



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

FINANCE COMMITTEE

Thursday 20 January 2011

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FINANCE COMMITTEE
3rd Meeting 2011, Session 3

CONVENER

*Andrew Welsh (Angus) (SNP)

DEPUTY CONVENER

*Tom McCabe (Hamilton South) (Lab)

COMMITTEE MEMBERS

*Derek Brownlee (South of Scotland) (Con)
Malcolm Chisholm (Edinburgh North and Leith) (Lab)
*Linda Fabiani (Central Scotland) (SNP)
*Joe FitzPatrick (Dundee West) (SNP)
*Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD)
*David Whitton (Strathkelvin and Bearsden) (Lab)

COMMITTEE SUBSTITUTES

Gavin Brown (Lothians) (Con)
Lewis Macdonald (Aberdeen Central) (Lab)
Stewart Maxwell (West of Scotland) (SNP)
Liam McArthur (Orkney) (LD)

*attended

THE FOLLOWING GAVE EVIDENCE:

Robin Haynes (Scotland Office)
Rt Hon Michael Moore MP (Secretary of State for Scotland)

CLERK TO THE COMMITTEE

James Johnston

LOCATION

Committee Room 2

Scottish Parliament

Finance Committee

Thursday 20 January 2011

[The Convener *opened the meeting at 13:03*]

Scottish Variable Rate Inquiry

The Convener (Andrew Welsh): Good afternoon and welcome to the third meeting in 2011 of the Finance Committee. I have apologies from Malcolm Chisholm. I welcome the Rt Hon Michael Moore MP, Secretary of State for Scotland, to the Scottish Parliament and thank him for his attendance. Mr Moore is accompanied by Mr Robin Haynes, a senior economist in the Scotland Office.

The only item on the agenda is evidence for our Scottish variable rate of income tax inquiry. I invite Michael Moore to make an opening statement.

Rt Hon Michael Moore MP (Secretary of State for Scotland): Thank you very much for the invitation. It is a particular pleasure for me to appear in front of a third Scottish Parliament committee—it has been a busy eight months—and this is the second time that Andrew Welsh has chaired a meeting that I have attended. I am grateful for this opportunity and I give particular thanks to all members of the committee for rearranging the committee's schedule to allow me to be here. I appreciate how busy members are and I am grateful for that courtesy.

The powers of this Parliament matter to all of us. In many ways, that is why this inquiry is being held. The debate about the constitution and the Scottish Parliament's powers are pretty well central to Scottish public life. Indeed, that debate has been a key focus for the coalition Government since it came to office last summer. That is why we published our Scotland Bill on St Andrew's day last year.

That said, the Scotland Bill is a distinct and separate topic from the Scottish variable rate, which the committee has asked me to speak about. The SVR was a key element of the Scotland Act 1998. The then Government saw taxation powers as important enough to warrant their own question in the 1997 referendum. Although the powers have never been used, that does not mean that they would never be used. In the build-up to every Scottish Parliament election, all parties have addressed the use of the SVR. There was no reason to believe that 2011 would be any different. However, we are all here today because the option of using the SVR will not be open to political parties until at least 2013-14.

As members know, I wrote to the First Minister on 18 November last year to point out that, contrary to the impression that the Cabinet Secretary for Finance and Sustainable Growth created in his speech in the Scottish Parliament's budget debate on 17 November, the SVR would be inoperable up to and including the financial year 2012-13, because of decisions that the Scottish Government took. The Administration that was elected in 2011 would be unable to use the SVR until at least 2013-14 and could use it then only if the Scottish Government decided to pay for the necessary upgrade to the pay-as-you-earn information technology system. I copied that letter to the other leaders of Scotland's main political parties, who are considering their policy priorities in the run-up to the election.

I made public my concerns in an accompanying news release because, although the SVR mechanism lies in politicians' hands, the Scottish people put it there—they voted for the power in a referendum; its use would have an impact on them; and they have a right to know about the situation. It is important for the committee to understand the context in which I sent the letter to the First Minister and the reason for its timing.

As a result of exchanges between the Scotland Office and HM Revenue and Customs, my officials made me aware in early autumn last year of the Scottish Government's decision of 20 August not to maintain SVR viability for the incoming Administration in 2011. My working assumption was that the Scottish Government would fulfil its obligation to inform the Scottish Parliament of its decision in due course. By October, that had not happened, so I discussed the issue with the Exchequer Secretary to the Treasury. My firm view was that politicians and the public should be informed and I was considering how best that should be done. However, as often happens in politics, events overtook us.

As I noted, on 17 November, the Cabinet Secretary for Finance and Sustainable Growth introduced his draft budget in the Scottish Parliament. In the debate, he said:

"Within the Parliament's existing revenue powers, we have explored options for maximising our income ... I therefore confirm that we will not raise the Scottish variable rate of income tax."—[*Official Report*, 17 November 2010; c 30463.]

It was clear to me, as it should have been to the Scottish Government, that it could not raise the SVR, even if it wanted to. That was down to the choices that it had made. For that reason, I wrote on 18 November to the First Minister, as the minister in charge of constitutional affairs.

When I wrote that letter, I was—rightly—privy only to correspondence and briefing that followed last year's United Kingdom general election. That

is consistent with the established Cabinet Office guidance on ministerial access to the papers of a previous Administration. However, it was clear that officials of the Scottish Government and of the previous UK Government had communicated. The Scottish Government made a large volume of material available last week, which included many papers that predate my appointment. Nothing in those papers causes me to change my view that the SVR position should be publicly known.

In recent weeks, several robust exchanges about the issue have taken place. The danger has been that the facts and arguments would be conflated with other issues. It is important not to allow that to happen, and I am sure that the committee will ensure that it does not.

I am grateful for the committee's time and I am happy to answer members' questions.

The Convener: The Scottish Parliament's powers have been the task of a lifetime for me. You said that the SVR could not be used until 2013-14. Can you guarantee that a solution to the constant computer problems will have been found by then?

Michael Moore: We need to separate the two issues. The first is HMRC's revision to its PAYE system. The system went through a well-documented major overhaul a couple of years ago. I know that the committee talked to officials from HMRC about that last week. The other issue is the operability of the SVR. The two issues can and do interact, but the decision to make the powers operable is one to which the Scottish Government must commit. It must commit the finance, and the teams must work together to ensure that the SVR can be delivered. If the Scottish Government still wishes the powers to be available in 2013-14, it can take steps to ensure that that happens.

Derek Brownlee (South of Scotland) (Con): Your opening statement was extremely helpful in setting out the situation as you see it. I appreciate that there is a tricky balancing act in relation to what happened before the Government of which you are a member took office and the appropriate access—or lack thereof—to the background paperwork. You rightly referred to the Scottish Government as placing quite a significant chunk of background paperwork in the public domain, although whether it is complete is a separate issue.

Last week I asked the HMRC officials a question that they were unable to answer. It related to decisions taken by the current Scottish Government on not paying the on-going maintenance charges before the time that you are talking about—the election of the coalition Government. I quoted to the officials an internal

Scottish Government note. I will give you the full quotation so that you understand where I am coming from. The note states:

"Not paying maintenance charges after July 2007 does not seem to have made any difference to the position with HMRC on SVR readiness. The reason for this is that HMRC have frankly not been in a position where they could make any undertakings about their readiness to implement SVR because of their big software changeover project. The agreement between HMRC and the Scottish Government is not a contractual one and HMRC appear to be flexible about its terms—just as we have had to be when it became clear that they were not in a position to deliver on their obligations to us."

I asked the officials whether that struck them as an accurate representation of the position. They took the view that they could not comment. From what you know about the situation from 2007 onwards, does that strike you as an accurate representation of the consequences of the decision of the Scottish Government not to pay the maintenance charges?

Michael Moore: You are tempting me into interesting territory straight away, Mr Brownlee—an invitation that, without meaning any discourtesy, I will not take up.

As private individuals, everyone could take a view on the matter. However, as a minister who has a particular role in ensuring that we get the right information in the public domain, I am focusing my efforts there. As a committee, you are rightly spending a lot of time scrutinising the issue and you will be better placed than anyone else to judge the matter in due course.

I do not know whether it was just that the officials were unable to comment. If it was about their not being able to give you the information that you required, I hope that it would still be possible for them to do so.

Derek Brownlee: I sense that the officials may have taken the view that I was trying to tempt them into an area into which they might be wise not to go.

I appreciate what you said about why you wrote to the party leaders in November in the context of policy formulation ahead of May's election. However, there also seems to be an issue about the cabinet secretary's statement, which you read out, in relation to the draft budget for the coming financial year—part of which is in the current Parliament—which inevitably takes us back to decisions in the timeframe that I am talking about. Is it now the position of the current UK Government that that is not something that you are able to or wish to comment on? Are you leaving us to draw our own conclusions from the Scottish Government's published paperwork?

Michael Moore: Woe betide the minister who gets in the way of the committee trying to get to

the truth. I do not know that speculation by me will add to the quality of your life or anyone else's.

Clearly, there was an issue. Clearly, there were difficulties. The committee can take evidence, and it can discuss and consider where it thinks the responsibility for how we got into this position lies. My fundamental view was that the issue was not in the public domain and that it ought to have been. We are at a critical point in the build-up to the next elections, in which parties may choose to use the facility. My view was that they had better know that they could not use it and that the Scottish Government ought to tell them. It did not. The statement was made, so I made my observation.

My responsibility now, should a decision be taken to get the powers operable for 2013-14 onwards, is to work with my colleagues in the Treasury and the Scottish Government to ensure that we do that as efficiently and effectively as possible. My prime focus is on looking forward and getting things right.

13:15

Derek Brownlee: So the first official confirmation that you received in your role as secretary of state that, effectively, there was no capacity to use the powers came when officials spoke to you following discussions with the Scottish Government in August last year.

Michael Moore: I was informally advised of the issue at the margins of other discussions; you will appreciate that there have been a few other reasons to talk to HMRC over the past few months. I asked for a formal note on it, which I received on 13 October. Having considered that further, I arranged to discuss the issue at a meeting—primarily about the Scotland Bill—with the Exchequer Secretary to the Treasury on 27 October. At that point, I was firming up in my mind the fact that there was not much time for the Scottish Government to make the matter public, but I still believed that it was its responsibility to do so.

Joe FitzPatrick (Dundee West) (SNP): The UK budget documents for 2007, 2008, 2009 and 2010 all include a paragraph on the effects of the Scottish Parliament's tax-varying powers. The 2007 document states:

"A one penny change in the Scottish variable rate in 2007-2008 could be worth approximately plus or minus £300 million, and is unaffected by Budget 2007."

There is a similar paragraph in each of the UK budget documents right up to 2010. Last week we heard that the SVR could not be implemented and was not fully in a state of 10-month readiness. Do the figures take that into account?

Michael Moore: To which figures are you referring?

Joe FitzPatrick: The figures in the UK budget documents.

Michael Moore: You may have noticed that there is no such figure in our June budget.

Joe FitzPatrick: I will come to that in a second.

Michael Moore: You may want to refer your question to ministers or officials of the previous Government.

Joe FitzPatrick: So you cannot indicate—perhaps your official can—whether the calculations took into account the sub-optimal position to which I have referred.

Michael Moore: No.

Joe FitzPatrick: We have heard clearly that the SVR could not be implemented fully and was not in a 10-month state of readiness.

Michael Moore: I am not in a position to make that judgment. The committee may be, after it has examined all the evidence.

Joe FitzPatrick: To whom should we put the question?

Michael Moore: Perhaps you should put it to the officials and ministers who were responsible for the documents.

Joe FitzPatrick: You mean those in the previous Government.

I move on to the decision to remove the paragraph from the June budget. Why was it removed?

Michael Moore: There was no conscious decision on my part to do so; it was a decision for the Treasury. It was not my primary focus at the time.

Joe FitzPatrick: Given that such a statement had been included in the budget every year, and given that some of the changes that were included in the June budget, such as the decision to raise the lower income tax threshold, would have impacted on the SVR, do you not think it strange that the matter is not referred to in the budget document?

Michael Moore: Not necessarily. Perhaps everyone should have been a bit sharper and should have spotted it at the time. There was clearly a lot of detail; all of us have now seen the exchanges that took place between officials here in Edinburgh and down in London about what was going on with the SVR.

Joe FitzPatrick: So in June you were not aware that there was a problem with the SVR.

Michael Moore: No.

Joe FitzPatrick: So there was no issue.

The Convener: It might be helpful for us to pursue the issue with the Treasury.

Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD): It might also be useful with reference to the statement of preparedness and how much revenue could be raised if the SVR was utilised to look at the service level agreement, which of course lapsed early in 2007, as we found out from HMRC last week. That might go some way towards explaining Joe FitzPatrick's query.

Forgive me, but I cannot remember when Michael Moore took up his post.

Michael Moore: It was at the end of May. If it had been any earlier I might have paid a bit more attention than most.

Jeremy Purvis: That is helpful. Around that time, there was a meeting between the Scottish Government's finance director and HM Treasury. In the period from May 2010 until you entered into correspondence with the First Minister, had any of the Scottish ministers raised aspects of the SVR with you?

Michael Moore: There was no correspondence on the subject prior to the letter that I wrote to the First Minister.

Jeremy Purvis: How many meetings have you had with the Cabinet Secretary for Finance and Sustainable Growth or the First Minister since you came into office?

Michael Moore: A number, but at none of those meetings was the subject raised.

Jeremy Purvis: You might have read the evidence that HMRC gave at last week's meeting about the deadline for the state of readiness in relation to the SVR. After August, when the deadline had passed, did any Scottish minister mention any aspects of the SVR in discussions about the UK spending review?

Michael Moore: I am not aware of any of that. There are a number of ways in which such discussions might have taken place, but I have heard neither Treasury ministers nor Scottish Government ministers make reference to any such discussions taking place in informal meetings, the quadrilateral finance meetings and so on. As far as I am aware, at no stage was the issue raised at ministerial level.

Jeremy Purvis: Last week I asked HMRC about "Funding the Scottish Parliament, National Assembly for Wales and Northern Ireland Assembly: Statement of Funding Policy". I asked whether anyone at official or ministerial level had ever queried the position in the memorandum of

understanding and the service level agreement, which was that it was the Scottish Government's responsibility to maintain the cost of operability of the SVR. The Scottish Government now has a position on whose responsibility that is, and in correspondence with you the First Minister has given the impression that the Scottish Government does not hold the view that it is responsible. In the period since you came into office and until you received that correspondence from the First Minister, had the Scottish Government ever indicated that its interpretation of the statement of funding policy was different from that of previous Scottish Executives?

Michael Moore: No. It had not done so and it has not done so since the exchange of correspondence in November. There has been some dispute, but we should consider how the system has operated since day 1—there are members of the Finance Committee who have great personal experience of that. Paragraph 3.2.6 of the statement of funding policy, which I quoted in a letter to the First Minister, explicitly says:

"the devolved administrations will meet all the operational and capital costs associated with devolution from within their allocated budgets".

That confirms and goes alongside section 80 of the Scotland Act 1998, which provides for the administrative costs that are associated with the SVR to be reimbursed.

Jeremy Purvis: Thank you. I mentioned the meeting between the Scottish Government's finance director and the permanent secretary for taxation at HM Treasury, which took place on Wednesday 26 May. I have a copy of the finance director's briefing note from the Scottish Government's finance administration. Paragraph 4, which relates to the view of Scottish ministers, states:

"In November 2008 Director of Finance minuted Cabinet Secretary for Finance and Sustainable Growth to advise on discussions with HMRC. The suggestion had been to formally minute HMRC asking for clarification about the current state of readiness and possible costs to the SG."

I think that that was referred to in the *Scotland on Sunday* piece last Sunday.

The briefing continues:

"The Cabinet Secretary advised that since there were no plans to implement the SVR in the lifetime of the Parliament no formal correspondence with HMRC was necessary. However he asked that Finance officials continue to maintain informal contact with"

HMRC. Was it ever communicated to you directly by the Scottish Government at any stage that the Cabinet Secretary for Finance and Sustainable Growth had taken that position?

Michael Moore: No. That was all before my time. As I said, I first became aware of the

situation last autumn. I appreciate that you are picking your way through an intricate arrangement between the Scottish Government and HMRC, but fundamentally a decision had been taken back in 2007 not to continue with the arrangement and the financing costs associated with it. That set the context for an awful lot of what followed subsequently.

Jeremy Purvis: I want to touch on that in my next question, but I will stay on the briefing for the moment, because I find what it says very interesting with regard to the Scottish Government's preparation for the discussions in May 2010.

The briefing ends by saying:

"HMRC indicate the choices for the Board—"

that is, the project board comprising the Scottish Government, HMRC and the Department for Work and Pensions, which were all signatories to the memorandum of understanding for readiness after the 2011 elections—

"around SVR would be either to go to Scottish Ministers for funding to carry out the work necessary to maintain the 10 month state of readiness or, if funding is not provided, then to amend the MoU to maintain the supporting infrastructure at a different level (so as to allow slower implementation of the power)."

While you have been secretary of state, has any request or approach been made to you by the Scottish Government—from which we understand that, because of a funding issue, it would not maintain the state of readiness—to amend the memorandum of understanding?

Michael Moore: No.

Jeremy Purvis: I will move on to my next question. I think that the Cabinet Secretary for Finance and Sustainable Growth might even have indicated in the chamber today that he inherited a situation in which he could not have implemented the SVR if he had wanted to. I am looking at a copy of an e-mail of 20 August 2010 from Scott Mackay of finance administration in the Scottish Government to Ron Powell of HMRC. This was after HMRC had asked the Scottish Government whether it was going to commit to the state of readiness. The e-mail begins:

"Ron we—"

the Scottish Government—

"are not in a position to commit to this work, with the associated significant funding requirement you have asked for, at this time. We realise that the implication of not making a commitment at this point is that we may not be able to maintain the previously agreed 10 month state of readiness."

Is it your understanding that there was such a state of readiness up until the point when the Scottish Government indicated that it would not

commit to the carrying on of the work in August 2010?

Michael Moore: That is my understanding. No doubt, however, the committee will examine all these areas very carefully.

The Convener: There were some very specific and detailed points there. Should you wish to supplement your responses, you can do so by letter.

Linda Fabiani (Central Scotland) (SNP): Secretary of state, I think that you said in your opening statement that you had a concern that the Scottish Government had chosen not to maintain the operational viability of the SVR. You will have read the evidence that we had last week from Sarah Walker of HMRC, who said quite clearly:

"We told the Scottish Executive before the 2007 election that, in order to have the full functionality to implement the SVR in April 2008, it would need to commit to the £3.4 million figure before the 2007 election. The option of spending that money after the election did not arise because it was then too late."—[*Official Report, Finance Committee*, 11 January 2011; c 2917.]

I appreciate that you cannot pass detailed comment on things that happened before you became secretary of state, but do you have an opinion about how exactly the situation that faces the political parties in 2011 differs from the one in 2007?

13:30

Michael Moore: I understand that other members of the committee have other views on the accuracy of the assertion that the Government of 2003 to 2007 was the one that took, or did not take, a decision on the matter and how that interacts with the purdah period. However, it is absolutely clear that the new Administration took a decision, independently of what had or had not happened beforehand, that it would not get the SVR into its previous 10-month readiness. The current Scottish Government took an active decision not to invest in the work that would be required to make the facility available within 10 months, which was the standard readiness that was available pretty much from the start of the Parliament. The committee will take a judgment on that but, as far as I am aware, nobody in the Parliament or among the public was aware of that decision.

Linda Fabiani: You also referred to the copious correspondence that has been placed on the Government's website. Among that, there is a note to the Scottish Government from September 2010, which says:

"Just a quick note to let you know that you haven't been forgotten and that I hope to be able to get back to you with a reply next week."

I understand that to be the last e-mail from HMRC. In light of HMRC's tardiness and the obvious confusion that existed about whether it had maintained a state of readiness, do you have any regrets about the letter that you wrote giving the perception that the responsibility was entirely that of the Cabinet Secretary for Finance and Sustainable Growth? Why did you feel the need to place it in the public domain in such a cavalier manner?

Michael Moore: I have no regrets about the letter. It was the right thing to do. It was important in the context of the previous day's debate about the budget in this Parliament, in which it was made explicitly clear—I take that back; it was not explicitly clear, but the impression was created—that the SVR had been seriously considered for the budget for the coming financial year. From my understanding of the reality, that could not possibly have been the case. With that impression being in the public domain, it was important that I correct it and ensure that not only the First Minister but the leaders of the parties and independent members here were given the information and that the public, too, were made aware of those facts. As I said in my introductory remarks, the power was debated in advance of the Scotland Act 1998, the Government of the time made it a question in the referendum and, without any public acknowledgement, it was now inoperable.

Linda Fabiani: Are you instigating any formal or informal inquiry of your own into the information from HMRC that the SVR has not been in a state of readiness since prior to the 2007 election and why it has taken so long for the agency to get back to the Scottish Government after promising a quick reply back in September?

Michael Moore: That ground was well covered by the committee's evidence-taking session last week and is well covered by the material that is now in the public domain. I know that the committee is working through, and will take a judgment on, what happened in 2007.

As to the latter point, about the meeting that did not take place, my understanding is that, although there was a long gap, there have subsequently been discussions. As I understand it, the meeting was designed to consider some of the bigger-picture ideas and items and some of the issues on which HMRC and the Scottish Government had had dealings over the previous year or so. However, the e-mail that requested the meeting was the one that Jeremy Purvis quoted, which started by saying, "We confirm that we will not be going ahead with this investment to make the facility ready." That was clear cut and the HMRC was entitled to think from that that the facility was

not going to be put into a state of readiness for this coming year.

Linda Fabiani: I have a final quick question, which you might have to refer to Treasury colleagues. Have the well-publicised problems that there have been with the HMRC transition to a new system been ironed out? Is there any final cost for the system that is now being put in place?

Michael Moore: I believe that officials gave you the figure of £389 million last week, which sets a context for the broader debate on this. Inevitably, the House of Commons will continue to scrutinise the work of the Treasury on that. Let us not forget the context. Regardless of what might or might not have happened under the previous Administration here, a decision was made not to fund the investment in SVR operability. That was the fundamental decision that was not in the public domain and the decision that has to be considered beyond all other considerations.

Linda Fabiani: Perhaps it is worth putting on record just how much the estimated costs have risen over the piece.

The Convener: Even if a decision had been made to go ahead, the system would not work, so it could not have happened. The computer problems have gone on and on but, even if everybody had said, "Yes, let's go ahead," could it ever have been put into operation?

Michael Moore: Yes, I believe that it could. I believe that if the decision were taken to invest for 2013-14, which is the next available year for these powers, HMRC and Scottish Government officials would work as hard and professionally as we would expect to make sure that it worked.

The Convener: I have a feeling that pass the parcel is going on. We are told that almost £25 million has been spent on updating the computers, yet the system is still not adequate.

Michael Moore: If we are still talking about SVR, clearly it is not adequate because the investment has not been put in.

David Whitton (Strathkelvin and Bearsden) (Lab): I want to clear up that point. Mr Purvis has already said that John Swinney said again today in another debate that he did not inherit a system that was able to introduce SVR. Do you agree with that or not?

Michael Moore: I have already said on a few occasions that that is a matter that the committee can examine. I am not privy to the papers. That was way before my time as a minister, so my opinion has no greater value than anybody else's. The committee will look very hard at that. There are some issues around what officials were discussing with each other at what point in 2007 and whether ministers knew and whether they

made decisions. That is something that I am sure that you and others can make statements on very easily.

David Whitton: You took the decision as Secretary of State for Scotland to write to the First Minister to complain about this. When you were told that there had been some delays in the Scottish Government coming up with the money to pay for the upgrade, were you told whether the system was operable at that time? Was the system able to introduce SVR or not?

Michael Moore: Back in October?

David Whitton: Back in August, or whenever it was—November.

Michael Moore: The HMRC system to which this is an addition would be able to work and create SVR operability if the investment was put in from the Scottish Government. Up until that point, it was not in a position to do that, because that investment had not been committed to or undertaken.

David Whitton: I think that I am correct in saying that the request for the original £3.4 million back in 2007 came just as the Scottish Parliament was going into purdah for the April dissolution period. Basically, ministers of the previous Administration were not in a position to take the decision, because they were moving into an election and the decision would be left for the incoming Administration. You said that you became aware of this in August. Is that right?

Michael Moore: No, in early autumn.

David Whitton: When is “early autumn”?

Michael Moore: I received the formal submission on 13 October. In discussions with officials about the Scotland Bill over the days and weeks before that, it had been mentioned in passing, which is why I asked for a formal note.

David Whitton: Had anyone from HMRC complained to you about the fact that the Scottish Government was refusing to pay its share of the upgrade, or did your colleague the Chief Secretary to the Treasury say, perhaps in the bar one night, “You’ll never guess what those guys up in Scotland are not doing now”?

Michael Moore: No. HMRC would not complain about a decision that the Scottish Government took. It would complain if the Scottish Government wanted the work done for nothing or about other issues that might arise, but there was clearly no agreement to get on with the work and HMRC has plenty of other things to do.

David Whitton: One of the reasons for the disagreement about whether to pay or not is the definition of who should pay. You clearly have one view—that the devolved Administration should pay

for the upgrade—and the First Minister has another view, as expressed in the exchange of letters between you, which is that, because Her Majesty’s Government is making the change to its computer system, it is down to it to make the change.

Michael Moore: If I may repeat myself, there is a principle of no detriment between the Governments—and, indeed, between the UK Government, and the Northern Ireland Executive and the Welsh Assembly Government—which is that, if one body causes others to have costs as a result of policy decisions that it has taken, it bears those costs. However, that is different and quite separate from the principle that, once a measure is up and running, the relevant body pays the costs of it. That goes back to paragraph 3.2.6 of the statement of funding policy, which I quoted before:

“the devolved administrations will meet all the operational and capital costs associated with devolution from within their allocated budgets”.

David Whitton: I will go back a shade. Last week, officials from HMRC told us that the decision that the Scottish Government would not commit to the increased spending, which would have enabled it to keep the 10-month readiness, was taken on 20 August. You were not told about that.

Michael Moore: No, not at that stage.

David Whitton: It was at least a couple of months before you were made aware of that in relation to the Scotland Bill.

There is a memorandum of understanding between the two Administrations that the system is supposed to be kept in a state of readiness. Apparently, that came to an end in July. Were you not told that the memorandum of understanding between Her Majesty’s Government and the Scottish Government on the ability to keep the SVR in play had broken down?

Michael Moore: No, I was not told of that. Perhaps Robin Haynes can add to that.

Robin Haynes (Scotland Office): My understanding is that the memorandum of understanding is between HM Treasury/HMRC, the Department for Work and Pensions and the Scottish Government. The Scotland Office is not a signatory or party to it.

David Whitton: I believe—correct me if I am wrong—that it would be possible to introduce the system in 2012, if the incoming Government wanted to, but that it would not be complete and would require some investment. Will you clarify that?

Michael Moore: I do not believe that that is any longer possible, given the passage of time.

David Whitton: So we are past 2012 for introduction and are now into 2013-14.

Michael Moore: Yes, and it is for the Scottish Government to determine whether it wishes to make the investment for that.

David Whitton: I just want to be clear about what the bill to the incoming Government—whoever forms it—will be if it wants to upgrade the system. It has gone up from £3.4 million to £7 million. Is it still £7 million?

Michael Moore: I do not wish to speculate on that, because it could get me into a lot of trouble. If a decision was taken to make that investment, it would be on the basis of further discussions and negotiations between HMRC and the Scottish Government.

David Whitton: You cannot tell us for sure right now that it is definitely £7 million.

Michael Moore: No, certainly not.

13:45

Tom McCabe (Hamilton South) (Lab): Perhaps we should clarify what we heard last week and what we already know. The ministerial briefing note that was issued to incoming ministers on 14 May 2007 made it clear that, if they took a decision before 7 June, SVR would be operable to around 90 per cent of its capacity by April 2008, which would mean that what it raised would be approximately £90 million down from the £900 million that could have been raised. As far as I am aware, HMRC has extensive powers to pursue people who have underpaid their tax over the years. Many unfortunate souls up and down the land can testify to that.

In addition, it was made clear to ministers that, if they took a decision before 7 June 2007, the SVR would be fully operable in subsequent years. For the record, it is worth saying that that is the current state of knowledge—other people might want to portray a different picture.

Mr Moore, I want to ask about the motivation behind your letter. The Scottish Government has released papers, and a minute from 3 August 2010 makes it clear that the Scottish Government had proposed to

“question why the SG should be asked to fund further costs ... However the fact that Ministers decided not to implement the SVR until May 2011 it was agreed that we shouldn't pursue this point.”

A briefing note for a meeting between the director of finance and the permanent secretary for taxation, which Jeremy Purvis quoted, said:

“The Cabinet Secretary advised that since there were no plans to implement the SVR in the lifetime of the Parliament no formal correspondence with HMRC was necessary.”

You have partly answered the question about whether you were aware of the latter point. When you wrote your letter, was your concern that the Cabinet Secretary for Finance and Sustainable Growth had made a statement about his serious consideration of the SVR, which clearly could not be implemented, or were you more concerned that not only could the SVR not be implemented that year but we were now heading into a position in which it would be 2013-14 before it could be implemented?

Michael Moore: By that stage, I was aware of the difficulties that the whole project had been in during the previous few years. As a result of the decisions that had been taken in Edinburgh, work had not gone on—and so on and so on; you have the trail of documentation.

As I said in my opening remarks, my concern when I wrote my letter was that the Cabinet Secretary for Finance and Sustainable Growth, in his statement to the Parliament on the previous day, had given the impression that it would be possible to invoke the SVR but that he had decided not to do so. I was aware that we were getting to a point at which, if we did not start discussions and negotiations, it would not be possible to invoke the SVR for subsequent years either, because there is a long lead time, as the committee now knows better than most and as you understand from your previous experience. My primary concern, and the reason why the letter was written when and how it was written, was to ensure that the Parliament, political leaders and the public were aware of the situation.

Tom McCabe: I think that you have said that you were not aware that the cabinet secretary had already indicated that no formal correspondence between the Scottish Government and HMRC was necessary. Therefore, your concern was not heightened. When you wrote the letter, were you taking quite a relaxed view of the matter, because you did not know that that was the cabinet secretary's position?

Michael Moore: I did not know that that was the cabinet secretary's position. There had not been ministerial correspondence or discussions in other fora.

Joe FitzPatrick: In answer to a question that I asked, you pointed out that the June budget documents did not make reference to the SVR. I think that you said that we would have to ask the Treasury for the reasons for removing the reference. Am I right in thinking that the Treasury would also be the right place to direct a question about why the SVR was referred to in the

statement of funding policy, which was published in October last year?

Michael Moore: I am sure that we can get you the answers that you seek.

Joe FitzPatrick: I think that we can write.

The convener referred earlier to the fact that we have spent £25 million and got hee-haw for it. Given that the Scotland Bill will replace the SVR, do you think that it would be a wise use of public money to spend millions more in getting the SVR to a state of readiness simply for it to be abolished?

Michael Moore: Let me split that question into the two parts in which you have posed it. On the first part, quite properly you and others on the committee and in this Parliament, and indeed in the Westminster Parliament, are concerned about the use of public money. However, there has to be information about the spending of that public money and a debate about whether it is the right use of the money in order for a proper decision to be taken. The situation here was that decisions were taken not to have further investment, without that being known in public—that is critical to this discussion.

The SVR is a power that exists in statute but is currently inoperable because of the lack of investment and decisions taken by the Scottish Government. It could still become operable, but only in the timeframe that I have outlined. Clearly, the Scotland Bill, which we published in November, will give much stronger income tax powers to the Scottish Parliament. However, they will not be implemented until 2016-17, which is the first tax year in which they will take effect, so there is a gap between now and when those powers will be introduced. The decision to introduce them then is based on ensuring that we get the transition and the timing right for all the different people who will be affected by it. The SVR and the new income tax powers are quite separate issues.

Joe FitzPatrick: The cabinet secretary made it clear in his statement on the issue that he accepts that he could have put some of the information in the public domain earlier, so there is no issue there. However, my question was whether you think that it would be a good use of public money to invest in bringing the SVR to a state of readiness now for it simply to be abolished by a bill that your Government is putting through Parliament.

Michael Moore: Any political party that wishes to make the case for it must make that case in the context of the necessary investment and what it wants to do with the tax that it will raise by invoking the SVR. That is a political debate that we can all have—or not have now, as it turns

out—in the build-up to the Scottish elections, in which of course I will be a voter.

Linda Fabiani: Have you decided who to vote for?

Michael Moore: That guy in the middle there who could not quite remember when I came into post.

Tom McCabe: Just for clarification, whether the investment is £25 million or even rises to £50 million, it would produce a yield of around £1 billion a year, if the full 3p tax were implemented, for the next five or six fiscal years. An investment of even the higher figure of £50 million could produce a yield for Government revenue of perhaps £6 billion over the next six years.

Michael Moore: The SVR is all part of a legitimate political debate that we can have here and which the parties will have in the course of the election campaign, or not. They cannot have a debate about SVR for next year and maybe for the years after, depending on the decision that the Scottish Government takes. I think that the SVR remains an important power of the Parliament; that nobody has used it so far is a fact of the political circumstances of the time. People might take a different view on the issue when they publish their manifestos. However, as things stand, I am afraid that they cannot use the SVR power until at least 2013.

Tom McCabe: You are clear in your mind that there are two completely separate issues: there is the issue of how much investment would be required to bring in full operability of the SVR in the future; and there is the separate question of a claim that says, "I gave serious consideration to using SVR," when that was impossible. Those are two entirely separate questions.

Michael Moore: I agree.

The Convener: Jeremy Purvis will ask the final supplementary questions.

Jeremy Purvis: I know that one element of the discussion predates your appointment to your post. I was helpfully reminded earlier of when that was, to the hour. I believe that it is correct to say that HMRC does not currently have a service level agreement with the Scottish Government, because it lapsed in July 2007. That service level agreement referred to the management information that would be required, such as

"the number of PAYE SVR records"

and

"the number of ... taxpayers".

Under the heading "Finance", it says:

"This is an externally funded service and Scottish Executive will meet the costs."

You have had no discussion with the Scottish ministers about having a new service level agreement at any stage since you have been in office.

Michael Moore: No.

Jeremy Purvis: I know that the memorandum of understanding is not directed at the Scotland Office, but do you know whether it still applies? Is it correct that it is a permanent document?

Robin Haynes: That is my understanding.

Jeremy Purvis: Paragraph 9 of that document, which is headed “Action by the Scottish Executive prior to a Scottish General Election” states:

“It will be the responsibility of the Scottish Executive to alert the other Departments”—

I think that that refers to HMRC and the DWP—

“to any possibility that the tax-varying power may be used. It is clearly desirable that this should happen at as early a point as possible in order to allow all the Departments maximum preparation time. Accordingly, the Scottish Executive will, in the period preceding a Scottish General Election, undertake to assess from Manifestos, Ministerial Statements, Press Reports or any”

other

“source, what the possibilities are either that the power will or will not be used.”

Has that happened, to your knowledge?

Michael Moore: No, but I think that you need to direct that question to Scottish Government officials.

Jeremy Purvis: But you have not received any indication at any stage that that has happened. I think that it is the case that one political party in Scotland certainly has indicated that it has. However, you have not received it.

Michael Moore: No.

The Convener: Do you wish to make any final comments?

Michael Moore: No, I simply repeat my gratitude to all the committee members for meeting at a time that is not your normal practice. I appreciate that and I hope that this has been a useful session for you. However, if there are any points of detail that, on reflection, you wish further information about, I will be happy to assist.

The Convener: I thank both the witnesses for their attendance and contribution to the work of the committee.

Meeting closed at 13:57.

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