concrete examples. You said that you are working on concrete examples of families. I would be interested to see your breakdown in percentages of your examples that were based on household income throughout Scotland. I would appreciate—I am sure that the committee would, too—your providing us with some real examples of where you think the difference between the systems is marginal. Obviously, my argument is that the difference is clear.

Secondly, do you at least admit that, if the service tax was introduced and non-domestic rates were re-localised, the effect for local authorities would be democratically neutral? In other words, they would raise broadly no more or no less locally than they do at present.

Dave Watson: Your proposal would not be democratically neutral, because it would mean that the rate would be set at a Scottish level, rather than locally. Frankly, that is one of Unison's biggest difficulties with the SST proposal, given our view about local accountability, which I highlighted earlier. However, the proposal may well be revenue neutral, although that would depend on political judgments.

Tommy Sheridan: My point is that, if we give local councils back the power to set the local business rate but take away the power to set the local council tax rate, in terms of the proportion of the amount that councils decide to raise, my proposal would be democratically neutral.

Dave Watson: Our position is clear: we would do both.

Tommy Sheridan: I know that, but that is not what I am asking.

Dave Watson: Your proposal may be democratically neutral, but our policy is that, if we retain the council tax and return decisions on business rates to local councils, nearly half of local authorities' income would be determined locally, which would reduce the democratic deficit. It is easy to get into an argument over comparisons between the council tax and a theoretical level of another tax, but the important point is that we are not trying to defend the current council tax as compared with the SST; instead, we call for a reformed council tax. We have concerns about a move to an income-based rather than a property-based tax in respect of where the figures might come out, particularly for middle-grade professionals—in the £20,000 to £30,000 income level—and particularly where there is more than one person in the household. I accept entirely that the figures could be tweaked either way, depending on the yield, the level of taxation and what a new council tax might look like.

The Convener: That brings us to the end of our questions. I thank Dave Watson and John Park for their evidence and I thank members for their participation.

Meeting closed at 17:05.

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